

Child Sex Trafficking in the United States

Terminology

Many organizations working to address child exploitation have established formal definitions for terms like “child”, “youth”, “juvenile”, and “minor.” For example, in their statistical analyses, the United Nations, defines “youth” as those between the ages of 15 and 24. Article 1 of the United Nations Convention on the Rights of the Child defines “children” as persons under the age of 18.

In some contexts, such as in legislation or the criminal code, delineating these terms from one another is important. However, in this report, these terms will often be used interchangeably. Generally speaking, “youth” refers to older minors, such as adolescents or teenagers, while “child”, “juvenile”, or “minor” may refer to anyone under the age of 18.

Child sex trafficking is a pervasive and underreported crime, and one of the most complex forms of child exploitation. Significantly, trafficked children (who predominantly are between 14-17)¹ are advertised and presented as adults, often appear to be adults, and are trained by traffickers to lie about their age to buyers and law enforcement.

Under federal criminal law, child sex trafficking—also referred to as “domestic minor sex trafficking,” “commercial sexual exploitation of minors,” or even inappropriately “the prostitution of children²”—is defined as the recruiting, enticing, harboring, transporting, providing, obtaining, advertising, maintaining, patronizing, or soliciting of a person under 18 years, knowing or recklessly disregarding that the person is a minor and that the person will be caused to engage in a commercial sex act.³ A “commercial sex act” is any sex act on account of which anything of value is given to or received by any person, and is not limited to financial transactions.⁴ Child sex trafficking thus encompasses not only those situations where the child or the child’s trafficker receives payment for the sex act, but also those where there is no identified trafficker, and a buyer directly solicits sex with a child in exchange for food, shelter,

clothing, drugs, or other items of value. The law also criminalizes knowingly benefitting, financially or by receiving anything of value, from participation in a venture that has engaged in a child sex trafficking act.⁵ In contrast to the sex trafficking of adults, child sex trafficking does not require the use or threat of force, fraud, or coercion—although traffickers and buyers often use such tactics with children. If the victim is a minor, and the offender knew or recklessly disregarded the fact that a minor would be engaged in a commercial sex act, then the offender engaged in child sex trafficking.⁶ If the offender has a “reasonable opportunity to observe” the victim, which is often the case, then there is no need to prove knowledge or reckless disregard of the victim’s minor status.

¹ See Federal Human Trafficking Report, available at <https://traffickinginstitute.org/wp-content/uploads/2022/09/2021-Federal-Human-Trafficking-Report-WEB-1.pdf>, at p. 28.

² A minor under the age of 18 cannot legally consent to a commercial sex act. Force, fraud, or coercion are not necessary elements of sex trafficking under the federal definition, and any instance of commercial sex with a minor is considered child sex trafficking.

³ See 18 U.S.C. § 1591(a)

⁴ *Id.* § 1591(e)(3)

⁵ *Id.* § 1591(a)(2).

⁶ *Id.* § 1591(a), (c)

Although a federal child sex trafficking offense requires connection to federal land or interstate or foreign commerce, a victim need not be moved across state or international lines for a federal crime to occur. If the offender advertises the victim online, coordinates logistics for the encounter via text message, uses hotels or motels to facilitate trafficking, or provides condoms for use during the act, the offense could fall under federal jurisdiction.

Child Sex Trafficking by the Numbers

While it is very difficult to determine the true volume of child sex trafficking, research has helped shed light on the dynamics of these crimes taking place in the United States.

- According to one study, from 2010 to 2015, approximately 1,400 individuals were arrested at the federal, state, and local levels on the specific charge of sex trafficking a minor, with an increasing number arrested each year.⁷ The research team identified child sex trafficking arrests in every state except for Alaska, Hawaii, West Virginia, and Wyoming.
- The average age of the traffickers in federal prosecutions was 28.5 years old.⁸ Roughly three-quarters of them were male.⁹ Nearly all were U.S. citizens.¹⁰
- Federal prosecutions of child-only sex trafficking cases increased 17% from 2019 to 2020, and children made up 69% of victims in newly charged sex trafficking cases in 2020.¹¹
- Looking at federal trafficking cases prosecuted in 2020, just over half of the victims were children,¹² with victim ages ranging from 4 to 17 years old when they were exploited, with an average age of 15 years old.¹³ 89% of child victims in active sex trafficking cases were between 14 and 17 years old.¹⁴
- 45.1% of victims knew their trafficker prior to becoming a victim.¹⁵

⁷ Dr. Dominique Roe-Sepowitz *et al.*, Ariz. State Univ. Office of Sex Trafficking Intervention Research, *A Six-Year Analysis of Sex Traffickers of Minors*, at ii (Apr. 2017). 97 offenders were arrested in 2010 and 360 in 2015. This report uses data collected through a structured online search that produced a six-year picture of the arrests in the United States of the specific charge of sex trafficking of minors from 2010 to 2015. The findings from this report include individual and case details including characteristics of the sex traffickers (age, gender, race, professions, and gang involvement), details about how they recruited and victimized their minor victims, and information about their case resolution. The data for this study was collected from web-based media reports found through the Google search engine, electronically filed court documents, and online press releases from government agencies. However, some cases may not have been reported by the media or by law enforcement and prosecutors. Some variables in this study have missing data, due to what was available online and through targeted searches.

⁸ *Id.* at iii.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Kyleigh Feehs & Alyssa Currier Wheeler, 2020 Federal Human Trafficking Report, Human Trafficking Institute (2021), available at <https://traffickinginstitute.org/wp-content/uploads/2022/09/2021-Federal-Human-Trafficking-Report-WEB-1.pdf>

¹² *Id.* at p. 5

¹³ *Id.*

¹⁴ *Id.* at p. 32

¹⁵ *Id.*

Traffickers include those who recruit, control, and sell children for sex to others; those who pay for sex with a child; and those who facilitate the crime, such as online advertisers, owners of hotels and motels where the commercial sex takes place, and drivers who transport victims. Third parties are not always involved in child sex trafficking. Some child sex trafficking victims, such as those engaging in “survival sex” (commercial sex engaged in by the child who sees it as the only means to find money for food or shelter), may interact directly and exclusively with the person providing items of value to the child in exchange for sexual acts.

