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## Free Lolita! The Contradictory Legal Status of Seattle's Prostituted Youth

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Omeara Harrington

### INTRODUCTION

#### *A. Seattle's Problem*

In 2009, members of the West Side Street Mobb (an acronym for “Money Over Broke Bitches”),<sup>1</sup> a twenty- to thirty-member, Seattle-based affiliate of the notorious Bloods gang, were convicted of forcing a dozen women into prostitution.<sup>2</sup> Several of the individuals they prostituted were minors.<sup>3</sup> The police discovered the prostitution enterprise after executing a sting operation targeted at apprehending prostitutes advertising on [www.craigslist.org](http://www.craigslist.org), an online classified advertising site; however, the activity was only traced back to the gang because one of the apprehended prostituted women bravely decided to disclose the origin of the operation to the police.<sup>4</sup> Later, more members of the West Side Street Mobb were arrested at a shopping mall, where they attempted to persuade female Seattle police officers posing as teenagers to prostitute for them.

The story leading up to the bust was grim. As the cases unfolded, it became apparent that the involved Mobb members had forced the women and girls into performing sex acts for money, then had beaten them and pocketed all of the earnings. Prosecutors responded by charging the group of men with a range of serious crimes including trafficking, promoting prostitution, promoting commercial sex abuse of a minor, unlawful imprisonment, assault, and drug-related charges.<sup>5</sup> Even in the confines of custody, however, the gang members persisted in their attempts to exploit the group of prostituted women. In fact, the jail was forced to bar the men from telephone use because they were attempting to conduct “business”

from incarceration,<sup>6</sup> and one member's mother was charged with witness tampering after she threatened the prostituted women and the gang members who had already been apprehended, warning them not to talk to police.<sup>7</sup>

The last of the initial group of six accused gang associates, DeShawn "Cash Money" Clark, was convicted in November 2009 of second-degree human trafficking (the first to be convicted under a new state statute for this crime<sup>8</sup>), first-degree promoting prostitution, two counts of commercial sex abuse of a minor, unlawful imprisonment, and conspiracy to promote prostitution.<sup>9</sup> In a show of ownership, he had branded several of the women he was prostituting with tattoos of moneybags and the word "Cash."<sup>10</sup> He received a seventeen-year sentence.<sup>11</sup>

Months later, two more convictions for promoting sexual abuse of a minor, as well as conspiracy to commit that same crime, were handed down to additional Mobb members.<sup>12</sup> Currently, federal law enforcement continues to take notice of the gang and its pursuits in an investigation called "Operation Street Sweeper."<sup>13</sup> To date, federal prosecutors have charged six other members of the gang and are considering racketeering indictments.<sup>14</sup>

Sadly, the West Side Street Mobb's prostitution of minors is a telling and common example of a pervasive and growing youth prostitution problem in the Seattle area. Until recently, not much was known about the youth prostitution crisis, but a 2008 ethnographic study commissioned by the City of Seattle (conducted by Debra Boyer, Ph.D. and the Domestic Violence and Sexual Assault Prevention Division of the Human Services Department) revealed that the city has a much bigger issue on its hands than it perhaps expected.<sup>15</sup>

The statistics from the Boyer report are staggering. According to the study, an estimated three to five hundred youth are involved in prostitution in Seattle.<sup>16</sup> However, this figure is likely an underestimation, as youth prostitution is universally underreported.<sup>17</sup> For example, other crimes are

often committed simultaneously with prostitution, and the other crimes (such as drug offenses) are commonly reported by police rather than prostitution, which is a relatively lower priority.<sup>18</sup> Also, the availability of off-street internet advertising makes it harder for police to discover the activity,<sup>19</sup> and although prostitution arrest rates are lower for youth than for adults, most adults involved in prostitution self-report that they actually began the activity in their teens.<sup>20</sup>

### **1. Problematic Trends**

In addition to the high incidence of youth prostitution in the Seattle area, there is evidence that the problem is getting worse. First, it appears that this activity is increasing, as records demonstrate a 40 percent jump in juvenile arrests for prostitution from 2006 to 2007.<sup>21</sup> Concurrently, the average age of the prostituted youth population is decreasing. In fact, in 2007, the mean age of youth prosecuted for prostitution in King County was fifteen-and-a-half years, with reports of youth as young as twelve and thirteen involved.<sup>22</sup> More recent sources inform that eleven-year-old prostituted youth have been discovered in the area.<sup>23</sup>

Research also indicates that runaway and homeless youth are being recruited at increasing rates.<sup>24</sup> One researcher's estimate suggests that nationally, one out of every three "street kids" will be solicited for sex.<sup>25</sup> Through the use of recruiters, who are often female, these children are taken in by a pimp posing as a protective figure who provides the youth with food, clothing, and shelter; thus, targeted youth are left "financially indebted and emotionally tied."<sup>26</sup>

Interstate trafficking rates are also on the rise. According to the U.S. Department of Justice, Seattle is one of twelve "hub" cities where traffickers recruit teen sex workers, often putting them to work on a west-coast circuit.<sup>27</sup> It is especially common for prostituted youth from Seattle to be sent to Oregon, California, or Nevada (Las Vegas in particular).<sup>28</sup> Intercity trafficking is also common.<sup>29</sup> Notably, Dr. Boyer's report indicates

that several of the trafficked youth that came to the attention of her study were taken by force with a weapon.<sup>30</sup>

## 2. Aggravating Factors

Two factors have emerged as major obstacles in detecting and curbing the phenomenon of prostituted youth: gang involvement and the internet. In order, they are the two most common vehicles of prostitution following traditional street prostitution, although gangs are known to prostitute girls on the street as well.<sup>31</sup> The opening story, illustrating the activities of the West Side Street Mobb, is a typical example of how gangs have become involved with prostituted youth. In fact, local Seattle social service providers have estimated that as many as 80–90 percent of prostituted juveniles are under the control of gang members.<sup>32</sup> Gangs see organizing prostitution as a central component of gang life, and Dr. Boyer herself has described violence against women and prostitution as “integral part[s] of gang culture.”<sup>33</sup> One of the West Side Street Mobb members corroborated this, commenting in his plea paperwork that “[b]eing a pimp helped [him] live a gang lifestyle,” and that “[b]eing a gang that pimped out girls made the gang sound better to other gangs.”<sup>34</sup>

In the broader context of gang culture, gang involvement in prostitution makes sense. “Pimping” is a lucrative enterprise, and it is closely tied to the drug trade—especially of crack cocaine, which is notoriously gang-related.<sup>35</sup> To gangs, women are typically considered property or vehicles for quick income, rather than individuals, and have proven to be easily preyed upon when young.<sup>36</sup> Mycah Johnson, a member of the West Side Street Mobb testifying against fellow gang member DeShawn “Cash Money” Clark, described the process of “selling a dream,” the method by which their gang would lure girls into its harem.<sup>37</sup> He testified that, to sell a girl a dream, “you sweet talk her. Just say romantic things like you love her. When she gets to the point she feels she can’t live without you, you stop the sweet talking and say, ‘You’re going to do this and this and this,’ and she’ll

do it because she loves you.”<sup>38</sup> In fact, Johnson forced his own teenage girlfriend into prostitution and then moved her out of state where he forced her to continue to work for him as a prostitute.<sup>39</sup>

Once captured, life as a prostituted youth under gang control routinely involves a great deal of violence. Aside from prostituting these girls, gangs also use them in initiation and loyalty rituals.<sup>40</sup> Gang members regularly coerce girls into performing sex acts on adult men through emotional and physical force, including threats, rape, and beatings. Additionally, they may expect daily income quotas in the hundreds of dollars.<sup>41</sup> One woman, who was prostituted by Bloods gang members in Tacoma as a teenager, gave a horror-story account describing an incident in which she accidentally made eye contact with a visiting gang member and earned what is referred to as an “out of pocket” classification.<sup>42</sup> This phrase is the common nomenclature for a prostitute who breaches pimp rules by looking at a man who is not her pimp, talking back, or not turning over the entirety of her earnings.<sup>43</sup> As punishment for this particular infraction, the girl was forced to strip completely naked and put into a cold shower.<sup>44</sup> Next, she was beaten with a belt and gang-raped by her pimp and his fellow gang-member friends.<sup>45</sup>

The internet and various media sources have also been used extensively to facilitate the prostitution of juveniles; meanwhile, use of these less public advertising channels has forced law enforcement to change its strategies in trying to stop the activity. The use of internet advertising has become so commonplace that [www.craigslist.org](http://www.craigslist.org) recently chose to dismantle its “Erotic Services” category, largely due to allegations that it fostered criminal activity like prostitution.<sup>46</sup> In fact, the woman prostituted by the West Side Street Mobb, who ultimately cooperated with authorities and helped to unravel the gang’s prostitution business, was detected and apprehended through the site.<sup>47</sup> Other media sources contribute to the problem as well; for instance, local Seattle newspapers, like *The Stranger* and *Seattle Weekly*, run escort ads and are common off-street modes of promoting the services of prostituted youth.<sup>48</sup>

In a 2006 sting operation, the Seattle Police Department netted 104 arrests of men trying to purchase sex through these avenues.<sup>49</sup> Detectives also arranged to meet women advertised as escorts in order to prove that they were, in fact, prostitutes, and not just selling “companionship” as advertised.<sup>50</sup> All seven of the escorts, including one who was a sixteen-year-old girl, admitted that they had arrived at the appointments expecting for a man to pay them for sexual encounters.<sup>51</sup> More recently, in a 2009 sweep, the Pacific Northwest Innocence Lost taskforce rescued nine Seattle-area teens from prostitution, utilizing the internet as one method of detection.<sup>52</sup> Internet solicitation has become so commonplace that police report having identified an entire subculture that has developed around these sexual encounters arranged through off-street dealings.<sup>53</sup>

#### *B. Scope of This Discussion*

This article argues that prostituted youth should not be prosecuted for prostitution, primarily on lack of consent grounds, as minors cannot legally consent to sex with adults. However, it will also acknowledge that some other form of intervention is still very necessary in order to effectively combat Seattle’s youth-sexual-exploitation crisis. Under the current system, prostituted youth are being victimized not only by the pimps who control and use them and the customers who take advantage of them but also by an imperfect criminal justice system that inappropriately criminalizes them. The legally awkward process by which prostituted youth are intercepted and prosecuted is a testament to the fact that there is no simple solution to this problem. However, the diversion process appears to at least be a step in the right direction.

An attempt will be made through this discussion to traverse the odd mix of legal standpoints at issue with minors involved in the criminal enterprise of prostitution. To start, an exploration of relevant statutes, case law, and philosophical perspectives reveal an assortment of incompatible and competing interests leading to the obvious conclusion that if we care, as a

city and a nation, for the wellbeing of our children, prosecution is simply an inappropriate means to that end. Next, a look into Seattle's new pilot program and the handful of other similar programs already in operation in other parts of the country makes the case that diversion is a viable alternative to prosecution for minors with this very special set of problems. Additionally, this article will disclose the potential pitfalls that have already arisen and may continue to cause difficulty in alternative systems. Finally, there will be a discussion of ways in which the individuals and groups combating youth prostitution can employ specific social and legal strategies to improve the chances of long-term success in helping this troubled population.

