

DOMESTIC MINOR SEX TRAFFICKING

Commonwealth of the Northern Mariana Islands



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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Commonwealth of the Northern Mariana Islands Assessment

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

May 2008

Prepared for
Shared Hope International

By Samantha Healy Vardaman

Acknowledgements

The small size and closely related community of the Commonwealth of the Northern Mariana Islands (CNMI) poses a particular challenge for law enforcement and the justice system to investigate and prosecute traffickers of U.S. citizen and lawful permanent resident minors. This makes it more difficult to investigate crimes, which in turn, makes it more difficult to prosecute them as well. Good working relationships among the entities coming into contact with victims already exists in the CNMI, creating an environment in which the victims of domestic minor sex trafficking are likely to be identified and assisted once awareness is raised. The CNMI Human Trafficking Intervention Coalition has brought together many of these entities and can assist in the awareness needed to identify America's trafficked youth.

Special acknowledgment is due to the efforts of several divisions and units within the Criminal Investigations Bureau of the Department of Public Safety. Commissioner Clyde Norita's promise to assist in any way possible with this assessment was invaluable. The CNMI Human Trafficking Intervention Coalition, led by Investigators Jeffrey Olopai and George David, and coordinated by Kay Inos from the Criminal Justice and Planning Agency, is battling the primary presence of international human trafficking into the CNMI at present and is also open to the awareness of DMST, even though not a single case of juvenile domestic trafficking has been discovered in the CNMI. Their willingness to learn and look for the signs in the CNMI of DMST will help this community to combat its growth through prevention.

Prosecutors in the Attorney General's Office have seen firsthand the child sexual assault and abuse cases, and they provided a wealth of information on the victim-centered processes in place in the CNMI. Also, the U.S. Attorney's Office, though focused on foreign trafficking cases to date, maintains open lines of communication with the various entities that would play critical roles in providing the victim protection, justice, and services necessary in a DMST case.

NGOs, particularly the faith-based groups, quietly and consistently go about their work preventing, rescuing, and counseling youth and families. Guma' Esperansa is the noted leader in victim services and protections both foreign and domestic. Led by Lauri Ogomoro, this group has done tremendous work in raising awareness of human trafficking in the CNMI region and providing critical care to victims. The victim-centered approach demonstrated by those involved in combating human trafficking portends the positive development of a proactive, preventative approach to domestic minor sex trafficking.

Factors present in the CNMI make the potential of experiencing domestic minor sex trafficking within the region very high. The willingness of all who participated in this assessment process to address the issue indicates an even greater potential to proactively prevent this from occurring in the CNMI. It is our hope that this assessment report and awareness materials we have provided will be used in various ways in the CNMI and will contribute to the proactive fight against DMST in the CNMI and the region.

Sincerely,



Samantha H. Vardaman, Director of Programs
Shared Hope International



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 or lawful permanent resident children through prostitution, pornography, or sexual performance for monetary or other compensation (i.e., shelter, food, drugs). DMST has been viewed as the single most under-reported, under-identified, and most severe form of commercial sexual exploitation that children are facing today.¹ Stopping the trafficking of children for the purposes of commercial sexual exploitation has become an important focus for the United States government. The Trafficking Victim Protection Act of 2000 (TVPA) and subsequent reauthorizations have defined all minors involved in commercial sex acts as victims of trafficking, including minors who are U.S. citizens or lawful permanent residents.

Shared Hope International (SHI), with funding from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, is researching the access to and delivery of services to domestic minor sex trafficking victims in nine U. S. locations and the Commonwealth of the Northern Mariana Islands (CNMI). *The Rapid Assessment Methodology and Field Interview Tool: Domestic Minor Sex Trafficking in the United States* was developed by Shared Hope International and implemented in the CNMI by Samantha Healy Vardaman, J.D., Director of Programs for Shared Hope International. This assessment includes information collected from April 2, 2008 to May 4, 2008, through a comprehensive survey of existing research and the completion of 25 interviews of representatives from 17 organizations and agencies identified as likely to interact with minors who may be classified as domestic minor sex trafficking victims.

Effective and promising practices are noted throughout the report, as well as gaps and challenges that were revealed through the assessment process. The resounding consensus of those interviewed for the assessment is that the cultures of the indigenous communities in the CNMI prevent DMST from occurring in a commercial form, however, it was acknowledged, reluctantly in most cases, that minors are sexually exploited within families, direct and extended, and within communities which maintain the secrecy of the incidences. Very few cases come to light. In one case, a mother living on one of the small islands of the CNMI was forced to move with her children after pursuing a case against a local man for sexually exploiting her child as the community refused to support the breach of secrecy and the stigma placed on the child was too great to bear.

Nonetheless, higher numbers of youth are abusing drugs and alcohol and there is a growing economic crisis in the CNMI. This is coupled with a growing tourism industry, increased U. S. Military use of Saipan for military Rest & Recuperation Leave (R&R), and increased access to technology, especially the Internet, which is opening the eyes of many youth to the pimp culture and the various commodities requiring cash. There was at least one report told to the assessor of young indigenous girls contacting military officers through the Internet and arranging commercial sexual exchanges during the leave in Saipan, even waiting at the dock for the ship to dock. Events such as this one are likely to be repeated.

The Rapid Assessment Methodology employs three factors commonly used as response measures to combat sex trafficking worldwide: Prevention, Prosecution, and Protection (three Ps). The U.S. Department of State, Office to Monitor and Combat Trafficking in Persons uses the three P's to structure the annual Trafficking in Persons Report and rank countries on their government's efforts to counter all forms of trafficking in persons. The "three Ps" approach has been recognized for its comprehensiveness in assessing human trafficking.

¹ Ernie Allen. "Domestic Minor Sex Trafficking in America: How to Identify America's Trafficked Youth," produced by Shared Hope International, ©2007.

- 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 or are likely to interact with DMST 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 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 shelters and appropriate services and programs.

Regardless of their legal status, throughout this Rapid Assessment (RA), 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 sex industry, including but not limited to: prostitution, pornography, and/or stripping/sexual performance.

The ultimate goal of this assessment is to provide first responders and the communities at large in the CNMI with a comprehensive report that will help build a foundation for identification of DMST victims and establish protocols for the access to and delivery of services for DMST victims. This assessment will be provided to the CNMI Human Trafficking Intervention Coalition and the larger community to inform the identification of these victims and to help bring the services available to them in accordance with the Trafficking Victims Protection Act of 2000 (TVPA) and its subsequent reauthorizations. The methodology and information included in this report can also be used as tools for other locations wishing to assess their community's needs regarding proper identification and access to services for DTMs.

Key Findings

1. **In the CNMI, there is a lack of awareness about domestic minor sex trafficking (DMST).** There is a general lack of awareness of the crime of DMST, and professionals are not identifying its victims. The sizable number of sexual assaults against minors reported in the CNMI raises concerns that some of these victims may be unidentified DMST victims and their traffickers/pimps and buyers are not being identified and prosecuted.
2. **Significant barriers exist in identifying DMST victims.** Specific barriers include: lack of training in identifying DMST victims, the hidden nature of sex crimes, the inability or unwillingness of victims to self-identify, and the diversity of languages and cultures in the CNMI. Children rarely disclose sexual victimization, due to being incapable or simply lacking sexual awareness. Adolescents often minimize or deny their sexual victimization due to confusion about their role in the crime committed against them. Cultural secrecy and segregation within the CNMI may be preventing the identification of DMST victims within closed communities.

3. **No minor has been charged with prostitution in the CNMI.** This fact underscores the unanimous view that juveniles are victims when they are sexually exploited or sexually assaulted. Deeper inquiry into the circumstances of a juvenile's sexual assault is needed to ensure disclosure of any commercial exploitation by a trafficker/pimp and/or buyers of commercial sex acts from the juvenile.
4. **Emphasis on familial placement of juvenile offenders and wards of Division of Youth Services (DYS) may place DMST victims at further risk.** The extreme preference of DHS, the courts, and public defenders in the CNMI to place youth in the familial home may be putting the unidentified DMST victim at continuing or increased risk. Alternate placement options should be considered more often for sexual abuse victims, especially as protective shelter is in place and accessible in Saipan.
5. **Specialized services for victims of sexual exploitation are critically needed in the CNMI.** Physical and mental health services for child trauma victims are extremely scarce. The CNMI has not been able to retain specialized professionals to provide the types of services needed by child victims of sexual assault, exploitation, and DMST.
6. **Prosecution has been limited to traffickers of foreign adult women.** Human trafficking has historically been understood to mean foreign victims brought to the CNMI to be exploited by employers through labor and sexual acts. Law enforcement in the CNMI has been open to learning about DMST, and now closer scrutiny of sexual assault cases is needed to ensure DMST is not being misidentified in the community and in law enforcement investigations.
7. **False identification documents may allow the exploitation of domestic minors within the adult sex entertainment industry.** The CNMI has a large adult sex entertainment industry centered in the Garapan District of Saipan, as well as the casino on Tinian. CNMI citizens must be 16 years old to work in adult entertainment clubs and businesses while foreign nonimmigrant workers must be 21 years old. These age requirements are easily and often circumvented by the use of false identification documents. Increased enforcement of the labor regulations on the adult entertainment businesses should prevent the potential for DMST in these high-risk venues.

Conclusions

Domestic minor sex trafficking has not been identified, investigated, or prosecuted in the CNMI to date. However, the conditions are present for the crime of DMST to occur: economic austerity causing greater vulnerability of youth and fewer job opportunities, a reliance on tourism, the large presence of U.S. Military and military contractors, and growing restrictions on immigration making domestic minors easier and cheaper to recruit. The cultural silence on sexual issues means that domestic youth are not being educated on the dangers of commercial sex recruitment and prostitution. Fortunately, there are people who care greatly about the youth in the CNMI and are eager to learn and protect youth from DMST, and stop the viability of the commercial sex industry in the CNMI.

Methodology

This project is a Rapid Assessment (RA) of the practices and procedures used to identify and deliver services to domestic trafficked minors (DTM) in the CNMI. The CNMI Human Trafficking Intervention Coalition (HTIC) includes the three islands of Saipan, Tinian, and Rota; however, the vast majority of services, agencies, and organizations related to this assessment process are located in Saipan, which serves as the government and administrative center for the islands of the CNMI. The CNMI Human Trafficking Intervention Coalition is funded by the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA) and Office for Victims of Crimes (OVC) and is a collaboration between victim services providers and law enforcement to address human trafficking in the CNMI. This report is based on qualitative and quantitative information provided during interviews with the diverse contributors who interact with DTMs at various stages of the minors' exploitation, interaction with the criminal justice system, and recovery.

Samantha Healy Vardaman, J.D., Director of Programs for Shared Hope International, conducted the research in the CNMI for Shared Hope International (SHI). Interviews were structured by *The Rapid Assessment Methodology and Field Interview Tool: Domestic Minor Sex Trafficking in the United States*, a research tool developed by SHI. The complete tool can be accessed at www.sharedhope.org. Specific questions were created for seven professional populations that were most likely to come into contact with DMST victims: law enforcement, prosecutors, public defenders, judiciary (juvenile court), juvenile detention, division of youth services (DYS), and nongovernmental organizations/service providers. The Western Institutional Review Board (IRB) approved the protocol for this research (Protocol #20070540).

The assessment was based on research and 25 interviews conducted during a three-week period, April 15, 2008 to May 4, 2008, with one or more representatives from the following agencies and organizations:

- The CNMI Human Trafficking Intervention Coalition
- The CNMI Department of Public Safety, Criminal Investigation Bureau, Thief Apprehension Select Coalition
- The CNMI Department of Public Safety, Criminal Investigation Bureau, Juvenile Investigation Unit
- The CNMI Department of Public Safety, Criminal Justice and Planning Division
- The CNMI Department of Public Safety, Office of the Commissioner
- The CNMI Department of Public Safety, Crime Prevention Education Program
- The CNMI Department of Public Safety, Criminal Investigation Bureau, Domestic Violence Unit
- The CNMI Superior Court
- The CNMI Office of the Public Defender
- Federal Bureau of Investigation (Saipan Resident Agent), Honolulu Division
- U.S. Attorney's Office (Saipan), District of the Northern Mariana Islands
- The CNMI Division of Youth Services, Child Protection Unit
- The CNMI Division of Youth Services, Juvenile Probation and Detention Unit
- Office of the Attorney General for the CNMI
- Guma' Esperansa, a project of Karidat
- Sisters of the Good Shepherd
- New Covenant Life Church

Interviews were completed in one to three hours. IRB-approved informed consent was given in writing prior to commencing the interview. The information collected during interviews has been synthesized to highlight best practices, gaps in current efforts, and challenges in the identification and protection of victims of domestic minor sex trafficking. The summaries are followed by recommendations for improved

delivery of services to victims of domestic minor sex trafficking in the CNMI.

The findings in this report will be presented to the CNMI HTIC and the larger community to assist with developing a plan of action to address current and/or potential DMST in the CNMI. The report will also serve as a guide in identifying and bringing services to DMST victims in accordance with the Trafficking Victims Protection Act of 2000 and its reauthorizations.

Great lengths were undertaken to make the following assessment as comprehensive as possible. Unfortunately, several factors constrained both the field interviews and the interview process. A targeted timeframe for the assessment was necessary, as it is meant to capture a snapshot of the current situation. Nonetheless, the timeframe could have eliminated certain individuals who were not available or not identified. Additionally, the timeframe allowed only limited follow-up questions to the participants. Interviews were diligently sought; however, certain key professionals were not able to participate. This is identified as a limitation within the findings.

GLOSSARY OF ACRONYMS AND TERMS

Adjudication	Judicial determination (judgment) in a juvenile hearing
AGO	Attorney General's Office
AUSA	Assistant United States Attorney
CIB	Criminal Investigation Bureau
CGC	Community Guidance Center
CPEP	Crime Prevention Education Program
CPU	Child Protection Unit of the Division of Youth Services
CSE	Commercial sexual exploitation
CSEC	Commercial sexual exploitation of children
DCCA	Department of Community and Cultural Affairs
DPS	Department of Public Safety, includes the police, fire safety, and investigations divisions
DMST	Domestic Minor Sex Trafficking
DOJ	U.S. Department of Justice
DOS	U.S. Department of State
Disposition	Action taken initially in a particular case through adjudication
DTM	Domestic Trafficked Minor; under the TVPRA (2005) sex trafficking was defined to include any commercial sex act of children under the age of 18, including U.S. citizens and lawful permanent residents
DVU	Domestic Violence Unit of the Department of Public Safety, Criminal Investigations Bureau
DYS	Division of Youth Services, under the Department of Community and Cultural Affairs
FSM	Federated States of Micronesia
HHS	U.S. Department of Health and Human Services
HTIC	Commonwealth of the Northern Mariana Islands Human Trafficking Intervention Coalition
ICAC	Internet Crimes Against Children Task Force
JDU	Juvenile Detention Unit of the Division of Youth Services; administers the Kagman Juvenile Detention and Correctional Facility
JIU	Juvenile Investigations Unit of the Department of Public Safety, Criminal Investigations Bureau
JPU	Juvenile Probation Unit of the Division of Youth Services
Kagman	Kagman Juvenile Detention and Correctional Facility
LPR	Lawful Permanent Residence
MDRT	Multi-Disciplinary Response Team
MTR	Mid-Term Review on the Commercial Sexual Exploitation of Children in America (Shared Hope International, September 2006)

NGO	Nongovernmental organization
OJJDP	Office of Juvenile Justice and Delinquency Prevention
PD	Public Defender
PDO	Public Defender's Office
PTSD	Post-Traumatic Stress Disorder
RA	Rapid Assessment
RMI	Republic of the Marshall Islands
SART	Sexual Assault Response Team
SRO	School Resource Officer
TASC	Thief Apprehension Select Coalition; a select group of investigators within the Department of Public Safety, Criminal Investigations Bureau which handles human trafficking investigations
TTPI	Trust Territory Pacific Islands
TVPA	Trafficking Victims Protection Act (2000)
TVPRA 2005	Trafficking Victims Protection Reauthorization Act of 2005
USAO	United States Attorney's Office

BACKGROUND RESEARCH

The Commonwealth of the Northern Mariana Islands

The Commonwealth of the Northern Mariana Islands (CNMI) is comprised of 14 volcanic islands: Agrihan, Alamagan, Anatahan, Asuncion, Farallon De Medinilla, Farallon De Pajaros (Uracas), Guguan, Maug (three islands), Pagan, Rota, Saipan, Sarigan, and Tinian. The area stretches over 375 miles north to south and has a land area of 181 square miles. Situated 7,000 miles west of the United States, the CNMI is closer to Moscow than Washington, D.C. There are three major inhabited islands, however most people live on Saipan, the capital of the CNMI and the largest island with a population of some 62,392 people. Tinian has a population of 3,540 and Rota has 3,283.² The other islands are either uninhabited or have only a handful of adults living on them. The breakdown of ethnic groups is below:

<i>Ethnic Group</i>	<i>Population</i>	<i>Percentage (%)</i>
Indigenous:	17,401	25.1
Chamorro	14,749	21.3
Carolinian	2,652	3.8
Micronesians:	4,600	6.6
Chuukese (FSM)	1,394	2.0
Kosrean (FSM)	56	.1
Marshallese	112	.2
Palauan	1,685	2.4
Pohnpeian (FSM)	640	.9
Yapese (FSM)	204	.3
Other Pacific Islander	509	.7
Asian:	38,610	55.8
Bangladeshi	873	1.3
Chinese	15,311	22.1
Filipino	18,141	26.2
Japanese	952	1.4
Korean	2,021	2.9
Nepalese	300	.4
Other Asian	1,012	1.5
Other:	8,610	12.5
Caucasian	1,240	1.8
African American	41	.1
Other (other race or ethnic group not specified; combination of two or more ethnic groups)	7,329	10.6
TOTAL:	69,221	100

Source: CNMI 2002 American Community Survey Census, Division of Central Statistics, Department of Commerce

² Law Enforcement Task Forces and Services for Human Trafficking Victims Program Narrative Commonwealth of the Northern Mariana Islands. April 25, 2006. On file with authors.

The Covenant Agreement with the U.S. went into effect November 4, 1986, making the CNMI a separate entity with specific terms of relationship to the U.S. Under the Covenant, the CNMI receives substantial financial assistance from the U.S. The predominantly Japanese tourist industry employs about 50% of the work force and accounts for roughly one-fourth of GDP.³ Garment production is the most important industry employing 17,500 primarily Chinese workers. The population grew enormously from 16,780 in 1980 to an estimated 66,000 in 1998 due mainly to the immigrant workers from various Asian countries seeking work in the garment factories being built to take advantage of the tax-free trade arrangements with mainland U.S. But as these trade benefits have begun to phase out due to the impact of the World Trade Organization and the federalization of certain aspects of the CNMI governance, the economy has hit a sharp decline and the population has begun to shrink.⁴ Foreign workers are being sent home as their jobs are eliminated with the closure of factories and locals who are U.S. citizens are migrating to the mainland, Guam, and Hawaii in search of work, education, and higher pay. In spite of the economic austerity, the CNMI is an expensive place to live with a cost of living from 25 to 30 percent higher than on the mainland.⁵

The Human Trafficking Intervention Coalition (HTIC)

The United States Department of Justice (DOJ) has identified the trafficking of persons as a vast problem both worldwide and within the United States itself.⁶ In 2006, Attorney General Alberto Gonzales announced that the CNMI was selected to receive a grant from the DOJ, Office of Justice Programs to construct a local human trafficking task force that would comprise entities from both law enforcement and social services in order to effectively combat human trafficking in the CNMI.⁷ The recipients of the dual grant were the CNMI Department of Public Safety funded by DOJ, Office of Justice Programs, Bureau of Justice Assistance (BJA) and Guma' Esperansa, a project of Karidat funded by DOJ, Office of Justice Programs, Office for Victims of Crime (OVC). The goal of the Human Trafficking Intervention Coalition is to identify and rescue victims of human trafficking, while arresting and prosecuting the perpetrators.⁸

Trafficking Victims Protection Act (TVPA)

The federal Trafficking Victims Protection Act of 2000 (TVPA) defines sex trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.” A commercial sex act is defined as “any sex act on account of which anything of value is given to or received by any person.” The term “severe forms of trafficking in persons” means:

- (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (B) 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

³ “CIA Fact Book: The CNMI.” <<https://www.cia.gov/library/publications/the-world-factbook/geos/cq.html>>. Accessed on June 25, 2008.

⁴ Stefan Sebastian. “Garment industry in free fall.” *Saipan Tribune*. June 23, 2008. <<http://www.saipantribune.com/newsstory.aspx?newsID=81111&cat=1>>. Accessed on July 2, 2008.

⁵ <<http://www.cnmi-guide.com/info/>>. Accessed on July 1, 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.

erotic dancing/stripping. “Payment” for the sex act can be anything of value given to or received by any person (e.g., drugs, food, shelter, and cash).⁹ 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.¹⁰

Special Question of Victim Classification under the TVPA

One question that arose while implementing the assessment in the CNMI was: Are nationals of the Freely Associated States—the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic of Palau (Palau)—considered foreign national victims or domestic victims of trafficking for purposes of classifying their benefits and services eligibility under the federal TVPA? The large numbers of FAS citizens living and working in the CNMI and the reported frequency of encountering sexual assault of minors within some of these ethnic communities make this determination important. The background on the political relationship of these nations to the U.S. is necessary to understand the answer.

The Compacts of Free Association between the FSM, the RMI, and Palau with the United States provide for U.S. economic assistance (including eligibility for certain U.S. federal programs), defense, and other benefits in exchange for U.S. defense and certain other operating rights, denial of access to FAS territory by other nations, and other agreements.¹¹ Negotiations for a Compact with the United States began in 1969 with the Trust Territory of the Pacific Islands (TTPI) comprised of Kosrae, Pohnpei, Chuuk, and Yap, as well as the Marshall Islands, the Northern Mariana Islands, and Palau. The latter three districts eventually formed their own governments, leaving the others to form the FSM. The Compact with FSM was signed into law on November 13, 1986. The Compact states that citizens of the FAS “may enter into, lawfully engage in occupations, and establish residence as a non-immigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26).”¹²

The Compact however does not confer U.S. citizenship on the citizens of the RMI or the FSM.¹³ FSM and RMI citizens admitted to the United States under the Compacts may reside, work, and study in the United States, but they are not “lawful permanent residents” (also known as “green card holders”) under the Immigration and Nationality Act.¹⁴

Citizens of the FSM and the RMI by birth and those citizens of the former TTPI who acquired FSM or RMI citizenship in 1986 are entitled under the Compacts to travel and apply for admission to the United States as non-immigrants without visas. This is confusing in the CNMI, as the many FAS nationals living in the CNMI are believed to be “domestic.” In fact, a case was brought to the CNMI Supreme Court very recently to clarify the deportation statutes of the CNMI with regard to the ability to legally deport citizens of FAS nations. The Court held in *Commonwealth v. Douglas Phillip* that the CNMI can deport

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

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

¹¹ U.S. Public Law 99-239 (“Compact Act”). <<http://www.fm/jcn/compact/actindex.html>>. Accessed on July 2, 2008.

¹² “Compact Act, Title 1, Article IV, Section 141.” <<http://www.fsmlaw.org/compact/t01art04.htm>>. Accessed on July 1, 2008.

¹³ “Fact Sheet: Status of the Citizens of the Freely Associated States of the Federated States of Micronesia and the Republic of the Marshall Islands,” U.S. Citizenship and Immigration Services. Revised: February 13, 2008. <<http://www.fsmgov.org/status.pdf>>. Accessed on July 2, 2008.

¹⁴ Ibid.

FAS nationals.¹⁵ The Attorney General's Office is now in the process of identifying FSM citizens who had been convicted of one felony or two misdemeanors, and thus, deportable. A few of these cases have been added to the AGO immigration deportation court calendar each week. It is unclear what effect the May 8, 2008 signing by President Bush of the highly controversial and debated federalization of the CNMI immigration will have on this decision. The "Consolidated Natural Resources Act of 2008" (S. 2739) will bring the CNMI under the federal immigration system by June 2009.¹⁶

In summary, FAS citizens under the age of 18 years, who are victims of trafficking as defined in the TVPA, are not considered domestic minor sex trafficking (DMST) victims. These individuals are foreign born victims of trafficking and are entitled to the services and benefits funded in the TVPA for foreign born victims of trafficking.