Traffickers often target vulnerable children, exploiting community instability, poverty, and lapses in parental supervision to expand their opportunities to victimize children. For example, homeless and runaway minors; minors in the foster care and juvenile justice systems; children in communities that are impoverished, have a strong gang or drug presence, or are dealing with natural disasters; unaccompanied and undocumented minors; and minors whose online presence is unsupervised by adults are all at greater risk of victimization.

Children may be sold for sex by their own family members.^{16,17} In fact, the Counter-Trafficking Data Collaborative, the world’s first data portal to include human trafficking case data contributed from multiple agencies, found that based on global data analyzed, family members are involved in 36% of child sex trafficking cases.¹⁸ Familial trafficking often includes younger victims and the exploitation can take place through advertising the child online, making the child available through organized child sex abuse rings or networks, or through individual contacts. A family member’s motivation may be for money, drugs, or production of child sexual abuse material. Such abuse may also be a continuation of intergenerational trauma.

Sex trafficking occurs in rural, urban, and tribal areas, and impacts children of all races and socioeconomic statuses, and all ages, genders, and sexual orientations. However, evidence suggests children of color, LGBTQI+ children, and children from lower income families and communities are disproportionately affected by child sex trafficking.¹⁹

With the proliferation of social media, offenders have easy access to victims with whom they would not otherwise come in contact. Some children are recruited into child sex trafficking by their peers at school, lured in by young adults who are both victims and intermediaries in the trafficking organization, or groomed by young, charismatic traffickers, who pretend to be a romantic partner to gain their confidence before coercing them into commercial sex.²⁰

Once recruited, traffickers frequently use violence, intimidation, drug addiction, and psychological manipulation to trap victims into continued sexual exploitation. Victims are commonly advertised online and transported to hotels, motels, or residences where they meet sex

¹⁶ See, e.g., *id.* at 45 n.123; [Nine arrested, charged federally in connection to human trafficking operation involving drugs exchanged for sexual access to children | USAO-SDOH | Department of Justice](#); [Jax Beach woman sentenced to 30 years for child neglect – 104.5 WOKV](#)

¹⁷ Sprang, G., Cole, J. Familial Sex Trafficking of Minors: Trafficking Conditions, Clinical Presentation, and System Involvement. *J Fam Viol* 33, 185–195 (2018). <https://doi.org/10.1007/s10896-018-9950-y>

¹⁸ https://www.iom.int/sites/g/files/tmzbd1486/files/our_work/DMM/MAD/Counter-trafficking%20Data%20Brief%20081217.pdf

¹⁹ See, e.g., <https://polarisproject.org/wp-content/uploads/2019/09/LGBTQ-Sex-Trafficking.pdf>

²⁰ This chapter focuses on child exploitation and minor sex trafficking within the United States. International minor sex trafficking is addressed in the Extraterritorial Child Sexual Abuse chapter of this report.

purchasers – colloquially known as “johns,” customers, dates, tricks, or clients.²¹ Victims often receive little to no financial proceeds, despite promises to the contrary by their traffickers, and they frequently face physical and sexual assault by their trafficker, including buyers. Traffickers are more likely than other perpetrators of child sexual exploitation to have documented criminal histories, often for violent offenses.²² And yet, because traffickers often subject their victims to extreme coercion and emotional abuse, child sex trafficking victims often retain a sense of loyalty to their traffickers and may not see themselves as victims. This “trauma bond” is due to complex trauma resulting from exposure to multiple traumatic events causing wide-ranging and long-term effects. These complicated trauma-related coping mechanisms can hinder or delay identification of the minor as a victim by law enforcement, social workers, school personnel, medical providers, and other professionals who may encounter the victim and see signs of their trafficking, such as public transit staff, car or taxi drivers, and hotel managers. Such professionals often miss signs of sex trafficking when the victim is a child of color and/or male, due to implicit biases in our society and the adultification of children of color.^{23,24}

The covert nature of child sex trafficking makes it inherently difficult to identify and track. Databases and studies often do not disaggregate adult sex trafficking from child sex trafficking, and they may conflate sex trafficking with prostitution and solicitation. Further, there is no national database for collecting data on child sex trafficking across United States jurisdictions, making it impossible to generate reliable, comprehensive statistics on the prevalence of these crimes. Questions regarding trafficking are not currently asked in national surveys, such as the Youth Risk Behavior Surveillance System²⁵, which is collected by the Centers for Disease Control & Prevention (CDC) and serves as a primary source for other critical information on child victimization. This lack of data makes it difficult both to quantify the pervasiveness of the existing problem and evaluate the effectiveness of various interventions aimed at addressing and preventing child sex trafficking.

Facilitating Trafficking: Offender Profile & Methodology²⁶

Generally, the facilitators²⁷ responsible for child sex trafficking differ from other child exploitation offenders in that they are not primarily motivated by a sexual interest in the children

²¹ Many advocates oppose the use of these terms with the concern that it minimizes the fact that trading something of value for a sex act with a child is a serious form of child abuse and a trafficking offense.

²² Based on U.S. Sentencing Commission data; for example, offenders sentenced for CSAM-related offenses tend not to have prior criminal history

²³ <https://genderjusticeandopportunity.georgetown.edu/adultification-bias/>

²⁴ Goff, P. A., Jackson, M. C., di Leone, B. A. L., Culotta, C. M., & DiTomasso, N. A. (2014). The essence of innocence: Consequences of dehumanizing Black children. *Journal of Personality and Social Psychology*, 106(4), 526–545. <https://doi.org/10.1037/a0035663>

²⁵ <https://www.cdc.gov/healthyyouth/data/yrbs/index.htm>

²⁶ This section specifically addresses the behavior of facilitators, often referred to as “pimp-controlled trafficking.” While this type of trafficking is commonly seen by law enforcement, it is not the only type of offending, nor is it the most important to consider. Other types of trafficking offenders, such as familial, gang-controlled, or buyer-perpetrated child sex trafficking may tend to exhibit other behavioral or psychological traits.

²⁷ Any purchase of sex with a minor constitutes human trafficking because minors cannot legally consent. Thus, both the purchasers of sexual acts with minors and the facilitators of that purchase are considered traffickers. The discussion of the commercial nature of these crimes should in no way minimize the harm that these perpetrators cause to their victims.

they exploit. Rather, they are commonly motivated by financial gain and are trafficking the child in exchange for money, drugs, or other items of value. Despite the financial motivation, these perpetrators may also sexually assault, rape, record images and videos of the child's sexual exploitation, or otherwise exploit their victims in an effort to control and/or advertise them.

