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Sex Trafficking of Minors: The Impact of Legislative Reform and Judicial Decision Making in Metropolitan and Non-Metropolitan Communities

A Final Summary Overview

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Purpose

The overall purpose of this project was to investigate the effect of legislative and judicial factors on system responses to sex trafficking of minors (STM) in metropolitan and non-metropolitan communities. Three sources of information (key informant interviews, judicial interviews, and court data) were used, along with the partnership of the survivor-consultant, to achieve the four study aims:

- (1) Evaluate changes in key agency personnel's awareness, knowledge, and capacity for responding to STM, including trends in charges of human trafficking offenses involving victims who are minors, from pre-implementation to post-implementation of a safe harbor law;
- (2) Examine the impact of immunity, protective, and rehabilitative provisions of a safe harbor law by examining changes in several key outcomes: (a) charges of prostitution-related offenses for minors, (b) diversion of suspected trafficked youth from the juvenile justice system, (c) referrals and investigations of reports of sex trafficking of minors by the child welfare agency, and (d) referrals of trafficked youth to community organizations for services;
- (3) Provide guidance on how juvenile and family judges' knowledge and attitudes influence their responses to trafficking victims as witnesses and defendants in crimes related to their trafficking victimization within metropolitan and non-metropolitan communities; and
- (4) Identify and disseminate policy, education, and practice strategies that support informed judicial decision-making in juvenile and family court cases involving youth victims.

Project Subjects

Two groups of individuals were interviewed: (1) state key informants (n = 365) working in agencies that work with youth at risk for trafficking (such as juvenile court, juvenile justice, behavioral health, victim services, and law enforcement) via telephone, and (2) juvenile and family judges working in the U.S. (n = 82), and 55 judges completed an online survey. The research team consulted with the survivor-consultant at each phase of the project.

Project Design & Methods:

The current study utilized a mixed methods approach. Participants were interviewed by one of five trained researchers through in-person or phone interviews using semi-structured protocols. Judges who completed the interviews were given the opportunity to complete an online survey. Interviews covered topics related to knowledge and experiences working on cases of sex trafficking of minors and the impact of safe harbor legislation. The online survey portion of the study included demographic information, questions about workload, and queries about attitudes about sex trafficking of minors, knowledge of safe harbor, past training assessments, and preferred training delivery methods. Quantitative data was entered into SPSS and qualitative data entered in NVivo 11. Data from the pilot study pre-implementation surveys (conducted in 2012-2013) was compared to data from post-implementation surveys on key factors.

Data Analysis

Content analysis was conducted on the qualitative data from the key informant surveys and judicial interviews utilizing NVivo 11 and was performed in a series of phases (Graneheim & Lundman, 2004; Hsieh & Shannon, 2005). Qualitative data was reduced into quantitative data for the key informant interviews and integrated with the quantitative data to examine pre-implementation to post-implementation change with z test of proportions. Bivariate associations of community type with key factors were conducted. For the judicial survey data, bivariate correlations between scores on scales for attitude, knowledge, emotional and social issues working with trafficked youth were conducted.

Key Findings

Pre-implementation to post-implementation change for state key informants.

Respondents' perceptions that sex trafficking of minors was a fairly to very serious problem and

their familiarity with TVPA increased from pre-implementation to post-implementation. Significantly more respondents reported their agency had screening protocols and protocols for responding to minors trafficked in commercial sex and had coordinated their responses with other agencies (making a report, referral, and consulting) post-implementation. At post-implementation, significantly more respondents reported they had received formal training/education on human trafficking than at pre-implementation. Some significant differences by community type were found: familiarity with the federal and state human trafficking laws, unsure about a positive impact of safe harbor, rating of training and preparedness, and had experience working with victims of STM.

Safe harbor legislation. The Human Trafficking Victims Rights Act (HTVRA) enacted in Kentucky in June 2013 has several safe harbor provisions described in Figure 1.

