

Parameters of Child Protective Services in the Commercial Sexual Exploitation of Minors

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INTRODUCTION

Prostitution is considered the world's oldest profession and has continued to be the subject of impassioned debate.¹ Some argue that prostitution engenders male dominance over women, while others assert that the “profession” liberates rather than victimizes women.² This sentiment loses traction once the true identity of a potential sex worker is recognized—when a prostitute is not a willing adult, but a child.

In the United States, potentially 100,000 to 293,000 children will fall victim to commercial sexual exploitation.³⁴ In 2008, 1,500 juveniles were arrested on charges of prostitution across the United States.⁵ Due to the inherent trauma and victimization associated with the commercial sexual

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1. Micloe Bingham, *Nevada Sex Trade: A Gamble for the Workers*, 10 *YALE J.L. & FEMINISM* 69, 69 (1998). For a history of prostitution, see *Historical Timeline: History of Prostitution from 2400 BC to the Present*, PROCON.ORG, <http://prostitution.procon.org/view.timeline.php?timelineID=000028> [https://perma.cc/D84D-FZ22].

2. *Id.*

3. A commercial sex act is “any sex act on account of which *anything of value* is given to or received by any person.” LESLIE BRINER, *SEXUAL EXPLOITATION AND TRAFFICKING OF YOUTH* 4, <http://kingcounty.gov/~media/depts/executive/performance-strategy-budget/documents/pdf/RLSJC/2016/2016-01-28-Sexual-Exploitation-and-Trafficking-of-Youth-Presentation.ashx?la=en>.

4. *Sex Trafficking*, WASH. STATE OFFICE OF THE ATTORNEY GEN. (citing *Key Facts*, NAT'L CTR. MISSING & EXPLOITED CHILDREN, <http://www.missingkids.com/KeyFacts> [https://perma.cc/RQ96-UU7T]), <http://www.atg.wa.gov/sex-trafficking> [https://perma.cc/APA7-TGGM].

5. *Safe Harbor Laws: Policy in the Best Interest of Victims of Trafficking*, ABA COMM'N ON HOMELESSNESS & POVERTY 2 (2013), http://www.americanbar.org/content/dam/aba/events/homelessness_poverty/2013_Midyear_Meeting_Safe_Harbor_Laws/rich_hooks_wayman_powerpoint.authcheckdam.pdf [https://perma.cc/J3HE-Y27S].

exploitation of minors, several states have implemented “safe harbor”⁶ laws to counteract the devastating results developing from this exploitation.⁷ Instead of deterring child prostitution, criminalizing sexually exploited youth can have adverse effects such as further traumatizing the youth involved, creating a distrust of law enforcement and the criminal justice system, diminishing the likelihood of victims seeking assistance or services, and limiting the future success of victims of sexual exploitation.⁸

The purpose of this Note is to critique the current paradigm in place for resolving the sex trafficking of youth in Washington and compare it to the current model utilized in Minnesota. The Minnesota model should be used to provide a framework for Washington to revise its current model because Washington’s current model allows for sexually exploited youth to be funneled in and out of the criminal justice system, limiting the chances for trafficked victims to reach out to members of the community for assistance. These changes could ultimately increase the opportunities for trafficked youth and position them in the best situation possible to leave their exploiters. By embracing a more involved Child Protective Service agency, Washington would increase its chances of identifying exploited youth. An increase in identification of exploited youth would also allow services to target subjugated youth, allowing victims of child sex trafficking to access safe and supportive housing, effective intervention methods, medical care, and other supportive services.

Part I of this Note provides a portrait of the type of youth most commonly victimized by traffickers and exploiters and uses this portrait, in turn, to display the need for a more involved Child Protective Service agency. Part II provides background on the current safe harbor laws currently used in several states’ criminal justice programs. This section details which actions prove useful and which prove more detrimental to the proposed goal of preventing youth trafficking. This includes Washington’s implementation of its own safe harbor laws. Part III outlines the many deficiencies involved in the current Washington model. Part IV outlines the model used in Minnesota to combat the trafficking of youth. Minnesota’s “No Wrong Door” policy provides a comprehensive framework to stave off future instances of sexual exploitation. Part V discusses the implementation of the Minnesota model, along with some alternatives and additions geared exclusively to Washington, to be used to

6. See *infra* Part II.

7. See ABA COMM’N ON HOMELESSNESS & POVERTY, *supra* note 5, at 3.

8. POLARIS, HUMAN TRAFFICKING ISSUE BRIEF: SAFE HARBOR 1 (2015), <https://polarisproject.org/sites/default/files/2015%20Safe%20Harbor%20Issue%20Brief.pdf> [<https://perma.cc/M7TV-UJ2S>].

strengthen current sexual exploitation prevention efforts in Washington. This framework will provide a much more comprehensive program that will be far more effective in combating the pervasive and shameful practice of sexually exploiting minors. The program promotes a safe and useful resource for sexually exploited youth to find security, reassurance, and service programs necessary for their recovery.

I. THE VULNERABILITY OF YOUTH

Specific types of youth prove more vulnerable to victimization by exploiters. These youth most notably share an unstable home life, limited funds, and discrimination from the outer community.