Who are trafficking offenders?

Both the purchasers of sex from a minor and the individuals facilitating that purchase are referred to as "traffickers".

Human traffickers include perpetrators directly involved in trafficking, such as recruiters, enforcers, facilitators, buyers/customers, and advertisers, and individuals who benefit from the exploitation, such as others who unlawfully financially benefit from these crimes.

Most offenders are male, but the facilitators of child sex trafficking are not otherwise a homogeneous group. Some are charismatic (sometimes referred to in the commercial sex industry as "finesse" or "Romeo" pimps), while others are aggressive (sometimes referred to in the commercial sex industry using racist and problematic terms like "gorilla" or "guerilla" pimps). Charismatic traffickers tend to be socially skilled, manipulative, and charming. They appeal to the emotional needs of the victim and often use the ruse of a romantic relationship, coupled with empty promises, as a recruiting tactic. Many victims of charismatic offenders

believe they are in a romantic relationship with the offender. They do not see themselves as victims, and thus are less likely to cooperate in a criminal investigation. While charismatic offenders prefer to use manipulation to ensure compliance with their demands, they may resort to threats and acts of violence to control their victims when necessary.

By contrast, aggressive offenders use frequent, extreme violence to exert power and control. These acts are often torturous and may involve physical assault, branding or tattooing victims, burning them with cigarettes, striking them with implements such as wire hangers, choking, and forcing them to engage in humiliating or degrading acts. Due to their extreme violence, aggressive sex trafficking offenders are more likely to come to the attention of law enforcement and their criminal records often reflect a history of violent behavior.

These two types of offenders fall along a continuum, rather than distinct categories where an offender fits into either one "box" or another. Facilitators vary their methodologies based on past successes, the vulnerabilities of victims, their relationship or history with the victim, and techniques learned from observing other traffickers.

Sex trafficking is generally not a crime of opportunity, but rather requires some organization.²⁸ Offenders must house and control their victims, direct and oversee the exploitation on the street, in a hotel, and/or via the internet, and manage the proceeds from the activity – all without attracting attention from law enforcement. While some offenders may be intuitively skilled in this regard, others are mentored by other sex traffickers. They are "trained" on how to locate,

²⁸ Task Force on Trafficking of Women and Girls. (2015). *Report of the Task Force on Trafficking of Women and Girls*. Washington, DC: American Psychological Association.

recruit, and control victims, and they learn “best practices” for engaging in related criminal acts. For some, these “skills” are passed down through their families.²⁹

“I looked for girls who were willing to travel and [who were] running away from something or someone.”³⁰

– A child sex trafficking facilitator

Considering the calculation, manipulation, and violence shown by offenders, it is not surprising that one federal law enforcement study found that many of the traffickers met the criteria for psychopathy—a cluster of personality traits and behaviors that includes, among other things, superficial charm, manipulation, parasitic lifestyle, and a lack of empathy. These offenders are calculating and predatory in identifying and recruiting vulnerable victims, and they engage in deliberate acts of violence to control them. This finding has implications beyond a single sex trafficking conviction. Psychopaths with a history of sexual violence represent a significant danger to society upon release because they lack a conscience and act without empathy. These characteristics usually result in a rapid return to criminal activity.³¹

Sex traffickers often have diverse criminal histories including misdemeanor crimes, drugs or narcotics arrests, assaults, and weapons violations. One study found that on average, charged facilitators have more than a decade of history in the criminal justice system.³² One federal law enforcement study³³ found that very few sex trafficking offenders had a history of detected sexual crimes, and even fewer were registered sex offenders at the time of the sex trafficking investigation. This may reflect low rates of detecting sexual crimes against children, or more likely, a financial, rather than sexual, motivation of the offenders. The same study revealed that nearly a third of sex trafficking offenders continue to engage in criminal activity while incarcerated for trafficking offenses. The criminal conduct often involved witness tampering.

Research shows facilitators are methodical in their attempts to identify and recruit vulnerable victims. While being a child is itself a vulnerability, some factors can elevate a child’s risk, including developmental delays, mental illness, poverty, drug addiction, homelessness, unstable family environments, and prior abuse or maltreatment. Children who are runaways – from permanent homes or foster care – are particularly vulnerable to becoming child sex trafficking victims. Once a potential victim has been identified, offenders use various means to manipulate and psychologically control the child. As a result, the victim becomes more isolated from any potential support system, which leads to a greater reliance on the perpetrator. Over time,

²⁹ See *U.S. v Williams*, <https://www.justice.gov/usao-mdfl/pr/tampa-brothers-sentenced-total-seventy-years-sex-trafficking-conspiracy>

³⁰ Raphael, J., & Myers-Powell, B. (2010). *From victims to victimizers: Interviews with 25 ex-pimps in Chicago*. Chicago, IL: DePaul University College of Law, Schiller DuCanto & Fleck Family Law Center. Retrieved from http://newsroom.depaul.edu/PDF/FAMILY_LAW_CENTER_REPORT-final.pdf

³¹ Hargreaves-Cormany, H. A., Patterson, T. D., Muirhead, Y. E., & Federal Bureau of Investigation. (2016). A Typology of Offenders Engaging in the Sex Trafficking of Juveniles (STJ): Implications for Risk Assessment, *Aggression and Violent Behavior*, 30, 40-47.

³² *Id.* at 44.

³³ *Ibid.*

isolation and forced dependence result in the victim feeling there is no way to escape. The offender's pretended care and compassion create a "trauma bond," a dysfunctional attachment to the perpetrator that can deprive the victim of the emotional and cognitive resources needed to escape. This misplaced loyalty to the offender, created by intermittent delivery of rewards and punishment, is "the result of specific, strategic behaviors on the part of traffickers" designed to control victims.³⁴ The dependence created by trauma bonding makes it more difficult for law enforcement to identify trafficking situations.