The CNMI Anti-Trafficking Act of 2005

In 2005, the CNMI enacted Public Law 14-88, titled "The Anti-Trafficking Act of 2005." The Act amends Chapter 6 of the CNMI Criminal Code, which prohibits sex offenses, to include sex trafficking and related crimes. The legislation's stated purpose is to "prohibit involuntary servitude, human trafficking for involuntary servitude, sexual servitude of a minor, and transporting a person for purposes of prostitution; and to establish criminal penalties therefore [...]."¹⁷ The Act penalizes sexual servitude of a minor—domestic minor sex trafficking—crimes with up to 25 years in prison (up to 30 years if force, fraud, or coercion is used) and \$50,000 in fines, and punishes anyone who "knowingly recruits, entices, harbors, transports, provides, or procures, by any means, a person under 18 years of age, with the intent of inducing the person to engage in any commercial sex act, conduct prohibited under the Sexual Abuse of Minors statutes, 6 CMC §§ 1306-1309, or conduct prohibited under the Unlawful Exploitation of a Minor statute, 6 CMC § 1304."¹⁸

The Act criminalizes facilitation as well as the overt act of trafficking. Under 6 CMC § 1504 (b) a person is guilty of human trafficking if s/he facilitates the victim being trafficked by a third person. The statutory language proscribing sexual servitude of a minor punishes those who "knowingly recruit, entice, harbor, transport, provide, or procure, by any means, a person under 18 years of age, knowing that another will induce or attempt to induce the person [...] into any commercial sex act [...]." (emphasis added).

The CNMI Anti-Trafficking Act aligns with the federal TVPA by defining a minor as any person under the age of 18.¹⁹ Also under the Act, the penalty for the sexual servitude of a minor is up to 25 years in prison and \$50,000 in fines; this sentence can be as high as 30 years if force, fraud, or coercion was used against the minor.²⁰ Unfortunately, the Act requires proof that the trafficker "knowingly traffics another person with the intent or knowledge"; this high evidentiary burden makes prosecution difficult under the CNMI law. The law stops short of providing any victims' rights or funding allocations for services. Another unfortunate and significant divergence of the Act from the federal TVPA is that it allows a reasonable mistake of age at the time of the offense as an affirmative defense to the charge of sexual servitude of a minor if the minor was under the age of 18 but over 15. If the victim was under the age of 15, mistake of age is not an affirmative defense.²¹ (See Appendix A for a full text reading of the CNMI Anti-Trafficking Act of 2005.)

¹⁵ *Commonwealth v. Douglas Phillip*, 2008 MP 1, decided January 30, 2008.

¹⁶ For more discussion on the federalization of the CNMI immigration system, see Government Accountability Office Report: Commonwealth of the Northern Mariana Islands: Pending Legislation Would Apply U.S. Immigration Law to the CNMI with a Transition Period, March 28, 2008. <<http://www.gao.gov/new.items/d08466.pdf>>. Accessed on July 2, 2008.

¹⁷ 6 CMC § 1506.

¹⁸ 6 CMC § 1504.

¹⁹ *Ibid.*

²⁰ 6 CMC §1506 (3).

²¹ 6 CMC § 1504 (d).

The CNMI Sexual Offense Laws and Prostitution Laws

The crime of Sexual Servitude of a Minor contained in the Anti-Trafficking Act is tied to acts prohibited under sexual assault laws. Such provisions include: 6 CMC § 1301, First degree sexual assault; § 1302, Second degree assault; § 1303, Third degree sexual assault; § 1304, Fourth degree sexual assault; § 1306, First degree sexual abuse of a minor; § 1307 Second degree sexual abuse of a minor; § 1308 Third degree sexual abuse of a minor; § 1309 Fourth degree sexual abuse of a minor; § 1311, Incest; § 1314, Unlawful sexual exploitation of a minor; § 1315, First degree indecent exposure; and, § 1316, Second degree indecent exposure. These crimes have varying penalties depending on severity and ages of perpetrators and victims.

A survey commissioned by the Department of Public Safety conducted from September to December 2000 named prostitution as one of the top concerns for people in Saipan.²² The perception of prostitution is limited, however, to foreign adult women independently engaged in prostitution. Furthermore, the high levels of concern named in the survey was regarding the effect prostitution was having on other business. The concern was not the danger prostitution poses to the women and girls victimized through the crime.

Prostitution is defined as offering, agreeing, or actually engaging in sexual conduct in exchange for a fee. Also, Promoting Prostitution, as described in 6 CMC § 1344, and Permitting Prostitution, as described in 6 CMC § 1345, and Patronizing a Prostitute as added by Public Law 11-19 are criminalized.²³ Interestingly, there is no mention of juveniles or any age limits or requirements to charge prostitution crimes, leaving it ambiguous as to whether a juvenile could be charged with the crime of prostituting.

Human Trafficking and Child Exploitation in the CNMI

The CNMI presents a set of unique factors which exacerbate the problem of identifying and addressing DMST. A large number of citizens of the Freely Associated States (FAS) —Micronesia, Palau, and the Marshall Islands—living in the CNMI hold nonimmigrant visas and interviewees state that a large number of sexual exploitation cases seen to date in the CNMI come from within these communities. In fact, a current case of trafficking occurring in Guam and being prosecuted through the U.S. Attorney's Office for the District of Guam and the CNMI involves the sex trafficking of several Chuukese in Guam, including several minors. The Guam case raises another factor complicating the issue of DMST: the regionalization of the crime. The ease of movement within the islands in the Western and North Pacific by the many FAS and US nationals, the poverty of many of the islands, and the tourism and U. S. Military presence creates a powerful brew for the growth of DMST in the region.

The CNMI is mainly Catholic and culturally reluctant to discuss sex, abuse, or a combination of the two. Children grow up in tight-knit communities with extended families and extreme supervision. Recently though, methamphetamines have made inroads into the communities causing the same disruption in the CNMI that the drug is causing in many parts of the mainland U.S. Several interviewees made note of recent cases of parents exchanging sex with their daughters for methamphetamines.

Stories of sexually based offenses against children appear regularly in the local papers. Saipan is rumored to serve as a homebase for sex tourists traveling regularly to Thailand and the Philippines for sex with Asian women and girls; this sexual appetite threatens the local communities of the CNMI as well. The

²² Marian Maraya. "Business owners air disgust on prostitution in Garapan. Respondents to the DPS survey list nine other major problems in the district." *Saipan Tribune*. January 31, 2001. <<http://www.saipantribune.com/newsstory.asp?cat=1&newsID=11646>>. Accessed on April 28, 2008.

²³ Public Law 11-19, amending 6 CMC § 1341 et seq.

case of Larry Hillblom is a glaring and painful example. Now deceased, Hillblom, one of the founders of DHL Worldwide Express, was an accomplished sex tourist, traveling to the Philippines, Vietnam, and other places to locate attractive prepubescent girls.²⁴ He would then pay the girls' mothers to contact him after their daughters' first menstruation so he could return to deflower them. The mothers are pimps. The victims are known as "Cherry Girls" and the practice is not limited to this one case. Allegedly some of the "Cherry Girls" were CNMI residents.²⁵

Court decisions in trials of perpetrators of sex crimes against children speak to the intolerance felt by many in the community. In a case involving the molestation of a 12-year-old boy over a 15-month period on Tinian, the Attorney General's Office charged the offender, Barcinas, with sexual abuse of a minor in the second degree, sexual abuse of a minor in the third degree, and unlawful exploitation of a minor. The defendant pled guilty to one count of sexual abuse of a minor in the second degree with the remaining charges dismissed. Nude photographs of the boy were taken by the defendant and used as a threat to the boy to continue following the rules set down by the defendant. The judge stated during his sentencing of the 31-year-old offender, "Our society has declared a campaign against child abuse and this court supports such a campaign, as [child abuse] is not an activity that is or can be a part of this society's traditions." The maximum sentence for the crime is ten years in prison and a fine of up to \$10,000, but a five-year sentence was ordered; the offender will serve three years with two on probation. After release, the offender will be placed on supervised probation and will be required to register as a sex offender. The court also ordered HIV testing and ordered an evaluation by the Community Guidance Center (CGC) to determine if counseling or treatment post-release is needed.²⁶

In a case brought by the U.S. Attorney's Office involving possession of child pornography on Rota, the defendant, Taitano, entered a plea to receiving 10 to 150 pornographic images of pre-pubescent minors under the age of 12 over a seven-month period.²⁷ The Postal Inspectors seized the videos and computer disks containing the images and Taitano's computer revealed images received via the Internet. Taitano was an owner of an arcade in Rota—a position putting him in regular contact with children. The USAO said that investigation of other child pornography and sexual exploitation cases in the CNMI continues.²⁸

No case has been tried under the CNMI Anti-Trafficking Act. Though charges under it have been brought, defendants have pled guilty to other charges and the trafficking charges have been dismissed as a result. Cases involving human trafficking include the *Star Four* case handled by the Attorney General's Office under the CNMI laws. In April 2006, the owners and two employees of the former Four Star Corp. and Stardust Club were arrested and charged with 226 counts of prostitution, immigration fraud, human trafficking, unlawful exploitation of a minor, harboring an illegal alien, and other offenses.²⁹ The defendants in the case, CNMI locals, pled guilty to immigration fraud for hiring minor girls from the Philippines and forging their names on birth certificates. David Atalig of Rota was sentenced to a mere two and a half years in prison and his wife to just one year. Employees, who were also sisters of the wife, received three years of probation. A sizable restitution is being pursued separately. This outcome provided some justice for the victims—all foreign nationals—in the case but missed an opportunity to establish precedent under the CNMI Anti-Trafficking Act of 2005.

²⁴ <<http://dna-view.com/hillblom.html>>. Accessed on July 2, 2008.

²⁵ <<http://www.saipansucks.com>>. Accessed on April 21, 2008.

²⁶ Ferdie de la Torre. "Child molesters, abusers deserve harsh terms." *Saipan Tribune*. July 21, 2006. <<http://www.saipantribune.com/newsstory.aspx?cat=1&newsID=59526>>. Accessed on April 28, 2008.

²⁷ United States v. Taitano, (U.S. Dist. Ct. Northern Mariana Islands, 2005).

²⁸ John Ravelo. "5 years for ex-Customs exec who got child porn." *Saipan Tribune*, September 7, 2005. <<http://www.saipantribune.com/newsstory.aspx?cat=1&newsID=50307>>. Accessed on April 27, 2008.

²⁹ Ferdie de la Torre, "Club owners, two employees found guilty," *Saipan Tribune*, January 08, 2008. <<http://www.saipantribune.com/newsstory.aspx?cat=1&newsID=75869>>. Accessed on July 4, 2008.

Regarding domestic minor sex trafficking under the CNMI Anti-Trafficking Act of 2005, there has never been a case of DMST brought against a trafficker/pimp, a buyer, or a facilitator. Also, there has never been a case of a juvenile charged with prostitution, however, many interviewees expressed the belief that some type of sexual exchange for drugs, shelter, or food was occurring within juveniles who are chronic truants and camp in abandoned buildings or in isolated areas on the beach. Also, many interviewees believed that children were being prostituted by parents for drugs, shelter, and possibly money, but these cases were investigated and prosecuted as child sexual assault or “SAM” in the police parlance, meaning sexual assault against a minor.

Federal prosecutions for human trafficking are limited to cases with foreign adult women victims in the CNMI. The U.S. Attorney’s Office (USAO) prosecuted a human trafficking case under the federal TVPA in 2007. *The Phoenix Karaoke* case involved all Chinese nationals and the defendant manager of the karaoke club enslaving the Chinese victims for purposes of forced sexual servitude was convicted under the TVPA. Beginning in December 2005, the defendant Sun operated Phoenix Karaoke as an illegal commercial sex house. Sun was sentenced in 2007 to 41 months in prison and ordered to pay \$9,529 in restitution to the victim. After release, Sun will be turned over to immigration authorities for deportation. A federal jury found Sun guilty of defrauding the victim, Lan, to pay \$4,500 in recruitment fees and expenses of more than \$5,000 in return for a job on Saipan. Sun promised the victim would be working as a waitress earning at least \$700 per month.³⁰ The USAO for the Northern Marianas worked with a prosecutor from the U.S. Department of Justice, Civil Rights, Human Trafficking Prosecution Unit to secure this precedent setting conviction.

A pending federal human trafficking case in Guam, referred to as the “Blue House Lounge case,” involves the operation of a karaoke club by an elderly Korean national couple who recruited Chuukese women to work in Guam promising them jobs as waitresses; upon arrival, the women were forced to work and prostitute in the karaoke bar.³¹ There were reportedly up to ten victims rescued, at least one of whom was a minor when trafficked. This case was set for trial in early summer 2008 but has been pushed back to late summer or fall 2008 according to interviewees. If tried under the TVPA, this case will be the first human trafficking case brought for trial in Guam and many in Guam are looking to the experience of those in the CNMI for guidance.

³⁰ Ferdie de la Torre, “Nightclub Operator gets 3 Years for Prostitution,” *Saipan Tribune*, February 23, 2008. <<http://www.saipan-tribune.com/newsstory.aspx?newsID=77310&cat=1>>. Accessed on July 5, 2008.

³¹ Mindy Aguon, “Blue House Lounge worker to change plea,” *KUAM News*, May 20, 2008. <<http://www.kuam.com/news/27950.aspx>>. Accessed on July 9, 2008.

RESEARCH FINDINGS

Employing the organizational structure of the three Ps—Prevention, Prosecution, and Protection—this assessment will (1) identify the scope of the problem of domestic minor sex trafficking victims in a designated geographic area 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 rapid assessment focuses solely on the issue of domestic minor sex trafficking victims. As defined in the federal Trafficking Victims Protection Act of 2000 (TVPA), including subsequent reauthorizations, a domestic minor sex trafficking victim is a U.S. citizen or lawful permanent resident (LPR) who has been recruited or obtained for the purpose of performing commercial sex acts, defined as any sex act done in exchange for monetary or non-monetary gain. The RA assesses the awareness, implementation, and effect of the TVPRA 2005, which highlighted the inclusion of U.S. citizen children involved in prostitution, pornography, and sexual acts as victims of sex trafficking. The assessment report provides insight into the logistics of the present system and identifies gaps and impediments.

I. PREVENTION

Prevention of domestic minor sex trafficking must begin with public awareness initiatives that 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.

Training of law enforcement, prosecutors, and judges is vital to prevention, as they provide the frontline tools for the identification and protection of the domestic trafficked minor (DTM) and the prosecution of her/his assailants. Equally important are training initiatives that must include child protective services, 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

The Department of Public Safety (DPS) is the primary law enforcement agency for the CNMI. On April 22, 2008, a new DPS Commissioner was confirmed. This transition resulted in adjustments to unit sizes and names, and an organizational chart is under revision. The Police Division is under DPS and contains the Criminal Investigations Bureau (CIB), which is the group within DPS spearheading the Human Trafficking Intervention Coalition (HTIC). The CIB is tasked with conducting follow-up investigation on all criminal complaints that are not resolved by the Uniform Service Section (patrol) of DPS. CIB includes units devoted to investigating violent crime, general crime, property crimes, domestic violence, crime scene investigation (CSI), special federally funded task forces, and juvenile crime.³²

1.1.1 Training. Several DPS officers have received basic human trafficking training at trainings organized by Karidat (Guma' Esperansa), from the U.S. Department of Justice at annual Human Trafficking Conferences, and through the U.S. Attorney's Office. These trainings have not addressed human trafficking of domestic minors specifically. One interviewee recalled that human trafficking training in Pohnpei, Micronesia, was attended by several CIB investigators but it was not known whether DMST was covered. After viewing DMST education materials produced by Shared Hope International, many officers agreed that DMST is happening in the CNMI. One officer indicated the growing methamphetamine addiction in the CNMI is causing parents to exchange sexual acts with their children for drugs and shelter. One interviewee noted receiving 3-5 tips through Crime Stoppers with this kind of information but not enough information was provided to open an investigation. Many law enforcement officers were not familiar with the anti-trafficking statutes, local or federal, but understood the concepts of DMST and were aware that no force, fraud, or coercion was necessary to prove when the victim is under 18 years old.

DPS officers receive general law enforcement training at the Police Academy prior to taking their positions. Domestic violence is a component of this training; human trafficking has not yet been included in an Academy training course, though one member of the HTIC indicated she would pursue this as an avenue of training and awareness.

Daily briefings for patrol can include training opportunities, as was done recently with domestic violence awareness training that reached about 80 officers. Specific domestic violence awareness training has also been done on Rota and Tinian internally.

1.1.2 Identification. No juveniles have been identified as victims of prostitution by a trafficker/pimp, or as victims of domestic minor sex trafficking in the CNMI. In fact, no one has ever been arrested for pimping juveniles in the CNMI. A recent case was presented to DPS/CIB in April 2008 involving allegations against a young local woman of pimping a minor local girl; the case is still under investigation by CIB. If proven true, this case would be the first domestic minor sex trafficking case in the CNMI and could be prosecuted—if the evidence is sufficient—under either the federal TVPA or the CNMI Anti-Trafficking Act of 2005.

No juveniles have been arrested for prostitution in the CNMI (such arrests often are an indicator of DMST). Reportedly, the primary offense by juveniles is substance abuse, specifically alcohol and marijuana. Associated with this is the offense of theft/burglary and shoplifting. Most juveniles are charged with truancy, defined as more than six hours away from the home; fewer are charged with being a runaway, defined as more than 24 hours away from the home. Interviewees say there are many juvenile runaways but given the geography of the CNMI, they cannot run far and typically only run to another island, another family member's home, or a friend's home. The culture is very open and the adults do not ask or contact the parents.

³² CNMI Department of Public Safety website. <<http://www.dps.gov.mp/>>. Accessed on June 25, 2008.

The Domestic Violence Unit (DVU) of DPS/CIB indicated there are a number of minors living in homes with domestic violence. These minors frequently stay away from the home as a way to escape the violence. One interviewee believed that at least a few of these girls were prostituting in varying degrees to survive or profit.

The Juvenile Investigations Unit (JIU) within DPS in Tinian indicated hearing rumors of young local girls prostituting to Chinese tourists. These rumors did not cause surprise, though it was noted that none have been substantiated or even investigated. In addition, creation of pornography was not surprising to DPS/JIU investigator, as it seemed a logical add-on to buying sex and the movement of tourists with large and high-tech photographic equipment is a common occurrence due to the scenery and scuba diving expeditions.

The Crime Prevention Education Program (CPEP) of DPS works under grants to implement D.A.R.E., School Resource Officers (SRO), and other prevention programs. The SRO places officers in every school and has offices in the community centers. SRO officers in Saipan expressed doubt that DMST was happening in the CNMI, especially Rota or Tinian. They did indicate there are truancy issues, which are dealt with by patrolling the beaches during school hours in order to find truant youth and bring them back to school. Recently, two of the three SROs have been transferred to other units with new officers filling the positions. SRO in Tinian ended when the two officers were transferred—one to Saipan and one to DPS/Tinian Patrol—and a current lack of funding is preventing a restart. Similarly, the SRO in Rota operated for several years solely on volunteer DPS officers. Some children on Tinian have asked for the return of LEEP. SRO officers thought that DMST training would be an important addition to the curriculum that they cover which currently includes: D.A.R.E. and teenage dating violence.

SRO officers indicated that in the event they identified a DMST victim in their work with children, they would contact the DPS/Juvenile Investigation Unit (JIU) for investigation.

1.1.3 Protocols. Though there is no formal protocol in place, all interviewees indicated the same protocol with regard to identification of a minor in a DPS action: contact the Juvenile Investigation Unit for interviewing and managing the minor victim, witness, or offender. At the time of the assessment interviews, one juvenile investigator on each island was identified. These three officers handle all cases of juvenile arrests, investigation, and interviewing. In the event a minor is detained in any police action, either as a victim or a delinquent, JIU officers are contacted to interact with the minor. It is standard to contact the Division of Youth Services (DYS) at the same time and the question of who interviews the minor is decided on a case-by-case basis with consideration to the particular details of the case. Interviewees from both agencies indicated there was no discord over this process.

1.1.4 First Contact. According to one interviewee, the primary contact with victims of DMST is likely through arrest of an exploiter or through the juvenile's arrest for a drug, truancy, or other misdemeanor violation by DPS officers. There is no proactive outreach or patrol for juveniles being prostituted in the streets or in commercial sexual entertainment businesses. There is a law in place that does not allow guest workers to work as entertainers or waitresses in any clubs with alcohol unless they are 21. Local girls can work in the clubs when they are 16, increasing their vulnerability.

1.1.5 Interviewing. Information is sought through victim interviews to pursue the trafficker/pimp. Interviewees state that the Juvenile Investigations Unit (JIU), Domestic Violence Unit (DVU) or the Child Protection Unit (CPU) at DHS interviews the minors. Child forensic interview certification is limited to the JIU investigator or DHS, both agencies on Saipan (possibly also through migration of officers from one unit to another; there are two forensic interviewers in Patrol and one in the Superior Court). In some cases, the certification is deemed less important than the situation of the crime; for

example, one DVU investigator was named by several interviewees as an interviewer they would contact in the event the victim was a sexually traumatized female, as the sensitivity of the crime is believed to be too large to disclose to male interviewers. This same officer indicated a great interest in obtaining the child forensic interviewing certification—a solution to the problem of accredited testimony of the interview statements in court.

On Rota, any arrested minor is routed to DPS/JIU for an interview. JIU contacts DYS to be present at the interview. There is no female on the Rota DPS force; if a juvenile victim declines to speak to a male about the circumstances, DYS/CPU will interview the girl. During the interview no questions are asked specific to commercial sex aspects, such as money or gifts. If a minor disclosed a commercial aspect of the victimization, the Rota JIU interviewee indicated he would put the suspect and the minor together in a room, even though there was no expectation that the adult perpetrator would admit the offense. If no truth came out during this confrontation, the case would be referred to the AGO to decide what course of action to take. Some interviewees in DPS and other agencies were simply unaware of who had been certified in forensic child interviewing and said they would call the person they thought would be most effective in interviewing the particular victim given gender, age, ethnicity, and other factors.

1.1.6 Charging Minors. In 1999, the Criminal Investigation Bureau received a total of 6,934 criminal complaints for investigation. These complaints include two homicides, 61 assaults, 874 assault and batteries, six aggravated assault and batteries, four rapes, 58 robberies, 1,942 thefts, 1,011 burglaries, 812 criminal mischief, 73 drug related cases, 1,048 disturbing the peace, 56 vehicle theft, 40 missing persons, and other complaints.³³

Most cases in juvenile division are truancy, runaway, and alcohol and drug (marijuana) use. Curfew varies on each island slightly: on Saipan, 10 pm–5 am for minors 16 years and older and 9 pm–5 am for minors less than 16 years;³⁴ on Tinian, 8 pm–5 am on Monday–Thursday and 11 pm–5 am on Friday–Sunday and on holidays;³⁵ on Rota, 9 pm–5 am.³⁶ Curfew does not apply if accompanied by a parent, guardian, or lawful custodian. The Saipan local law spoke to a stated increase in juvenile related crime committed in 1997 as documented in a report submitted by the Division of Youth Services, most significantly in the areas of burglary and theft, and assault and battery leading to the change in curfew from 11 pm to 10 pm effective February 19, 1999.³⁷ Despite the stringent curfews, interviewees from several agencies noted that runaways are found camped out at abandoned houses or other homes where supervision is loose or non-existent. Other times, runaways are found at relatives' houses on Saipan or neighboring Tinian and Rhoda. Cultural acceptance of communal living creates an environment where kids can move from house to house without suspicion or being reported. On Rota, juveniles are rarely arrested; in the last two years, only two minors were arrested for theft and two for drug possession according to DPS/JIU interviewee. The theft suspects were transported to Saipan and DYS put them in detention; the two arrested for drug possession (a small amount of drugs) were placed at their homes on Rota under probation.

It was acknowledged by law enforcement that runaways would be vulnerable targets for DMST. When encountered, runaways are brought into the station but not charged, since it is a status offense. One

³³ CNMI Department of Public Safety website. <<http://www.dps.gov.mp/>>. Accessed on June 25, 2008.