Studies have shown a strong connection between youth who are sexually exploited and youth involved in the foster care system.⁹ The connection between the foster care system and its risks associated with the sex trafficking of youth has only recently been widely recognized.¹⁰ In a 2013 nationwide raid, FBI officials rescued child sex trafficking victims, 60% of whom were from foster care¹¹ or group homes.^{12,13} Children without families funneled in and out of a broken foster care system are targeted by opportunists who hope to sexually exploit them for profit. Foster care children are more prone to being targeted by traffickers because of their desire to be loved, affirmed, and protected.¹⁴ They are more vulnerable than the average child in part because of the lack of permanency they have during their lifetime.¹⁵ Without the benefits of a permanent residence, foster children are more susceptible to the promises of an outsider to fulfill their emotional and physical needs.¹⁶ For these reasons, foster children commonly fall victim to the manipulations and

9. See, e.g., *Prostitution, Human Trafficking: The Foster Care Connection*, LIFTING THE VEIL (citing Shireen S. Rajaram & Sriyani Tidball, *Nebraska Sex Trafficking Survivors Speak – A Qualitative Research Study*, FAC. PUBLICATIONS, C. JOURNALISM & MASS COMM. 95 (Apr. 2016)), <http://blog.liftingtheveil.org/2016/08/14/prostitution-human-trafficking-the-foster-care-connection/> [<https://perma.cc/75VU-8U6Y>].

10. BRIAN BONLENDER, DEP'T OF COMMERCE, STATEWIDE COORDINATING COMMITTEE ON SEX TRAFFICKING: REPORT ON COMMITTEE ACTIVITIES AND PLAN TO ADDRESS SEX TRAFFICKING 18 (Dec. 2014), <https://app.leg.wa.gov/CMD/Handler.ashx?MethodName=getdocumentcontent&documentId=CbohUyyNo3I&att=false> [<https://perma.cc/2FUT-JELK>].

11. Foster care is a temporary home for children who need to live away from their family due to instances of abuse or neglect. *Becoming a Foster Parent*, WASH. ST. DEPT. SOC. & HEALTH SERVS., <https://www.dshs.wa.gov/CA/fos/becoming-a-foster-parent> [<https://perma.cc/5N2B-K9HN>].

12. Group homes are residential care homes that assist, among others, abused or neglected youth in receiving residential assistance. *Seattle, Washington Group Homes*, GROUHHOMESONLINE.COM, <http://www.grouphomesonline.com/city/wa-seattle> [<https://perma.cc/GFA2-NH32>].

13. *Prostitution, Human Trafficking*, *supra* note 9.

14. BONLENDER, *supra* note 10.

15. *Id.*

16. *Id.*

hollow promises of a trafficker.¹⁷ Thus, traffickers are able to effectively secure the confidences and reliance of these children, which permits them complete control of these children in their efforts to sexually exploit and profit from them.¹⁸

Other groups also fall victim to the deceits of human traffickers.¹⁹ Minority youth are at a greater risk of being sexually exploited.²⁰ Minority youth, including both ethnic and sexual minority groups, fall victim to increased chances of sexual exploitation because of their vulnerability to poverty, homelessness, exposure to systemic racism, homophobia, transphobia, and other forms of discriminatory conduct.²¹ Due to limited opportunities for minorities in finding stable employment—in part because of the practice of institutionalized racism in education,²² hiring,²³ and housing²⁴—minority youth are often involuntarily positioned closer to gangs and pimps that recruit them into commercial sex work in order to survive.²⁵

The link between minority youth and homelessness further exacerbates the risk that foster youth will be targeted by sex traffickers. Ethnic and sexual minority groups have an increased probability of being homeless²⁶ and are disproportionately represented in the foster care system.²⁷ Both minority youth and foster youth suffer similar hardships of isolation, lack of connection, and lack of resources—making them perfect targets for sexual exploitation.²⁸

17. *Id.*

18. *See id.*

19. *Prostitution, Human Trafficking*, *supra* note 9.

20. Beth Holger-Ambrose et al., *The Illusions and Juxtapositions of Commercial Sexual Exploitation Among Youth: Identifying Effective Street-Outreach Strategies*, 22 J. CHILD SEXUAL ABUSE 326, 326–28 (2013).

21. *Id.* at 327–28.

22. *See* Tamar Lewin, *Study Finds Racial Bias in Public Schools*, N.Y. TIMES (Mar. 1, 2000), <http://www.nytimes.com/2000/03/01/us/study-finds-racial-bias-in-public-schools.html?mcubz=0>.

23. *See* Emily Cadman, *Ethnic Minorities Still Face Workplace Bias, Study Shows*, FIN. TIMES (Nov. 9, 2015), <https://www.ft.com/content/241bf704-86fc-11e5-9f8c-a8d619fa707c>.

24. *See* OFF. OF POL'Y DEV. & RES., U.S. DEP'T OF HOUSING & URBAN DEVELOPMENT, HOUSING DISCRIMINATION AGAINST RACIAL AND ETHNIC MINORITIES 2012 (2013), https://www.huduser.gov/portal/Publications/pdf/HUD-514_HDS2012.pdf [<https://perma.cc/3R2D-MHAL>].

25. Holger-Ambrose et al., *supra* note 20, at 327–28.

26. *Id.*

27. *Prostitution, Human Trafficking*, *supra* note 9.

28. *Compare Prostitution, Human Trafficking*, *supra* note 9 (stating that the children in foster care are often isolated and lack protection, which leads to their exploitation) *with* Holger-Ambrose et al., *supra* note 20, at 327 (stating institutionalized racism leads to lack of employment and housing that leads to commercial sex work).

