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**VILLANOVA UNIVERSITY  
CHARLES WIDGER SCHOOL OF LAW**

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**THE INSTITUTE TO ADDRESS  
COMMERCIAL SEXUAL EXPLOITATION**

**REPORT ON COMMERCIAL SEXUAL  
EXPLOITATION IN PENNSYLVANIA  
SPRING 2018**

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# 1. Introduction and Overview

Dear Stakeholders:

Recently, a member of law enforcement asked me if I thought there would come a time that commercial sexual exploitation (CSE) would be eradicated. Before I answered, I paused and took a deep breath in order to reflect on the progress we have made over the last several years since founding the CSE Institute. My response was ultimately yes. Yes, I have to believe that we will win the fight to end CSE in all of its forms.

In reviewing our advocacy and policy efforts over the past year, we have positively impacted the legal and social response to CSE across the Commonwealth. While we are excited by the legislative progress at the federal level, Pennsylvania still has an enormous amount of work to accomplish. This Third Annual Report on Commercial Sexual Exploitation in Pennsylvania, published by the Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation (CSE Institute), provides an overview of our efforts during the past year, highlighting successes and identifying areas of ongoing need—always with an eye towards maintaining our commitment to being survivor-centered and trauma-informed.

As in our previous two reports, much of this report focuses on Act 105, Pennsylvania’s anti-human trafficking law, which was enacted in 2014. Nearly four years after the law took effect, we are seeing its implementation expand throughout the Commonwealth. We also reiterate improvements that must be made to the law, both through legislative reform and on-the-ground implementation efforts. For example, Pennsylvania still needs to enact a “Safe Harbor” provision to ensure that exploited children are provided with appropriate support services, not criminalized for being victims. We know, too, that adult trafficking victims need an avenue to clear their record of crimes they committed as a direct result of their being trafficked. Without this needed support, victims continue to be denied access to housing, education, jobs, and other opportunities they need to move forward and leave “the life” behind. On

the ground, we have seen 22 individuals successfully convicted under Act 105. These successful prosecutions are a good start, but we need greater utilization of this effective tool to combat commercial sexual exploitation.

This report describes our efforts to effect these needed changes—from legislative advocacy, to innovative approaches, to collaborative initiatives with organizations throughout Pennsylvania. We are most proud of our commitment to not only listening to survivors, but taking their advice to heart by implementing their suggestions throughout all of our work. We continue to see the paradigm shift to recognizing that demand for commercial sex is the driving force fueling the sex trafficking industry in the Commonwealth and beyond. With our continued efforts and your support, we will continue to push in the right direction—by effectively targeting demand, we can end commercial sexual exploitation.

In our ongoing efforts to eradicate commercial sexual exploitation, the CSE Institute supports all agencies and individuals collaborating to achieve this goal, both throughout our Commonwealth and beyond. Our mission is as follows:

- We educate and provide technical assistance to those who respond to commercial sexual exploitation in Pennsylvania, the United States and beyond, promoting victim-centered, trauma-informed multidisciplinary collaboration.
- We equip policy-makers and the broader community with the skills and knowledge they need to improve the legal system’s response to commercial sexual exploitation, in order to support survivors and hold perpetrators accountable.
- We center the experiences of survivors to inform the development of policies and best practices to combat commercial sexual exploitation and are committed to engaging the survivor community in shaping our positions.
- We aim to create a community



Shea Rhodes, Esq.  
Director & Co-founder  
The CSE Institute

in which every human being is treated with dignity, compassion, and respect inspired by Villanova University Charles Widger School of Law’s Catholic and Augustinian mission.

On behalf of the CSE Institute, I would like to express my sincere gratitude for reading this Report on Commercial Sexual Exploitation in Pennsylvania. To our partners with whom we have collaborated during the past year, thank you for your passion and commitment to eliminating this unconscionable crime and supporting the vulnerable citizens that it victimizes. Please continue to engage with us so that we may work to improve the response to commercial sexual exploitation in our Commonwealth. Finally, to all of the survivors who have shared their experiences and expertise with us, thank you for allowing us to give you a platform through which we can effectuate change both here in Pennsylvania and beyond.

Sincerely,

*Shea*

## Michelle Madden Dempsey, JD, LLM, DPhil

Professor of Law and CSE Institute co-founder and faculty advisor, Michelle Madden Dempsey, has published extensively on commercial sexual exploitation from a perspective that incorporates both criminal law and philosophy. Her scholarship on this topic has appeared in the *American Criminal Law Review*, the *University of Pennsylvania Law Review*, *Criminal Law & Philosophy*, and other peer-reviewed journals and books.

In the fall of 2017, Professor Dempsey took a sabbatical from her teaching position at Villanova University Charles Widger School of Law to work on her forthcoming book, coauthored with Professor Jonathan Herring of Oxford University. This book is currently entitled *Sex, Wrongs, and Criminalization*, and will be published by the Oxford University Press.

In February 2017, Professor Dempsey published an article in the *Journal of Human Trafficking* entitled, "What Counts as Trafficking for Sexual Exploitation? How Legal Methods Can Improve Empirical Research." This article examines the definitional shortcomings of existing empirical research studying the prevalence of human trafficking. Further, Professor Dempsey argues that social science researchers ought to incorporate the legal elements of trafficking into their operational definitions, or risk underreporting the prevalence of "trafficking for sexual exploitation."

In addition to teaching law, publishing articles, and speaking at presentations, Professor Dempsey is an elected member of the American Law Institute, a fellow of the American Bar Association, and a research scholar at the University of Pennsylvania Ortner Center on Violence and Abuse in Relationships. She is also a member of the editorial board of several academic journals, including *Criminal Law & Philosophy* and the *Journal of Human Trafficking and Human Exploitation*.

## Direct Legal Services: The Justice for Victims Fellow



Sarah K. Robinson, Esq. The Justice for Victims Clinical Fellowship was made possible entirely by donations from dedicated stakeholders including Julie Uebler and Steve Wall, the Carole Landis Foundation for Social Change, and the Defender Association of Philadelphia.

The provision of holistic legal services has been a goal of the CSE Institute since before our formal launch in the Fall of 2015. Victims and survivors have complex and diverse legal needs, from family law and immigration, to public benefits, landlord/tenant issues, and more. In September 2016, we successfully launched our Justice for Victims Fellowship, generating a much-needed bridge between victims of CSE and lawyers in criminal and civil practice.

The inaugural Fellow, Sarah K. Robinson, Esq., is a graduate of Villanova University Charles Widger School of Law and former CSE Institute student extern. Through a Memorandum of Understanding ("MOU") with the Defender Association of Philadelphia, Ms. Robinson provides criminal defense representation to nearly 50 participants in Project Dawn Court ("PDC"), a Philadelphia Municipal Court prostitution

diversion program. Likewise, through an MOU with the Salvation Army's New Day to Stop Trafficking program, Ms. Robinson coordinates trauma-informed pro bono representation for victims in civil matters and generally assists victims with navigating the various legal systems that victims encounter as a collateral consequence to CSE victimization.

In particular, given the nature of CSE and sex trafficking, many victims have criminal convictions from multiple jurisdictions for offenses committed as a result of their victimization. Pennsylvania's human trafficking statute provides an important tool that helps survivors address wrongful convictions known as vacatur (for more about vacatur turn to page 6). Ms. Robinson dedicates a significant portion of her practice to advocating for vacatur, expungement, and other forms of post-conviction relief on behalf of survivors. She has received referrals from in-state and out-of-state organizations and made referrals to similar organizations in kind. Ms. Robinson has also created a continuing legal education program on post-conviction relief for survivors which includes the critical concepts of trauma informed lawyering. To date, Ms. Robinson and Ms. Rhodes have trained approximately 100 attorneys throughout the commonwealth using this curriculum.

Through these efforts, the CSE Institute has developed a reputation of being the leading provider in the realm of CSE victim-centered legal services in the Commonwealth. The pilot Fellowship has been extremely successful and we will be expanding the program in the Fall. Moving forward, we intend to strengthen the Fellowship's focus on civil legal services and collateral legal needs outside of the criminal justice system.



## 2. Our Board of Advisors

Our Board of Advisors represents a diverse set of backgrounds and work in various legal and non-legal capacities throughout the Commonwealth of Pennsylvania. Their on-the-ground and multi-disciplinary expertise has been instrumental in the success of the CSE Institute. With their guidance, we have been able to promote policies and develop best practices for eradicating commercial sexual exploitation in the Commonwealth.



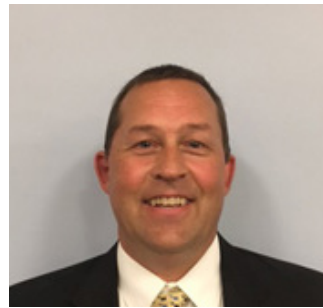
**Nadeem Bezar, Esq.**  
Partner, Kline & Specter



**Mary DeFusco, Esq.**  
Director of Training, Defender  
Assoc. of Philadelphia



**Allison Crowe, Esq.**  
Associate,  
Drinker Biddle & Reath, LLP



**Les Glauner**  
Detective, Upper Merion  
Township Police Department



**Kelley Hodge, Esq.**  
Of Counsel, Elliot Greenleaf



**Hon. Viktoria Kristiansson**  
Judge, Philadelphia Court  
of Common Pleas - Family  
Division.



**Ashley Lynam, Esq.**  
Attorney,  
Bennett, Bricklin & Saltzberg  
LLC



**Jamie Manirakiza, MSW**  
Anti Human Trafficking  
Specialist, Salvation Army  
Territorial Headquarters



**Rep. Joanna E. McClinton,  
Esq.**  
State Representative, 191st  
Legislative District



**Michelle Morgan, Esq.**  
Assistant United States  
Attorney, Eastern District of  
Pennsylvania



**Hon. Marsha H. Neifield**  
President Judge,  
Philadelphia Municipal Court



**John Rafferty, Esq.**  
Associate,  
Gawthrop Greenwood, PC



**David Wayne**  
Survivor Advocate,  
Pennsylvania

## 3. Law on the Books

### What We've Learned Since Act 105 (2014) Was Enacted & Next Steps Forward

In 2014, the Pennsylvania Legislature enacted "Act 105," which is the Commonwealth's comprehensive anti-trafficking statute. Act 105 contains many defining features, including a focus on prosecution, prevention, and protection. Although Act 105 is comprehensive in nature, there are still changes and improvements that can be made to push Pennsylvania to the forefront of anti-trafficking legislation.

#### 3.1 Defining Features

Act 105 contains many defining features that make it comprehensive in nature. The anti-trafficking statute can be divided into three main parts: prosecution, prevention, and protection.

##### Prosecution

Under Act 105, prosecutors have clear elements that must be met in order to prove the crime of sex trafficking. The elements can be summarized as follows: an act, accomplished by a means, for the purpose of engaging in a commercial sex act. Section 3011 lists the eight different acts under the statute and only one must be established to prove the crime of trafficking. A person commits a trafficking offense when he "recruits, entices, solicits, harbors, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to involuntary servitude." [1] Pennsylvania Code § 3012 lists thirteen means of subjecting an individual to involuntary servitude. It is important to note that when a child is the victim of trafficking, prosecutors do not need to show that any of the thirteen means listed in § 3012 were used. Thus, in cases involving minor victims, prosecutors must only prove that a person committed an act for the purpose of subjecting the minor to sexual servitude. [2]

A few key means that are often utilized to subject someone to involuntary servitude include "abusing or threatening to abuse the legal process," "debt coercion," "facilitating or controlling the individual's access to a controlled substance," and/or "using any scheme, plan or pattern intended to cause the individual to believe that, if the individual does not perform the labor, services, acts or performances, that individual or another individual that will suffer serious harm or physical restraint." [3]

##### ***Abusing or Threatening to Abuse the Legal Process***

An individual can subject someone to involuntary servitude through abusing or threatening to abuse the legal process. [4] For example, traffickers may abuse or threaten to abuse the legal process by convincing their victims that, because they are engaging in the crime of prostitution, they are criminals, and therefore the police will not listen to them. A trafficker may also threaten to call Department of Human Services (DHS) and threaten to take away a victim's children if he or she does not abide by the trafficker's commands and engage in commercial sex acts. The lawmakers have recognized that this type of coercion through threatened abuse of the legal process is a crime.

With that said, we caution prosecutors,

law enforcement, and other professionals against engaging in processes and behaviors that parallel those of traffickers. For example, investigators sometimes inadvertently abuse or threaten to abuse the legal process by using the threat of arrest or prosecution as leverage to get victims of commercial sexual exploitation to cooperate with their investigations. Further, in some cases, investigators threaten foreign national victims with immigration consequences in order to compel these victims to participate in an investigation and prosecution of their traffickers. While these investigatory and prosecutorial methods may not constitute unlawful abuse of process in a technical legal sense, they mirror the kinds of abusive, controlling tactics often used by traffickers, and thus should be rejected.

##### ***Debt Coercion***

Debt coercion occurs when a trafficker exploits a victim who has debt, and forces her to engage in commercial sex acts to pay off this debt. Generally, a woman "is coerced to perform sex acts as payment for the debt." [5] For example, when victims of CSE are arrested on prostitution charges, traffickers will often pay the bail required to secure their release. Then, once the women are released, their traffickers will force them to engage in more commercial sex acts to "pay off" the debt incurred through the bail payments.

### ***Facilitating or controlling the individual's access to a controlled substance***

Our nation is currently facing an opioid crisis. Many individuals suffer from substance use disorders and are addicted to opioids, including heroin and prescription painkillers. Controlling an individual's access to drugs gives a trafficker power over a victim of commercial sexual exploitation, which can be used to force these victims to engage in commercial sex acts. [6] The Pennsylvania legislature has explicitly prohibited this behavior, thereby acknowledging its coercive nature and tremendously detrimental impact on individuals who struggle with substance use disorders.

### ***Causing belief of serious harm or physical restraint***

Traffickers often use threats to ensure that their victims comply. For example, a trafficker may threaten to beat a woman who does not make a certain amount of money each night, or may threaten to harm the victim's family or loved ones if the victim tries to escape. If a prosecutor can show that the trafficker used "any scheme, plan, or pattern intended to cause [a victim] to believe that . . . [the victim] . . . or another individual will suffer some serious harm or physical restraint" if the victim does not engage in a commercial sex act, the prosecutor will be able to secure a conviction under 18 Pa. Cons. Stat. § 3012(b)(13).

### **Prevention**

In seeking to prevent human trafficking,



Act 105 allows the Commonwealth, "subject to the availability of funds," to "make grants to State agencies, units of local government and nongovernment agencies." [5] These grants are intended to "develop, expand or strengthen programs for victims of human trafficking," to help increase public awareness of human trafficking, and to provide training to first responders. [6] While the Commonwealth has not yet funded a state-wide public awareness campaign, we are encouraged by the work of PAATH (Pennsylvania Alliance Against Trafficking of Humans), which continues to raise awareness about Act 105 and helps victims of human trafficking, while also focusing on prevention.

The chair of the PAATH Public Awareness Committee, Michelle Cooper, Human Trafficking Advocate from the YWCA of York County, continues to collaborate with seniors in the Villanova University Communications School under the guidance of Professor Billie Murray. During the Fall 2017 semester, the communications students developed a logo for PAATH branding purposes. Furthermore, during the Spring of

2018, the students created a social media presence on three platforms: Facebook (<https://www.facebook.com/PAATHPennsylvania/>), Instagram (@paathpa), and Twitter (@PaathPA). We encourage you to follow, like, and share these pages.