³⁴ Saipan Local Law 11- 4, amending 10 CMC, Division 3, §3313.

³⁵ Tinian Curfew Hours for Minors Act of 1996, Tinian Local Law 10-1.

³⁶ Rota Curfew Act of 1991, Rota Local Law 7-9.

³⁷ Saipan Local Law 11- 4, amending 10 CMC, Division 3, §3313. <http://www.cnmilaw.org/pdf/local_laws/sll11-04.pdf>. Accessed on June 29, 2008.

law enforcement officer estimated that 65% of the time, if the minor is an islander (Chamorro or Carolinian), the arresting police officer will know the child by face or by family name and the matter is settled by calling the parents. If the minor is a foreign national, the officer indicated he would contact the Immigration Department for assistance in identifying the child, if the child was not forthcoming with identification and contact information. Commenting on runaways as a juvenile group vulnerable to commercial sexual exploitation, DPS/CIB investigators explained that, if a juvenile runs away more than three times within a six-month period, DPS/CIB files a delinquency charge and has DYS detain the child to determine why the child is a habitual runaway. Once detained, DPS has six hours to call DYS, though it was noted that the call is placed much sooner, in fact, the call is usually placed from the detention site itself.

When juveniles are arrested, they are booked for the violation and DYS is called to determine whether to return them home or place them in the DYS shelter, juvenile detention facility, or alternate familial placement. Often the police will simply take them home themselves. If the police find that the parents are not at home and the children are neglected, they are brought to the DYS shelter and parents are called to the station the next day to discuss the problem.

1.1.7 Information Sharing. Internally at DPS, there is no formal information-sharing process between units or divisions. However, there is a daily briefing for patrol at which current information is shared from the shift prior or day before. In addition, interviewees at DPS/CIB indicated that information is shared informally on a constant basis, as they all share the same office space and discuss cases regularly together. However, some units, like the JIU, are in a separate office and do not benefit from these information sharing opportunities.

DPS officers indicated they have a positive working relationship with DYS. Several interviewees from various agencies indicated a gap on occasion in the notification process between the two agencies on cases involving child sexual abuse which could have implications for law enforcement or vice versa. The small size of the CNMI, especially the primary agencies in Saipan, allow for frequent communication without many bureaucratic hurdles—staff persons simply pick up the telephone and verbally notify other agencies of cases in which they may have an interest, usually following the call with a written memorandum.

1.1.8 Resources. The NMI Crime Stoppers Program provides a valuable crime-fighting resource in the CNMI and a potential resource in the reporting of domestic minor sex trafficking crimes. Crime Stoppers is a private program run by a civilian Board of Directors; it is not part of DPS. However, the NMI Crime Stoppers Program, as other Crime Stoppers programs, details a police officer to be the liaison between the civilian Crime Stoppers Board and all law enforcement agencies. The NMI Crime Stoppers Program is a chartered nonprofit program registered with the CNMI Office of Corporations. Crime Stoppers is a nonprofit community involvement program that solves and prevents crimes within the CNMI. Crime Stoppers gives citizens a way to report felony criminal activity anonymously, and provides cash rewards of up to \$1,000 for doing so.³⁸ Crime Stoppers is included here because they work directly with law enforcement on tips reported through their hotlines. DPS maintains an office under the Commissioner's Office for the Crime Stoppers coordinator. One interviewee noted that they were aware of three to five tips that had been received through Crime Stoppers on DMST, though this could not be confirmed.

³⁸ NMI Crime Stoppers Website. <<https://nmicrimestoppers.com>>. Accessed on June 25, 2008.

CNMI Crime Stoppers Statistics as of June 3, 2005: ³⁹

Total Cases Cleared:	210
Arrests:	167
Rewards Paid:	\$10,150.00
Property Recovered:	\$197,793.00
Narcotics Recovered:	\$2,383,985.00
Total Recovered:	\$2,581,778.00
Homicides Cleared:	2

1.1.9 Collaboration. The Human Trafficking Intervention Coalition (HTIC) is the primary collaboration of note in combating human trafficking. HTIC was formed through a Memorandum of Understanding (MOU) between the CNMI Department of Labor (DOL), CNMI Department of Public Safety (DPS), CNMI Office of the Attorney General–Division of Immigration (DOI) and Criminal Division, and the U.S. Attorney’s Office for the District of the Northern Mariana Islands with Karidat’s Guma’ Esperansa as its designated victim service provider. HTIC is the coordinator and enforcement entity on human trafficking related violations. Information from all law enforcement agency signatories to the MOU is supposed to be sent to the HTIC for enforcement, victim identification, and victim rescue action. HTIC is formed to address issues concerning the detection, identification, and rescue of human trafficking victims, and ensure solid investigations of human trafficking crimes to result in successful prosecutions of traffickers.

HTIC has the following goals stated in its successful proposal for funding to the U.S. Department of Justice, Bureau of Justice Assistance: 1) increase identification and rescue of trafficking victims; 2) ensure services are provided for trafficking victims, specified as applications for continued presence in the U.S. and certification or eligibility for Department of Health and Human Services refugee benefits; 3) develop and implement training in identification of trafficking victims; 4) design a law enforcement role in public awareness and outreach; and 5) identify and collaborate with community stakeholders to eliminate trafficking in persons. The HTIC intends to train local law enforcement and non-enforcement professionals in the identification and rescue of human trafficking victims and conducting human trafficking investigations. The HTIC is also responsible for increasing public awareness through education activities and awareness campaigns, including the production of materials for public dissemination. The thrust of the information is centered on foreign trafficking victims because, according to one HTIC member, these are the victims being found in the CNMI and the public is more prepared to accept the message of foreign trafficking in the CNMI than domestic minor sex trafficking. The focus of HTIC has been foreign victim trafficking from its inception, and no HTIC members interviewed had considered expanding this scope to include DMST; most importantly, all indicated an understanding that human trafficking includes foreign and U.S. citizen/LPR victims.

1.1.10 Public Education. The CPEP implements several prevention projects aimed at intervening and preventing delinquency by educating children, especially in the high school ages, on crime and responsibilities as a citizen. This group also runs the D.A.R.E. program with federal funding that helps identify kids at-risk for becoming involved in drugs or those who already are involved (noted by interviewees as primarily being marijuana, methamphetamines, and alcohol). This is a positive

³⁹ NMI Crime Stoppers Statistics. <<http://www.nmicrimestoppers.com/stats.asp>>. Accessed on June 24, 2008.

prevention technique for those minors who might also become at-risk for or be in a position to identify other juveniles who might be commercially sexually exploited.

Crime Stoppers raises awareness of the community's ability to prevent crime by advertising the hotline 234-7272 (PARA) which is outsourced to a Canadian company. Once a tip is received, the company emails the tip to the Crime Stoppers Officer, who then directs the tips to the appropriate division in DPS or, if appropriate, to other agencies, such as the Immigration or Labor Departments. Once the tip is directed, the tip is destroyed to ensure the anonymity of the tipster. CIB noted though that CNMI residents often just call them directly because they know them. The hotline is useful, though, for when a resident wants to be anonymous because they would not be able to do so if called CIB directly—their voice or circumstance would reveal them. The hotline number is well advertised across Saipan in roadside signs announcing entry into a village along major roads.

“Collaborative efforts are very important and together with the victim service providers in the CNMI, the law enforcement community will conduct awareness campaigns annually in conjunction with other awareness activities related to social ills such as domestic violence, sexual abuse/assault, and so on. As the population make-up in the CNMI is largely multi-cultural, efforts will be made to conduct public presentations and informational brochure distribution in the many different languages spoken here and to make available the services of translators to get a better understanding of the depth of the problem and the ways to deal with it.”⁴⁰

⁴⁰ Law Enforcement Task Forces and Services for Human Trafficking Victims Program Narrative Commonwealth of the Northern Mariana Islands. April 25, 2006. On file with authors.

1.2 PROSECUTORS

Relevant to DMST and sexual offenses against juveniles, the Attorney General's office (AGO) prosecutes cases under CNMI law. The U.S. Attorney's Office (USAO) prosecutes cases under federal laws. The two offices are noted to have an excellent working relationship helped further by the migration to the USAO of one Assistant Attorney General (AAG) who has experience on the issues of human trafficking and sexual assault against minor cases in recent years.

1.2.1 Training. Prosecutors at both the local and federal levels have received training through a variety of sources, as well as through experience. The Guam USAO came to Saipan to provide a training session on human trafficking, which reportedly had a heavy emphasis on the Internet as a vehicle of exploitation through pornography and noted a failure to make the training applicable to the specifics of the CNMI. Participants in the trainings criticized and questioned the utility of the information in their work in the CNMI. Participants also wanted to know how they could find the resources and expertise to pursue some of these technology cases—both of which are scarce in the CNMI. Answers were not satisfying for the participants interviewed for this assessment.

DOJ Civil Rights hosted subsequent trainings that all Assistant U.S. Attorneys (AUSAs) attended. This training was more specifically on human trafficking; DMST was not noted specifically or explained to be human trafficking. Another heavily attended recent training covering some aspects of human trafficking was organized by the Family Violence Prevention Fund and Karidat in February 2008. This training placed a heavy emphasis on victim protection. One AUSA stated that the HTIC is in the initial phases of its mandate to raise awareness and increase public education on the issue of human trafficking—he stated that they are doing a good job and tackling it from the top down.

On the providing training side of the equation, a multi-disciplinary group from the CNMI traveled to Guam to train police and the NGO community there. The USAO in the CNMI has had two human trafficking cases in just four years and the AGO has had two cases under the CNMI Anti-Trafficking Law 2005, putting the law enforcement, prosecutors and service provider in the CNMI further ahead in experience than Guam. Therefore, Guam is turning to the experience of the CNMI for lessons learned, such as the critical value that victim-witness protection and treatment has on effective prosecutions. According to interviewees, a recent case in Guam involving the rescue of nine or more victims from a forced karaoke club hostess situation was poorly handled by Guam law enforcement. The operation was commenced like a normal raid with no preparation for victim handling. Nonetheless, the lessons learned from the investigation and prosecution did lead to a request from Guam law enforcement for training from entities within CNMI.

1.2.2 Identification. To date, neither local nor federal prosecutors have been presented with a case of domestic minors involved in pornography, sexual performance, or prostitution. Local prosecutors have pursued cases involving the sexual exploitation of children by adults, but none involved the type of enterprise or commercial aspect which would have led them to prosecute the case as trafficking. In one case, a 12-year-old local girl had a 24-year-old “boyfriend” who was sexually exploiting her and giving her small “gifts” in exchange for sex acts—sometimes as small as an Arizona iced tea according to one interviewee. The case was prosecuted as child sexual assault and the man was convicted and sentenced to 20 years in the Saipan prison—a sentence the prosecutor felt would not have been obtainable in a jury trial for human trafficking due to a lack of public awareness regarding the issue that could have compromised the jury's ability to understand the components of the crime.

One AAG indicated she has considerable access to the victims for the purposes of gathering information on their exploiter. The information provided by the victim is not used against the child. In cases of sexual assault against a minor, there is no specific attempt to elicit information about the exploiter to determine trafficking/pimping elements.

The FBI indicates that they have never been requested to investigate cases of child sex trafficking in the CNMI, nor has any case of child pornography been referred to the FBI for investigation.

The USAO has been presented with two cases of foreign national minors exploited in stripping but declined the cases citing an inability to prove the club owners had knowledge that the girls were minors, as they had presented identification stating they were adults and the club owners relied on the recruiters in the Philippines. In addition, there was no allegation that any prostitution or sex acts other than stripping. The USAO forwarded these cases to the AGO for possible immigration violation prosecutions.

1.2.3 Protocol. Though no formal protocol was presented in the assessment, interviewees were consistent in the verbal description of the protocol that would be followed in the event of identifying a case of DMST. After investigation by DYS and/or DPS into a case of sexual assault against a minor that turned up evidence of trafficking/pimping, DPS would refer the case to the AGO for consideration and would alert the USAO of the referral. AGO and USAO would then confer on the merits of the case in order to decide if the prosecution should be federal or domestic. According to all interviewees, there is no struggle to retain ownership of these cases. The decision of jurisdiction is made based on the technical aspects of the case and the likelihood of success in the prosecution.

1.2.4 Collaboration. The USAO and the AGO are members of the HTIC and collaborate through this coalition, in addition to the regular collaboration that takes place between the offices on cases that could be tried both federally and locally.

1.3 PUBLIC DEFENDERS

The CNMI has one chief public defender and three assistant public defenders providing representation to defendants on all three islands. One assistant public defender is dedicated to representing juveniles.

1.3.1 Training. Interviewed PDs were not familiar with either the CNMI Anti-Trafficking Act or the federal TVPA before the assessment process, as they had not been involved in a case in which either law was applicable. PDs have not attended training on human trafficking; they were not invited to the various trainings held in Saipan over the past few years. The interviewees were aware of the issue of human trafficking, as it is talked about fairly regularly in the CNMI, but general community awareness was indicated to be limited to foreign dancers who prostitute—mostly Filipina women and girls. Also, the PDO represented one of the defendants in the Star Four case, a human trafficking case which was resolved through a plea to immigration fraud resulting in the dismissal of 226 counts to a single count netting one year in prison for the PDO's client.

1.3.2 Identification. Interviewed PDs have never seen or heard of a case of domestic minor sex trafficking or trafficking/pimping of minors in the CNMI, nor had PDs ever seen or heard of a case of a minor being prosecuted for prostitution in the CNMI. They indicated that prostitution cases in the CNMI have nearly always been foreign offenders and foreign adult victims. The PDO has defended clients in approximately 30 cases of alleged sexual assault against a minor; there was no indication to the PDO that any of these cases involved commercial sexual exploitation of the minor.

1.3.3 First Contact. PDs are appointed at the initial hearing of a juvenile case; juveniles are always represented by a lawyer in any court proceeding. Interviewees expressed concerns with the practice of DPS to interview minors without a lawyer or parent present.

The PDO juvenile clients range from 7–18 years old, though most are 14–17. Nearly all juvenile clients are locals. Specific questions regarding potential DMST victimization are not asked by PDs unless they relate to the charge against their client.

1.4 JUVENILE COURT

In the judicial system, all proceedings against a juvenile are brought in the CNMI Superior Court sitting as a juvenile court under a single judge. However, juveniles 16 years and older accused of a traffic offense, murder, or rape are tried as an adult.⁴¹ A delinquent child is defined by the law as a juvenile who violates any law, ordinance, or regulation of the CNMI; who is habitually disobedient and beyond reasonable control of parents, teachers, and guardians; who is habitually truant from home or school; or who is a danger to his or her morals or health or those of another person.⁴² Family law cases are heard on the regular docket rotation, but may present opportunities for identifying an at-risk or exploited child through the family setting.

1.4.1 Training. Three judges in the Superior Court, including the juvenile court judge, received domestic violence training with a component on human trafficking through the Pacific Judicial Council in November 2007. The juvenile court judge also attended a human trafficking training provided by the Guam AGO within the last few years. According to the interviewees, the trainings did not seem applicable to the crime of DMST, only foreign trafficking.

1.4.2 Identification. Interviewees from the court stated they had never heard a juvenile prostitution case and were surprised at the idea that DMST could be occurring in the CNMI. However, after some discussion, there was some recollection of situations appearing to fit the DMST scenario, such as local girls soliciting foreign-looking men from cars and local girls known to hang out at the port when the U. S . Military ships come in for R&R. These activities were not previously considered as potential DMST cases.

The juvenile court judge noted that the numbers of juvenile cases have decreased in recent years, but not because the problems have decreased; rather, the numbers reflect the shortage of investigative officers to pursue reports and allegations. Juvenile delinquency has not decreased, according to this interviewee.

1.4.3 Protocol. Upon detention of a juvenile by DPS, DYS, or an individual empowered to take temporary custody under 6 CMC § 5321, DYS is contacted to take custody of the minor. DYS has 18 hours within which to bring the case to the court for a Gerstein hearing (initial hearing) at which the judge signs the detention order. Within ten days from the date of arrest, the preliminary hearing must be held at which the PD or hired attorney is present. Disposition will include placement either on supervised release or in detention. The judge can order school attendance or GED studies, counseling, or other conditions while the juvenile is detained and again in any probation or placement order.

⁴¹ 6 CMC § 5103 (a).

⁴² 6 CMC § 5103.

1.5 JUVENILE DETENTION FACILITIES

1.5.1 The Juvenile Detention Unit (JDU). JDU operates under DCCA/DYS to provide secure care as mandated in 1 CMC § 2374(e) for juveniles who are alleged and/or adjudicated as delinquent and ordered by the court to placement in detention. There is a single juvenile detention facility providing secure care for the CNMI, Kagman Juvenile Detention and Correctional Facility, and it is located in Saipan. The primary mission of Kagman Juvenile Detention and Correctional Facility is to hold minors determined to require secure custody. Detention is intended as a punishment for delinquent behavior, but JDU intends Kagman to be like a home to the detained juveniles.⁴³ JDU is mandated to provide a living environment that “maintains the juvenile’s physical, mental, and emotional health, and ensures educational and social service needs are met through rehabilitative services and other programs.”⁴⁴ The facility is new and modern with some comforts exceeding those enjoyed by many citizens, such as air conditioning and television.

1.5.2 Juvenile Probation Unit (JPU). JPU operates under DCCA/DYS and is intimately involved in the juvenile justice system as JPU has responsibility for any juvenile engaged in the judicial process. JPU monitors juvenile probationers whom the court has ordered to undergo treatment away from the juvenile detention facility. JPU implements case assessments and develops a case plan for each probationer which outlines the probation conditions set by the court. JPU monitors the school attendance, community service, counseling, and other conditions of the individual child.⁴⁵ As many child protection cases originate as delinquency cases, JPU finds itself involved in child protection as well as probation activities. It was noted in interviews that there is pending legislation which would move the JPU under the judicial system and move the JPU offices into the court, as these two agencies work hand-in-hand with juveniles in the delinquency process.

JPU has four probation officers on Saipan and one on Rota. One of the JPU/Saipan officers and the JPU/Rota officer are females; the Saipan female officer is certified in child forensic interviewing through First Witness Child Advocacy Center in Duluth, Minnesota.

1.5.3 Training. Information on the operation of Kagman was obtained through interviews with JPU and others, as the director of Kagman was not able to be reached and had been in the position for only a few weeks. Generally, all those with any involvement in juvenile delinquency cases had extensive experience with and knowledge of the workings and conditions of Kagman. Interviewees stated that Kagman staff would not have received any specialized training on DMST, though should have received the same training all of DYS staff receives on the issues of sexual assault and abuse against minors.

The female JPU/Saipan officer is a certified child forensic interviewer through the First Witness program in Duluth, Minnesota. She is often called upon to interview female minors who are victims of sexual assault or abuse when identified through JPU as well as other units of DYS and even other agencies.

JPU maintains close connections with the judiciary and with federal probation and federal and local prosecutors’ offices, which has resulted in several JPU staff participating in the various training provided through the USAO and other agencies. All JPU staff received eight hours of training on Internet child predators through the Guam AGO in August 2007; this was just a small part of a larger training

⁴³ CNMI Department of Community and Cultural Affairs Division of Youth Services website. Last updated February 28, 2008. <<http://www.dys.gov.mp/jd.php>>. Accessed on July 2, 2008.

⁴⁴ Ibid.

⁴⁵ CNMI Department of Cultural and Community Affairs, Division of Youth Services website. Last updated February 28, 2008. <http://www.dys.gov.mp/juvy_prob.php>. Accessed on July 2, 2008.

on gangs. No training touched specifically on the issue of DMST as a crime or DMST victims as a specialized group of child victims, though those interviewed understood the concept based on their experiences.

1.5.4 Identification. Juveniles enter the detention and probation process through committing a status offense or a delinquent act. A status offense is an offense or act committed by a youth who is under eighteen years old that would not be considered an offense if the minor were of legal age. JPU provides services to these youth who are at high risk of sliding into delinquency, either through repeat status offenses or through committing a more serious offense. JPU works with these youth even though they have not been charged with any criminal or behavioral offense. Some interviewees criticized the court's penchant for putting every juvenile on probation who is not placed in detention and fining them when it is well known there will be no way for the youth to pay the fine. Despite this criticism, placing the youth within the responsibility of JPU is one way to prevent their decline into more serious offenses and enables them to tap into those services available to address their school problems, antisocial behavior, or family struggles. The types of services JPU is stated in official literature to provide are:

1. Counseling
2. Home and school visits
3. Family mediation
4. Presentation at schools on the juvenile justice system
5. Sponsoring youth programs to help decrease juvenile crimes in our community
6. This unit collaborates with other CNMI government agencies to pool resources to serve the difficult youth with appropriate services that are needed.⁴⁶

Youth charged with a delinquency may be placed at Kagman. The occupancy rate at Kagman ranges from 1 to 11 minors at any given time. As of April 2008, eight boys and one girl were confined at Kagman. The single female at Kagman was adjudicated a truant, but after repeated offenses, the court adjudicated her as uncontrollable and placed her at Kagman for her own protection, according to interviewees.

No specific questions to elicit disclosure of commercial sexual exploitation of the minor are asked during intake procedures upon entering Kagman. Within the first three days at Kagman, a confined juvenile has a medical exam. HIV testing is not required; interviewees were not sure if HIV testing is even available to the minor.

JPU offers a unique service to at-risk youth which can lead to identification and intervention in a juvenile's exploitation. JPU accepts referrals from parents or family, DPS and the Public School System *even if the juvenile has not been placed on Probation or in the Diversion Program*. JPU officers will perform an intake assessment and refer the child and/or the family to other agencies that provide the services dictated by the assessment. These referrals relevant to minors include:⁴⁷

- Child Protective Unit
- Counseling
- Foster Care Program
- Nutrition Assistance Program (food stamps)

This service again puts JPU in a position of identifying at-risk and exploited youth and intervening for their safety, making it critical that JPU officers are well-trained on DMST signs and symptoms. This

⁴⁶ Department of Cultural and Community Affairs, Division of Youth Services website. Last updated February 28, 2008. <http://www.dys.gov.mp/juvy_prob.php>. Accessed on July 2, 2008.

⁴⁷ Ibid.

program of referral services was not mentioned in any interviews and might not be utilized as fully as it could be for the protection of at-risk youth.

1.5.5 Collaboration in Prevention. 1 CMC § 2374 (a) requires DYS to provide prevention programs for all youth residing in the CNMI. The Summer Youth Sports Camp has been the result of a collaboration starting in 1999 between JPU, the Division of Sports & Recreation, the Council for Arts and Culture, and other government agencies. Each year more than 250 youth 6–13 years old participate in the three-week program that incorporates presenters from Public Health, among others. JPU also collaborates with the Division of Sports & Recreation to run the Island Village Youth Basketball League (IVYBL) targeting all youth 9–14 years old. All players are required to be drug free and mandatory school enrollment is required. Both are excellent opportunities for identification of at-risk and exploited youth as well as an awareness opportunity. Lastly, JPU will respond to requests from the Public School System to present to kids on the issue of delinquency, which is yet another identification opportunity.⁴⁸

⁴⁸ Department of Cultural and Community Affairs, Division of Youth Services website. Last updated February 28, 2008. <http://www.dys.gov.mp/juvy_prob.php>. Accessed on July 2, 2008.

1.6 DIVISION OF YOUTH SERVICES

1.6.1 Mandate under the Law. The Division of Youth Services (DYS) in the CNMI operates under the Department of Community and Cultural Affairs. DYS “responds to reports of child abuse and neglect, domestic violence when children are involved, runaway/homeless cases, and juvenile delinquency [...] and] also oversees juveniles remanded for secured care and control for their own protection and the protection of the community.”⁴⁹ The purpose of DYS is “to plan, coordinate, develop, and implement programs and services designed to provide developmental and rehabilitative services to youth.” DYS has the responsibility to provide services to all youth, including those that are wards of the court. Youth are defined as persons under 18 years of age. This sweeping mandate brings DYS into every aspect of victim-centered care and protection in suspected or proven DMST case. DYS was noted by nearly every interviewee as being critically underfunded and understaffed; at the same time, all interviewees noted that DYS is competent and accessible at all times.