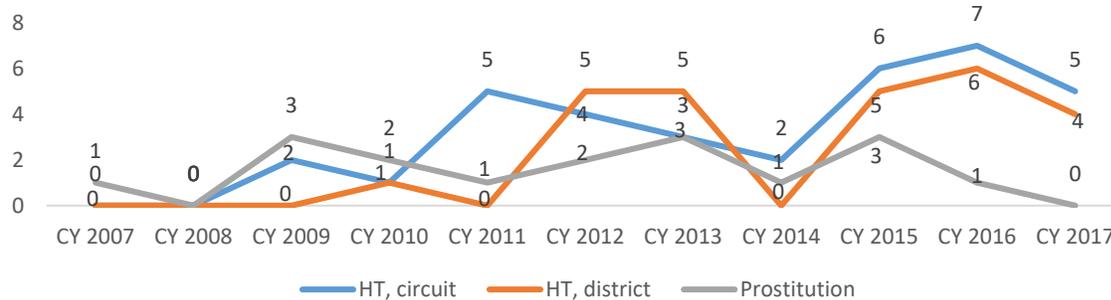
Figure 1. Human Trafficking Victims Rights Act guidelines for systems in Kentucky



State administrative data and reports were analyzed to examine change in number of cases of human trafficking involving victims under age 18 (Figure 2), charges of prostitution-related offenses involving juveniles (Figure 2), screenings of juveniles in juvenile court (Table 2) and the juvenile justice system (Figure 3), reports of suspected trafficking to the child welfare organization (Figure 4), and referrals of trafficked youth to community agencies. A very slight

increase in the number of cases of human trafficking involving victims who were minors is shown in Figure 2. Very small numbers of juveniles were charged with prostitution-related offenses each year (Figure 2).

Figure 2. Statewide number of cases of human trafficking involving victims under age 18 and number of juveniles with prostitution-related offenses, CY 2007 – 2017



Two major social systems that intervene with at-risk youth (juvenile court and juvenile justice) have conducted many screenings for human trafficking. The proportion of screened juveniles with positive screens within the juvenile court and juvenile justice are relatively small. Reports to child welfare have increased over time (see Table 2, Figures 3 & 4). However, the percent of reported cases that have resulted in criminal charges or findings of substantiation (for caretaker perpetrators) or confirmation (for non-caretaker perpetrators) are small (see Table 3).

Table 2. Number and percent of juveniles and rate per 1,000 juveniles with CDW complaints filed that were referred to the child welfare agency as positive screens for human trafficking for individuals under age 18, CY 2014 – 2017

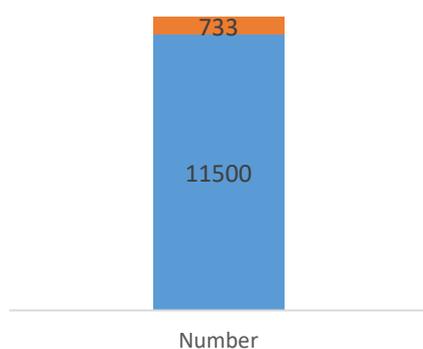
| Statewide | Number of juveniles | Number of juveniles with CDW complaints filed | % | Rate per 1,000 juveniles with complaints |
|----------------------|---------------------|---|--------|--|
| CY 2014 ^a | 6 | 12,917 | 0.0005 | .005 |
| CY 2015 | 32 | 13,451 | 0.25 | 2.5 |
| CY 2016 | 23 | 15,423 | 0.16 | 1.6 |
| CY 2017 | 31 | 15,146 | 0.20 | 2.0 |

a--Screening items for human trafficking were incorporated into the preliminary inquiry in August 2014.

The juvenile justice system implemented an 8-item screener for human trafficking in July 2015—two years after the enactment of the safe harbor law. Of the 12,233 screeners completed, 6.0% (n = 733) had reports to child welfare for suspected human trafficking (see Figure 1). A

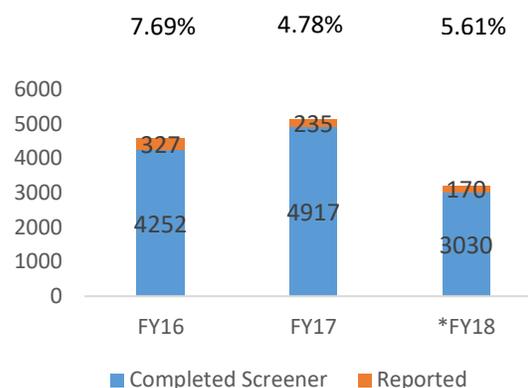
little more than half of reports (54.6%) were for female juveniles. Only 0.1% of reported cases were juveniles with a home country other than the U.S. (not depicted in a figure).

Figure 3. Number of human trafficking screeners completed and reports filed with the child welfare agency by juvenile justice from July 2015 – March 6, 2018 (n = 12,233)



Note. The number of completed screeners is not the number of unduplicated juveniles because juveniles could be screened at different facilities, at different times, and at different steps in the process.

Figure 4. Number and percent of completed screeners with reports to child welfare conducted by juvenile justice by fiscal year



Note. Data for FY 2018 included only Jul. 1 – March 6, 2018.