II. SAFE HARBOR LAWS: THEIR SUCCESSES AND FAILURES

A. *Safe Harbor Laws Applied to States Generally*

Safe harbor laws were introduced to criminalize traffickers rather than the youth being trafficked.²⁹ Due to the many inconsistencies in levels of treatment for sexually exploited youth regionally, state-enforced safe harbor laws were meant to standardize the process to ensure exploited youth receive the services they require.³⁰ The main functions of safe harbor laws are to “(1) [d]ecriminalize prostitution for anyone under a specific age . . . (2) [d]ivert victim minors from delinquency proceedings toward supportive services; (3) [p]rovid[e] specialized services for minor victims; [and] (4) reclassify[] minors as victims or sexually exploited children.”³¹

Legislatures intended safe harbor laws to emphasize two functional components in their efforts to address sexual exploitation of minors: (1) legal protection and (2) provision of services.³² Both components were considered necessary to reduce trauma as well as promote advancement and recovery for victims.³³ Under the legal protection component, safe harbor laws are supposed to provide sexually exploited youth protection from prosecution for certain identified offenses because the child was forced or persuaded to commit the specified offense.³⁴ This protection can take the form of immunity or attendance in a diversion program.³⁵ Under the provision of services component, legislatures intended safe harbor laws to make specialized services available for the rehabilitation of victims of sexual exploitation.³⁶ Legislatures envisioned treatment services (such as medical, psychological, and emergency services) and day-to-day services (such as education assistance, job training, long-term housing, and legal services) as necessary service requirements specified in safe harbor laws.³⁷

Although legislatures intended the safe harbor framework to encompass the aforementioned components, many states have regrettably limited the scope of their protections to a more narrowed approach. Of the thirty-four states that have passed safe harbor laws, most states have limited their protections to only youth that have been *commercially*

29. *Safe Harbor Laws*, *supra* note 5, at 8.

30. POLARIS, *supra* note 8, at 1.

31. *Safe Harbor Laws*, *supra* note 5, at 9.

32. POLARIS, *supra* note 8, at 1.

33. *Id.*

34. *Id.*

35. *Id.* Diversion program specifications vary according to jurisdiction.

36. *Id.*

37. *Id.*

sexually exploited.³⁸ In addition, the variation in safe harbor provisions (i.e., whether to offer immunity to the victims or diversion services) is a cause for debate. In 2011, the American Bar Association House of Delegates passed a resolution insisting that states offer children (under the age of eighteen) immunity in response to their engagement in prostitution and prostitution-related activities.³⁹ The ABA urged that law enforcement, Child Protective Services (“CPS”), and family members be equipped with training that assists in identification and risk assessment of child trafficking victims.⁴⁰ This training would contribute to law enforcement, CPS, and family members’ ability to provide applicable services to the youth, rather than to promote further engagement with the criminal justice system.

Although legislatures designed safe harbor laws to be a step in the right direction towards preventing sexual exploitation of minors, the laws are somewhat lacking in their effectiveness. Several, unfortunately, do not incorporate the resolutions advised by the ABA. Many safe harbor laws are either incomplete, poorly implemented, or lack resources needed to make them fully operational.⁴¹

B. *Washington Safe Harbor Laws*

In Washington, legislators also implemented safe harbors laws to counteract instances of youth trafficking and exploitation. These laws, although an improvement in themselves, still require some enhancements in order for them to fulfill the goal of preventing the sexual exploitation of minors.

As previously mentioned, the recognized main functions of Safe Harbor Laws are: (1) to decriminalize prostitution for minors; (2) to divert victim minors; (3) to provide specialized services; and (4) to reclassify minors as victims.⁴²

Washington law fulfills this first function by including the terminology “sexually exploited child” under its “child in need of

38. *Id.*

39. See *Child Trafficking August 2011*, ABA COMM’N ON YOUTH AT RISK, http://www.americanbar.org/groups/youth_at_risk/commission_policyresolutions/child_trafficking.html [<https://perma.cc/N5E5-TJCX>].

40. See *id.*

41. See Lauren Jekowsky, *Un-Safe Harbor: Why U.S. State Legislation Is Ineffectively Addressing Sex Trafficking of Minors*, HUMAN TRAFFICKING CTR., <http://humantraffickingcenter.org/posts-by-htc-associates/un-safe-harbor-why-u-s-state-legislation-is-ineffectively-addressing-sex-trafficking-of-minors/> [<https://perma.cc/YJ8S-AKJK>] (asserting that only Massachusetts has laws that adequately cover the six parameters of effective “safe harbor” laws).

42. *Safe Harbor Laws*, *supra* note 5, at 9.

services” provision.⁴³ “Sexually exploited children” include persons under the age of eighteen who fall victim to the crime of commercial sex abuse of a minor.⁴⁴ The second function of safe harbor laws is fulfilled by RCW 13.40.070(7), which states that prosecutors must divert first incidences of prostitution or prostitution loitering cases.⁴⁵ This helps to limit the victim’s experiences with the criminal justice system. Prosecutors are given discretion on whether to divert a youth charged with a prostitution-related offense after the initial diversion.⁴⁶