To date, PAATH has statewide representation from over 23 governmental and non-governmental agencies, including the CSE Institute, Children's Resource Center, Child Advocacy Center (Harrisburg), Friends of Farmworkers, Mission Kids, Child Advocacy Center (Montgomery County), Mount Nittany Health Children's Advocacy Center of Centre County, the Pennsylvania Governor's Office, Pennsylvania Coalition Against Domestic Violence, Pennsylvania Coalition Against Rape, Pennsylvania Chapter of CACs and Multi-Disciplinary Investigative Team (MDIT), Pennsylvania Chiefs of Police Association, Pennsylvania Commission on Crime and Delinquency, Pennsylvania District Attorney's Association, Pennsylvania Governor's Office of Homeland Security, Pennsylvania Department of Human Services, Pennsylvania Department



of Transportation, Pennsylvania State Police, Pittsburgh Action Against Rape, The Salvation Army New Day to Stop Trafficking Program, The Valley Against Sex Trafficking, Transitions of PA, YWCA of Greater Harrisburg, and YWCA of York County.

## Protection

### *Civil Remedy*

In addition to focusing on prosecution and prevention, Act 105 focuses on the protection of victims of commercial sexual exploitation. Section 3051 provides a civil remedy for victims of trafficking, which empowers victims to sue individuals who participated in their trafficking. The civil remedies are discussed in more detail in Section 4.4.

### *Rape Shield*

Among the many features of Pennsylvania's anti-trafficking legislation, one important aspect that stands out is its rape shield protection for victims of human trafficking. [7] The law provides that "specific instances of past sexual conduct of the victim of human trafficking, opinion evidence of the alleged victim's past sexual conduct and reputation evidence of the alleged victim's past sexual conduct shall not be admissible in a prosecution under this chapter . . . ." [8] Although there are some exceptions to this protection, generally, the past sexual conduct of a victim of human trafficking is not admissible at trial and thus prosecutors should file pre-trial motions to exclude this evidence.

This protection is crucial for victims of human trafficking because it does not allow the defense to cross-examine victims on their past sexual conduct in order to attack their credibility at trial. This protection highlights the legislature's understanding that a person's prior sexual conduct does not have any bearing on the current offense of human trafficking, and a victim of human trafficking should not be prejudiced by his or her prior acts. The crime of human trafficking is based on the facts and circumstances surrounding the current offense, not based on what the individual may have done in the past. As such, the rape shield provisions in Act 105 prohibits alleged traffickers from introducing evidence of victims' prior sexual conduct, thereby protecting victims from having their personal experiences publicized in the courtroom.

## What is "Vacatur"?

When the Commonwealth enacted the comprehensive anti-trafficking statute, "Act 105," in 2014, the legislature wisely included a vacatur provision to help survivors who were wrongfully criminalized and convicted for crimes that occurred as a direct result of being a victim of human trafficking (18 Pa. Cons. Stat. § 3019(d)). Vacatur is a post conviction legal remedy that vacates or nullifies a conviction and expunges the arrest record. Given the numerous hardships generated by a criminal record, this remedy can be a significant part of a survivor's healing and restoration.

Comparatively, in terms of eligible offenses, Pennsylvania's law is broader than the majority of other state vacatur laws. A sex trafficking survivor can petition the court to vacate a conviction for the following crimes when committed as a direct result of their victimization: prostitution, obstruction of the highway, criminal trespass, disorderly conduct, loitering and prowling at night time, and/or an offense for simple possession of a controlled substance. One major objective of the CSE Institute Justice for Victims Fellowship is the generation and expansion of a robust vacatur practice throughout the Commonwealth.

The CSE Institute continues to recommend legislative corrections to procedural flaws in the law in order to ensure the vacatur provision achieves its intended goals. First, the law requires that the motion to vacate "[b]e consented to by the attorney for the Commonwealth." Instead of requiring prosecutorial consent, the law should require that notice be given to the prosecuting authority, with an opportunity to object to the motion. The authority to review and consider the motion appropriately lies with the courts, and the courts should not be prohibited from considering the motion absent permission from the attorney for the Commonwealth. Second, the requirement that supporting evidence be described with particularity should be eliminated. Finally, in order to be completely survivor-centered, the law should not limit vacatur to the six crimes currently listed.



It is important to note, however, that although a victim's sexual history may not arise at trial, it will likely be addressed during the pretrial motion stage. As such, prosecutors should never offer an absolute guarantee that a victim's prior sexual conduct will not be discussed during the trafficking prosecution. Moreover, in particular cases, evidence of a victim's prior history of prostitution-related arrests can actually assist the prosecution by helping to prove the "purpose" element of human trafficking. Thus, since some prosecutors may, as a matter of strategy, choose to introduce this information, it is imperative that law enforcement officers and prosecutors who work with victims of trafficking never make promises that the history in question will never be addressed in court.

### **Defenses**

Another protection offered to victims of commercial sexual exploitation provided in Act 105 includes is an affirmative defense in cases where victims have been charged with certain crimes. This defense provides that:

An individual who is charged with any violation under section 5902 (relating to prostitution and related offenses) may offer the defense at trial that he engaged in the conduct charged because he was compelled to do so by coercion or the use of, or a threat to use, unlawful force against his person or the person of another, which a person of reasonable firmness in his situation would have been unable to resist. [9]

By including this defense in the law, the legislature recognized that many

individuals charged with prostitution are, in fact, victims who have been compelled to perform commercial sex acts. Because they commit these acts under compulsion, victims of trafficking ought not to be treated as criminals, but rather as victims who should be provided support and services.

## **3.2 Moving Forward**

### **Safe Harbour for Sexually-Exploited Children (SB 554 and HB 2289)**

Although Pennsylvania has a comprehensive human trafficking statute, there is one problem that the law does not currently address: prostituted and commercially-exploited children are not criminals—they are victims of child sexual abuse. As such, they should never be arrested, prosecuted, or adjudicated delinquent for crimes such as prostitution. Currently, Pennsylvania law still permits prosecution and juvenile adjudication of child victims of sex trafficking. This grave injustice in the Commonwealth's laws can be addressed by the passage of "Safe Harbor" legislation.

Twenty-three states and the District of Columbia have all adopted comprehensive "Safe Harbor" laws, which prohibit criminalization of minors for prostitution. [10] These laws are designed to protect children who are exploited for commercial sex, by recognizing that they are victims - not criminals. Generally, these laws mandate the creation of specialized services for sexually-exploited children. As many as thirty-four states

currently have some type of specialized laws addressing child sex trafficking, either granting immunity from prosecution or providing services to children who are victims of commercial sexual exploitation.

Senate Bill 554 was introduced by Pennsylvania lawmakers in 2017, but has yet to be enacted into law. [11] In April of 2018, Pennsylvania State Representative Joseph Petrarca introduced a House analog, House Bill 2289. [12] Both Bills are intended to grant juveniles immunity from prosecution for prostitution and other related offenses, including obstructing highways and other public passages, when the victims are determined to be sexually-exploited children. [13] In addition to granting child victims immunity from prosecution, the Bills also require law enforcement officers to refer sexually exploited children to appropriate services provided through the Department of Human Services (DHS). Specifically, HB 2289 is intended to provide these victims with the services necessary to address their needs, which often includes housing, education, medical care, access to education, and access to personal care items. [14] Under SB 554 and HB 2289, DHS is required to ensure that providers of these specialized programs receive sufficient training on how to help children who are victims of commercial sexual exploitation. [15]

SB 554 and HB 2289, if enacted, would also establish the Safe Harbor for Sexually Exploited Children Fund (Fund), which would be administered by DHS. [16] The Fund would be created through fines paid by individuals convicted of human trafficking, involuntary servitude, patronizing a victim of sexual servitude,

and/or prostitution offenses related to purchasing sex. The Fund would be used to provide services to trafficking victims and to raise public awareness of human trafficking through an anti-demand campaign.

We continue to advocate for the enactment Safe Harbor legislation in Pennsylvania, in order to protect children who are victims of commercial sexual exploitation and to provide them with the services needed for their recovery and restoration. Safe Harbor recognizes that children are victims, not criminals, and provides state agencies with resources to offer crucial services to these victims.

### House Bill 2029

In January of 2018, Representative Seth Grove introduced House Bill 2029 to the Pennsylvania House of Representatives. The Bill was referred to the House Judiciary Committee in January. HB 2029 proposes a number of changes to Pennsylvania law regarding trafficking. Notably, it seeks to increase the seriousness of trafficking in individuals and patronizing a victim of sexual servitude from second-degree felonies to first-degree felonies, and to increase the fines associated with both the offenses of

patronizing a victim of sexual servitude and purchasing sex, as criminalized under 18 Pa. Cons. Stat. § 5902(e). [17]

These changes included in House Bill 2029 emphasize the Legislature's intent to more severely punish traffickers and recognizes that individuals who buy sex drive the market for human trafficking.

### 3.3. Legislative Recommendations

#### Reintroduce & Pass House Bill 2090

Back in May of 2016, State Representative Joanna McClinton introduced House Bill 2090 to the House of Representatives of Pennsylvania. HB 2090 proposed amendments to the prostitution statute to remove the recidivism penalties for a violation of § 5902. [18] Recidivist provisions increase penalties for repeat violations of the criminal code, which result in draconian punishments for trafficking victims. [19]

HB 2090 was introduced and referred to the Judiciary Committee but died prior to consideration. This Bill is an important piece of legislation to provide further protections to victims of human

trafficking, and we urge the House of Representatives to reintroduce it during the next legislative session.

Under the current prostitution laws in Pennsylvania, a first or second offense is a misdemeanor of the third degree, a third offense is a misdemeanor of the second degree, and a fourth or subsequent offense is a misdemeanor of the first degree, which carries a punishment of up to five years' incarceration. [20] As such, repeat violations of the prostitution statute enhance the penalty up to a misdemeanor of the first degree. The problem with the current recidivism scheme is that it assumes individuals will be deterred from engaging in prostitution if there is a threat of harsher punishment for each subsequent provision. However, this assumption is unjustified, since many prostituted persons do not willingly and voluntarily sell sex. Rather, they are victims of human trafficking and do not have the means to leave this "life." Furthermore, prostituted persons and victims of human trafficking may have histories of physical and psychological abuse and trauma, which adds to the problem of enhancing penalties against these individuals.

In addition, recidivist enhancements for

the crime of prostitution do not prevent prostitution from occurring. In many situations, the prostituted person is charged under the prostitution law, while the person buying sex is neither arrested nor charged with patronizing prostitution. Often, the sex buyer does not face any criminal ramifications for patronizing a prostitute.

As we move forward, we hope to see Pennsylvania adopt legislation that removes recidivism penalties from the crime of prostitution, and instead provides for robust social services - including exit strategies - rather than arrest, to those who have been victimized by the sex trade. We are looking forward to working with the legislature on drafting laws that protect survivors and place the penalties on the party that retains choice in their actions and fuels the demand for commercial sex—those who buy sex and traffickers who profit from their victims.

**Align state law with federal law and include “advertises” and “patronizes” in Pennsylvania’s definition of “Trafficking in Individuals”**

The federal anti-trafficking law, as amended by the Justice for Victims of Trafficking Act of 2015, prohibits ten acts,

including both advertising and patronizing. [21] On the other hand, Pennsylvania’s anti-trafficking statute lists only eight acts that can be shown to prove an individual engaged in the trafficking of persons. [22] It states that someone commits trafficking if he or she “recruits, entices, solicits, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to involuntary servitude . . . .” [23] Thus, unlike the federal anti-trafficking law, Pennsylvania’s criminal code does not currently include “advertises” or “patronizes” in the list of acts that may establish the conduct element of trafficking.

Pennsylvania’s definition of trafficking should be expanded to include both “advertises” and “patronizes,” so that the Commonwealth’s anti-trafficking laws will be in line with the federal anti-trafficking statute. This change will highlight the Commonwealth’s commitment to targeting the demand for trafficking and to prosecute traffickers who advertise victims of trafficking on various Internet sites.

A discussion of the importance of aligning Pennsylvania state law with federal law and adding “advertising” and to its anti-trafficking law can be found in Section 5.3.

## What is “The Nordic Model”?

The Nordic Model was designed in Sweden, following extensive research. It is a demand driven model of policing human trafficking. It involves decriminalizing those who are prostituted, while criminalizing those who buy sex. Buying sex is inherently violent and exploitative; thus, by criminalizing sex buyers, the Nordic Model seeks to reduce the demand. Finally, the Nordic Model requires the implementation of compassionate support and holistic, exit-based services for prostituted people. [24]

