

DOMESTIC MINOR SEX TRAFFICKING

San Antonio, Texas



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



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San Antonio/Bexar County Assessment

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

May 2008

**Prepared for
Shared Hope International**

By Linda Struble

Acknowledgements

Among the most horrific crimes against humanity is the victimization of children through the commercial sex industry. Innocence is turned into a commodity and is traded for commercial gain. Children who find themselves in these inhumane circumstances are further debilitated by having the dual status of both offender and victim. They are often arrested and adjudicated for crimes committed against them. Victims of domestic minor sex trafficking hide in the shadows for self-preservation, while society further perverts the offense by ignoring the truth. The complexity of this dilemma is intimidating at best, but no moral conscience can remain silent when the truth is revealed.

Despite the daunting challenges, a growing coalition of groups and individuals in San Antonio/Bexar County are acquiring the skills to face this critical issue and champion for change. Finding themselves with a common, driving determination, they are engaging in unprecedented levels of cooperation and communication as they strive to identify and address the needs of children who are victimized and at risk for exploitation by traffickers and pimps.

While this report is specifically designed to identify the gaps and challenges in the identification of and access to services for domestic minor sex trafficking victims, we must acknowledge and applaud the significant progress made by the San Antonio/Bexar County community. We thank each individual, agency, and organization that participated in this research. Without your energy, dedication, and honesty, this report would not be possible. It is our hope that all who read this report will use the findings as a springboard to future action in advancing the fight to combat domestic minor sex trafficking.

Special acknowledgement and appreciation is extended to the South Texas Coalition Against Human Trafficking and Slavery and Human Trafficking Task Force. Under the leadership of Hillary Chester of Catholic Charities and Sergeant Christian Burchell of the Bexar County Sheriff's Office, Violent Crimes Unit, the issue of human trafficking has been raised to the forefront. With a goal set in early 2008 to train over 3,000 professionals on victim identification within six months, increasing awareness and understanding of the complex dynamics of human trafficking has established strong interagency cooperation and information sharing as well as community support. Additionally, the unprecedented level of partnership between these two professionals is a key best practice, enabling task force and coalition success by working together seamlessly to rescue victims and bring their traffickers to justice.

Social service providers in San Antonio have long been victim sensitive and take proactive stances in the protection of victims. Among them, ChildSafe serves through collaboration with 30 community agencies to restore dignity, trust, and hope to children traumatized by sexual abuse. They have established groundbreaking protocols in forensic interviewing and their CARE Program is a unique and innovative program that provides direct, long-term services and support to children and their families to begin the long journey toward recovery. Roy Maas' Youth Alternatives are strong advocates and, at every turn, are extending their shelter opportunities to include long-term group home environments and services through their Turning Point Independent Living Program and Meadowland campus. In 2006, The San Antonio Rape Crisis Center became the Lead National Partner in the launching of the Rape Abuse Incest National Network's (RAINN) Online Hotline.

Special acknowledgement also goes to the Bexar County Juvenile Probation Department Chief David Reilly as he relentlessly campaigns to find new ways for appropriate response on behalf of victimized children within the larger system.

Further acknowledgement goes to District Attorney Susan Reed, whose creative leadership helped launch the Bexar County Family Justice Center. Her passionate initiative is to bring resources and services together to assist victims of domestic violence through one organization, again inspiring a staff that energetically responds to her call for reform.

Last, but certainly by no means least, particular acknowledgement goes to Melissa Snow and Kelsey Buchanan of Shared Hope International. These two incredible advocates work tirelessly to guide and support the research efforts of each Rapid Assessment currently being undertaken. Their relentless pursuit of justice on behalf of victims of domestic minor sex trafficking is admirable and inspirational.

The issue of domestic minor sex trafficking is daunting; however, its victims deserve our efforts in revealing the truth so they can be set free. San Antonio/Bexar County has already accepted this challenge and this assessment is intended to serve as a guide in the fight to identify victims and investigate and prosecute those who would buy and sell the innocence of a child.

Sincerely,

A handwritten signature in black ink that reads "Linda Struble". The script is fluid and cursive.

Linda Struble, Lead Field Assessor
San Antonio, Texas

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

Linda Smith, Founder and President
Shared Hope International

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EXECUTIVE SUMMARY

Domestic minor sex trafficking (DMST) is the commercial sexual exploitation of U.S. citizen children or lawful permanent resident (LPR) children through prostitution, pornography, or sexual performance for compensation, either monetary or other consideration (food, shelter, drugs, etc.). DMST has been viewed as the single most under-reported, under-identified, and most severe form of sexual exploitation that children are facing today.¹ Ending the sex trafficking of children has become an important focus for the United States government. The Trafficking Victims Protection Act of 2000 (TVPA) and subsequent reauthorizations has defined all minors, under the age of 18, who are “recruited, transported, harbored, provided, or obtained for the purpose of a commercial sex act” as victims of trafficking; this includes minors who are U.S. citizens or LPRs. However, the reality is that domestic minor sex trafficking victims—especially those engaged in prostitution—continue to be detained in the juvenile justice system as delinquents.

Shared Hope International (SHI), with funding from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA), is researching the access to and delivery of services to domestic minor sex trafficking victims in ten locations in the U.S., including San Antonio/Bexar County, Texas. *The Rapid Assessment Methodology and Field Interview Tool: Domestic Minor Sex Trafficking in the U.S.* was developed by Shared Hope International and implemented in San Antonio/Bexar County by Linda Struble, former Director of Agape Pregnancy Help Center in San Antonio, Texas. This assessment includes information collected during February–May 2008 through a comprehensive survey of existing research and the completion of 43 interviews from representatives of 20 different organizations and agencies that frequently interact with domestic minor sex trafficking victims.

Best practices are noted throughout the report. However, it is also the purpose of this report to identify the gaps and challenges that present themselves, while working with this difficult population of victims. San Antonio/Bexar County is an overwhelmed but sympathetic system struggling with the best way to begin identifying and assisting domestic minor sex trafficking victims. Nevertheless, the reality remains that victims who are identified as being in prostitution or disclose their involvement in prostitution are being pulled deeper into the justice system rather than rescued and restored. One result of this is the failure to access appropriate victim-centered services for the restoration of victims exploited through the commercial sex industry.

The Rapid Assessment Methodology employs three factors commonly used as measures of response to combating sex trafficking worldwide: Prevention, Prosecution, and Protection (the three P’s). Used by the U.S. Department of State (DOS), Office to Monitor and Combat Trafficking in Persons in the annual Trafficking in Persons Report, the three P’s are used in an effort to holistically evaluate a country’s actions to counter all forms of trafficking in persons. The three P’s approach has been recognized for its comprehensive approach to assessing human trafficking and is used in this assessment as well.

- *Prevention* of DMST requires identification of prostituted children as victims. The first component in prevention and identification is public awareness. The second component is the training of law enforcement, judiciary, detention staff, social services, and other professionals who interact with domestic minor sex trafficking victims.
- *Prosecution* of cases against traffickers/pimps is essential, and it is important that these cases result in convictions with appropriate sentences. Ensuring strong legislation criminalizing the trafficking

¹ Ernie Allen. “Domestic Minor Sex Trafficking in America: How to Identify America’s Trafficked Youth,” educational video documentary produced by Shared Hope International, © 2007.

of minors and protecting victims is critical, as is the training of law enforcement, prosecutors, and judges to ensure that they are aware of these laws and are able to build effective cases against traffickers.

- *Protection* requires victim-centered rescue and restoration. Rescue is critical to remove the minor from the situation of trafficking; however, the importance of completing the rescue without revictimizing the domestic trafficked minor (DTM) cannot be overstated. Victim-centered, long-term restoration is essential, including protective safe homes and appropriate services and programs.

Regardless of their legal status, throughout this Rapid Assessment, all domestic minor sex trafficking victims—commercially sexually exploited children, as well as prostituted children detained in the juvenile justice system under prostitution or prostitution-related charges—are considered victims of sex trafficking, not juvenile delinquents. This RA defines domestic minor sex trafficking victims in accordance with the federal TVPA as minors who are exploited through the commercial sexual industry, including but not limited to: prostitution, pornography, and/or stripping/sexual performance.

The ultimate goal of this Rapid Assessment is to provide first responders and the community at large in San Antonio/Bexar County, Texas, with a comprehensive report that will help build the foundation for improvements in the identification of, access to and delivery of services for DMST victims. This assessment will be provided to the San Antonio/Bexar County Task Force on Human Trafficking and the larger community. The methodology and report can also be used as a tool for other locations wishing to assess their community's needs regarding proper identification and access to services for DTMs.

Key Findings

1. Resources needed for staff agencies and organizations to effectively combat human trafficking are severely limited. Law enforcement, the key first responder to DMST victims, finds itself stretched to capacity in San Antonio/Bexar County. With the present available manpower, as well as time and budget constraints, SAPD and BCSO law enforcement officers find it almost impossible to reach out to, what they view as, another area of crime intervention.

2. Identification training regarding domestic minor sex trafficking victims is very minimal. Although the Bexar County Sheriff's Office, Violent Crimes Unit (BCSO/VCU includes Sex Crimes/Violent Crimes, Human Trafficking/Child Abuse) is making significant efforts to train officers and service providers through the Alamo Area Council of Government (AACOG) on issues of human trafficking, the training is voluntary and, to date, has had low attendance rates. Almost all professionals interviewed, from law enforcement to social service providers in San Antonio/Bexar County, were unaware of the federal TVPA along with state laws on human trafficking in general and DMST specifically. However, with limited mention of DMST provided in the BCSO/VCU human trafficking training, some degree of awareness on the subject is emerging. Even with limited knowledge, professionals have started taking actions to address possible DMST cases and reach out to potential victims.

3. Domestic minor sex trafficking victims are often misidentified. Resulting from limited training specific to DMST and subsequent awareness of the crime of DMST, professionals seldom identify DMST victims. Among the possible first responders to DMST in San Antonio/Bexar County, this acute lack of awareness has resulted in unsystematic methods of assessing minors for involvement in DMST, the mislabeling of victims, and virtually no means of tracking and follow up. Also, as victims rarely self-disclose due to their own confusion regarding the crimes committed against them, most agencies do not identify victims of DMST, even when exploitation through commercial sexual activities is exposed. Instead, these victims are either given a

different victim label, such as rape victim or sexual abuse victim, or are charged with a crime or status offense committed through the course of their victimization, such as curfew violation or drug paraphernalia possession.

Additionally, intakes and protocols of many organizations do not screen for DMST or allow for the delineation between different types of victimization. For example, CPS does not have an intake code for familial commercial sexual exploitation and labels all such cases as “sexual abuse.” With the lack of systematic data tracking of DMST victims, it is impossible to estimate the number of victims.

4. The lack of awareness among the public. An attitude of “this is not happening here” prevails in San Antonio/Bexar County. Although law enforcement is making strides with successful cases of child abuse, child pornography, and human trafficking involving foreign national victims, media coverage is nonexistent regarding DMST. The San Antonio community becomes highly charged in response to crimes against children, but when the public is silent because of lack of awareness, there is minimal outcry for reform.

5. Because of misidentification, DMST victims are often treated as delinquents. A fervent attitude of restorative justice prevails within the Bexar County Juvenile Justice system, but a lack of secure, safe shelter leaves authorities with few options other than juvenile detention and/or probation for DMST victims who are high flight risks. Offenses are often downgraded in an effort to acquire services for those whom law enforcement and prosecutors see as victims. Although participants acknowledge that detention leads to revictimization, it is often their only recourse to keep victims from being released back to a pimp or family environment that is many times the origin of abuse. Additionally, the “delinquent” status often leaves DMST victims unable to access state Victims of Crime compensation and other victim services that would otherwise be available to them.

6. Law enforcement and prosecutors are frustrated with uncooperative victims. Children rarely disclose sexual victimization. Grooming by the trafficker/pimp ensures denial by the victim but is also often the only avenue for victims to maintain their dignity. As victims of DMST are revictimized and carried deeper into the juvenile justice system, a keen sense of mistrust between victims, law enforcement and juvenile authorities develops. Hostile, uncooperative witnesses make it very difficult to pursue investigations against the victim’s trafficker/pimp. Mistrust, animosity, and lack of cooperation from the victim leads to a lack of further intervention on their behalf from law enforcement and prosecutors.

7. A severe lack of technological streamlining and communication within and between agencies and organizations is prevalent. One issue facing Bexar County/San Antonio is the lack of integrated and current technology for communication between and within professional entities. Participants noted that it is not unusual for two primary entities, such as the Juvenile Justice Court and Family Court, to have contact with the same child and be unaware of the involvement of the other. Participants from all professional sectors indicated confusion over the responsibilities of their own agency to a DMST victim as well as the responsibilities of partner agencies. However, the interdisciplinary approach being initiated through the Human Trafficking Task Force along with the South Texas Coalition Against Trafficking and Slavery are creating initial inroads to change this trend.

8. Prosecution of perpetrators has been mainly limited to child sexual abusers and traffickers involved in pornography. Federal, state, and local Crimes Against Children units, federally funded through Internet Crimes Against Children task forces, usually focus on child pornography downloaded from the Internet. San Antonio/Bexar County law enforcement supported by the U.S. Department of Homeland Security, Immigrations and Customs Enforcement has had some significant success in arresting and prosecuting these types of trafficking cases. However, “trafficking” is not the descriptive classification attributed to these cases, so the connection to trafficked minors for commercial sexual exploitation is not being made.

9. There is a critical lack of safe, protective, and appropriate services and programs for DMST victims. Almost all providers of services for children in San Antonio/Bexar County attest to the fact that the county has little assistance to offer DMST victims that is appropriate and restorative. Though programs created for other population groups may be beneficial to DMST victims, the unique needs resulting from sex trafficking victimization are not taken into account. Participants from all professional groups stated that the lack of tailored placement and service options served to severely limit the protection and restoration of victims, as well as negatively affect investigations and prosecutions of traffickers/pimps.

10. DMST victims are included as a specific victim population in the federal TVPA, but no funding for services for DMST victims has been appropriated. Therefore, the TVPA–created grant program to the social services counterpart of the Human Trafficking Task Force administered by Department of Justice, Office of Justice Programs, Office for Victims of Crime (DOJ/OVC) has been restricted to providing services for foreign victims of human trafficking. Although DMST victims in San Antonio/Bexar County should have access to numerous state services, their identification as “juvenile delinquent” prohibits access, leaving domestic children of commercial sexual abuse openly exposed in a system that does not understand their particular needs and lacks resources to identify them and provide services.

Conclusions

In conclusion, there is an overall lack of understanding of the plight of DMST victims in San Antonio/Bexar County that contributes to a failure to identify, recover, and restore these children to health and wholeness. With limited resources specifically allocated for DMST victims and budget constraints, it is difficult for first responders to reach out to this victim population. With the lack of current and integrated communication technology, agencies and organizations that would routinely come in contact with DMST victims are unaware of the strengths each has to offer in combating the crime and protecting the victim.

Training is imperative for all those encountering this population of victimized children. Awareness of the severity of the crime and intensity of trauma to DMST victims would surely bring a shift in perspective, particularly from first responders, drawing them to advocacy. Investigation and prosecution of those involved in child pornography is admirable and noteworthy; however, insufficient resources are dedicated to stopping the commercial sexual exploitation of minors through prostitution.

The representatives who spoke on behalf of the San Antonio area echoed deep concern for this victim population and lamented their current inability to respond appropriately by providing restoration and justice. Although they struggle with many complex issues surrounding this particular population of traumatized children, they are passionately determined to change this course of events and to begin providing a haven for victims of domestic minor sex trafficking in San Antonio/Bexar County.

METHODOLOGY

This project is a Rapid Assessment (RA) of the practices and procedures used to identify and deliver services to domestic trafficked minors (DTMs) in Bexar County, Texas. San Antonio is located within Bexar County, Texas, and for the purpose of this report, the research findings will specifically focus on assessing the San Antonio/Bexar County area, though particular focus will be paid to San Antonio as the largest city in Bexar County. This report is based on research as well as qualitative and quantitative information provided during interviews with the diverse group of people who have interacted, both knowingly and unknowingly, with DTMs at various stages of the minors' exploitation, apprehension, legal disposition, and service provision.

Linda Struble, former Director of Agape Pregnancy Help Center, conducted the research in San Antonio/Bexar County for Shared Hope International (SHI). In-depth interviews were guided by *The Rapid Assessment Methodology and Field Interview Tool: Domestic Minor Sex Trafficking in the United States*, a research instrument developed by SHI. The complete methodology and tool can be accessed at www.sharedhope.org. Specific questions were created for seven different populations: Law Enforcement, Prosecutors, Public Defenders, Juvenile Court Judges, Juvenile Detention Facilities, Child Protective Services, and Non-Governmental Social Service Providers. The protocol for this research was approved by the Western Institution Review Board (Protocol #20070540).

43 interviews were conducted from February–April 2008 with one or more representatives from the following 20 agencies and organizations:

- 225th District Criminal Court
- 386th Judicial District of Texas
- Baptist Child and Family Services
- Bexar County District Attorney's Office—Juvenile and Criminal Divisions
- Bexar County Family Court
- Bexar County Juvenile Probation Department
- Bexar County Sheriff's Office—Sex Crimes/Violent Crimes/Human Trafficking/Child Abuse Unit
- Catholic Charities Archdiocese of San Antonio, Inc.
- ChildSafe
- Juvenile and Civil Attorneys at Law
- Pregnancy Care Center
- Roy Maas' Youth Alternatives, Inc.
- Rape Crisis Center
- San Antonio Police Department—Vice Unit
- Seton Home
- Texas Department of Family and Protective Services
- University Health System, Detention Health Care Services—Juvenile
- University of Texas Health Science Center at San Antonio
- U.S. Immigration and Customs Enforcement
- U.S. Department of Justice, United States Attorney's Office, Western District of Texas

Interviews were completed in one to three hours. Institutional Review Board (IRB)-approved informed consent or information sheet was obtained in writing prior to commencing the interview. The information provided during interviews has been synthesized to highlight best practices, gaps in current efforts, and challenges in the identification and protection of DTMs. The summaries are followed by recommendations for improved delivery of services to DTMs in San Antonio, Texas.

The findings in this report will be presented to the Human Trafficking Task Force in San Antonio/Bexar County and the larger community. It is intended to serve as an action plan to address the DTMs in Texas, bringing current and future initiatives into accordance with the standards outlined in the Trafficking Victims Protection Act of 2000 and its reauthorizations.

BACKGROUND RESEARCH

“Human trafficking is an offense against human dignity, a crime in which human beings, many of them teenagers and young children, are bought and sold and often sexually abused by violent criminals.”

President George W. Bush

San Antonio and Bexar County

Bexar County encompasses roughly 1,246 square miles and has an estimated population of 1,555,592 people. As of 2006, 28% of this population was believed to be under the age of 18.² San Antonio is the second largest city in Texas and the seventh largest city in the U.S.³ It is the seat of Bexar County, with a population just under 1.2 million and occupying roughly 369 square miles.⁴ The city was also the fourth fastest growing large city in the nation from 2000–2006 in terms of percentage.⁵

Human Trafficking Task Force

The United States Department of Justice (DOJ) has identified human trafficking of persons as a vast and problematic situation both worldwide and within the United States itself.⁶ In 2006, Attorney General Alberto Gonzales announced that Bexar County was selected to receive a grant from the DOJ, Office of Justice Programs to construct a localized human trafficking task force that would comprise entities from both law enforcement and social services in order to effectively combat human trafficking in the Bexar County region.⁷ The recipients of the dual grant were the Bexar County Sheriff’s Office funded by DOJ, Office of Justice Programs, Bureau of Justice Assistance (BJA) and Catholic Charities, Archdiocese of San Antonio funded by DOJ, Office of Justice Programs, Office for Victims of Crime (OVC). The goal of the Bexar County Human Trafficking Task Force (HTTF) is to identify and rescue victims of human trafficking, while arresting and prosecuting the perpetrators.⁸ To this end, the Bexar County Sheriff’s Office and Catholic Charities are tasked with actively recruiting other agencies—both government and non-governmental organizations (NGOs)—in order to form a comprehensive network of responders to situations of human trafficking.