1.6.2 Training. DYS/CPU interviewees stated they had not received any specialized training on the subject of domestic minor sex trafficking, though one had noted that she self-trained on sex trafficking issues on the Internet and another noted familiarity with the crime through education materials designed and provided by Shared Hope International. All DYS/CPU social workers have been trained on issues surrounding child sexual assault and molestation. Also, four DYS staff (two in CPU, two in JPU) are trained and certified in forensic interviewing through First Witness Child Advocacy Center in Duluth, Minnesota in a one-week intensive certification course. A fifth staff person was trained also, but she left DYS to work in the Court. An additional two staff members at DYS were certified on island in a compacted course, together with the DPS/CIB/JIU (Saipan) investigator. Certification is a one-time action; there is no continuing education or need to renew the certification.

1.6.3 Identification. DYS/CPU utilizes an intake form that is entered into a central registration system (see Appendix B). The registration system allows the social worker to code the case as a sexual abuse case (see below statistics on sexual abuse cases). A narrative section allows entry of indicators of commercial sexual exploitation (CSE) if the person entering the information detects the indicators through the intake process or discovers CSE and enters the information. DYS/CPU interviewee has seen cases involving CSE. The interviewee estimated 15% of the cases involve some type of CSE. Most noted were several recent cases of “sham marriages,” described as those in which parents arrange for their juvenile daughter to marry a non-local man and take payment for the girl. The “husband” pays the parents and has sex with the girl, but the girl continues to live at home with the parents. These narratives, if captured in the intake registration system, were not available for the assessment report as it is protected information; however, a prosecutor at AGO related one case involving the trial of an FSM citizen for the felony Conspiracy to Commit Marriage Fraud substantiating the occurrence of sham marriages in the CNMI. The defendant is the first of four defendants being tried under the same set of facts for the same crime: sham marriages. The defendant’s husband, a Bangladeshi citizen present in the CNMI under an Immediate Relative entry permit based on his wife’s FAS entry, is also a defendant in the case. The wife was convicted on two counts, and is now deportable. Once she is deported, he loses his status and can be deported as well, regardless of a conviction in his upcoming trial.

⁴⁹ CNMI Department of Community and Cultural Affairs website. <<http://net.saipan.com/cftemplates/dys/index.cfm>>. Accessed on April 20, 2008.

DYS reported 572 child abuse cases in the CNMI in 2006. Child sexual abuse reports were the largest number received, with 156 cases reported from October 2006 to September 2007. In contrast, only 44 cases of child sexual abuse were reported in 2000.⁵⁰ Table 1 below compiles the statistics from DYS:⁵¹

SA 2003			
Total Number of Children, Subject to reports	SUBSTANTIATED	UNSUBSTANTIATED	Unable to Sub.
154	51	93	10
total number of Reports Received			
48	32	11	5
SA 2004			
Total Number of Children, Subject to reports	SUBSTANTIATED	UNSUBSTANTIATED	Unable to Sub.
168	73	73	22
total number of Reports Received			
44	38	0	6
SA 2005			
Total Number of Children, Subject to reports	SUBSTANTIATED	UNSUBSTANTIATED	Unable to Sub.
131	80	43	6
total number of Reports Received			
50	40	6	4
SA 2006			
Total Number of Children, Subject to reports	SUBSTANTIATED	UNSUBSTANTIATED	Unable to Sub.
165	52	112	1
total number of Reports Received			
57	49	7	1
SA 2007		Oct.1st,2007 to April 21,2008	
Total Number of Children, Subject to reports	SUBSTANTIATED	UNSUBSTANTIATED	Unable to Sub.
54	21	25	4
total number of Reports Received			
27	17	4	3

The DYS report, “Statistical Summary of Children, Youth and Families,” noted that 112 cases of emotional abuse were reported to the agency in 2007; 115 cases of physical neglect; 25 cases of medical neglect; 78 cases of education neglect; and 108 cases of physical abuse. It is believed that the increased reports of child abuse are indicative of an increased willingness of the community to report cases, as opposed to ten years ago when people preferred to keep quiet. Nevertheless, a DYS supervisor believes that there are more cases of child abuse going unreported.⁵²

A DYS representative stated that there has been an increase in teenage pregnancies and female teenagers living with boyfriends who are three years or older than they are.⁵³ This condition demonstrates a vulnerability of teenage girls that can lay the groundwork for commercial sexual exploitation of minors in the CNMI.

⁵⁰ Rianne Pangelinan-Brown. “Child sex abuse on the rise.” *Saipan Tribune*. April 2, 2008. <<http://www.saipantribune.com/newsstory.aspx?newsID=78555&cat=1>>. Accessed on April 28, 2008.

⁵¹ Received May 21, 2008. On file with author.

⁵² Rianne Pangelinan-Brown. “Child sex abuse on the rise.” *Saipan Tribune*. April 2, 2008. <<http://www.saipantribune.com/newsstory.aspx?newsID=78555&cat=1>>. Accessed on April 28, 2008.

⁵³ *Ibid*.

1.6.4 Community Engagement on Identification. Approximately one year ago, DYS recognized the vulnerability of runaway youth and pressured the ferry operator between Saipan and Tinian to initiate ID checks for passengers to prevent minors from using the ferry to run away. No information was available on the success of this preventative measure, but the initiation of this action is positive indication of DYS's proactive stance in protecting youth from becoming vulnerable.

1.6.5 Information Sharing. Interviewees indicated that there is no clear determination on which agency performs home assessments. Usually this process works as a joint action or by mutual agreement. CPU and JPU occasionally disagree over the responsible unit but both agree that the assessment is critical and must be done timely. If familial abuse is apparent in a home assessment, CPU assumes responsibility for the case.

1.7 NGOs/SERVICE PROVIDERS

Karidat Social Service, a Catholic Charity organization in accordance with the Good Shepherd International Catholic Community, established a shelter in 2005 for victims of domestic violence and sexual violence. The center has been at capacity with trafficking victims since receiving the DOJ/OVC funding for foreign trafficking victim services in January 2007. In November 2007, all rooms at the shelter were occupied and Guma' Esperansa indicated they were providing services and support to 43 victims, 42 of whom are victims of trafficking (41 sex; 1 labor).

1.7.1 Training. Staff at Guma' Esperansa has both attended and led numerous seminars on human trafficking and training conferences in the CNMI and other places, such as Guam and Hawaii. Given the mandate of this NGO through the OVC foreign trafficking victim services grant and the funding for the trainings, the trainings were primarily focused on the victims of foreign human trafficking in terms of services and cultural sensitivities, though there is a clear understanding at Guma' Esperansa that trafficking is not limited to foreign victims.

1.7.2 Identification. As the sole nongovernmental victim service provider in the CNMI, Guma' Esperansa is relied upon to provide services to identified victims of human trafficking. Guma' Esperansa also is a domestic violence and sexual violence shelter. According to interviewees, no specific questions are asked to determine if a victim has been sex trafficked. Furthermore, no specific investigation is done into the age of the victims. The overriding intent of the service provider is to provide the needed services to the victims, regardless of the type of victimization or legal status. In most cases, the victim has come to Guma' Esperansa through a referral from a first responder agency, though some are walk-ins, particularly in the case of domestic violence. Unfortunately, one interviewee indicated that if DYS were contacted regarding a DMST victim, social workers would not know what that meant. DYS/CPU social workers are regarded positively, but the interviewer doubted that DYS was aware of DMST.

Guma' Esperansa operates a hotline that reaches throughout the CNMI and beyond with a toll free phone number victims can call for rescue and assistance.

1.7.3 Information Sharing. As a key member of the HTIC and the recipient of the DOJ/OVC funding for foreign trafficking victim services as appropriated through the federal TVPA, Guma' Esperansa regularly shares information with the other members of the HTIC in the interests of furthering investigations and prosecutions of the traffickers of the victims in their care.

1.8 CONCLUSIONS

Knowledge of DMST as a crime is low in the CNMI. Human trafficking is understood more commonly by the public, first responders, and those who work with juveniles as the victimization of foreign women and girls, usually Filipina or Chinese; no one had considered the exploitation of local minors in the commercial sex industry. Few believed that the technical definition of DMST in the federal or local anti-trafficking laws would withstand a local jury's perspective of the sexual exploitation of a minor within a family to be a private matter.

HTIC members cite collaboration between law enforcement and service providers in the delivery of services for victims of crime as excellent. Relationships with various groups on HTIC is strengthened through the CNMI Family Violence Task Force where victims of domestic violence and sexual assault are assisted by victim service providers, such as the Guma' Esperansa Battered Women's Shelter, Victim Advocacy Program, and the Victim Hotline Program. Indeed, interviewees unanimously pointed to Guma' Esperansa as the single victim services provider and safe shelter they would contact in the event of encountering a trafficking victim. Some respondents added DYS to the contact if the victim was clearly a U.S. citizen/LPR minor victim of sex trafficking.

Currently, the CNMI immigration laws allow for fairly easy migration of foreigners into the CNMI for work. It was stated that it is so easy to bring in foreign young women that there is not that much demand for local girls. Federalization by the U.S. Government of the CNMI immigration process to bring it into compliance with the mainland and territories, together with the rapid and sizable expansion of the U.S. military base and troops in Guam, has raised the specter of a changing dynamic in the commercial sex industry, domestic and sexual servitude, and other forms of trafficking. Lessons from other locations dictate a looming threat of recruitment of the local youth to fill the void left by the decrease in foreign nationals.

The Federal Ombudsman's Office—a unique entity in the CNMI with a mandate to respond to and investigate labor complaints in the CNMI—brings another potential first responder into the efforts to identify DMST victims. The office is staffed by the Ombudsman and three caseworkers with two more caseworkers to be hired soon. The current staff is skilled in a total of eight languages. Two male caseworkers, one female caseworker, and a female receptionist meet and translate for complainants. They all undergo in-house training and two have attended human trafficking training. Though the Ombudsman's Office cannot initiate investigation or rescue, they can and do respond to a victim's request for rescue. If human trafficking is suspected, the referral to Guma' Esperansa is promptly made. The Ombudsman also spearheads the Victims of Trafficking and Battered Immigrant Women Coalition, which brings together private lawyers who do pro bono T-visa work, Micronesia Legal Services, Guma' Esperansa, Division of Immigration attorney, and representatives from DOL. This coalition focuses on foreign victim trafficking cases and has not previously considered expanding to focus on domestic victims of trafficking, though the Ombudsman was not opposed to an expanded focus. The Ombudsman is active in training on human trafficking issues and on the CNMI Anti-Trafficking Act, particularly as he is an original drafter. The unique role of the Ombudsman as a labor rights monitor brings him into contact with victims of sex trafficking and may put the Ombudsman's Office in a position to identify DMST victims as well.

1.9 SUMMARY OF BEST PRACTICES AND GAPS

1.9.1 Best Practices

Proactive measures are being taken to combat the foreign trafficking occurring in the CNMI. For example, since February 2006, immigration officials at the Saipan airport have begun “asking questions of alien workers who [go] to CNMI [...] about their jobs, qualifications, their employers, and contact numbers to help deter human trafficking.”⁵⁴ This list of questions is known as the “Authorization for Entry Questionnaire.”⁵⁵ This is a good example of how branches of law, other than criminal law, can be used to identify victims and target traffickers.

Similarly, a few preventative measures are being put into place through DYS to identify and intervene at-risk and exploited youth. DYS requested the ferry operator between islands to check ID in order to prevent the inter-island truancy of minors. Also, the JPU intervention mandate is broad, allowing significant prevention activities and referrals to occur. The court uses a heavy hand in the administration of probation to a reported 100 percent of the juveniles coming into the court system as a status offender or delinquent.

1.9.2 Gaps

Foster care placement in the CNMI is easy to secure; many are willing to be foster parents for a child, especially extended family members for kinship placements, all of whom receive \$250/month. This is both positive and potentially negative. All agencies agree that there is extreme preference for familial placement of a child; however, it is not clear that an investigation into the home life of the child is checking for existing or potential commercial sexual exploitation from within the family or by family friends. Also, there is no specific training for foster families on managing youth who have experienced sexual exploitation.

The media is careful to not print names of juveniles or giving away identifying information, though DPS interviewees indicated a fear of mistakes in reporting that could cause problems in investigations. “Verbal leaks” are much harder to control, especially on Tinian or Rota where the community is so small. In one case, a Tinian mother relocated to Saipan with her children to escape the stigma in the community associated with her child’s sexual victimization.

The HTIC identifies resources as the critical deficiency preventing a strong attack on human trafficking in the CNMI. The lack of resources, such as personnel salaries, equipment for investigations and evidence gathering, as well as food and shelter operations for victims, hinders the ability to provide services to victims.⁵⁶ “In addition to the lack of specialized training, the CNMI lacks the necessary resources to fully equip the officers to conduct operations including surveillance and communications equipment, office equipment for investigations, vehicles for undercover, investigative and rescue operations, and for basic operations, such as for communications charges and fuel costs.”⁵⁷

Recently, two of the three SROs have been transferred to other units with new officers filling the positions. This poses difficulties, as children were building trust with the SROs in their schools and now must develop that trust with a new officer. In addition, nearly one-third of the police force will be deployed to Iraq in July 2008—a serious hardship for the force that is likely to have adverse effects on

⁵⁴ Haidee Eugenio. “Human Trafficking Takes Toll in CNMI.” *Pacific Islands Report*. Pacific Islands Development Program (April 11, 2006).

⁵⁵ Ibid.

⁵⁶ Law Enforcement Task Forces and Services for Human Trafficking Victims Program Narrative Commonwealth of the Northern Mariana Islands. April 25, 2006. On file with authors.

⁵⁷ Ibid.

human trafficking investigations which are very labor and resource intensive in rescuing victims and establishing the evidence necessary for a successful prosecution.

Closely related to money and equipment is training; all are in short supply in the CNMI. HTIC's proposal for funding states:

Although local law enforcement officers are trained in basic response and investigation skills, this subject matter seems somewhat foreign to them and, as complex as it is, specific training is needed [...]. The much needed training would allow the officers to proactively identify trafficking victims and rescue them, to permanently cease the trafficking activities through competent investigations and prosecutions, and, more importantly, to minimize the probability of overlooking possible human trafficking activities which may result in further victimization or possible deaths of victims as activities intensify and are left undetected.⁵⁸

⁵⁸ Ibid.

II. PROSECUTION

Prosecution of domestic minor sex trafficking cases is critical. Of equal importance 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/pimps, 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 ensure 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 Arresting Minors. Law enforcement interviewees unanimously agreed that if a minor were suspected of prostituting, police would bring the minor to DPS and conduct an informational interview. DPS would not charge a minor with prostitution. A variation on that protocol is when the DYS/CPU duty staff member (a contact phone number is left with DPS dispatch each night) is called to the scene to collect the statement of the minor. One CPU social worker was a detective in the JIU previously, so his experience was applicable to the CPU investigation of CSE. Together, the CPU duty social worker and DPS/CIB transports the juvenile to the hospital for an examination and collection of any sexual assault evidence. A report is entered into the DPS case system with all relevant information. CPU assumes the responsibility for placement upon determination of the circumstances.

2.1.2 Arresting Traffickers. DPS/CIB has formed a special squad of investigators called the Thief Apprehension Select Coalition (TASC). This group focuses on human trafficking investigations and operations, in addition to theft and other major crimes. The two DPS dedicated officers to HTIC are on TASC. This assists with the collaboration and information sharing that must occur in planning the arrest operation of a trafficker.

2.1.3 Arresting Buyers and Facilitators. DPS has arrested buyers of prostitution, primarily foreign tourists, but after an interview to elicit as much information as possible about the case and imposing a fine, the policy is to “catch and release” because once tourists return home, it is very difficult to secure them to return for trial. Interviewees note that prostitution tactics have changed in the CNMI; women now solicit buyers in one place and travel to another for the sex act, presumably in an attempt to evade detection. Also, prices have increased.

Interviewees could not name any arrests of facilitators. Several participants indicated they would not expect to, as such arrests would hurt the tourism industry.

U.S. military troops use Saipan as an R&R spot due to its proximity to the Guam base. In addition, military contractors providing equipment storage and readiness positioning just off the Saipan coast make regular shore visits to Saipan. Both are noted buyers of commercial sex in Saipan. Interestingly, interviewees were not aware of the 2005 amendment to the Manual for Courts Martial by the U.S. Department of Defense which specifically prohibits the soliciting of prostitutes by all U. S. Military personnel, even though Military Police (MP) are assigned to DPS patrol officers when servicemen come into Saipan for R&R and any infractions by the servicemen are processed first through DPS arrest and then jurisdiction is turned over to the MPs.⁵⁹ Regarding the military contractors, the Military Extraterritorial Jurisdiction Act of 2000 provides jurisdiction over civilian contractors that are involved in trafficking activities abroad.⁶⁰ Interviewees state, however, that “military is not the problem. We have the prostitution problem 24/7 without the ships; the buyers are mostly tourists and some locals.”

2.1.4 Proactive Coordination in Operations. A reported healthy proactive coordination among DPS units in the planning and execution of observation operations and raids is in place. A recent example of this coordination includes the illegal taxi raid carried out in Garapan in April 2008. This raid orchestrated by DPS/CIB appropriately planned for the potential recovery of victims of sex trafficking, prostitution, and domestic violence as the illegal taxis were known to provide transportation to those

⁵⁹ Exec. Order No. 13,387, 70 Fed. Reg. 60,697, 60,701 (Oct. 18, 2005), cited in Parson, Brian. “Significant Steps or Empty Rhetoric? Current Efforts by the United States to Combat Sexual Trafficking near Military Bases,” 4 Nw. U. J. Int’l Hum. Rts. 567. <<http://www.law.northwestern.edu/journals/jihr/v4/n3/5>>. Accessed on July 4, 2008.

⁶⁰ Military Extraterritorial Jurisdiction Act, 18 U.S.C. §§ 3261-3267 (2000), cited in Parson, Brian. “Significant Steps or Empty Rhetoric? Current Efforts by the United States to Combat Sexual Trafficking near Military Bases,” 4 Nw. U. J. Int’l Hum. Rts. 567. <<http://www.law.northwestern.edu/journals/jihr/v4/n3/5>>. Accessed on July 4, 2008.

engaging in prostitution. For this reason, DPS/CIB included DVU officers to hold victim interviews, JIU in the event a minor was encountered in the action, as well as other CID and patrol officers with language skills and experience. The raid netted a number of arrests of illegal taxi operators, many allegedly providing facilitation of prostitution. Though suspected, no partnership between the taxi operation and the prostitution has been proven yet. It appears it may have simply been an opportunistic arrangement. CIB officers indicated interest in investigating the possibility that the arrested passengers, mostly adult Chinese females, were human trafficking victims.

DPS interviewees indicated they would call Guma' Esperansa if planning a human trafficking raid, even if it was known to be a DMST case. If Guma' Esperansa was not able to provide the shelter and/or services to the rescued victims, interviewees thought Guma' Esperansa would call DYS and coordinate the victim services that are special to a trafficking victim. DPS interviewees are well aware of the DYS shelter for minors. They knew it is safe and isolated but were not sure of its capacity.

Interestingly, one interviewee mistakenly believed that DYS was a party to the HTIC MOU. This reflects an understanding that HTIC's purpose is to rescue all victims of human trafficking, though the MOU does not include DYS or any provider of services to domestic minors.

“As the local Anti-Trafficking Act of 2005 is both broader and more-specifically tailored to addressing problems as they arise in the Commonwealth when compared to the federal human trafficking law, local law enforcement will have the responsibility of being first-responders. However, if local law enforcement discovers a particularly egregious case, or one that may (for one reason or another) be difficult to try in a local court, the federal agencies have agreed to intake and review such cases for a determination whether prosecution is warranted under relevant federal laws.”⁶¹

Interviewees recalled one proactive inter-agency initiative that was noted as effective in the preventative approach to juvenile delinquency. A meeting was held one to two times per month between CIB and DYS to which DYS would bring all the open files, especially JPU court cases with curfew and other restrictions and the two agencies would review the files together to flag certain cases as high risk and know which juveniles were active delinquents. The agencies stopped holding these meetings approximately two years ago due to lack of time and money. “It was a great tool to keep track of all the juveniles we found to be really active as far as doing criminal stuff; we could keep tabs on them.”

2.1.5 Victim Interviews. The Juvenile Investigation Unit officer and four DYS investigators have received training and certification in child forensic interviewing by First Witness Child Advocacy Center in Duluth, Minnesota; two more received on-island training and certification in a compacted course. Only these individuals interview juveniles for DPS and DYS, and the information is shared between the agencies. The DPS forensic interviewer is male, a fact cited as a potential barrier to disclosure of sexual exploitation by the victims, especially given the great cultural embarrassment and hesitancy to discuss sexual matters. Nonetheless, prosecutors note that the DPS interviewer is very sensitive and effective in interviewing the children. One AAG indicated the juvenile investigator has success in building rapport and getting information from child exploitation victims.

Several interviewees stated they would contact a female officer in the Domestic Violence Unit (DVU) to perform the interview of a minor sexual abuse victim due to the experience in dealing with sexual assault victimization and the sensitivity of the gender issue. However, this officer has not been certified or

⁶¹ Law Enforcement Task Forces and Services for Human Trafficking Victims Program Narrative Commonwealth of the Northern Mariana Islands. April 25, 2006. On file with authors.

received any specialized training in child forensic interviewing, though would welcome the opportunity for such training.

On Tinian, the DPS/JIU investigator interviews the older juveniles, but in the event a young juvenile requires interviewing, DYS/Saipan is contacted to interview the victim because there is no trained child interviewer on Tinian and the single DYS position for Tinian is currently vacant. Also, on very serious sexual assault cases, DYS is called to perform the interviews of both victims and offenders if juveniles. DPS/JIU does not have formal interview questions for juvenile interviews; it is not the usual practice to ask about commercial sexual exploitation.

2.2 PROSECUTORS

2.2.1 Prosecution of Minors. Juveniles are not charged with prostitution in the CNMI. The local prosecutors at the AGO state that they have never prosecuted a minor charged with prostitution, nor have they been presented a case from DPS charging a minor with prostitution.

The Prostitution Law codified at 6 CMC §1341 et seq. outlines an intention by the Legislature to enforce “tighter controls on prostitution activity” and remove it “from the streets.” The Legislature’s findings indicate a growing concern over the criminal activities surrounding prostitution—a prescient perspective on the tight connections between prostitution and commercial sexual exploitation, defined in the CNMI Prostitution Law as “causing by misrepresentation, coercion, threat of force, money, personal gain or otherwise, a person to offer or provide sexual services for pay.”⁶² The Legislature notes “prostitution provides an opportunity for foreign criminal organizations to establish an economic base in the Commonwealth. Law enforcement agencies have noted an increased presence of organized crime in the Commonwealth together with the rise of prostitution. Prostitution also contributes to the increased incidence of crimes of violence.” The Prostitution Law is comprehensive in its scope, criminalizing the promotion of prostitution, the sexual exploitation of another through prostituting a person, the act of prostitution, and the purchase of sex through monetary or other compensation.

Juveniles are arrested for delinquency and status offenses on all three main islands of the CNMI, as shown in the court case data in Table 4. On Tinian, DPS/JIU currently has 17 active juvenile cases of varying delinquencies and status offenses. It is commonly understood by those who work with juvenile delinquents that, many times, delinquent acts are symptoms for the commercial sexual exploitation the minor is suffering. Also, delinquent acts, particularly drug possession and curfew violations, often mask the commercial sex activities the minors are also engaged in—curfew violation because the commercial sex industry is a late-night business and drug possession can be an indicator of DMST victimization as traffickers/pimps have been found to either use drugs to keep the juvenile numbed, both from physical and psychological trauma, or to increase their profit by having the DMST victim sell both the drugs and her body. Habitual truancy is another warning flag in the identification of a domestic trafficked minor as shown in one recent case presented to DPS for investigation involving a 15-year-old girl who was apparently being trafficked/pimped by an older girlfriend who encouraged the minor girl to frequently escape her home and stay out late to meet with men who paid for sex acts with the minor. The case is not yet substantiated but the scenario is not unimaginable.