It is important to point out that there are deep racial implications embedded in the discussion about prostituted youth. Additionally, the associated topic of international trafficking is heavily tied to the issue. However, those significant areas are generally outside the scope of this discussion and are not specifically addressed within this article.

## I. THE LEGAL STATUS OF PROSTITUTED YOUTH

### *A. The Legal Landscape*

#### **1. State and Federal Statutes**

As a baseline matter, the act of prostitution is a misdemeanor under Washington law.<sup>54</sup> Additionally, prostitution is statutorily defined to encompass not only commercial sexual intercourse but also "sexual contact," which covers intimate contact or contact with sexual parts of another for sexual gratification of either involved party or a third party.<sup>55</sup> It is obvious then that without further investigation into defenses or exemptions based on age, the acts committed by prostituted youth are, indeed, criminal. However, because most prostituted youth are legal minors, the statutory inquiry is far from over.



A laundry list of Washington statutes and federal legislation clearly shows intent on the part of lawmakers to shield minors from any type of sexual contact or intercourse. Most directly, Washington's criminal code outlaws child rape, child molestation, and sexual misconduct with a minor.<sup>56</sup>

*a) Rape of a Child*

For the statutes pertaining to child rape, which apply to adults who have sexual intercourse with a child, the age of the child at the time of the offense determines the degree of the offense.<sup>57</sup> Specifically, rape of a child in the first-degree occurs if the child is less than twelve, not married to the perpetrator, and the perpetrator is at least twenty-four months the child's senior.<sup>58</sup> Second-degree rape of a child applies when the child is between the ages of twelve and fourteen and unmarried to the perpetrator, who must be thirty-six or more months older than the victim.<sup>59</sup> Lastly, the act qualifies as third-degree rape of a child when the child is between the ages of fourteen and sixteen and unmarried to the perpetrator, who is at least forty-eight months older.<sup>60</sup> It is also important to note that under Washington statutes, oral sex is legally considered to be "sexual intercourse."<sup>61</sup>

All degrees of child rape are very serious offenses. First- and second-degree rape of a child are both class A felonies, while third-degree rape of a child is a class C felony.<sup>62</sup> In the context of sentencing, a class A felony can carry a sentence of life imprisonment and/or a \$50,000 fine.<sup>63</sup> A class C felony may result in five years of imprisonment and/or a \$10,000 fine.<sup>64</sup>

*b) Child Molestation*

In Washington, child molestation occurs when a person has sexual contact with a child or knowingly causes another person under eighteen to have sexual contact with a child.<sup>65</sup> The victim age distinctions that serve as degree markers for child molestation are identical to those used for child rape, except that the thirty-six month age difference between the perpetrator

and the victim applies to both first- and second-degree child molestation.<sup>66</sup> Also, as in child rape statutes, first- and third-degree child molestation constitute class A and C felonies, respectively.<sup>67</sup> Second-degree child molestation is a class B felony, imposing up to ten years of incarceration and/or a \$20,000 fine.<sup>68</sup>

*c) Sexual Misconduct with a Minor*

Similar conduct to that outlawed under child molestation statutes is prohibited against sixteen- to eighteen-year-old victims under Washington's statutes regarding sexual misconduct with a minor.<sup>69</sup> These laws borrow language from the child molestation statutes, making similar sexual contact criminal when a person, five years older or more and in a "significant relationship" with the minor, uses his or her supervisory capacity in that relationship to coerce the sexual activity.<sup>70</sup> These statutes also cover sexual contact between a foster parent and his or her child, as well as conduct arranged by a foster parent between another child under eighteen and his or her foster child.<sup>71</sup> Additionally, the statutes protect students from sexual contact with, or facilitated between a minor and the victim by, a school employee until the victim reaches twenty-one years of age.<sup>72</sup> The first-degree-level of this crime constitutes a class C felony; the second-degree level is a gross misdemeanor, which carries a sentence of up to one year of incarceration and/or a \$5,000 fine.<sup>73</sup>

*d) Commercial Sex Abuse of a Minor and Sexual Exploitation of a Minor*

Perhaps most applicable to the issue at hand, though, is Washington's express prohibition against engaging in, promoting in general, promoting travel for, or even permitting the commercial sex abuse of a minor.<sup>74</sup> Essentially, commercial sex abuse of a minor describes the exchange of money for sexual intercourse or sexual contact with a minor, referred to simply as "sexual conduct" in the statutory text.<sup>75</sup> Under this group of statutes, promoting commercial sexual abuse of a minor is the crime most

harshly punished, as a class B felony.<sup>76</sup> Engaging in or promoting travel for commercial sex abuse of a minor carries a class C felony distinction, and permitting the activity (for instance, a person who is in control of the premises upon which such activity is occurring knows about the activity and does not try to stop it) is a gross misdemeanor.<sup>77</sup> Sexual exploitation of a minor is also a class B felony in Washington, covering instances in which a person coerces or facilitates, or a parent or guardian of a child permits the child to engage in sexually explicit conduct, knowing that such conduct will be either part of a live performance or photographed.<sup>78</sup>

e) *The Federal PROTECT Act*

Federal statutes depict a similar emphasis on child protection. In particular, the PROTECT Act of 2003, short for Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today, greatly expanded the ways in which the law enforcement and judicial systems may deal with individuals engaged in the sexual exploitation of children.<sup>79</sup>

First, the PROTECT Act streamlined the penalties for crimes against children.<sup>80</sup> For example, it set the minimum sentence for nonfamilial child abduction to twenty years incarceration and increased the penalties for sexual exploitation of children and child pornography, setting a minimum fifteen- to thirty-year sentence for the first child pornography offense.<sup>81</sup> Additionally, the Act tightened the latitude granted to judges in giving reduced prison sentences.<sup>82</sup> Also, it allowed the postrelease term of supervision to expand past the previous limit of five years.<sup>83</sup> Now sex offenders may be supervised for any amount of time, including the remainder of the offender's life.<sup>84</sup> Lastly, the Act strengthened the prohibition on "virtual" child pornography, a crime that has proven to be increasingly hard to prosecute in the face of advancing technology.<sup>85</sup> The Act specifies that all obscene materials featuring children are prohibited and stiffens the penalties beyond those under existing obscenity laws.<sup>86</sup>

Furthermore, internet providers are encouraged to report any suspected child pornography they encounter.<sup>87</sup>

*f) Federal Antitrafficking Laws*

The federal government has also passed multiple laws regarding human trafficking. An early prohibition, the Mann Act of 1910, was aimed at addressing the trafficking of white women for “immoral purposes” (i.e., prostitution).<sup>88</sup> Over the years, the Act has become applicable to all races and has been amended to expand its categories of protected individuals to expressly include minors<sup>89</sup> and all adults, whether male or female.<sup>90</sup>

A more recent federal attempt at protecting human trafficking victims resulted in passage of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA).<sup>91</sup> This Act protects trafficking victims by allowing them to remain, at least temporarily, in the United States and by providing them with assistance even though many are technically illegal immigrants.<sup>92</sup> Many of these people, who are figuratively or literally stolen from their home cities and villages, face extreme violence in the United States. In its purposes and findings, the Act states that it came about to remedy the import of people, many of them children, to the United States to work in the commercial sex services industry<sup>93</sup> and in other forms of involuntary servitude.<sup>94</sup>

Traffickers will often target women and girls, who tend to be more severely affected by poverty and the lack of accessible resources, such as education or the means to generate financial assets.<sup>95</sup> Many children are actually purchased from poor families for use in prostitution<sup>96</sup> and are coerced by violence, threats, and torture to perform sex acts for commercial purposes.<sup>97</sup> The mission behind the VTVPA is essentially summarized in these final phrases: “To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate

punishment, giving priority to the prosecution of trafficking offenses, and *protecting rather than punishing the victims of such offenses.*”<sup>98</sup>

The protective attitude reflected in the VTVPA’s mission appears to be rapidly gaining ground in the federal system through a series of recent bills focusing on revamping strategies to effectively care for the minor victims of domestic human sex trafficking.<sup>99</sup> If enacted, these bipartisan bills will legislatively categorize domestically prostituted youth as victims rather than criminals, improve the means of identifying these youth, prioritize the deterrence of this kind of activity through enforcing the laws against exploiters, encourage states to follow suit with similar legislation, and set up funding mechanisms for treatment-based safe houses, law enforcement, and service-provider training programs.<sup>100</sup>

## **2. Washington Case Law**

Unsurprisingly, given the strong statutory preference for child protection, Washington case law carries a long tradition of child-protective holdings and language. As early as 1900, the state judiciary was taking statutory rape offenses seriously, as evidenced by the Washington Supreme Court upholding statutory rape laws in *State v. Phelps*.<sup>101</sup> Shortly thereafter, the court again visited the issue and, demonstrating even more protection than is statutorily recognized today, held that even marriage to the victim would not provide a valid defense to statutory rape.<sup>102</sup> In 1927, the court held that the consent of a minor does not factor into the guilt of the perpetrator.<sup>103</sup>

Later cases echo the century-old theme set in place by the state’s highest court. For example, a 1989 case described that the purpose behind criminalizing statutory rape is to protect people too immature to rationally or legally consent to the act.<sup>104</sup> Along the same lines, in 1993, the Washington Supreme Court acknowledged that an adult who engages in sexual activity with a minor is guilty of a felony and, additionally, held that consent to the acts by the minor is immaterial to the determination of guilt.<sup>105</sup> The court also noted that such activity is a strict liability offense,<sup>106</sup>

meaning that conduct alone is enough to determine guilt, regardless of the mental state of the offender.