Trafficking Victims Protection Act (TVPA)

Defined by the federal Trafficking Victims Protection Act of 2000 (TVPA), “sex trafficking” is the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.⁹ A “commercial sex act” is any sex act upon which anything of value, financial or in kind, is given to or received by any person. “Severe forms of trafficking in persons” are further defined as:

1. Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which a person induced to perform such act has not attained 18 years of age; or

² “Bexar County.” U.S. Census Bureau State and County Quickfacts. 2006. <<http://quickfacts.census.gov/qfd/states/48/48029.html>>. Accessed on May 9, 2008.

³ “Annual Estimates of the Population for Incorporated Places Over 100,000, Ranked July 1, 2006: Population April 1, 2000 to July 1, 2006.” U.S. Census Bureau. <<http://www.census.gov/popest/cities/tables/SUB-EST2006-01.csv>>. Accessed on May 12, 2008.

⁴ “Relocation Information.” San Antonio Chamber of Commerce. <http://www.sachamber.org/relo/general_info.php>. Accessed on May 12, 2008.

⁵ “The Fastest Growing U.S. Cities.” CNNMoney.com. June 28, 2007. <http://money.cnn.com/2007/06/27/real_estate/fastest_growing_cities/>. Accessed on May 12, 2008.

⁶ “Report on Activities to Combat Human Trafficking: Fiscal Years 2001-2005.” U.S. Department of Justice. <<http://www.usdoj.gov/crt/crim/introduction.pdf>>. Accessed on May 12, 2008.

⁷ “Attorney General Gonzales Announces Enhanced Programs to Combat Human Trafficking.” Department of Justice Press Release. October 3, 2006. <<http://www.ojp.gov/newsroom/pressreleases/2006/06-671.htm>>. Accessed on May 9, 2008.

⁸ Ibid.

⁹ Trafficking Victims Protection Act 2000, P.L. 106-386.

2. The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

In accordance with the federal TVPA of 2000, domestic minor sex trafficking (DMST) is the recruitment, harboring, transportation, provision, or obtaining of a U.S. citizen(s) or lawful permanent resident(s) under the age of 18 for the purpose of commercial sex, such as prostitution, pornography, or erotic dancing/stripping. “Payment” for the sex act can be anything of value given to or received by any person (e.g. drugs, food, accommodations, cash).¹⁰ It is important to note that force, fraud, or coercion is not necessary when the victim is under the age of 18.

Furthermore, the TVPA goes on to establish a framework of rights that a victim of DMST is entitled to, including:

- The right not to be detained in facilities inappropriate to their status as crime victims;
- The right to receive necessary medical care and other assistance;
- The right to be provided protection if a victim’s safety is at risk or if there is a danger of additional harm by recapture of the victim by a trafficker.¹¹

Texas Human Trafficking Law

The Texas state statute on human trafficking shows many inconsistencies with definitions outlined in the federal TVPA. Title V, Chapter 20A of the Texas Penal Code states an offense of trafficking occurs when a person “knowingly traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services” or if a person “intentionally or knowingly benefits from participating in a venture” that involves trafficking a person. Under the statute, “trafficking” means to “transport, entice, recruit, harbor, provide or otherwise obtain a person by any means.”¹² Also, under the Texas Human Trafficking Law, the penalty for the trafficking of a minor is a first-degree felony with a maximum prison sentence of life in jail, no longer than 99 years or no less than five years. There is also a maximum fine of \$10,000 (see Appendix A).¹³

Forced Labor or Services. A revision of the Texas statute on human trafficking that took effect in September 2007, inserted language that now defines all human trafficking in terms of “forced labor or services.” According to the revised statute, “forced labor or services” is defined by a number of factors, all of which require proving that specific measures of force, fraud or coercion took place or were threatened.¹⁴ This revision places the Texas state statute at odds with the TVPA provision that eliminates the requirement to prove force, fraud or coercion in the event that the victim of the trafficking is a minor, under the age of 18. In practice, though the sentencing guidelines are strong the high evidentiary burden makes prosecution difficult under the state law. The law stops short of providing any victims’ rights or funding allocations for services (see Appendix A).¹⁵

Texas Sexual Offenses Laws and Prostitution Laws

Throughout the Texas penal code, sexually based offenses consider a minor as a person less than 17 years of age (see Appendix B for a full text reading of statutes under Sexual Offenses). Similarly, Texas prosti-

¹⁰ Trafficking Victims Protection Act 2000, P.L. 106-386.

¹¹ Trafficking Victims Protection Act 2000, P.L. 106-386.

¹² Texas Penal Code: Chapter 20A. “Trafficking in Persons.” Effective September 1, 2003. <<http://tlo2.tlc.state.tx.us/statutes/petoc.html>>. Accessed on April 19, 2008.

¹³ Ibid.

¹⁴ Texas Penal Code: Chapter 20A. “Trafficking in Persons.” Amended September 1, 2007. <<http://tlo2.tlc.state.tx.us/statutes/petoc.html>>. Accessed on April 19, 2008.

¹⁵ Ibid.

tution laws also define a minor as a person under the age of 17 (see Appendix C for a full text reading of statutes pertaining to prostitution).

Of particular interest is the fact that, while the Texas Human Trafficking Law and statutes under Sexual Offenses consider minors (either under 17 or 18 years depending on the specific statute) victims, Texas prostitution laws make no such distinction. Under Texas Penal Code 43.02, prostitution is defined as:

“A) A person commits an offense [prostitution] 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. [...]

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.”¹⁶

Law Enforcement Structure in Bexar County/San Antonio

San Antonio law enforcement has two main entities: the San Antonio Police Department (SAPD), which has jurisdiction within the city limits of San Antonio, and the Bexar County Sheriff’s Office, which has jurisdiction countywide. There are also 25 municipalities within the county, such as Leon Valley, Alamo Heights, Hollywood Park, and Universal City, that have their own law enforcement entities. Each agency is unique unto itself and independently maintained. Unless a felony has been committed, officers do not take police action in another jurisdiction.

Human Trafficking and Child Exploitation in Bexar County/San Antonio

An estimated one out of every five men, women, and children who are victims of human trafficking pass through Texas.¹⁷ In fact, since 2001, 20% of all human trafficking victims nationwide have been located in Texas.¹⁸ Specifically, San Antonio has been seen as a hub for human trafficking due to its proximity to the I-10 corridor, which has been identified by the Department of Justice as a major trafficking route.¹⁹

The Bexar County Sheriff’s Office, Violent Crimes Unit (BCSO/VCU) received a grant in 2006 from the DOJ to lead the law enforcement section of the HTTF. From this grant, the Violent Crimes Unit was tasked with the responsibility of investigating cases of human trafficking. In 2007, an indictment against Timothy Michael Gereb was brought through an investigation conducted by the Bexar County Sheriff’s Office and the Bureau of Immigration and Customs Enforcement (ICE). Gereb pled guilty to sex trafficking and admitted trafficking minors into the United States from Mexico for the purposes of forced prostitution.²⁰ On March 12, 2008, Gereb was sentenced to ten years imprisonment and once released will be on lifetime federal supervised release.²¹ Three of Gereb’s accomplices, a mother and her two daughters, also pled guilty in 2007 to harboring or transporting the victims.²²

¹⁶ Texas Penal Code 43.02.

¹⁷ P.R. Hughes, “Six Bills Target Sex Slavery and Indentured Servitude,” Houston Chronicle, March 28, 2008. <<http://www.chron.com/disp/story.mpl/metropolitan/4670017.html>>. Accessed on May 12, 2008.

¹⁸ “Human Trafficking,” Texas Association Against Sexual Assault. <<http://www.taasa.org/trafficking/default.php>>. Accessed on May 12, 2008.

¹⁹ P.R. Hughes, “Six Bills Target Sex Slavery and Indentured Servitude,” Houston Chronicle, March 28, 2008. <<http://www.chron.com/disp/story.mpl/metropolitan/4670017.html>>. Accessed on May 12, 2008.

²⁰ “Man Sentenced to 10 Years for Role in San Antonio Sex-Trafficking Ring,” Department of Justice Press Release, March 12, 2008. <http://www.usdoj.gov/opa/pr/2008/March/08_crt_202.html>. Accessed on May 9, 2008.

²¹ Ibid.

²² “Plea Deal Reached in Sex Trafficking Case for S.A. Man,” MySA.com Metro/State, February 26, 2008. <http://www.mysanantonio.com/news/metro/stories/MYSA022608.03B.sex_slavery_plea.336471e.html>. Accessed on May 9, 2008.

In addition, since 2003, the Cyber Crimes Unit and Fugitive Unit with the Texas Attorney General's Office has arrested more than 900 sexual predators in Texas and prosecutors have obtained convictions against more than 70 men on child pornography charges.²³ Recent cases in Bexar County include the prosecution of Jonathan Benavides, a University of Texas at San Antonio student, who was sentenced to five years imprisonment for possession of child pornography in 2006.²⁴ In October 2007, another predator, Carlos Curiel, was sentenced to 90 months in prison, to be followed by 20-years supervised release and registration as a sex offender with SAPD.²⁵

Operation Predator, an initiative led by ICE, has had great success in the Bexar County/San Antonio area. Created to identify, investigate, and arrest child predators, ICE has arrested more than 10,700 child predators nationwide.²⁶ As of May 2007, 900 predators were arrested in Texas.²⁷ In its first two weeks of operating, Operation Predator arrested nine predators in San Antonio/Bexar County.²⁸ In 2008, San Antonio arrests included a former school janitor who had more than 21,000 sexually explicit child pornography images and videos (received ten years in prison),²⁹ a club bouncer who had 81 images and videos (received six years in prison and lifetime supervision),³⁰ and a 70-year-old man who had more than 6,000 images and 3,000 videos of child pornography (received eight years in prison and 20 years supervision).³¹ These successful prosecutions are an enormous victory; however, similar resources and prioritization is necessary for DMST victims of prostitution and sexual performance.

Juvenile Justice System

In Bexar County, the juvenile justice system operates under the direction of the Juvenile Board, which is comprised of the 24 District Court Judges, any statutory court judges that has specially been designated as a juvenile court, and the County Judge.³² The juvenile board is responsible for many facets of the juvenile justice system including the appointment of the Chief Juvenile Probation Officer, creating policies, and approving budgets.³³

The Bexar County Juvenile Probation Department's (BCJPD) mission is to "promote the rehabilitation and wellbeing of offenders and their families by redirecting behavior with an emphasis placed on individ-

²³ "Hallettsville Sex Predator Sentenced to Seven Years in Prison for Child Pornography." *Attorney General of Texas*. January 22, 2008 <<http://www.oag.state.tx.us/oagnews/release.php?id=2351>>. Accessed on May 16, 2008.

²⁴ "UTSA Student Sentenced in Child Pornography Case." *Bexar County District Attorney*. June 5, 2006 <<http://www.bexar.org/da2/PressRelease/2006/06052006.htm>>. Accessed on May 16, 2008.

²⁵ "San Antonio Resident Sentenced to 7 ½ years in Prison for Purchasing Child Porn." *ICE*. October 5, 2007. <<http://www.ice.gov/pi/news/newsreleases/articles/071005sanantonio.htm>>. Accessed on May 14, 2008.

²⁶ "Operation Predator." *ICE*. 2008. <<http://www.ice.gov/pi/news/factsheets/070607operationpredator.htm>>. Accessed on May 12, 2008.

²⁷ "Kerrville doctor indicted for possessing child pornography: Eight child porn videos and more than 200 still images were discovered on his computer." *ICE*. May 3, 2007. <www.ice.gov/pi/news/newsreleases/articles/070503sanantonio.htm>. Accessed on May 16, 2008.

²⁸ "News Release: San Antonio Ice Apprehends 25 Sex Offenders." *ICE*. July 28, 2003. <<http://www.ice.gov/pi/news/newsreleases/articles/arrests072803.htm?searchstring=bexar%20AND%20county>>. Accessed on May 12, 2008.

²⁹ "News Release: San Antonio man sentenced to 10 years for possessing child pornography." *ICE*. February 8, 2008. <<http://www.ice.gov/pi/news/newsreleases/articles/080208sanantonio.htm>>. Accessed on May 12, 2008.

³⁰ "News Release: San Antonio Club Bouncer Sentenced to 6 Years Possessing Child Porn." *ICE*. April 7, 2008. <<http://www.ice.gov/pi/news/newsreleases/articles/080407sanantonio.htm>>. Accessed on May 12, 2008.

³¹ "News Release: San Antonio Man Sentenced to 8 years for Possessing Child Pornography." *ICE*. April 8, 2008. <<http://www.ice.gov/pi/news/newsreleases/articles/080407sanantonio.htm>>. Accessed on May 12, 2008.

³² "Juvenile Board." *Bexar County Juvenile Department*. <http://www.bexar.org/bcjpgd/BCSD_JVD_T148_R29.html>. Accessed on May 12, 2008.

³³ "2006 Annual Report." *Bexar County Juvenile Probation Department*. <http://www.bexar.org/bcjpgd/BCSD_JVD_T148_R6.html>. Accessed on May 12, 2008.

ual responsibility and the protection and safety of the community.”³⁴ To this end, with a 2007 budget of \$37,169,656,³⁵ the BCJPD has two main departments: Probation Field Services and Court Division, and Probation Services and Education Division. Within these two departments are nine units, five of which are decentralized to provide more community based programming.³⁶

Within the Bexar County juvenile justice system, there are two main facilities. One is the Juvenile Detention Center with a capacity of 198 residents. Its mission statement is: “To create and maintain a safe and secure atmosphere in which to provide a program that is healthy for the body, mind, and spirit of each child in our care.”³⁷ Juveniles enter the Detention Center system by either an “Arrest Referral” (offense report and juvenile offender) or by a “Non-Arrest Referral” (paper complaint referral only).³⁸ The other main facility is the Cyndi Tylor Krier Juvenile Correctional Treatment Center (Krier Center). The Krier Center has a 96-bed capacity and can provide long-term, secure, post-adjudication treatment.³⁹

In Bexar County, total referrals to BCJPD were down by 0.1% as of March 2008. In particular, misdemeanor referrals were 2.6% lower than the previous year, while Violation of Probation charges remained the same at a total of 343 referrals. Of particular interest to the issue of domestic minor sex trafficking is the total referrals for Conduct Indicating a Need for Supervision (CINS), which includes status offenses, such as running away and truancy. As of March 2008, CINS referrals were up by 2.2%. In 2007, referrals for running away increased 85% with a total of 95 referrals versus the 2006 total of 55.⁴⁰

Child Protective Services

An important entity poised to interact with domestic minor sex trafficking victims is Child Protective Services (CPS). In 2004, Judge Andy Mireles from the 73rd District Court ordered a review of the child protective system in Bexar County in response to the death of Diamond Alexander-Washington shortly after leaving CPS care.⁴¹ The 79th Texas Legislature took the report into consideration when they enacted sweeping legislative reforms of the Child Protective Services system the following year. A subsequent 2007 Compliance Review of the 2004 Recommendations, ordered again by Judge Mireles, found both reform and reasons for additional discouragement. Despite achievements made in efforts to repair community relationships and an increase of resources, staff turnover has doubled (it was also identified as a problem in 2004).⁴² At 47% annual turnover, Bexar County had the highest caseworker turnover rate of all major metropolitan Texas counties in 2007.⁴³ Also, the Investigations Unit turnover rate in 2007 was at 75%; this is an understated statistic because it measures only terminations and not transfers and promotions.⁴⁴

CPS has a state-wide intake entity that refers cases to the appropriate local office. Allegations of abuse or neglect can come from a variety of sources; however, the most common are schools with 18.9% of reports emanating from them followed by medical personnel with a rate of 16.5%, other with a rate of 13.8%,

³⁴ “About BCJPD.” Bexar County Juvenile Probation Department. <http://www.bexar.org/bcjpgd/BCSD_JVD_T148_R6.html>. Accessed on May 12, 2008.

³⁵ Ibid.

³⁶ “Probation Services.” BCJPD. 2008. <http://www.bexar.org/bcjpgd/BCSD_JVD_T148_R80.html>. Accessed on May 12, 2008.

³⁷ “2006 Annual Report.” Bexar County Juvenile Probation Department.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ “Memorandum to David J. Reilly Chief Probation Officer Regarding Referral Trends Ending March 31, 2008.” Bexar County Juvenile Probation Department. 2008. <www.bexar.org/bcjpgd/JVD_uploads/2008_03_Trend_Report.pdf>. Accessed on May 16, 2008.

⁴¹ “CPS 2007 Compliance Review.” D.J. Reilly and L. Wilkerson. February 8, 2008. <http://www.bexar.org/2007_Compliance_Review_Report.pdf>. Accessed on May 12, 2008.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

law enforcement with 13%, and a relative with 12%. Victims only make up 0.4% of total reports (see Appendix D for a flow chart for intakes through the Department of Family and Protective Services).⁴⁵ In 2007, Bexar County received 21,241 initial intakes alleging abuse or neglect. Of these, only 17,779 were assigned for investigation with 129 CPS workers responsible for intake or investigation.⁴⁶ CPS workers in San Antonio had a daily case load of 25.2 for investigations, 18.2 for family-based safety services, 44.9 for substitute care services, and 35.3 for foster/adoptive home development.⁴⁷

There are two intake priorities that an alleged abuse/neglect report can receive after intake. Priority one reports minors who are thought to be at immediate risk of abuse or neglect that could result in death or serious harm. When a priority one case is assigned to a worker, the CPS investigator must initiate the investigation within 24 hours. Priority two cases are reports where intake workers believe there is no immediate threat of abuse or neglect that could result in serious harm or death. When this occurs, CPS workers have ten days to respond, which was shortened to 72 hours in August of 2007. In 2007 in Bexar County, out of 4,467 priority one cases, 4,019 were responded to within one day and 448 were responded to in over 24 hours. Out of 9,360 priority two cases, 7,322 were responded to within ten days and in 2,038 investigations it took over ten days to respond.⁴⁸

CPS workers decide whether a child is “at risk” or “not at risk” based on the reasonable likelihood that the child will be abused or neglected in the foreseeable future. This is based on an assessment of risk, not of the disposition of the allegations. According to the Department of Family and Protective Services, “By using a risk-based system for provision of services, CPS is able to identify children in need of protection and direct its resources to those most in need.”⁴⁹ There are four possible risk assessment outcomes:⁵⁰

1. No Significant Risk Factors,
2. Risk Factors Controlled: family strengths and resources are sufficient to provide safety to the child without CPS involvement.
3. Risk Indicated: family strengths and resources insufficient to handle risk factors without CPS intervention, or
4. Risk Assessment Not Applicable: if the investigation involved school personnel or an only child who died, or the investigation was administratively closed or given a disposition of “unable to complete.”

Media Coverage of DMST

Until recent television documentaries and news programs focusing on the plight of foreign victims of human trafficking, it was difficult to find information in the media specifically citing human trafficking. With the emergence of the Human Trafficking Task Force in Bexar County, there has been an increase in the local media coverage. Local media has also had more to report in light of recent cases and resulting convictions, such as the case of Timothy Michael Gereb who was convicted of sex trafficking of minors from Mexico and received a ten-year prison sentence. Nonetheless, during the course of the assessment, no media reports were found on the issue of domestic minors being trafficked in San Antonio or Bexar County. In addition, at the time of this assessment, no coverage was found on the arrests of buyers of juveniles exploited through prostitution; however, there has been some coverage concerning perpetrators of child pornography.

⁴⁵ “2007 Data Book”. Department of Family and Protective Services. 2008. <http://www.dfps.state.tx.us/About/Data_Books_and_Annual_Reports/2007/databook/default.asp>. Accessed on May 16, 2008.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ “2007 Data Book.” Department of Family and Protective Services. 2007. <http://www.dfps.state.tx.us/About/Data_Books_and_Annual_Reports/2007/databook/default.asp>. Accessed on May 16, 2008.