## 4. Law in Action

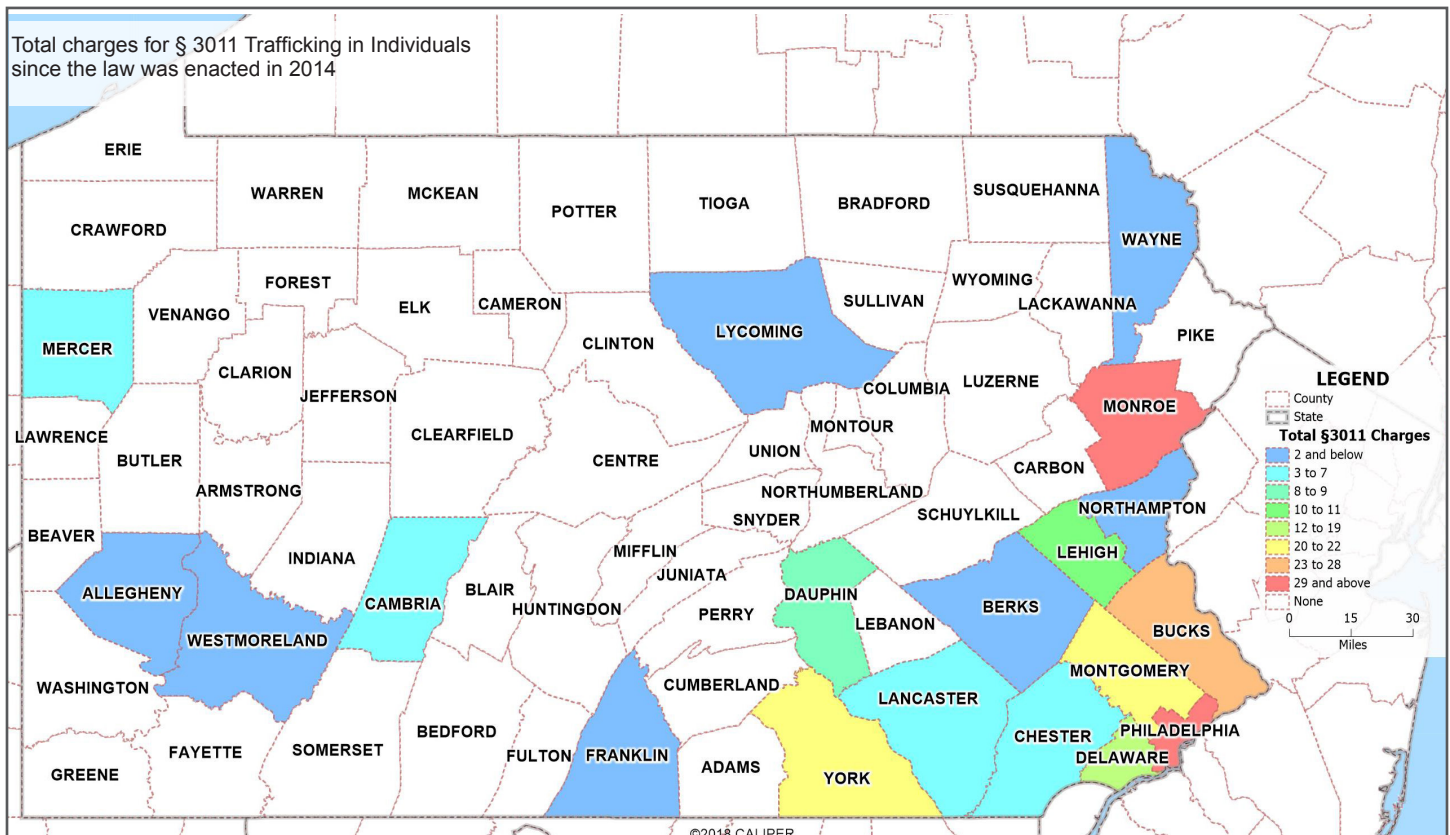
### On the Ground Efforts

#### 4.1 Criminal Law Overview and Statistics

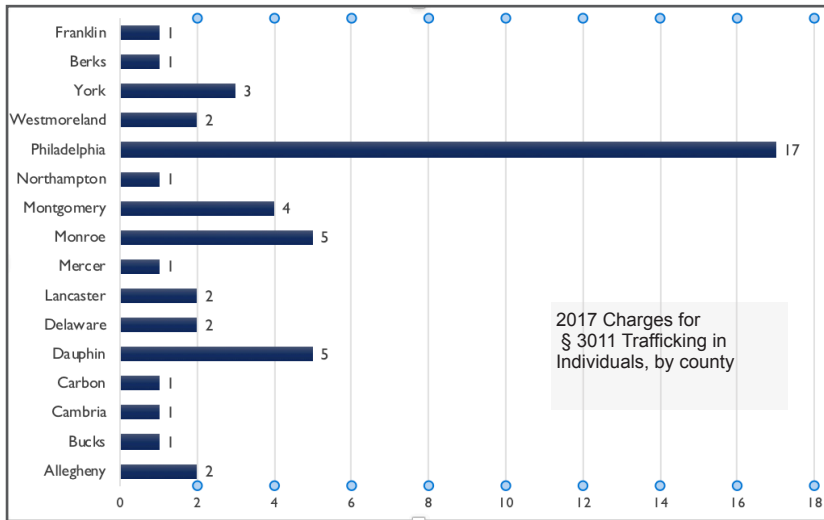
Since Act 105 (2014) was enacted, twenty counties in Pennsylvania have charged at least one person with either Trafficking in Individuals (18 PA. Cons. Stat. § 3011), Involuntary Servitude (18 PA. Cons. Stat. § 3012), or both. There have been a total of 335 charges brought under Act 105: 182 charges brought against 42 defendants under § 3011 and 153 charges brought against 40 defendants under § 3012. 15 counties charged individuals with § 3011, and 13 counties charged individuals with § 3012. Monroe County has charged the most under § 3011 - 31 since 2014, and Montgomery County has charged the most under § 3012 - 40 since 2014.

In addition to Act 105, criminal charges involving transactions for commercial sex are often prosecuted under (18 PA. Cons. Stat.

§ 5902), the provision which criminalizes prostitution and related offenses. Under the two relevant sub-sections of this statute, § 5902(a) (criminalizing selling sex) and § 5902(e) (criminalizing buying sex), a total of 1,890 cases have been brought at both the Magisterial District Court and Court of Common Pleas levels. Of these cases, 1,443 were brought under § 5902(a), while 447 were brought under § 5902(e). Thus, this data shows that over 75% of the charges brought under this statute are brought against prostituted persons, not sex buyers. Of the 67 counties in Pennsylvania, only 10 counties charged violations of § 5902(e) at a higher rate than violations of § 5902(a). These counties are: Adams, Beaver, Bradford, Centre, Franklin, Lebanon, McKean, Mercer, Monroe, and Northampton. As we continue to advocate for an anti-demand approach to ending CSE, we hope to add more counties to this list in future years.







Charges for § 5902 (a) selling sex vs. § 5902 (e) buying sex

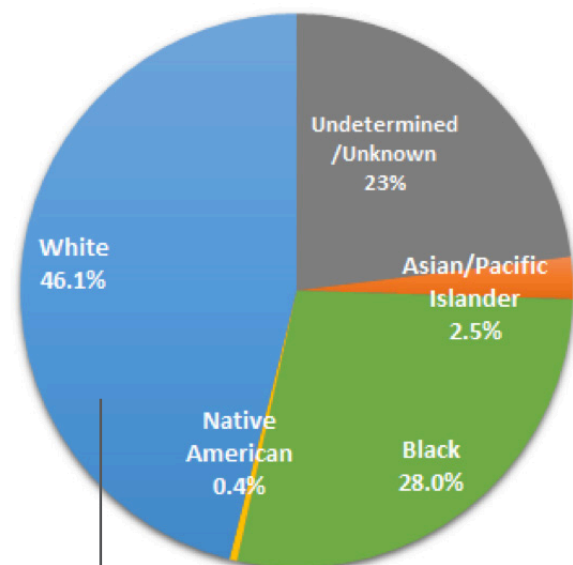
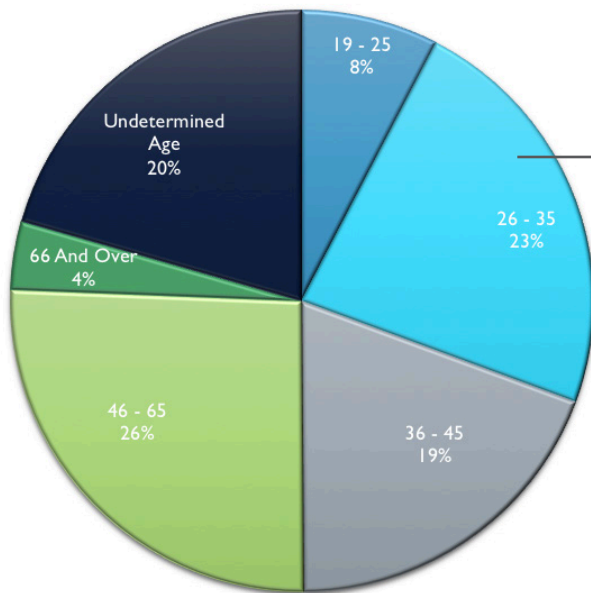
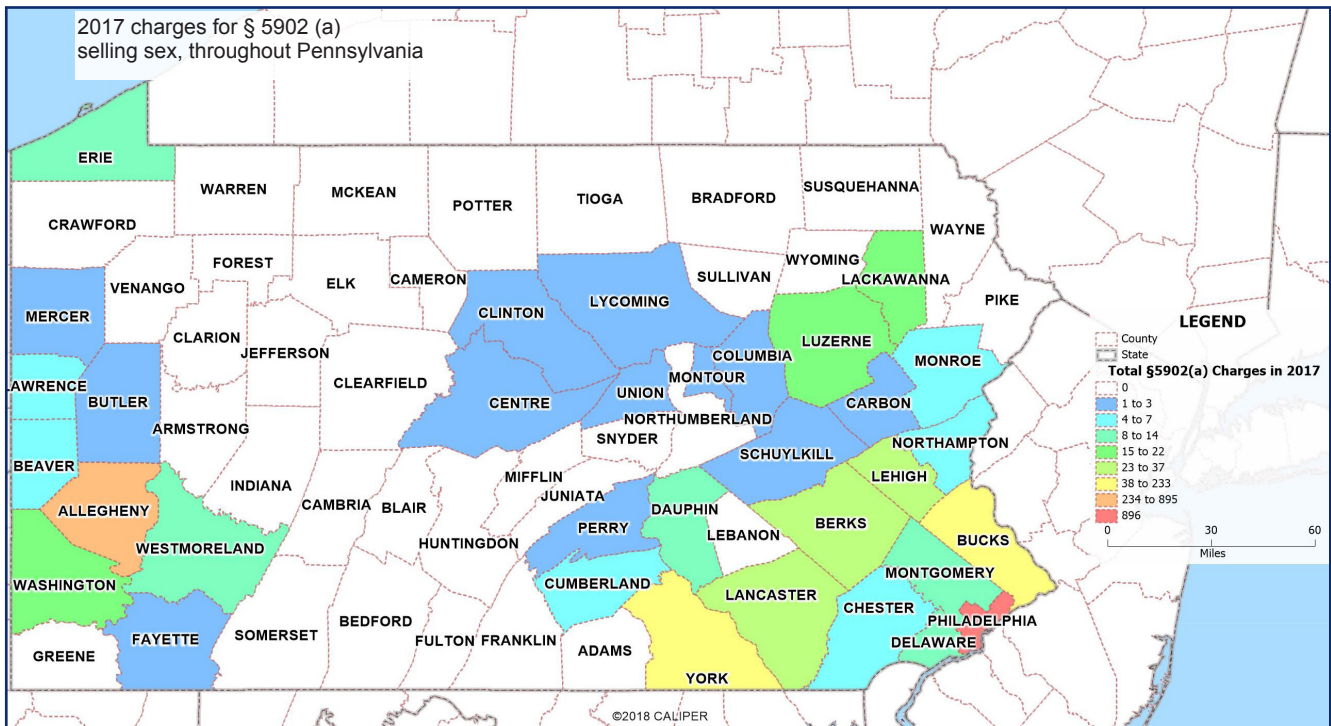
County	Selling	Buying
Adams *	0	1
Allegheny	234	59
Beaver *	5	6
Berks	25	7
Bradford *	0	1
Bucks	44	1
Butler	3	0
Cambria +	0	0
Carbon	3	0
Centre * ^	1	4
Chester	5	0
Clearfield +	0	0
Clinton	1	0
Columbia ^	1	1
Cumberland	4	0
Dauphin	11	9
Delaware	10	0
Erie	10	0
Fayette	2	0
Franklin *	0	1
Indiana +	0	0
Jefferson +	0	0
Lackawanna	15	2
Lancaster	31	27
Lawrence	7	0
Lebanon *	0	1
Lehigh	23	0
Luzerne	17	10
Lycoming	3	1
McKean *	0	1
Mercer * ^	1	2
Monroe *	5	18
Montgomery	11	10
Montour	1	0
Northampton *	6	12
Perry	2	0
Philadelphia	896	261
Schuylkill ^	1	0
Union	1	0
Washington	18	2
Westmoreland	8	2
York	38	8
<b>Total</b>	<b>1,443</b>	<b>447</b>

Data from the Administrative Office of Pennsylvania Courts



Only **10** out of the **38** counties that reported arrests targeted the demand for commercial sexual exploitation, by arresting buyers more frequently than sellers.

\* Counties where reported arrests for buying sex outnumbered arrests for selling sex.  
 + Counties which reported in 2016, but did not in 2017  
 ^ Counties which reported in 2017, but did not in 2016



Data from the Administrative Office of Pennsylvania Courts

## 4.2 Highlight: Montgomery County's Demand-Driven Tactics

Montgomery County, Pennsylvania, has been developing a demand-driven, cooperative protocol for human trafficking cases involving children for several years.[1] Thanks to a grant awarded by the Office for Victims of Crime to the Salvation Army's New Day to Stop Trafficking program, Montgomery County stakeholders are now developing protocol for human trafficking cases involving adults.[2] Other counties in Pennsylvania looking to target human trafficking through demand-driven and victim-centered investigation practices should look to the example being set by Montgomery County.

Human trafficking cases that involve children in Montgomery County typically begin in the Office of Children and Youth, where children and their families fill out screening tools aimed at detecting risk factors for trafficking.[3] If a child is identified as being a potential victim of commercial sexual exploitation or human trafficking, a multidisciplinary response is initiated, beginning with the Office of Children and Youth, Mission Kids - Montgomery County's Child Advocacy Center - and law enforcement.[4] These screening tools provide a great way for social workers and law enforcement to identify potential human trafficking victims because foster system-involved youth are at a significant risk of being trafficked and exploited.[5] In addition to referrals to law enforcement generated from the Office of Children and Youth, there are also other ways cases may be brought to the attention of law enforcement, including

through self-reporting, undercover police investigations, tips from the Human Trafficking Resource Hotline, or information from the FBI.[6] Local law enforcement often works with other law enforcement agencies—including the FBI, Department of Homeland Security, Pennsylvania Attorney General's Office, and the Pennsylvania State Police—to police these crimes.[7]

Once a potential minor victim of sex trafficking is identified, the child is brought to Mission Kids for a forensic interview. In Montgomery County, Mission Kids is the primary facilitator of multi-disciplinary investigations involving child abuse. Under the law, human trafficking and commercial sexual exploitation are forms of child abuse[8], and therefore fall under Mission Kids' purview. By only requiring the child to tell his or her story once, rather than many times, the forensic interview model provides an effective platform for asking all of the stakeholders' questions without re-traumatizing the child. Stakeholders include law enforcement, the District Attorney's office, and social services providers. According to Abbie Newman, the CEO and founder of Mission Kids, it is important to remember that victims of human trafficking often respond differently to interviews than victims of other crimes. [9] Specifically, it often takes longer for victims to be willing to talk about their experiences: it can take weeks or even months for victims of human trafficking to be willing to disclose what happened to them. Therefore, it is important to allow victims time to heal and to build trust with the team members.

In addition to their initial interview at

Mission Kids, child victims are assessed by family advocates, and may potentially receive a pro bono attorney through the Montgomery Child Advocacy Project. If deemed necessary, the children will also be referred to specialized medical and mental health services.[10]

While Montgomery County has already established practices for child victims of human trafficking, they are now in the process of creating and implementing policies for adult human trafficking cases. [11]

Through the OVC grant awarded to the Salvation Army's New Day to Stop Trafficking Program, Montgomery County is now implementing policies to address adult human trafficking. Their goal is to expand the policies and procedures already in place for child survivors of trafficking and commercial

“The Montgomery County DA's office is committed to investigating and prosecuting cases involving commercial sexual exploitation in a demand driven fashion. We understand that utilizing our resources to target sex buyers is the most strategic way to send a message that sex trafficking will not be tolerated in our jurisdiction.”

– Ed McCann, First Assistant District Attorney, Montgomery County

sexual exploitation to adult survivors.

[12] Recognizing the complex needs of survivors, the Salvation Army and the sub-recipient organizations under the grant, plan to engage with professionals from multiple different fields to determine and implement survivor-centered policies and practices.[13]

Montgomery County is committed to investigating and prosecuting cases in a survivor-centered manner. For example, when law enforcement conducts an undercover operation, the undercover officer is never the one who interviews the survivor. Instead, another member of the team will talk to the survivor when—or if—he or she is ready. As stated by Upper Merion Township Detective, and CSE Institute Advisory Board member, Les Glauner, officers will never force survivors to do anything they do not want to do. Instead, officers try to build trust with survivors, all the while knowing that they may never want to talk about their experiences. The officers also offer access to social services to every survivor of trafficking. Because of their early collaboration with other organizations, the officers are able to ensure the safety of the survivors first—for example, by finding them housing—and then focusing on pursuing the investigation.

Other counties in Pennsylvania should look to Montgomery County as an example for implementing demand-driven policing. For example, the Upper Merion Township Police Department collaborates with the National Johns Suppression Initiative (NJSI),[14] a national law enforcement strategy specifically targeting demand.

[15] Instead of searching for prostituted persons in order to arrest them for perpetrating crimes, investigators in Upper Merion Township look for these individuals in an effort to recover them as victims and survivors of human trafficking and exploitation.[16] One additional way in which Montgomery County law enforcement officers employ anti-demand tactics is through the use of reverse sting operations. These operations typically take the form of either female police officers posing as prostituted women, or online advertisements for sex. Then, when a sex buyer reaches an agreement to purchase sex—whether in person or through the internet—he is arrested.[17]

As stated, the CSE Institute applauds the law enforcement officers and service providers in Montgomery County who view these cases through a demand-driven, survivor-centered lens. Despite these policing policies, however, there still exists a disparity in the sentencing patterns between prostituted persons and sex buyers in the county. According to information provided by the Administrative Office of Pennsylvania Courts, in 2017, there were 4 cases brought under Pennsylvania’s anti-human trafficking statutes,[18] and 21 cases brought under Pennsylvania’s anti-prostitution statute. [19] However, of the cases brought under the anti-prostitution statute, 11 cases were brought under the section of the statute that criminalizes selling sex,[20] and only 10 cases were brought under the sex buying provision.[21] Of the 11 cases brought under section 5902(a), each of the six cases that have been resolved have resulted in sentences of

either probation or a term of confinement, while the 9 cases resolved under section 5902(e) have resulted in either Accelerated Rehabilitative Disposition (“ARD”)—a form of diversion that does not result in a conviction—community service, or a guilty plea to a summary offense.[22] Notably, in the only case brought under section 5902(a) where ARD was requested, it was denied by the Assistant District Attorney. [23] The disparity in sentencing between those charged with selling sex and those charged with buying sex indicates that prostituted people still face harsher consequences in the criminal justice system than sex buyers.