Also, in 2004, the Washington Court of Appeals held that the statutory age distinctions in child rape laws did not constitute an equal protection violation (meaning that, although child rape laws treat offenders differently in terms of the age of the victim, the age distinctions are nonetheless valid because they are rationally related to the legislature's legitimate objective of protecting children from adult sexual predators).<sup>107</sup> A year later, the same court decided a similar case, holding that the legislature was legally justified in legislating against sexual misconduct with a minor as a means to protect children from the sexual advances of adults, despite objections to the regulatory scheme on privacy and freedom of association grounds.<sup>108</sup>

The same year, the Washington State Supreme Court heard a negligence case filed against a school district by a thirteen-year-old student who had a sexual relationship with a school employee.<sup>109</sup> The court rejected the defendant's assertion that the student's consent could amount to contributory negligence.<sup>110</sup> The court noted that the child "lacks the capacity to consent" and was "under no legal duty to protect herself from the sexual abuse."<sup>111</sup>

#### *B. What This Legal Tradition Tells Us*

By and large, the inferences drawn from the line of statute and precedent follow a common storyline: children are to be protected, period. Even though no exception is made in the prohibition of prostitution to account for juvenile actors, that shred of contradiction appears almost to be an oversight when it stands alone in the shadow of a mountain of statutes pointed the opposite theoretical direction. There is a clear legislative preference in favor of shielding children from the damage of adult sexual contact. Essentially, any sex or sexual contact between adults and minors is illegal outside of the context of marital relations.<sup>112</sup> No exception to these protections exists that would exclude children who are being paid for sex; in fact, the prohibition

of commercial sexual exploitation of a minor makes the opposite true. In addition, the law purports to come down on pimps (when it can get a hold of them) with a wide range of offenses to choose from and charge, examples including: promoting prostitution, promoting commercial sex abuse of a minor, child molestation, indecent liberties, human trafficking, and, depending on the circumstances, possibly even unlawful imprisonment.<sup>113</sup>

Along with the sheer number of statutes aligned with the preference to protect children rather than prosecute them, the associated sentences further enforce this argument. Prostitution is a misdemeanor, and at its rarely-attained maximum sentence, those found guilty may be held for no more than ninety days in jail and expected to pay a fine not exceeding one thousand dollars.<sup>114</sup> This punishment is miniscule in comparison to the range of felony sentences available for use against adults who have sex with children, some carrying life in prison price tags. When looked at from a sentencing standpoint, it becomes evident that the legislature finds much more import in the protection of minors than it does in punishing them for indecent moral acts.

The judiciary has expressed an identical sentiment. Overwhelmingly, it has articulated a desire to protect children against predatory adults by upholding applicable child protection laws and by speaking of children as legal innocents who should not be brought to bear any responsibility for conduct that has occurred at the hands of older, exploitive actors. But, in concert with the legislative position on these issues, an anomalous seed of hypocrisy remains embedded in the legal framework. As soon as one of these legally-insulated innocents accepts money for what otherwise would be rape, no matter what their reason for doing so, the insulation disappears and leaves a criminally responsible defendant left to face criminal prosecution.

*C. The Philosophical Shift*

The conflicts and trends that are playing out in statutes and the judiciary find company in the range of philosophical viewpoints that effectively mirror the overwhelming preference for a protection-over-prosecution stance accompanied by a small, yet ever-present dissent.

Traditionally, prostitution has been viewed as a criminal act, and prostitutes themselves have been viewed as criminals, regardless of age. This perspective retains validity; after all, there is a law on the books stating in no uncertain terms that commercial sex will not be tolerated by law or society.<sup>115</sup> Many proponents of the continued criminalization of prostitution with no infancy exception center their argument on the concept of choice. Along this line of thought, there are always options, even in the worst social circumstances, that do not involve breaking the law. Consequently, those engaged in prostitution must have become involved through their own volition, and thus, softening legal consequences would be inappropriate. Proponents of this “there is always another choice” mindset may point to the thousands of examples of impoverished and abused youth who do not engage in commercial sex, are not involved with alcohol or drugs, and are not gang-affiliated. Furthermore, the law has defenses (duress, for one) built in for the truly innocent. All a coerced individual must do is ask his or her assigned counsel to take the case to trial—the truth will set the innocent free.

In recent years, the social climate regarding prostituted juveniles appears to have undergone a philosophical shift, indicating that society may be letting go of traditional ideas for the sake of embracing more pragmatic approaches. Prostitution, in general, is less of a taboo academic subject than it used to be, and the resulting research has borne a common set of themes with regard to youth involved in commercial sex. Foremost, youth are not choosing to become prostitutes. Prostitution is essentially either an end-of-the-road survival technique for those trying to escape nightmarish home



lives, or it is an activity engaged in as the direct result of violence and coercion.<sup>116</sup>

Some academics advocate for total decriminalization for prostituted youth.<sup>117</sup> As a result, neither arrest nor prosecution would occur. According to this view, even arrest is harmful because of its criminalizing effect and because it sends youth the message that they are “bad.” This ideology, though perhaps sound in principle, could be extreme in implementation. First, it is an abrupt break from tradition, which is typically unpopular in what is otherwise a generally slow-moving legal world. Furthermore, decriminalization would be premature without other intervention options in place for those working to unravel prostitution rings.

Concerns about extreme change are likely meritorious in this arena, and unsurprisingly, caution has manifested in the actual statutory shifts that have occurred concerning prostituted youth in the United States. One example is the Safe Harbor for Exploited Children Act, a recently passed piece of New York State legislation.<sup>118</sup> Rather than decriminalizing prostitution for youth, the Act allows children involved in prostitution to defer criminal prosecution, so instead of undergoing delinquency proceedings, they alternatively can petition to be classified as a “person in need of supervision” (“PINS”). Qualifying as a PINS allows the youth to access services that will assist them in the transition back to mainstream life.<sup>119</sup> Although a default requirement is in place for the court to grant the deferral motion, there are also myriad instances in which the court may deny the motion and pursue prosecutorial delinquency proceedings. Some examples include cases in which the youth has been found to have committed prostitution in the past, or when the youth at issue does not appear to be a victim of a severe form of trafficking under the federal definition of the term.<sup>120</sup> Also, even if the court orders a PINS petition, it may later reinstate delinquency proceedings if the PINS conditions are not properly complied with.<sup>121</sup>

Although the Safe Harbor for Exploited Children Act clearly exemplifies the shifting attitudes concerning the legal treatment of prostituted youth, it simultaneously identifies the reluctance to jump in with both feet. Consequently, it carries with it some of the ignorance of the past. This is especially evident in that the Act fails to offer any real protection to those youth trapped in a cycle of prostitution-related exploitation, because courts are given express permission to deny diversion to those youth with past prostitution offenses.<sup>122</sup> Still, it is unrealistic to expect a legislature to come up with a perfect solution—piecemeal legislation will by no means solve what is, above all, a complex social issue. Moreover, the Act's shortcomings are offset by three of its key victories: it focuses on protection, rather than punishment; it increases awareness by publicly highlighting the issue; and it also strikes a fairly reasonable medium between the traditional prosecutorial view and the more radical decriminalization view that has recently emerged.

## II. PROSECUTION OF PROSTITUTED YOUTH CONFLICTS WITH THE LAW

### *A. The Customary Procedural Process in the Seattle Area*

Juvenile prostitution arrests are often the result of police sting operations.<sup>123</sup> However, prostituted juveniles may also be arrested for loitering if they have a record of previous prostitution arrests.<sup>124</sup> Generally, when a juvenile is arrested for prostitution, he or she is taken to court the following day.<sup>125</sup> At that point, the purpose of the hearing is essentially the same as an adult probable cause hearing: the court's objective is to decide if there is enough evidence that the child has committed a crime to continue with prosecution.<sup>126</sup> If so, the court has two options: it may release the child for the interim period before arraignment, or it may hold the child in detention.<sup>127</sup> Problematically, when a prostituted juvenile is released rather than held, it is often the child's pimp who picks the child up, resulting in an

immediate return to work on the streets.<sup>128</sup> Regardless, the youth will be expected to appear back in court for the arraignment to enter a plea.<sup>129</sup> At this stage, it is not uncommon for the attorneys to have negotiated to lower the charges or to for the charges to have been dismissed altogether.<sup>130</sup>

Typically, the court does not treat the first prostitution offense very seriously, and it usually results in probation, if filing takes place at all.<sup>131</sup> However, if the youth is subsequently found to not be “compliant” (usually for breaking some term of probation such as mandated participation in community service or being arrested again) his or her probation can be revoked.<sup>132</sup> If this happens frequently enough, the court may consider sanctions outside of the standard range sentences,<sup>133</sup> a process called “Manifest Injustice” under Washington law.<sup>134</sup> For example, “Manifest Injustice Up” (in other words, imposing a sentence above the standard range) may be sought because a youth is perceived to have an increasing level of criminal involvement or his or her type of involvement has become more serious.<sup>135</sup> Dr. Boyer’s study indicates that females with a history of involvement with prostitution may be sent to the Echo Glen juvenile detention facility for up to a year, though involved authorities apparently view this option “as a last resort and the result of a lack of alternative safe placements.”<sup>136</sup>

It is important to highlight the fact that these prosecutions of prostituted youth *are* happening in the Seattle area, and they are happening in substantial numbers. In fact, in 2007, King County Juvenile Court received eighty-two referrals for prostitution-related charges.<sup>137</sup> Eighty percent of these cases were pursued by filing and prosecution.<sup>138</sup> In the five years leading up to that point, eighty-four juveniles were convicted of prostitution. In contrast, only two adults received convictions for patronizing them.<sup>139</sup> There is nothing to suggest that this practice of prosecuting juveniles for prostitution has ceased. In fact, just in 2009, the Washington Court of Appeals upheld the conviction of a seventeen-year-old for prostitution.<sup>140</sup>

*B. It is Unlawful to Prosecute Prostituted Youth*

The argument that the prosecutorial course of action taken in the Seattle area (and most other parts of the country) is unlawful is as simple as it is compelling. In the eyes of the law, a person cannot consent to their own victimization. This is true across the board. The criminal law mandates that adults are to be seriously punished in one way or another for having sex with children or facilitating sex with children—no matter what the underlying circumstances are. These laws are intended to reprimand adults for making *victims* out of children who are not old enough to consent to the activity. As previously discussed, this is a viewpoint that has been expressly articulated on the federal level, with the VTVPA citing its mission as “protecting rather than punishing”<sup>141</sup> victims of exploitation, as well as on a state level, with Washington case law stating that children are under “no legal duty” to shield themselves from sexual abuse.<sup>142</sup>

In order to protect individuals who are too young to make the decision to engage in sexual activity, the legislature has, in essence, taken the question from them and answered “no” on their behalf. It is absurd, then, that the same child who is legally presumed to have said “no” to sexual activity can later be criminally punished because a sex offender paid the child, or much more likely the child’s pimp, in order to commit rape. In this sense, the law sets up prostituted youth for a twofold victimization: first, from their abusive pimps and johns, and second, through criminalization by the justice system, an entity that should be protecting them.

*C. If Prosecution is Unlawful, Why are Youth Still Prosecuted for Prostitution?*

Although it is evident that youth *are* being prosecuted for prostitution, one can only speculate as to *why* authorities would insist on prosecuting these youth in spite of the evidence that this is likely an unproductive, damaging, and legally averse route. The answer could be embedded in the aforementioned discussion of tradition. A major role of the police is to

apprehend criminals, and “[a] person is guilty of prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.”<sup>143</sup> In the eyes of the current law, this is true no matter who (or how old) the person is who “engages or agrees or offers.”<sup>144</sup>

Additionally, prostitutes themselves have proven to be by far the easiest of the several actors in the grand prostitution business for the police to discover and apprehend. In any prostitution “marketing scheme,” they are the face of the operation, either through exposure on the street to anybody who passes by, including police officers, or by their arrival to a hotel expecting to meet a john, only to encounter a law enforcement sting operation. Police may feel that if they want to do *anything* to combat prostitution, they have to go after who they can find and hope that some of those prostitutes will turn over information about other backstage actors. Of course, some of these apprehended prostitutes will be youth—a variable not given special treatment in the overall quest to enforce the laws pertaining to this particular type of crime.