⁵⁰ Ibid.

RESEARCH FINDINGS

Following the widely employed organizational structure of the “three P’s”— **P**revention of trafficking, **P**rosecution of the traffickers, and **P**rotection of and assistance to the victims—the rapid assessment (RA) will summarize the findings obtained through the systematic interviewing of professionals likely to come into contact with victims of domestic minor sex trafficking (DMST). DMST is defined as a United States citizen or lawful permanent resident, under the age of 18, who has been recruited, harbored, transported, provided, or obtained to perform commercial sex acts, which are any sex acts done in exchange for monetary or other non-monetary gain.⁵¹ It is important to note that under the definition created by the Trafficking Victims Protection Act (TVPA), force, fraud, or coercion is not necessary when the victim is a minor. In addition, the TVPA states that the commercial aspect of sex trafficking (i.e., the exchange of money or something of value) can be given to any person.

This RA will (1) identify the scope of the problem of domestic minor sex trafficking victims in San Antonio/Bexar County in particular, and (2) obtain an understanding of whether services are reaching domestic minor sex trafficking victims, and (a) if they are, then determine how or (b) if they are not, then determine why. The report will also identify gaps, challenges, and promising practices employed in the San Antonio/Bexar County area.

⁵¹ Trafficking Victims Protection Act 2000, P.L. 106-386.

I. PREVENTION

Prevention of domestic minor sex trafficking must begin with public awareness initiatives which will assist individuals in properly identifying a victim of domestic minor sex trafficking. Prevention efforts must also be focused on curtailing the victimization of minors by raising youth awareness of the recruitment and grooming tactics of traffickers/pimps. This may include victimization by family members and other individuals known by a potential victim. Lastly, prevention efforts must aid in decreasing the demand for commercial exploitation of minors by identifying, prosecuting, and punishing all those involved in facilitating—in any way—the recruitment, luring, and buying of domestic trafficked minors (DTMs).

Training of law enforcement, prosecutors, and judges is vital to prevention, as they provide the frontline tools for the identification and protection of the DTM and the prosecution of her/his assailants. Equally important are training initiatives that must include child protective services (CPS), educators, and caretakers—any adult who comes in contact with or is responsible for youth—in order to identify a minor who is at risk of becoming a domestic minor sex trafficking victim.

1.1 LAW ENFORCEMENT

San Antonio/Bexar County law enforcement has two main entities. These are the San Antonio Police Department (SAPD), whose jurisdiction encompasses the city limits of San Antonio, and the Bexar County Sheriff's Office (BCSO), which has jurisdiction countywide. There are also close municipalities, such as Leon Valley, Alamo Heights, Hollywood Park, and Universal City, which have their own law enforcement.

1.1.1 Training

SAPD Vice has ongoing training for the officers as part of continuing education requirements. As the budget allows, every two or three months, two officers will attend selected classes. Vice officers are allowed to choose training based on the relevance to their service and department assignment. At the time of the assessment, none of the detectives interviewed had received specialized training in the identification of DMST victims. Until recently, the participating officers were unaware of the issue of prostituted children. One detective did attend a national conference in Las Vegas on human trafficking; however, the subject matter dealt mainly with federal laws pertaining to a foreign victim. This is unfortunate, as there is a stated desire within the SAPD Vice Unit interviewees to learn more about the issue of DMST.

The Bexar County Sheriff's Office Violent Crimes Unit (BCSO/VCU) has expanded their training program to specifically include human trafficking. An expansive program, the Violent Crimes Unit set a goal in the beginning of 2008 to train 3,000 professionals on the issue of human trafficking within six months. Though much of the information is on the trafficking of foreign nationals into the United States, information regarding domestic trafficked minors is a small part of the curriculum; more information is actively being sought out to include in the program. Of particular interest is the purposeful emphasis on training professionals in a variety of positions (e.g. detention guards, officers on bike patrol) rather than simply focusing on more traditionally targeted personnel, such as detectives who respond to sex crimes. Sessions are currently being offered at the Alamo Area Council of Governments facility on a bi-monthly basis to all interested law enforcement entities and service providers in the area. By broadening the target population for training, victims are starting to be identified through nontraditional means. One case example involves warrant officers who, after receiving training from the BCSO/VCU, reported the suspicious behavior of a man with his "girlfriend," who was later determined to be 13 years old.

"They knew in their gut something was wrong but didn't know how to investigate it. Yet they called us, and we had a two-time convicted sex offender with a 13-year-old. Within three hours, we went from this guy being a free active pedophile to bagging him on a half million-dollar bond. These officers went through our in-service training and learned, 'I may not know how to investigate it, but I know who to call.'"

1.1.2 Identification

The vice unit of SAPD is the unit most likely to come in contact with prostitution of any kind; however, the Sex Crimes Unit and the Youth Crimes Unit (which is responsible for all youth crime related issues as well as missing persons) are also in a position to come into contact with DMST victims. At the time of this report, the SAPD had no special unit or individual tasked with the identification of DMST victims.

The SAPD vice detectives interviewed estimate that as few as three or four children exploited through prostitution have been identified by the vice unit since 2005. Until the time of the assessment, these children were not viewed as victims; rather, the juveniles were labeled as prostitutes. When identified as prostitutes, the protocol was to take the minor to juvenile detention under a lesser charge than prostitution or to lecture the child and return the minor home. Since the minors were not identified as victims and no records were kept of minors found engaging in prostitution, more information concerning the DMST victims was unable to be obtained and interviewees did not note any follow-up investigations.

The Bexar County Sheriff's Office Violent Crimes Unit (BCSO/VCU) has not tasked an individual or unit with specific DMST victim identification; rather, due to the resources provided by the BJA HTTF grant, the Crimes Against Children/Sex Crimes/Violent Crimes Unit has been expanded to include human trafficking. In the past, this unit had seen minors engaged in prostitution, but these minors were not identified as trafficking victims. Instead, the minors were treated as runaways or as prostitutes. Participants in the assessment attributed much of this discrepancy to a lack of awareness concerning the DMST problem and its dynamics.

Currently, the Sheriff's Office is interviewing adult prostitutes currently held in detention as a way to gather intelligence on victimized youth. This process is in its infancy but has already yielded results. In particular, intelligence on hotspots within Bexar County for domestic minor sex trafficking is starting to be gathered. Though the BJA grant has funded two detectives to focus on human trafficking investigations, interviewees cited more "manpower" as a need to conducting thorough and swift investigations of traffickers of domestic minors.

1.1.3 Protocols

If the SAPD officers see something in the realm of human trafficking, they are to contact the local Human Trafficking Task Force for assistance; until recently, children being exploited through prostitution or stripping were not seen as a human trafficking issue, and this protocol has not yet been used for DMST victims. In terms of children being found engaged in prostitution, there is no written procedure in place that outlines the determination of arrest/no arrest. Instead, participants report that it is usually left up to the discretion of the officer whether or not a minor is arrested.

Vice officers stated that they rarely come in contact with prostituted children, but when this issue is brought to their attention, it has usually been in the form of a community complaint. Vice detectives do the initial interview with the child. When a child is encountered on the streets, there are no victim-sensitive interrogation techniques in place or additional questions asked to further identify her/him as a DMST victim. Interviewees believe they would learn of a DMST situation only if the minor self-identifies as a victim. Charges are given at face value according to the information (such as age) that is provided to the officer by the minor at the scene.

Training received by officers in the Sheriff's Office Violent Crimes Unit regarding child victims directs the officers to address their questions in a more sensitive format or stop the interview to continue with a female officer. Interviewees reported that they are beginning to see the importance of limiting the number of people that interview the child, and procedures used in working other child sex crimes are being adapted to DMST victims, such as working in collaboration with ChildSafe, San Antonio's Child Advocacy Center, in order to obtain the assistance of a child forensic interviewer.

"If you have things already set up for child sex cases—don't reinvent the wheel. If a child is exploited through sex trafficking, get them in with a forensic interviewer."

Law enforcement participants stated that there were two standard responses by many law enforcement officers in San Antonio/Bexar County when encountering a minor they suspected of prostitution. One common action was to charge them with a lesser crime, such as loitering or curfew violation. The other action was to lecture the victim and return the minor to her/his place of residence. Both of these actions hinder the proper identification and rescue of the victim, as well as the identification of the traffickers/pimps and buyers. Since the completion of the assessment process, both the SAPD and BCSO/VCU have taken the initiative to create new protocols which address identification and response to suspected child victims of prostitution.

1.1.4 Information Sharing

Interviewed officers with the SAPD Vice Unit stated that there are not adequate systems in place to share information between units or even within a unit. Such information sharing is usually by email or word of mouth, depending on the individual initiative of an officer if the subject comes up.

The BCSO/VCU uses the time during roll call briefings every morning to share information and daily activities. The time is purposely used to facilitate a free exchange of information, requests, need for follow-up, etc.

As the recipient of the 2006 BJA grant, the BCSO/VCU was able to expand to include two new detectives and a part-time analyst focused on human trafficking. These officers are stationed at the local Immigration and Customs Enforcement (ICE) office in order to have direct communication and cooperation between the entities.

1.1.5 Resources

The SAPD Vice unit is under extreme financial and resource constraints. They were recently downsized, and their budget has been decreased. Recently, two vice detectives were reassigned to other areas of service in order to fill the ever-expanding need of the San Antonio Police Department. In addition, interviewees report that the technology and equipment is severely limited and, for the most part, very old.

At the time of this assessment, the BCSO/VCU was in the process of rapid expansion. This is largely due to receiving a grant from the BJA to pursue human trafficking cases, which provides funding for two detective positions and resources to be allocated towards pursuing all cases of human trafficking. Despite these resources provided by the grant, the Sheriff's Office is also experiencing a resource strain. As budgets are created annually, and San Antonio is one of the fastest growing cities in the U.S. as of 2006, budgets are consistently insufficient to keep up with the added population and increased level of crime. As a result, the Sheriff's Office had to disband their vice unit in order to place those officers on street patrol. It is not unusual for an officer to work a full shift by day and then have to attend community meetings at night. One reported way the Sheriff's Office is trying to alleviate the resulting strain in the officers is to provide better and more frequent training to allow officers to grow, learn more efficient methods of investigation, and develop better protocols.

1.1.6 Collaboration

There is little to no collaboration between law enforcement entities in San Antonio/Bexar County to identify domestic minors as sex trafficking victims. Some participants feel this is due primarily to territoriality. There is also limited collaboration between non-law enforcement agencies, such as CPS, local service providers, shelters, etc.

With the establishment of the HTTF in San Antonio, participants believe the historical separation is poised to change. In particular, the BCSO/VCU has been working with Catholic Charities to improve communication and collaboration with social service groups.

1.1.7 Interaction with Child Protective Services (CPS)

Interactions with CPS are varied according to the officers interviewed. While some interviewees had positive experiences with CPS, many felt that CPS was very understaffed and under-qualified due to a high turnover rate. Interviewees stated that many of the CPS staff members are inexperienced and overloaded with cases. According to protocol, SAPD vice detectives call if necessary, but do not expect a timely or professional response.

Interviewees with the BCSO/VCU also reported troubled interactions with CPS. However, detectives pointed out that CPS is not mandated as a rescue agency—that is the role of law enforcement. Interviewees stated that, in their experience, CPS does as much as possible with severely limited resources, high turnover rate, and narrow jurisdiction.

1.1.8 Public Education

SAPD Vice Unit has no current programs to train professionals who come in contact with DMST victims. According to participants, this would be impossible given the current resource constraint on their unit. Community outreach that can be performed is directed mainly towards crime prevention, such as car theft.

At the time of the assessment interviews, the BCSO/VCU was in the process of adapting their Human Trafficking Training for law enforcement audiences to be suitable for schools and neighborhoods. The focus will be on how to identify cases of child exploitation. Two detectives from the Violent Crime Unit are specifically targeting neighborhood associations; however, this taxes the Unit's resources, as they must use overtime to accomplish the additional training tasks.

1.2 PROSECUTORS

1.2.1 Training

Federal prosecutors interviewed from the U.S. Attorney's Office (USAO) in San Antonio reported receiving some formal training on DMST from the Department of Justice at the South Carolina training center when the San Antonio USAO began considering human trafficking cases two years ago. However, not all relevant personnel have received training by the DOJ on human trafficking, though various trainings and seminars have been made available by other entities.

Prosecutors in the Bexar County District Attorney's Office (DA) reported that they have received no specific training on identification of DMST victims, though participants have received training on child sexual abuse given by the Texas District and Counties Prosecutors Association. Interviewees have discretion over the trainings they choose to attend and generally select those that are most pertinent to their caseload. Interviewees believe that trainings on subject matters that are not obviously related to their job, such as domestic minor sex trafficking, are unlikely to be chosen, as many District Attorneys assume that law enforcement is being trained on the issue and would be able to properly identify a victim.

1.2.2 Identification

Prosecutors primarily leave the identification of DMST victims to law enforcement or, possibly, juvenile detention staff members. One impediment mentioned by interviewees was the frequent refusal of DMST victims to acknowledge their own victimization which can make proper identification and exposure of the traffickers/pimps difficult. When juveniles are arrested on prostitution-related crimes, it is not unusual for DMST victims to insist that they were acting on their own volition. The DAs office has not developed second and third level questioning that would bring about a more solid identification.

1.2.3 Protocol

Prosecutors interviewed for the assessment stated that it is unusual to receive a case with a juvenile under prostitution charges. Usually these charges are downgraded and, when a minor charged with prostitution does come before the DA, the trend is to offer a plea bargain.

1.3 PUBLIC DEFENDERS

1.3.1 Training

Public defenders interviewed had received no formal training on the identification of DMST victims; however, one public defender had personally researched the topic. Public defenders interviewed had no awareness of the TVPA and no awareness of the Texas Human Trafficking Law. Participants reported gaining all of their knowledge concerning the local aspects of human trafficking from media reports.

1.3.2 Identification

A major obstacle to identifying a client as a victim of domestic minor sex trafficking is the underground nature of the issue. Participants state that the victims are often focused on survival and are trained to deny the victimization. The minors also view the perpetrator as their boyfriend or as a loved one, such as in the case of a family member who acts as a trafficker. This also complicates identification and the victim's willingness to cooperate and disclose.

1.4 JUVENILE COURT JUDGES

1.4.1 Training

The Texas legislature has been progressive in mandating continuing education for judges on domestic violence and child abuse; however, these trainings have not been specific to the exploitation of child trafficking. Participating juvenile judges stated that this would be an important addition to their training.

1.4.2 Identification

The judiciary has no formal process for identifying a minor at risk for domestic minor sex trafficking or as a misidentified or unidentified victim. Indicators of vulnerability, such as chronic running away, are not used as an identifier for exploitation. There is a belief that such behavior is self-harming and does not affect other people or the community at large.

1.5 JUVENILE DETENTION FACILITIES

1.5.1 Training

The Bexar County Juvenile Probation Department (BCJPD) provides basic, in-house training to new probation and detention officers on the identification of abuse or neglect. At the time of this assessment, training on the identification of domestic trafficked minors (DTMs) was not included. Staff members to whom victims are likely to disclose victimization, such as parole officers, nurses, etc., have not been trained on domestic minor sex trafficking.

1.5.2 Identification

While participants felt it was a positive trend not to charge victims of DMST with prostitution, the downgrading of charges acted to mask the underlying cause of referral to the juvenile detention center. One cited possible reason for lack of identification was antiquated intake forms that were originally designed for adults. As such, staff members rarely identify DMST victims. Instead, DMST victimization, such as involvement in prostitution, is seen as delinquent behavior that parole officers diligently try to address through various programs and parole conditions.

Staff members within the detention center report that, as they are not part of the intake process and do not know what the minors are detained for, the only method of identification on their part would be a report made by a counselor or a parole officer, or if the child discloses. Such disclosure often comes through asking second and third level questions that delve deeper into the minor's coping strategies. One participant stated that she will often get disclosures of DMST victimization through asking how a minor found drugs or paid for drugs.

Juveniles routed through diversion programs are not screened for DMST. In particular, the Early Intervention (EI) program through the BCJPD often receives clients that exhibit many signs associated with being at risk for DMST victimization, such as running away, curfew violations, and other status offenses. Of particular interest is the fact that, according to the BCJPD, clients within the EI program often have histories of physical or sexual abuse, substance abuse issues, and adult supervision concerns.⁵² Yet, these minors are not screened for DMST victimization.

⁵² Bexar County Juvenile Probation and Delinquency 2006 Annual Report. Bexar County 2006.

1.6 CHILD PROTECTIVE SERVICES (CPS)

1.6.1 Mandate Under the Law

All reports of child abuse or neglect are made through the CPS hotline. CPS is mandated to investigate all reports that meet the statutory definition of abuse or neglect.⁵³ These definitions are found in Texas Family Code 261, which states:

- 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 to a child that results in an 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;
 - 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; or
 - j. Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.
- 2) "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;

⁵³ "2007 Data Book." Department of Family and Protective Services. 2007. <http://www.dfps.state.tx.us/About/Data_Books_and_Annual_Reports/2007/databook/default.asp>. Accessed on May 16, 2008.

- (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; or
- (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
- 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.

A "person responsible for the child's care, custody, or welfare" is also defined by Texas Family Code 261 as:

1. Parent, guardian, managing or possessory conservator, or foster parent of the child;
2. A member of the child's family or household as defined by Chapter 71;
3. A person with whom the child's parent cohabits;
4. School personnel or a volunteer at the child's school; or
5. 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.

1.6.2 Training

Although CPS staff has been trained to identify sexual and physical abuse, no training specific to DMST victims has been given to any CPS personnel. Management personnel who attend the annual Crimes Against Children Conference in Dallas, TX are the most likely to receive training on human trafficking, if the conference offers such a training and if the staff member chooses to attend that specific class.

1.6.3 Identification

Though CPS is required by law to conduct civil investigations of reports of suspected child abuse or neglect, in practice, CPS only intervenes in cases of children under the age of 18 where physical or sexual abuse or neglect is reported and is perpetrated by either a family member, caretaker or another person living in the home. As such, the only time CPS would be available in an intervention for a DMST victim is if it could be proven that the parent or guardian knew about the situation and allowed it to continue, thus constituting neglect, or if the parent was actively prostituting the child. However, all calls to report allegations of abuse or neglect are streamlined through the CPS hotline manned by CPS intake staff that does not have training on the issue of DMST. Nor is there a way for intake staff to categorize the victimization of a child through sex trafficking (see Appendix D for a flow chart of CPS Intake and worker demographics). At best, the abuse of domestic minor sex trafficking would be recorded as "neglectful supervision" or "sexual abuse."

An added difficulty in identifying potential DMST victims is the issue of staff turnover, which has a rate of 75%. Due to the high turnover, most investigators are not experienced at asking second and third level questions that assist in the identification of victims whose commercial exploitation may be hidden or unrecognized by the social worker.

Interviewees stated that there is a culture of uneasiness in addressing the issue of prostituted children. Though interviewees remembered case examples where parents or guardians have acted as traffickers/pimps, there was a stated reluctance to see such victimization as trafficking. This was particularly true when there was a non-monetary exchange as part of the victimization, such as a mother allowing a person to have sex with her daughter for drugs. However, CPS workers were adamant, that such children were seen as victims and should be treated as victims, though such exploitation was not connected to human trafficking.

1.6.4 Community and Partner Relationships

CPS interviewees report that relationships with the community at large as well as their professional counterparts are strained and sometimes even adversarial. In 2002, CPS came under intense public scrutiny following the high profile deaths of several children in CPS custody. The resulting public inquiry and investigations into CPS protocols and standards created a tense and suspicious atmosphere towards CPS by different professional groups. Although CPS has put great effort into reform, partnerships within the community have been slow to progress.