It is essential that professionals, in any field, who are likely to encounter survivors of human trafficking and/or commercial sexual exploitation are trained to treat both adult and child survivors as victims, not perpetrators. Furthermore, these cases are best handled by a team of multidisciplinary professionals. When investigating cases involving trafficking and commercial sexual exploitation, the single most important thing for individuals to remember is that collaborating with other service providers “early and often” will lower the chances of re-traumatizing victims and will build trust between the survivor and the members of his or her team.[24] Finally, as Detective Glauner states, each county should find their niche. [25] Montgomery County’s model may not work for counties with different populations and resources, but it certainly provides a positive, victim-centered starting point.

Commercial sexual exploitation is a demand-driven industry; thus, it can only



be eradicated through the use of demand-focused policing tactics. To that end, we congratulate those in Montgomery County on their focus on the demand and hope that other counties will follow Montgomery County's example. Only through focusing on arresting and prosecuting the sex buyers, rather than the prostituted persons, can we prevent this heinous crime from occurring.

### 4.3 Federal Trafficking Prosecutions

In previous years, our Report has focused almost entirely on the status of commercial sexual exploitation and human trafficking under state law; however, we recognize that the involvement of federal law enforcement plays an crucial role in this fight. Throughout 2017, prosecutors in each of the three federal districts—the Eastern, Middle, and Western Districts of Pennsylvania—have indicted, charged, and tried multiple traffickers to conviction.

The CSE Institute commends the federal prosecutors in the each of the federal districts for tackling the issue of trafficking within their jurisdiction. For example, in 2017 alone, the U.S. Attorney's Office for the Eastern District was able to secure four indictments for sex trafficking. As U.S. Attorney Louis D. Lappen noted, Eastern District AUSA Michelle Morgan, a member of the CSE Institute's Board of Advisors, also secured a historic 100-year federal prison sentence for Kevin Graham for his "acts of force, threats, fraud, and coercion." Regarding the prosecution and conviction of Graham,

AUSA Lappen stated,

"Sex Trafficker Kevin Graham was sentenced to 100 years in prison, the longest sentence of its kind to date, which reflects the tenacity of our commitment, as well as that of our law enforcement partners, to investigate and prosecute these cases. Graham engaged in acts of force, threats, fraud and coercion to cause young women to engage in prostitution, including subjecting them to repeated acts of sadistic sexual torture, monstrous acts by any account. Simply put, all human trafficking is modern day slavery."

The 100-year sentence imposed on Graham reflects the severity of his actions on both the women he victimized and the community as a whole. It is the hope of the CSE Institute that this case will serve as an example for other judges to consider when imposing a sentence upon a trafficker.

We also recognize the incredible devotion to justice of prosecutors in the United States Attorney's Office for the Middle District of Pennsylvania. In the Middle District, prosecutors were able to secure two indictments under the federal trafficking statute, 18 U.S.C. § 1591. Under this statute, prosecutors in the Middle District indicted Faizal Bhimani and Om Sri Sai, Inc.,[1] a Bartonsville hotel, for sex trafficking by "force and coercion" and drug-related charges. The U.S. Attorney's Office also indicted Frederick Brown[2] for sex trafficking of a minor, which included coercive "commercial sex acts," and drug-

**“ Sex Trafficker Kevin Graham was sentenced to 100 years in prison, the longest sentence of its kind to date, which reflects the tenacity of our commitment, as well as that of our law enforcement partners, to investigate and prosecute these cases.”**

– Louis D. Lappen, Assistant United States Attorney, Eastern District of Pennsylvania

related charges. These prosecutions are incredibly important, at both the federal and state levels, because they send strong messages that human trafficking and commercial sexual exploitation will not be tolerated in the Commonwealth and will be prosecuted vigorously.

The CSE Institute also commends the ongoing efforts of the U.S. Attorney's Office in the Western District of Pennsylvania. In the Western District, there has been at least one indictment charging a sex buyer as a trafficker under the federal anti-trafficking statute. This approach, which is permissible under both the federal and Pennsylvania anti-trafficking statutes, is relatively novel in the Commonwealth, and occurs in only a limited number of cases. We applaud the use of this theory by the AUSAs in the Western District, and hope to see their example followed by federal and state prosecutors in the future.

## 4.4 Civil Remedies

What are civil remedies and why are they important?

While criminal penalties for convicted human traffickers can include both incarceration and fines, civil remedies, in the form of damages, can provide additional relief to survivors. Criminal cases are brought by state and federal prosecutors, who represent the community as a whole, rather than a specific individual. In contrast, civil causes of action are filed by survivors and their families. To give survivors standing to sue their traffickers, as well as third-party facilitators who financially benefited from their victimization (e.g., websites, hotels, and transportation agencies), civil remedies must be provided for by statute.

Pennsylvania's comprehensive anti-human trafficking statute, known as Act 105,[1] provides these civil remedies for trafficking victims. Act 105 applies not only to traffickers but also to third-party facilitators.

Section 3051(a) specifies that a human trafficking survivor may bring a civil action against anyone who "participated" in the trafficking.[2] Subsection 2 states that a "sex trade" victim may bring a civil action against those who recruit, profit from, or maintain a victim; abuse or cause bodily harm to a victim; and knowingly advertises or publishes advertisements for purposes of recruitment into the sex trade activity.[3] Under this law, a survivor may receive actual, punitive, and compensatory damages, injunctive relief, attorney's fees, and, if a defendant's

actions were willful and malicious, treble damages.[4] A survivor has a five-year statute of limitations to bring a civil action, or, if the survivor was a minor at the time of the trafficking, until he or she reaches the age of thirty.

Because § 3051 provides for survivors of sex trafficking to file suit against "any person that participated in the human trafficking of an individual," the statute permits survivors to bring civil actions against websites like Backpage.com. As discussed in Section 5.3 of this report, however, winning these lawsuits is often challenging because must find a way to overcome the high mens rea standards and, until the passage of the "Allow States and Victims to Fight Online Sex Trafficking Act of 2017,"[5] plaintiffs also had to overcome the so-called "immunity" that was provided by the Communications Decency Act, 42 U.S.C. § 230(c).

## 4.5 Third-Party Liability

### Impact Litigation

Throughout the country, dozens of civil cases have been brought against third-party facilitators, including—and, perhaps, especially—Backpage.com. In 2017, in the Philadelphia Court of Common Pleas, Attorney Nadeem Bezar of Kline & Specter, PC filed two suits against hotels on behalf of minors who were victims of sex trafficking.[6]

In *M.B. v. Roosevelt Inn LLC*,[7] the plaintiff, now seventeen years old, was exploited by traffickers for commercial sex acts beginning when she was fourteen years old.[8] Attorney Bezar brought suit

against the Roosevelt Inn, the owner of the hotel, and Alpha-Centurion Security, the company which provides security services to the hotel.[9] The complaint alleges negligence under Pennsylvania's human trafficking statute, negligence, negligent infliction of emotional distress, and intentional infliction of emotional distress.[10] The case is currently listed for a settlement conference and has a projected trial date of February 4, 2019. [11]

In *E.B. v. Motel 6 Operating L.P.*,[12] the plaintiff, now nineteen years old, was a victim of sex trafficking during 2014.[13] The named defendants in the case are Motel 6 and the motel management services company.[14] The complaint alleges negligent violation of Pennsylvania's human trafficking statute, negligence, and intentional infliction of emotional distress and seeks \$50,000 in compensatory and punitive damages. [15] The case is currently listed for a settlement conference, and a motion for judgement on the pleadings, filed by the defendant, is pending before First Judicial District Common Pleas Court Judge Lisa Rau.[16]

Civil cases of this nature have arisen not only in Pennsylvania, but throughout the country. For example, in a Texas state court, a Jane Doe victim brought suit against truck stops, hotels, and Backpage.com.[17] Each of the defendants were alleged to have knowingly benefitted from the trafficking of persons, violated their duty of care in operating their respective websites, hotels, and truck stops in a manner that endanger or contribute to the sex

trafficking of minors, and aided and abetted the trafficking of minors.[18]

In Illinois state court, the mother of a murdered human trafficking victim sued a hotel under state tort claims of wrongful death, willfully and wantonly caused wrongful death, civil conspiracy, wrongful death caused by battery, and accompanying survival actions for wrongful death, intentional infliction of emotional distress, negligent infliction of emotional distress, and battery.[19] The CSE Institute is currently engaged in drafting an amicus curiae brief on behalf of the plaintiff in this case.

We applaud each of these survivors' courage in this revolutionary litigation. While many of these cases have been dismissed over the past few years, it is imperative for survivors to persevere and continue trying to hold these third-party facilitators responsible. It is essential for attorneys to take a trauma-informed approach to lawyering and support their clients as they seek justice against these complicit players.

### Third Party Criminal Liability

In addition to civil cases naming third parties as defendants, in 2017 there was also a rise in criminal cases against third parties. For example, in October 2017, a federal grand jury indicted Faizal Bhimani, a 41-year-old from Bartonsville, Pennsylvania, on sex and drug trafficking charges.[20] The United States Attorney's Office for the Middle District of Pennsylvania alleged that Bhimani, a hotel manager, and Om Sri Sai, Inc. "facilitated and profited from

drug trafficking and commercial trafficking by force, fraud, and coercion" under the federal Trafficking Victims Protection Act (TVPA), as amended.[21] As a remedy, the government is seeking to forfeit all of the defendants' assets, including the hotel's liquor license and real property. [22]

### Allies in the Fight

Because players within the transportation industry play a significant role in the prevalence of trafficking in our community, it is essential to form alliances with ethical actors within the industry. For that reason, we are thankful for the support of the Pennsylvania Department of Transportation (PennDOT) in the fight against trafficking. On January 11, 2018, the leaders of PennDOT signed the "Transportation Leaders Against Human Trafficking" pledge.[23] By signing, PennDOT pledged to train its 15,000 employees across the state to recognize signs of human trafficking by July 1, 2018. PennDOT developed this training in collaboration with the CSE Institute and Truckers Against Trafficking. Truckers Against Trafficking, a major ally in this fight, is a national organization that educates members of the trucking industry about how to recognize the signs of human trafficking and how they can help end this epidemic.[24]

The CSE Institute applauds PennDOT Secretary Leslie S. Richards for her steps to combat human trafficking and encourages other agencies throughout the country to train their employees to identify the symptoms of trafficking. At the April 2018 CSE Survivor Symposium, we

had the pleasure of honoring Secretary Richards for her efforts with our "Justice Done Award."

Private companies are also joining the fight against human trafficking and commercial sexual exploitation. In January 2018, Uber pledged to provide training to its drivers across the country to teach them about the signs of trafficking and the importance of reporting suspected cases to law enforcement.[25]

Allies in the hotel industry are also working to combat human trafficking that occurs on their premises. For example, Marriott International has partnered with ECPAT-USA to address child sex trafficking in the hotel industry.[26] Marriott announced that it will train all employees on how to recognize trafficking and provide protection for victims. Since 2011, Marriott has already trained 225,000 employees and requires training in 127 countries.[27]

### Insurance Ramifications

In response to third-party civil litigation, insurance companies are starting to take a stand against those that facilitate human trafficking. In the U.S. District Court for the District of Arizona, Travelers Property Casualty Co. sought a declaratory judgment against Backpage.com, asking if it could be free of defending and indemnifying the website.[28] This case arose after three minor sex trafficking victims brought suit against Backpage.com, New Times Media, LLC, and Village Voice Media, LLC in Washington state court in 2012.[29] After the victims filed an amended complaint, Travelers filed a suit

claiming that Backpage.com’s \$5 million commercial general liability coverage and \$20 million umbrella policy do not cover intentional criminal acts. Travelers argued that the defendants knew their website was being used to sexually exploit children so it need not defend or indemnify Backpage.com. Travelers also sought reimbursement for attorney fees and costs. On March 23, 2018, the court granted the stipulated dismissal of Travelers’ action.[30]

Similarly, in the U.S. District Court for the Eastern District of Pennsylvania, First

Financial Insurance Company (FFIC) brought an action for declaratory action against Motel Management Services trading as Neshaminy Inn, arguing that the hotel should have known that its premises were being used for sexual exploitation.[31] FFIC claimed that its insurance policy does not cover battery, including sexual exploitation. FFIC argues that it has no duty to defend or indemnify Neshaminy Inn. In November 2017, this action was dismissed.[32]

Commercial sexual exploitation occurs everywhere; however, it occurs most

often where people are merely “passing through”—high-traffic websites, hotels, and transportation facilities. Thus, to end trafficking and exploitation, it is imperative that we address the harms caused in each of these areas. Through civil litigation against third-party facilitators, alliances with stakeholders in each industry, and insurance companies acting ethically, we can make significant strides in ending this epidemic.

## 5. Law and Social Change

### Survivor-Centered Approach to Ending Commercial Sexual Exploitation

Responding to survivor voices, in April 2018, the CSE Institute hosted the Second Annual Survivor-Led Symposium. The two-day symposium focused on Engaging Survivors of Commercial Sexual Exploitation in the Search for Justice. Survivor leaders from across the country convened at the Inn at Villanova to lead a series of workshops on topics, including: Understanding the Nordic Model Approach to Prostitution; Survivor Leadership in California; Pornography; Survivors and Substance Abuse Disorders; Trafficked Boys: Bringing Male Victims of Human Trafficking Out of the Shadows, and many more. Lawyers, law students, professors, law enforcement officers, social workers, and victim services professionals were among the engaged participants who attended. The Second Annual symposium was a great success and expanded attendees’ perspectives on the complexities of human trafficking and the importance of

focusing on survivor-centered services.

This year, the CSE Institute has engaged with partners and allies across the Commonwealth to discuss the merits of a survivor-centered approach to ending commercial sexual exploitation. By partnering with government agencies like the Pennsylvania Department of Transportation, other universities like Duquesne, and organizations within the Villanova community, we were able to reach a variety of audiences and educate them about the existence of trafficking in the Commonwealth and what we can all do to end this epidemic.

Our experiences engaging the survivor community over the past four years have reaffirmed the importance of remaining survivor-centered in our efforts to create legal and social change. As we continue to engage with other organizations and the law enforcement community, we

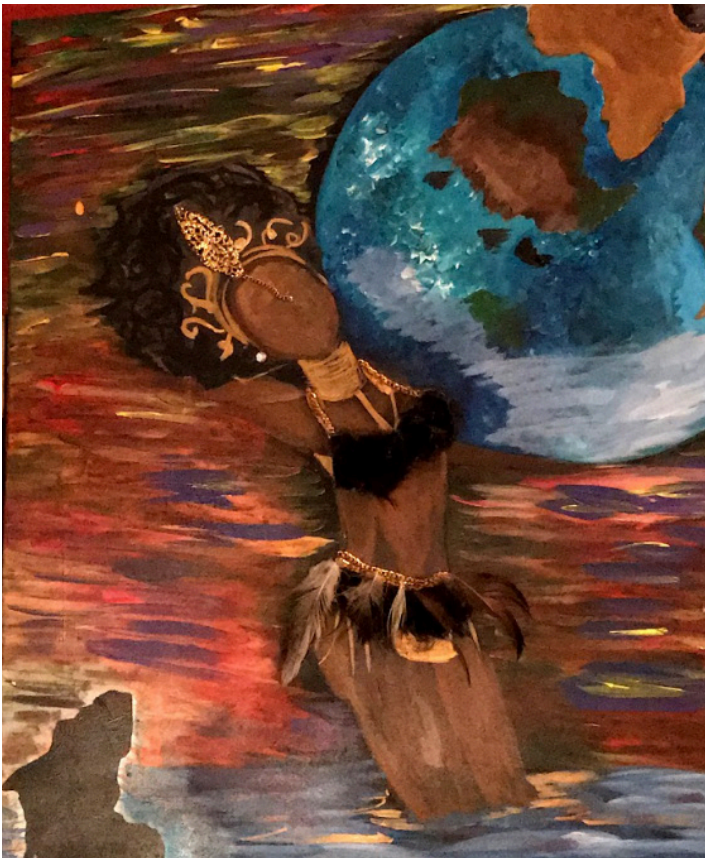
remain steadfast in our dedication to listen to survivors and keep them at the center of our efforts.