There are additional contenders for the rationale behind prosecuting youth for prostitution that portray the police in a less cynical light. Perhaps the most plausible is that prosecution is simply a relic from a more traditional time—prosecution holds the place for a more innovative option that has yet to arrive. It is possible that the police and the justice system, as a whole, would like to treat youth accused of this offense in a different way, but they find themselves without the option to do so. According to this view, processing prostituted youth through the system is a way, albeit a non-ideal one, to get these youth off the street, even temporarily. Of course, there are two ways to look at this theory. On one hand, even a short “rescue” may be all some of these youth need to seek a new lifestyle away from the oppression of their pimp or to be educated about their options through local social services programs. Alternatively, any contact with the justice system bears overwhelming potential to have a stigmatizing,

criminalizing effect on youth who are probably not acting on their own volition in the first place.

A final possible rationale deals with the projected collateral consequences of the opposite approach—not prosecuting youth for prostitution. At first blush, a nonenforcement strategy seems to align with the protective, rather than criminalizing, view reflected in most of the applicable statutes and jurisprudential language. However, in actuality, nonenforcement may bear a very nonprotective result. As pimps and gangs have become more of the rule than the exception in terms of the driving force behind youth prostitution, one must contemplate what would happen if word got out that the youth they have prostituted can no longer be targeted for prosecution. Realistically, nonenforcement of prostitution laws for youth would place an even bigger target on the youth population for sexual exploitation by these predatory pimps and gangs. If their youth “workforce” could no longer be taken off the street by law enforcement, it would make sense for exploiters to deliberately utilize the legal immunity of that group.

### III. DIVERSION AS A POSSIBLE SOLUTION

#### *A. Diversion Already Exists in the Juvenile Justice System*

History and experience have demonstrated that prosecuting prostituted youth does not solve the youth prostitution problem, and there are major legal flaws in applying the criminal law to this set of youth. Also, there are deep concerns and impracticalities associated with not prosecuting these youth. Left with what appears to be a choice between two evils, authorities have entertained and explored other options to address this prevalent issue. The alternative-to-prosecution frontrunner that has emerged is diversion.

Conveniently, diversion is already commonly utilized for juvenile offenders, especially for a first or second infraction, and particularly if the offense was minor.<sup>145</sup> Under this system, a prosecutor screens the case and, if he or she deems appropriate, allows the case to follow an alternative

diversionary track rather than standard filing and court processing.<sup>146</sup> However, unlike other diverted youth, those who have been sexually exploited come with a specific package of needs, many of which are unprecedented in the realm of diversion as it is currently understood. It is becoming more and more evident that a residential component will be of paramount importance in the successful diversion of prostituted youth.

### *B. Other Cities Using Alternatives to Prosecution for Prostituted Youth*

Many cities have implemented services designed to assist prostituted youth and have seen some success. However, without a residential component, it is extremely difficult to extract youth from a lifestyle where prostitution is inexorably tied to survival. The concept of specialized residential programs specifically designed for prostituted youth is not a wholly novel idea, although such programs are rare. There are only three established residential programs of this type in the United States today: Children of the Night in the Los Angeles area, Girls Educational and Mentoring Services (GEMS) in the New York City area, and Angela's House in Atlanta. Intake for these programs is facilitated both through referrals from the criminal justice system as well as through referrals from outside the criminal justice system. Each program has slightly different features, and they vary greatly in their strategies for funding.

#### **1. Children of the Night (Los Angeles Area)**

Founded in 1979, Children of the Night is the oldest of the residential diversionary programs for prostituted youth.<sup>147</sup> It caters to youth ranging in age from eleven to seventeen who have been exposed to sexual exploitation.<sup>148</sup> The program will accept both girls and boys into its twenty-four bed home.<sup>149</sup> Some of the features of the expansive program include: "refuge, food, clothing, an on-site school, counseling, and emotional support for child prostitutes from all over the United States."<sup>150</sup> The program even funds airfare and provides ground transportation to the

home.<sup>151</sup> Also, it is a voluntary program meant to serve as an intermediary situation between life in prostitution and regular childhood.<sup>152</sup> While a one-year stay is cited as the length required for “optimum treatment,” residents are allowed to stay until they turn eighteen, and the program continues to offer assistance to those who age out through what they call the “Alumni Association.”<sup>153</sup> The Alumni Association package of services is described as follows:

We offer long-term social services for those who just can't break the cycle of drugs, prostitution, multiple pregnancies, and reliance on welfare. Those who have successfully completed the program continue to receive support services. Once a child has entered our home, he or she can rely on a “safety net” for life.<sup>154</sup>

One of the mandatory aspects of the program is participation in its school, which is equipped to provide high-school equivalency education, unless the youth finds a job.<sup>155</sup> The program also offers assistance with college placement in areas away from the locations where the youth were previously exploited.<sup>156</sup> Another requirement is participation in the program's scheduled activities, as part of the program's goal to keep a structured and busy environment.<sup>157</sup>

Also, though referrals can come from multiple sources, many youth do come into the program from the justice system. Judges can keep cases active during the youth's stay in the home, leaving prosecution as the alternative to participation in the program, and Children of the Night may decide to return housed children to court should they fail to participate in the Children of the Night program.<sup>158</sup>

Not only is Children of the Night the oldest and most established of the handful of residential homes for prostituted youth, but it also seems to offer the most in terms of services and length of stay. The program purportedly runs on a budget of \$2 million annually.<sup>159</sup> Undoubtedly, an essential component to the success of the program is that it has a great amount of



private support. Astoundingly, the program is funded in full through private donations.<sup>160</sup>

## **2. Girls Educational and Mentoring Services (GEMS) (New York City Area)**

GEMS was founded in 1999 by a woman with firsthand experience of sexual exploitation at a young age.<sup>161</sup> The program serves a slightly larger age group than Children of the Night, working with twelve- to twenty-one-year-olds,<sup>162</sup> but only those between the ages of sixteen and twenty-one are allowed to live in the residential unit.<sup>163</sup> Additionally, unlike Children of the Night, GEMS only works with women and girls who have been commercially and sexually exploited, and it does not accept male residents.<sup>164</sup>

On top of offering transitional and crisis housing, the program also offers case management, counseling and therapy, recreational opportunities, and employment and leadership training, as well as an educational program that offers on-site tutoring and college readiness clinics, which incentivize working toward goals such as completion of a GED, or a college or vocational program.<sup>165</sup> The GEMS program designers describe their treatment model as including “holistic case management” and “trauma based therapy.”<sup>166</sup> Also, GEMS conducts street outreach in New York City and offers referrals for services.<sup>167</sup> The organization additionally offers court advocacy for the program participants who have active cases in either criminal or family court.<sup>168</sup>

Another feature GEMS offers is a training program to educate various organizations about the commercial and sexual exploitation of children, about domestic trafficking issues, and about the best ways to deal with victims that these organizations encounter in their professional capacities.<sup>169</sup> GEMS will work with an organization requesting training by formatting the training to meet that particular organization’s needs, ranging from simply a video presentation and question and answer session, to a lecture at a

conference or even a highly-tailored, multiday training workshop.<sup>170</sup> Clients of the GEMS training program include the Massachusetts Attorney General's Office, the New York Office of the Courts, and the Office of Children and Family Services in Staten Island, New York, among others.<sup>171</sup>

Unlike Children of the Night, which is entirely privately funded, GEMS derives its funding from a combination of public and private sources.<sup>172</sup> In addition to donations from private foundations and community organizations, GEMS also receives funding from several state governmental sources, such as the New York State Department of Youth and Community Development, Children and Family Services, and the Division of Criminal Justice Services, as well as federal government sources like the U.S. Office of Juvenile Justice and Delinquency Prevention and the U.S Administration for Children and Families.<sup>173</sup>

### **3. Angela's House (Atlanta)**

The newest residential program for prostituted youth, Angela's House, was founded in 2002 in the Atlanta area as part of the Juvenile Justice Fund's<sup>174</sup> Center to End Adolescent Sexual Exploitation (CEASE).<sup>175</sup> The house itself was donated by a local woman, giving the Juvenile Justice Fund the financial basis to take the program on as a pilot project.<sup>176</sup> Now up and running, Angela's House accepts up to six girls at a time, ranging in age from eleven to seventeen, all of whom have been subjected to sexual exploitation.<sup>177</sup> Normally, an individual girl's stay will last several months,<sup>178</sup> and about eighteen girls circulate through Angela's House annually.<sup>179</sup>

Like GEMS, CEASE provides prevention and awareness training to community providers and agencies, designed to educate these groups about the risk factors that lead to sexual exploitation of youth and help them identify prostituted youth.<sup>180</sup> The CEASE program appears to be highly regarded in the community, having trained agencies and organizations such as the Fulton County Department of Family and Children Services, the

Fulton County Juvenile Court, the Emory School of Medicine, and the Georgia State University System.<sup>181</sup> Also similar to GEMS, CEASE has a court advocacy component, and like both previously discussed programs, CEASE offers case management and crisis counseling services.<sup>182</sup>

The residential component of CEASE's programming, Angela's House, strives to provide a family-like environment.<sup>183</sup> Additionally, the residents have access to a wide array of structured activities, such as yoga, horsemanship, journalism, and West-African Drumming.<sup>184</sup> While living at Angela's House, the residents have on-site academic resources through an accredited schooling program so that they will be able to transition back into their appropriate grade level upon completion of the program.<sup>185</sup> Even after they leave the home, though, the staff continues to monitor the former residents' progress through "Intensive Family Intervention" services to ensure stability and proper therapy arrangements in the outside living environment.<sup>186</sup> Typically, this monitoring lasts a few months, including home visits several times per week.<sup>187</sup>

### *C. The Need for a Permanent Residential Program in Seattle*

When Seattle's prevalent youth prostitution problem finally came to light, it was immediately apparent that the city is a prime location for a residential facility like those in Los Angeles, New York, and Atlanta. In a special report spotlighting youth prostitution in Seattle, a local newspaper candidly explained the then-existing gap in services for commercially sexually exploited youth, stating that:

Despite Seattle's extensive network of services for youths—programs for homeless kids, drug-addicted kids, gay, lesbian and transgender kids—the 15-bed Spruce Street center is the only place, other than a jail cell, where children trapped in prostitution can find respite, albeit brief. There is nothing in the city, nor even Washington State, dedicated to helping young people permanently free themselves from sex work.<sup>188</sup>