One recent successful partnership emerged in 2007 when Juvenile Probation, CPS, and Court Advocates San Antonio (CASA) signed a Memorandum of Understanding that states that Juvenile Court Judges can appoint a CASA volunteer to cases involving the placement of juveniles that are represented in multiple systems. To access this service, the child must meet one of three criteria: 1) be a resident of the Cyndi Taylor Krier Juvenile Correctional Treatment Center and in the conservatorship of CPS; 2) the resident has a child under the guardianship of CPS; or 3) the resident has a sibling under the conservatorship of CPS. The hope is that the CASA volunteer can provide an independent voice on behalf of the minor when the child is involved in both the juvenile justice system and the child welfare system.⁵⁴

Interviewees report that the relationship between law enforcement and CPS is particularly adversarial with both entities accusing the other of lack of interest, response, and advocacy. Nevertheless, upper management within both groups has renewed their commitment to working together, though frontline workers report a slower progression.

⁵⁴ "Juvenile Probation, CASA, and CPS Partner to Have CASA Volunteers Routinely Appointed to Placement Hearings." Juvenile Probation Department. 2008. <<http://www.co.bexar.tx.us/cmacts/CM/P/Release%20-%20CASA%20MOU%20final.pdf>>. Accessed on May 16, 2008.

1.7 NGOs/SOCIAL SERVICE PROVIDERS

1.7.1 Training

The DOJ/OVC HTTF grant provided to Catholic Charities has partnered them with the Bexar County Sheriff's Office to rescue and restore victims of human trafficking. Catholic Charities leads the South Texas Coalition Against Human Trafficking and presents their ideas and concerns to the law enforcement agencies on the HTTF. Training is also a large component of their work with the aim to raise awareness in other social service agencies and the community at large. Although the training on human trafficking consists primarily of information pertaining to foreign national victims of human trafficking, the Sheriff's Office and Catholic Charities are beginning to add training elements on domestic trafficking, as the scope of the problem begins to unfold. Shared Hope International has been the main resource used for information pertaining to domestic trafficked minors (DTMs).

Social service entities report taking information received through the HTTF on DTMs (either through formal trainings or awareness raising efforts) and supplementing it with their own research on the topic. Some participants interviewed have attended seminars offered by other NGOs, such as the Rape Crisis Center, while others reported conducting Internet searches for published research. Two of the three NGO's interviewed have not received formal training in the identification of DMST victims.

1.7.2 Identification

Participating NGOs are not identifying DMST victims as such; rather, DTMs receive other labels, such as at-risk youth or rape victim, or remain unidentified. However, as awareness of DMST grows, some social service agencies are starting to brainstorm ways to facilitate identification. Some are in the process of creating formal protocols. For example, the San Antonio Rape Crisis Center has added "sex trafficking" as a category on their intake form. Though the referring hospital or agency already has categorized the potential DMST victim, advocates at the Rape Crisis Center are now able to identify suspected cases of sex trafficking through a thorough intake interview between the victim and advocate. However, interviewees from all participating social service agencies noted that services and outreach geared specifically towards this population are largely nonexistent, so avenues to actively identify DMST victims are scarce and mainly informal.

Some staff members at various agencies stated a reluctance to begin identifying DMST victims due to the lack of programming and resources for victims. Their fear was that, by seeking out the child, asking them to disclose and explain the victimization, and then not having adequate supports in place to restore and protect the child, serious unintended consequences may develop.

Additionally, Roy Maas Youth Alternatives has been selected by Health and Human Services, Rescue and Restore, Anti-Trafficking in Persons Department (HHS/ATIP) to participate in a pilot initiative to identify domestic victims of human trafficking. HHS/ATIP is providing technical assistance and training to selected homeless and runaway youth shelters to assist in DMST victim identification as well as the collection of solid data sets to establish a better understanding of the scope of the problem. The training portion of the pilot project was underway during the assessment process.

1.8 CONCLUSIONS

Although San Antonio/Bexar County first responders are sympathetic with child victims in general, overstretched resources and time put a strain on training opportunities and awareness building. Though many participants were open to acquiring more information on domestic minor sex trafficking as indicated by the growing numbers of participants in the Human Trafficking Task Force and Coalition, professionals were at a loss as to how to implement what they had learned in a manner that would identify and benefit victims.

Training of law enforcement and other first responders who may come in contact with DMST victims is a vital first step, and commencing public awareness efforts will bring about the necessary pressure to set those priorities. Training of detention staff, the judiciary, and other service professionals is also essential to creating a coordinated and holistic approach to the problem.

Domestic minor sex trafficking victims are largely unidentified or misidentified throughout the San Antonio/Bexar County region. The systematic misidentification is largely due to a lack of awareness and training that has resulted in inadequate protocols. Law enforcement agencies report returning minors they suspect of engaging in prostitution to the home after lecturing the victim or charging the minor with a status offense or misdemeanor. This does little to facilitate proper victim identification or rescue. Similarly, CPS, social services, NGOs, prosecutors, and juvenile justice workers report that current protocols, intakes, and informal procedures are ineffective in identifying DMST victims. Fortunately, due to an increasing awareness and understanding about DMST, many organizations and individuals are reviewing their procedures and are searching out ways to improve identification methods.

The Bexar County Sheriff Office Violent Crimes Unit is the recipient of a 2006 grant from the Department of Justice, Bureau of Justice Assistance establishing a HTTF in the San Antonio/Bexar County area. While the Sheriff's Office had similar responses as those of the SAPD, there were some significant differences that were mainly attributed to the collaboration with Catholic Charities of San Antonio and the resources provided through a partnership grant by the Department of Justice, Office for Victims of Crime. The grant funding on human trafficking provides for the expansion of the Violent Crimes Unit to include two detectives focused on human trafficking investigations. This funding is crucial, as it provides resources to cover overtime and salary to dedicate to human trafficking investigations which are often resource intensive.

1.8.1 Best Practices

Due to the recent emergence of the Human Trafficking Task Force in San Antonio/Bexar County, there is growing interest and knowledge on the subject of human trafficking among professionals. The South Texas Coalition Against Human Trafficking is making coordinated grassroots efforts to bring public awareness of human trafficking to the forefront in San Antonio. By educating coalition members and various professional entities, and by aggressively recruiting additional organizations to join them, the coalition is beginning to see the connection between human trafficking, U.S. citizens and lawful permanent resident children. The HTTF and the South Texas Coalition Against Human Trafficking are working diligently to provide specialized training aimed towards identification of victims.

Several interviewed service providers have or are developing protocols that will facilitate the identification of trafficking victims by reviewing and refining intake procedures. NGOs also state that response protocols for sexually or physically abused children could be adjusted to identify DMST victims.

There is a strong commitment at all levels of the Bexar County Juvenile Probation Department (BCJPD) to identify and serve juveniles that have been victimized. The BCJPD is consistently seeking out methods to improve identification protocols, prevention programs, and services in spite of scarce resources.

Another emerging and innovative practice is being developed by members of the Bexar County Sheriff's Office. In cooperation with their Human Trafficking Task Force partner, Catholic Charities, BCSO is reaching out to would-be informants already housed in correction facilities around the area. Adult prostitutes are being interviewed in order to amass intelligence that could lead law enforcement entities to domestic trafficked minors.

The Memorandum of Understanding between Juvenile Probation, CASA, and CPS is a positive first step in proactively seeking a way to better identify the needs of a juvenile and prevent the minor from falling through the cracks in the system. Through this agreement, DMST victims who often have dual status as both a victim and offender have a better chance of being identified and advocated for by the CASA appointee.

1.8.2 Gaps

Public and professional knowledge about domestic minor sex trafficking is reportedly low in the Bexar County/San Antonio region. Though concentrated efforts are underway to provide training and raise awareness, the level of consciousness needed is still vastly unattained. Some first responders are eager to learn more and develop identification and prevention protocols, while others express a sense of apathy, citing limited resources and time.

Communication and coordination between entities is strained or nonexistent. While the South Texas Coalition Against Human Trafficking and the Human Trafficking Task Force are making strides to connect previously fragmented groups, historical conflicts and hurdles in information-sharing are hindering the identification of potential DMST victims. In some cases, technology is too archaic to handle the multi-faceted needs of collaboration between groups.

Domestic minor sex trafficking victims are largely unidentified or misidentified throughout the San Antonio/Bexar County region due to a lack of awareness and training. Appropriate protocols for the identification and treatment of DMST victims are not in place. The standard response of law enforcement in encountering a minor on the streets is to return the minor home—a response that does not facilitate proper identification or rescue. CPS, NGOs, prosecutors, social services, and juvenile justice workers report that current protocols, intakes, and informal procedures are ineffective in identifying DMST victims. For example, CPS intake procedures do not allow for the demarcation of “sex trafficking,” “prostitution,” or “child exploitation.” CPS intake is centralized for the entire state of Texas and is located in Austin; therefore, every report must be made through their hotline or the Internet. During intake, CPS staff members are confined to checking boxes concerning the type of allegation made and, with only a narrative section as an option to expand information outside of the previously dictated boxes, victimization through sex trafficking remains unidentified and often unrecorded.

Law enforcement interviewees stated that the primary challenge facing the identification and prevention of DMST is shortage of time and resources. Participants stated that there were simply not enough resources available to handle current cases, let alone seek out new ones.

II. PROSECUTION

Prosecution of domestic minor sex trafficking cases is critical. Of equally important is the securing of convictions and appropriate sentences as a deterrent to those criminals seeking to commercially sexually exploit America's youth.

Ensuring strong legislation that criminalizes domestic minor sex trafficking is only effective when law enforcement, prosecutors, and judges are aware of these laws and able to conduct effective investigations and prosecutions against traffickers, buyers/johns, and facilitators of sex trafficking.

There needs to be ample support of law enforcement and prosecutors for the pursuit of investigations and prosecutions of cases of DMST. Encouragement from the judiciary would assure that strong enforcement would ensue against those benefiting directly or indirectly from the minor's sexual exploitation.

Of critical importance is the collaboration between the criminal justice sector and NGOs/service providers throughout the prosecution process in order to ensure considerate and safe treatment of victims. Law enforcement agents, prosecutors, judges, and victim-witness coordinators must take steps to create a victim-centered approach that minimizes revictimization and begins the restoration process for the domestic minor sex trafficking victim.

2.1 LAW ENFORCEMENT

2.1.1 Prosecution of Traffickers

As to the completion of this assessment, no domestic minor sex traffickers have been prosecuted in San Antonio/Bexar County. This is due to the fact that victims are not being properly identified and current federal and state laws are not comprehensively understood by law enforcement. When interviewed, all but two law enforcement participants were unfamiliar with the federal Trafficking Victims Protection Act (TVPA). Confusion surrounding legal contradictions within state statutes also hindered investigations of DMST. For example, the Texas state human trafficking law places the age of a trafficked minor at 18 years, while Compelling Prostitution places the age of a minor at people under 17 years.⁵⁵ Interestingly, the Compelling Prostitution Statutes does not require “force, threat, or fraud” for minors 16 years or younger, while the Texas Human Trafficking Law does require that a person “knowingly traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services.”⁵⁶ Due to these inconsistencies, law enforcement officers are unsure of the investigative responsibilities for DMST victims aged 17 years and exploited through prostitution, and what level of evidence is required.

A few law enforcement interviewees reported a difficulty in getting charges brought against the trafficker/pimp in situations where investigations were brought before the DA. One possible reason given was the idea of the “traditional pimp” image, which exists in the minds of many, both in the general public and in criminal justice and social services arena. Instead, situations such as parents trafficking/pimping their child are often encountered, which is difficult to prove in a court of law.

Another hurdle for investigations and prosecutions against traffickers/pimps is the perception of domestic minor sex trafficking as child prostitutes. According to interviewees, application of prostitution laws to catch traffickers/pimps requires firm proof of the victim handing money over to the trafficker/pimp or victim testimony. Such evidence or the willingness of the victim to testify is rare. Instead, the suggestion was made that cases involving prostituted minors be handled as child sex crimes, which allows for a greater level of corroboration and/or substantiated facts to move an investigation forward.

Another innovative investigative technique used to counter limitations is the collection of intelligence through adults convicted of prostitution. The BCSO/VCU is implementing such a strategy in order to gain intelligence from adult prostitutes concerning domestic minor sex trafficking in the Bexar County area. In addition to uncovering current cases, officers are hoping to gain enough information from the women to bring charges against the traffickers/pimps who had victimized the women as minors if the crime falls within the five year statute of limitations.

2.1.2 Prosecution of Consumers

The SAPD Vice Unit conducts two to three prostitution stings throughout the year as the budget allows. Nonetheless, no statistics could be obtained regarding the arrest or prosecution of the buyers, neither of DMST nor of the traffickers/pimps or DMST victims through this assessment. When interviewed, law enforcement participants did not focus on “consumers” as part of the problem.

The SAPD and the BCSO/VCU have investigators concerned with the consumers of child pornography. Both agencies conduct sting operations in order to catch these perpetrators. An officer in charge of forensic computer searches for the Sheriff’s Office conducts numerous in-depth computer searches each year for the existence of child pornography. Officers in charge of computer forensics also work with different units throughout the Bexar County Sheriff’s Office as well as parole officers in charge of convicted sex offenders. Outcome numbers from these forensic searches could not be obtained during

⁵⁵ Texas Penal Code 43.05.

⁵⁶ Texas Penal Code 20A.02; H.B. No 1121.

the research timeframe. Though law enforcement acknowledged the possible connection between child pornography and domestic minor sex trafficking victims of prostitution, no attempt is being made to use the Internet crimes to investigate the likely prostitution of the victims portrayed in the images.

2.1.3 Domestic Trafficked Minors as Witnesses

Another major challenge in investigating DMST cases is interaction between law enforcement and DMST victims who may or may not be willing to testify. Law enforcement in San Antonio/Bexar County admitted it does not often collaborate well with service providers. Most interviewed law enforcement officers said they do not know of any specific services for kids other than CPS or juvenile detention. Some participants stated that, once a referral to CPS or a juvenile detention center has been obtained, the role of law enforcement in working with the victim is over. This is problematic when attempting to gain the trust and cooperation of a DMST victim during the investigation and any future prosecutions that may evolve.

In addition, access to shelters that facilitate victim/witness cooperation is nonexistent. Law enforcement participants expressed frustration that the two options provided to them were to send the minor victim to juvenile detention or return her/him to their home (either locally or back to the state of residence). Interviewees expressed dismay over the lack of appropriate, safe housing that would facilitate both restoration and cooperation. They are looking into alternative methods of providing protective shelter, such as through a mental health endangerment charge that would allow a court to order the minor to a treatment facility for up to 90 days. However, law enforcement interviewees also pointed out that this timeframe is still insufficient to provide both care and protection during an investigation and prosecution.

“The state’s not going to put her in some sort of safe house that would aid in the prosecution of that pimp. There’s no program to keep that kid. Under state law, once we put our case together, either the kid goes to juvenile detention, or back home. If they’re a victim, we don’t want to put them in juvenile [detention], and if they’re back home, you can’t control them, so there’s no place I can take custody of the kid!”

2.1.4 Prosecution of DMST Victims

According to interviewees, there are two standard responses of many law enforcement officers in San Antonio/Bexar County when encountering a minor they suspect of prostitution. One common action is to charge the minor with a lesser crime, such as loitering or curfew violation. The other action is to lecture the victim and then return the minor to the place of residence. Both of these actions hinder the identification and rescue of the victim, as well as the investigation and prosecution of the traffickers/pimps and buyers.

If the investigating officer is unable to positively identify the minor, she/he is taken to the SAPD Youth Bureau that has two “details” responsible for all youth crime-related issues. The first is the Missing Persons Detail, which is responsible for investigating many DMST-related issues, such as harboring a runaway, the sale or purchase of a child, enticing a child, and contributing to the delinquency of a minor. In addition, the Missing Persons Detail is responsible for processing juveniles who are accused of committing any Class B Misdemeanors and above. An estimated 5,400 juveniles each year are detained and processed by the Missing Persons Detail.⁵⁷

The second detail within the SAPD Youth Bureau is the City Ordinance Office, which focuses on

⁵⁷ “Missing Persons Detail.” San Antonio Police Department Youth Crimes Unit. 2000-2008. <<http://www.sanantonio.gov/sapd/youthCrime.ASP#missing>>. Accessed on May 15, 2008.

cases where the City's Youth (Juvenile) Curfew Ordinance is violated. In 1991, San Antonio enacted nighttime Youth Curfew Ordinance, and in 1993 the Ordinance was amended to include daytime hours. On September 21, 1997, the Curfew Ordinance was revised to make it unlawful for juveniles to be out after 10:30 pm on school nights. The Curfew has the following features:

- The curfew applies to persons who are 16 years of age or under.
- The daytime curfew prohibits children (without a parent or legal guardian with them) from being out in public between the hours of 9 am and 2:30 pm, Monday through Friday.
- The daytime curfew is not in effect during the summer months of June, July, and August.
- The nighttime curfew hours begin at 12 midnight on Friday and Saturday nights, and, as of 09/21/97, at 10:30 pm on Sunday, Monday, Tuesday, Wednesday, and Thursday nights, and last until 6 am. These curfew times are in effect year round. Since 1991, approximately 17,000 curfew ordinance violations have been issued. This is a staggering statistic considering each of these violations represents a youth at risk for domestic minor sex trafficking.⁵⁸

⁵⁸ "The City Ordinance Office." San Antonio Police Department Youth Crimes Unit, 2000-2008. <<http://www.sanantonio.gov/sapd/youthCrime.ASP#cityord>>. Accessed on May 15, 2008.

2.2 PROSECUTORS

2.2.1 Prosecution of DMST Victims

Statistics concerning the adjudication of children exploited through prostitution in San Antonio/Bexar County were not able to be obtained for the assessment process. Juveniles are charged with various prostitution-related crimes or status offenses which skews the ability to obtain DMST specific data and might mask the DMST victimization. Prosecutors participating in the assessment expressed a belief that juveniles exploited through prostitution are victims, and there is a concerted effort by the District Attorney's office to downgrade prostitution charges for juveniles to other offenses in an effort to direct the minors for services. While intended to help the minor, the result is that these children are still being charged and adjudicated on issues stemming from their exploitation.

"There is a trend away from using juvenile justice as a way to help people. You might not criminalize all of her conduct, although under the law you may be able to criminalize a lot of what she's done. But you may look at the most minimal criminalization, like 'runaway,' which might give you an avenue to get her into services, and some adult supervision through a probation officer."

The Justice of the Peace Courts was also identified as one possible place DMST victims might be routed due to the practice of charging a DMST victim exploited through prostitution with a status offense. In Bexar County, Justice of the Peace Courts see cases of Truancy and Juvenile Disorderly Conduct. One issue noted to be occurring while the juvenile is truant from school is "illicit sex."⁵⁹

2.2.2 DMST Victims as Witnesses

Though no cases of DMST have been prosecuted in court, prosecutors expressed reluctance to utilize victims as witnesses due to their experiences with sexual abuse victims who are easily impeached and often recant charges at the last minute due to fear and trauma. Prosecuting traffickers/pimps can take months or years, and victims in cases involving sexual abuse are often re-traumatized by the process.

As with law enforcement, prosecutors interviewed expressed frustration at the lack of restorative facilities available to protect DMST victims in order to facilitate cooperation with the investigation and any resulting prosecutions. Law enforcement officers are reluctant to charge a victim with "endangerment to self or others," as the children would then be housed in juvenile detention, which potentially exposes them to more victimization and limits the services accessible to the minors.