Washington’s adoption of the diversion method, giving prosecutors discretion whether to bring prostitution charges or divert minors, fails to completely decriminalize victims of sexual exploitation.⁴⁷ A program eliminating criminal liability for juvenile sex trafficking victims would be most effective due to the far-reaching consequences that can be triggered by a criminal justice response.⁴⁸ One consequence of criminalizing trafficked youth is the heightened distrust it creates between the victims and the criminal justice system in general: it creates distrust of law enforcement, prosecutors, CPS, and other professionals interested in helping victims of sexual exploitation.⁴⁹ This ultimately lessens the likelihood that community support systems, i.e. professional staff interested in preventing the sexual exploitation of youth, will achieve any headway in helping the victims of sexual exploitation.⁵⁰

Although the diversion program helps to limit a youth’s exposure to the criminal justice system, this diversion process still criminalizes trafficked youth. For this reason, some states have eliminated entirely

43. WASH. REV. CODE § 13.32A.030(5)(d) (2010); *see also* WASH. REV. CODE § 13.32A.30(17) (2010).

44. WASH. REV. CODE § 13.32A.30(17) (2010) (“‘Sexually exploited child’ means any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.”).

45. WASH. REV. CODE § 13.40.070(7) (2013) (amended 2017). The Washington Legislature expanded the diversion statute to include juvenile voyeurism in the second degree in 2017.

46. WASH. REV. CODE § 13.40.070(7) (“Where a case is legally sufficient to charge an alleged offender with either prostitution or prostitution loitering and the alleged offense is the offender’s first prostitution or prostitution loitering offense, the prosecutor shall divert the case.”); *see also* KATE WALKER, CAL. CHILD WELFARE COUNCIL, ENDING THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN: A CALL FOR MULTI-SYSTEM COLLABORATION IN CALIFORNIA 50 (2013), <https://traffickingresourcecenter.org/sites/default/files/Ending%20CSEC%20%20Multidisciplinary%20Responses%20in%20CA%20-%20CCWC.pdf> [<https://perma.cc/4CFH-EA8W>].

47. *See* WALKER, *supra* note 46, at 50.

48. CHRISTINE RAINO, SHARED HOPE INT’L, NON-CRIMINALIZATION OF JUVENILE SEX TRAFFICKING VICTIMS 1–2 (2014), <http://sharedhope.org/wp-content/uploads/2014/04/JUSTRESPONSE-POLICY-PAPER-NON-CRIMINALIZATION-OF-JUVENILE-SEX-TRAFFICKING-VICTIMS.pdf> [<https://perma.cc/4E34-CEBR>].

49. *Id.* at 2.

50. *Id.*

criminalization of sexually exploited youth.⁵¹ Unfortunately, Washington has yet to follow suit.

Although Washington's diversion requirement still has the adverse outcome of pushing exploited youth into the maw of the criminal justice system, Washington still promotes progressive legislation and policies to eliminate further traumatizing of victimized youth and connecting those youth to available services within the community. The Washington State Legislature created the "Commercially Sexually Exploited Children Statewide Coordinating Committee" to "address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited youth, and to make recommendations on statewide laws and practices."⁵² This committee is made up of the movers and shakers of the Washington community⁵³ to address and make recommendations regarding the implementation of practical prevention techniques for addressing the pressing problem of sexual exploitation of minors. Per a recent House bill that was enacted in the 2017 regular session, the Committee is required to report its findings and recommendations annually.⁵⁴

Amendments, such as the one described above, exhibit that Washington legislators want to apply progressive legislation to help combat the great travesty that is the sexual exploitation of youth.⁵⁵ However, Washington still has necessary improvements to make prior to the outer community finding its practices harmless in the further victimization of sexually exploited youth. Very recently, a bill was passed in the 2017 regular session that provided an amendment to a Washington statute involving vacating records of conviction for prostitution offenses.⁵⁶ Under the amended RCW 9.96.030(3), a motion for vacating a conviction now must be supported by the sworn testimony of the applicant before the court.⁵⁷ This requirement inevitably leads to further victimization of the exploited youth by forcing them to further involve themselves with the

51. Shared Hope Int'l, State Law Survey: Prohibiting Criminalization of Juvenile Sex Trafficking Victims Under State Prostitution Laws 1–2 (2015), http://sharedhope.org/wp-content/uploads/2015/09/SharedHopeStateLawSurvey_Non-criminalizationofminors.pdf [<https://perma.cc/RDX3-V3VT>] (presenting a survey of state law which lists Washington State as a state that still does not fully protect minors by continuing to criminalize prostitution).

52. WASH. REV. CODE § 7.68.801(1) (2015) (amended 2017).

53. See WASH. REV. CODE § 7.68.801 (2)(a)–(x) (including the attorney general, members of the House and Senate, a member of the governor's office, and the superintendent of public instruction).

54. H.R. 1832, 65th Leg., (Wash. 2017) (enacted 2017).

55. The legislators created the coordinating committee in order to help identify the needs of sex trafficking victims, to train any service delivering agencies in working with victims, to offer timely/appropriate delivery of these services to victims, and to better investigate/prosecute traffickers. WASH. REV. CODE § 43.280.091; 2013 Wash. Sess. Laws 884.

56. S. Res. 5272, 65th Leg., (Wash. 2017).

57. *Id.*

criminal justice system; the exact consequence that the Legislature seeks to avoid. The new motion requirement places trafficking victims right back in a vulnerable position—this time in a courtroom instead of a cell—further limiting the likelihood that victims will seek help.⁵⁸

III. ADDITIONAL GAPS IN THE CURRENT WASHINGTON POLICY

In addition to the mentioned gaps in the Washington safe harbor laws, Washington also has many limitations in its current policy for preventing the sexual exploitation of minors.