The lack of services for prostituted youth in Seattle presented a very real problem; in fact, service gaps were a main focus of Dr. Boyer's study.<sup>189</sup> In particular, there was a fundamental need for housing specifically dedicated to prostituted youth, as an estimated average of fifteen to twenty-five sexually exploited youth per year need secure housing in the Seattle area.<sup>190</sup> Ideally, the solution would involve a housing exchange between counties to shield these youth from pimps and gangs who may recognize and kidnap them if they stay in the area where they were exploited.<sup>191</sup> As quoted above, the Spruce Street Center, which came about as a product of the 1995 Becca Bill legislation intended to fund the creation of facilities where runaway teens can be sheltered in crisis housing for up to five days,<sup>192</sup> tragically has been the closest thing to secure housing that Seattle could offer. However, that shelter is not reserved solely for prostituted youth.<sup>193</sup>

Additionally, regular shelters may be hesitant or unable to accept these particular individuals. The truth is that a great number of shelters are already dedicated to specific populations, and because of licensing and regulatory restrictions, they are limited as to who they can take in.<sup>194</sup> Another study stated that shelters also shy away from accepting prostituted youth because of their tendency to be aggressive, and because they have been known to recruit for their pimps while in shelter care.<sup>195</sup> Even local groups that are specifically involved in youth prostitution-based outreach and various other services for that population, such as New Horizon Ministries, are unable to offer the housing that this population desperately needs.<sup>196</sup>

Although housing appears to have consistently been the biggest gap in services, and the toughest to fund and operate, a number of additional areas leave ample room for improvement. Primarily, an upgrade is due both in implementing a "wraparound services model,"<sup>197</sup> and in streamlining efforts in order to facilitate efficient collaboration among service providers.<sup>198</sup> Preferably, Seattle could improve its early intervention services by increasing the number of people participating in outreach and having a plan

to coordinate different groups of outreach workers already operating in the city.<sup>199</sup>

Also, workers need to be trained to deal with sexually exploited youth and the specific populations they commonly come from, namely children who are homeless.<sup>200</sup> For example, it is crucial that workers understand how youth prostitution “works” (including the associated dynamics and the dangers involved), how to have effective conversations with exploited youth, and how to connect them with services.<sup>201</sup> For those sexually exploited youth who are detected while in juvenile detention, there needs to be somewhere other than the streets for them to go when they are released.<sup>202</sup> Specialized support services such as case management and assistance reintegrating into mainstream society are imperative, yet lacking.<sup>203</sup>

#### *D. The Safe Housing and Treatment for Children in Prostitution Pilot Project*

Beginning in October 2008, the City of Seattle partnered with United Way of King County and began crafting a two-year pilot project directed at prostituted youth intervention.<sup>204</sup> The resulting project plan, entitled “Safe Housing and Treatment for Children in Prostitution Pilot Project,” borrowed heavily from Dr. Boyer’s study and strived to meet the specific needs that she and other local experts identified. Having accepted its first referrals in April 2010, and begun operations under a new name, “The Bridge Project,” the pilot project promises to rival, and in some ways surpass, the three rescue homes for prostituted youth existing in the United States at this time. The program designers assert that it will be considered a success if they can “[p]rovide mental health counseling and chemical dependency treatment to support youth to leave prostitution and reintegrate into society with the skills and ability to maintain a stable, productive, crime-free and independent life.”<sup>205</sup>

The “transitional housing program” was the first item listed in the project proposal.<sup>206</sup> Along with the project’s title, this prominent placement clearly demonstrates a response to the specific cry for safe housing. The residential component of the program will accept “mostly girls” between fourteen and seventeen, specifically targeting those who are actively engaged in prostitution and are either mentally ill or dealing with substance addiction.<sup>207</sup> Initial entry into the program can be through referrals from the criminal justice system, from other agencies, or through outreach efforts.<sup>208</sup> The plan is explicit about the physical safety components it requires of the actual residential unit and has included in its budget funding for automatic locking doors and a security system with cameras and alarms.<sup>209</sup> Additionally, the unit’s location will be kept private in order to protect the residents from their former exploiters.<sup>210</sup>

The proposal tasked the City of Seattle’s Human Services Department with picking an existing community agency to run the program that has a proven track record of handling certain services planned to be included in the residential recovery program.<sup>211</sup> It ultimately selected YouthCare, a Seattle-based group offering outreach services to homeless and underserved youth and operating multiple residential units.<sup>212</sup> Although the pilot program does not fund the YouthCare residential program that is already in operation, it provides funding for many of the involved components of the pilot project. For example, the program funds staff positions for certain rehabilitative services, including mental health, substance abuse treatment, and counseling, as well as several youth counselor positions. Other funded on-site components of the program include “mental health services, substance abuse treatment, counseling for traumatic stress and trauma recovery, survivor support groups, health education, life skills training including support for GED or high school completion, preparation for enrollment in post-secondary education, job readiness training, employment placement, internships, and basic life skills training.”<sup>213</sup> Additionally, the

participants will have “opportunities to have fun, engage in age-appropriate activities, and begin to reclaim their youth.”<sup>214</sup>

Though a major ingredient, the transitional housing program is only one aspect of the overall pilot program; there is also a training component, facilitated by Seattle’s Human Services Department.<sup>215</sup> The main goal of the training aspect is to educate both criminal justice system employees and groups that provide services in the Seattle area about these youth and the high incidence of mental illness and substance addiction that plagues them.<sup>216</sup> An objective of the program is to “keep these youth in the community, out of detention, and ensure that their mental health and chemical dependency issues are addressed.”<sup>217</sup> Inevitably, many of the sexually exploited youth that the justice system and service providers encounter will not qualify under the selection criteria for the residential program. Therefore, an important function of the training aspect will be to ensure those youth receive adequate referrals to service providers who are educated about their specific set of needs.<sup>218</sup>

#### *E. House Bill 1505*

As a complement to the pilot project proposal, the legislature passed House Bill 1505. This bill, which expires two years after its 2009 inception, allows prosecutors the discretion to divert prostitution or prostitution loitering offenses for juveniles who agree to participate in the program.<sup>219</sup> Importantly, the bill allows diversion of these offenses regardless of the juvenile’s prior record.<sup>220</sup> Whereas other systems may place diversion after filing, under this particular diversion strategy, the prosecutor facilitates the diversion process in lieu of filing charges, thus, minimizing the criminalizing effect on the child. Additionally, the courts must keep statistical data on the diversions, including the total number of individuals diverted, the number who continue to complete the program, and the number of subsequent offenses committed by the diverted juveniles.<sup>221</sup>

#### IV. DIVERSION'S DRAWBACKS

##### A. Financing

Initially, it seemed that Seattle had come up with a golden (or at least gold-plated) solution to its ugly underground web of commercially sexually exploited youth with the Safe Housing and Treatment for Children in Prostitution Pilot Program. However, the city's plans quickly encountered one crippling flaw—the program went bankrupt in the fall of 2009.

Diversion programs, especially residential ones packed to the brim with much needed services, cost a substantial amount of money to run. The program's then quoted \$1,006,528 cost<sup>222</sup> was to be funded from several sources. United Way of King County committed \$100,000 for the first year and expressed intentions to continue to provide funding in the future.<sup>223</sup> Also, the City of Seattle promised \$46,528 from its Sex Industry Victim's Fund to help the project get off the ground.<sup>224</sup> Additional donations of \$100,000 and \$20,000 were provided by an anonymous donor and a local attorney, respectively.<sup>225</sup> The vast majority of the funding though, \$480,000 per year, was to come from King County's Mental Illness and Drug Dependency Fund,<sup>226</sup> commonly referred to as "MIDD Money." The program was set to start implementing its operations when the King County Executive decided to completely pull the MIDD money that had been dedicated to the program.<sup>227</sup> Money was instead shifted to buttress programs already in operation, and the pilot was put at the bottom of the list of new programs to receive funding.<sup>228</sup>

Suddenly facing financial devastation, it seemed that the program would never get off the ground. However, the persistence of Seattle City Councilmember Tim Burgess, an overwhelming media response (including numerous articles by the *Seattle Times*), and some large organizational donations from the Bill and Melinda Gates Foundation, the Women's Funding Alliance, and the Dorsey & Whitney Foundation, along with private donations, intervened at the last minute and rescued the program



from its doomed fate.<sup>229</sup> One private donor, an anonymous father of four, donated \$100,000 and inspired some of his friends, including two of the members of Seattle-based rock band Pearl Jam, to match the funds.<sup>230</sup> Other community members have made donations of amounts varying from five dollars to a thousand dollars.<sup>231</sup> By February 2010, \$1.2 million of the total cost, which was re-estimated to be \$1.5 million (close to \$500,000 more than when the program was green lighted for the first time), had been raised.<sup>232</sup>

The community's effort was nothing short of inspiring. Still, it is an unavoidable fact that programs like this one are immensely expensive. A *Seattle Times* article points out that, even though the 2010 year is paid for, operations for 2011 are still underfunded by \$300,000.<sup>233</sup> The program's creators remain confident that adequate funding will be raised to at least see the pilot through for three years.<sup>234</sup> However, the funding drama should serve as a cautionary tale—financing this program will probably be a constant struggle.

### *B. Lingering Legal Problems*

It seems that the drawbacks to the Seattle pilot program are not entirely financial; issues remain embedded in the structure of the diversionary plan itself. Though diversion is obviously an improvement over a purely prosecutorial scheme, it is by no means a catch-all remedy to the injustices that prostituted youth suffer when put through the standard procedure. HB 1505 positions prosecutors as screeners and gives them the discretion to decide who qualifies as an eligible candidate for diversion. Naturally, this means that some cases will be filed for prosecution as a result of the screening process. Foremost, no prostituted youth should be held criminally accountable, due to his or her status as an individual who could not have legally consented to the acts underlying their offenses. Moreover, because some cases will not be screened into the diversion program and instead will be prosecuted, the bill legitimizes the position that it is sometimes

appropriate to prosecute. As the weight of the evidence clearly indicates, prosecution of these individuals is never legally appropriate.

At the very least, those youth who do end up in the prosecutorial track should be flagged in some way so that social workers can identify them and appropriately address their unique needs, providing them with assistance accessing services, treatment, and safe living arrangements upon release. Unfortunately, there is nothing specifically incorporated in the bill or program design to accommodate or assist those who are not lucky enough to secure a spot in the residential home.

#### V. WHERE DO WE GO FROM HERE?

It is undeniable that Seattle is doing the right thing in directly addressing its youth prostitution problem. On the most basic level though, everyone involved in the fight needs to be on the same page if there is to be any lasting success in helping this group of exploited youth. Fundamentally, there needs to be an explicit declaration by lawmakers, prosecutors, and judges that juveniles will not be prosecuted for prostitution. If for no other reason, the alternative—continued criminalization—has proven to be untenable. First, it is *legally unsound*. Minors are not able to consent to sex with predatory adults, so they must not be held legally accountable for such acts. Second, it is *socially irresponsible*. Our society knows more about youth prostitution than it used to. The numerous studies that have been conducted in an attempt to understand these youth all arrive at the same conclusion: youth involved in prostitution, almost exclusively, are victims of coercion and terrible abuse rather than free agents acting on their own will. Third, it is *ineffective*. Seattle's prostituted youth population is increasing and getting younger, and many are becoming repeat offenders.