2.2.3 Prosecution of Traffickers

At the time of this report, there had been no prosecutions of domestic minor sex traffickers in San Antonio/Bexar County; however, a recent case involving sex trafficking of foreign nationals resulted in convictions. Timothy Gereb pleaded guilty on February 25, 2008, to his involvement in the sex trafficking of two teenage girls and one woman. One of the three victims was a teenager smuggled in from Nuevo Laredo, Mexico. Through a plea bargain, Gereb was sentenced to ten years imprisonment. After his release from prison, Gereb will be on lifetime federal supervised release. Three of Gereb's co-defendants pleaded guilty to related charges. Isabel Ochoa was released with time served and was placed on probation. Her daughter, Consuelo Ochoa, received an 18-month sentence, plus another three years for drug possession. During the investigation, Gereb admitted plans to start sex trafficking local children. The case was investigated by special agents with U.S. Immigration and Customs Enforcement and investigators with the Bexar County Sheriff's Office.

⁵⁹ "Truancy and Juvenile Crime, as Seen By a Justice of the Peace." Justice of the Peace Marcia S. Weiner. <http://www.bexar.org/jp/jp2/Juvenile_Truancy/Truancy_Juvenile_Crime.pdf>. Accessed on May 16, 2008.

Of important note, an investigator close to the case reported that Gereb had a quota of ten girls to fill for a brothel in Louisiana. When Gereb and his accomplices were able to smuggle in only two from Mexico, he was in the process of recruiting local girls from the United States to fill his quota when he was apprehended.

2.2.4 Relevant Laws

The following are some of the Texas state statutes that could be utilized for the prosecution of traffickers/pimps:

- Trafficking Victims Protection Act
- Sexual Exploitation of Children
- MANN Act
- Texas Human Trafficking Law
- Promotion of Prostitution
- Aggravated Promotion of Prostitution
- Compelling Prostitution
- Sexual Assault
- Indecency with a Child

The choice of laws applied in the prosecution of a trafficker/pimp can have a profound effect on the sentencing of the perpetrator. Table 1 illustrates various laws that can be used in the prosecution of a trafficker/pimp and the resulting maximum prison sentence allowed.

Table 1

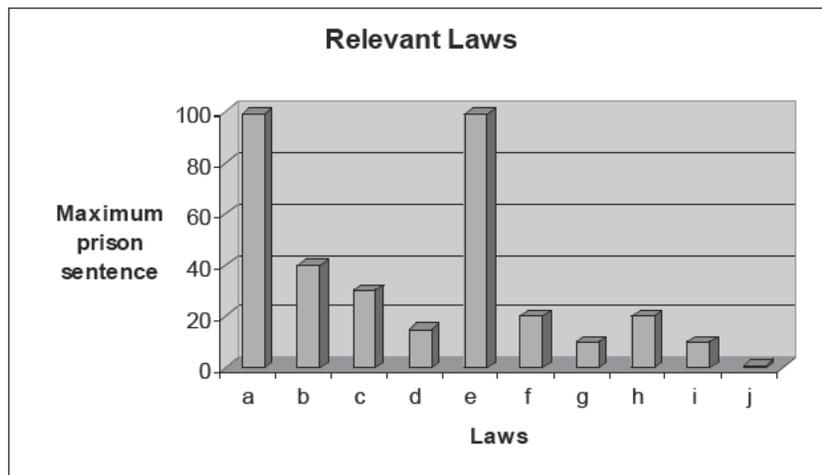


Table 1 Key

A	TVPA—Victim under 14 years old
B	TVPA
C	Sexual Exploitation of Children
D	MANN Act
E	Texas Human Trafficking Law
F	Indecency with a Child—engages in sexual contact or causes the child to engage in sexual contact
G	Indecency with a Child—with intent to arouse or gratify the sexual desire of any person, exposes a person knowing child is present, cause child to expose the child’s anus or the child’s genitals
H	Compelling Prostitution
I	Aggravated Promotion of Prostitution
J	Promotion of Prostitution

Table 2 illustrates the differences in penalties between relevant federal laws

Table 2

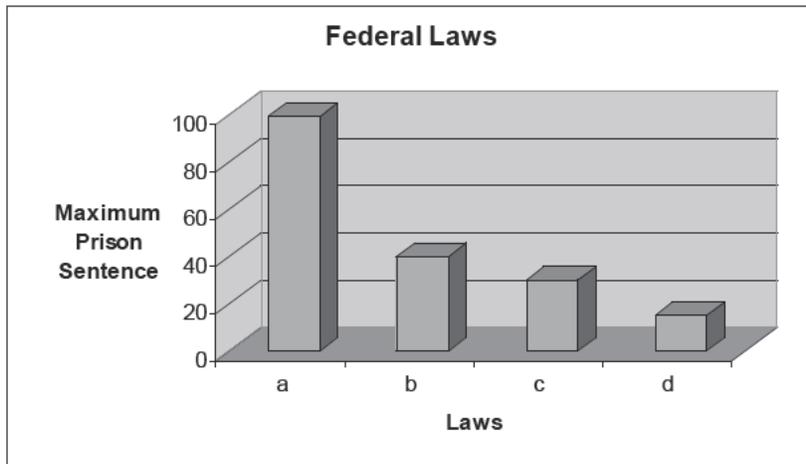


Table 2 Key

A	TVPA—Victim under 14 years old
B	TVPA
C	Sexual Exploitation of Children
D	MANN Act

Similarly, Table 3 demonstrates the radical difference between maximum prison sentences when various Texas laws are applied to a trafficker/pimp.

Table 3

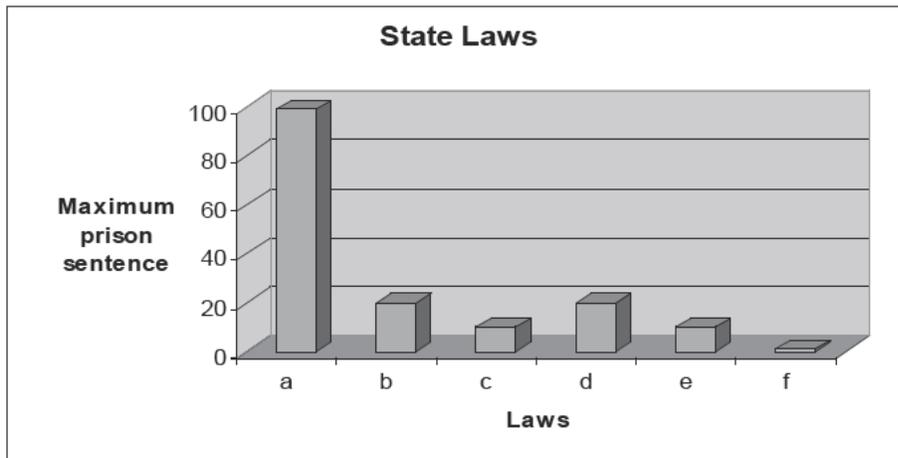


Table 3 Key

A	Texas Human Trafficking Law
B	Indecency with a Child—engages in sexual contact or causes the child to engage in sexual contact
C	Indecency with a Child—with intent to arouse or gratify the sexual desire of any person, exposes a person knowing child is present, cause child to expose the child’s anus or the child’s genitals
D	Compelling Prostitution
E	Aggravated Promotion of Prostitution
F	Promotion of Prostitution

As the graphs reveal the discrepancy within statutes relevant to domestic minor sex trafficking, other inconsistencies also emerge. For example, Texas Statute 21.11 of the penal code deals with Indecency with a Child. However, the statute can only be applied if the victim is under the age of 17.⁶⁰ Likewise, the age of a minor for Compelling Prostitution is a person under the age of 17; and under the Compelling Prostitution statute if a 17 year old minor is victimized, proving force, fraud, or threat becomes necessary.⁶¹ This is in stark contrast with the TVPA which states that, for minors under the age of 18, force, fraud, or coercion is not necessary. In a positive step, the definition of “minor” was set at 18 years of age in the Texas Human Trafficking Law, thus better aligning it with the TVPA.⁶² Unfortunately, the Texas Human Trafficking Law requires elements of force, fraud, or coercion to be proved for cases involving any minor. This, like Compelling Prostitution, places the law in direct conflict with the federal TVPA.

⁶⁰ Texas Penal Code 43.05.

⁶¹ Trafficking Victims Protection Act 2000, P.L. 106-386.

⁶² Texas Penal Code 20A.02; H.B. No 1121.

2.3 PUBLIC DEFENDERS

2.3.1 Defending DMST Victims

The participants were aware of the TVPA only in principle and have not, as of yet, had a juvenile client brought before the court on prostitution charges. As stated by interviewed DAs, prostitution charges are normally downgraded or plea bargained to a lesser offense, such as a curfew violation. Due to such plea bargaining or diversion programs for status offenses, it is rare that a public defender would represent a DMST victim; the only time a public defender is called to represent a client is when the client pleads not guilty to the lesser charge.

2.3.2 Defending Traffickers/Buyers

One public defender stated that she would refuse to defend traffickers/pimps as she believed it to be a conflict of interest considering her representation of largely juvenile clients.

2.4 JUVENILE COURT JUDGES

2.4.1 View of DMST Victims

DMST victims with the offence of prostitution do not come before the juvenile court, as this charge is usually downgraded or a plea bargain is obtained. Interviewees stated that this process is less punitive. Interestingly, juvenile court judges also stated that they considered prostitution to be a crime against “self” and not a crime against “others.” The same was stated for charges that can serve to mask DMST or place a child at risk for domestic minor sex trafficking, such as chronic running away. However, the participants later stated that prostituted minors should be considered victims.

“When our systems aren’t efficient we aren’t compassionate toward victims—not realizing that they’ve fallen through. They may be in our child support courts or protective order courts and they may be gals who need to be protected from their paramours or pimps. Because we don’t recognize that, we administratively give these orders that hopefully protect, but we don’t recognize the underlying issue of the trafficking.”

2.4.2 DMST Victims as Witnesses

As with law enforcement and prosecutors, interviewed judges stated that victims of any sexual assault do not make credible witnesses due to trauma and fear. There is a philosophical dilemma placed on judges when deciding between the rights of the accused trafficker/pimp to face their accuser and the resulting manipulation and revictimization that the victim faces. Participants find that there is often no clear answer and that officials, in particular law enforcement, can become very frustrated. As a result, DMST victims can become difficult and problematic witnesses.

2.4.3 Prosecution of DMST Victims

Interviewed juvenile court judges agreed that children exploited through prostitution should be viewed as victims; however, potential DMST victims do appear before the court under various charges. In particular, participating judges noted that, during the adjudication process of a potential victim, the existence of an older “boyfriend” often emerges, such as a 14 - or 15 -year-old girl with a 25-year-old boyfriend. When this occurs, the judge will commonly return the case to the DA for a report to be made. Judges report that the minor often does not want the older boyfriend to be prosecuted and will not cooperate.

2.4.4 Information Sharing

Juvenile court judges participating in the assessment stated that there was a significant gap in the prosecution of abuse cases in Bexar County due to a lack of information sharing between entities. This is true not only for professional entities but also for different aspects of the legal system, such as the civil system, criminal system, and juvenile system. Without an integrated communications network, judges may give orders based on incomplete information. The result is revictimization and the minor falling through the cracks of the juvenile justice system.

2.5 JUVENILE DETENTION FACILITIES

2.5.1 Intake and Early Intervention Programs

In 2006, the intake unit of the Bexar County Juvenile Probation Department handled nearly 10,500 referrals, which consisted of both live referrals⁶³ and no-arrest proceedings, otherwise known as paper complaints. As the number of referrals is quite high, the intake unit has been granted the ability to close or divert cases. To close a case, the minor must be a first time offender referred on a minor misdemeanor charge or a Conduct Indicating Need for Supervision (CINS) charge. The second requirement to close a case is that sincere remorse is shown and that there are no previous or current reports of problems with the juvenile's family and school. When a case is closed, it becomes an Assess, Counsel, and Release (ACR) closure, which results in service referrals to community agencies.⁶⁴

There is also an Early Intervention (EI) program where first time offenders with status offenses (such as running away and curfew violations) and misdemeanor offences can be referred to intensive programming and services. Of particular interest is that, according to the Juvenile Probation Department, minors in the EI program tend to have histories of physical and sexual abuse, substance abuse issues, and adult supervision concerns—all indicators that can put minors at risk for sex trafficking.

The EI Division is comprised of 8 units:⁶⁵

- Two School-Based Units
- Diversion
- Specialized Diversion
- Specialized Intensive Supervision
- Child Support Probation
- Community Service Restitution
- Victim Services

Through these units the following programs are provided:⁶⁶

- Family Preservation
- Project Connect
- GED Classes
- Parenting Classes
- Pre- and Post-Adjudication Drug Courts
- Community Supervision
- Children First—Jail Intervention, Child Support
- Community Supervision, Child Support
- Victim Sensitivity Classes
- Victim Impact Panels
- Victim/Offender Mediation

2.5.2 Pre-Adjudication

Interviewees, who included probation officers, detention officers, guidance counselors, and healthcare providers, were not aware of or familiar with the TVPA or the Texas Human Trafficking Law. Nevertheless, all participants, including high-level administrators and frontline workers, agreed that children exploited through DMST should be viewed as victims.

⁶³ Live referrals pertain to juveniles that are physically referred to the juvenile detention center.

⁶⁴ "2006 Annual Report." Bexar County Juvenile Probation Department.

⁶⁵ Ibid.

⁶⁶ Ibid.

Since Texas law mandates that juvenile detainees must come before a judge within a ten-day period for adjudication, juvenile detention center employees do not normally have sufficient time to solicit information that would initiate an investigation into a trafficker/pimp. If during the course of their stay a DMST victim discloses the abuse, the only protocol is to inform law enforcement. After the report, it becomes law enforcement's responsibility to conduct any investigations and interviews.

2.5.3 Post-Adjudication

Participants from the juvenile detention facility were largely against holding a DMST victim in detention due to potential revictimization. In particular, DMST victims are held with the general population of offenders, which can put them at risk. Another practice a detention worker noted as abusive was adjudicating DMST victims to detention in order to protect them. A case example cited by a juvenile probation officer involved a DMST victim who had been beaten and locked in a house by an older man that was suspected of being a trafficker/pimp. The court found the teen victim guilty of a probation violation involving drug related charges and adjudicated the child to a detention center in order to "protect" her. The juvenile probation officer involved could not recall any investigation of the alleged perpetrator.

2.5.4 Outcry within the Detention Center

When a sex abuse outcry is made by a juvenile being held in the Detention Center, law enforcement is called. Both law enforcement agencies interviewed commented that a detective in the sex crimes unit will normally respond and interview the victim. Though a report is made, interviewees state that the juvenile will often recant or refuse to testify in court. Without physical evidence or testimony, the outcries rarely result in prosecutions.

2.5.5 View of DMST Victims

Although most participants from the juvenile detention system claim to see domestic trafficked minors (DTMs) as victims of abuse, there was still a belief expressed that the victim may have partial responsibility for causing her victimization. Similar to statements made by interviewed juvenile court judges, delineation was made between "crimes against others" (e.g. assault, burglary, drug related charges) and "crimes against self" (e.g. prostitution). The reason given for believing that crimes such as prostitution were "crimes against self" was the dismissal of third party involvement or the existence of manipulation or abuse. For example, one parole officer stated, "They're doing something to harm themselves—it's not like somebody is making them do it. It's more of a deliberate act."

2.6 CHILD PROTECTIVE SERVICES (CPS)

2.6.1 Investigations

Interviewees noted that CPS only becomes involved if a parent or guardian is directly responsible for the abuse or neglect. In the cases where the perpetrator is outside of the home, interviewees stated that CPS would take no action as their mandate would not allow action. However, participants from CPS who were interviewed were not able to state what the mandate of CPS was under the Texas law and whether it was through law or prioritization that they were restricted to allegations of familial abuse and neglect.

A minor's arrest for prostitution being redefined as sex trafficking would not alter the response of CPS. One reason noted for this was that there was no way to indicate exploitation through DMST, such as prostitution, on the hotline intake form. If the report did not get screened out, then CPS would respond to a DMST situation as they would any other case of sexual abuse. Interviewees stated that there was no way to track whether a reported case was a situation of DMST versus another type of sexual abuse.

"If a child is picked up for prostitution along with a non-family member and family can't be found, he's going to jail and she's going to juvenile [detention]. I don't see how that would be an abuse or neglect situation. Yes, there's abuse there, but when that comes through the hotline, they're going to go, 'OK, third party placement, she's in a safe place now'. So CPS is not involved. She's in juvenile [detention]. She's protected. Case closed."

2.6.2 Placement

Mandated by the state, CPS must exhaust all efforts to first unify the child with their immediate family. If immediate family is determined to be an unsafe placement, second preference is given to extended family members. If law enforcement officers take a DMST victim to a shelter, CPS usually takes custody within 24-48 hours and petitions the court for temporary custody within 14 days. CPS then has another 30 days to find adequate placement for the minor and must report progress to the court at that time. Another six months can be given for CPS to progress on the case before they must report back to the Family Court. Mandated by law, CPS must find permanent placement for the child within one year. Permanent placement is considered to be the return to the home or placement with another relative, foster care or adoption.

2.6.3 Running Away from Placement

Interviewees report that upon many occasions, minors will run away from the placement provided by CPS. When this occurs, CPS is then mandated to find the minor and return her/him to the placement and report their efforts to the Family Court every six months. In practice, the response usually consists only of filing a missing persons report with law enforcement.

2.7 NGOs/SOCIAL SERVICE PROVIDERS

2.7.1 Recognition of Victim Status

Several of the NGOs/social service providers interviewed were aware of the TVPA, which was obtained from two main sources: information and education acquired from Shared Hope International or from being a member of the Human Trafficking Task Force Coalition in San Antonio. Those that did not have information from one of these two educational outreach entities had no knowledge of the federal law, although DTMs were considered victims by their organizations.

2.7.2 Participation in Investigations and Prosecutions

NGOs and social service providers reported reluctance to cooperate with law enforcement and prosecutors due to past victim treatment, which they believed to be revictimizing or harmful to the victim. Due to the trauma and manipulation experienced by the victim, as well as the inability of law enforcement and prosecutors to provide adequate protection, victims are reluctant to cooperate and frequently recant their testimony. NGO/social service interviewees report that the response by law enforcement and prosecutors is anger and dismissal, which further distances the victim-witness.

Many NGO/social service interviewees believe that more support and resources were given to pursue investigations for foreign national victims of human trafficking than domestic human trafficking victims. All expressed frustration that little was being done to pursue investigations of “buyers” of the sex trade (“johns”).

Another hurdle for NGOs and social service providers in cooperating with law enforcement and prosecutors in the investigation, and any resulting prosecutions of traffickers/pimps, is confusion over confidentiality laws. Interviewees identified confusing or complex laws, such as the HIPAA regulations, as contributing to their reluctance to report suspicious incidences to police. One example cited is that of a 12-year-old runaway with multiple sexually transmitted diseases—evidence which led the service provider to suspect sexual abuse against the minor, but the service provider feared disclosing the STDs due to concerns about confidentiality.

2.8 CONCLUSIONS

A constant vigilance for DMST and thorough investigation by law enforcement is imperative to bring justice to victims. This must be done in conjunction with aggressive prosecutions of perpetrators that result in convictions with appropriate sentences. Reliance solely on traditional prostitution statutes may result in lower sentencing than charging perpetrators as human traffickers. It is necessary to send a clear message of zero tolerance in San Antonio/Bexar County for the crime of domestic minor sex trafficking.

There are age discrepancies within Texas laws as they apply to domestic minor sex trafficking victims. Though the Texas human trafficking law sets the age of a minor as a person under 18 years of age, Texas sexual offense statutes set the age of a minor at 17 years.⁶⁷ Furthermore, there are no provisions within Texas prostitution statutes stating that a minor under the age of 18 involved in prostitution is a victim.⁶⁸ As such, prosecutors affirm that a domestic minor sex trafficking victim exploited through prostitution could be held legally responsible for the crime committed against them.

Law enforcement officers and prosecutors state that domestic minor sex trafficking victims are being prosecuted for crimes committed during the course of their victimization. Often, this charge is either a status offense or a misdemeanor. Charging a DMST victim with a crime or ordinance violation that occurs through the course of their victimization brings the victim into the juvenile justice system, hinders proper identification as a victim, and discourages their cooperation with any investigation and prosecution of the trafficker/pimp or buyer that could be initiated through their testimony.