The Washington State Department of Social Health and Human Services outlines the parameters placed on CPS that create gaps where CPS cannot intervene when a child is sexually exploited. Under §1430 of the Children’s Administration policy manual, the protections afforded to minors include CPS intervening when there are instances of “non-accidental injury, neglect, death, sexual abuse, and cruelty to children by their *parents, custodians, or guardians*.”⁵⁹ Unfortunately, these qualifications leave room for sexual abuse or sexual exploitation of minors by individuals that do not fall under the classification of parent, custodian, or guardian. This loophole ultimately leaves minors vulnerable to the solicitation of outside individuals with CPS powerless to act or intervene.

Statutory protections are only somewhat better. Under RCW 26.44.020(1), the term abuse is categorized as “sexual abuse, sexual exploitation, or injury of a child by *any* person.”⁶⁰ Nevertheless, because the protections afforded to sexually exploited youth by CPS deal specifically with youth targeted by their own parent, custodian, or guardian, the sexual exploitation by any other person—i.e., a sex trafficker—is left unresolved insofar as CPS is concerned. The sex trafficking of youth is predominantly perpetrated by individuals who are neither the parent, custodian, nor guardian of the youth. Sex trafficking is primarily organized by outside participants, like pimps or sex traffickers. To better account for the needs of sexually exploited youth, it would be beneficial to expand the parameters of CPS to include children exploited by outside participants.

Despite this need for expansion to achieve more protection, a program that is *too* involved may ultimately prove even less effective. Due to CPS’ affiliation with the “system”—a system that many victimized youth associate with punishment, instability, and turmoil—victims of

58. See discussion *supra* Section II.B.

59. 1430. *Protection of Children*, WASH. ST. DEP’T SOC. & HEALTH SERVS. (emphasis added), <https://www.dshs.wa.gov/ca/1400-declarations-purpose/1430-protection-children> [https://perma.cc/WFZ8-E8FG].

60. WASH. REV. CODE § 26.44.020(1) (2012) (emphasis added).

sexual exploitation would have difficulty fully trusting and being transparent with members of CPS.⁶¹ This would then limit CPS' ability to offer any assistance to victimized youth, therefore, making any program unnecessary and ineffective. A balance must be struck between these two extremes in order to best facilitate a system that both protects youth and provides adequate prevention of future instances of exploitation. This balance was somewhat successfully achieved in a policy implemented in Minnesota, known as the No Wrong Door policy.⁶²

IV. THE MINNESOTA MODEL: RECOMMENDATIONS AND ASSUMPTIONS

Minnesota's Safe Harbor for Sexually Exploited Youth Law⁶³ was passed in July 2011.⁶⁴ The safe harbor law was created in order to restructure the previous framework, ensuring that sexually exploited juveniles were treated as victims rather than criminals.⁶⁵ Instead of the victims being punished for their alleged sexual indiscretions, legislators focused their efforts on holding the purchasers and exploiters responsible.⁶⁶ Five key changes were implemented in order to achieve these stated goals: (1) to include a definition of sexually exploited youth in Minnesota's protection statutes; (2) to increase the punishments enforced against exploiters and purchasers; (3) to exclude children under the age of sixteen from being referred to as a delinquent child; (4) to create a mandatory first-time diversion program for sexually exploited sixteen and seventeen year old children (much like the program implemented in Washington); and (5) to create a victim-centered approach to dealing with sexually exploited youth.⁶⁷ This final change created the task force necessary for producing Minnesota's No Wrong Door policy.⁶⁸

Minnesota's No Wrong Door policy adds the necessary improvements to the typical safe harbor laws implemented in most

61. Telephone Interview with Beth Holger-Ambrose, Exec. Dir., The Link (Oct. 13, 2016) (regarding her work on the Minnesota "No Wrong Door" policy).

62. See generally DEP'T OF PUB. SAFETY OFF. OF JUSTICE PROGRAMS, NO WRONG DOOR: A COMPREHENSIVE APPROACH TO SAFE HARBOR FOR MINNESOTA'S SEXUALLY EXPLOITED YOUTH 1 (2013) [hereinafter NO WRONG DOOR], [https://dps.mn.gov/divisions/ojp/forms-documents/Documents/!2012%20Safe%20Harbor%20Report%20\(FINAL\).pdf](https://dps.mn.gov/divisions/ojp/forms-documents/Documents/!2012%20Safe%20Harbor%20Report%20(FINAL).pdf) [https://perma.cc/V5QM-GGVR].

63. MINN. STAT. § 145.4716 (2016).

64. NO WRONG DOOR, *supra* note 62, at 1.

65. *Id.*

66. *Id.*

67. *Id.*

68. For an overview of Minnesota's legislative timeline in regards to implementing its Safe Harbor policies, see *Safe Harbor Minnesota*, MINN. DEP'T HEALTH, <http://www.health.state.mn.us/ijnjury/topic/safeharbor/> [https://perma.cc/DSF2-2QP3].

jurisdictions. The Minnesota task force worked together to posit eleven recommendations it believed would achieve the desired legislative goals.⁶⁹ The task force created the following victim-centered recommendations: (1) create a statewide director position; (2) create six regional navigator positions; (3) implement comprehensive training on juvenile sexual exploitation; (4) guarantee successful outreach to youth; (5) support in the coordination of law enforcement investigations across Minnesota; (6) provide diversion opportunities to youth ages 16 and 17 that are both effective and appropriate; (7) modify the Juvenile Protection Hold Statute to better encompass the needs of sexually exploited youth; (8) ensure admission to safe, supportive, and stable housing; (9) provide accessible supportive services to sexually exploited youth; (10) encourage efforts to prohibit the sexual exploitation of youth; and (11) conduct comprehensive evaluations to confirm the No Wrong Door policy proving safe harbor for sexually exploited youth is successful and an effective model of intervention and prevention.⁷⁰

The task force created the aforementioned recommendations with the guidance of several basic assumptions necessary for implementation of the plan.⁷¹ An understanding of these basic assumptions is essential to the success of a protections program.⁷² First, the previous child protection system was not equipped to nor intended to provide relief to youth that did not fall victim to familial abuse;⁷³ thus, it left youth victimized by outside parties without any available resources.