In a perfect world, prosecution would be abandoned through an express exception in the prostitution law for anyone under the age of eighteen. Frankly, in order for the prostitution law to not conflict with other laws, such an exception *must* be made. However, a conflict with other laws seems

inevitable because an express legal exception could create a barrage of adverse consequences, and the aforementioned loophole allowing pimps to have a legally insulated workforce would top the list. Additionally, this decriminalization would leave police, who are some of the most effective detection and intervention devices available, without legal muster to provide this invaluable service. As a related matter, there would be virtually no mechanism for immediate rescue from the street and the lurking pimp, leaving youth completely unprotected unless they are lucky enough to cross the path of an outreach worker.

As an alternative, it would be ideal for prosecutors to implement nonprosecution policies in their jurisdictions. Though this would do nothing to clear up contradictions in the actual legal status of prostituted youth, it would, in effect, erase the harms that ignoring the lack of consent has caused. Even more importantly, by allowing the prostitution law to remain intact, the police would retain legal grounds to take these youth into custody. Permitting arrest serves the dual purposes of providing immediate rescue from the street and connecting the youth to appropriate services.

However, as the criminal justice system eases tension, exploiters are able to use the slack to their advantage. Making a commitment to discontinue all prosecutions would require a leap of faith in local service providers to keep youth protected from pimps and gangs. Unfortunately, it appears that the best protection—a residential safe house—has an unsteady long-term prognosis because of its cost. Still, there are cheaper aspects of the pilot program that could be implemented in full force. Education and training programs for those who are likely to encounter prostituted youth are instrumental in identifying and assisting the affected population. From there, service providers have to cooperate and come up with a system of communicating with each other to maximize access to services and minimize the chances that these youth will return to their exploiters. Perhaps, training programs could even utilize the expertise of former prostitutes to gain valuable insight on what strategies would be most

effective. Whatever underlying methods are ultimately used, the goal in all of this is to achieve some level of safety for these youth so that they have an incentive, or even merely an option, to disclose the identity of their exploiters.

Meanwhile, it is important to keep efforts at funding a residential program active. Pending federal legislation intended to provide grants for these kinds of programs to a handful of cities could help.<sup>235</sup> However, generating sustainable financing will almost certainly require continuing to seek out alternatives to government funding. Somehow, Children of the Night has been able to run its comprehensive program entirely on private donations for over thirty years. Based on the enthusiastic response by the Seattle community in privately funding the pilot project, this type of model is conceivably sustainable should the pilot project turn into a permanent resource.

One hurdle that will always face those trying to raise money or change the legal treatment of individuals involved in prostitution is that there will forever be some amount of negative public opinion. Prostitution has an undeniable “ick” factor, and many people view it as simply a career choice of the gravely morally compromised. However, by strengthening efforts to crack down on pimps and johns, who nearly everyone finds unsavory, the exploited can enjoy progress without being held to scrutiny. The criminal justice system should go to its allowable extreme with the powerful disincentives of punishment and publicity. Not only should actual sentences be increased wherever possible, but they should also carry creative add-ons. These could include publishing information about johns and their specific crimes in local newspapers as is done for DUI and violent offense convictions in many communities. Perhaps sentences could also include revocations of certain types of professional licenses and other punishments that would carry a lasting effect. Additionally, publicizing information about pimps and johns could have the collateral benefit of weakening the public’s bias against the commercially and sexually exploited.

## CONCLUSION

The Seattle Police Department's takedown of the West Side Street Mobb was a true victory in the ongoing fight against the commercial sexual exploitation of youth. However, it must not be forgotten that the police were only able to pull the weed out by the root in this instance because one brave, exploited woman was willing to speak out. Such bravery is not readily encountered, and for good reason. Sexually exploited individuals are forced to survive in a world in which they encounter daily violence, degradation, and dependence, only to be met with a dearth of resources available to assist them if they try to make a successful escape. An acknowledged legal change will have to occur in order for sexually exploited youth to disclose the "roots" of their exploitation, and the community has to be waiting in the wings to provide new roots and a new life when these individuals are discovered. As explained by a Suffolk County District Attorney speaking in the context of New York's own attempt to change its strategy:

There's no doubt that it's easier to prosecute someone arrested for prostitution than it is to investigate, indict, and convict the pimp who exploited her. To take the easy course, however, would only allow this phenomenon to stay hidden in the shadows where it will consume more girls and young women. Ethically and morally, we have to take a different course.<sup>236</sup>

Seattle should take pride in its openness to employing alternative strategies that are sound in law and smart in incentives. Hopefully, the collaborative momentum that brought the Safe Housing and Treatment for Children in Prostitution Pilot Project into being will not be lost in the ongoing struggle to finance it. Instead, this new program could be the monument we look back upon as merely a first step in the comprehensive treatment of what has been a tragic community crisis, as well as an example to other communities struggling to come to terms with their own similar problems.

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<sup>1</sup> Sara Jean Green, *Teenage Pimp Convicted of Human Trafficking*, SEATTLE TIMES, B1 (Nov. 25, 2009)

[http://seattletimes.nwsource.com/html/localnews/2010349145\\_mobbtrial25m.html](http://seattletimes.nwsource.com/html/localnews/2010349145_mobbtrial25m.html) [hereinafter *Teenage Pimp Convicted*].

<sup>2</sup> *Id.*; see also Sharon Pian Chan, *6 Charged in First King County Case Using Human Trafficking Law*, SEATTLE TIMES, B1 (Mar. 26, 2009)

[http://seattletimes.nwsource.com/html/localnews/2008926143\\_hookers25m0.html](http://seattletimes.nwsource.com/html/localnews/2008926143_hookers25m0.html).

<sup>3</sup> *Teenage Pimp Convicted*, *supra* note 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Jennifer Sullivan, *'Pimp God' Accused of Continuing Business from Behind Bars*, SEATTLE TIMES (Oct. 12, 2009)

[http://seattletimes.nwsource.com/html/theblotter/2010051064\\_second\\_member\\_of\\_west\\_seattle.html](http://seattletimes.nwsource.com/html/theblotter/2010051064_second_member_of_west_seattle.html).

<sup>7</sup> Jennifer Sullivan, *Gang Member Admits Forcing Teen Girls into Prostitution*, SEATTLE TIMES (Aug. 27, 2009)

[http://seattletimes.nwsource.com/html/theblotter/2009758854\\_gang\\_member\\_pleads\\_guilty\\_addi.html](http://seattletimes.nwsource.com/html/theblotter/2009758854_gang_member_pleads_guilty_addi.html).

<sup>8</sup> Levi Pulkkinen, *Two More Convicted in West Seattle Child Prostitution Probe*, SEATTLE POST INTELLIGENCER, Feb. 19, 2010,

[http://www.seattlepi.com/local/415630\\_westside19.html](http://www.seattlepi.com/local/415630_westside19.html). According to the trafficking statute, a person is guilty of trafficking if that person “[r]ecruits, harbors, transports, provides, or obtains by any means another person knowing that force, fraud, or coercion. . . will be used to cause the person to engage in forced labor or involuntary servitude.” WASH. REV. CODE § 9A.40.100(a)(i)(A) (2003). Note that “trafficking” under Washington law, then, does not necessarily involve transporting the victim as is assumed under the common usage of the term.

<sup>9</sup> *Teenage Pimp Convicted*, *supra* note 1.

<sup>10</sup> Sara Jean Green, *Teen Pimp Found Guilty of Human Trafficking*, SEATTLE TIMES (Nov. 24, 2009)

[http://seattletimes.nwsource.com/html/localnews/2010347593\\_webmobtrial24m.html](http://seattletimes.nwsource.com/html/localnews/2010347593_webmobtrial24m.html) [hereinafter *Pimp Found Guilty*].

<sup>11</sup> Pulkkinen, *supra* note 8.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> DEBRA BOYER, CITY OF SEATTLE HUMAN SERVS. DEP'T, DOMESTIC VIOLENCE AND SEXUAL ASSAULT PREVENTION DIV., *Who Pays the Price? Assessment of Youth Involvement in Prostitution in Seattle 1* (2008), available at

<http://seattletimes.nwsource.com/ABPub/2009/09/02/2009794017.pdf>.

<sup>16</sup> *Id.* at 5.

<sup>17</sup> *Id.* at 11.

<sup>18</sup> *Id.* at 12–13.

<sup>19</sup> *Id.* at 18.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 12.

<sup>22</sup> *Id.* at 11–12.

<sup>23</sup> Sara Jean Green, *Aid Program for Teen Prostitutes Looks for a Second Chance*, SEATTLE TIMES (Oct. 30, 2009) [http://seattletimes.nwsourc.com/html/localnews/2010165146\\_teenprostitutes30m.html](http://seattletimes.nwsourc.com/html/localnews/2010165146_teenprostitutes30m.html) [hereinafter *Aid Program*].

<sup>24</sup> Sara Jean Green, *Proposed Program for Teen Prostitutes Aground*, SEATTLE TIMES, B1 (Sept. 4, 2009) [http://seattletimes.nwsourc.com/html/localnews/2009803289\\_teenprostitutes04m.html](http://seattletimes.nwsourc.com/html/localnews/2009803289_teenprostitutes04m.html) [hereinafter *Proposed Program*].

<sup>25</sup> Claudia Rowe, *P-I Special Report: The Youngest Profession*, SEATTLE POST INTELLIGENCER (Dec. 6, 2005) [http://www.seattlepi.com/local/250920\\_teens06.html](http://www.seattlepi.com/local/250920_teens06.html).

<sup>26</sup> *Id.*

<sup>27</sup> See Jeanne Kohl-Welles & Nick Licata, *Childhood Prostitution: Stolen Youth, Stolen Dreams*, SEATTLE TIMES (March 9, 2007) [http://seattletimes.nwsourc.com/html/opinion/2003608542\\_childprostitutes09.html](http://seattletimes.nwsourc.com/html/opinion/2003608542_childprostitutes09.html); LINDA A. SMITH, SAMANTHA HEALY VARDAMAN & MELISSA A. SNOW, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING: AMERICA'S PROSTITUTED CHILDREN 26–27 (Shared Hope International ed., 2009).

<sup>28</sup> BOYER, *supra* note 15, at 28.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 25, 28.

<sup>32</sup> *Proposed Program*, *supra* note 24.

<sup>33</sup> *Id.*

<sup>34</sup> Jennifer Sullivan & Ian Ith, *Man Sentenced for Pimping Girls as Part of Gang Lifestyle*, SEATTLE TIMES (July 22, 2009) [http://seattletimes.nwsourc.com/html/localnews/2009512803\\_gangsentencing22m.html](http://seattletimes.nwsourc.com/html/localnews/2009512803_gangsentencing22m.html).