The HTVRA requires that the child welfare agency submit annual reports to the state about number of reports the agency receives about child victims of human trafficking, investigations and their outcomes, and the number of cases in which services were provided. Major findings from these reports across the years (beginning in July 2013 and ending in October 2017) show that the number of reported cases has increased over time (see Figure 3). During this period, 582 cases were reported to the child welfare agency involving 697 alleged child victims. More detailed information provided for FY 2015 – 2017 shows that the majority of alleged victims were female (83.2%) and only a small minority of cases (7.4%) reported to the agency resulted in criminal charges filed. Substantiation (or confirmation) of investigations occurred in a minority of cases (see Table 3). Additionally, each report states that all victims received services, listing examples such as mental health and trauma counseling, medical

evaluations, anti-trafficking victim services, residential placement, placement with alternative caregivers, drug treatment, language services, legal services, and basic needs (nutritional and clothing).

Figure 4. Number of reported cases and number of alleged victims of HT by year

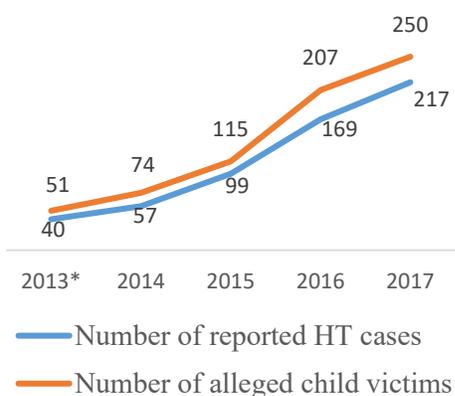


Table 3. Child welfare investigative findings, 2015-2017

| | 2015 | 2016 | 2017 |
|--|--------|---------|---------|
| Perpetrator was a caretaker | | | |
| Finding | n = 75 | n = 108 | n = 139 |
| Substantiated | 12.0% | 12.0% | 19.4% |
| Unsubstantiated | 60.0% | 63.0% | 51.8% |
| Pending | 28.0% | 23.1% | 27.3% |
| Unable to locate | 0.0% | 1.9% | 1.4% |
| Perpetrator was a non-caretaker | | | |
| Finding | n = 62 | n = 110 | n = 175 |
| Confirmed | 41.9% | 22.7% | 15.4% |
| Not confirmed | 33.9% | 49.1% | 44.0% |
| Pending | 24.2% | 28.2% | 40.6% |
| Unable to locate | 0.0% | 0.0% | 0.0% |

Key informant and judicial perspectives on safe harbor legislation and responding to STM

The majority (58.1%, n = 212) of state key informants were not comfortable evaluating the impact of the safe harbor law that had been implemented two years before, but of those who did (n = 153), 96.7% mentioned positive impacts. The majority of juvenile and family court judges who lived in states with safe harbor laws (n = 40) believed the legislation had a positive impact on their courts and the overall well-being of youth in juvenile and family court. Most importantly, positive changes in practices consistent with the intent of the laws (such as decriminalization of youth, increased penalties for traffickers and buyers, innovations in programming, increased collaboration between service providers, increased training of judges and court personnel, and improved processes for screening for and identifying youth victims) were evident in many judges' courtrooms and to key informants who evaluated the impact.

Nonetheless, some of the positive impacts were tempered by problems that limit the impact of the law and/or frustrate those working within its parameters. The most commonly mentioned improvements needed in the state key informant interviews included a) increasing awareness of service providers through training, b) development of more community resources for victims, c) improving screening protocols, d) improving interagency coordination, and e) overcoming legal challenges to charging and prosecuting traffickers and providing an appropriate response to victims 18 years old and older. In addition, many judges noted that clarifications or modifications were needed to strengthen the law or address gaps it did not cover. Moreover, the shift in system involvement from juvenile justice to child welfare has created opportunities for service provision and protection, but has highlighted problems associated with child welfare's knowledge of and safe management of these cases. Judges expressed frustration at the lack of knowledge on how to identify cases and what services are best for sex trafficking victims, as well as the lack of high quality services available in their communities.

About one-fourth of judges mentioned negative impacts of the safe harbor laws including: a) the laws had created an illusion of effort without making any substantive impact on practice due to limited funding or lack of awareness and training, b) changes in policies and procedures derived from the law made youth more vulnerable such as limiting legal options to prevent youth from running away from placements, c) legal complications may have resulted in inefficiencies, and d) the possible unintended consequence of youth avoiding adjudication.