Second, the previous criminal justice system, specifically the juvenile delinquency system, was not prepared to tackle the unsupported needs of victims and sexually exploited youth who are funneled into the system.⁷⁴ A child who already suffers feelings of victimization and abuse requires more than the average person once entering the criminal justice system.

Third, the services that these youth need would be most effective if they were based in the existing community.⁷⁵ Youth should not have to travel outside of their community, a place where they have some familiarity, in order to be connected with resources. In addition, these resources should be restructured to meet the needs of sexually exploited youth. To accomplish this, the organizations providing these resources

69. NO WRONG DOOR, *supra* note 62, at 1.

70. *Id.*

71. *Id.* at 9.

72. *Id.*

73. *Id.*

74. *Id.*

75. *Id.*

must train their employees to accommodate this specific need.⁷⁶ The employees should be practiced in the identification of sexually exploited youth and should incorporate trauma-specific assistances to their list of services.⁷⁷

Fourth, an added support of peer models and role models for sexually exploited youth would prove most effective.⁷⁸ This added facilitation of relationships between sexually exploited youth and community supporters would demonstrate to sexually exploited youth that they have people other than their exploiters within the community that can provide for their needs. This would hopefully lead the youth to no longer feeling dependent on their exploiters.

Fifth, the services provided by these organizations should encompass a variety of disciplines and be available to the youth for as long as necessary.⁷⁹ The length of time should be evaluated based on each child's specific situation.⁸⁰

Sixth, in order to facilitate a program like this, law enforcement and service providers (such as CPS) must be trained effectively to increase their identification of sexually exploited youth. Both law enforcement and service providers would be more effective in curbing the sexual exploitation of youth if they worked together to identify victims, offer suitable services, and punish the exploiters and purchasers.⁸¹

Seventh, even though the juvenile detention of sexually exploited youth is detrimental to the youth involved, sometimes requiring that the youth be securely held is an inevitable result of the overarching need to keep the youth safe.⁸² "Access to a comprehensive needs assessment and services is vital when there are no other options and youth must be securely held for personal safety reasons."⁸³

Finally, due to the seriousness involved in dealing with sexually exploited youth, it is a necessary requirement that all involved organizations extensively train the employees intended to work with these youths. The complex needs of sexually exploited youth coupled with their all-encompassing distrust of relationships require those working with sexually exploited youth to have the proper experience, training, and skills for working with them.⁸⁴ This would hopefully lead sexually exploited

76. *Id.*

77. *Id.*

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

youth to form trusting relationships with these employees⁸⁵ and enable them to no longer feel dependent on their exploiters so they can seek the resources they need to get help.

Although this framework pushes for stronger involvement by CPS, an overly involved CPS would prove less than ideal in the prevention of sexual exploitation of youth. In rural counties, CPS administers investigations after identifying youth as having been sexually exploited.⁸⁶ Due to the lack of expertise in dealing with these youth, investigations have proved detrimental in the long run.⁸⁷ Youth feared retaliation from their exploiters, so they did not come forward.⁸⁸ Also, the investigation process proved to be traumatic for the youth because they were forced to recount both physically and emotionally traumatizing events of their abuse.⁸⁹ For this reason, proper training along with specified limitations placed on CPS staff would more likely benefit the overall mission of prevention and better ensure a safe space for victims to receive services.

V. WASHINGTON'S IMPLEMENTATION OF MINNESOTA'S POLICY

Minnesota's No Wrong Door policy issues recommendations that, if followed, would ultimately lead to a better suited program to limit future sexual exploitation of minors. If Washington incorporates these recommendations within its current framework, it would result in a much more comprehensive and victim-centered approach. The policy encompasses eleven recommendations, which are listed below, referencing how they can be integrated in to the Washington model.

The first recommendation issued by the task force was for the state of Minnesota to create a state-wide director position in the Department of Health whose main purpose was to deal with human trafficking. The state-wide director was designed to be responsible for coordinating trainings, disseminating information, monitoring and applying funding, providing oversight and grant management, identifying best practices, developing requests for proposals, providing oversight of regional navigators, overseeing the No Wrong Door process, and consulting with the advisory board.⁹⁰ If this position is created in Washington, there would be a designated individual whose main priority would be to produce effective techniques utilized to stave off future instances of sexual exploitation. In order for there to be an effective response to the problem at hand, there

85. *Id.*

86. Telephone Interview with Beth Holger-Ambrose, Executive Director, The Link (Oct. 13, 2016) (regarding her work on the Minnesota No Wrong Door policy).

87. *Id.*

88. *Id.*

89. *Id.*

90. NO WRONG DOOR, *supra* note 62, at 9.

needs to be a person who is adequately engaged, trained, and educated in the epidemic to offer guidance, assistance, and oversight to those organizations currently involved.