#### 5.1 The Survivor Voice: Victoria Fullen

In keeping with our commitment to being survivor-centered in all of our efforts, including this report, we sought the input of Victoria Fullen, a strong survivor of commercial sexual exploitation. Victoria graciously agreed to share her story, offering insight into how we—as advocates, lawyers, public interest professionals, law enforcement officials, and the community at large—can all do better.[1]

Victoria was involved in the foster care system for most of her life. At the age of three, after her grandparents became too elderly to care for her, Victoria was placed into a group home. From there, she was





Victoria Fullen is the founder and CEO of Artistry 23 Studios, a trauma-informed art studio located in Philadelphia that serves as a safe space for those who have experienced trauma, including foster children, survivors of sex trafficking, and others. Above are three of her original pieces of art.

moved into the homes of multiple different families, and experienced firsthand how isolated and lonely children in the child welfare system feel. Staff members, traffickers, and other predators know that these feelings make foster care-involved children vulnerable, and actively take advantage of this young, vulnerable, and isolated population.

Victoria hopes that our country's foster care system can incorporate a program that targets our nation's most exposed youth and provides realistic and practical information to foster-children about the tough road ahead of them. While the Philadelphia Department of Human Services provides some programming to

assist older youth with learning how to live independently, Victoria calls for more targeted, honest information that would teach children in the foster care system about the warning signs and risks of sex trafficking, as well as the resources available to them if they feel trapped.[2]

Several states have recognized that their foster care-involved children are uniquely susceptible to the tactics of sex traffickers, and have actively worked to counter the effects of this vulnerability.[3] To achieve this goal across the country, Victoria urges our nation's child welfare system to become more accountable to the public and to the children it serves. She suggests creating and implementing

a more rigorous tracking system for children in the foster care system. Victoria hopes that by holding the child welfare system to high standards of accountability, we can ensure that our country's foster care children feel as though they have someone looking out for them.

Finally, Victoria reiterates the significance of implementing educational and life-skills programs that target the most youth in our country. We, as a society, owe a duty of care toward these, the country's most at-risk children. By targeting our efforts towards these children, Victoria hopes that foster-involved children can better prepare themselves for the future, and

“To foster care officials, be patient and reach out. To survivors, use your voice. The more voices, the better chance there is that someone else can be saved. To our communities, do not ignore the warning signs. To all of us, we are responsible for listening to survivors and holding perpetrators accountable. This problem [of sex trafficking] will not stop until we come together to stop it.”

– Victoria Fullen, Survivor

can persevere through the difficulties that may arise due to their vulnerable position.

Today, Victoria is the founder and CEO of Artistry 23 Studios, an urban art studio located in Philadelphia. Her trauma-informed studio creates a safe space for those who have experienced trauma, including foster children, survivors of sex trafficking, and others. She wanted to create an outlet so that she and others can express themselves through art while processing traumatic experiences. Victoria uses her studio and knowledge to help others express their emotions in a healthy way. Trauma can often be difficult to articulate in words. Thus, Victoria’s studio helps survivors to express themselves through art—not through anger. As Victoria has said, “You can create something out of your weakness; create a positive out of a negative.” To her, art is therapy. She takes the complexities of her trauma and makes beauty from it.

Victoria is currently studying for her

Master of Business Administration for Project Management. Previously, she received her Bachelors of Business Administration with a Specialization in Entrepreneurship. She hopes to continue using her knowledge in business and art to aid those affected by trauma in their healing processes.

Victoria offers a message to how we can all do better: To foster care officials, be patient and reach out. To survivors, use your voice. The more voices, the better chance there is that someone else can be saved. To our communities, do not ignore the warning signs. To all of us, we are responsible for listening to survivors and holding perpetrators accountable. This problem [of sex trafficking] will not stop until we come together to stop it.

Victoria hopes that one day our community becomes more aware of the warning signs of possible trafficking. We can no longer ignore these systematic oppressions and be complicit in a system that traumatizes so many marginalized populations.

Victoria, thank you for sharing your story and for your efforts to support survivors and others who have experienced trauma. We commend you, we support you, and we are listening.

In 2017, Victoria’s trafficker was charged, convicted, and sentenced to 100 years in federal prison for sex trafficking.[4]

## 5.2 The Role of the Ally

The CSE Institute plays a pivotal role in the fight to end commercial sexual exploitation. Policy papers, educational materials, and scholarship coming from

the CSE Institute has begun transforming the lens through which stakeholders approach critical issues impacting survivors and victims of commercial sexual exploitation. For example, co-founder Michelle Dempsey’s article *Sex Trafficking and Criminalization: In Defense of Feminist Abolitionism*, inspired King County Prosecutor Valiant Richey to change the county’s approach to fighting commercial sexual exploitation and focus on targeting demand.[1] In Pennsylvania and throughout the country, advocates and educators are using policy papers written by the CSE Institute to inform legislators about the importance of passing laws on key issues such as Safe Harbor for child victims of sex trafficking and the legal ramifications of passing FOSTA/SESTA.[2]

For survivor Jerome Elam, the work of the CSE Institute represents a key aspect of why Congress passed the “Allow States and Victims to Fight Online Sex Trafficking Act of 2017” (hereinafter FOSTA/SESTA).[3] The CSE Institute believes in listening to survivors and putting their voices at the forefront of all that we do, a mission which Jerome considers crucial in informing lawmakers about proposed legislation.

Discussing the central role that the CSE Institute played in advocating for the passage of FOSTA/SESTA, Jerome stated:

The CSE Institute helps us look through the lens of the law and see how we can be most effective in changing legislation. The majority of victims are afraid of law enforcement and anything to do with the law so we need the CSE Institute to [help us] look through that lens. The



CSE Institute is very crucial in this fight because they understand the victim side and legal side and help to translate what victims and survivors have gone through and get legislation passed.

Jerome also praised the policy papers the CSE Institute produces. For example, while working on educating law-makers on FOSTA/SESTA, he remembers that “the CDA 230 paper was helpful . . . It is important for survivors to feel that the law works for them, not against them. That’s why it is critical that CSE Institute is there to ensure [for] us that the law is there to protect us and to help us change the law so it applies to the technologies of the current day.” Jerome recently presented his workshop entitled *Trafficked Boys: Bringing Male Human Trafficking Victims out of the Shadows* at our second annual survivor-led symposium.

Similarly, Alisa Bernard, a writer,

advocate, and survivor, recently weighed in on the importance of the CSE Institute in addressing human trafficking and commercial sexual exploitation. Alisa stated,

[The] CSE Institute creates a space for the survivor voice to be central to its mission. They are leading the way to a movement in which survivors can use their understanding to create real changes in the world around them. The research that the CSE Institute produces acts as a gate-opener rather than a gate-keeper, giving survivors the tools they need to make informed decisions and take meaningful roles in policy development. With this information and the numerous events and guidance that the CSE Institute is known for, they are effectively breaking down the barriers that survivors face in guiding policy that directly affects our lives.

“ [The] CSE Institute... [is] effectively breaking down the barriers that survivors face in guiding policy that directly affects our lives.”

– Alisa Bernard, Survivor

Like Jerome, Alisa recently presented at our survivor-led symposium, conducting a workshop entitled, *The Seattle Model: Ending Exploitation*.

Without the passionate advocacy and input from survivors like Jerome and Alisa, the CSE Institute would not be able to effectively advocate or educate other community members. We are grateful for the opportunity to meet with so many incredible individuals who allow us to elevate their voices through our platform at the CSE Institute.



Courtesy of DeBalko Photography

The CSE Institute’s Second-Annual Survivor-led Symposium, “Engaging Survivors of Commercial Sexual Exploitation in the Search for Justice”, brought together survivors from across the country to teach the Philadelphia community about how they can work towards becoming better allies in their professional capacities. Jerome Elam and Alisa Bernard both posed along with other survivor-leaders during the Symposium’s Award Ceremony where Leslie Richards, Secretary of the Pennsylvania Department of Transportation, received the Justice Done Award for her efforts to combat human trafficking throughout the state.

### 5.3 Mobilization at the Federal Level

#### How Congress's Passage of SESTA/FOSTA Affects Pennsylvania

On March 21, 2018, in a historic victory in the fight against sex trafficking, the federal government passed a combination of the "Allow States and Victims to Fight Online Sex Trafficking Act of 2017"[1] (FOSTA) and the "Stop Enabling Sex Trafficking Act of 2017"[2] (SESTA). This law, codified at Public Law No. 115-164 (2018), made two major changes to Federal law: first, it created a new statute which criminalizes "Whoever . . . owns, manages, or operates an interactive computer service . . . or conspires or attempts to do so, with the intent to promote or facilitate the prostitution of another person . . ."[3] Secondly, Pub. L. No. 115-164 amends the Communications Decency Act of 1934 (CDA) [4] to include a specific exception which permits prosecutors and civil plaintiffs to prosecute and/or bring lawsuits against owners of interactive computer services who violate the human trafficking laws.[5]

This legislative change could not have been possible without the mobilization of anti-trafficking organizations and allies throughout the country. The CSE Institute engaged with organizations such as Survivors for Solutions, World Without Exploitation, and many others to advocate for the passage of this law. Since it has gone into effect, Pub. L. No. 115-164 has led to significant advancements in the fight to eradicate sex trafficking. Most notably, on April 6, the U.S. Department of Justice seized backpage.com, the website which, as shown by the United States Senate's Permanent Subcommittee on Investigations, has profited extensively from hosting advertisements for commercial sex on their website.

Although these actions represent victories at the federal level, they highlight how far Pennsylvania still has to go. Because Pub. L. No. 115-164 permits states to prosecute website owners who knowingly facilitate trafficking under the state laws, it is imperative that our trafficking law, 18 Pa. Con. Stat. § 3011, be amended to read, "recruits, entices, solicits, harbors,

transports, provides, obtains, maintains, or advertises . . ."[7] If "advertises" were added into the Pennsylvania trafficking law, then state prosecutions against website owners could go forward. Currently, because knowingly advertising a victim of sex trafficking is not a crime under Pennsylvania law, the FOSTA amendment to the CDA has no effect in the Commonwealth.

In 2017, we saw historic movements in the fight against human trafficking and commercial sexual exploitation. Since FOSTA and SESTA were first introduced, survivors and anti-trafficking organizations across the country have engaged in zealous advocacy in support of the bill and since the bills' passage into law, law enforcement and federal and state litigators have affirmatively acted against irresponsible corporations that knowingly facilitate commercial sexual exploitation and benefit off of the victimization of others. The Commonwealth must be given the tools necessary to hold all offenders of human trafficking accountable under state law.



## 6. The Intersection of Human Trafficking and Immigration Law

### Consequences for misidentified victims

Recent media and investigative reporting have drawn attention to arrests at illicit massage parlors.[1] In Pennsylvania, as in many other states, the individuals most frequently arrested in connection with illicit massage parlors are the individuals performing the commercial sex acts, rather than those purchasing such acts.[2] According to the Polaris Project, most of the victims of trafficking in illicit massage parlors are foreign nationals, particularly from China, South Korea, Thailand, and Vietnam.[3] A wrongful conviction for these individuals can result in both criminal and immigration consequences, potentially depriving them of essential relief and services.

Foreign nationals enter into the illicit massage parlor “business” in many ways.[4] Some arrive in the United States on valid work or tourist visas and are deceived into working at a business where their identification documents are taken away as a means of coercion. Others are smuggled into the U.S. without immigration documents or while using false immigration documents and are then threatened with a report to the police or to the immigration authorities if they do not comply with the demands of the trafficker. Still others respond to advertisements promising stable jobs in the U.S., only to arrive and be taken to massage parlors, where they are forced to work in order to support their families in their home countries.[5] Each of these scenarios falls within the definition of “severe forms of trafficking in persons” under the Trafficking Victims Protection Act[6]: “a commercial sex act . . . induced by force,

fraud, or coercion.”[7] Despite the fact that these individuals fall within the legal definition of trafficked persons, many are undocumented and do not report the abuse they endure to the police because they fear deportation consequences.[8] As Polaris, a national anti-trafficking organization, notes, “potential survivors are treated like criminals and faced with what they are groomed by their traffickers to fear: police who arrest, and immigration authorities who deport.”[9]

Even if an individual is not convicted of a crime, contact with the local police force could lead directly to detention by Immigration and Customs Enforcement (ICE) agents.[10] The current presidential administration has adopted a policy of increased internal immigration enforcement and raids that target all undocumented immigrants, rather than specifically seeking out those with a dangerous criminal history.[11] Put differently, under the current immigration policy, all undocumented individuals are arguably “enforcement priorities” due to their violation of immigration law, meaning they are targets for deportation.[12] Therefore, if law enforcement and ICE agents are not properly trained to identify survivors of trafficking, survivors who have contact with ICE may be placed in deportation proceedings.[13]

Policies leading to increased detention and deportation will likely make victims even less willing to seek assistance from law enforcement.[14] Some have suggested that these types of policies may actually cause an increase in

trafficking because individuals, such as the foreign nationals trafficked in massage parlors, already fear reporting abuse to the police.[15] Furthermore, increased immigration raids and immigration enforcement could continue to erode trust in law enforcement.[16] As such, survivors of trafficking would be less likely to turn to officers to provide protection, support, and an avenue to escape trafficking.[17]

Additionally, trafficked individuals who are improperly arrested at massage parlors could be charged with crimes such as prostitution, practicing massage without a license, or working without proper immigration authorization.[18] Even if these charges do not automatically put an undocumented individual in contact with ICE and result in his or her deportation, a conviction can still have immigration consequences for any immigrant, whether documented or undocumented.[19] Under the current immigration law, an individual can be deported from the U.S. because they are either in the country without valid legal status or have obtained legal status but risk losing it due to contact with the criminal justice system.[20] An individual with a valid visa could be deported if he or she is convicted of a crime that falls into the category of “crime involving moral turpitude” (CIMT).[21] In Pennsylvania, CIMTs include theft, assault, and prostitution.[22] Many victims of trafficking are charged with the aforementioned CIMTs or other crimes, even if they are actually victims and crimes are being committed against them. To illustrate, if a trafficker

withholds food, a victim might resort to theft to survive; if a trafficker forces a victim to engage in commercial sexual exploitation, the victim might be charged with prostitution; if a trafficker is violent and the victim tries to protect herself, she could possibly be charged with assault. Thus, trafficking victims—both documented and undocumented—could face convictions with immigration consequences. Moreover, many of these convictions, including charges related to prostitution, are grounds for future inadmissibility to the country, which means that if an individual is deported and later tries to re-enter the U.S., he or she could be barred from re-entry due to these prior convictions.[23] Further, these types of convictions can prevent people from obtaining other forms of immigration status or using certain defenses to deportation.[24]

Despite the existence of multiple avenues for immigration relief, such relief might not be granted if survivors are misidentified as criminals or are deported before they can pursue these avenues.