Data from state key informant interviews revealed a small minority of respondents' mentioning unintended consequences of the safe harbor law. Specifically, the law's mandate for the child welfare agency to investigate reports of human trafficking involving minors has added more work without providing the needed resources and training support to workers; therefore,

there is concern that the implementation of the law cannot be effective. There is a potential for workers to become resistant to the new policies and procedures if they believe they lack the resources, supports, and time to respond as mandated. Similar to judges, a few key informant respondents expressed the concern that because the law mandates that juveniles be removed from detention if they are victims of human trafficking and communities lack secure placements for juveniles who run away from non-secured facilities, juveniles are ending up back on the streets exploited in commercial sex even after service providers have identified them as victims. Finally, the reporting mandate has resulted in some juvenile victims losing trust in service providers who violated their confidentiality to report the suspected human trafficking.

Survey findings with judges revealed some gender differences in attitudes about sex trafficking of minors and judicial actions taken in response, with more male judges agreeing with statements that reveal a “criminalizing” attitude toward adolescents involved in commercial sex. More female judges agreed with less restrictive and punitive interventions with juvenile delinquents, harsher penalties for buyers and traffickers, and sex trafficking of youth occurs in their communities. Additionally, some differences were found in attitudes and knowledge by the community type in which judges presided, with more judges in urban communities than in rural communities agreeing with statements in line with safe harbor laws.

Findings suggest that state key informants and judges are in need and receptive of additional training and education. Key informants mentioned as topics for further training: identifying victims, techniques to facilitate youth’s disclosure, details on trafficking operations, particularly in rural communities, statistics on trafficking, and available community resources for victims. For judges, they need training not only concerning the legal aspects of the issue, but also in regards to better understanding the dynamics of these cases. Many judges shared that knowing

the underlying reasons why youth act in destructive or high-risk ways was an important aspect of providing them context in their decision-making. Similar to key informants, judges identified the need for additional knowledge of the resources within their community. Finally, based on judges' responses of the emotional impact of working with youth victims, training on secondary trauma, burnout, and compassion fatigue was indicated.

Judges, for the most part, expressed preference for in-person, interactive, experiential trainings that are ongoing and repetitive. Incorporation of case studies, survivor testimony, practical skills training, group work, and demonstrations were noted as effective training methods. Even though most judges prefer in-person trainings, a toolkit of online resources and training materials would provide greater access to training content and useful resources for referencing after the formal training sessions are completed.

Implications for Criminal Justice Policy and Practice

The state administrative data suggests that key state agencies have implemented screening for human trafficking and providers are making reports to the agency mandated by the safe harbor law to investigate allegations of human trafficking of children. Nonetheless, it is not clear why a small minority of cases are substantiated, confirmed, and/or result in criminal charges. More research is needed to uncover the child welfare and law enforcement processes that occur after reports of suspected human trafficking, and to refine screening processes, in the event that the existing screening protocols are overly sensitive.

Interviews with juvenile and family court judges and state key informants revealed that identification and proper management of sex trafficking cases requires: a) increased training on human trafficking in general and its many variants, b) increased knowledge of observable

indicators of trafficking, c) further development of trafficking specific screening tools and rapport-building techniques to facilitate disclosure, d) greater community resources for victims (in particular secure housing and trauma-informed mental health treatment), e) greater coordination and collaboration across agencies including follow-up after reports and referrals, and f) clarification of legal issues that arise in responding to minors trafficked in commercial sex. Specific to juvenile and family court judges were the need for: a) professional partners who have the ability to screen for and identify victims before, during and after in-court presentation, b) a “retooling” of the court environment so that judges have opportunities to talk to youth in a manner that provides privacy and considers their physical and psychological safety, and c) a specified referral pathway from screening to intervention.

Recommendations from juvenile and family court judges for improving the court response to potential youth victims of sex trafficking include: a) adjusting time parameters for disposition to ensure judges have as much leeway as possible to extend time limits if doing so will lead to continuity of care or judicial oversight of youth; b) appointment of Guardian ad Litem or Friend of the Court to youth victims; c) greater specialization of court processes for suspected victims to allow for more targeted training of court personnel, more refined protocols, and the development of expertise in responding to youth victims which can benefit youth in a more systematic manner; d) development and adoption of formalized protocols; e) clarification or modification of legislation to provide incentives to fund innovative service delivery to youth and to address dispositional issues that create legal quandaries for judges (such as dealing with runaway behavior); f) identify funding sources to adequately identify and respond to these cases; and g) focus on ways to prompt investigations for traffickers and buyers to seek to address the problem at the source.