Case Study: *United States v. Michael Gunn, et al & United States v. Steven Nowell*³⁵

The United States prosecuted both the facilitators and the purchasers of a child sex trafficking ring involving a 14-year-old and 16-year-old victim who were exploited over the course of two years throughout Virginia, Maryland, and Washington D.C. Defendants Michael Gunn, Angel Gunn, and Vanessa Dominguez lured the girls into the sex trafficking ring through promises of love, a nice place to live, drugs, and gifts. Over the course of two years, countless sex buyers paid cash to sexually exploit the girls. One of the highest paying buyers was a wealthy businessman named Steve Nowell who sexually exploited one or both victims every Friday evening over the course of a year.³⁶ Michael Gunn was convicted of conspiracy to engage in sex trafficking of minors, two counts of sex trafficking of minors, commission of a felony involving a minor, and interstate travel and use of a facility in interstate commerce to promote prostitution by a federal jury in September 2017 and sentenced to 30 years imprisonment. Angel Gunn and Vanessa Dominguez each pleaded guilty to sex trafficking minors and were sentenced to 140 months and 120 months in prison respectively. Steven Nowell was convicted after a jury trial in August 2018 and was sentenced to ten years' incarceration. A restitution judgment against Michael Gunn was entered in the amount of \$648,000 and a house was seized to assist in providing restitution payments to the victims. Both trial convictions were affirmed by the Fourth Circuit.

Buyer Traffickers: Demand for Commercial Sex with Children

In recent years, Congress has been focused on the impact of demand on sex trafficking. Four statutes enacted in 2018 and 2019 include provisions addressing the demand side of sex trafficking.³⁷

³⁴ Casassa, K., Knight, L., Mengo, C. (2021). Trauma Bonding Perspectives From Service Providers and Survivors of Sex Trafficking: A Scoping Review, *Trauma, Violence, and Abuse*, 1-16.

³⁵ *United States v. Michael Gunn, et al* (1:17-cr-137 E.D.Va.); *United States v. Steven Nowell* (1:18-cr-188 E.D.Va.). See also <https://www.justice.gov/usao-edva/pr/pimp-sentenced-30-years-prostituting-two-minor-victims>

³⁶ Because minors this age are not legally able to consent to sex, every act of sexual exploitation of these minors constituted rape.

³⁷ See Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22 (2015); Abolish Human Trafficking Act of 2017, Pub. L. No. 115-392 (2018); Trafficking Victims Protection Act of 2017, Pub. L. No. 115-393 (2018); and Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, Pub. L. No. 115-425 (2019).

- The Justice for Victims of Trafficking Act of 2015 allows the federal government to prosecute individuals who patronize or solicit persons for a commercial sex act, making traffickers and buyers equally culpable for sex trafficking offenses.
- The Abolish Human Trafficking Act of 2017 codified that a commercial sex act with a minor constitutes a severe human trafficking offense.
- The Trafficking Victims Protection Act of 2017 amended the federal criminal code to authorize civil action by the DOJ to stop or prevent child sexual exploitation offenses.
- The Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 contained several provisions to improve the federal government’s authorities to combat human trafficking.

Over a decade before this legislation was enacted, however, the Department prosecuted offenders who pay to have sex with children or attempt to do so.³⁸ Those efforts have continued to date, both with respect to prosecutions and training on how to hold buyers accountable. In 2021, 100% of all federal sex trafficking prosecutions against buyers involved child victims with the majority of those cases initiated through undercover stings purporting to offer child victims.³⁹ It is imperative to understand that buyer stings involving fictitious minors, though useful to identify individuals who are willing to engage in commercial sex with a child, do not result in the identification of an actual victim or a potential “facilitator trafficker” of that minor. Thus, this type of enforcement actions must be properly balanced in an overall strategic approach to combating child sex trafficking.

The Department’s prosecutions show that while there are offenders who specifically seek out or accept offers of children for commercial sex, these preferential offenders are not the norm in the United States. Instead, most buyers want to buy sex and are indifferent to the age of the sex provider or the risk that a child may be victimized. In other words, the demand for sex *with a child* is an extremely small subset of the general demand for commercial sex. Of course, this behavior is still problematic and not excused by a buyer’s ignorance of person’s age. Even though they may not be specifically seeking out children, their conduct exploits and victimizes the most vulnerable.

Pressing Challenges

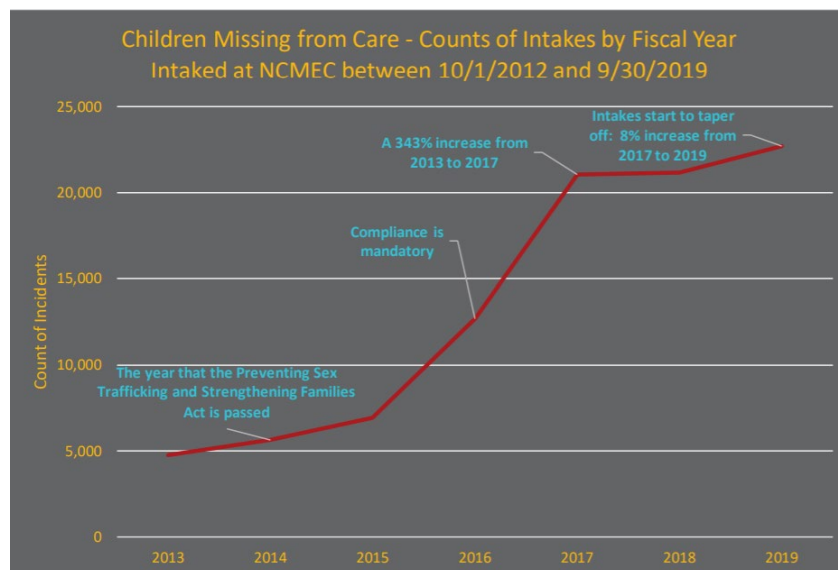
Missing Children and Challenges of Complying with the Preventing Sex Trafficking and Strengthening Families Act (PSTSFA)

³⁸ See, e.g., FBI, Protecting Children from a World of Harm: The Case of the Not So Accidental Tourists (Apr. 29, 2005), <https://archives.fbi.gov/archives/news/stories/2005/april/cac042905>; see also *United States v. Strevell*, 185 F. App’x 841 (11th Cir. 2006) (affirming the defendant’s convictions for attempting to travel in foreign commerce to engage in a commercial sex act with a minor after he responded to an advertisement in an adult magazine for “taboo vacations”); *One Year After Enactment: Implementation of the JVT Act of 2015: Hearing Before the S. Comm. on the Judiciary*, 114th Cong. (2016) (statement of Jill Steinberg, National Coordinator for Child Exploitation and Interdiction), available at <https://www.judiciary.senate.gov/imo/media/doc/06-28-16%20Steinberg%20Testimony.PDF>.