Immigration relief is available for trafficked individuals.[25] For example, a special visa, the T-visa, is available to individuals who can show that they are victims of trafficking, as defined by law.[26] Many individuals, particularly victims in illicit massage parlors, could qualify for T-visas due to being both commercially sexually exploited and trafficked for forced labor. In order to qualify for a T-visa, individuals must show that they are or were victims of trafficking, that they are present in the United States due to the trafficking, that they have complied with requests from law enforcement for assistance in the investigation of the trafficking (unless they are under the age of eighteen or are otherwise unable to cooperate “due to physical or psychological trauma”), and that they can demonstrate hardship involving extreme and unusual circumstances if they were removed from the U.S.[27]

Another type of visa, the U-visa, is also available for victims of crimes. To qualify for a U-visa, individuals must show that they were victims of certain crimes (e.g., false imprisonment, sexual assault, extortion and fraud in labor contracting), and that they are helpful or likely to be helpful to law enforcement for the investigation and prosecution of the crime. Additionally, Violence Against Women Act petitions are available to foreign nationals who have been victims of violence from U.S. citizen spouses.

Despite the existence of multiple avenues for immigration relief, such relief might not be granted if survivors are misidentified as criminals or are deported before they can pursue these avenues. For this reason, wrongfully categorizing survivors of trafficking as criminals results in consequences that go far beyond time spent in jail and a criminal record, although these consequences are, themselves, unjust and harmful.[28] For many, deportation means returning to a country where an individual may face even greater risks to his or her person and may be stigmatized for engaging in sexual commercial exploitation or forced labor. Moreover, deportation removes a potential witness in a trafficking case.

Individuals engaging with the undocumented immigrant population should be trained to identify and assist victims of trafficking and support them through immigration relief. Healthcare workers, educators, and clergy are just a few of the many individuals who might come in contact with a trafficked foreign national and be able to provide assistance and referrals. Additionally, because the criminal justice system is an area in which victims can be misidentified, judges, law enforcement, prosecutors and criminal defense attorneys must be trained to identify victims of trafficking so that foreign national victims of crimes can be offered services, not sentences.[29]

## 7. Organizations and Groups Working Against Commercial Sexual Exploitation in Pennsylvania

Over the last couple years, we have worked in collaboration with the Victim Services committee of PAATH to gather and compile information pertaining to trauma-informed service providers working with survivors of human trafficking. All of the information gathered was self reported and in response to survey questions. The following information does not constitute an endorsement of any agency or services provided.

Organization	Web Address
Abuse Network, The	<a href="http://www.abusenetwork.org">http://www.abusenetwork.org</a>
A Child's Place (Mercy Health Place)	<a href="http://achildsplaceatmercy.org/home">http://achildsplaceatmercy.org/home</a>
A Safe Place, Inc.	<a href="http://www/jlc.org/resources/county-resource-guide/forest/safe-place-inc-forest-and-warren-counties">http://www/jlc.org/resources/county-resource-guide/forest/safe-place-inc-forest-and-warren-counties</a>
A Way Out	<a href="http://www.myawayout.org">http://www.myawayout.org</a>
A Women's Place	<a href="http://awomansplace.org/who/contact.html">http://awomansplace.org/who/contact.html</a>
Abuse & Rape Crisis Center	<a href="http://arcceducation.wix.com/arcc#!service/c1pna">http://arcceducation.wix.com/arcc#!service/c1pna</a>
ACCESS York, YWCA York	<a href="http://ywcayork.org">http://ywcayork.org</a>
Adams County Children's Advocacy Center	<a href="https://www.kidsagaincac.org/index.html">https://www.kidsagaincac.org/index.html</a>
Alice Paul House	<a href="http://www.alicepaulhouse.org">http://www.alicepaulhouse.org</a>
Beaver County Anti Human Trafficking Coalition	<a href="http://bcantihumantraffickingcoalition.weebly.com">http://bcantihumantraffickingcoalition.weebly.com</a>
Berks Women in Crisis	<a href="http://berkswomenincrisis.org">berkswomenincrisis.org</a>
Blackburn Center	<a href="http://www.blackburncenter.org">http://www.blackburncenter.org</a>
Bradley H. Foulk Children's Advocacy Center of Erie County, Inc., The	<a href="http://www.cacerie.org">http://www.cacerie.org</a>
Bucks Coalition Against Trafficking	<a href="http://bcatpa.org">http://bcatpa.org</a>
Bucks County Children's Advocacy Center	<a href="http://buckscac.com">http://buckscac.com</a>
Butler County Alliance for Children - Child Advocacy Center	<a href="http://www.butlercountycac.org">http://www.butlercountycac.org</a>
Cambria County Child Advocacy Center	<a href="http://cambriacac.org">http://cambriacac.org</a>
C.A.P.S.E.A., Inc.	<a href="http://capsea.org">http://capsea.org</a>
Care Center of Indiana County, The	<a href="http://carecenterofindianaco.org">http://carecenterofindianaco.org</a>
Centre County Women's Resource Center	<a href="http://ccwrc.org">http://ccwrc.org</a>
Chester County Anti-Trafficking Coalition (CCAT)	<a href="https://sites.google.com/site/ccatsite/">https://sites.google.com/site/ccatsite/</a>
Chester County Child Advocacy Center	<a href="http://www.chesco.org/1610/child-abuse">http://www.chesco.org/1610/child-abuse</a>
Children's Advocacy Center of Lawrence County	<a href="http://www.upmcjameson.com/cac">http://www.upmcjameson.com/cac</a>
Child Advocacy Center of Lehigh County	<a href="http://lehigh.pa.networkofcare.org/mh/services/agency.aspx?pid=ChildAdvocacyCenterofLehighCounty_794_2_0">http://lehigh.pa.networkofcare.org/mh/services/agency.aspx?pid=ChildAdvocacyCenterofLehighCounty_794_2_0</a>
Children's Advocacy Center of Northeastern PA	<a href="http://cacnepa.org">http://cacnepa.org</a>
Children's Advocacy Center of Mckean County	<a href="http://www.mckeancountypa.org/departments/children_s_advocacy_center/index.php">http://www.mckeancountypa.org/departments/children_s_advocacy_center/index.php</a>
Children's Alliance Center of Berks Co.	<a href="http://opphouse.org/looking-for-help/child-sexual-abuse-information-forensic-interviews.aspx">http://opphouse.org/looking-for-help/child-sexual-abuse-information-forensic-interviews.aspx</a>
Children's Center of Susquehanna & Wyoming Counties	<a href="http://www.fsawv.org/childac.php">http://www.fsawv.org/childac.php</a>
Children's Home of Easton, The	<a href="http://thechildrenshome.org">http://thechildrenshome.org</a>
Children's House of Pittsburgh of UPMC	<a href="http://www.chp.edu/our-services/child-advocacy-center">http://www.chp.edu/our-services/child-advocacy-center</a>
Children's Hospital of Philadelphia	<a href="http://www.chop.edu/">http://www.chop.edu/</a>
The Children's House of Philadelphia	<a href="http://www.phillychildrenshouse.com/">http://www.phillychildrenshouse.com/</a>
Compassionate Humans Against Trafficking	<a href="http://fightwithchat717.wix.com/chat#!more-about-us/c1sxh">http://fightwithchat717.wix.com/chat#!more-about-us/c1sxh</a>

Organization	Web Address
Congreso	<a href="http://www.congreso.net/">http://www.congreso.net/</a>
Covenant House	<a href="http://www.covenanthousepa.org">http://www.covenanthousepa.org</a>
Crisis Victims' Center of Chester County	<a href="http://www.cvcofcc.org">http://www.cvcofcc.org</a>
Crisis Victims' Center of Eerie County	<a href="http://www.cvcerie.org">http://www.cvcerie.org</a>
Crisis Victims' Center of Fayette County	<a href="http://www.crimevictimscenter.com">http://www.crimevictimscenter.com</a>
Crisis Victims Council of Lehigh County	<a href="https://cvclv.org/">https://cvclv.org/</a>
Crisis Shelter of Lawrence County	<a href="http://crisishelter.org">http://crisishelter.org</a>
Dawn's Place	<a href="http://ahomefordawn.org">http://ahomefordawn.org</a>
Delaware County Children's Advocacy Center	<a href="http://www.delcochildrenadvocacycenter.org">http://www.delcochildrenadvocacycenter.org</a>
Delaware County Women Against Rape	<a href="http://www.delcowar.org">http://www.delcowar.org</a>
Department of Human Services	<a href="http://www.dhs.pa.gov">http://www.dhs.pa.gov</a>
Department of Transportation	<a href="http://www.penndot.gov/Pages/default.aspx">http://www.penndot.gov/Pages/default.aspx</a>
Domestic Violence Services of Cumberland & Perry Counties	<a href="http://www.dvscp.org">http://www.dvscp.org</a>
Domestic Violence Center of Chester County	<a href="http://www.dvccc.com">http://www.dvccc.com</a>
Faith Alliance Against Slavery & Trafficking	<a href="http://faastinternational.org">faastinternational.org</a>
Friends of Farm Workers	<a href="http://www.friendsfw.org">http://www.friendsfw.org</a>
Geisinger Child Advocacy Center	<a href="https://www.geisinger.org/about-geisinger/news-and-media/news-releases/2016/10/14/19/19/geisinger-kanet-weis-childrens-hospital-child-advocacy-center-dedicated">https://www.geisinger.org/about-geisinger/news-and-media/news-releases/2016/10/14/19/19/geisinger-kanet-weis-childrens-hospital-child-advocacy-center-dedicated</a>
HAVEN of Tioga County, Inc.	<a href="http://havenoftiogacounty.org">http://havenoftiogacounty.org</a>
Helping all Victims In Need (HAVIN)	<a href="http://havinpa.org">http://havinpa.org</a>
Huntingdon House	<a href="http://www.huntingdonhouse.org/">http://www.huntingdonhouse.org/</a>
Joseph J. Peters Institute, The (JJPI)	<a href="http://www.jjp.org">http://www.jjp.org</a>
KidsPeace	<a href="https://www.kidspeace.org/pennsylvania/">https://www.kidspeace.org/pennsylvania/</a>
Lancaster Anti-Trafficking Network (LATN)	<a href="https://www.facebook.com/LancasterAntiTraffickingNetwork/">https://www.facebook.com/LancasterAntiTraffickingNetwork/</a>
Lancaster County CASE Task Force	<a href="https://co.lancaster.pa.us/705/C-A-S-E">https://co.lancaster.pa.us/705/C-A-S-E</a>
Lancaster County Children's Alliance	<a href="http://lancastergeneralhealth.org/LGH/Our-Services/childrens-Advocacy-Center.aspx">http://lancastergeneralhealth.org/LGH/Our-Services/childrens-Advocacy-Center.aspx</a>
Lancaster Initiative Against Human Trafficking (LIGHT)	<a href="https://facebook.com/LIGHT-Lancaster-Initiative-aGainst-Human-Trafficking-186767311856/">facebook.com/LIGHT-Lancaster-Initiative-aGainst-Human-Trafficking-186767311856/</a>
Lawrence County Crisis Shelter	<a href="http://crisishelter.org/">http://crisishelter.org/</a>
Lehigh Valley Community Foundation	<a href="http://www.lehighvalleyfoundation.org/">http://www.lehighvalleyfoundation.org/</a>
Lighthouse Counseling Services, LLC	<a href="http://lighthousecounselingpa.com">http://lighthousecounselingpa.com</a>
Lutheran Advocacy Ministry in Pennsylvania	<a href="http://www.lutheranadvocacypa.org/">http://www.lutheranadvocacypa.org/</a>
Luzerne County Child Advocacy Center	<a href="http://www.luzernecountycac.org">http://www.luzernecountycac.org</a>
Mid-Atlantic Dream Center	<a href="http://midatlanticdreamcenter.org">http://midatlanticdreamcenter.org</a>
Mission Kids	<a href="http://missionkidscac.org">http://missionkidscac.org</a>
Montgomery County Anti-Trafficking Coalition (MCAT)	<a href="http://mcatpa.org">http://mcatpa.org</a>
Mount Nittany Children's Advocacy Center of Centre County	<a href="https://www.mountnittany.org/childadvocacycenter">https://www.mountnittany.org/childadvocacycenter</a>
Nationalities Service Center, Anti Human Trafficking Project	<a href="http://nscphila.org/our-work/special-initiatives/anti-human-trafficking">http://nscphila.org/our-work/special-initiatives/anti-human-trafficking</a>
Network of Victim Assistance (NOVA)	<a href="http://novabucks.org">http://novabucks.org</a>
Not In My Back Yard (NIMBY)	<a href="http://www.nimby.me">http://www.nimby.me</a>



Organization	Web Address
Northeast Regional Child Advocacy Center	<a href="https://www.nrcac.org/">https://www.nrcac.org/</a>
North Penn Legal Services	<a href="http://www.northpennlegal.org">http://www.northpennlegal.org</a>
North Star Initiative	<a href="http://northstarinitiative.org">http://northstarinitiative.org</a>
Oasis of Hope	<a href="http://oasisofhopeusa.org">http://oasisofhopeusa.org</a>
Over The Rainbow Children's Advocacy Center	<a href="http://overtherainbowcac.org">http://overtherainbowcac.org</a>
Partners for Justice	<a href="http://lchscast.weebly.com">http://lchscast.weebly.com</a>
Pathways - PA	<a href="http://www.pathwayspa.org/">http://www.pathwayspa.org/</a>
Peace Promise	<a href="http://www.peacepromise.org">http://www.peacepromise.org</a>
Pennsylvania Alliance Against Trafficking in Humans -15 (PAATH-15)	<a href="http://www.educateandadvocate-paath.com/">http://www.educateandadvocate-paath.com/</a>
Pennsylvania Coalition Against Domestic Violence (PCADV)	<a href="http://pcadv.org">http://pcadv.org</a>
Pennsylvania Coalition Against Rape (PCAR)	<a href="http://www.pcar.org/">http://www.pcar.org/</a>
Pennsylvania Public Transportation Association	<a href="http://www.ppta.net/pages/traffickingtraining/index.html">http://www.ppta.net/pages/traffickingtraining/index.html</a>
Philadelphia Anti-Trafficking Coalition	<a href="http://patcoalition.org">http://patcoalition.org</a>
Philadelphia Children's Alliance	<a href="http://www.philadelphiachildrensalliance.org">http://www.philadelphiachildrensalliance.org</a>
Philadelphia Commission for Women	<a href="https://beta.phila.gov/departments/commission-for-women/">https://beta.phila.gov/departments/commission-for-women/</a>
PinnacleHealth Children's Resource Center	<a href="http://www.pinnaclehealth.org/locations-and-providers/practices/6685">http://www.pinnaclehealth.org/locations-and-providers/practices/6685</a>
Pittsburgh Action Against Rape	<a href="http://paar.net">http://paar.net</a>
PPC Violence Free Network	<a href="http://www.fscas.org/index.htm">http://www.fscas.org/index.htm</a>
Project to End Human Trafficking	<a href="http://endhumantrafficking.org">http://endhumantrafficking.org</a>
Salvation Army New Day Drop-In Center	<a href="http://a.salvationarmy.org/greater-philadelphia/NewDay">http://a.salvationarmy.org/greater-philadelphia/NewDay</a>
She's Somebody's Daughter	<a href="http://www.shessomebodysdaughter.org">http://www.shessomebodysdaughter.org</a>
Schuylkill Community Action	<a href="http://www.schuylkillcommunityaction.com">http://www.schuylkillcommunityaction.com</a>
Southwestern Pennsylvania Legal Services, Inc.	<a href="http://www.splas.org/index-2.html">http://www.splas.org/index-2.html</a>
Sullivan County Victim Services	<a href="http://www.sulcovs.org">http://www.sulcovs.org</a>
Survivor's Inc.	<a href="http://enddvsa.org">http://enddvsa.org</a>
Transitions of PA	<a href="http://transitionsofpa.org">http://transitionsofpa.org</a>
Truth for Women - Truth Home	<a href="http://truthforwomenscenter.org">http://truthforwomenscenter.org</a>
Turning Point of Lehigh Valley	<a href="http://turningpointlv.org">http://turningpointlv.org</a>
Valley Against Sex Trafficking (VAST)	<a href="http://thevast.org">thevast.org</a>
Valley Youth House	<a href="https://www.valleyyouthhouse.org/locations/bucks-county-shelter/">https://www.valleyyouthhouse.org/locations/bucks-county-shelter/</a>
Victims Intervention Program of Wayne County	<a href="http://www.vipempowers.org">http://www.vipempowers.org</a>
Victim Outreach Intervention Center of Butler County	<a href="http://www.voiceforvictims.com">http://www.voiceforvictims.com</a>
Victim Resource Center of Carbon County	<a href="http://www.vrcnepa.org/index.php">http://www.vrcnepa.org/index.php</a>
Victim Resource Center of Luzerne County	<a href="http://www.vrcnepa.org/index.php">http://www.vrcnepa.org/index.php</a>
Victim Resource Center of Wyoming County	<a href="http://www.vrncepa.org/index.php">http://www.vrncepa.org/index.php</a>
Well of Bucks County, The	<a href="http://worthwhilewear.org">http://worthwhilewear.org</a>
Western PA Anti-Trafficking Coalition (WPAHTC )	<a href="http://facebook.com/WPAHTC">http://facebook.com/WPAHTC</a>
Western PA CARES for Kids	<a href="http://www.carescac.org">http://www.carescac.org</a>
Women Against Abuse	<a href="http://www.womenagainstabuse.org">http://www.womenagainstabuse.org</a>
Women's Center of Beaver County	<a href="http://womenscenterbc.org">http://womenscenterbc.org</a>
Women's Center of Montgomery County	<a href="http://www.wcmontco.com">http://www.wcmontco.com</a>