San Antonio/Bexar County law enforcement entities have focused most of their resources and efforts on attempting to uncover instances of child pornography and foreign victims of human trafficking. The identification of domestic child victims used as prostitutes or in the sexual entertainment industry (e.g. strip clubs or nude dancing) has not been successfully investigated.

One of the most overwhelming obstacles to successful prosecution of traffickers/pimps reiterated by each group of interviewees is the uncooperativeness of the victim. Frustrated by victims that will not identify their perpetrators or will recant testimony, law enforcement, prosecutors, the judiciary, and detention workers are uneasy in pursuing cases or advocating for these youth. Interviewees state that their time is better used assisting those who are more willing to receive help than to put time and effort into convincing an unwilling DMST victim to cooperate. Furthermore, there is a stated belief among some interviewees that DMST victims are at least partially responsible for the victimization that occurred. As repeatedly stated, juvenile prostitution and related issues are seen as crimes against self, rather than crimes against others.

It was also admitted by virtually all participants that the juvenile justice system, criminal justice system, and social service sector has little ability to protect and stabilize these victims. Though the need for such protection and restorative treatment was acknowledged, the lack of ability to provide it and the victims' unwillingness to cooperate remained largely unconnected in the interviewees' minds.

Likewise, there is a dearth of safe, restorative placement options for DMST victims in San Antonio/Bexar County. Such protective shelters are imperative for successful investigations and prosecutions of traffickers/pimps. Protection and restoration is necessary for victims to stabilize and start the healing process, which is vital to overcoming the manipulation and trauma the minors have been subjected to

⁶⁷ Please see Appendix B for a full text reading of Texas sexual offense laws.

⁶⁸ Please see Appendix C for a full text reading of Texas prostitution statutes.

at the hands of traffickers/pimps. DMST victims will continue to be uncooperative witnesses if they are unsure of law enforcement's and prosecutors' ability to protect them, and are not provided with the resources necessary to start the healing process from the trauma that has been inflicted on them. Consistent, open collaboration between law enforcement, NGOs/service providers, and other participating entities during the prosecution process is essential. In San Antonio/Bexar County, those relationships are tentative, and confusion surrounding confidentiality laws create hurdles to cooperation. Law enforcement interviewees noted great difficulty in having the DA take their cases; however, DA interviewees countered that law enforcement does not bring them cases. Similarly, CPS believes that they are slow to be reported to; law enforcement and service providers say CPS is slow to respond. Nonetheless, the evolution of the South Texas Coalition Against Human Trafficking and Slavery is beginning to bring together entities that have long-standing disconnects, and several previously adversarial agencies are beginning to see the necessity of working together and the different strengths the others bring to a case of DMST.

2.8.1 Best Practices

The South Texas Coalition Against Sex Trafficking is bringing together different entities and individuals who have been working with misidentified DMST victims or investigating and prosecuting cases of domestic minor sex trafficking, though perhaps under a different label. Agencies and sectors with historic disagreements have noted that the South Texas Coalition Against Sex Trafficking has created an avenue by which to negotiate and cooperate. Assertive educational outreach and recruiting tactics are being undertaken by this volunteer group to acquaint a concerned professional community with domestic minor sex trafficking with the goal of increasing the amount of victims rescued and perpetrators prosecuted. The Law Enforcement/Service Providers arm of the coalition meets monthly and, at the time of this assessment, was gathering at a different participant's location each month to better understand the individual agency's part in the process. The mutual support and commitment that this strategy has fostered is one of the promising practices that has emerged.

The Bexar County Sheriff's Office, Violent Crimes Unit has initiated innovative strategies to investigate and identify victims of domestic minor sex trafficking, though resources are scarce. One such initiative is to interview adult prostitutes already incarcerated to gain intelligence that would otherwise take hundreds of hours to achieve. They are aggressively pursuing leads and beginning to find exciting results.

2.8.2 Gaps

Time and resources for law enforcement are at a premium; law enforcement participants state that, without proper and ongoing support, investigations into domestic minor sex trafficking are difficult to initiate and complete.

There are severe communication gaps between both entities and within agencies that hinder investigations and prosecutions of traffickers/pimps, as well as result in the improper prosecution of victims. Participants state that an increase in communication would result in better coordination, investigations, and decrease the possibility of revictimizing DMST victims. Communication gaps also result in misused resources and time.

There is a severe lack of statistics and other strategic data gathering techniques pertaining to the issue of human trafficking in San Antonio/Bexar County. As such, participating agencies are unable to clearly identify the problem, set goals, and formulate strategies that would end domestic minor sex trafficking in the region.

Another serious gap is the lack of safe and secure facilities to protect and service victims while waiting to testify against their perpetrators. At present, minor victims are often housed in juvenile detention

with those who have committed serious offenses, sometimes the same offenses committed against the victim. The alternative is to release them back to their home, which is commonly unstable and often contains elements of abuse as well. DMST victims often flee from the home and/or are unprotected from the trafficker/pimp. Significant frustration over the lack of adequate housing options was expressed by all segments of the professional interviewees and contributes significantly to the problems encountered when pursuing the crime of domestic minor sex trafficking and rescuing and stabilizing victims.

Many law enforcement officers, juvenile detention and probation staff officers, CPS officials, judges, and even some service providers, still feel that prostitution is something a girl elects to do to herself. While there is acknowledgement of victimization, there is also a contradictory belief that juvenile prostitution is a lower priority offense and, as some participants stated, does not warrant the same energy from public protection agencies that goes into other crimes, such as robberies, assaults, etc. Some participants noted that they have too many “obvious” victims to consider without dealing with a problematic and hidden victim population.

Related to this is the charging of domestic minor sex trafficking victims with crimes and ordinance violations that occur through the course of their victimization. Though prosecutors and law enforcement state a reluctance to charge the minor with prostitution, due to the belief that the minor is being exploited, it is a common practice to charge the minor with a lesser offense, such as a status offense or a misdemeanor. While it is understood that this is often the only immediate option for DMST victims who are flight risks and law enforcement suspects familial abuse or involvement in the trafficking of the child, detention staff is frustrated with the usage of detention to “protect” a victim. Though juvenile detention is set up with rehabilitation in mind, it is still a punitive measure and not appropriate placement for victims of DMST.

The role of child protective services (CPS) during an investigation and prosecution of domestic minor sex trafficking is unclear even to CPS workers. Interviewees stated that the mandate for CPS is to intervene only when there is familial abuse or direct involvement; however, CPS workers interviewed could not state the legal mandate of CPS. Participants from CPS also noted that most cases involving a report of DMST victimization likely would be screened out at intake and that the detention of a DTM would be considered a safe placement.

Additionally, inconsistencies within Texas laws create difficulties for prosecutors in charging traffickers/pimps. The Texas Human Trafficking law recognizes a minor as a person under the age of 18;⁶⁹ however, other laws that pertain to the sexual exploitation of a child set the age as a person under 17 years of age. In addition, the requirement to prove elements of force, fraud, or coercion for minors under the Texas Human Trafficking Law sets a high burden of proof for prosecutors and is in direct conflict with the federal Trafficking Victim’s Protection Act.

⁶⁹ Texas Penal Code 20A.02.

III. PROTECTION

Protection requires victim-centered rescue and restoration. Rescue is essential in order to remove the minor from the situation of commercial sexual exploitation. Of equal importance is rescuing the victim without revictimization. A collaborative effort between law enforcement and service providers is a critical first link in establishing a chain of recovery efforts for domestic trafficked minors, and a plan for safe and protective placement of these victims must be established prior to the rescue.

Victim-centered, long-term restoration is another essential response to DMST victims. It must include long-term shelters and safe homes—permanent or foster care—while providing medical, psychological, and counseling services to the victims, along with education and skills building opportunities that continue recovery efforts.

3.1 LAW ENFORCEMENT

3.1.1 Protocol

At the time of this assessment, there was no protocol in place in San Antonio/Bexar County that specifically addressed the rescue of DMST victims. SAPD Vice officers pointed out that the lack of a point person in their department trained to work with domestic trafficked minors was problematic in the investigation and rescue of such victims. In general, law enforcement in San Antonio/Bexar County does not collaborate with service providers, and most interviewees said they did not know of any specific services for DMST victims other than CPS or Juvenile Detention and expressed concern that they do not have resource referral lists or anything to help guide their treatment of victims. The only protocol in place to provide services to DMST victims is to contact CPS or enter the victim into the juvenile justice system.

The BCSO/VCU has identified a point person who is beginning to look more seriously at these cases. Due to the interaction with the Human Trafficking Task Force and their new social service collaborators associated with the South Texas Coalition Against Human Trafficking and Slavery, the BCSO/VCU is identifying resources that could be used in a rescue effort to lower the potential of revictimizing the juvenile victim. Presently, they lack an organized, formal protocol, but the few officers dedicated to this venture are partnering with the Coalition to develop one.

Officers from SAPD Vice and the BCSO/VCU stated that funding is key to successfully investigating domestic minor sex trafficking. They assert that budgets do not allow for the additional officers that would be needed to create the concentrated and multi-dimensional initiative needed to root out domestic minor sex trafficking.

3.1.2 Identification and Access to Services

Minors victimized through sex trafficking are often unwilling to cooperate with law enforcement due to trauma and safety threats. Law enforcement officers state that they are reluctant to spend the time or effort to obtain second and third level information when their efforts are met with hostility from the victim witnesses and their resources are thin. Victims are left without needed services when law enforcement is reluctant to engage this type of victim and refer them to capable providers.

3.2 PROSECUTORS

3.2.1 Rescue

Prosecutors have not developed procedures to identify a victim of DMST, as it is perceived that victims of DMST are likely to be identified through law enforcement or in juvenile detention. Interviewees stated that discovery of such victimization is better done by juvenile detention intake officers. There is an identified need for better screening with more gentle information gathering techniques; however, prosecutors feel that responsibility for this lies with the juvenile detention intake officers.

DMST victims may not disclose their victimization for several days/weeks. Getting juveniles charged with prostitution and prostitution related offenses in contact with mental health services may facilitate this process and lead to proper identification and rescue.

3.2.2 Restoration

There is a critical lack of long-term facilities to accommodate and provide restorative care for DMST victims in San Antonio/Bexar County. Prosecutors say their own information is sorely lacking and options are severely limited. All participants agreed that, while security is necessary for the protection of the victim, a punitive atmosphere exists in the secure facilities presently available.

Texas currently has a Victims of Crime Compensation Fund that provides victims of crime with monetary assistance for their recovery effort. The following information was provided on the Texas Attorney General's website regarding the Victims of Crime Compensation Fund:⁷⁰

“Who may qualify (TCCP, Art.56.32): An innocent victim of crime who suffers physical and/or emotional harm or death.[...]

What Crimes are covered (TCCP, Art.56.32(4): A crime involving ‘criminally injurious conduct,’ which is defined as conduct that occurs or is attempted, poses a substantial threat of personal injury or death is or would be punishable by fine, imprisonment, or death. This includes sex offenses [...] assault offences [...] and other violent crimes in which the victim suffers physical or emotional harm or death.

Who is not eligible: Benefits may be reduced or denied if the behavior of the victim contributed to the crime. Benefits shall be denied if the victim or claimant knowingly or willingly participated in the crime.”

One way law enforcement and prosecutors attempt to protect victims of DMST is to downgrade the offense of prostitution to a status offense, such as truancy or runaway. This may disqualify them, however, for victim compensation, as they are not considered victims “if the behavior of the victim contributed to the crime [...] if they knowingly or willingly participate” in the downgraded charge issued to them.

⁷⁰ “Crime Victims Compensation.” Attorney General of Texas. February 19, 2008. <<http://www.oag.state.tx.us/victims/eligibility.html>>. Accessed on May 15, 2008.

3.3 PUBLIC DEFENDERS

3.3.1 Cultural Sensitivity and Rescue

Public defenders identified a lack of culturally appropriate forensic questioning and intervention techniques for lawful permanent resident clients who may be victims of domestic minor sex trafficking. In particular, public defenders identified the need to develop culturally sensitive interviewing techniques, rescue and restoration initiative, and protocols that take into consideration cultural norms from Mexico and Central and South America as the places from which many lawful permanent residents in Bexar County originate.

Participants stated that clients victimized through DMST have experienced harsh repercussions from neighbors and friends for cooperating with authorities. The lack of protocols and interventions that take both the U.S. culture and the culture of the surrounding community into account can revictimize the minor and result in a lack of cooperation.

3.3.2 Placement and Services Options

Another hurdle to the rescue and restoration of DMST victims is the lack of time allotted for public defenders to work with their clients. Disclosure of victimization through sex trafficking takes time, and without being able to facilitate deeper levels of information, it is difficult for them to advocate for their clients and find proper restorative services.

As those interviewed had not had clients charged with “child prostitution,” they were unfamiliar with services available either pre-adjudication or post-adjudication for this type of client. Public defenders representing juveniles labeled “runaways” mourned the lack of secure, yet non-punitive, placement options for their clients.

3.4 JUVENILE COURT JUDGES

3.4.1 Accessing Placement

There are very few facilities with long-term care options to which juvenile court judges can place minors that would accommodate the needs of DMST victims. Roy Maas' Youth Alternatives has a few beds dedicated for juveniles that the court feels should not return home, but the child must be 16-and-a-half to access this option. Juvenile placements tend to have more beds dedicated for boys, and one judge feels that girls in both the criminal and juvenile courts are underserved.

"Girls are usually committing the 'victimless crimes' like running away, drug use, prostitution—they're not shooting up somebody's house. Because they have low-level offenses, I don't think we're as worried about their personal safety, so these girls are out on the street. They're not getting services that might teach them the life skills they need to make better choices."

3.4.2 Accessing Services

Judges repeatedly expressed frustration that they cannot access appropriate services for juvenile victims without first adjudicating the minor of a delinquency crime. Additionally, finding potential DMST victims, who have been given a status offense, services can be extremely difficult, as the problems must increase to the point where the child is given parole or adjudicated to a residential treatment facility. Interviewees stated that the inability to gain potential or actual victim services was a severe gap in the juvenile justice system.

One judge believed that providing services to DMST victims should be more of a role for CPS and would like to see funds and caseworkers dedicated to the teenage population. She feels that having two divisions, under age ten and over age ten, would keep a caseworker from having to juggle priorities between a baby who is starving and a teenager who is a constant runaway but may also be in extreme physical danger.

"But people aren't thinking about the long term for these teenagers. They're going to end up in prison and passing all this on to their own kids. By focusing only on emergency situations, you are setting yourself up for more emergency situations."

The justice system as a whole in San Antonio/Bexar County is working under a planning grant that identifies the mental health issues of juvenile girls. At the time of this assessment, the planned result is the trial run of a girl's mental health court. When observing children who present themselves as having mental health issues, one judge stated she would like for the juvenile courts to be the entry point to the available services for those children.

According to a juvenile court judge, minors with mental health problems all over the country end up in detention centers. In particular, girls involved in the juvenile justice system have a disproportionately higher number of mental health issues. Since it may take DMST victims several days/weeks before they are ready to reveal portions of their abuse, connecting prostitution and related offenses with mental health services might facilitate such disclosure and result in proper identification and subsequent rescue. This judge estimates that at least 30% of the children that come before the court have mental health issues that would qualify them to receive some type of service from a mental health provider. The judge feels that these children, if provided with timely intervention, could be kept from becoming more entrenched in the juvenile justice system.

3.4.3 Detention

Participating juvenile court judges state that detention is an oft-accessed option for a girl who is either a risk to herself or others. This is in sharp contrast to the situation faced by juvenile males where a male juvenile with a second-degree felony might receive a 12-month probation sentence. Female DMST victims, on the other hand, are being placed in secure detention for misdemeanor offenses.

3.4.4 Restorative Placement

Juvenile court judges in San Antonio agree that intervention is necessary for DMST victims and would be effective only if there was a protective setting to keep them from returning to their abusers. Judges believe that the setting needs to provide an atmosphere of caring concern rather than a punitive posture and staff-required training to deal with victims of this type of abuse. At present, there are no such options for judges to consider as placement.

The Cyndi Taylor Krier Juvenile Correctional Treatment Center is located in Bexar County; however, judges are reluctant to place victims here due to its establishment within the juvenile justice system. Judges indicate that they often are at a loss as to how to find appropriate placement, as non-secure shelters have been found to be problematic but secure facilities have been found to not adequately meet the restoration needs of DMST victims.

3.5 JUVENILE DETENTION FACILITIES

3.5.1 Services

Pre-adjudication services offered at the Bexar County Juvenile Detention Facility are mainly directed toward maintenance issues. Because the minors placed here usually have a relatively short time in residence, medical care and crisis counseling are the main services offered. There is also an educational component that is provided by the San Antonio Independent School District.

The University Health System Correctional Health Care Services provides all medical, dental, and mental health services. All juveniles detained must give urine samples, and STD testing is given for gonorrhea and chlamydia only. With positive outcomes for either test, treatment is given and contact tracing is done through the Metro Health Department. At that time, HIV and RPR (for syphilis) tests are offered along with a Hepatitis B and C test. Juveniles may otherwise request an HIV test, at which time they will be screened by the physician as to the reason for requesting the test. Other general medical care is provided for the duration of the detention.

Any juvenile may request to see a counselor at any time and counselors are available 24 hours a day, 7 days a week. The services are contracted through the University Health System but are on site at the detention facility. Counseling in the facility is mainly crisis intervention and stabilization, as the care is short term. The Bexar County Juvenile Detention Center is seen as a transition facility and, as such, counselors do not have the time or resources necessary for in-depth therapy sessions. If sexual abuse is uncovered, the minor is referred to ChildSafe, the local child advocacy center.

Post-adjudication services are either contracted out or, if a child is mandated to the Cyndi Taylor Krier Juvenile Correctional Treatment Center, they will receive the more intensive mental health services, such as individual, group, and family therapy, or individualized therapeutic programs that integrate the views of the juvenile, staff, and the minor's family, as well as psychiatric consultation provided by the Texas Health Science Center's Division of Child and Adolescent Psychiatry. Teen parenting classes, life skills and career preparation classes, and theatre arts are also some programs offered.

While the above outlined services are available for DMST victims who are returned to the juvenile detention facilities or the Correctional Treatment Center, detention facility staff adamantly opposed the usage of either of these facilities for DMST victims—even if the purpose was for protection. While it was understood that secure and protective options were necessary for some DMST victims that posed flight risks, it was recommended that legal and systemic change needed to occur to provide for alternate options outside of the punitive juvenile justice system. Since both the federal TVPA and Texas state law define prostituted children as victims of DMST, they should be treated and protected as victims of a crime and not placed in detention facilities.

The BCJPD submitted a proposal in May 2008 for a grant to establish a Mental Health Court with a 24-bed facility component. The Mental Health Court would hear cases involving girls ages 12-14 who had re-offended after going through the Early Intervention Program and who had histories of trauma. The hope is to give these juveniles a second chance of diversion before fully entering the juvenile justice system. Interviewees identified the future diversion program as a possible avenue for assisting DMST victims who had been referred to the juvenile detention center.

3.5.2 Evidence-Based Practices

Evidence-based practices are programs, services, and treatments based on practice that have been assessed and evaluated for their success for a particular population to be served. San Antonio/Bexar County has no clear model for the development or assessment of services and programs for DMST victims.

3.5.3 Information Sharing

Recognizing the need for features that were beyond the capabilities of its current Juvenile Justice Information System, the Information Management Unit of the Bexar County Juvenile Probation Department has developed and implemented an unprecedented formal agreement to work with Tarrant County, Dallas County, the Texas Juvenile Probation Commission, and the Texas Conference of Urban Counties. The purpose of the partnership is to develop a system that meets their common case management needs and Texas Juvenile Probation Commission's reporting requirement.