The second recommendation furthers the goals of the first recommendation by also requiring the creation of regional navigator positions. Minnesota's No Wrong Door policy further endorses the hiring of six regional navigators to develop work plans specific to each region to increase chances of the program working all over the state.⁹¹ It is each regional navigator's duty to create a work plan that includes the specific region's needs, strengths and resources, financial goals, hypothesized outcomes, and plan containing activities and timelines.⁹² If Washington employed regional navigators—the total of navigators measured by each region's perceived need—the additional support would increase the possibility that a program designed to intervene in the sexual exploitation of youth would be able to be carried out effectively. Each region's navigator would be able to coordinate with their specific region to make sure that organization employees dealing with sexually exploited youth are equipped to handle this responsibility. This includes requiring the necessary trainings involved in gaining the experience essential for working with sexually exploited youth. The regional navigators would also deal directly with CPS to ensure that they are adequately equipped to identify victims of sexual exploitation. After being identified by CPS as “at risk,” the regional navigators can meet with the youth to complete victim assessments and case managements so they can be directed to the appropriate services.

The third recommendation focuses on the actual training of many of the participants working to prevent/intervene in the sexual exploitation of youth. The No Wrong Door policy looks to develop and make available extensive trainings for the employees directly accountable to sexually exploited youth.⁹³ These trainings are meant to be utilized by social service professionals, criminal justice professionals, medical professionals, and public health workers.⁹⁴

If Washington were to require and enforce the training of its principal participants dealing with sexually exploited youth, these youth would be better provided with the support needed to prevent future instances of sexual exploitation.⁹⁵ First, trainings would increase the chances of sexually exploited youth being identified. Second, trainings would ensure

91. *Id.* at 11–12.

92. *Id.* at 11.

93. *Id.* at 13.

94. *Id.*

95. *Id.*

that those who communicate with sexually exploited youth know how to obtain the trust of the youth, thus, increasing the amount of information they can gather in the efforts of providing effective intervention. Third, trainings would offer the expertise necessary in identifying the type and quantity of services needed by each individual victim. Only specific training can place the identified principal participants in the best possible situation for increased youth participation, either by learning specific interaction styles learned to be successful for the specific location or by being trained in the art of using “soft words” to develop strong relationships with the youth without the youth fearing being judged.⁹⁶

The fourth recommendation requires implementation of effective methods of outreach to increase the likelihood sexually exploited youth are informed about the available resources. Due to mistrust of the system, sexually exploited youth do not generally seek out assistance nor self-identify as victims.⁹⁷ For this reason, effective outreach is necessary to ensure sexually exploited youth are at least aware of the comprehensive services available to them in the community.⁹⁸ To implement effective outreach in Washington, outreach must be administered in places with the highest likelihood of contact between victims and community members. This would inevitably depend on the region focused on, but central points of contact could include anything in the realm of local businesses (community staples), public transit, gas stations, hospitals, local parks departments, libraries, and on the internet. As long as street outreach workers⁹⁹ are positioned in central points of contact, sexually exploited youth are in a better position to be connected to individual specific supportive services.

The fifth recommendation requires an increase of law enforcement’s ability to conduct victim-centered investigations; law enforcement’s focus on arresting the exploiters and purchasers would inevitably lessen the overall exploitation of youth. The Minnesota No Wrong Door policy aims to utilize law enforcement as another resource in identifying and supporting the needs of sexually exploited youth.¹⁰⁰ By focusing on the proper training of law enforcement, promoting the inter-department transparency of surrounding law enforcement agencies, coordinating with community-based advocacy services, and preventing advocates from

96. Holger-Ambrose, *supra* note 20, at 333.

97. NO WRONG DOOR, *supra* note 62, at 14.

98. *Id.*

99. *Id.* n.32 (“Street outreach workers respond to street youths’ immediate needs for food, clothing, shelter and medical care. They work to both provide homeless and runaway youth with necessities but to also build relationships and help youth find a more stable living situation.”).

100. *Id.* at 16.

having direct involvement in the investigations,¹⁰¹ law enforcement is in a better position to act as a resource in the crusade against the sexual exploitation of youth. Washington could achieve similar results by focusing its resources on training law enforcement to better equip itself to handle the challenges inherent in implementing such a comprehensive plan. Because law enforcement already deals with and interacts with sexually exploited youth, they are an obvious and necessary resource to be trained and utilized appropriately.

The sixth recommendation pertains to the requirement already utilized by Washington legislators: that a first-time diversion be required for youth arrested for prostitution or prostitution-related charges. Unlike Washington, Minnesota only requires diversion for sixteen or seventeen-year-olds, but youth under the age of sixteen are not dealt with as offenders.¹⁰² This lessens many youths' involvement with the criminal justice system. Also, even those youths who are included in the requirement of receiving a mandatory diversion receive a benefit through the program because the recommendation requires that the diversion opportunities include an individual needs assessment.¹⁰³ This allows the youth to be adequately referred to the services best able to help them achieve success. The Minnesota model also considers the importance of connecting diverted youth to programming designed specifically for sexually exploited youth and not forcing them to participate in the generic diversion programming recommended for other types of juvenile criminal offenses.¹⁰⁴ In order for Washington to improve on its current programming, it must limit the instances where youth experience the consequences attributed to arrest and the criminal justice system. This could be attained by restricting diversion to prostituted youth sixteen years old and older. Also, the current programming could be improved by creating specific programming directly related to preventing and intervening in the sexual exploitation of youth.