2.2.2 Prosecution of Traffickers/Pimps and Buyers. The purpose of HTIC is to increase the investigations and prosecutions of traffickers and to ensure victim-centered treatment of the witnesses in all human trafficking cases. The HTIC has been slow to start activities and the focus continues to be on foreign victims. Federal prosecutors expressed interest in prosecuting DMST cases but believed this would be pursued through the local AGO under the CNMI Anti-Trafficking Act 2005. Importantly, an AUSA interviewee indicated that the USAO would not hesitate to prosecute a case of DMST if the evidence was sufficient to convict under the federal TVPA. The prosecutor did indicate though that the small and close community of the CNMI often prevents evidence from being discovered, and more so in a case involving a domestic minor victim. The small population makes it difficult to select a 12-person jury in the CNMI that does not have a biasing connection to someone or cannot be reached by outside influences. The jury is always a concern for prosecutors in the CNMI—several noted charging lesser crimes in order to elect a bench trial, as the judges are more educated and objective, though others indicated they would not let this hurdle affect the charges. Interviewees state that there have been mind-boggling acquittals, such as the notorious case involving two men who killed a little girl playing behind a fence that they used as a shooting target while drunk one afternoon - they were both acquitted.

⁶² PL 11-19, effective July 9, 1998, codified at 6 CMC §1341.

One interviewee cited an attempted prosecution of a pimp before the CNMI Anti-Trafficking Law went into effect. Without the benefit of that statute, the prosecutor cobbled together a case charging unlawful exploitation of a minor and an immigration charge against a Japanese bar manager with potential ties to Yakuza controlling a 16-year-old foreign girl; the strategy was not successful and the case was lost. It was unclear why the federal TVPA was not considered at that time as a potential means of prosecuting the trafficker/pimp.

One AGO interviewee indicated that in one case they had tried to identify buyers by doing a photo lineup for the victims, but it was not successful. No interviewees could recall a prosecution of a buyer, though several cited arrests that resulted in fines and then releases. They noted that the buyers are nearly always tourists and there is no way to get them to return for a trial, so they pursue them only for the information they may be able to provide in the prostitution or trafficking case against the pimp.

Though no interviewees could recall a prosecution of a trafficker/pimp of a domestic minor sex trafficking victim, many cases of sexual assault, sexual exploitation, molestation, and other sexually based offenses against minors have been prosecuted (see Table 5). A recent amendment to the statute of limitations in the CNMI for bringing an action for such offenses is an improvement and facilitates the justice available to a minor victim. Now the time limit for bringing a prosecution for any crime “involving sexual contact, physical or sexual abuse, exhibitionism, or sexual exploitation committed against a person under the age of 18” does not begin to run until the alleged victim reaches 18.⁶³ From that time, the action must be brought within four years.⁶⁴

2.2.3 Relevant Laws. The choice of laws applied in the prosecution of a trafficker/pimp can have a profound effect on the sentencing of the perpetrator. Table 2 illustrates various laws that can be used in the prosecution of a trafficker/pimp in the CNMI and the resulting maximum prison sentence allowed.

Table 2

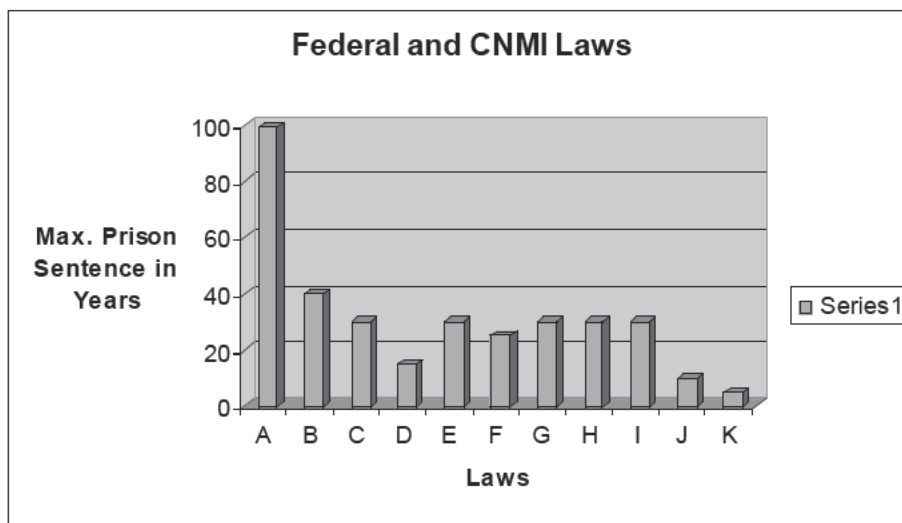


Table 2 Key

- A TVPA - Victim Under the Age of 14
- B TVPA
- C Sexual Exploitation of Children
- D MANN Act
- E CNMI Human Trafficking Law - Force, Fraud, or Coercion
- F CNMI Human Trafficking Law
- G First Degree Sexual Abuse of a Minor
- H First Degree Sexual Assault
- I First Degree Sexual Abuse of a Minor
- J Second Degree Sexual Abuse of a Minor
- K Third Degree Sexual Abuse of a Minor

⁶³ 6 CMC § 107 (d)(3), amended by PL 12-82.

⁶⁴ 6 CMC §107 (b) (1), A prosecution for an offense which is punishable by imprisonment for five years or more must be commenced within four years after it is committed.

Table 3 illustrates the differences in penalties between relevant federal laws.

Table 3

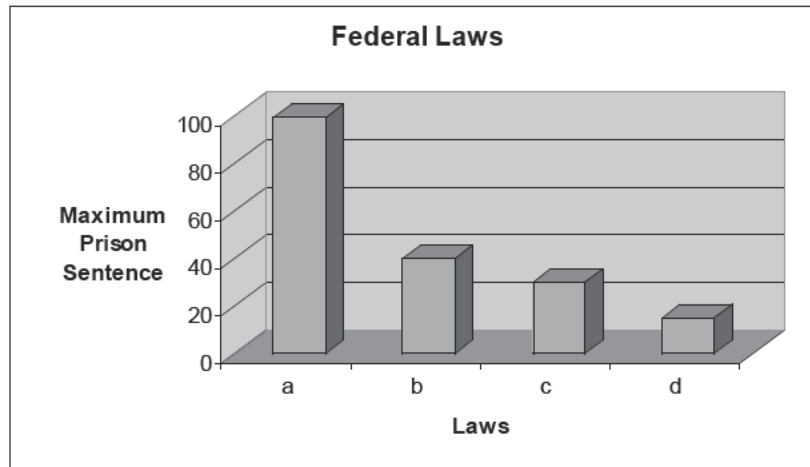


Table 3 Key

A	TVPA - Victim Under 14 years old
B	TVPA
C	Sexual Exploitation of Children
D	MANN Act

2.2.4 The Laws.

The CNMI Anti-Trafficking Act of 2005 closely mirrors the federal TVPA 2000; this was not an accident, as the drafters of the law at the AGO reported studying the federal law closely and had experienced federal trafficking prosecutions in the CNMI. The CNMI Anti-Trafficking Act of 2005 clearly provides the statutory basis for prosecuting domestic minor sex trafficking under the following provision:

6 CMC § 1504. Sexual Servitude of a Minor. (a) A person commits the crime of sexual servitude of a minor if the person

(a) knowingly recruits, entices, harbors, transports, provides, or procures by any means, a person under 18 years of age, with the intent of inducing the person to engage in any commercial sex act, conduct prohibited under the Sexual Abuse of a Minor statutes, 6 CMC §1306-1309, or conduct prohibited under the Unlawful Exploitation of a Minor statute, 6 CMC §1314;

(b) knowingly recruits, entices, harbors, transports, provides, or procures by any means, a person under 18 years of age, knowing that another will induce, or attempt to induce, the person being recruited, enticed, harbored, transported, provided, or procured, to engage in any commercial sex act, conduct prohibited under the Sexual Abuse of a Minor statutes, 6 CMC §1306-1309, or conduct prohibited under the Unlawful Exploitation of a Minor statute, 6 CMC §1314; or

(c) knowingly causes or attempts to cause a minor to engage in any commercial sex act, conduct prohibited under the Sexual Abuse of a Minor statutes, 6 CMC § 1306-1309, or conduct prohibited under the Unlawful Exploitation of a Minor statute, 6 CMC § 1314.⁶⁵

(See Appendix A for full text of the law.)

A conviction for Sexual Servitude of a minor carries a penalty of up to 25 years imprisonment and/or \$50,000 fine; however, if force, fraud, or coercion was involved, the imprisonment can be up to 30 years. This is a significant penalty and would require a jury trial, which is a potential deterrent to prosecutors, who grapple with constituting a 12-person jury within such a small and closely related community with a noted penchant for acquittal and preference for handling issues, especially sexually based matters, within the family, according to interviewees.

⁶⁵ Anti-Trafficking Act of 2005, Public Law 14-88, 6 CMC §1501 et seq.

The definition of commercial sex act in the CNMI Anti-Trafficking Act of 2005 is “any sex act or sexual conduct, including sexually explicit performances, on account of which anything of value is exchanged, given, promised to, or received by any person.”⁶⁶ This is a commendably comprehensive definition of the various commercial sex venues and activities in which minors are exploited through DMST.

Under the adoption laws of the CNMI, further protection can be found in 8 CMC §1420 which criminalizes the offer, receipt, or giving of a born or unborn child for adoption in exchange for money or anything of value, including personal services as child trafficking.

A significant gap in the CNMI anti-trafficking law is the affirmative defense provisions which permit a defendant to assert a reasonable belief that the victim was 18 years of age or older at the time of the offense. This affirmative defense is not available if the victim was under 15 years of age at the time of the offense. Nonetheless, this affirmative defense is problematic in prosecuting an offender under this statute. A second important gap is required proof that the trafficker “knowingly traffics another person with the intent or knowledge”; this high evidentiary burden makes prosecution difficult under the CNMI law. The law stops short of providing any victims’ rights or funding allocations for services (see Appendix A for a full-text reading of the CNMI Anti-Trafficking Act of 2005).

The CNMI Child Sexual Assault and Sexual Abuse laws. The CNMI laws that address crimes related to child sexual exploitation and abuse were codified in Public Law 12-82 enacted on January 7, 2002. The legislation, entitled “An Act to Revise and Reform Criminal Laws Concerning Sexual Assault and Sexual abuse of Minors in the Commonwealth” punishes sexual offenses against minors. The severity of the punishment imposed varies according to the age of both the perpetrator and the victim. Many of CNMI’s sex abuse laws, as amended by this Bill, can be used to target child sexual exploitation.⁶⁷ (See Table 2 above.)

Whether a child is able to consent is dependent on the age of the person with whom the child engages in sexual activity. The classification of sexual conduct with a child, regardless of alleged “consent” by the child, ranges from first degree to third degree rape. Table 4 below is an overview of the age combinations and the penalties they yield:

<i>Crime</i>	<i>Perpetrator</i>	<i>Victim</i>	<i>Penalty</i>	<i>Consent as a Defense</i>
First Degree Sexual Abuse of a Minor	<ul style="list-style-type: none"> • 16 or Older • Sexual Intercourse 	<ul style="list-style-type: none"> • 13 years or Younger 	Fine - Up to \$50,000 Prison - Up to Thirty (30) Years	No
First Degree Sexual Assault	<ul style="list-style-type: none"> • 18 Years Old or Older • Has Sex • At Least 18 Years Old • Sexual Intercourse 	<ul style="list-style-type: none"> • Under 18 Years of Age and • Is the person’s child, step-child, or person over whom they have custody 	Fine - Up to \$50,000 Prison - Up to Thirty (30) Years	No
First Degree Sexual Abuse of a Minor	<ul style="list-style-type: none"> • At Least 18 Years Old • Sexual Intercourse 	<ul style="list-style-type: none"> • Under 16 Years of age and • Child Resides in the Same Household as the Alleged Perpetrator, or the Person Stands in Authority over the Child 	Fine - Up to \$50,000 Prison - Up to Thirty (30) Years	No

⁶⁶ 6 CMC §1501 (d).

⁶⁷ Such provisions include: 6 CMC § 1301, First degree sexual assault; § 1302, Second degree assault; § 1303, Third degree sexual assault; § 1304, Fourth degree sexual assault; § 1306, First degree sexual abuse of a minor; § 1307 Second degree sexual abuse of a minor; § 1308 Third degree sexual abuse of a minor; § 1309 Fourth degree sexual abuse of a minor; § 1311, Incest; § 1314, Unlawful sexual exploitation of a minor; § 1315, First degree indecent exposure; and, § 1316, Second degree indecent exposure.

In a prosecution of any of the above offenses, whenever a provision of law defining an offense depends upon a victim's being under a certain age, it is an affirmative defense that, at the time of the alleged offense, the defendant reasonably believed the victim to be that age or older, unless the victim was under 13 years of age at the time of the alleged offense.⁶⁸

First degree sexual abuse of a minor is punishable by imprisonment of up to 25 years and not more than \$50,000 or both; if force, fraud, or coercion can be proved, the penalty increases to up to 30 years in prison.⁶⁹ Second degree sexual assault of a minor is punishable by up to 10 years imprisonment and up to \$10,000.⁷⁰

Table 5

Attorney General's Office Report on Child Sexual Abuse Cases 2000-present	
Convictions	
Attempted Sexual Abuse of a Minor in the 2 nd Degree	1 conviction, 2003
Child Abuse	11 convictions
Child Abuse & Neglect	13 convictions
Child Neglect	7 convictions
<i>Note: there is overlap between Child Abuse, Child Abuse and Neglect, and Child Neglect.</i>	
Kidnapping Involving a Child (taken from the kidnapping statistics, based on the inclusion of other charges indicating victim was a child such as sexual abuse of a minor)	1 conviction, sentence 6 years, 2008
Oral Copulation Involving Children (taken from Oral Copulation statistics, based on the inclusion of other charges indicating victim was a child)	4 convictions
Sexual Abuse of a Minor Child in the 1 st Degree (other charges included DTP, Kidnapping, and Sexual Abuse of a Minor in 2 nd , 3 rd , and 4 th degrees)	4 convictions
Sexual Abuse of a Minor in the 2 nd Degree	25 convictions
Sexual Abuse of a Minor in the 3 rd Degree	4 convictions
Sexual Abuse of a Minor in the 4 th Degree	3 convictions
Sodomy on a Child	1 conviction, 2002
Open Cases: either bench warranted, on appeal, off calendar, or pending	
Sexual Abuse of a Minor 1 st Degree	15 cases
Sexual Abuse of a Minor 2 nd Degree	9 cases
Sexual Abuse of a Minor 3 rd Degree	1 case
Sexual Abuse of a Minor 4 th Degree	2 cases
Child Abuse	10 cases
Child Neglect	2 cases
Incest	1 case

**There were no cases of juveniles being charged with prostitution since 2000.*

⁶⁸ 6 CMC §1310 (b).

⁶⁹ 6 CMC §1306 (b).

⁷⁰ 6 CMC §1307 (b).

The CNMI Pimping Laws. Under 6 CMC § 1306 (a)(1) a person is guilty of first degree sexual abuse if he “being 16 years of age or older [...] induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person.” Under CMC § 1307 (a)(4) a person is guilty of second degree sexual abuse of a minor if the same circumstances exist, but the minor is 13, 14, or 15 years old. These provisions criminalize the pimping of minors, as well as the direct sexual assault on the minor.

Under a strict reading of this language any pimp who is 16 or older and who pimps a child who is 12 years old or younger is guilty of first degree sexual assault, even if he has no direct sexual contact with the victim. Likewise, any pimp who is at least 16 years old and who pimps a 13, 14, or 15-year-old is guilty of second degree sexual abuse of a minor, whether or not he had any sexual contact with the victim.

A local prosecutor described a case in which the 24-year-old “boyfriend” of a local 12-year-old was prosecuted for child sexual assault. The details of the case seem to provide a basis for a trafficking charge, but the trafficking statute was not applied, nor was it considered. In reflecting on this possibility, the prosecutor speculated that proof of some network or enterprise of commercial sexual exploitation of the child would have been needed, or proof of a larger pimping scenario, in which the adult man had several minors he was exploiting for some gain, in order to present a winning case to the jury. No pimp of domestic minors has ever been prosecuted in the CNMI to the knowledge of anyone interviewed.

The CNMI Child Pornography Statutes. Sexual exploitation of a minor is defined in the CNMI statute as including the following activities: “producing a live performance, film, audio, video, electronic or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts sexual conduct involving a minor,” or “knowingly inducing or employing a minor under 18 to engage in, or, photographing, filming, recording, or televising a child” engaged in any of the following activities: “sexual penetration; the lewd touching of or by another person’s genitals, anus, or breast; masturbation; bestiality; the lewd exhibition of the child’s genitals; and sexual masochism or sadism.” This crime is punishable by a maximum of 10 years imprisonment and a fine of not more than \$10,000 or both.⁷¹

The CNMI Legislature was moved in July 2000 to strengthen the laws prohibiting the display of certain illegal pornographic images. In the findings stated in Public Law 12-9, the Legislature found “there are approximately 10,000 children residing in the Commonwealth between the ages of five and 16 and approximately 40,000 children in this same age group visit the Commonwealth as tourists every year. This age group is becoming increasingly exposed to merchandise of pornographic nature and this exposure has a detrimental effect on this age group.”⁷² This move by the Legislature reflects the concern and care taken in the CNMI to protect the children from sexual content advertising and adult entertainment businesses.

No interviewees were aware of any pornography investigations or prosecutions taking place in the CNMI. One interviewee speculated that it may be due to few people owning or having the kind of private access to the Internet required to produce, distribute, and/or purchase online pornography. Another interviewee said she had heard of a case recently of video pornography coming from Chuuk to the CNMI and other islands in the region, but there was no information on any investigation or substantiation of the video by any law enforcement and no one had actually seen the video in question. Federal prosecutors indicated that they would direct any information obtained on child pornography to the FBI for investigation. The FBI investigators interviewed indicated they had not investigated cases of child pornography.

It should be noted that the term “sexual acts” as defined by Section 1501(d) of the CNMI Anti-Traf-

⁷¹ PL 12-82, adding 6 CMC § 1314 (c).

⁷² PL 12-9, effective July 30, 2000.

ficking Act of 2005 includes “sexually explicit performances.”⁷³ Among those acts defined as “sexually explicit performances,” are “exhibitionism” and “sexual exploitation,”⁷⁴ which are inherent elements of stripping. However, one prosecutor interviewee indicated that at least two foreign minors discovered stripping in a club in Saipan were deported on immigration charges rather than rescued as victims of sex trafficking; this occurred after federal prosecutors declined to prosecute the case for lack of evidence that the minors were required to perform any prostitution and there was no evidence that the club owner had knowledge of their ages. Another interviewee expressed doubt that the law included strip dancing as a “sexually explicit performance” unless it was a part of pornography.

2.2.5 Prosecution of Facilitators. Interviewees could not cite any prosecutions against facilitators of child trafficking, such as taxi drivers, hotel staff, or valets. The CNMI anti-trafficking statute specifically criminalizes the facilitator. Under 6 CMC § 1504 (b) a person is guilty of human trafficking if he facilitates the victim being trafficked by a third person. The statutory language proscribing sexual servitude of a minor punishes those who “knowingly recruit, entice, harbor, transport, provide, or procure, by any means, a person under 18 years of age, knowing that another will induce or attempt to induce the person [...] into any commercial sex act”.

Interviewees were not aware of any cases being brought against facilitators at the local or federal level, only direct exploiters, though one NGO interviewee reported sending tips about recruiters in the Philippines that she learned from human trafficking victims in the CNMI to the prosecutor in the Philippines for action, but she was unaware of any action that may have been taken. She did not consider sending those tips to any federal agency, such as ICE, which has jurisdiction to investigate sex trafficking globally and assists in local investigations as well. Also, the AGO indicated that charges were lodged against a recruiter in the Philippines for being the intermediary for the trafficking of women to Saipan in the Star Four case, though it was doubted that jurisdiction could ever be obtained to bring the recruiter to trial.

One deterrent to facilitator businesses and direct exploitation in adult entertainment business venues is the Saipan zoning regulations in place to limit the commercial sexual entertainment businesses to particular areas. The “Saipan Adult Entertainment Business Zoning Act of 2007” notes findings by the Legislature that speak to the concern of the government over the loss of the garment industry and the remaining reliance on the tourism industry for future economic development.⁷⁵ The Act intends to protect the tourists—particularly the Japanese tourists noted as the majority—from the commercial sex entertainment businesses by containing them within specified “Adult Business Overlay Zoning District” and strictly outlining signage and lighting requirements. The Legislature noted that “surveys of tourists have revealed that the appearance and conduct of Adult Businesses on Saipan, particularly in Garapan, present such a negative image to tourists, particularly Japanese tourists, that the Commonwealth has lost and will lose business” and the same has “discouraged investors who view the poor image as a reason that they might not recoup the investments they would otherwise make.”⁷⁶

Significantly, the Legislature notes that “Adult Businesses in residential districts, or in districts adjacent to schools, churches, or public recreational areas, or within close proximity to such uses, may expose minors to such facilities and this may adversely affect such minors due to their immaturity” and “areas in which Adult Businesses are permitted to cluster or become concentrated may have a higher incidence of

⁷³ In Section 1501 (u) “sexually explicit performances” are defined as “a live performance, film, audio, video, electronic or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine, or other material that visually or aurally depicts the following actual or simulated conduct: (1) any sexual act as defined by Public Law 12-82; (2) masturbation; (3) bestiality; (4) lewd exhibition of genitals; (5) sexual masochism or sadism.

⁷⁴ 6 CMC § 107 (d)(3).

⁷⁵ “Saipan Local Law No. 15-22.” <http://www.cnmilaw.org/pdf/local_laws/sll15-22.pdf>. Accessed on June 25, 2008.

⁷⁶ Ibid.

crime, especially crimes against the person. These crimes increase in the evening hours, requiring more police effort.”

Regulations include location and signage requirements intended to mitigate the impact of the adult entertainment businesses and provide a level of transparency to the activities occurring on the premises. New commercial sex entertainment businesses must be at least 500 feet (doorway to doorway) from licensed daycare centers or public or private schools attended primarily by minors, churches, public parks, or other recreational facilities frequented or utilized by minors, including, but not limited to public parks, playgrounds, pools, and recreational centers, as well as regular school bus stops. Unfortunately, existing adult businesses are grandfathered. Commercial sex entertainment businesses are also prohibited from advertising or displaying graphic anatomical areas or sex acts, or displaying sex-related paraphernalia in places open to or visible by the general public. The interior of the business must not be visible from any area open to the general public and all entrances must be posted with a notice indicating that minors are prohibited from entering the premises. Importantly, the text of all signs is required to be in English. Other languages are optional but if non-English text is displayed, it must be an exact translation from English and the non-English text shall be no larger than the English text.⁷⁷ The signage restrictions are important for law enforcement struggling to patrol for exploitation in a multi-lingual environment, as businesses can use language barriers to conceal the prohibited commercial sex activities that may be offered.

2.2.6 Victim-Centered Prosecutions.

The prosecution of traffickers/pimps requires victim testimony as the main witness to the crime. Child victims are challenging witnesses for prosecutors. Children are often unable to be truthful when faced with their alleged perpetrator due to fear or attachment to the perpetrator. In the CNMI, the community is so small and all prosecutions of crimes carrying a penalty of more than five years in prison or a fine of more than \$2,000 or both require a jury trial of six peers from within this small community leading to intense scrutiny of the child victim-witness in these trials.⁷⁸ Local prosecutors explained that proper preparation of the victim witness can ensure steady and truthful testimony, but the possibility of retraumatization in such a setting can be high. A victim-witness coordinator (VWC) is on staff at the AGO to assist the victim and family through the trial process, but at the conclusion of the trial, there are no continuing services for a victim-witness child. One interviewee prosecutor described the attachment formed by the victim-witnesses to the prosecutors leading them to return regularly to visit long after the trial had ended. DYS/CPU social workers closely communicate with the VWC. They communicate almost every week about pending cases with minor victims under CPU protection. The VWC at the AGO has primary responsibility over the victim-witness during the duration of the case, but the care ends with the end of the trial. It was noted that five or less child sexual assault cases go through trial each year.