³⁹ Kyleigh Feehs & Alyssa Currier Wheeler, 2020 Federal Human Trafficking Report, Human Trafficking Institute (2021), available at <https://traffickinginstitute.org/wp-content/uploads/2022/09/2021-Federal-Human-Trafficking-Report-WEB-1.pdf>

Children who have run away, are experiencing homelessness, or who are involved with the child welfare system are particularly vulnerable to exploitation through commercial sex. According to one study, more than half of child sex trafficking victims had run away.⁴⁰ A report conducted by the California Child Welfare Council found that anywhere from 50 percent to 80 percent of victims of child sex trafficking are or were formerly involved with child welfare, while the Department of Children and Families in Connecticut reported that 86 out of the 88 children identified as child sex trafficking victims had been involved with child welfare services in some manner.⁴¹ The National Center for Missing & Exploited Children (NCMEC) reports that one in six of the more than 25,000 children reported to NCMEC as a missing runaway in 2022 were likely victims of child sex trafficking.⁴²

Enacted in 2014, the *Preventing Sex Trafficking and Strengthening Families Act* (PSTSFA) sought to improve the child welfare system’s response to the sex trafficking of older children in foster care. The PSTSFA requires that within 24 hours of a child going missing from state care, child welfare agencies must notify (i) local law enforcement so the child can be entered into the FBI’s National Crime Information Center (NCIC) database, and (ii) NCMEC, so they can provide support services to try to locate the child. This requirement has resulted in a significant increase in the number of reported missing children. Additionally, since enactment, the average duration that reported children have been missing has declined significantly. Of all the children missing from state care who were reported to NCMEC between October 2017 and September 3, 2019, the child was missing for an average of 32 days, a decrease from an average of 49 days between 2012 and 2016.⁴³



Children Missing from Care: 2019 Update, National Center for Missing & Exploited Children

⁴⁰ Pullmann, et al; *Residential instability, running away, and juvenile detention characterizes commercially sexually exploited youth involved in Washington State’s child welfare system*, Child Abuse and Neglect 102 (2020).

⁴¹ U.S. Dep’t of Health & Human Servs., Admin. for Children, Youth, & Families, *Guidance to States and Services on Addressing Human Trafficking of Children and Youth in the United States* 2-3 (2013).

⁴² NCMEC, *The Issues: Child Sex Trafficking*, <https://www.missingkids.org/theissues/trafficking#bythenumbers> (last visited March 14, 2023).

⁴³ Children Missing from Care: 2019 Update, National Center for Missing & Exploited Children

Unfortunately, state compliance with the statutory reporting requirement, which has no penalty for noncompliance, varies tremendously, resulting in differing levels of information being reported to NCMEC when a child is missing from state care.⁴⁴ States cite the following as the biggest barriers to compliance:

- Lack of clarity at the state level concerning what information is required to be reported to NCMEC under the PSTSFA and other federal laws that impose requirements on state child welfare agencies⁴⁵, as well as the interrelationship among these laws;
- Lack of federal funding to support the time and personnel involved in reporting and a lack of state resources to fill the gap;
- Lack of established, consistent reporting mechanisms and information sharing about the specifics of a missing-child case. For example, an employee may be responsible for submitting the state or agency's reports to NCMEC but that person is not the original social worker and does not have detailed information such as the child's social media platforms or last-worn clothing, which can inhibit finding the child); and
- State legal barriers (e.g., privacy laws and policy) that inhibit information-sharing.

Significant gaps in the PSTSFA limit its effectiveness in providing a greater safety net for vulnerable children. The PSTSFA is silent with respect to what information states must provide when they learn that a child in foster care is missing.⁴⁶ NCMEC also operates the CyberTipline, the nation's centralized reporting system for reporting the online exploitation of children. U.S. based electronic service providers, such as social media companies, are required by U.S. federal law to report apparent child sexual abuse material on their platform, but this reporting requirement does not include instances of child sex trafficking.

Familial Trafficking

“When trauma emanates from within the family, children experience a crisis of loyalty and organize their behavior to survive within their families.”⁴⁷

Familial sex trafficking is more common than many would like to believe, extremely hard for the public to comprehend and unlikely to be discovered. Victims of familial exploitation often regularly attend school, may get good grades, participate in normal activities, and are cautious about what they say to adults. Child victims' reluctance to disclose their exploitation is even greater when the perpetrators are family members, with whom the victims tend to have a bond of affection or from whom they need care. Studies and data are thus even sparser in this area of child sex trafficking. While more victims have come forward with their stories of familial trafficking in recent years, it remains unclear whether such trafficking is increasing or is simply more recognized now. Current data focuses on older minors and leaves unanswered whether younger children are either less subjected to this form of trafficking or whether they are simply not being identified.

⁴⁴ NCMEC maintains a list of states that are and are not in compliance.

⁴⁵ These laws include the Families First Prevention Services Act and the Child Abuse Prevention and Treatment Act (CAPTA) amendments in the Justice for Victims of Trafficking Act.

⁴⁶ See 42 U.S.C. §§ 671(a)(34)(A) and (35)(B).

⁴⁷ Sprang and Cole at 187, (quoting B. A. van der Kolk, *Developmental Trauma Disorder: Toward a Rational Diagnosis for Children with Complex Trauma Histories*, 35 PSYCH. ANNALS, 401, 406 (2005)).

One form of familial trafficking involves children in the United States who are sexually exploited by one or more members of their family, or someone who they perceive as family.⁴⁸ Familial trafficking has been reported nationwide in both urban and rural areas of the country, including in Indian country.^{49,50,51} Familial trafficking is often a result of other well-documented risk factors, including intergenerational history of trafficking, historical trauma, normalized exploitation, extreme poverty with difficulty meeting basic needs, drug addiction, and other community stressors. Another complicating factor in familial child sex trafficking is the possibility of other co-occurring exploitation of the child, such as physical abuse and neglect, child sexual molestation perpetrated by the trafficker, and the production and distribution of child sexual abuse material. The COVID-19 pandemic has exacerbated the risks of exploitation for families who lost jobs and were desperate for income.