The seventh recommendation involves the risks attributed to holding a sexually exploited youth in detention. The Minnesota No Wrong Door policy references the many harms that result from detention, but the policy maintains that there are some situations that necessitate holding a sexually exploited youth in a secure setting.¹⁰⁵ The task force maintains that when a youth's safety and security is compromised, detention is necessary.¹⁰⁶

101. *Id.*

102. *Id.* at ii.

103. *Id.* at 17.

104. *Id.*

105. *Id.* at 18.

106. *Id.*

Still, some form of secure setting can be offered without the need for juvenile detention. The King County Juvenile Detention Center in Washington has recently employed a new model for dealing with familial domestic violence cases.¹⁰⁷ Through the Family Intervention and Restorative Services program (FIRS), youth that fall into a certain category are not charged with a crime but instead enter into a FIRS agreement.¹⁰⁸ Also, instead of being detained in juvenile detention, the FIRS participants can stay in an overnight respite center and retain the services they need.¹⁰⁹ A similar program can be used to deal with sexually exploited youth, providing the youth a safe and secure setting while still allowing them the opportunity to engage in the necessary services.

The eighth recommendation deals primarily with ensuring that sexually exploited youth are provided access to safe and supportive housing. The Minnesota No Wrong Door policy describes the importance of creating safe and supportive housing specifically for meeting the needs of sexually exploited youth.¹¹⁰ Four types of housing are recommended to meet this need: emergency shelters, transitional living programs, youth supportive housing programs, and foster families trained in hosting sexually exploited youth.¹¹¹ The aforementioned housing options would be necessary for increasing the overall safety and health of sexually exploited youth within the state of Washington. Housing opportunities would curb the dependency many exploited youth necessarily have in relation to their exploiter.

The ninth recommendation involves providing appropriate services to sexually exploited youth. These services include providing proper advocacy, legal services, health care, education, employment, aftercare/relapse prevention, and family reunification.¹¹² These services can best be utilized if specialized to the needs of sexually exploited youth as well as each individual youth's particular situation. If Washington specialized its current programming, the resources could much better address the needs of its sexually exploited youth. This specialization, paired with obligatory conducting of victim assessments allows for a much more victim-centered approach than currently employed.

The tenth recommendation involves implementing actual prevention efforts to limit the sexual exploitation of youth. Although intervention is a priority, Minnesota's No Wrong Door policy emphasizes the need for

107. *Family Intervention and Restorative Services FIRS*, KING COUNTY, <http://www.kingcounty.gov/depts/prosecutor/youth-programs/firs.aspx> [<https://perma.cc/GW4J-GG7Q>].

108. *Id.*

109. *Id.*

110. NO WRONG DOOR, *supra* note 62, at 19.

111. *Id.*

112. *Id.* at 21.

strategizing ways to prevent any sexual exploitation from being performed.¹¹³ It is essential for Washington to take part in efforts to prevent any sexual exploitation from occurring to hopefully eliminate any future indiscretions. This would require a complete upheaval of any environmental, organizational, or cultural norms that increase the probability of sexual exploitation of youth from happening.¹¹⁴ Due to the increased odds of foster youth being victimized in this way, it may be beneficial to address prevention techniques specifically for this group. This may include working specifically with foster parents, as well as alternative after school programs to help facilitate an understanding of how and when exploitation occurs. The more information accessible to these youth, the better prepared these youth are when going out into the community.

The eleventh and final recommendation deals with the constant evaluation of the program's effectiveness to be sure the stated goals are being achieved. For a program to be effective in Washington, it must constantly be scrutinized to make certain it continues to be effective. First, it must be evaluated for its effectiveness in identifying victims of sexual exploitation. Second, the program must adequately connect sexually exploited youth to necessary services. Third, the program must effectively intervene to possibly prevent the future exploitation of minors.

CONCLUSION

The sexual exploitation of minors is a pressing issue that needs all possible advocates pushing for the complete prevention of sexual exploitation. Washington's current program does not fully address the needs of sexually exploited youth and requires various changes to better increase the probability that victims of sexual exploitation are effectively provided for. Along with the imperfections in the Washington safe harbor laws, Washington's current statute limits CPS' ability to respond, allowing the agency to respond only if the exploiter is a family member or guardian. These restrictions limit CPS' effectiveness and further allows for sexual exploitation to continue unhindered.

This Note critiqued the current framework in place for resolving instances of youth trafficking in Washington and compared it to the current model instituted in Minnesota. The Minnesota model can be transformed to address the specific needs of Washington's sexually exploited youth. The model implemented in Minnesota can be used to provide a framework for Washington in revising its current model. These changes could

113. *Id.* at 24.

114. *Id.*

ultimately increase the opportunities of trafficked youth, positioning them in the best situation possible to escape exploitation. By embracing a more involved CPS structure, Washington would increase its chances of discovering which youth are being exploited. The inevitable increase in notification would also lead to the increase of services funneled towards the youth being exploited. These services include connecting exploited youth to trained officials, ensuring access to safe and supportive housing, providing supportive efforts to increase prevention of youth exploitation, and offering effective intervention methods.

Although the efforts taken by Washington thus far are admirable, Washington is obligated to adopt a more extensive and holistic approach for CPS to combat the appalling practice of sexual exploitation of minors.