<sup>35</sup> EVA J. KLAIN, ABA CTR. ON CHILDREN & THE LAW, PROSTITUTION OF CHILDREN AND CHILD SEX TOURISM: AN ANALYSIS OF DOMESTIC AND INTERNATIONAL RESPONSES 6 (1999), available at <http://www.hawaii.edu/hivandaids/Prostitution%20of%20Children%20and%20Child%20Sex%20Tourism.pdf>.

<sup>36</sup> Sullivan & Ith, *supra* note 34.

<sup>37</sup> Sara Jean Green, *Pimp Tells of "Selling" Girls With Dream*, SEATTLE TIMES, B11 (Oct. 22, 2009), [http://seattletimes.nwsourc.com/html/localnews/2010113369\\_prostitutiontrial22m.html](http://seattletimes.nwsourc.com/html/localnews/2010113369_prostitutiontrial22m.html).

<sup>38</sup> *Id.*

<sup>39</sup> Jennifer Sullivan, *Gang Member Sentenced to Prison for Forcing Girls into Prostitution*, SEATTLE TIMES (July 21, 2009) [http://seattletimes.nwsourc.com/html/theblotter/2009505577\\_gang\\_member\\_charged\\_in\\_prostit.html](http://seattletimes.nwsourc.com/html/theblotter/2009505577_gang_member_charged_in_prostit.html).

<sup>40</sup> BOYER, *supra* note 15, at 29.

<sup>41</sup> *Proposed Program*, *supra* note 24.

<sup>42</sup> *Aid Program*, *supra* note 23.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> See Brad Stone, *Under Pressure, Craigslist to Remove 'Erotic' Ads*, N.Y. TIMES (May 13, 2009) <http://www.nytimes.com/2009/05/14/technology/companies/14craigslist.html>; see also Sara Jean Green, *Prostitution Sting Leads to 104 Arrests*, SEATTLE TIMES (Nov. 16, 2006) [http://seattletimes.nwsourc.com/html/localnews/2003432936\\_craigslist16m.html](http://seattletimes.nwsourc.com/html/localnews/2003432936_craigslist16m.html) [hereinafter *Prostitution Sting*].

<sup>47</sup> Chan, *supra* note 2.

<sup>48</sup> *Prostitution Sting*, *supra* note 46.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> Joe Markman, *Children Rescued in Prostitution Scheme*, SEATTLE TIMES, B4 (Oct. 27, 2009) [http://seattletimes.nwsourc.com/html/localnews/2010142035\\_kidpros27.html](http://seattletimes.nwsourc.com/html/localnews/2010142035_kidpros27.html).

<sup>53</sup> *Prostitution Sting*, *supra* note 46.

<sup>54</sup> WASH. REV. CODE § 9A.88.030 (1979).

<sup>55</sup> *Id.*; WASH. REV. CODE § 9A.44.010(2) (1994).

<sup>56</sup> WASH. REV. CODE §§ 9A.44.073-.096 (1988).

<sup>57</sup> WASH. REV. CODE § 9A.44.073 (1988); WASH. REV. CODE § 9A.44.076 (1990); WASH. REV. CODE § 9A.44.079 (1988).

<sup>58</sup> WASH. REV. CODE § 9A.44.073(1) (1988).

<sup>59</sup> *Id.* at § 9A.44.076(1) (1988).

<sup>60</sup> *Id.* at § 9A.44.079(1) (1988).

<sup>61</sup> *Id.* at § 9A.44.010(1)(c) (1988).

<sup>62</sup> *Id.* at CODE § 9A.44.073(2) (1988); WASH. REV. CODE § 9A.44.076(2) (1990); WASH. REV. CODE § 9A.44.079(2) (1988).

<sup>63</sup> WASH. REV. CODE § 9A.20.021(1)(a) (2003).

<sup>64</sup> WASH. REV. CODE § 9A.20.021(1)(c) (2003).

<sup>65</sup> WASH. REV. CODE § 9A.44.083(1) (1994); WASH. REV. CODE § 9A.44.086(1) (1994); WASH. REV. CODE § 9A.44.089(1) (1994).

<sup>66</sup> WASH. REV. CODE § 9A.44.083(1) (1994); WASH. REV. CODE § 9A.44.086(1) (1994); WASH. REV. CODE § 9A.44.089(1) (1994).

<sup>67</sup> WASH. REV. CODE § 9A.44.083(2) (1990); WASH. REV. CODE § 9A.44.089(2) (1988).

<sup>68</sup> WASH. REV. CODE § 9A.44.086(2) (1988); WASH. REV. CODE § 9A.20.021(1)(b) (2003).

<sup>69</sup> WASH. REV. CODE §§ 9A.44.093-.096 (2009).

<sup>70</sup> WASH. REV. CODE § 9A.44.093(1)(a) (2001); WASH. REV. CODE § 9A.44.096(1)(a) (2001).

<sup>71</sup> WASH. REV. CODE § 9A.44.093(1)(c) (2005); WASH. REV. CODE § 9A.44.096(1)(c) (2005).

<sup>72</sup> WASH. REV. CODE § 9A.44.093(1)(b) (2009); WASH. REV. CODE § 9A.44.096(1)(b) (2009).



<sup>73</sup> WASH. REV. CODE § 9A.44.093(2) (1988); WASH. REV. CODE § 9A.44.096(2) (1988); WASH. REV. CODE § 9A.20.021(2) (2003).

<sup>74</sup> WASH. REV. CODE § 9.68A.100–101 (2010); WASH. REV. CODE § 9.68A.102 –103 (2007).

<sup>75</sup> WASH. REV. CODE § 9.68A.100–101 (2010); WASH. REV. CODE § 9.68A.102 –103 (2007).

<sup>76</sup> WASH. REV. CODE § 9.68A.101(2) (2010).

<sup>77</sup> WASH. REV. CODE § 9.68A.100(2) (2010); WASH. REV. CODE § 9.68A.102 (2007); WASH. REV. CODE § 9.68A.103 (2007).

<sup>78</sup> WASH. REV. CODE § 9.68A.040 (1989).

<sup>79</sup> PROTECT Act, Pub. L. No. 108-21, 117 Stat. 650 (2003) (codified as amended in scattered sections of 18 U.S.C. and 42 U.S.C.).

<sup>80</sup> Press Release, DEP'T OF JUST., Fact Sheet PROTECT Act (Apr. 30, 2003), *available at* [http://www.justice.gov/opa/pr/2003/April/03\\_ag\\_266.htm](http://www.justice.gov/opa/pr/2003/April/03_ag_266.htm).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> White-Slave Traffic (Mann) Act, c. 395, §§ 1, 2, 5, 8, 36 Stat. 825–27 (1910).

<sup>89</sup> White-Slave Traffic (Mann) Act, 18 U.S.C. § 2423 (1978).

<sup>90</sup> 18 U.S.C. § 2421 (1986).

<sup>91</sup> Victims of Trafficking and Violence Protection Act, Pub. L. No. 106-386, 114 Stat. 1464 (2000) (codified as amended in scattered sections of 18 U.S.C., 22 U.S.C., 27 U.S.C., and 42 U.S.C.) [hereinafter Victims Act].

<sup>92</sup> Victims of Trafficking and Violence Protection Act, Pub. L. No. 107(c), 114 Stat. 1464 (2000).

<sup>93</sup> *Id.* §102 (b)(4)–(6).

<sup>94</sup> *Id.* § 102 (b)(2), (4), (6), (23), (24).

<sup>95</sup> *Id.* §102 (b)(3).

<sup>96</sup> *Id.* §102 (b)(4).

<sup>97</sup> *Id.* at §102 (b)(6).

<sup>98</sup> *Id.* at §102 (b)(24) (emphasis added).

<sup>99</sup> *See, e.g.*, Domestic Minor Sex Trafficking Deterrence and Victims Support Act, S. 2925, 111th Cong. (2010) (pending enactment); Trafficking Deterrence and Victims Support Act of 2009, H.R. 5575, 111th Cong. (2010) (pending enactment); Trafficking Deterrence and Victims Support Act of 2009, H.R. 1379, 111th Cong. (2010) (pending enactment).

<sup>100</sup> *See, e.g.*, Domestic Minor Sex Trafficking Deterrence and Victims Support Act, S. 2925, 111th Cong. (2010) (pending enactment); Trafficking Deterrence and Victims Support Act of 2009, H.R. 5575, 111th Cong. (2010) (pending enactment); Trafficking Deterrence and Victims Support Act of 2009, H.R. 1379, 111th Cong. (2010) (pending enactment).

<sup>101</sup> State v. Phelps, 60 P. 134 (Wash. 1900).

<sup>102</sup> State v. Falsetta, 86 P. 168, 169 (Wash. 1906).

<sup>103</sup> State v. Melvin, 258 P. 859, 860 (Wash. 1927).

<sup>104</sup> State v. Dodd, 765 P.2d 1337, 1338 (Wash. Ct. App. 1989).

<sup>105</sup> State v. Knutson, 854 P.2d 617, 622 (Wash. 1993).

<sup>106</sup> *Id.*

<sup>107</sup> State v. Heming, 90 P.3d 62, 64 (Wash. Ct. App. 2004).

<sup>108</sup> State v. Clinkenbeard, 123 P.3d 872, 879 (Wash. Ct. App. 2005).

<sup>109</sup> Christensen v. Royal Sch. Dist. No. 160, 124 P.3d 283, 285 (Wash. 2005).

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> In Washington, the marriage of minors is permissible in some instances. For example, with the consent of one parent or a guardian, a seventeen-year-old may marry. For those under seventeen, permission of the Superior Court is also required. WASH. REV. CODE § 26.04.010(2) (2009); WASH. REV. CODE § 26.04.210(1) (2009).

<sup>113</sup> *E.g.*, WASH. REV. CODE §§ 9A.88.070–080 (2009) (Promoting Prostitution); WASH. REV. CODE § 9.68A.100 (2009) (Promoting Commercial Sex Abuse of a Minor); WASH. REV. CODE §§ 9A.44.083–089 (2009) (Child Molestation); WASH. REV. CODE § 9A.44.100 (2009) (Indecent Liberties); WASH. REV. CODE § 9A.40.100 (2009) (Human Trafficking); WASH. REV. CODE § 9A.40.040 (2009) (Unlawful Imprisonment).

<sup>114</sup> *See* WASH. REV. CODE § 9A.88.030(3) (1979); WASH. REV. CODE § 9A.20.021(3) (1982).

<sup>115</sup> WASH. REV. CODE § 9A.88.030 (2009) (Washington's prostitution statute).