3.5.4 Education

The Bexar County Juvenile Justice Academy (JJA) is responsible for creating juvenile justice alternative education programs that provide uninterrupted educational services to students expelled from school in counties with populations exceeding 12,000. Students can receive either general educational services or special educational support. In addition, Communities In Schools-San Antonio provides direct services to and sponsors special projects for JJA students. Services include individual and group counseling addressing issues such as behavior, anger, family conflict, emotional crisis, social/life skills, decision-making, communication, character, wellness, drug awareness, and substance abuse. However, DMST victims would have no access to these services without expulsion from school.⁷¹

⁷¹ "2006 Annual Report." Bexar County Juvenile Probation and Delinquency.

3.6 CHILD PROTECTIVE SERVICES (CPS)

3.6.1 Responding to Reports

The Texas Family Code requires reports of suspected child abuse and/or neglect in which the perpetrator is any person to be referred to CPS, but interviewees state that CPS will only become involved in the rescue of a DMST victim if the perpetrator is a family member or a person residing in the home.⁷² Reports in which a perpetrator is outside the family or home are closed at the intake level at CPS.

CPS is mandated to conduct joint investigations with law enforcement regarding child abuse cases since the 1990s, and CPS is making strides in improving their cooperative activities. Still, participants state that more is needed. One interviewee described a conflict between the different level of confidentiality expected between law enforcement and CPS; while law enforcement emphasized building a case against the perpetrator, CPS workers stated their priority is on removing the child from an abusive environment. CPS procedures call for communication with the family throughout the investigation and custody process. Interviewees stated that law enforcement officers are oftentimes in disagreement with the amount of information CPS gives family members alleged to be the perpetrators of abuse against the child. In order to try and improve the response to allegations and the joint investigations, CPS and law enforcement have initiated multidisciplinary teams and joint trainings on appropriate responses to child abuse and neglect cases.

3.6.2 Services for DMST Victims

When a child is accepted to CPS care, there are five levels of service that the minor may qualify for: basic service, moderate service, specialized service, intense service, and level E3, which indicates emergency care. Basic Service Level consists of supportive services designed to improve or maintain the child's functioning with the child preferably in the home. Moderate Service Level is more structured with activities designed to improve the child's functioning. In Specialized Service Level, intervention would consist of a treatment setting, preferably within a family setting, where caregivers have special training to provide therapeutic, rehabilitative, and medical support and interventions. In an Intense Service Level, there is a high degree of structure to limit the child's access to environments, as necessary in order to protect the child. Caregivers have specialized training and the ability to provide therapeutic interventions with limited outside access. Level E3 is used in the case of emergencies and consists of the child being placed in an emergency shelter institution (see Appendix E for an outline of the levels of service).⁷³

There are three programs through the Department of Family and Protective Services that are particularly situated to come in contact with DTMs: Services to At-Risk Youth (STAR), Texas Youth and Runaway Hotlines, and the Youth Resiliency project.

STAR

STAR was developed for minors who normally would not receive services from CPS or Juvenile Probation. It is geared towards youth under the age of 18 that meet one of the following conditions:

- Runaway
- Truant
- Living in family conflict
- Allegedly been involved in or committed delinquent offenses
- Allegedly been involved in or committed misdemeanor or felony offenses but have not been adjudicated delinquent by a court

Through contracted community agencies, a variety of services are offered, such as short-term emergency

⁷² Texas Family Code 261.101; 261.103.

⁷³ 2007 Data Book." Department of Family and Protective Services. 2007. <http://www.dfps.state.tx.us/About/Data_Books_and_Annual_Reports/2007/databook/default.asp>. Accessed on May 16, 2008.

residential care, individual and family counseling, and family crisis intervention. In 2007, 32,085 youths were served by STAR across Texas. Of these, 14,114 were female and 17,971 were male. The largest age group served was adolescents with 25,350 minors between the ages of 10 and 17 helped.⁷⁴

Texas Youth and Runaway Hotline

Administered by the Department of Families and Protective Services, the Texas Youth and Runaway Hotlines provide 24-hour crisis intervention, information and referrals for calls to local resources (e.g. food bank, shelter), conference calls to parents and shelters, and a confidential message relay service between runaways and parents. In 2007, 35,548 calls were made to the hotline. This is down from 2006 when 38,481 calls were placed. Of the 2007 calls, 70% of the callers were adults, while only 30% were youth. Similarly there was a large difference in the gender of the callers. Females comprised 74% of all callers in 2007, while males only comprised 26%.⁷⁵

Youth Resiliency Program

These services are based off of evidenced-based practices with the goal of increasing resiliency in minors while preventing juvenile delinquency. In 2007, 3,338 youth were served—only 7% of the total population of clients within the Juvenile Delinquency Prevention Programs at the Department of Family and Protective Services. Of the Youth Resiliency Program clients, the largest age group served was adolescents totaling 2,886 across the state of Texas. The next largest was juveniles over the age of 17 for a total of 99 juveniles.⁷⁶

3.6.3 Reform

Over the last two years, CPS has been making great efforts to improve its services and image in the community. One key element to the planned reform is to have liaisons housed within or near some law enforcement and strategic service providers, such as ChildSafe, that enable them to be closer to potential child abuse victims. CPS has been asked to accompany officers on certain raids where it is suspected that children are present. Another important improvement is the addition of personnel that have been assigned as Caseworker Assistant. This position is utilized for certain logistical needs, such as transporting a client to needed services, which had previously been lacking. In 2007, the Department of Family and Protective Services expended \$1,104,473 on reform in CPS; in the 2008 budget, \$61,454,403 has been allotted.

⁷⁴ “2007 Data Book.” Department of Family and Protective Services. 2007. <http://www.dfps.state.tx.us/About/Data_Books_and_Annual_Reports/2007/databook/default.asp>. Accessed on May 8, 2008.

⁷⁵ “2007 Data Book.” Department of Family and Protective Services. 2007. <http://www.dfps.state.tx.us/About/Data_Books_and_Annual_Reports/2007/databook/default.asp>. Accessed on May 8, 2008.

⁷⁶ “2007 Data Book.” Department of Family and Protective Services. 2007. <http://www.dfps.state.tx.us/About/Data_Books_and_Annual_Reports/2007/databook/default.asp>. Accessed on May 8, 2008.

3.7 NGOS/SOCIAL SERVICE PROVIDERS

Although there are no services provided specifically for DMST victims in Bexar County by any agency, some key providers are poised to do so.

Roy Maas' Youth Alternatives, Inc.

The majority of children in one of the four Roy Mass programs are victims of physical, sexual, and emotional abuse or neglect. Their objective is to provide a safe, structured, and comfortable environment necessary for the children to significantly improve their behavior and decision-making skills.

- The Bridge Emergency Shelter is a licensed co-ed emergency shelter that provides 24-hour care for an average of 20 children a day who need a safe place to stay. Children range in age from 5–17. Runaways can access services through a runaway hotline.
- The Counseling Center provides free Master's level services, including individual, family, and group counseling. Crisis intervention, life skills training, and parenting classes for at-risk youth and families are also provided for families with children from birth through 17, as well as all children in RMYA programs.
- The Turning Point Independent Living Program is for up to 20 young adults—male and female from ages 16 to 21 who are in need of assistance prior to living on their own. The goal is to prepare them to be independent and productive.
- MeadowLand is a 40-acre campus located in Boerne, Texas and is home to their long-term programs. It is licensed to provide care for up to 80 children and is for youth with more serious behavioral and emotional needs ranging in age from 6 to 17 years old.

HHS has identified Roy Maas for implementation of their DMST pilot initiative for identification purposes and data collection. It is expected that, once the staff begin to identify DMST victims, they will work to provide services within their own facility or through outside social service providers. However, the victim identification pilot project does not currently generate additional funding for services for identified DMST victims.

ChildSafe

ChildSafe serves to restore dignity, trust, and hope to children traumatized by sexual abuse.

- Case Coordinators serve as the main point of contact for families during and following the initial appointment. They conduct assessments, assist with crisis situations, initiate the referral process, and provide follow up calls and reassessments. They also assist families with victim compensation applications, as well as provide resource information, referrals, crisis counseling emergency assistance, and support throughout the investigation and legal process.
- Group therapy is designed to reduce feelings of isolation and provide support as participants deal with trauma.
- Crisis and long-term counseling are provided to the child and to all non-offending family members who need help to resolve the trauma.
- Specially trained pediatricians and Sexual Assault Nurse Examiners, who are recognized experts in child abuse, provide medical services and forensic examinations.
- The Child Abuse Resource Enhancement (CARE) Program is a collaboration of community agencies providing opportunities for sexually abused children and their family members to participate in a variety of services and/or activities, available through ChildSafe. The purpose of this program is to promote healing, reduce the likelihood of future high-risk behaviors, and minimize the risk of revictimization.

Catholic Charities

Catholic Charities is of particular interest as it holds a dual grant with the Bexar County Sheriff's Office for the establishment of the Department of Justice Human Trafficking Task Force in San Antonio/Bexar County. In October 2006, funding was granted in the amounts of \$450,000 to Catholic Charities, Archdiocese of San Antonio and \$406,862 to the Bexar County Sheriff's Office to be used, in conjunction with each other, for the purpose of identifying and assisting victims of human trafficking and apprehending and prosecuting those engaged in trafficking offenses. As the Trafficking Victims Protection Act of 2000 earmarked funding only for foreign national victims of human trafficking, Catholic Charities cannot use the funding to serve DMST victims. Nevertheless, due to their knowledge and experience in handling traditional human trafficking situations as well as their commitment to serving victims, Catholic Charities is beginning to expand their expertise to accommodate domestic minors who have been trafficked.

In San Antonio/Bexar County, Catholic Charities has had a longstanding connection with the issue of human trafficking due to their active participation in the South Texas Coalition Against Human Trafficking and Slavery. Through the coalition, Catholic Charities helps to recruit, inform, and unite equally impassioned anti-human trafficking community leaders, organizations, and agencies.

Rape Crisis Center

The Rape Crisis Center in San Antonio provides 24-hour hotline services for victims of sexual assault and is the main source of contact for Bexar County's Sexual Assault Response Team, which is composed of Sexual Assault Nurse Examiners at Methodist Specialty and Transplant Hospital, and Christus Santa Rosa Children's Hospital.

In 2006, the Rape Crisis Center implemented an expansion of its online crisis intervention services, as it became the Lead National Partner in the launching of the Rape Abuse Incest National Network's (RAINN) Online Hotline. This expansion provides individuals, not only in the San Antonio/Bexar County area but nationwide, with access to "real time" crisis intervention services via the Internet. The hope is to provide a safe space for young victims seeking help, rather than having victims accessing unprotected Internet chat rooms that may leave the minors open to sexual predators and additional abuse.

Seton Home

Seton Home is a residential facility that provides shelter and support services for homeless pregnant teens and their children. Services include:

- Parenting education
- Counseling and therapy
- Practical living skills designed to promote independence from others and institutions
- Educational opportunities
- On-site childcare
- Residential living
- Career development and job readiness training

Baptist Child and Family Services (BCFS)

Baptist Child and Family Services provide shelter programs that serve children ages 5 to 17. With an average stay of 30-90 days, the main referral source for BCFS is child protective services; however, private placements are welcomed based on availability. BCFS is one of two agencies in San Antonio/Bexar County to receive grant funding to provide the Services to At Risk Youth (STAR) Program for Texas. The purpose of the program is to reduce family conflict and to prevent the problems of runaway, truancy, delinquent behaviors, and child abuse.

3.8 CONCLUSIONS

While participants demonstrated a strong desire to both rescue and restore victims of domestic minor sex trafficking, the resources and programs needed to begin victim-centered programming are admittedly lacking. Revictimization often occurs with the various first responders that are likely to come in contact with potential victims, such as law enforcement, CPS, or even the juvenile detention facilities. Interviewees stated that one of the main reasons behind this systematic revictimization is the improper identification of DMST victims and the criminalization of the minors.

Entities state that it is the responsibility of others involved to identify, rescue, and provide restorative services to DMST victims. Child protective services is the main contact utilized by law enforcement, the juvenile justice system, and social services when a potential case of DMST occurs. However, CPS will only act if the perpetrator is within the home or is a member of the family, so many of these reports go unanswered. Likewise, CPS states that these investigations are the responsibility of law enforcement. Detention centers and social services state that it is the responsibility of both CPS and law enforcement. On the other hand, prosecutors state that the identification and revelation of DMST victimization should occur within the juvenile detention center intake process. This contradiction of responsibility stands in contrast to a few individuals who are actively facilitating reform within their organization.

Victims of DMST are known to be uncooperative due to the psychological and/or physical manipulation of their abusers. In order to survive, they have learned to refuse a victim posture and, as a result, will at times return repeatedly to the trafficker/pimp. Time and trust is paramount in helping a victim separate from the perpetrator and reach out to the individuals and services that will help with recovery. However, the lack of protective, safe, and appropriate long-term shelter, along with services that accommodate the special needs of DMST victims in San Antonio/Bexar County, acts to systematically hinder disclosure, rescue, and restoration.

3.8.1 Best Practices

Among the best practices identified in San Antonio/Bexar County is the sympathy towards a victim and the willingness of some to begin learning how to address domestic minor sex trafficking using a victim-centered approach. From law enforcement to service providers, all participants have expressed remorse that agency policies and individual protocols can hinder the rescue and restoration of this population.

As awareness of DMST increases, each venue has begun undertaking a more positive stance. As such, the identification and creation of other models and promising practices are currently underway. For example, the Bexar County Sheriff's Office in partnership with Catholic Charities and the South Texas Coalition Against Human Trafficking and Slavery is currently identifying resources to create a victim-centered approach to rescue efforts. Additionally, the juvenile justice system is in the planning stages for a mental health assessment for females involved with the juvenile justice system as well as the trial run of a "mental health court" for these troubled youth.

At the time of the assessment, the Juvenile Justice Probation Department Information Unit developed and implemented an unprecedented formal agreement to work with Tarrant County, Dallas County, the Texas Juvenile Probation Commission, and the Texas Conference of Urban Counties in order to develop a system that meets their common case management needs and Texas Juvenile Probation Commission's reporting requirement. This proactive step stands out when many other participants noted that information sharing and reporting is either lacking or nonexistent.

3.8.2 Gaps

Due to restricted funding from the TVPA, the funding available to serve human trafficking victims is designated for foreign national victims only. This has put a strain on NGOs and social service agencies providing comprehensive services for DMST victims.

The lack of a point agency to serve domestic minor sex trafficking victims along with a dearth of tailored services has resulted in minors being left without services. CPS and law enforcement name each other as the appropriate referral agencies for DMST victims, and there is no clear entity with the authority to remove the child from a situation of prostitution without criminalizing the victim. Similarly, prosecutors, juvenile judges, detention centers, and social services all name other entities as the appropriate place to actively seek out the existence of DMST victimization.

Although trauma counseling could be accessed through Rape Crisis, programs that would extend to helping DMST victims exit prostitution could not be identified through this assessment. The lack of appropriate, protective, long-term shelter is one of the largest hurdles for San Antonio/Bexar County to overcome. Protective, long-term, specialized care for DMST victims is nonexistent within the San Antonio/Bexar county region at this time.

Overall Conclusions

In San Antonio/Bexar County, the victims of domestic minor sex trafficking go unidentified and unnoticed. Their plight is heightened by a lack of understanding from almost all potential first responders and other service professionals who have both opportunity and occasion to come in contact with them. Training specific to DMST, data gathering and analysis instruments, and an accurate assessment of the scope of this population is practically nonexistent. Advocacy for victims who rarely if ever self-identify is further impinged by the shrinking resources of time and money from those who should provide for their protection, justice, and restoration.

The Bexar County Sheriff's Office, Violent Crimes Unit and Catholic Charities San Antonio are working to create new alignments with responders and service providers through the impetus of the newly formed Human Trafficking Task Force and South Texas Coalition Against Human Trafficking and Slavery. Although gathering and disseminating information is the first initiative, this is just the beginning. Strategic training with measurable goals is currently being initiated for some law enforcement professionals who are potential first responders to this specialized category of victims.

A specialized unit and point person for all human trafficking cases exists within the Bexar County Sheriff's Office, Violent Crimes Unit due to BJA HTTF grant funding. The ability to have a point person has provided substantial opportunity to work with social service providers to identify services and to alleviate law enforcement of that responsibility as they work to investigate situations of trafficking. The San Antonio Police Department does not have a human trafficking point person but has recently been made aware of the HTTF, which can assist with future identified trafficking situations.

As most DMST victims remain unidentified or are misidentified, victim-centered interrogations are not the norm by either law enforcement or juvenile detention officers. Self-preservation has taught these street-smart children to mistrust those who say they are trying to help. When efforts are met with hostility from unwilling victims, law enforcement and juvenile detention officers are reluctant to further engage and refer them to service providers. This serves only to draw these minors deeper into the judicial system and intensify their revictimization.

San Antonio judiciary is sensitive to and has a heightened desire to protect innocent victims in any way they can. However, there are no services directed to victims of domestic minor sex trafficking in Bexar County. Because the only recourse to access services and protection for juveniles whom they see as victims is through charging them with a delinquency, it has become the practice of law enforcement and juvenile authorities to downgrade prostitution and prostitution-related offenses. However, victims who have been adjudicated guilty of the lesser crime may be unable to access funding set aside in Texas for victims of crimes. Additionally, these minors are most often sent home after their release, which often puts them back into an environment to be revictimized.

A common refrain among participants is that there are almost no options for protective, long-term care that is appropriate for victims of domestic minor sex trafficking in San Antonio/Bexar County. The future possibility of the Mental Health Court and Facility is promising. Connecting prostitution and prostitution-related offenses with mental health services may facilitate the process leading to proper identification and subsequent rescue of DMST victims. This could provide a safe, protective place to begin assessing the situation and have the needed counseling services at hand, however victims of domestic minor sex trafficking need specialized care and protection which is currently unavailable.

The perpetrators of Internet crimes against children are pursued by law enforcement in San Antonio/Bexar County. With successful sting operations and assertive prosecutions by the District Attorney's Office, the successes are highly publicized, informing and evoking positive public response. However, the same energy and expenditure of resources is not evident for the protection of prostituted and commercially sexually exploited children through the sex entertainment industry. A change in perception is needed in San Antonio/Bexar County supported by a concerned and informed community, along with local and state government to identify these victims and implement restorative justice.

Recommendations

The following recommendations are based on suggestions made by interviewees as well as proposals from the author of this report.

Research and Training

The goal of domestic minor sex trafficking research and training is to provide knowledge and resources to individuals who might come in contact with a domestic trafficked minor. Training should target specific individuals or groups, including but not limited to law enforcement, service providers, prosecutors, defenders, judges, and detention facilities. These individuals need a mature and in-depth understanding of this issue in order to identify and serve victims.

1. Domestic minor sex trafficking is a daunting, multilayered problem for San Antonio/Bexar County. The dynamics involved with DMST must be researched and made available to concerned entities. The resulting increase in understanding of domestic minor sex trafficking should be used to inform outcome based strategies that have specific and measurable goals, which must include proactive strategies for managing and supporting domestic trafficked minors. Interventions and tactics used by professionals in identifying and interacting with victims, as well as methods used to investigate the crime of DMST, must be evaluated and promising practices disseminated.

2. DMST training is necessary for all professionals that are positioned to interact with potential domestic trafficked minors. Such training must be in-depth and focused on identification and correct responses. While the Bexar County Sheriff's Office is currently conducting trainings on human trafficking, the issue of domestic minor sex trafficking should be expanded upon and the training mandated for all new law enforcement recruits as well as veteran officers. The San Antonio Police Department should implement training on DMST as well as human trafficking in general. As with the Sheriff's Office, such training should be mandatory for all new law enforcement recruits and current officers. In addition, training on DMST must be created for juvenile detention and probation workers, the judiciary, child protective services, and social service providers.

Identification and Tracking of Victims and Traffickers

Identification and tracking of victims and traffickers is important because it allows service providers and law enforcement to gain a better understanding of the problem's scope in the community. With better tracking, data on DMST can be furthered and the needs of victims can be understood and addressed.