Organization	Web Address
Women in Need	winservices.org
Women Organized Against Rape	http://woar.org
Women's Resource Center, Inc.	http://wrcnepa.org
Women's Resource Center of Monroe County	http://www.wrmonroe.org
Women's Services of Crawford County	http://www.womensservicesinc.org
York County Children's Advocacy Center	http://yorkcac.org/default.aspx
Your Safe Haven	http://www.yoursafehaven.org
YWCA Bradford/McKean County Victims' Resource Center	http://ywcabradford.org
YWCA Carlisle	http://www.ywacarlisle.org
YWCA Greater Harrisburg	http://ywcahbg.org/programs/violence-intervention-and-prevention-services
YWCA Northcentral PA, Wise Options	http://ywcawilliamsport.org

## 8. References

### 3. Law on the books

- [1] 18 Pa. Cons. Stat. § 3011 (2014).  
 [2] *See id.*  
 [3] 18 Pa. Cons. Stat. § 3012 (2014).  
 [4] 18 Pa. Cons. Stat. § 3012 (b)(4).  
 [5] 18 Pa. Cons. Stat. § 3001 (2014).  
 [6]  
 [7] 18 Pa. Cons. Stat. § 3031 (2014).  
 [8] *See id.*  
 [9] 18 Pa. Cons. Stat. § 3018 (2014).  
 [10] 18 Pa. Cons. Stat. § 3018(a)(1).  
 [11] 18 Pa. Cons. Stat. § 3019 (2014).  
 [12] *See National State Law Survey: Non-Criminalization of Child Sex Trafficking Victims*, Shared Hope (2017), [http://sharedhope.org/wp-content/uploads/2016/03/NSL\\_Survey\\_Non-Criminalization-of-Juvenile-Sex-Trafficking-Victims.pdf](http://sharedhope.org/wp-content/uploads/2016/03/NSL_Survey_Non-Criminalization-of-Juvenile-Sex-Trafficking-Victims.pdf) (identifying twenty-three states that protect minors from criminalization for prostitution).  
 [13] S.B. 554, Gen. Assemb., Reg. Sess. 2017 (Pa. 2017).  
 [14] H.B. 2289, Gen. Assemb., Reg. Sess. 2018 (Pa. 2018).  
 [15] S.B. 554; H.B. 2289.  
 [16] H.B. 2289.  
 [17] S.B. 554; H.B. 2289.  
 [18] *Id.*  
 [19] H.B. 2029, Reg. Sess. 2017-2018 (Pa. 2018).  
 [20] H.B. 2090, Reg. Sess. 2015-2016 (Pa. 2016).  
 [21] *See* CSE Institute's Policy Paper, "Why Recidivism Provisions in the Crime of Prostitution Equate to Gender-Based Inequality and Should be Removed," at <http://cseinstitute.org/wp-content/uploads/2015/06/Why-Recidivism-Provisions-in-the-Crime-of-Prostitution-Equate-to-Gender-Based-Inequality-and-Should-be-Removed.pdf>.  
 [22] 18 Pa. Cons. Stat. § 5902 (2011).  
 [23] 18 U.S.C. § 1591 (2015).

[24] 18 Pa. Cons. Stat. § 3011 (2014).

[25] *Id.*

[26] *See What Is the Nordic Model?*, Nordic Model Now!, <https://nordic-modelnow.org/> (last visited May 5, 2018) (defining the Nordic Model).

### 4. Law in Action

#### 4.2 Highlight: Montgomery County's Demand-Driven Tactics

- [1] *See* Laurie O'Connor, Administrator, Montgomery Cty. Health & Human Servs., Off. of Children & Youth, Human Servs. Center, Remarks at the Office for Victims of Crime Community Partner Meeting (Apr. 18, 2018) (hereinafter "OVCC Meeting").  
 [2] *See* Telephone Interview with Arielle Curry, MSS, Director of Anti-Trafficking, The Salvation Army's New Day to Stop Trafficking Program (Apr. 17, 2018) (hereinafter "Curry Interview").  
 [3] *See* E-mail from Laurie O'Connor, Administrator, Montgomery Cty. Health & Human Servs., Off. of Children & Youth, Human Servs. Center, to Stephanie Mersch, Extern, CSE Institute, (Apr. 23, 2018, 1:26 pm) (on file with author).  
 [4] *See id.*  
 [5] *See* Telephone Interview with Abbie Newman, CEO of Mission Kids Child Advocacy Center (Apr. 1, 2018) (hereinafter "Newman Interview"); U.S. Dept. of State, Trafficking in Persons Report 428 (June 2017) (noting that child-welfare-involved youth are particularly vulnerable to trafficking).  
 [6] *See* Interview with Detective Les Glauner, Upper Merion Township Police Department (Apr. 17, 2018) (hereinafter "Glauner Interview").  
 [7] *See* E-mail from Detective Lieutenant Chris Kuklantz, Major Crimes Unit Commander, Office of the District Attorney, Montgomery County, to Stephanie Mersch, Extern, CSE Institute (Mar. 27, 2018, 2:16 pm) (on file with author).  
 [8] *See* 23 Pa. Cons. Stat. § 6303(b.1) (2018). The Pennsylvania Child Protective Services Law, chapter 23 of the Pennsylvania Consolidated

Statutes, defines “child abuse” as:

[I]ntentionally, knowingly or recklessly doing any of the following: . . .

(10) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

Furthermore, the statute defines “sexual abuse or exploitation” as:

Any of the following offenses committed against a child: . . .

(x) Prostitution as defined in 18 Pa. Cons. Stat. § 5902 (relating to prostitution and related offenses).

(xi) Sexual abuse as defined in 18 Pa. Cons. Stat. § 6312 (relating to sexual abuse of children).

(xii) Unlawful contact with a minor as defined in 18 Pa. Cons. Stat. § 6318 (relating to unlawful contact with minor).

(xiii) Sexual exploitation as defined in 18 Pa. Cons. Stat. § 6320 (relating to sexual exploitation of children).

[9] See Newman Interview, *supra* note 5.

[10] See Newman Interview, *supra* note 5.

[11] See Curry Interview, *supra* note 2.

[12] See *id.*

[13] See OVCC Meeting, *supra* note 1.

[14] See Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation, Report on Commercial Sexual Exploitation in Pennsylvania, 9 (Spring 2017 ed.) (hereinafter “2017 Report”) (discussing the National Johns Suppression Initiative and the Upper Merion Police Department’s involvement with the Initiative).

[15] See 2017 Report, *supra* note 14.

[16] See 2017 Report, *supra* note 14.

[17] See *id.*; see also Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation, *Why Focusing on Demand for Commercial Sex is an Effective Means to Deter Commercial Sexual Exploitation*, 3 (2015), <http://cseinstitute.org/wp-content/uploads/2015/06/Why-Focusing-on-Demand-for-Commercial-Sex-is-an-Effective-Means-to-Deter-Commercial-Sexual-Exploitation.pdf>.

[18] See 18 Pa. Cons. Stat. §§ 3011 & 3012 (2014).

[19] See 18 Pa. Cons. Stat. § 5902 (2018).

[20] See § 5902(a).

[21] See § 5902(e).

[22] See Email from Kelly Lloyd, Assistant District Att’y, Montgomery Cty., to Shea M. Rhodes, Director, CSE Institute (Mar. 13, 2018, 4:12 pm) (on file with author).

[23] See *Commonwealth v. Timmonds*, No. CP-46-CR-0005984-2017 (Ct. Com. Pl. Mont. Cty. Nov. 21, 2017).

[24] See Glauner Interview, *supra* note 6.

[25] See Glauner Interview, *supra* note 6.

#### 4.3 Federal Prosecutions

[1] See *United States v. Bhimani et al.*, No. 3:17-cr-00324 (M.D. Pa. Oct. 24, 2017). Bhimani and Om Sri Sai, Inc. were indicted on charges of (1) sex trafficking by force and coercion, under 18 U.S.C. §§ 1591(a)(1), 1591(a)(2), and 1591(b)(1); (2) sex trafficking by force and coercion conspiracy, under 18 U.S.C. § 1594(c); (3) drug trafficking conspiracy, under 21 U.S.C. § 846; and (4) managing a drug premises, under 21 U.S.C. § 856(a)(2). The defendants pleaded not guilty on November 17, 2017,

and are currently awaiting trial.

[2] See *United States v. Brown*, No. 3:17-cr-00396 (M.D. Pa. Dec. 19, 2017). Brown was indicted on charges of (1) sex trafficking by force and coercion, under 18 U.S.C. §§ 1591(a) and 1591(b)(1); (2) sex trafficking of a minor by force and coercion, under 18 U.S.C. §§ 1591(a) and 1591(b)(1); (3) drug trafficking conspiracy, under 21 U.S.C. §§ 846, 841(a)(1), 841(b)(1)(A); and (4) Possession with intent to distribute a controlled substance, under 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A). Brown entered a not guilty plea on January 3, 2018, and is currently awaiting trial.

[3] See *United States v. Teed*, No. 2:17-cr-00129 (W.D. Pa. May 15, 2017). Teed was convicted of conspiracy to commit sex trafficking of children, under 18 U.S.C. § 1594(c), and sentenced to a 120-month term of imprisonment followed by a 20-year term of supervised release. Teed was permitted to self-report to jail, however, he absconded and was re-arrested and extradited to Pennsylvania 6 weeks later. After his return to Pennsylvania, Teed was indicted on two counts: (1) for failing to register as a sex offender, under 18 U.S.C. §§ 2250(a)(1), 2250(a)(2) (A), and 2250(a)(3), and (2) for failing to surrender for service of sentence under 18 U.S.C. § 3146(a)(2). These cases are still pending. See *United States v. Teed*, No. 2:18-cr-00036 (W.D. Pa. Feb. 13, 2018).

#### 4.4 Civil Remedies

[1] Codified at 18 Pa. Cons. Stat. §§ 3001-3072 (2014).

[2] See 18 Pa. Cons. Stat. § 3051(a).

[3] See 18 Pa. Cons. Stat. § 3051(a)(2).

[4] See 18 Pa. Cons. Stat. § 3051(c)-(e).

[5] Discussed *supra* section 5.3.

[6] See *M.B. v. Roosevelt Inn LLC*, Docket No. 170300712 (Phila. Ct. Com. Pl. Mar. 10, 2017); *E.B. v. Motel 6 Operating L.P.*, Docket No. 170500487 (Phila. Ct. Com. Pl. May 2, 2017).

[7] *M.B. v. Roosevelt Inn LLC*, Docket No. 170300712 (Phila. Ct. Com. Pl. Mar. 10, 2017).

[8] See *M.B. v. Roosevelt Inn LLC*, Docket No. 170300712, Amended Complaint at ¶4 (Phila. Ct. Com. Pl. Mar. 10, 2017).

[9] See *id.* at ¶¶ 6-10.

[10] See *id.* at ¶¶ 72-115; see also Nadeem Bezar Comments On Human Trafficking Case On Canada CBC Radio, Kline & Specter, PC (Mar. 24, 2017), <https://www.klinespecter.com/nadeem-bezar-comments-on-human-trafficking-case-on-canana-cbc-radio.html>.

[11] See *M.B. v. Roosevelt Inn LLC*, Docket No. 170300712 (Phila. Ct. Com. Pl. Mar. 10, 2017).

[12] *E.B. v. Motel 6 Operating L.P.*, Docket No. 170500487 (Phila. Ct. Com. Pa. May 2, 2017).

[13] See *E.B. v. Motel 6 Operating L.P.*, Docket No. 170500487, Complaint at ¶¶ 4-5 (Phila. Ct. Com. Pl. May 2, 2017).

[14] See *id.* at ¶¶ 9-16.

[15] See *id.* at ¶¶ 52-58.

[16] See *E.B. v. Motel 6 Operating L.P.*, Docket No. 170500487.

[17] See *Jane Doe #1 vs. Backpage.com LLC*, Docket No. 201804501-7, Complaint (Jan. 23, 2018).

[18] See *id.* at 57-79.

[19] See *Ambrose v. Backpage.com, LLC et al.*, Docket No. 2017-L-

004979, Complaint at ¶¶ 140-231 (Ill. Cir. Ct. Jul. 10, 2017).

[20] See *USA v. Bhimani et al.*, No. 3:17-cr-00324 (M.D. Pa. Oct 24, 2017).

[21] 22 U.S.C. §§ 7101-7114 (2015). The Trafficking Victims Protection Act (TVPA) was originally passed in 2000, and has been reauthorized several times since its passage, most recently in 2015. See The Justice For Victims of Trafficking Act of 2015, S. 178 (Jan. 6, 2015) (reauthorizing and amending the TVPA).

[22] See *USA v. Bhimani et al.*, No. 3:17-cr-00324 (M.D. Pa. Oct 24, 2017); <https://www.justice.gov/usao-mdpa/pr/bartonsville-man-and-hotel-charged-sex-and-drug-trafficking>.

[23] See Wolf Administration Encourages Public to Recognize #Wear-blueday, Joins National Initiative to Combat Human Trafficking, Pennsylvania Dept. of Transportation (Jan. 9, 2018), <http://www.penndot.gov/pages/all-news-details.aspx?newsid=414>.

[24] Truckers Against Trafficking, <http://truckersagainstrafficking.org> (last visited May 7, 2018).

[25] See Tracey Breeden, *Uber's Commitment to Disrupt Human Trafficking*, UBER Newsroom (Jan. 29, 2018), <https://www.uber.com/newsroom/ubers-commitment-disrupt-human-trafficking/>.

[26] See ECPAT-USA and Marriott International Announce New Partnership to Protect Children from Trafficking, ECPAT-USA (Jan. 29, 2018), <https://www.ecpatusa.org/blog/2018/1/29/ecpat-usa-and-marriott-international-announce-new-partnership>.