Gang-Controlled Trafficking

Some gangs engage in human trafficking due to a reliable “supply” of victims, greater profitability, and lower risk of detection than other criminal activities. Gangs leverage their organizational structure, violence, and local, national, and international networks to instill fear and loyalty in their victims.⁵²

Cases involving gang-controlled child sex trafficking are challenging because the minors involved can be both victims and perpetrators of other crimes. The victims often suffer horrible violence and exploitation, but they may also commit violent crimes. These crimes are often committed under coercion or due to trauma bonding. While “[v]ictims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked,”⁵³ these cases are particularly challenging with respect to whether and how victims should be held accountable, typically in state court, when involved in violent crimes. Many local law enforcement agencies are reluctant to see anyone who commits a crime, particularly a violent crime, as a victim. That makes it difficult for these survivors, many of whom have been subject to horrific violence themselves, to get services or justice. The violence inherent in gang activity intensifies the need to get gang traffickers off the street, and the victims into services, as quickly as possible.

⁴⁸ Another form of reported familial sex trafficking involves minors exploited outside the United States who are knowingly sold by their family or deceived that the child will be given access to education or other benefits, which is further discussed in the chapter on Extraterritorial Child Sexual Abuse.

⁴⁹ West Virginia Sees Increase in “Family” Sex Trafficking Related to Opioid Epidemic. (2018, February 6). *WVPublic*. <https://www.wvpublic.org/news/2018-01-09/west-virginia-sees-increase-in-family-sex-trafficking-related-to-opioid-epidemic>

⁵⁰ Selling Kids: When your trafficker is “family.” (2019, September 19). *Alabama Public Radio*. <https://www.apr.org/news/2019-09-19/selling-kids-when-your-trafficker-is-family>

⁵¹ ‘The devil you know’: SC residents are selling family members into the sex trade. (2019, June 5). *The State*. <https://www.thestate.com/news/special-reports/article226639189.html>

⁵² Lugo K. (2020) Gang Sex Trafficking in the United States. In: Winterdyk J., Jones J. (eds) *The Palgrave International Handbook of Human Trafficking*. Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-319-63058-8_31

⁵³ See 22 U.S.C. § 7101(b)(19).

Survivor Story⁵⁴

“I grew up in an abusive home, in a small, conservative town in Texas where I was taught that gay people went to hell. I always knew that I was different, that I wasn’t like the boys I went to school with. I wanted to be different. I told my parents I could change in a new environment, so they sent me to live with an aunt in San Antonio.

All alone in a big city at 15, I started to seek that love and acceptance that I wasn’t getting from my parents. I was lured by an older man online who claimed he lived in Austin in a huge, beautiful home and made me all kinds of promises about work, about continuing my education, and all that. He began grooming me. He got me to go to the gym, put me on a healthier diet, made me trust him. He said he was a massage therapist and that I should learn how to be one as well because it was a good skill to have and I could make a living with it.

It turned out that the kind of massage he provided was erotic massage. I was a selling point. He was a trafficker. He posted pictures of me shirtless on Craigslist to get more clients and have me participate. It was degrading and terrifying, but I was too scared to leave. I felt like I had nowhere to go and my trafficker kept reinforcing that to keep me under his control.

Eventually I fled, more damaged than before because of the trafficking experience and the sense that I couldn’t trust anyone. I also learned that what happened to me had a name: Trafficking. I heard from someone I knew that the man who had trafficked me was arrested for doing something similar to another young boy – and trying to take him to London to traffick him at the Olympics. I called the U.S. National Human Trafficking Hotline and told them my story and that I wanted to help. They put me in touch with the prosecutors of the case and I wound up testifying against my trafficker at trial. He got 30 years.

Now I am trying to get my story out there in the community so people can learn how trafficking really works and how LGBTQI+ young people are particularly vulnerable to traffickers who are experts at exploiting the pain and loneliness when they are rejected by their families and their communities. There were so many points in this story where things could have turned out differently if the systems that are supposed to protect vulnerable people – children in particular – had worked.”

Gender-Related Victim Identification Issues

While girls make up the majority of known victims in child sex trafficking cases, relatively little attention is paid to the boys of any sexual orientation and transgender minors who, while less likely to appear as victims in existing data, just as desperately need to be identified and supported. In 2020, boys constituted 7% of child sex trafficking victims reported to NCMEC.⁵⁵ Boys are less likely to be identified as victims of sex trafficking⁵⁶ for a variety of reasons: they do not self-identify as a victim or come forward with their abuse due to guilt, shame, and stigma; are less likely to be identified because no one is looking for them; are less likely to be reported

⁵⁴ <https://polarisproject.org/survivor-story-jose-alfaro/>

⁵⁵ <https://www.missingkids.org/theissues/trafficking#bythenumbers>

⁵⁶ *Id.*

missing by their families if they have been kicked out of their homes, including because they identify LGBTQI+ or have run away. There are also few programs that provide focused support for male victims.⁵⁷ Male victims do not typically engage with service providers in the same way female victims do; better understanding and training on how to engage with male victims, as well as with LGBTQI+ victims, is necessary.

The Online Marketplace for Trafficking Post-Backpage & FOSTA

Definition: *Mens Rea*

Mens rea refers to criminal intent, or the knowledge a person has of the wrongdoing that would be caused by their action or inaction.

The April 2018 seizure and shutdown of Backpage.com and subsequent prosecution of Backpage and several high-ranking employees by the U.S. Department of Justice, followed by the April 2018 enactment of the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA), marked a turning point in efforts to combat the online marketplace for sex trafficking. In the last ten years, most federal sex trafficking cases involved internet advertising.⁵⁸

For many years, Backpage served as the primary website through which commercial sexual encounters (including sex trafficking) were advertised and facilitated. At one point, almost three out of every four federal prosecutions for sex trafficking involved advertisements on Backpage.⁵⁹ Days after that platform was shuttered, FOSTA made it a federal crime to own, manage, or operate an online platform with the intent to promote or facilitate prostitution, or to act in reckless disregard of the fact that such conduct contributed to sex trafficking.⁶⁰ In FOSTA's wake, the Department initiated several prosecutions against online platforms.⁶¹ In the first plea ever entered under FOSTA, the owner of CityXGuide pleaded guilty in August 2021 to one count of promotion of prostitution and reckless disregard of sex trafficking and one count of conspiracy to engage in interstate transportation in aid of racketeering enterprises – facilitating prostitution.⁶² FOSTA also eliminated online service providers' immunity from state criminal prosecutions for such conduct.⁶³ FOSTA further removed legal barriers to state criminal prosecutions for sex trafficking, as well as to federal civil actions for such conduct.⁶⁴ FOSTA, to date, does not seem to have led to state criminal prosecution of online service providers, although a number of states have passed or are considering passing legislation similar to FOSTA, with a reduced *mens rea* requirement as compared to the federal law.