3. Children exploited through prostitution, pornography, and sexual performance must be viewed as victims of a violent crime and provided with immediate victim status, which they are entitled to under both federal and Texas law. First responders, such as law enforcement, are particularly responsible for identifying at-risk youth and channeling them into appropriate avenues of protection and care. To facilitate this, as well as increase the amount of traffickers/pimps arrested and prosecuted, specialized units within law enforcement entities should be created and funded, such as the Bexar County Sheriff's Office's Sex Crimes/Violent Crimes, Human Trafficking/Child Abuse Unit.

4. Proactive and formalized identification procedures and protocols must immediately be developed and implemented. Intakes at facilities and organizations likely to come into contact with potential DMST victims must be updated to include questions concerning potential sexual exploitation and formal protocols must be developed for appropriate responses to any minor who is thought to have

been domestic trafficked. For proper implementation, necessary staff members, volunteers, etc., must be trained on the new intake procedures and protocols.

5. Updated, integrated technology should be introduced in order to facilitate better information sharing between agencies and within agencies. Databases should either be modified or created in order to track victims through multiple systems, such as child welfare and juvenile justice. It is only by recognizing and cataloging incidences of domestic minor sex trafficking, as well as the existence and situations of victims, that the scope and characteristics of domestic minor sex trafficking in San Antonio/Bexar County can be thoroughly understood and actionable intelligence gathered.

Public Education

Public education is necessary to increase awareness of domestic minor sex trafficking. Broad public support for the prioritization of combating domestic minor sex trafficking may help identification, funding streams, and media coverage.

6. Public awareness and training on domestic minor sex trafficking should extend to members of the public. Business owners, such as hotel and taxi companies, are in unique positions to identify suspicious activity and report it to the appropriate authorities. Similarly, outreach and trainings should be given to teachers, community groups (e.g. churches, youth organizations), hospitals and clinics, and other members of the public, so prostituted minors are better identified and appropriate next steps are taken. Information on available resources and human trafficking hotline numbers for reporting suspected trafficking of children must be disseminated to the community at large to assist them in proactively reporting concerns. Additionally, media outlets in San Antonio/Bexar County should be educated about the crime of DMST as well as the victim status of the minors. Information and resources, such as hotline numbers and local contacts, should be included as part of any media training.

7. Prevention programs should be developed for youth in the San Antonio/Bexar County area. Currently implemented programs, such as those targeting youth vulnerable to dropping out of school or using drugs, could incorporate prevention education on domestic minor sex trafficking. Programs could be enhanced to include curriculum that would educate children on the recruitment tactics used by traffickers/pimps and how to access resources. Youth that are seen as particularly vulnerable (e.g. having a history of running away) should have in-depth and targeted prevention programs that are tailored to their individual needs.

Protection of Domestic Trafficked Minors Against their Traffickers

Victims need better protection to both prevent revictimization and further trauma, as well as create a safe opportunity for the victim to testify against her trafficker/pimp.

8. Traffickers/pimps are highly dangerous individuals and pose a great threat to victims. Strategies for protecting domestic trafficked minors must be developed that take into account the unique characteristics of the crime of sex trafficking. Conducting victim-centered trials (e.g. videotaping testimony, interviews by trained forensic psychologists, live-feed testimony, pre-adjudication therapeutic services) should also be incorporated into the future trials of traffickers/pimps.

Prosecutions of Traffickers/Pimps

A strong message that trafficking of minors for commercial sex in San Antonio/Bexar County will not be tolerated must be articulated through prosecution. Additionally, prosecutions with strict sentences will achieve justice for the crime committed against the victim and, in some cases, may include asset forfeiture that can be given to the victim as restitution.

9. There needs to be a strong commitment to and prioritization of the investigation and prosecution of traffickers/pimps who sell domestic trafficked minors in order to sharply deter this crime. To accomplish this, it is imperative to provide increased support and resources to local law enforcement in San Antonio/Bexar County. With the rapid population growth in San Antonio, dedicated officers need the support of their supervisors, the judiciary, and the community at large to support their efforts in investigating DMST.

Prosecution of Buyers (“johns”) and Facilitators

The prosecution of consumers will deter demand from potential buyers of domestic trafficked minors and prevent current consumers from victimizing more youth. Furthermore, prosecution of buyers will achieve justice for the crime committed against the victim. Prosecution of facilitators will show that anyone involved in enabling or allowing domestic minor sex trafficking to occur will be held accountable.

10. There must be investigations and prosecutions of facilitators of domestic minor sex trafficking in San Antonio/Bexar County, including adult entertainment businesses that employ minors, taxi drivers, hotel clerks, valets, concierges, etc., as these individuals are key components in the trafficking networks. Buyers must be recognized for the crime that has been committed—the rape of a child—and their identification and arrest should be made a priority. The resulting sentences should fit the gravity of the crime. In addition, the media should cover and expose these predators throughout the prosecution process so the San Antonio/Bexar County area establishes a reputation as a hostile market for the sale of children.

Treatment of Domestic Trafficked Minors

Proper identification of a domestic trafficked minor must be followed with the necessary services that holistically address the complex and diverse issues experienced during their victimization. Proper services, including safe, secure, and appropriate shelter, can lead to increased information from the victim, which can assist the investigation and prosecution of traffickers/pimps, buyers, and facilitators.

11. A comprehensive model should guide services designed to meet the specific needs of DMST victims. Holistic programs that address the multitude of issues faced by trafficked minors must be developed (e.g. substance abuse and addiction, PTSD, physical and emotional challenges, abuse history, family dynamics, educational needs, self-esteem and life skill issues). San Antonio/Bexar County has a strong foundation to build from, and existing partnerships and agencies can be utilized to develop programs, initiatives, and protocols that are able to provide services to domestic minor sex trafficking victims as they begin to be identified. Promising practices within agencies, such as ChildSafe, that are already in existence can be used to facilitate the growth and innovation necessary to restore DMST victims.

12. All service providers for domestic trafficked minors should be aware that exiting victimization by a pimp through prostitution is typically a slow process with some false starts. Long-term programming is essential with accommodations made for domestic trafficked minors who may return to prostitution

numerous times before they are able to exit permanently. Agencies already experienced with providing residential treatment to vulnerable youth, such as Roy Maas' Youth Alternatives and Seton Home, are positioned to take a leadership role in the creation of such programming.

APPENDIX A

PENAL CODE

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:

(1) knowingly traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services; or

(2) intentionally or knowingly 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 43.02 and the person who is trafficked is younger than 18 years of age at the time of 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.

APPENDIX B

TITLE 5. OFFENSES AGAINST THE PERSON CHAPTER 21. SEXUAL OFFENSES

Sec. 21.01. DEFINITIONS. In this chapter:

- (1) "Deviate sexual intercourse" means:
 - (A) any contact between any part of the genitals of one person and the mouth or anus of another person; or
 - (B) the penetration of the genitals or the anus of another person with an object.
- (2) "Sexual contact" means, except as provided by Section 21.11, 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.
- (3) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.
- (4) "Spouse" means a person to whom a person is legally married under Subtitle A, Title 1, Family Code, or a comparable law of another jurisdiction.
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. 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 203, ch. 96, Sec. 3, eff. Sept. 1, 1981; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 739, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 268, Sec. 1.124, eff. September 1, 2005.

Sec. 21.02. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR CHILDREN. (a) In this section, "child" has the meaning assigned by Section 22.011(c).

- (b) A person commits an offense if:
 - (1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and
 - (2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age.
- (c) For purposes of this section, "act of sexual abuse" means any act that is a violation of one or more of the following penal laws:

- (1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or abuse the victim sexually;
- (2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;
- (3) sexual assault under Section 22.011;
- (4) aggravated sexual assault under Section 22.021;
- (5) burglary under Section 30.02, if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit an offense listed in Subdivisions (1)-(4); and
- (6) sexual performance by a child under Section 43.25.

(d) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, committed two or more acts of sexual abuse.

(e) A defendant may not be convicted in the same criminal action of an offense listed under Subsection (c) the victim of which is the same victim as a victim of the offense alleged under Subsection (b) unless the offense listed in Subsection (c):

- (1) is charged in the alternative;
- (2) occurred outside the period in which the offense alleged under Subsection (b) was committed; or
- (3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (b).

(f) A defendant may not be charged with more than one count under Subsection (b) if all of the specific acts of sexual abuse that are alleged to have been committed are alleged to have been committed against a single victim.

(g) It is an affirmative defense to prosecution under this section that the actor:

- (1) was not more than five years older than:

(A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or

(B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;

(2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and

(3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c).

(h) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

Added by Acts 2007, 80th Leg., R.S., Ch. 593, Sec. 1.17, eff. September 1, 2007.

Section 21.06 was declared unconstitutional by *Lawrence v. Texas*, 123 S.Ct. 2472.

Sec. 21.06. HOMOSEXUAL CONDUCT. (a) A person commits an offense if he engages in deviate sexual intercourse with another individual of the same sex.

(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. 21.07. PUBLIC LEWDNESS. (a) A person commits an offense if he knowingly engages in any of the following acts in a public place or, if not in a public place, he is reckless about whether another is present who will be offended or alarmed by his:

(1) act of sexual intercourse;

(2) act of deviate sexual intercourse;

(3) act of sexual contact; or

(4) act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl.

(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 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 21.08. INDECENT EXPOSURE. (a) A person commits an offense if he exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.

(b) An offense under this section is a Class B misdemeanor. Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1983, 68th Leg., p. 509, ch. 924, Sec. 1, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 21.11. INDECENCY WITH A CHILD. (a) A person commits an offense if, with a child younger than 17 years and not the person's spouse, whether the child is of the same or opposite sex, the person:

(1) engages in sexual contact with the child or causes the child to engage in sexual contact; or

(2) with intent to arouse or gratify the sexual desire of any person:

(A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or

(B) causes the child to expose the child's anus or any part of the child's genitals.

(b) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than three years older than the victim and of the opposite sex;

(2) did not use duress, force, or a threat against the victim at the time of the offense; and

(3) at the time of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a

reportable conviction or adjudication for an offense under this section.

(c) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:

(1) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or

(2) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.

(d) An offense under Subsection (a)(1) is a felony of the second degree and an offense under Subsection (a)(2) is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1981, 67th Leg., p. 472, ch. 202, Sec. 3, eff. Sept. 1, 1981; Acts 1987, 70th Leg., ch. 1028, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1999, 76th Leg., ch. 1415, Sec. 23, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 739, Sec. 2, eff. Sept. 1, 2001.

Sec. 21.12. IMPROPER RELATIONSHIP BETWEEN EDUCATOR AND STUDENT. (a) An employee of a public or private primary or secondary school commits an offense if the employee engages in:

(1) sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works and who is not the employee's spouse; or

(2) conduct described by Section 33.021, with a person described by Subdivision (1), regardless of the age of that person.

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

(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 both sections.

(d) The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Subsection (a) may not be released to the public and is not public information under Chapter 552, Government Code.

Added by Acts 2003, 78th Leg., ch. 224, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 610, Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 772, Sec. 1, eff. September 1, 2007.

Sec. 21.15. IMPROPER PHOTOGRAPHY OR VISUAL RECORDING.

(a) In this section, "promote" has the meaning assigned by Section 43.21.

(b) A person commits an offense if the person:

(1) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another at a location that is not a bathroom or private dressing room:

(A) without the other person's consent; and

(B) with intent to arouse or gratify the sexual desire of any person;

(2) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another at a location that is a bathroom or private dressing room:

(A) without the other person's consent; and

(B) with intent to:

(i) invade the privacy of the other person;

or

(ii) arouse or gratify the sexual desire of

any person; or

(3) knowing the character and content of the photograph, recording, broadcast, or transmission, promotes a photograph, recording, broadcast, or transmission described by Subdivision (1) or (2).

(c) An offense under this section is a state jail felony.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

(e) For purposes of Subsection (b)(2), a sign or signs posted indicating that the person is being photographed or that a visual image of the person is being recorded, broadcast, or

transmitted is not sufficient to establish the person's consent under that subdivision.

Added by Acts 2001, 77th Leg., ch. 458, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 500, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 306, Sec. 1, eff. September 1, 2007.

APPENDIX C

PENAL CODE 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.

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.

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 he knowingly:

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

(2) causes by any means a person younger than 17 years to commit prostitution.

(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.

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.

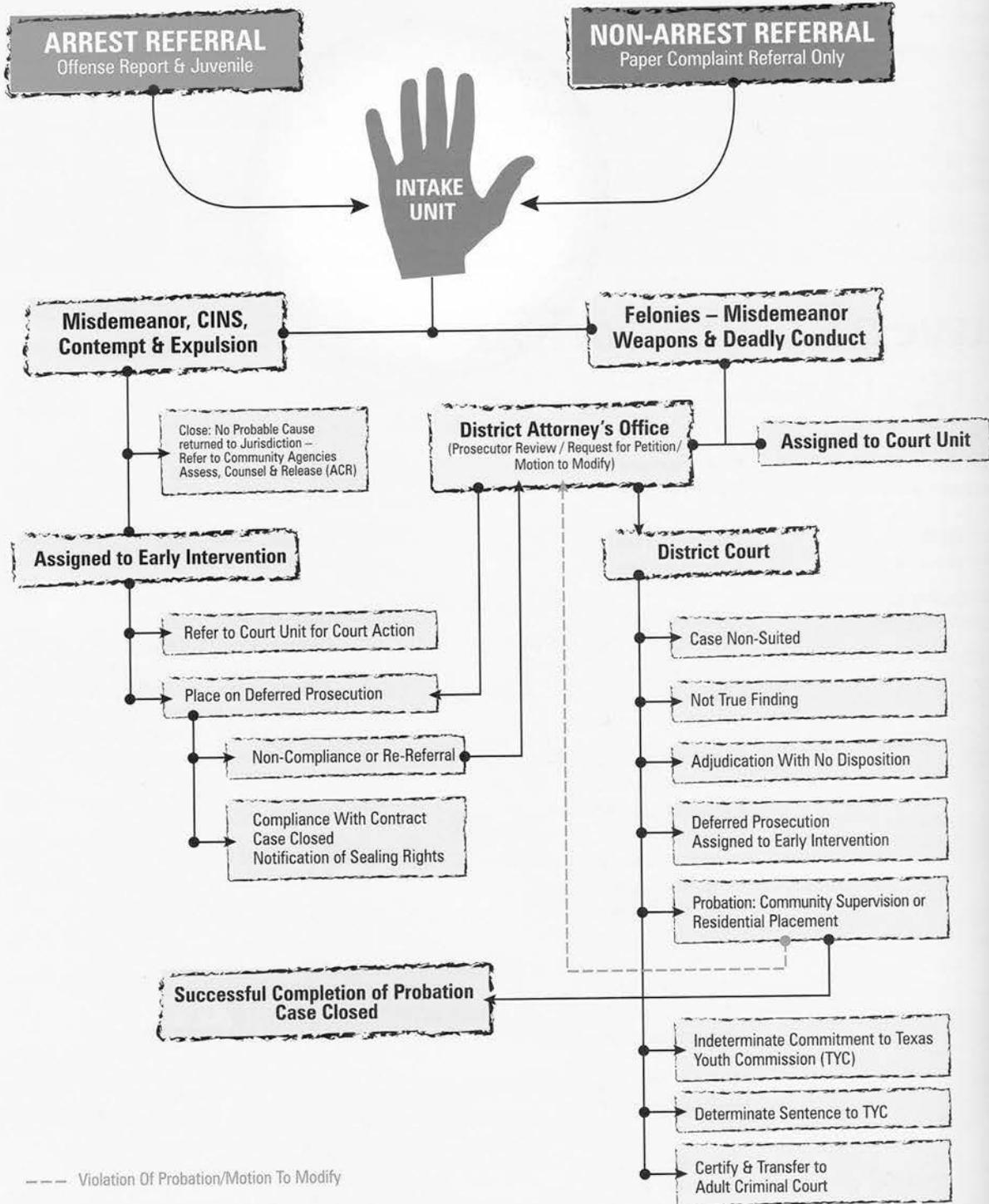
Added by Acts 1985, 69th Leg., ch. 530, Sec. 2, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 361, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 968, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 76, Sec. 14.51, 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.

case flow chart



Service Level – DFPS seeks to place each child in the department’s conservatorship with a foster caregiver who is well qualified to meet the child’s needs. To achieve this, the department participates in a statewide system for classifying the needs of children and the capabilities of foster caregivers in four Service Levels:

a) What is the 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.

b) What is the description of the Moderate Service Level?

(a) 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.

(b) 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.

c) What is the description of the Specialized Service Level?

(a) 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.

(b) 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.

d) What is the description of the Intense Service Level?

(a) 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.
- (b) 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.
- e) **Level E3** – Emergency care in an emergency shelter institution.

SWI

Statewide Intake Overview

Statewide Intake serves as the “front door to the front line” for all DFPS programs. As the central point of contact for reports of abuse, neglect and exploitation of vulnerable Texans, SWI staff are available 24 hours a day, 7 days per week, 365 days per year.

Expenditures and Total Average Filled

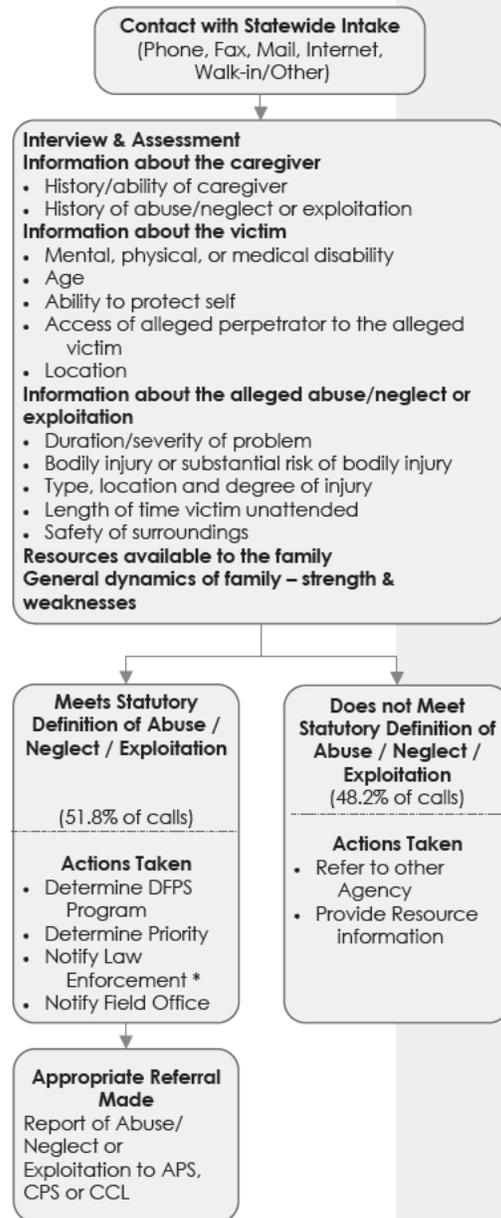
Full Time Equivalent (FTE) Staff	
Total Staff	347.8
Workers	258.8
Supervisors	28.2
Staff Costs	\$14,416,983.00

Worker Demographic

Turnover Rate	26.4%
Tenure	
Less than 1 Year	28.6%
1 - 3 Years	27.4%
Greater than 3 Years	44.0%
Entry Salary	\$29,281.00
Average Age	38.4
Race/Ethnicity	
African-American	15.4%
Anglo	58.3%
Hispanic	21.8%
Other	4.5%

Supervisor Demographics

Turnover Rate	3.6%
Tenure	
Less than 1 Year	0.0%
1 - 3 Years	6.9%
Greater than 3 Years	93.1%
Entry Salary	\$35,337.00
Average Age	45.2
Race/Ethnicity	
African-American	3.4%
Anglo	65.5%
Hispanic	27.7%
Other	3.4%



* CPS, CCL