Under the CNMI law, children who are victims of sex crimes are permitted to testify in criminal proceedings via closed-circuit television or behind one-way mirrors if the trial judge finds that normal trial procedures would result in the child’s inability to communicate facts or knowledge to the judge or jury.⁷⁹ Prosecutors interviewed for this report unanimously agreed that alternate forms of testimony considered by some to be “victim-friendly” are not needed if the child is prepared properly in advance by the prosecutor. For example, prosecutors noted the cathartic and empowering value of court testimony by some victims who finally have the opportunity to speak out and against their exploiter. Others explained that the court’s discretion in format and arrangement of the courtroom and the presence of the VWC from the AGO for support were sufficient protections. In addition, the inability to use video testimony or

⁷⁷ <http://www.cnmilaw.org/pdf/local_laws/sll15-22.pdf>. Accessed on June 25, 2008.

⁷⁸ 7 CMC § 3101(a).

⁷⁹ 6 CMC § 1318 (a)(2), amended by CNMI Public Law 12-82.

video depositions unless the witness is unavailable for court was not seen as a hurdle to prosecutors and was not viewed as a meaningful protection device for victims who are intimidated by their exploiter.⁸⁰

2.2.7 Federal/local jurisdiction. The AGO can decide to refer a case to the USAO for prosecution if the likelihood of conviction is greater at the federal level. Also, though the sentences at the federal and local level are fairly similar, the CNMI does not have sentencing guidelines. Interviewed prosecutors indicated they may “play them off each other” as certain defendants have opted to plead guilty to federal charges in order to serve time in the federal jail rather than in the CNMI jail. Interviewees indicated very good cooperation exists between the various local and federal investigative and prosecutorial agencies.

⁸⁰ Crawford v. Washington, 541 U.S. 36 (2004).

2.3 PUBLIC DEFENDERS

2.3.1 Defending DMST Victims. Interviewed PDs state that they always put the best interests of their clients before advising any potential cooperation in an investigation that would mean a disclosure by their client of victimization through a pimping situation. They would only recommend cooperating as a witness in a charge against a trafficker/pimp if the client was facing a major charge and cooperation would result in dismissing those charges. The PDs would not reveal disclosure information to the AGO or anyone without securing a deal for the client in advance. Though never used by the PDs in the CNMI, one scenario for such information sharing is the “Queen for a Day” process. This means that anything the PD’s client shares with the prosecutors cannot be used against her or for any other purposes than in a prosecution of the alleged criminal. If a PD was appointed to represent a minor in a prostitution case against her or him, the PD would defend the minor and would advocate for her or him as a victim.

2.3.2 Disclosure of Sexual Exploitation. PDs cited experiences in which juvenile delinquency cases were discovered to involve the sexual exploitation of the minor client. In these cases, all parties—the AGO, the court, and DYS—were in agreement with dropping the pending delinquency charge and treating the minor as a victim. In some cases, victims of sexual assault against a minor have been placed with off-island family members for protection.

2.3.3 Pre-adjudication Placement. Sometimes minors charged with an offense are not welcome to return to the home; some express a desire and preference to stay at Kagman pending adjudication. In these cases, PDs assume there is some deeper issue in the home, though they also admit that the detention facility is a more comfortable living condition than some homes in the CNMI, with air conditioning, regular meals, and television. Regardless, an expressed preference for pre-adjudication placement in the detention facility may be granted by the court. The PDs admit they would never advocate for placing their juvenile client in detention pre-adjudication, even in cases where there is a raised concern about the home situation of a minor and no preferred alternative placement; however, they might if the juvenile expresses a desire to be placed in detention over any other placement option.

2.3.4 Guardian Ad Litem. PDs noted a large gap in the lack of resources for the court to pay guardians ad litem, leaving juveniles unprotected in some cases. PDs say that the court would appoint the guardian ad litem without question, but there is insufficient money in the court budget to pay for the service. PDs recall just a single case since 2005 of the court appointing a guardian ad litem. The lack of a guardian ad litem to represent the specific best interests of minor places PDs in a difficult position, as they are sometimes asked by the court to make judgments that a guardian ad litem should make. Many of the juveniles in the court process are FSM citizens whose parents are not on-island, so there is no true adult presence in the child’s life.

2.3.5 Post-Adjudication Placement. A minor would have to be ruled delinquent for a court to order detention post-adjudication. PDs say they would never recommend detention as the best placement for a client, unless the client expresses a clear desire for such placement. Some juveniles prefer detention for a number of reasons, so they will continue to offend in order to be placed in Kagman again. Interestingly, the judge remarked that juvenile delinquents do not typically offend after they become adults.

2.3.6 Effect of Guilty Plea. Interviewees indicated there would be no real effect of a juvenile charge on a minor’s record. Juvenile records would not show up on the U.S. mainland national database because the CNMI is not networked; when a juvenile turns 18, the records are sealed. The only effect of a guilty plea is to show a pattern of delinquency if the juvenile continues offending.

2.3.7 Defending Traffickers/Buyers. The PDO represented one of the defendants in the Star Four case—a case charging, among other crimes, human trafficking under the CNMI Anti-Trafficking Act of 2005. The case was resolved through a plea to immigration fraud resulting in the dismissal of 225 counts, including the human trafficking counts, to a single count netting one year in prison for the PDO’s client.

2.4 JUVENILE COURT

2.4.1 View of DMST Victims. The court views juvenile victims of any kind of sexually based offense as a victim. There has never been a minor charged with prostitution brought before the court; if there were, interviewees stated unequivocally that it would be dismissed because the child is a victim.

2.4.2 Jurisdiction over DTMs. In the judicial system, all proceedings against a delinquent child are brought in the CNMI Superior Court sitting as a juvenile court under a single judge.⁸¹ While there have been no court cases charging a minor with prostitution, it is recognized that delinquencies and some status offenses can mask the commercial sexual exploitation that may be occurring against a juvenile. In this case, any DMST victimization would be covered by the cases brought before the juvenile court.

The following data was provided by the CNMI Superior Court for cases brought before the Court for adjudication from January 1, 2006 to April 28, 2008:⁸²

Table 6

Juvenile Cases - Raw Data (1/1/06–4/28/08)	
Total Cases Filed:	126 cases
Total Number of Offenders:	161 boys 11 girls
Total:	167 offenders
Types of Case:	
Assault and battery (Misdemeanor)	9
Assault and battery (Felony)	20
Assault and battery w/dangerous (Felony)	5
Burglary	24
Theft	66
Riot	2
Sale to Minor	21
Curfew	12
Possession	13
Theft Vehicle	9
Traffic	3
Disturbing the peace	18
Criminal mischief	18
Resisting arrest	3
Possession fire arms	1
2nd degree murder	1
Contempt	5
Escape	1
Robbery	2
Assault w/dangerous weapon	2
Delinquent child	2
Minor consuming liquor	3
Attempt theft	1

⁸¹ 6 CMC § 5103 (a).

⁸² CNMI Superior Court data. On file with authors.

Of particular note are the curfew violations and possession cases because these two delinquent acts are often found to occur in the course of a DTM's exploitation through commercial sex activities.

2.4.3. Victim-Centered Trial Procedures. Under CNMI law, children under 16 years who are victims of sex crimes are permitted to testify in criminal proceedings via closed-circuit television or behind one-way mirrors if the trial judge finds that normal trial procedures would result in the child's inability to communicate facts or knowledge to the judge or jury.⁸³ Factors considered by the judge in ordering this protection include: the child's age; the child's level of development; the child's physical health; physical, emotional, or psychological injury suffered by the child; and the mental or emotional strain testimony would cause.⁸⁴ Use of the closed-circuit televised testimony allows the attorneys, the judge, and the operators of the equipment to be present in the room with the child. The court may also permit a person to be present who the court determines "contributes to the wellbeing of the child."⁸⁵

In the event the court determines a child victim can effectively communicate under normal testimony procedures, other victim-centered procedures may be taken in the courtroom to facilitate the comfort and communicativeness of the child. The court may allow the child to testify while sitting on the floor or in a smaller chair, which could mitigate the intimidation of the witness chair. The testimony can also be taken in a room providing adequate privacy, freedom from distractions, and a comfort level for the child. Recesses may be called as often as necessary for the comfort and attention span of a child.⁸⁶

2.4.4 CNMI Statute of Limitation for Sex Crimes. The CNMI Rules of Criminal Procedure state that the prosecution of any offense that is punishable by five years or more must be initiated within four years of the date on which it was committed.⁸⁷ However, there are exceptions to this rule, including one for sex offenses. The exception for sex crimes states that if the victim was under the age of 18 at the time the crime was committed, the statute is tolled until the victim reaches the age of 18, at which time the normal statute of limitations applies.⁸⁸

2.4.5 Pre-Adjudication or Post-Adjudication Placement Disclosure. In the event that victimization is revealed anytime during the post-adjudication period of a child, either in private, familial, or detention placement, the judge is free to change the placement of a child; this is a simple procedure of a hearing and a new order entered by the court. The entire time the juvenile is under JDU supervision, the court requires status reports from DYS every 30–60 days to track the condition of the child. The court has never had a child disclose victimization through DMST or sexual exploitation, which would necessitate a change of placement.

⁸³ 6 CMC § 1318 (a)(2), CNMI Public Law 12-82, §5.

⁸⁴ 6 CMC § 1318 (b).

⁸⁵ 6 CMC § 1318 (c)(1) and (2).

⁸⁶ 6 CMC § 1318 (f).

⁸⁷ 6 CMC § 107 (b)(1).

⁸⁸ 6 CMC § 107 (3).

2.5 JUVENILE DETENTION FACILITIES

2.5.1 Detained Juveniles. Juveniles are separated by gender most of the time though they do mix during library time and for “one hour of sunlight,” always under supervision. Kagman’s occupancy rate ranges from 1 to 12 minors at any time. As of April 2008, eight boys and one girl were confined at Kagman. The largest number of juveniles confined at Kagman at any one time was twelve. One interviewee noted that sometimes parents request detention for their delinquent child in order to have a “time out” for the conflict at home. Truants are only detained when they are deemed “uncontrollable”—usually after three truancy offenses. The female minor currently in Kagman was adjudicated a habitual truant, but after repeated offenses, the court adjudicated her as uncontrollable and placed her at Kagman for her own protection, according to interviewees.

2.5.2 Recognition of Victim Status. The CNMI is not a member of The Interstate Compact for Juveniles regarding the return of juvenile delinquents and status offenders on probation who have run away from supervision and control to states other than where they were sentenced.⁸⁹ JPU relies on informal networking with juvenile protection offices in other locations across the United States to communicate regarding juveniles found in the CNMI. For example, if a Hawaiian girl was found prostituting in Saipan, her return is not mandated; the CNMI would keep her placed at the DYS shelter and then in foster care if unable to reach her parents or informally arrange through the juvenile probation office in Hawaii for her return. In any case, a juvenile who has suffered any kind of sexual exploitation is viewed as a victim and would not be placed in detention, absent extreme circumstances of uncontrollability—an event that has not occurred in the CNMI to date.

2.5.3 Juvenile Detention Services. Kagman is the only detention facility in the CNMI for juveniles; therefore, both pre-adjudication and post-adjudication placements are to Kagman. A 1998 assessment by the Civil Rights Division of the U.S. Department of Justice concluded that “for those juveniles confined for more than a brief period of time, the Kagman facility must provide adequate education and programming services.”⁹⁰ However, in the event that a juvenile is detained after revealing victimization or reveals the exploitation while in detention - an event inconceivable to interviewees - there are no services available to the child to treat or address resulting trauma. There is no counselor at Kagman since the last one left over two years ago; detained juveniles must be transported to CGC for counseling. At CGC there is one counselor noted as designated for children, though interviewees named different counselors as those specialized for juveniles, and all interviewees noted that the counselors at CGC were overwhelmed. Any disclosed CSE of a detained minor to counselors is reported to DPS and JPU. Probation officers report disclosed sexual exploitation of minors directly and immediately to the head of the unit. JPU would investigate any claims, and if evidence would be found substantiating the disclosure, the judge would be notified. Only the judge can change the placement of a minor.

2.5.4 Pre-Adjudication Juvenile Probation Services. Services are provided to all juveniles placed on supervised release pending adjudication. A juvenile referred for pre-trial services is assigned a Juvenile Probation Officer who monitors the court-imposed conditions of release. Services provided while on pre-adjudication probation are:

1. Home and school visits by a probation officer.
2. Home assessments for case plan preparation.
3. Home Study or pre-disposition report to assist the court with adjudication.

⁸⁹ Interstate Compact for Juveniles, as amended. <<http://www.csg.org/programs/ncic/documents/InterstateCompactforJuveniles.pdf>>. Accessed on July 3, 2008.

⁹⁰ “Letter to Governor Tenorio from Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice Re: Correctional Facilities of the Commonwealth of the Northern Mariana Islands” (1998). <<http://www.usdoj.gov/crt/split/documents/guamfind.htm>>. Accessed on July 3, 2008.

JPU provides 24-hour intervention to all juvenile arrests. The juvenile probation process has been outlined in Appendix C.

2.5.5 Post-Adjudication Probation Services. According to interviewees, the court imposes probation on every juvenile who is not placed in detention. Each child is assigned to a probation officer who is responsible for monitoring the court's conditions for probation, such as community service, court fine payment, restitution payment, school attendance, and monitoring of offenses while on probation. JPU refers adjudicated minors to counseling that can be provided in different formats, such as individual, group, and family, substance abuse, and crisis management. Some children are offenders as well as child protection subjects. JPU expressed an interest in training staff in child protection issues because JPU often handles these matters as well.

2.6 DIVISION OF YOUTH SERVICES

2.6.1 Investigations. DYS/CPU can initiate an investigation through a variety of report sources. Commonly, an arrest by DPS patrol initiates an investigation. In this case, the DYS/CPU duty staff is called to the scene to collect the statement of the minor (a contact phone number is left with DPS dispatch each night). One CPU social worker was a detective in the JIU previously, so his experience was applicable to the CPU investigation of CSE. One interviewee estimated suspected CSE cases to occur 50 to 60 times per year, though no statistics were available to substantiate these numbers. The CPU duty social worker together with DPS/CIB transports the juvenile to the hospital for an examination and collection of any sexual assault evidence. This requires the minor's consent. If she does not consent, the CPU social worker counsels her in hopes that she will change her mind. If the allegation is familial sex abuse, CPU places the minor in the DYS shelter. If the allegation is non-familial sex abuse, then CPU returns the minor to the home after a determination of safety. The role of CPU during the DPS investigation and trial is to provide continuing services to the minor, such as shelter, transportation to school, counseling, and preparation for any court proceedings (see Appendix C and D for complete picture of the processes of Juvenile Probation and Child Protective Services).

2.6.2 Interviewing. DYS/CPU performs interviews of child sexual abuse victims and determines placement. DYS is noted as very short-staffed, particularly in social workers handling sexual abuse cases. In addition there are no female social workers in CPU; if a male interviewer is unable get a victim to disclose the information needed to make a determination, then he would ask any of the females in CPU to interview the girl. If they are unable, CPU would ask the female certified child forensic interviewer in JPU to do the interview. This absence of a female certified child forensic interviewer in CPU poses a potential problem in any case of DMST because the admissibility of interview statements would be challenged and potentially limited due to the lack of certification of the interviewer.

2.6.3 Mandated Assessment and Recommendations. CPU provides upon request to the court written reports containing background information on the youth both pre-adjudication and after adjudication to recommend services and actions for the rehabilitation of the youth. DYS must provide written reports every six months on the progress of each youth referred to them. Copies of this report must be given to the youth under care and explained by the DYS social worker to the child. A copy is also provided to the judge of the juvenile court.⁹¹ The court relies entirely on DYS to investigate and make recommendations for disposition, placement, etc. DYS is not always timely with the investigation though; in one case, a home study was ordered within 45 days but more than 120 days later it had not been performed. It was noted that DYS can be paralyzed by the idea of a comprehensive home study when what the court really needs is a rapid assessment; the court will even take the assessment verbally in court if this expedites the process.

2.6.4 Placement. DYS interviewees indicate placement priorities for sexually abused minors are:

1. Kinship placement
2. Foster care placement
3. DYS Shelter

DYS provides continuing protection, shelter, and services to the victims as long as they need it.

CPU refers runaway and homeless youth to JPU for truancy as the mandate of protection extends to abused and neglected children. It is not clear whether runaway and homeless youth would be screened

⁹¹ 1 CMC § 2374.

before referral to determine if they had been victimized through any kind of commercial sexual exploitation causing their runaway from home, or any exploitation that occurred during their vulnerable time as a homeless runaway.

2.6.5 Runaways from DYS Shelter. Youth who run away from the DYS shelter are located and returned. If the attempt is repeated, DYS/CPU will recommend to the court a change of placement to the Kagman Juvenile Detention and Correction Facility for the protection of the youth. Such change of placement is typically approved and ordered by the court.

2.6.6 Collaboration. CPU was a member of the Multi-Disciplinary Response Team (MDRT) that brought together professionals to assist in meeting the needs of abused and neglected children and alleviating trauma suffered by victims by limiting the intrusiveness of the services. The MDRT stalled with the end of its grant funding, and all those interviewed noted its loss. Some groups are coming together now to try to restart a new form of the MDRT which will be called Sexual Assault Response Team (SART) with the same goals of limiting the investigative events in order to limit the re-traumatization which can occur through the investigative process.

CPU continues to closely collaborate with a variety of agencies in order to serve the needs of the children under its protection, including JPU, the court, AGO VWC, and others.

2.7 NGOs/SOCIAL SERVICE PROVIDERS

2.7.1 Recognition of Victim Status. The only service provider for trafficking victims in the CNMI, Guma' Esperansa, recognizes commercially sexually exploited children as victims of DMST. However, the organization rarely sees these victims come through their doors. DMST victims, if identified as such, would likely be found in the DYS shelter because they fall under the protection of the court and DYS. Guma' Esperansa would only receive a DMST victim in the event that the minor walked into the shelter on her own or was referred by the court or law enforcement as a victim of domestic abuse or sexual assault. Both the court and law enforcement indicated they would contact Guma' Esperansa in the event they identified and arrested a DMST victim, but this event has not yet occurred at the time of this assessment. One staff member at Guma' Esperansa has extensive experience working with homeless and runaway youth, at-risk and exploited youth, and juvenile counseling. As a former counselor at CGC, she advocated for group counseling for youth—a session currently in effect at CGC.

2.7.2 Legal Challenges. Interviewees were not aware of any legal barrier to housing DMST victims at Guma' Esperansa. They noted, however, that this would be an unlikely placement for a DMST victim as DYS would be involved from the beginning and operates a safe and protective shelter appropriate for juvenile victims. The CNMI statute on protective custody permits DPS, DYS, or any treating physician or person in charge of a hospital or medical institution to take a child into protective custody without parental consent if the child is believed to be in imminent danger and there is not time for a court order.⁹² This does not appear to extend to victim shelters, limiting the ability of Guma' Esperansa to shelter a DMST victim directly, rather they would have to contact DYS/CPU or DPS to take custody of the child. This protocol has not yet been tested, as a situation of DMST has not arisen in the CNMI to date.

2.7.3 Collaboration for Victim-Centered Investigation. The Multi-Disciplinary Response Team (MDRT) was an innovative and appreciated collaborative initiative minimizing the re-traumatization to victims of sexually based crimes. Reportedly, the initiative stalled when funding ended about four years ago. Now an initiative group, led by the Family Violence Task Force members, Guma' Esperansa, and the Federal Ombudsman, among others, is seeking to restart the MDRT under a new name: Sexual Assault Response Team (SART). This would reduce the number of times a victim is interviewed by bringing together experts from each agency to manage the victim's needs, effectively operating as a much-needed caseworker to ensure a victim-centered approach to everything from the investigation to the after-care services. Under the MDRT initiative, a psychologist was involved who performed all of the first interviews of victims. Currently this role falls on the CGC, which does not currently have a child psychologist or any specialized trauma counselor on staff.

⁹² 6 CMC § 5321.

2.8 CONCLUSIONS

“Although the law was recently passed, the crime of human trafficking is technically not new to the CNMI. Local law enforcement agencies are finding that the definition of the human trafficking crime as stated in the public law fits some of the cases they’ve worked on before. These agencies have been investigating and prosecuting cases for offenses, such as immigration fraud, labor abuse, prostitution, etc. What they are realizing is that some of the cases could have been categorized as ‘human trafficking,’ but because of the absence of the law then, it was usually just classified as other established offenses, such as those stated above.”⁹³

No cases of DMST have been prosecuted or even charged under the CNMI Anti-Trafficking Act of 2005, leaving prosecutors and judges without precedent to lead future cases. Those cases brought under the law involved foreign trafficking victims and foreign traffickers who ran afoul of immigration and labor laws in addition to the trafficking. The traffickers were pursued under immigration violations.

Budget and staffing constraints impact every agency from investigation to prosecution to victim services. Juvenile cases referred to the AGO are reportedly slow in being processed, leading some interviewees to be concerned about the statute of limitations. DPS struggles with a severely limited staff and most investigators average one to three hours overtime each day in order to stay on top of the workload. In addition, an upcoming deployment of nearly one-third of the police force to Iraq is leaving many to wonder how enforcement will be prioritized in the coming months.

All interviewed officers agreed that investigations into DMST would receive full support from the top positions, even though the expenses of investigating a DMST crime would quickly grow as it would be necessary to bring in outside investigators to do the undercover work (police on each island are easily recognized, so the local officers are not able to successfully do undercover work). DPS officers did not hesitate when asked if they would call on the federal agencies for support if needed, particularly in Tinian where federal lands are sizable and support military activities lending a great federal interest in Tinian’s stability.

⁹³ Law Enforcement Task Forces and Services for Human Trafficking Victims Program Narrative Commonwealth of the Northern Mariana Islands. April 25, 2006. On file with authors.

2.9 SUMMARY OF BEST PRACTICES AND GAPS

2.9.1 Best Practices

A recent amendment to the statute of limitations in the CNMI for bringing an action for sexual offenses against a minor is an improvement and facilitates the justice available to a minor victim. Now the time limit for bringing a prosecution for any crime “involving sexual contact, physical or sexual abuse, exhibitionism or sexual exploitation committed against a person under the age of 18” does not begin to run until the alleged victim reaches 18.⁹⁴

A victim-witness coordinator is on staff at the AG’s Office to assist through the trial process. DYS continues to provide services to sexually victimized minors as long as it is needed until they reach the age of majority.

Under the MDRT initiative, meetings were held at which the agencies brought together information to share and initiate action. In 2005, one interviewee recalled a case being prepared that was initiated through a MDRT investigation involving a minor who was molested. The MDRT was attempting to use closed-circuit televised testimony because the victim was very fragile. The various agencies represented on the MDRT worked together to attempt to prepare a room in the courtroom to serve as a special child-victim friendly meeting and testimony room. The entire initiative stalled with the end of funding about four years ago; however, the Family Violence Task Force is currently trying to restart the initiative under the name Sexual Assault Response Team (SART), which is an eagerly anticipated development by many interviewees.

2.9.2 Gaps

Rarely are trials moved to another island because of cost, and it is difficult to find an unbiased jury due to the small, close-knit population within the CNMI.

A significant gap in the CNMI anti-trafficking law is the affirmative defense provisions which permit a defendant to assert a reasonable belief that the victim was 18 years of age or older at the time of the offense. This affirmative defense is not available if the victim was under 15 years of age at the time of the offense. Nonetheless, this affirmative defense is problematic in prosecuting an offender under this statute. In addition, the Act requires proof that the trafficker “knowingly traffics another person with the intent or knowledge”; this high evidentiary burden makes prosecution difficult under the CNMI law. The law stops short of providing any victims’ rights or funding allocations for services.⁹⁵

CPU refers runaway and homeless youth to JPU for truancy because the mandate of protection extends to abused and neglected children. However, it is not clear whether runaway and homeless youth would be screened before referral to determine if they had been victimized through any kind of commercial sexual exploitation causing their leaving home or during their vulnerable time as a homeless runaway.

The CNMI government agencies do not have networked computers currently, though DPS is upgrading to a new system which is expected to restore connection with DYS and connect DPS/Tinian and DPS/Rota to DPS/Saipan. Currently information is shared verbally and often only if someone initiates an inquiry. If an incident with a suspect occurred on one island, DPS on the other islands would receive the incident report only if the officer asked for it.

⁹⁴ 6 CMC § 107 (d)(3), amended by PL 12-82.