[27] See *id.*

[28] See *Travelers Property Casualty Co. of America v. Village Voice Media Holdings et al.*, No. 17-cv-3994, 2017 WL 4932856 (D. Ariz. Oct. 30, 2017).

[29] See *J.S., S.L., & L.C. v. New Times Media, LLC et al.* No. 12-211362-4 (Wash. Super. Ct. Jul. 30, 2012).

[30] See *Travelers Property Casualty Co. of America v. Village Voice Media Holdings et al.*, No. 17-cv-3994, 2017 WL 4932856 (D. Ariz. Oct. 30, 2017); Kteba Dunlap, *Backpage.com's insurer looks to dump coverage for online sex trafficking suit*, 2017 WL 5077616 (Nov. 6, 2017).

[31] See *First Financial Insurance Company v. Motel Management Servs., Inc.*, Docket No. 2:17-cv-04369 (E.D. Pa. Oct 2, 2017).

[32] See *id.*

## 5. Law and Social Change

[1] See The Villanova Law Institute to Address Commercial Sexual Exploitation, <https://cseinstitute.org/about-the-cse-institute/mission/> (last visited Apr. 2, 2018).

[2] See *id.*

[3] See *id.*

### 5.1 The Survivor Voice: Victoria Fullen

[1] Telephone Interview with Victoria Fullen (March 15, 2018) (hereinafter Fullen Interview).

[2] See Chafee Foster Care Independence Program, Pa. Dept. of Hum. Serv. <http://www.dhs.pa.gov/citizens/childwelfareservices/chafeefosterca-reindependenceprogram/> (last visited Apr. 2, 2018).

[3] See Fox12 Staff, *DHS Takes Efforts to Help Foster Kids that Fall*

*Victim to Sex Trafficking*, Fox12 Oregon (Feb. 26, 2018), <http://www.kptv.com/story/37596927/dhs-takes-efforts-to-help-foster-kids-that-fall-victim-to-sex-trafficking>.

[4] See Indictment, *United States v. Graham, et al.* (E.D. Pa. Nov. 20, 2014) (No. 2:14-cr-00623).

### 5.2 Social Movements

[1] See Michelle Madden Dempsey, *Sex Trafficking and Criminalization: In Defense of Feminist Abolitionism*, 158 U. Pa. L. Rev. 1729 (2010).

[2] For example, the CSE Institute's policy paper, *SESTA: A Narrow Exception to the CDA that Fulfills Its Intended Purpose*, was used by national advocates on January 11, 2018 during a Congressional briefing in Washington, D.C.

[3] See Pub. L. No. 115-164 (2018).

### 5.3 Mobilization at the Federal Level

[1] "Allow States and Victims to Fight Online Sex Trafficking Act of 2017," H.B. 1865, 115th Cong. (2017) (FOSTA).

[2] "Stop Enabling Sex Trafficking Act of 2017," S. 1693, 115th Cong. (2017) (SESTA).

[3] See Pub. L. No. 115-164 § 3 (2018). Section 3 of FOSTA provides for a new criminal statute, 18 U.S.C. § 2421A, which reads:

(a) In General.—Whoever, using a facility or means of interstate or foreign commerce or in or affecting interstate or foreign commerce, owns, manages, or operates an interactive computer service . . . or conspires or attempts to do so, *with the intent to promote or facilitate the prostitution of another person* shall be fined under this title, imprisoned for not more than 10 years, or both." (emphasis added).

[4] 42 U.S.C. § 230 (1996).

[5] See Pub. L. No. 115-164 § 4. This section amended section (e) of the Communications Decency Act of 1934, 42 U.S.C. § 230(e), to read "(5) No Effect on Sex Trafficking Law.—Nothing in this section . . . shall be construed to impair or limit—

(a) any claim in a civil action brought under section 1595 of title 18, United States Code, if the conduct underlying the claim constitutes a violation of section 1591 of that title;

(b) any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of 1591 of title 18, United States Code; or

(c) any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section 2421A of title 18, United States Code, and promotion or facilitation of prostitution is illegal in the jurisdiction where the defendant's promotion or facilitation of prostitution was targeted."

[6] See Staff of S. Permanent Subcomm. on Investigations, Comm. Homeland Sec. & Governmental Aff., 114th Cong., *Backpage.com's Knowing Facilitation of Online Sex Trafficking* (2017).

[7] 18 Pa. Con. Stat. § 3011(a). As it currently exists, the statute reads, "(a) Offense defined. — A person commits a felony of the second degree if the person: (1) recruits, entices, solicits, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to involuntary servitude . . . ."



## 6. The Intersection of Human Trafficking and Immigration Law

[1] See *New Report Details Human Trafficking in Massage Parlors*, Polaris (Jan. 17, 2018), <https://polarisproject.org/news/press-releases/new-report-details-human-trafficking-massage-parlors>; Justine McDaniel, *Hundreds of Pa., N.J. Massage Parlors Seen as Fronts for Sex-Trafficking*, *The Inquirer* (Jan. 29, 2018), <http://www.philly.com/philly/news/pennsylvania/massage-parlors-sex-trafficking-report-pennsylvania-jersey-20180129.html>.

[2] See Polaris, *Human Trafficking in Illicit Businesses*, 59 (Jan. 17, 2018). See also Denise Nakano and David Chang, *Human Trafficking Report: 700 Illicit Massage Parlors Operate in Our Area*, NBC Philadelphia (Jan. 17, 2018), <https://www.nbcphiladelphia.com/news/local/Human-Trafficking-Report-Illicit-Massage-Parlors-Businesses-Philadelphia-Pennsylvania-New-Jersey-Delaware-469801113.html>.

[3] *Human Trafficking in Illicit Massage Business*, Polaris 1, 12 (Jan. 17, 2018), <https://polarisproject.org/sites/default/files/Full%20Report%20-%20Human%20Trafficking%20in%20Illicit%20Massage%20Businesses.pdf>.

[4] See *id.* See also Caroline Fish, *Protected, Not Removable: Foreign National Trafficking Victims and the Immigration Policies of the Trump Administration*, *Nat'l Law Rev.* (Nov. 18, 2017), [https://www.natlawreview.com/article/protected-not-removable-foreign-national-trafficking-victims-and-immigration?utm\\_content=73c711657746020b5f9e-784a8ef34e4f&utm\\_campaign=LAW%20SCHOOL%203-19-2018&utm\\_source=Robly.com&utm\\_medium=email](https://www.natlawreview.com/article/protected-not-removable-foreign-national-trafficking-victims-and-immigration?utm_content=73c711657746020b5f9e-784a8ef34e4f&utm_campaign=LAW%20SCHOOL%203-19-2018&utm_source=Robly.com&utm_medium=email) (discussing protections provided to victims of trafficking).

[5] See *Human Trafficking in Illicit Massage Business*, *supra* note 3.

[6] 22 U.S.C. §§ 7101-7114 (2015).

[7] 22 U.S.C. § 7102(9)(a).

[8] See *Human Trafficking in Illicit Massage Business*, *supra* note 3, at 2, 30.

[9] See *id.* at 67.

[10] See *Ending Local Collaboration with ICE: A Toolkit for Immigrant Advocates*, IMMIGRANT LEGAL RESOURCE CENTER (Aug. 2015), [https://www.ilrc.org/sites/default/files/resources/toolkit\\_final.compressed.pdf](https://www.ilrc.org/sites/default/files/resources/toolkit_final.compressed.pdf) [hereinafter “Ending Local Collaboration with ICE”].

[11] See *The End of Immigration Enforcement Priorities Under the Trump Administration*, AM. IMMIGR. COUNCIL (Mar. 7, 2018), <https://www.americanimmigrationcouncil.org/research/immigration-enforcement-priorities-under-trump-administration> [hereinafter “END OF IMMIGRATION ENFORCEMENT PRIORITIES”] (“[in 2017] the largest numbers of convictions or charges pending were for non-violent crimes—traffic offenses, immigration offenses (such as unlawful entry or reentry into the country), and drug offenses (including possession). In addition, roughly 1 in 10 individuals arrested during FY 2017 had neither criminal convictions nor criminal charges pending”). See also *Understanding Trump’s Executive Order Affecting Deportations & “Sanctuary” Cities*, NAT’L IMMIGRANT LAW CENTER, <https://www.nilc.org/wp-content/uploads/2017/03/interior-enforcement-exec-order-2017-02-24.pdf> (last revised Feb. 24, 2017) (describing enforcement policies under the Trump Administration) [hereinafter “Understanding Trump’s Executive Order”].

[12] See Donald J. Trump, Executive Order: *Enhancing Public Safety in the Interior of the United States*, THE WHITE HOUSE (Jan. 25, 2017), <https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-public-safety-interior-united-states/> (outlining enforcement priorities for ICE).

[13] See *Understanding Trump’s Executive Order*, *supra* note 11; *Ending Local Collaboration with ICE*, *supra* note 10.

[14] See *Understanding Trump’s Executive Order*, *supra* note 11 (discussing consequences of new enforcement priorities); “A Gift to Human Traffickers”: Report Warns of Dangers of Trump’s Immigration Policy, THE GUARDIAN, <https://www.theguardian.com/global-development/2017/mar/10/trump-immigration-policy-gift-human-traffickers-modern-slavery-human-rights-abuses-verisk-maplecroft>.

[15] See *Understanding Trump’s Executive Order*, *supra* note 11 (discussing consequences of new enforcement priorities).

[16] See *id.*

[17] See *Understanding Trump’s Executive Order*, *supra* note 11.

[18] See Fish, *supra* note 4.

[19] *Guide to Representing Non-Citizen Criminal Defendants in Pennsylvania*, DEFENDER ASS’N OF PHILA. 1, 8, <https://pennstatelaw.psu.edu/sites/default/files/Draft%20PA%20Chart%20for%20distribution%2012-7-16.pdf> (last revised Oct. 2016) (“Applicants for immigration benefits are often required to provide information for all prior arrests and convictions. Defense attorneys are therefore advised to assume that all criminal records will be available to immigration authorities and could trigger immigration consequences—regardless of the fact that those records are considered “sealed” as a matter of state law . . . Often times, expungement of a conviction poses additional hardships for the noncitizen because they are unable to demonstrate to the immigration officer the nature of the offense.”)

[20] See 8 U.S.C. § 1227 (2008) (describing classes of deportable non-citizens); 8 U.S.C. § 1182 (2008) (describing classes of inadmissible non-citizens). See also *supra* notes 11-12 and accompanying text (discussing immigration consequences of being undocumented in U.S.).

[21] § N.10 *Sex Offenses*, IMMIGRANT LEGAL RESOURCE CTR. (March 2014), [https://www.ilrc.org/sites/default/files/resources/10\\_sex\\_offenses\\_2014\\_final.pdf](https://www.ilrc.org/sites/default/files/resources/10_sex_offenses_2014_final.pdf) (citing 8 U.S.C. § 1227 and 8 U.S.C. § 1182).

[22] See *Guide to Representing Non-Citizen Criminal Defendants in Pennsylvania*, *supra* note 19, at 8 <https://pennstatelaw.psu.edu/sites/default/files/Draft%20PA%20Chart%20for%20distribution%2012-7-16.pdf>.

[23] 8 U.S.C. § 1182 (providing inadmissibility grounds related to prostitution offenses).

[24] See, e.g., *Immigration Consequences of Criminal Convictions: Padilla v. Kentucky*, OFF. OF IMMIGR. LITIG., [https://www.justice.gov/sites/default/files/civil/legacy/2011/05/03/REVISED%20Padilla%20v.%20Kentucky%20Reference%20Guide\\_11-8-10.pdf](https://www.justice.gov/sites/default/files/civil/legacy/2011/05/03/REVISED%20Padilla%20v.%20Kentucky%20Reference%20Guide_11-8-10.pdf) (last revised Nov. 2010).

[25] See *Immigration Needs*, OFF. VICTIMS OF CRIME, <https://www.ovctac.gov/taskforceguide/eguide/4-supporting-victims/44-comprehensive-victim-services/legal-needs/immigration-needs/> (last visited Mar. 24, 2017). See also *International Trafficking In Women and Children Hearings Before the Subcommittee on Near Eastern and South Asian Affairs*

of the Committee on Foreign Relations, 106th Cong. 20 (Feb. 22 & Apr. 4, 2000) (statement of Hon. Harold Hongju Koh) (“[A] possibility of visa relief . . . [makes] it possible for [victims] to come forward to testify against those who . . . subjected them to this kind of atrocity.”).

[26] *Victims of Human Trafficking: T Nonimmigrant Status*, U.S. CITIZENSHIP & IMMIGR. SERVS., <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status> (last updated Oct. 3, 2011).

[27] *See id.*

[28] *See, e.g.,* Alison Parker & Meghan Rhoad, *US: Victims of Trafficking Held in ICE Detention*, Hum. Rts. Watch (Apr. 19, 2010), <https://www.hrw.org/news/2010/04/19/us-victims-trafficking-held-ice-detention> (describing how trafficked persons were misidentified and placed in prison).

[29] *Human Trafficking Victims as Criminal Defendants*, Ctr. Pub. Pol’y Stud. (Nov. 2013), [http://www.htcourts.org/wp-content/uploads/HT\\_Victims\\_asCriminalDefendants\\_v01.pdf?InformationCard=HT-Victims-as-Criminal-Defendants](http://www.htcourts.org/wp-content/uploads/HT_Victims_asCriminalDefendants_v01.pdf?InformationCard=HT-Victims-as-Criminal-Defendants); see also Kate Mogulescu, *The Public Defender as Anti-Trafficking Advocate, an Unlikely Role: How Current New York City Arrest and Prosecution Policies Systematically Criminalize Victims of Sex Trafficking*, 15 CUNY L. Rev. 471, 477–78 (2012).

## About the CSE Institute

The Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation (CSE Institute) provides legal research, technical assistance, policy consultation and training to partners throughout Pennsylvania, the United States and internationally.

To partner with the CSE Institute or support our work, please contact our Director, Shea M. Rhodes, Esq.

610-519-7183

Shea.rhodes@law.villanova.edu

For more information about our work, please visit our website at <http://cseinstitute.org>

Thanks to LBDesign for the design and development of our website.

## The CSE Institute Research Assistants and Student Externs

We would like to thank the following CSE Institute research assistants and student externs who contributed to researching, writing, and designing this report:

### Research Assistants

Jessica DiBacco (Class of 2018)

Jamie Pizzi (Class of 2018)

### Student Externs

Sarah Baranik de Alarcón (Class of 2019)

Omeed Firouzi (Class of 2018)

Kavida Gobalasingham (Class of 2018)

Molly Anne Krebs (Class of 2019)

Kaitlyn Macaulay (Class of 2018)

Stephanie Mersch (Class of 2019)

Kimberly Price (Class of 2018)

We would also like to thank members of the Villanova University Communications Department:

Dr. Billie Murray (Associate Professor)

### Fall 2017

Mary Daily (VU class of 2018)

Devin Hassinger (VU class of 2018)

Veronica Manley (VU class of 2018)

Kathleen O'Connor (VU class of 2018)

Siobhan O'Toole (VU class of 2018)

Sarah Stiglianese (VU class of 2018)

### Spring 2018

Andrew Buchan (VU class of 2018)

Jenna Hostutler (VU class of 2018)

Isabela Mansour (VU class of 2018)

Julianna Perez (VU class of 2018)

Robert Tonelli (VU class of 2018)

Sabrina Verleysen (VU class of 2018)

Finally, we would like to extend our sincere gratitude to Professor Doris DeiTosto Brogan for assuming the role of Faculty Advisor during the Fall 2017 Semester. Thank you for your constant support, guidance, and perspective as we continue to work to eradicate sex trafficking and commercial sexual exploitation.



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