A handful of civil suits against online providers have been filed in federal court since the enactment of FOSTA, including cases against MindGeek, Twitter, and Salesforce.com.⁶⁵

⁵⁷ Raney, R. F. (2017, April). Unseen victims of sex trafficking. *Monitor on Psychology*, 48(4). <http://www.apa.org/monitor/2017/04/sex-trafficking>

⁵⁸ See <https://www.justice.gov/usao/page/file/1403671/download>

⁵⁹ See <https://www.traffickinginstitute.org/wp-content/uploads/2020/04/2017-Federal-Human-Trafficking-Report-WEB-Low-Res.pdf>, pg. 3.

⁶⁰ See 18 U.S.C. § 2421A(a)-(b)

⁶¹ See <https://www.gao.gov/assets/gao-21-385.pdf>, page 13.

⁶² See <https://www.justice.gov/usao-ndtx/pr/us-attorney-seeking-victims-advertised-cityxguidecom>

⁶³ See 47 U.S.C. § 230(e)(5)(C)

⁶⁴ See 47 U.S.C. § 230(e)(5)(A)-(B)

⁶⁵ See <https://www.businessinsider.com/girls-do-porn-victims-sue-pornhub-mindgeek-40-million-2020-12>; <https://endsexualexploitation.org/articles/statement-second-survivor-of-child-sexual-abuse-sues-twitter/>; *A.B. vs. Salesforce.com*, 4:20-cv-01254 (S.D. Tex.).

MindGeek owns over 100 pornographic websites, production companies and brands including Pornhub, RedTube, XTube, Tube8, and YouPorn. One lawsuit brought by 34 individuals, some of whom are minors, alleges that MindGeek and its subsidiary Pornhub intentionally monetized videos depicting rape, child sexual exploitation, sex trafficking, and other nonconsensual sexual content. MindGeek denies the allegations. Nevertheless, in July of 2021, XTube announced that it was shutting down in September 2021. In operation for 13 years, XTube was a well-known pornography website that had 10.77 million visits in May 2021 alone. XTube prominently branded itself as part of the “Pornhub Network.”

The seizure and shutdown of Backpage and the enactment of FOSTA have destabilized the online market for commercial sex, creating obstacles to the use of online service providers to facilitate these crimes.⁶⁶ For example, in the immediate aftermath of these events, traffickers faced greater challenges in connecting buyers with victims, as there was no longer a centralized source for connection from behind the relative privacy of one’s electronic devices. Some websites voluntarily shut down as a result. However, technologically savvy offenders have evolved, creating new challenges for law enforcement who no longer have a single website through which they can originate and concentrate trafficking investigations and prosecutions.

“Sex Work” vs. Trafficking

While both sex work (or prostitution) and sex trafficking involve the sale of sex, sex trafficking victims have been forced, coerced, or deceived into selling sex. Additionally, all commercial sex with a minor is considered child sex trafficking.

Despite its fracturing, the online marketplace has retained its primacy, amplified by the isolation and online presence of vast numbers of children during the COVID-19 pandemic. In addition to traditional advertising sites, so-called “hobby boards” allow commercial sex buyers (self-identified “hobbyists”) to review and rate those providing commercial sex (like a Yelp review for sex) and participate in similarly graphic discussion forums.⁶⁷ These sites are often monetized through membership subscriptions or by marketing other platforms.

There are also so-called “sugar daddy/sugar baby” sites where individuals connect with one another for relationships under a commercial arrangement in which sexual activity is expected or implied. The websites are as easy to access as a dating website, so a 14-year-old girl can go onto a sugar daddy website and easily sign up. Minors frequently represent themselves as adults on such sites. As a result, men can easily seek out minors or minors purporting to be adults for sex on the sites. These cases may be hard to prosecute because there may be a blurring of boundaries between the exchange of items of value in furtherance of so-called “dates” or for sex. But where minors are involved, “sugar daddies” could still meet the definition of traffickers if they are engaging in sex with a minor in exchange for something of value. Many of those who control these platforms have moved their web servers, web hosting services, and the registration of their domain names to countries where prostitution is legal, believing it will insulate them from criminal liability in the United States.

⁶⁶ Childsafe.ai, *Beyond Backpage: Buying and Selling Sex in the United States One Year Later* 42-43 (2019), available at <https://childsafe.ai/beyond-backpage-buying-and-selling-sex-in-the-united-states-one-year-later>.

⁶⁷ Thompson, L. (2017, July 26). Busted: How police brought down a tech-savvy prostitution network in Bellevue. *The Seattle Times*. <http://projects.seattletimes.com/2017/eastside-prostitution-bust/>

Another emerging trend surrounds the monetizing of CSAM depicting child sex trafficking victims. This provides opportunities to make additional money from the sexual exploitation of the child. In addition to selling the child for sex to buyers in the immediate geographic area, CSAM depicting the child can be sold to buyers online around the world. This is further complicated by the increasingly popularity of subscription-based sites in which the content for sale is hidden behind a paywall making detection even more difficult.

Current challenges to investigating online-facilitated child sex trafficking include:

- Offenders’ use of disparate, sometimes smaller, and newer websites and social media platforms to advertise and facilitate trafficking (e.g., gaming sites, “sugar daddy” and dating websites, hobby boards, and other advertising sites), each of which law enforcement must become familiar with;
- Offenders’ use of apps that encrypt or do not preserve content, leaving less of an evidentiary trail for law enforcement;
- Postings of fake ads (including by bots), which make it harder for buyers to find the market, but also harder for law enforcement to find real offenders and victims;
- Online service providers’ offshoring of much of their data (e.g., to Europe or Asia), where privacy protections and other legal differences may preclude, or at the very least delay, collection by or for U.S. law enforcement;
- Lack of sufficient investigative and prosecutorial resources for online investigations, typically intensive, multi-year processes involving evidence and defendants overseas and vast networks of shell corporations and accounts, requiring investigators and prosecutors with expertise in both sex trafficking and financial crimes;
- Lack of cooperation with law enforcement by many platforms and internet service providers, which could help reduce many of the issues that make children vulnerable.