⁹⁵ Texas Penal Code 20A.

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 secure 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 skill-building opportunities that continue recovery efforts.

3.1 LAW ENFORCEMENT

3.1.1 Rescue Protocol. The law permits DPS, DYS, or any treating physician or person in charge of a hospital or medical institution to take a child into protective custody without parental consent if the child is believed to be in imminent danger and there is no time for a court order.⁹⁶ Once done, DYS takes custody of the child and initiates an investigation to determine if the child should be made a ward of the court. This recommendation must be submitted to the Attorney General's Office (AGO) within 24 hours of the protective custody hold.⁹⁷ There is no shelter on Tinian or Rota, and law enforcement and DYS interviewees noted that the problem with placing minors in Kagman or the DYS Shelter on Saipan is the disruption to schooling and the difficulty for family.

On Tinian, if there is an immediate need for holding a juvenile, such as in the case of a serious delinquency offense (murder), they can hold the minor in the holding cell at DPS but only if no adults are placed there. DPS can hold a minor for up to six hours without bringing a charge. A juvenile victim of sexual assault would be returned to the home assuming the perpetrator has been removed from the home and the home is safe, or the offense was non-familial. In the case of immediate placement of a minor victim, DYS/Rota indicated they would secure a hotel room, but not for more than 48 hours. Victims would be transported to DYS/Saipan as soon as possible.

In planning law enforcement operations, DPS prepares for victim rescue potential by notifying various units and victim services.

3.1.2 Identification and Access to Services. DPS officers indicated that they would contact Guma' Esperansa and/or DYS to access services for a juvenile victim of sexual exploitation.

3.1.3 Access to Treatment. Interviewees all stated there was a serious lack of treatment specific to sexually exploited minors. Limited counselors at CGC and the lack of a child psychologist on staff concerned interviewees. CPU, JPU, and DPS personnel often are required to do some counseling when there is immediate need for it in the careful treatment of victims. There is no permanent counselor on Tinian or Rota, though one from Saipan visits once per month with a primary focus on drug and alcohol recovery. Interviewees noted the tremendous need for a full-time counselor placed on Tinian and Rota. Anger management counseling was a particular concern. DPS juvenile investigators often informally counsel some juveniles, but recognize they are not qualified and would prefer to have a professional counselor do this work.

⁹⁶ 6 CMC § 5321.

⁹⁷ 6 CMC § 5322.

3.2 PROSECUTORS

3.2.1 Rescue Protocol. Any child alleging sexual assault or abuse will be treated like a victim-witness and the perpetrator will be investigated. It is possible that some juvenile victims of CSE are charged with other violations which result in their prosecution as juvenile delinquents. The Court stats show a total of 114 cases involving 157 boys and 10 girls who were adjudicated before the Superior Court from January 1, 2006 through November 19, 2007. However, if sexual exploitation is disclosed, prosecutors will halt proceedings against a minor and notify the court for proper response and DPS for investigation.

3.2.2 Restoration. After a trial involving a juvenile victim of sexual assault is completed, the prosecutor's contact with the AGO victim witness coordinator is officially over. The Victim Witness Coordinator closes the file, and DYS assumes responsibility for any after-care and services.

3.2.3 Access to Treatment. According to interviews with prosecutors in the AGO and USAO, there are no therapists in the CNMI who specialize in child sexual abuse or any related issues of domestic minor sex trafficking victimization. There is one counselor who was identified as being the primary counselor for children. It was also noted that the counselor who was detailed specifically to the Kagman Detention Facility left when her contract was not renewed. This was noted as a tremendous loss to the juvenile detention facility and increased stress for the children detained there since the counseling available to them was then off-site at the Community Guidance Center (CGC).

3.2.4 Restitution. The CNMI anti-trafficking law creates a civil right of action for victims of trafficking and other sexual offenses enumerated in the Act.⁹⁸ Such an action may be brought in the CNMI Superior Court. The Act authorizes the Court to award actual and punitive damages, attorney's fees, and any other costs reasonably incurred.⁹⁹

3.2.5 Prevention and Awareness. AGO and USAO are members of the HTIC, which has as one of its primary goals the creation of a public awareness campaign for the community to dispel the community disbelief that human trafficking is occurring. The interviewee explained that the community sees women coming to the CNMI by plane, very often willingly, and are working and making money; this is not the vision of human trafficking as slavery with slave ships in the port and foreign, emaciated, downtrodden victims. The USAO explained a holistic approach to prevention must include more than prosecuting traffickers; rather, it is essential to make the business unviable economically. Recommendations included screening non-immigrant visa entries more closely (as is being done through an agreement with the Philippine Consulate in Saipan), shaming buyers—foreign tourists and locals alike—through exposure tactics, and initiating an anti-demand campaign to dissuade buyers from buying. The Swedish law criminalizing the purchase of prostitution, rather than the sale, was noted as very interesting as an anti-demand technique that could be adopted in the CNMI.

⁹⁸ 6 CMC § 1507.

⁹⁹ 6 CMC § 1507.

3.3 PUBLIC DEFENDERS

3.3.1 Representation. PDs provide representation to an adjudicated minor with the intent to act in the best interest of their client. Many agencies are involved in this case plan as well.

3.3.2 Placement and Service Options. PDs can weigh in on the court's placement decisions regarding their juvenile clients. PDs do not perform independent assessments, but they do learn about the child and family through their representation in the court case. The court can order a child to pre-adjudication detention, but more often a child is placed back in the home, with another familial member, or in the DYS shelter.

3.3.3 Information Sharing. The PDO is well networked with all agencies involved in child protection. DYS often provides an advance notice to the PDO that a child is about to be charged so the PD can provide representation from the earliest moment.

3.4 JUVENILE COURT

3.4.1 Placement Options. The court makes the final placement determination and issues the pre-adjudication and post-adjudication orders for placement and services. There is no issue with accessing placement because there is a single juvenile detention facility, Kagman, and a single juvenile protective shelter operated through DYS. Also, interviewees noted that familial and foster placements are easy to secure due to the cultural openness of the homes. DYS and the court work closely to ascertain and effect the best placement for the child. DYS does a home study and then makes a recommendation to the court on placement. The court may reject the DYS recommendation and select a different placement if it believes it is in the best interest of the child. The court views the placement options for a juvenile as the following:

1. Home
2. Extended family
3. Church group (in one case the court placed the minor with a member of the Faith Christian Church congregation)
4. Kagman Juvenile Detention and Correctional Facility or the DYS Shelter (the court defers to DYS to determine which is appropriate)

3.4.2 Accessing Services. Court procedures require a child to be released from protective custody within 48 hours unless declared a ward of the court. If the court decides there is reasonable cause to believe the child is in imminent danger by a return to the parent or guardian, the court will make the child a ward and place the child under the supervision of DYS for 30 days. During this time, a home assessment by DYS/CPU or JPU (depending on the circumstances of the case) is ordered when applicable to determine if placement in the home is advisable.

The law provides that a guardian ad litem is appointed by the court in court proceedings of child abuse and neglect. However, interviewees noted that a guardian ad litem is only appointed in the event that there is a concern about the child's representation at court, rather than a regular step in the process. Other interviewees noted that lack of money in the court budget to pay a guardian ad litem prevents this appointment from occurring. In fact, the interviewees recalled seeing an appointment in just one single case since starting work in the juvenile justice system in 2005.

The Counseling Guidance Center (CGC) meets with the child during the trial process pursuant to a court order for services. The juvenile court judge noted holding group meetings in the courtroom with CGC, the child, the parents, and counsel to determine the best action for the child. In such meetings, the judge participates and guides the decision.

Post-trial, the judge may order any conditions appropriate to serve the best interests of the child while in confinement. Additionally, the judge may order specific conditions in other placement orders, such as counseling orders or a familial placement order. The CGC provides the counseling ordered and is required to report back to the judge at regular intervals on the progress and condition of the juvenile.

The juvenile court judge bemoaned the lack of resources, the lack of child psychologists on the island for specialized counseling, and the total lack of specialized mental health care for trauma victims. A judge cited one highly difficult case that ultimately required those working on the case to use every effort and resource to secure a mental health placement in Texas for a child trauma victim. There was an indication that such efforts would be undertaken if a traumatized commercial sexual exploitation juvenile presented before his court, but it has not happened to date. The judge did indicate an understanding that DMST victims would be in need of mental health services to recover from the trauma, in addition to the

physical health services.

Interviewees noted the terrible shortage of mental health professionals on the island, saying that psychiatrists tend to leave the island every couple of years, leaving behind the child who then suffers for the lack of continuity in treatment. There is no in-patient juvenile mental health facility, only the psychiatric unit at the hospital. In a couple of cases, the court sent the child victim of traumatic situation to a mental health clinic, but none were DMST or sexual assault cases. The court has also called on church counselors to assist with victims, particularly in the case of rape and other sexual offenses.

The biggest challenge facing the court with regard to protecting the victims of sexual abuse is resources—money and access to appropriate professionals. At one time, the CNMI could request assistance in the form of visiting child specialists from Guam, but since the establishment of the Pacific Judicial Council, this informal arrangement has become too bureaucratic to be effective.

3.5 JUVENILE DETENTION FACILITIES

3.5.1 Services. The stated operational purpose of the detention facility is to prepare juveniles in detention for release into society. A number of services are noted as being provided through DYS to detained juveniles. However, interviewees repeatedly stated that there were no longer services provided at Kagman, the DYS shelter, or at outside agencies, other than counseling at CGC. Reportedly, no life-skills training or education is occurring within the juvenile detention facilities. This is viewed as a failing of the detention facility.

3.5.2 Assessments. Assessments are all performed off-site at CGC as the counselor at Kagman left at the end of her contract term over two years ago. Initial assessments of non-detained juveniles are performed by JPU and/or DYS/CPU.

3.5.3 Information Sharing. Information disclosed through any counseling or assessment would be shared with CPU, JPU, the court, and DPS to initiate an investigation for substantiation and/or a change in placement of the minor and potentially a change in services order.

3.5.4 Education. JDU, JPU, and the Kagman High School and the Junior High School have an agreement to accept for enrollment any detained juveniles from Rota or Tinian. While this enables education to continue, interviewees noted that this was extremely disruptive and difficult for the detained students because the curriculum varied greatly in speed and content. It was also noted that the students placed in detention are transported to the schools in a van marked "Division of Youth Services," causing them to be stigmatized.

3.6 DIVISION OF YOUTH SERVICES

3.6.1 Responding to Reports. DYS reportedly responds promptly to reports of child abuse and neglect, particularly when reported by DPS. CPU maintains a 24/7 policy, which leaves a duty contact phone number with DPS dispatch each night.

3.6.2 Services for Victims. DYS provides continuing protection, shelter, and services to the victims as long as they need it post-trial. DYS is required to provide services and programs to all youth, including individual and group counseling, outreach, survival education, employable development, and substance abuse prevention activities. CPU/Saipan social workers fly to Rota and Tinian for court proceedings in juvenile cases. While juvenile victims are referred to CGC for counseling, the first counseling session is on the home island to mitigate the stress on the victim. A CGC counselor travels to Rota or Tinian for this first session, after which the child travels to Saipan with a parent periodically for CGC counseling; the cost is paid by DYS. On Rota, the Community Health Center (clinic) arranges through medical referrals the counseling in Saipan and sets up the appointments and travel for the patient. This clinic can also conduct rape kits.

3.6.3 Secure and Unsecured Care. Youth determined by the court to require temporary custody for their own protection or that of the community, including adjudicated delinquent children, is provided through DYS. In addition, DYS is responsible for approving and arranging placements in private homes and public and private residential care facilities for juveniles under the court's or DYS custody.¹⁰⁰ DYS operates an Emergency Shelter for minors under protection of CPU. The shelter has a maximum capacity of 21 youth and the four bedrooms are typically full. At the time of the assessment interviews, 11 juveniles were residing at the Shelter, ages ranged from one year to 17 years old. A DYS interviewee noted that under a proposed new law, children under DYS protection can continue up to age 22. The location is secret and sufficiently remote that the children do not leave, there are no immediate neighbors, and the building is protected with an alarm. No visitation is permitted at the shelter.

Long term placement of juveniles at the shelter was noted by interviewees, though the shelter is designed to provide for the temporary placement of a child who is placed under DYS custody as a result of child abuse and/or neglect. However, in practice, the shelter acts as a transition to being reunified with the family, which results in a more long-term stay. One girl reportedly has lived there four years. The shelter is staffed by contract staff from a daycare center untrained in child counseling or DMST needs. The residents are all females and small boys in the shelter, except the occasional stay by an emergency placement, such as a 16-year-old boy (runaway) for a couple of nights. DYS tries to avoid mixing genders over a certain age, but if it is necessary, a social worker will precede the placement with a discussion about behavior with the residents. DYS works with Cornerstone Church each year to provide a summer camp opportunity to the kids in the shelter.

DYS/CPU/Rota has a monthly average of four cases of minors under the protection of CPU—all are in their homes. Though CPU is responsible for home assessments and regular monitoring, DYS/Rota does not have a car and there is no taxi service on the island, causing a barrier to effectively protecting the children.

¹⁰⁰ 1 CMC § 2374.

3.7 NGOs/SOCIAL SERVICE PROVIDERS

Founded in 2001, Guma' Esperansa ("House of Hope" in the indigenous language, Chamorro) provides sanctuary, counseling, and advocacy to meet the needs of victims of domestic violence, sexual assault, and human trafficking in the CNMI. Guma' Esperansa operates a spacious shelter with six shelter bedrooms in a quiet and secured area. Karidat and the Good Shepherd International Catholic Community established a shelter in 2005 originally for victims of domestic violence and sexual violence, but the center has been filled with trafficking victims since receiving the DOJ/OVC funding for foreign trafficking victim services in January 2007. All shelter services are free and confidential and are available to victims and their children regardless of citizenship, ethnicity, or immigration status, though OVC funds can be used only for foreign trafficking victims pursuant to the appropriations under the federal TVPRA. Guma' Esperansa is able to find funding for services for other victims through other sources. In November 2007, all rooms at the shelter were occupied and Guma' Esperansa indicated they were providing services and support to 43 victims, 42 of whom are victims of trafficking (41 sex; 1 labor). While only five victims (and their children) were residing at the shelter, the others were in transitional housing and receiving services, such as medical care, counseling, housing assistance, and T-visa assistance.

3.7.1 Access to Services. Service provider Guma' Esperansa indicated that services would be provided at their shelter to a victim of DMST without question, but this situation has not yet arisen. Interviewees pointed to the extensive family safety net in the CNMI as providing protective environments for sexually exploited children, as well as the provision of protective care at the DYS shelter which, though currently at capacity, has not yet turned away a juvenile needing such an environment. As the only service provider for trafficking victims in the CNMI, Guma' Esperansa has the ability to provide services tailored to victims of trafficking.

Recently Guma' Esperansa was asked to provide services and shelter for three victims of sex trafficking from Chuuk in the Federated States of Micronesia—a Freely Associated State of the United States. The women were rescued from enslavement in Guam at a karaoke bar run by a Korean couple. The young women are being housed and provided services at Guma' Esperansa while the case is being prepared against their traffickers in Guam by the USAO/Guam. Several of the defendants in the case have pled guilty to charges, but the two principal traffickers have not. The trial date was scheduled for June, but it has been pushed back to July or August. Guma' Esperansa has been able to provide all the necessary services to the women: medical care, translation, English as a Second Language, counseling, food, and shelter. According to a Guma' Esperansa interviewee, several volunteers have taken a special interest in helping the women at the shelter, and the women are doing well in their recovery. These women—one of whom was a minor when trafficked—have the freedom to live and work in the U.S. under the FAS Compact but are not U.S. citizens or lawful permanent residents; therefore, they are entitled to the benefits and services provided in the federal TVPA for foreign trafficking victims. The sizable FSM population on Saipan makes this distinction between domestic and foreign victims a fine one, but the victims will be better protected through their access to the T-visa and services funded through the TVPA for foreign victims of trafficking.

3.7.2 Community-based Organizations with Resources for DMST victims. Several CBOs were noted as resources in the community for certain assistance with DMST victims. These are faith-based initiatives of the many churches dotting the CNMI landscape, including New Covenant Life Church, Grace Lutheran Church, the Korean Baptist Church, Cornerstone Church, and others. These groups primarily reach out to youth and bring awareness and education on a variety of issues that are often taboo

in the traditional local cultures or immigrant communities. As these topics frequently involve sexual concerns, these groups are providing a service to at-risk and commercially sexually exploited minors. These services are not formalized nor structured in any service delivery format but they do serve as a service to DMST victims and at-risk youth. The court noted it would consider placing a juvenile in need of protective placement out of the home with a church group and mentioned that this had been done once before successfully.

3.8 CONCLUSIONS

Juvenile victims of sexual offenses are presented with an array of protections and services, most of which are realized. It was believed that in the event a juvenile disclosed DMST, the court would order placement of the minor to the DYS Shelter even if the minor was also guilty of delinquency offenses. DYS can object to placement orders with grounds, though recent improvements in the process of placement decisions make this less likely to happen. The current procedure involves a pre-adjudication conference between the court and DYS on the appropriate placement, providing an opportunity to make placement orders with all known information and understanding the suitability of placement to the shelter.

A noted challenge in working with the sexual abuse victims placed in the DYS shelter is the degeneration into uncontrollable behavior resulting in the transfer of juveniles into the Kagman Detention Facility. They are very resentful of the slow system and the frequent failure to prosecute the perpetrator. There are no group homes in the CNMI and the DYS shelter and foster care are the only options other than placement with family members. If juveniles placed in the DYS shelter fight, run away, or are otherwise disruptive or violent, they will be transferred to the Kagman Detention Facility.

Counseling limitations and scarcity were repeatedly noted as gaps in the protection system for victims. Counseling at the Community Guidance Center is limited to three counselors for all offenders, adult and child. Individual sexual abuse counseling meets two to three times before the victim joins group counseling. One interviewee recounted a case in which the counseling provided to a young victim of rape was not sufficient and the girl became suicidal.

3.9 SUMMARY OF BEST PRACTICES AND GAPS

3.9.1 Best Practices

DYS operates an Emergency Shelter for juvenile victims of abuse and neglect which provides the court and DHS a protective, secure option for placement of a DMST victim. Also, foster homes are abundant in the CNMI.

Highly regarded victim service provider Guma' Esperansa is providing critical shelter and services to victims of foreign trafficking, as well as domestic violence and sexual assault of all ethnicities and nationalities. This resource exists in the event a DMST victim discloses. Outreach work by various faith-based ministries is raising awareness among youth of subjects surrounding sexual behavior and care, topics that are mostly taboo culturally and therefore avoided.

3.9.2 Gaps

A scarcity of specialized child counselors was noted as a primary gap in the protection and restoration of juvenile victims of sexual assault in the CNMI. There is only one counselor who interviewees identified as being the primary counselor for children. It was also noted that the counselor who was detailed specifically to the Kagman Detention Facility left when her contract was not renewed. This was noted as a tremendous loss to the juvenile detention facility and increased stress for the children detained there, as the counseling available to them is off-site at the Community Guidance Center (CGC). Interviewees noted the terrible shortage of mental health professionals on the island, saying that psychiatrists tend to leave the island every couple of years, leaving behind the child who then suffers for the lack of continuity in treatment. Furthermore, there is no in-patient juvenile mental health facility, only the psychiatric unit at the hospital. In a couple of cases, the court sent the child victim of a traumatic situation to a mental health clinic, but none were DMST or sexual assault cases. The court has called on church counselors to assist with victims, particularly in the case of rape and other sexual cases.

The biggest challenge facing the court with regard to protecting the victims of sexual abuse is resources, primarily money and access to appropriate professionals. At one time, the CNMI could request assistance in the form of visiting child specialists from Guam, but since the establishment of the Pacific Judicial Council, this informal arrangement has become too bureaucratic.

Interviewees noted the frustration and dismay of the children at the DHS shelter who feel the justice system is stacked against them because they remain placed at the shelter while their rapist usually walks free. According to one interviewee, sometimes the perpetrator is not tried.

Overall Conclusions

The CNMI presents a unique set of factors which could influence the potential development of domestic minor sex trafficking in the CNMI both positively and negatively. No identifications, investigations, or prosecutions have been made of U.S. citizen/lawful permanent resident trafficked youth, but many suspect it is happening. The CNMI harbors risk factors that could become a powerful brew for the growth of a domestic minor sex trafficking problem. Economic austerity has been the theme of the recent months as the CNMI endures the loss of most of the garment factories that had made the nation's economy boom. Increasing reliance on the tourism industry often goes hand-in-hand with relaxing cultural intolerance of commercial sex in order to ensure a "good time" for the tourists. The same relaxing of intolerance and growth in supply of commercial sex products can lead to a growth in local demand for the same entertainment—some report this is already occurring while others disagree. The presence of so many tourists and U. S. Military can lead to a growth in demand requiring the victims to satisfy that demand. Lastly, the Internet is impacting the youth in the CNMI as it is in every other corner of the globe; children want the consumer goods advertised and promoted vigorously, and these items cost money. The vulnerability of youth is universal, and recruiters may soon turn to the easiest prey to fill the demand for the commercial sex entertainment.

On the positive side, given the size of the island and limited surrounding islands, the ability of a trafficker/pimp to escape notice is hindered. Community oversight of their children, especially within the specific ethnic communities living in the CNMI, is another protection from recruitment into the commercial sex businesses that thrive in the Garapan District of Saipan.

The HTIC has focused heavily on the foreign trafficking occurring in the CNMI. Historically, foreign women have been recruited to come to the CNMI for work and upon arrival are forced to provide commercial sex acts. This is the traditional, accepted view of human trafficking in the CNMI. Every participant interviewed for this assessment indicated concern with DMST and an intention to now look for DMST in the facts of a sexual assault against minors or the juvenile status offenders and delinquents. Nevertheless, HTIC has no plans to incorporate DMST awareness into its public awareness materials or messaging; the focus will be on foreign trafficking because these are the cases being encountered in the CNMI. However, the CNMI is in a fortunate position right now; a proactive prevention campaign against juvenile promiscuity and awareness of the dangers of recruitment is possible to implement before DMST becomes an all too familiar event in the CNMI. Protocols for identification, investigation and prosecution, and delivery of services to victims of this uniquely traumatizing crime can be outlined in advance of victim identification and service provisions.

Recommendations

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

Training and Research

The goal of domestic minor sex trafficking training and research is to provide knowledge and resources to individuals who might come into 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 in-depth understanding of this issue in order to identify and serve victims.

1. Training on domestic minor sex trafficking (DMST) for all groups must occur.
2. Law enforcement that have not received comprehensive training should neither interview suspected DMST victims nor be given the responsibility of deciding the victim status of the minor.

Identification and Tracking of Victims and Traffickers

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

3. Children exploited through prostitution, pornography, and stripping must be viewed as victims of a violent crime and provided with immediate victim status and services.
4. DYS should code commercial sexual exploitation (CSE) separately in the intake and registration of victims. Leaving this information to the discretion of the social worker to enter into the narrative is not ensuring capture of the important information.
5. Victims of sexual exploitation may have information about traffickers/pimps that should be captured by interviewers. Also, issues about pimp control or commercial sex acts should be explored in counseling to encourage disclosure, which is frequently slow to come from the youth.

Public Education

Public education is necessary to increase awareness of domestic minor sex trafficking. Broad public support for the prioritization of preventing and identifying domestic minor sex trafficking may help identification, funding, 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 the CNMI 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. Children and teens would benefit from school education programs that outline the risks of prostitution, including a focus on the recruitment tactics of traffickers/pimps and how to access resources.
8. Prevention programs should be developed targeting habitual runaways who are at higher risk of recruitment. The school system, service providers/outreach workers, and law enforcement should work together in prevention efforts for these high-risk minors.

Protection of Domestic Trafficked Minors while Witnesses

Victim witnesses need better protection to prevent revictimization and further trauma. Such protection would create an opportunity for the victim to confidently and safely disclose exploitation and testify against her trafficker/pimp.

9. Strategies for conducting victim-centered trials (e.g., interviews by trained forensic psychologists, closed-circuit and one-way mirror testimony) and protecting sexually traumatized children should be considered in all cases involving domestic minor sex trafficking.
10. Specialized services (e.g., mental and medical health treatment) and safe, secure shelter should be provided for domestic trafficked minors during the trial process and after trial.