<sup>116</sup> *See* Sara Ann Friedman, *Who is There to Help Us? How the System Fails Sexually Exploited Girls in the United States*, ECPAT-USA, 1, 28, 31 (2005), [http://www.ecpatusa.org/EcpatUSA\\_PDF/whoIsThereToHelpUs3.pdf](http://www.ecpatusa.org/EcpatUSA_PDF/whoIsThereToHelpUs3.pdf); BOYER, *supra* note 15.

<sup>117</sup> Nesheba Kittling, *God Bless the Child: The United States' Response to Domestic Juvenile Prostitution*, 6 NEV. L.J. 913, 924–25 (2006).

<sup>118</sup> N.Y. FAM. CT. ACT §§ 712, 732, 311.4 (2009) (Safe Harbor Act).

<sup>119</sup> Toolsi Gowin Meisner, *Shifting the Paradigm From Prosecution to Protection of Child Victims of Prostitution*, 21(8) NAT'L DISTRICT ATT'Y ASS'N Part I of II (April-June 2009).

<sup>120</sup> Victims Act, *supra* note 91.

<sup>121</sup> Meisner, *supra* note 119.

<sup>122</sup> *Id.*

<sup>123</sup> BOYER, *supra* note 15, at 21.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.* at 19.

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Proposed Program*, *supra* note 24.

<sup>129</sup> *Information page*, KING COUNTY JUV. CT., <http://www.kingcounty.gov> (accessed by searching for “Juvenile Offenders” and following “Juvenile Offenders” hyperlink) (last visited Oct. 16, 2010).

<sup>130</sup> BOYER, *supra* note 15, at 19

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> WASH. REV. CODE § 13.40.0357(D) (2010) (allowing the court to impose manifest injustice if the court determines that a disposition under option A, B, or C would effectuate a manifest injustice); WASH. REV. CODE § 13.40.160(2) (2010) (manifest injustice).

<sup>135</sup> BOYER, *supra* note 15, at 21.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> Kohl-Welles & Licata, *supra* note 27.

<sup>140</sup> State v. K.P.S., 151 Wash. App. 1027 (2009).

<sup>141</sup> 18 U.S.C. § 102(b)(24).

<sup>142</sup> Christensen v. Royal Sch. Dist. No. 160, 124 P.3d 283, 287 (Wash. 2005).

<sup>143</sup> WASH. REV. CODE § 9A.88.030 (Washington's prostitution statute).

<sup>144</sup> *Id.*

<sup>145</sup> *Diversion*, KING COUNTY JUV. CT., <http://www.kingcounty.gov> (last visited Oct. 16, 2010).

<sup>146</sup> *Id.*

<sup>147</sup> CHILD. OF THE NIGHT, <http://www.childrenofthenight.org> (last visited Oct. 16, 2010).

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Alumni*, CHILD. OF THE NIGHT, <http://www.childrenofthenight.org> (last visited Oct. 16, 2010).

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *About our Founder*, GIRLS EDUC. & MENTORING SERVICES, <http://www.gems-girls.org/about/our-team/our-founder> (last visited Oct. 16, 2010).

<sup>162</sup> *Id.*

<sup>163</sup> *Programs*, GIRLS EDUC. & MENTORING SERVICES, <http://www.gems-girls.org/what-we-do/programs> (last visited Oct. 16, 2010).

<sup>164</sup> *About*, GIRLS EDUC. & MENTORING SERVICES, <http://www.gems-girls.org/about> (last visited Oct. 16, 2010).

<sup>165</sup> *Programs*, *supra* note 161.

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> *Training and Workshops*, GIRLS EDUC. & MENTORING SERVICES, <http://www.gems-girls.org/about/training/training> (last visited Oct. 16, 2010).

<sup>170</sup> *Id.*

<sup>171</sup> *Training Program Clients*, GIRLS EDUC. & MENTORING SERVICES, <http://www.gems-girls.org/about/training/our-clients> (last visited Oct. 16, 2010).

<sup>172</sup> *Funding*, GIRLS EDUC. & MENTORING SERVICES, <http://www.gems-girls.org/about/our-team/our-funders> (last visited Oct. 16, 2010).

<sup>173</sup> *Id.*

<sup>174</sup> JUV. JUST. FUND, <http://www.juvenilejusticefund.org/> (“A non-profit child advocacy organization based in Atlanta, GA”) (last visited Oct. 16, 2010).

<sup>175</sup> *Angela's House*, JUV. JUST. FUND,

<http://www.juvenilejusticefund.org/programs/cease/angelashouse.aspx> (last visited Oct. 16, 2010).

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *CEASE Program*, JUV. JUST. FUND,

<http://www.juvenilejusticefund.org/programs/cease/index.aspx> (last visited Oct. 16, 2010).

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> *Angela's House, Aftercare Program*, JUV. JUST. FUND,

<http://www.juvenilejusticefund.org/programs/cease/aftercare.aspx> (last visited Oct. 16, 2010).

<sup>187</sup> *Id.*

<sup>188</sup> Rowe, *supra* note 25.

<sup>189</sup> *Id.* at 31.

<sup>190</sup> *Id.* at 31, 34.

<sup>191</sup> *Id.* at 34.

<sup>192</sup> WASH. REV. CODE § 13.32A.010 (1995) (“This act may be known and cited as the ‘Becca bill.’”).

<sup>193</sup> Jennifer Sullivan, *Prostitute, 15, Couldn't Find Help to Get Out*, SEATTLE TIMES, Feb. 26, 2008, at A1,

[http://seattletimes.nwsourc.com/html/localnews/2004203738\\_childprostitution26m.html](http://seattletimes.nwsourc.com/html/localnews/2004203738_childprostitution26m.html)

<sup>194</sup> BOYER, *supra* note 15, at 34.

<sup>195</sup> KLAIN, *supra* note 35, at 37.

<sup>196</sup> *Services*, NEW HORIZONS MINISTRIES, <http://www.nhmin.org/approach/services.asp> (description of services does not include housing).

<sup>197</sup> “Wraparound services” refer to a package of services

designed to meet the complex needs of children who are involved with several child and family-serving systems (e.g., mental health, child welfare, juvenile justice, special education, etc.); who are at risk of placement in institutional settings; and who experience emotional, behavioral, or mental health difficulties. The Wraparound process requires that families, providers, and key members of the family's social support network collaborate to build a creative plan that responds to the particular needs of the child and family. Team members then implement the plan and continue to meet regularly to monitor progress and make adjustments as necessary. The team continues its work until members reach a consensus that a formal Wraparound process is no longer needed. BOYER, *supra* note 15, at 42.

<sup>198</sup> *Id.* at 31.

<sup>199</sup> *Id.*

<sup>200</sup> *Id.*

<sup>201</sup> *Female Juvenile Prostitution Programs and Responses 2nd Ed.*, NAT'L CENTER FOR MISSING & EXPLOITED CHILD., 1, 35 (2002), available at [http://www.missingkids.com/en\\_US/publications/NC68.pdf](http://www.missingkids.com/en_US/publications/NC68.pdf).

<sup>202</sup> BOYER, *supra* note 15, at 31.

<sup>203</sup> *Id.*

<sup>204</sup> *Mental Illness and Drug Dependency Implementation Plan*, at 5 (Revised Mar. 20, 2009) (on file with author).

<sup>205</sup> *Id.* at 4.

<sup>206</sup> *Id.* at 3.

<sup>207</sup> See, e.g., *Prostituted Children Residential Recovery Program Frequently Asked Questions*, SEATTLE CITY COUNCIL (Feb. 2010), [http://www.seattle.gov/council/burgess/attachments/2010prostituted\\_children\\_faq.pdf](http://www.seattle.gov/council/burgess/attachments/2010prostituted_children_faq.pdf); *Mental Illness*, *supra* note 204, at 4.

<sup>208</sup> *Mental Illness*, *supra* note 204.

<sup>209</sup> *Id.* at 3.

<sup>210</sup> *Id.*

<sup>211</sup> *Id.*

<sup>212</sup> *Id.*

<sup>213</sup> *Id.*

<sup>214</sup> *Id.*

<sup>215</sup> *Id.*

<sup>216</sup> *Id.*

<sup>217</sup> *Id.* at 4.

<sup>218</sup> *Id.*

<sup>219</sup> H.B. 1505, 61st Leg., Reg. Sess. (Wash. 2009) (amending WASH. REV. CODE § 13.40.070 (2003), and adding WASH. REV. CODE § 13.40.213 (2010)).

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> *Id.* at 5.

<sup>223</sup> *Aid Program*, *supra* note 23.

<sup>224</sup> *Mental Illness*, *supra* note 204, at 5; The Sex Industry Victim's Fund is codified as, SEATTLE, WASH. ORDINANCE 120907 (2008) (attaching a fee to prostitution-related offenses "for the care and treatment of the victims of the illegal sex industry . . . to support investigation and arrest of those who patronize the illegal sex industry." Legislative Notes to *Id.*)

<sup>225</sup> *Aid Program*, *supra* note 23.

<sup>226</sup> *Mental Illness*, *supra* note 204, at 5; *see also* King County Department of Health and Human Services 2009 Budget Plan, at 54, available at <http://your.kingcounty.gov/budget/2009/adopted/7HHS.pdf>.

<sup>227</sup> *Aid Program*, *supra* note 23.

<sup>228</sup> *Proposed Program*, *supra* note 24.

<sup>229</sup> Press Release, SEATTLE CITY COUNCIL, *City Raises Enough Money to Kick Off Residential Recovery Program for Prostituted Children* (Feb. 11, 2010), available at <http://www.seattle.gov/council/newsdetail.asp?ID=10515&Dept=28>.

<sup>230</sup> Sara Jean Green, *Seattle Donors Step Up to Save Program Aimed at Rescuing Teen Prostitutes*, SEATTLE TIMES, Feb. 11, 2010, <http://seattletimes.nwsourc.com/html/home/index.html>

<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> *Id.*

<sup>234</sup> *See Commercially Sexually Exploited Children, The Bridge Program*, CITY OF SEATTLE HUMAN SERVS. DEP'T, <http://www.pan.ci.seattle.wa.us/humanservices/domesticviolence/prostitutedyouth/bridgeprogram.htm> (last accessed Oct. 4, 2010).

<sup>235</sup> Trafficking Deterrence and Victims Support Act of 2009, S. 2925, 111th Cong. (2010). This bill, if enacted into law, will create substantial grants (\$2,500,000 per year, plus the potential for two one-year renewals) for entities in six regions of the United States. *Id.* at § 4(b)(1)–(3). One grant must go to a state with a population of less than 5,000,000 people. *Id.* at § 4(b)(1). Washington would only be eligible for potential funding from the other five grants, as its state population was last estimated at 6,664,195 people. U.S. CENSUS BUREAU, *2009 Population Estimates and Projections* (July 1, 2009).

<sup>236</sup> Press Release, SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE, *Girl's Arrest Leads to Pimp's Conviction* (July 23, 2007), available at <http://www.mass.gov/dasuffolk/docs/7.23.07.html>.