Prosecution of Buyers, Traffickers, and Facilitators

The goal of prosecuting buyers is to deter demand from potential buyers of domestic trafficked minors and prevent current consumers from victimizing more youth. Further, prosecution of buyers will achieve justice for a 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 as a facilitator of the commercial sexual exploitation of a minor. These individuals are key components in the trafficking networks.

11. Prosecution of buyers of prostituted children should be made a priority for law enforcement and state prosecutors to deter demand.
12. Media should cover and expose these prosecutions so the area develops a reputation for strict prosecutions and punishments of buyers of sex with minors but in a manner that protects the minors from further victimization through exposure, which is a challenge in a small community.
13. There should be investigations and prosecutions of facilitators of domestic minor sex trafficking (e.g., adult entertainment businesses that employ minors, taxi drivers, hotel clerks, valets).
14. The affirmative defense of mistake of age in cases of sexual assault against a minor and sexual trafficking of a minor in which the juvenile victim is over 16 years old must be eliminated. This defense contradicts international laws and contributes to an environment that could tolerate and permit domestic minor sex trafficking in the CNMI.

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 and secure shelter, can lead to increased information from the victim, which can assist the investigation and prosecution of traffickers/pimps, buyers, and facilitators.

15. Holistic programs that address the multitude of issues faced by trafficked minors must be developed (e.g., substance abuse, PTSD, physical and emotional challenges, drug addiction, abuse history, family dynamics, educational needs, self-esteem, life skills).
16. Psychological and mental health counselors specialized in child trauma should be recruited to the CNMI in order to provide the needed programming for sexually exploited minors facing multiple issues (e.g., PTSD, self-esteem, body image distortions, addiction, self-mutilation, suicide).

17. The DYS secure and nonsecure facilities should provide services to address the victims' immediate needs (e.g., contact with resources to meet physical, emotional, and physiological challenges; life-skills training; isolation from traffickers/pimps and buyers; reconnecting with parents or identifying other stable placement; work with domestic trafficked minors to develop a treatment and programming plan to meet their long-term needs or issues).
18. Because of the chaotic backgrounds of many DTMs, life-skills training should be provided. Programs should address diverse issues (e.g., self-presentation, social skills, family relationships, friendship and peer relationships, healthy dating relationships, money management, job skills and career planning, cooking, diet and nutrition, stress management, decision-making, self-awareness, spirituality).

Health Services

19. Mandatory testing for STDs and HIV, as well as other diseases resulting from the vulnerability of the victim, should be instituted as a priority for those in juvenile detention and probation cases, as well as DYS shelter residents.
20. Health education should be part of the programming for DTMs. In addition to education about sexually transmitted diseases and other physical risks, DTMs often need basic information on personal hygiene, nutrition, exercise, and healthy lifestyle choices.

Educational Needs

21. A long-term facility is required that can provide specialized training, life skills, education, and long-term programming. The long-term programming should build skills and continue treatment in an effort to reduce the factors of vulnerability prior to the minor exiting the facility.



THE SENATE
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FOURTH SPECIAL SESSION, 2005

PUBLIC LAW NO. 14-88
SENATE BILL NO. 14-91

AN ACT

TO PROHIBIT INVOLUNTARY SERVITUDE, HUMAN TRAFFICKING FOR INVOLUNTARY SERVITUDE, SEXUAL SERVITUDE OF A MINOR AND TRANSPORTING A PERSON FOR PURPOSES OF PROSTITUTION; AND TO ESTABLISH CRIMINAL PENALTIES THEREFORE; AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE FOURTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

Section 1. Findings. The Legislature finds and declares that Involuntary Servitude and Human Trafficking for Involuntary Servitude—forced labor without due process of law; recruiting, transporting or receiving persons for forced labor; and recruiting, transporting or receiving minors, knowing they will be used in the commercial sex trade—are modern day forms of slavery and are therefore irreconcilable with the fundamental right to liberty possessed by each person.

According to estimates, approximately 800,000 to 900,000 people annually are trafficked across international borders. These estimates include men, women and children trafficked into forced labor and sexual exploitation. Persons from countries with chronic unemployment or widespread poverty are particularly vulnerable to traffickers, who exploit the victims' desire for a better life. In addition, those from areas experiencing armed conflict, post-conflict civil unrest, other forms of political instability or natural disaster, are highly vulnerable to exploitation and abuse by traffickers.

The toll that trafficking takes on the victims, their countries of origin and the countries they are trafficked into is devastating. Trafficking increases the breakdown of family; undermines government authority and social institutions; deprives the home countries of human capital; promotes crime; and undermines public health.

The Legislature finds that the Commonwealth has also been touched by trafficking activity. Some report the routine confiscation of their travel or identification documents by their employers, for the purpose of controlling their movements. There have also been cases where foreign nationals have been sued for huge sums in their home countries by persons acting on behalf of their employers, simply because the foreign national dared to file a legitimate grievance with the Department of Labor. Within the past few years, several incidents have been reported to law enforcement agencies concerning young women—some of them minors—who were recruited as waitresses or hostesses, but forced into prostitution by their employers once they arrived. Prosecutions have also been commenced by federal authorities against persons who have attempted to transport foreign nationals out of the Commonwealth and into Guam.

The Legislature finds that currently, there are no laws that specifically prohibit the type of conduct this Act would address. Even where existing Commonwealth law does apply, those laws do not provide penalties sufficient to deter traffickers from engaging in that reprehensible conduct.

The Legislature finds and declares that the conduct prohibited by this Act is vile, repugnant to any civilized member of society, and should never occur within the Commonwealth; consequently, this Act is a necessary and proper use of the Legislative power.

Section 2. Title. This act shall be known as the Anti-Trafficking Act of 2005.

Section 3. Amendments. The following new Chapter 5 is added to Title 6, Division 1, Part 1 of the Commonwealth Code:

6 CMC §1501. Definitions. The definitions in this section apply throughout this Chapter, unless otherwise specified or a different meaning is plainly required:

- (a) “Abuse the law” or “abuse the legal process” means to file, or threaten to file, a civil action the person knows is not legally justified; or to file, threaten to file, or cause to be filed, a criminal action the person knows is not legally justified, or to testify or provide information, or withhold testimony or information, with respect to a person’s legal claim or defense.
- (b) “Aggravated sexual assault or abuse” means Sexual Assault in the First Degree, as described in (a)(1) or (a)(2) of that section; Sexual Assault in the Second Degree, as described in (a)(3) of that section; Sexual Abuse of a Minor in the First Degree; Sexual Abuse of a Minor in the Second Degree, as described in (a)(1) of that section.
- (c) “Coercion” or “criminal coercion” are to be given their ordinary meaning as defined by 6 CMC § 1431.
- (d) “Commercial sex act” means any sex act or sexual conduct, including sexually explicit performances, on account of which anything of value is exchanged, given, promised to, or received by any person.
- (e) “Commonwealth” means the Commonwealth of the Northern Mariana Islands, and its surrounding territorial waters, to the extent those waters are recognized as within the boundaries of the Commonwealth’s criminal jurisdiction, customs enforcement jurisdiction, fish and wildlife jurisdiction, or environmental protection jurisdiction, whichever is greater.
- (f) “Debt bondage” means to use any debt, legally owed or otherwise, to force, compel, or pressure a person into doing any act from which the person has a legal right to abstain, as a means of discharging the debt, when a reasonable person in the situation would believe he or she had no reasonable alternative means of discharging the debt..

- (g) "Financial harm" includes extortion as defined in 6 CMC § 1604, criminal violation of the usury law, as defined by 3 CMC § 5303, or employment contracts that violate the statute of frauds, as defined by 5 CMC § 2201.
- (h) "Forced Labor or Services" means labor or services that are performed or provided by another person and are obtained or maintained through an actor's:
- (1) causing, attempting to cause, or threatening to cause injury to any person;
 - (2) physically restraining, attempting to physically restrain, or threatening to physically restrain, any person;
 - (3) abusing, attempting to abuse, or threatening to abuse the law or legal process;
 - (4) engaging in conduct described in the criminal coercion statute, 6 CMC § 1431(a);
 - (5) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;
 - (6) causing, attempting to cause, or threatening to cause financial harm to any person; or
 - (7) subjecting another to debt bondage.
- (i) "Homicide" means murder in any degree or manslaughter.
- (j) "Injury" means physical or bodily injury, or severe psychological trauma.

- (k) “Intentionally” means that the person’s conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person’s only objective.
- (l) “Knowingly” means that the person is aware that the conduct is of a certain nature or that a circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with the respect to that conduct or circumstance.
- (m) “Labor or services” means:
- (1) work of economic or financial value, or of other benefit to the person for whom it is done; or
 - (2) a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sex acts are forms of “labor or services” under this section. Nothing in this Act shall be construed to legitimize or legalize prostitution.
- (n) “Maintain” means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of service.
- (o) “Obtain” means, in relation to labor or services, to secure performance thereof.

- (p) “Physical injury” means a physical pain or an impairment of physical condition.
- (q) “Physically restrain” means to exercise physical control over, or to confine for a substantial period.
- (r) “Prostitution,” means to offer to engage in, agree to engage in, or to actually engage in, sexual conduct, in exchange for a fee, and also includes Promoting Prostitution, as described in 6 CMC § 1344, and Permitting Prostitution, as described in 6 CMC § 1345.
- (s) “Recklessly” means the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.
- (t) “Sexual act” or “sexual conduct” means sexual penetration or sexual contact, as defined in Public Law 12-82.
- (u) “Sexually-explicit performance” means a live performance, film, audio, video, electronic or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine or other material that visually or aurally depicts the following actual or simulated conduct:
- (1) any sexual act as defined by Public Law 12-82;
 - (2) masturbation;
 - (3) bestiality;
 - (4) the lewd exhibition of a person’s genitals; or
 - (5) sexual masochism or sadism.

- (v) “Transports” means to
- (1) take or carry a person into or away from the Commonwealth;
 - (2) conspire with another to take or carry a person into or away from the Commonwealth;
 - (3) attempt to take or carry a person into or away from the Commonwealth; or
 - (4) knowingly assist another in transporting a person into or away from the Commonwealth.
- (w) “Victim of Trafficking” means a person subjected to the practices set forth in section 6 CMC § 1502 (Involuntary Servitude), or recruited, enticed, harbored, transported, provided or obtained in violation of section 6 CMC § 1503 (Human Trafficking for Involuntary Servitude), or recruited, enticed, harbored, transported, provided, or procured in violation of section 6 CMC § 1504 (Sexual Servitude of a Minor).

6 CMC § 1502. Involuntary Servitude. A person commits the crime of involuntary servitude if the person recklessly, knowingly, or intentionally subjects, or attempts to subject, another person to forced labor or services without due process of law.

6 CMC § 1503. Human Trafficking for Involuntary Servitude. A person commits the crime of human trafficking for involuntary servitude if the person

- (a) knowingly recruits, transports, entices, harbors, provides, or obtains by any means, another person, knowing or with the intent that the person will be subjected to involuntary servitude; or
- (b) conspires with another or attempts to engage in conduct described in subsection (a), supra; or

- (c) benefits financially or receives anything of value, from knowing participation in a venture which has engaged in an act described in violation of subsections (a) or (b), supra.

6 CMC § 1504. **Sexual Servitude of a Minor.** (a) A person commits the crime of sexual servitude of a minor if the person

- (a) knowingly recruits, entices, harbors, transports, provides, or procures by any means, a person under 18 years of age, with the intent of inducing the person to engage in any commercial sex act, conduct prohibited under the Sexual Abuse of a Minor statutes, 6 CMC §§ 1306-1309, or conduct prohibited under the Unlawful Exploitation of a Minor statute, 6 CMC § 1314;
- (b) knowingly recruits, entices, harbors, transports, provides, or procures by any means, a person under 18 years of age, knowing that another will induce, or attempt to induce, the person being recruited, enticed, harbored, transported, provided, or procured, to engage in any commercial sex act, conduct prohibited under the Sexual Abuse of a Minor statutes, 6 CMC §§ 1306-1309, or conduct prohibited under the Unlawful Exploitation of a Minor statute, 6 CMC § 1314; or
- (c) knowingly causes or attempts to cause a minor to engage in any commercial sex act, conduct prohibited under the Sexual Abuse of a Minor statutes, 6 CMC §§ 1306-1309, or conduct prohibited under the Unlawful Exploitation of a Minor statute, 6 CMC § 1314.
- (d) **Affirmative Defense.** In any prosecution under this section, it is an affirmative defense that at the time of the alleged offense, the defendant reasonably believed the victim to be 18 years of age or

older, unless the victim was under fifteen (15) years of age at the time of the alleged offense.

6 CMC §1505. Transporting a Person for Purposes of Prostitution. A person commits the crime of transporting a person for prostitution if that person

- (a) knowingly recruits, transports, entices, harbors, provides, or obtains by any means, another person, knowing that the person will engage in prostitution; or
- (b) conspires with another or attempts to engage in conduct described in subsection (a), supra; or
- (c) benefits financially or receives anything of value, from knowing participation in a venture which has engaged in an act described in violation of subsections (a) or (b), supra.

6 CMC § 1506. Penalties.

(a) Penalties. A person convicted of violating any section of this chapter shall be sentenced as follows:

- (1) A person convicted of Involuntary Servitude (a violation of 6 CMC §1502) may be punished by imprisonment for a term not to exceed 20 years, a fine not to exceed \$50,000, or both.
- (2) A person convicted of human trafficking for involuntary servitude (a violation of 6 CMC §1503) may be punished by imprisonment for a term not to exceed 20 years, a fine not to exceed \$50,000, or both.
- (3) A person convicted of sexual servitude of a minor (a violation of 6 CMC §1504) may be punished by imprisonment for a term not to exceed 25 years, a

fine not to exceed \$50,000, or both, but if such offense additionally involved the use or threat of force, fraud or coercion, by imprisonment for a term not to exceed 30 years, a fine not to exceed \$50,000, or both.

(4) A person convicted of transporting a person for the purpose of prostitution (a violation of 6 CMC §1505) may be punished by imprisonment for a term not to exceed 10 years, a fine not to exceed \$50,000, or both.

(b) For any violation of this chapter, the court shall order the defendant to pay restitution. For the purposes of this chapter, "restitution" means reimbursement or compensation to the victim or victims for every determined economic loss incurred as a result of the defendant's criminal conduct.

(c) In addition to any other penalty authorized by this chapter, the court may order the forfeiture of any property knowingly used in the commission of any violation of this chapter, and any money or property seized in connection with a violation of this chapter that was derived or obtained from such violation. When forfeiting property under this section, the court may award the property to a law enforcement agency of the Commonwealth government that participated in the arrest or conviction of the defendant.

6 CMC § 1507. Right of Civil Action. An individual who is a victim of a violation under this chapter may bring a subsequent civil action in the Commonwealth Superior Court. The court may award actual damages, punitive damages, reasonable attorney's fees, and other litigation costs reasonably incurred. Nothing in this section shall prohibit the filing of a civil action prior to the commencement of a criminal prosecution under a statute in this Chapter.

6 CMC § 1508. Immigration Status. The Attorney General may defer any action to remove or deport an individual, or his or her dependent child(ren), who may be the subject of any violation under this chapter pending final resolution of the criminal case or investigation.

6 CMC § 1509. [Reserved].

6 CMC § 1510. Effect of Evidence of Initial Consent. Initial consent, if any, of an alleged victim to the particular labor or services in which they were alleged to have been held in violation of this Chapter, does not constitute a legal defense; it shall be for the trier of fact to determine whether, in light of subsequent events and actions, the victim's service was thereafter maintained through coercive methods, any initial consent notwithstanding.

6 CMC § 1511. Victim's Right of Privacy. In the prosecution of persons under this Chapter, the Attorney General shall take all reasonable and legal measures to ensure that the identity of the victim and the victim's family be kept confidential.

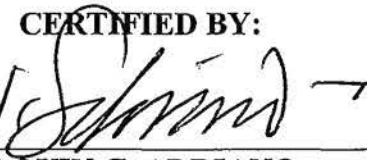
6 CMC § 1512. Trafficking Victim Protection. The Attorney General, in consultation with the Office of Victim's Rights, shall, no later than one year from the effective date of this statute, issue a report outlining how existing victim/witness laws and regulations respond to the needs of trafficking victims, and how existing social service programs respond or fail to respond to the needs of trafficking victims, and suggesting areas of improvement and modification.

Section 4. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.


Section 6. Effective Date. This Act shall take effect upon its approval by the Governor or becoming law without such approval.

CERTIFIED BY:



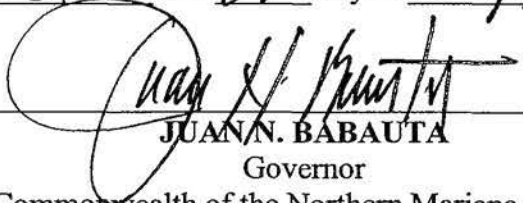
JOAQUIN G. ADRIANO
President of the Senate

ATTESTED BY:



JOSEPH M. MENDIOLA
Senate Legislative Secretary

Approved this 23rd day of September, 2005



JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands

Appendix B

INTAKE
CHILD PROTECTION UNIT
 DIVISION OF YOUTH SERVICES

INTAKE BY: _____ DATE OF INTAKE: _____ CASE #: _____
 ALLEGED VICTIM'S NAME _____
 DOB: _____ AGE: _____ SEX: _____ ETH.: _____
 Contact #: _____ Time: _____ Res.: _____
 CPS History: [] Yes [] No Cs#: _____ CW: _____

RISK LEVEL: _____ RESPONSE TIME: _____

Summary of current report: Describe type and nature of abuse/neglect, severity, when and where abuse/neglect occurred, who did it, how the reporter knew. (Use reverse side for more information.)

ALLEGATION (s) please mark [✓] appropriate box:

Sexual Abuse Physical Abuse Physical Neglect Educational Neglect
 Medical Neglect Emotional Abuse/Neglect Other/Specify _____

REPORTER DATA

Name: _____ Relationship to victim: _____
 AGENCY: _____ Contact # _____ ANONYMOUS: Gender: _____

PERPETRATOR DATA

Name: _____ Relationship to Victim: _____
 Indicate if unknown Ethn. _____

PARENTS OR ALLEGED VICTIM

FATHER	_____	Employment: _____
Ethnicity	_____	Contact: _____
DOB:	_____	
MOTHER	_____	Employment: _____
Ethnicity	_____	Contact: _____
DOB:	_____	

OTHER POSSIBLE VICTIMS IN HOUSEHOLD: (If SM Intra, include non-offending parent)

Name: _____ Sex: _____ DOB: _____ AGE: _____ Relation _____
 Name: _____ Sex: _____ DOB: _____ AGE: _____ Relation _____
 Name: _____ Sex: _____ DOB: _____ AGE: _____ Relation _____
 Name: _____ Sex: _____ DOB: _____ AGE: _____ Relation _____

SAFETY/RISK ISSUES: (Put a check [✓] if appropriate)

Is there a caregiver who can care for and protect victim/child? Yes No Unknown
 Caregiver's Name: _____ Relation: _____
 Is sick or disabled? Yes No Unknown
 Are drugs involved? Yes No Unknown
 Is alcohol involved? Yes No Unknown
 Domestic Violence:? Yes No Unknown

FOR OFFICIAL USE ONLY:

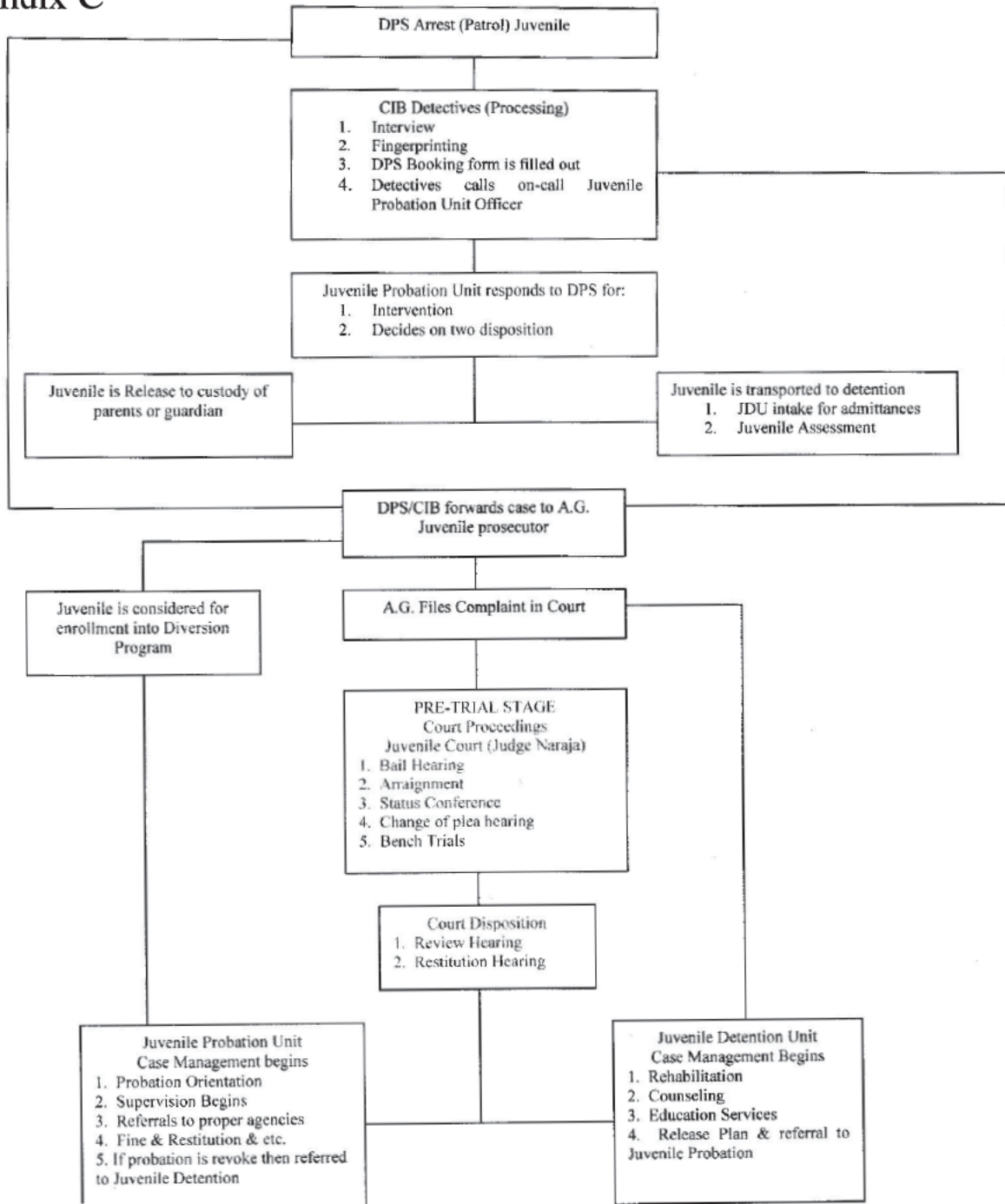
ACTIONS: Initial Assessment/Investigation (PAR) JPU Case
 Inappropriate Referral Active Inactive

For REFERRAL (Please indicate to agencies below)
 JPU AG DPS CGC CHC/Public Health
 OTHER/SPECIFY _____

Case Manager _____
 CW _____
 Assigned Date _____
 Laura T. Ogumoro
 Unit Supervisor

Appendix C

JUVENILE PROBATION & CASE PROCESS



Agencies Involved

1. Department of Public Safety (Arrest & Investigation)
2. DYS Juvenile Probation Unit (Intake & Community Supervision)
3. DYS Juvenile Detention Unit (Incarceration & rehabilitation)
4. Superior Court (Juvenile Court)
5. Attorney General, Criminal Division (Filing of Complaint)

Juvenile Probation Officers who are on-call 24 hours a day track each juvenile case from time of arrest through the pre-trial & adjudication process. Upon disposition either the juvenile is remanded to detention or probation is imposed Juvenile Probation continue to monitor and supervise each juvenile offender until probation is expired.

Appendix D

CHILD PROTECTION UNIT CASE PROCESS