Determining Jurisdiction for Child Sex Trafficking

Debate continues over the complex, interwoven relationship between commercial sex and adult sex trafficking. As a matter of law and policy, the Department of Justice focuses its efforts on eradicating sex trafficking, largely deferring to our state and local counterparts to address crimes related to commercial sex. By definition, child sex trafficking victims did not or cannot consent to the sexual abuse. Federal statutes criminalizing conduct associated with prostitution either require interstate travel or the use of a means or facilities of interstate or foreign commerce.⁶⁸ For cases involving concurrent local and federal jurisdiction, task forces and other partnerships facilitate investigators and prosecutors working together to determine which criminal justice system is best-suited based on an individualized assessment of the circumstances. Considerations can include whether state or federal statutes more readily apply to the offense conduct, strategic utilization of limited federal prosecutorial capacity, whether federal agencies can assist with cases involving multiple jurisdictions or particularly complex evidentiary issues, and which system can best accommodate the victims’ needs.

The Criminalization of Victims

⁶⁸ See, e.g., 18 U.S.C. §§ 2421 (The Mann Act), 2421 (FOSTA), 2422

A recurring issue for investigators and prosecutors is trafficking victims who have also committed criminal offenses.⁶⁹ Minors should never be subject to prosecution for engaging in commercial sex, even if they claim to have done so of their own accord. States have come a long way in recent years to protect children from facing arrest or prosecution for acts committed as a direct result of being trafficked, most commonly for prostitution offenses.⁷⁰ So-called “safe harbor” provisions in some states offer these minor victims affirmative defenses, diversion to the child welfare system, immunity, or decriminalization/non-criminalization, expungement of arrests, and vacating of convictions.

Law enforcement training on how to identify and respond to victims of child sex trafficking is essential to ensure these children are treated as victims from the outset. The training that does exist is often directed at the officers or units that specialize in child exploitation, or at supervisors, rather than new recruits, frontline officers, or first responders who are likely to see instances of child sex trafficking. They may not recognize signs of risk, like finding a minor in a motel without a parent or caregiver or getting into a car with an adult on a street known to be frequented by sex buyers.

Failing to recognize children as potential victims often leads law enforcement to arrest them on drug, truancy, or other solicitation charges resulting from their exploitation, and failing to connect victims with needed support services, including advocates, child welfare, housing, food, or counseling. Without appropriate services, victims often feel they need to return to their trafficker for survival. Even when law enforcement does recognize victimization, the scarcity of support services may leave some law enforcement believing they have little choice but to charge the victim to place them in a secure facility, such as a jail or juvenile justice facility, that has space.

While arrest and detention may temporarily remove the child from the trafficker’s reach, there is considerable research showing that incarceration further traumatizes child victims of exploitation and may make the child more vulnerable to further sex trafficking.⁷¹ In addition, the child must then deal with the trauma caused by arrest and detention, as well as the potential long-term consequences of a juvenile record. The experience of being arrested and detained can have a serious and harmful effect on child sex trafficking victims, even if the charges against them are ultimately dropped or are only used as a tool to divert them into services through the court. A juvenile record makes it more difficult for the child to escape a life of being trafficked and more likely that the child will avoid law enforcement entirely and return to their trafficker, undermining rapport that could be essential to holding their exploiter criminally liable in some cases. Some states have processes in place to vacate or expunge criminal records resulting from trafficking victimization, but these laws often do not extend to minors adjudicated delinquent.⁷²

⁶⁹ See “Criminal Conduct of Victims: Policy Considerations” available at <https://www.justice.gov/usao/page/file/1008856/download>, p. 139.

⁷⁰ Seeking Justice, Shared Hope International https://sharedhope.org/wp-content/uploads/2018/08/ANALYSIS-OF-STATUTORY-APPROACHES_ver7.pdf

⁷¹ Lambie, I., & Randell, I. (2013). The impact of incarceration on juvenile offenders. *Clinical Psychology Review*, 33(3), 448–459. <https://doi.org/10.1016/j.cpr.2013.01.007>.

⁷² Issue Brief: Access to Justice for Trafficking Survivors, Shared Hope International https://sharedhope.org/wp-content/uploads/2020/12/SH_Issue-Brief-4.3_2020.pdf

Significant Developments

The COVID-19 pandemic likely accelerated online victimization, with virtual platforms replacing in-person contact. As both offenders and children spend more time online, children without supervision of their online activity may be more vulnerable to victimization. Data is not yet available on the impact of the pandemic on the incidence of child sex trafficking, whether in person or virtually.

On December 3, 2021, President Biden released the National Action Plan to Combat Human Trafficking.⁷³ Several initiatives in the Action Plan are particularly relevant to the strategy to combat child sex trafficking. The strategies relevant to child sex trafficking are detailed below.

Strategic Response

Short-Term Goals	Long-Term Goals
<p>Increase reporting of missing and at-risk children: Build on HHS’s existing efforts to provide more detailed guidance to states and child-welfare agencies on how to comply with PSTSFA and advocate that additional agencies (e.g., schools and juvenile justice programs) report missing children to NCMEC.</p>	<p>Encourage demand-focused sex trafficking policies: Support state efforts to focus on the demand for commercial sex (i.e., greater prosecution of buyers; education directed at potential buyers of the harms and risks inherent in engaging in commercial sex that may be with minors).</p>
<p>Improve PSTSFA: Develop legislative proposals to improve PSTSFA and to require reporting by online platforms of suspicious activity or instances of child sex trafficking. Additionally, clarification on how the PSTFSA and FFPSA and the CAPTA amendments in the JVTA affect each other is needed to support the implementation of PSTSFA.</p>	<p>Increase access to service models and community-based support: Potential victims of child sex trafficking should have access to a range of services based on an individualized therapeutic assessment, including housing placement options <i>outside</i> the criminal and juvenile justice system where needed, such as secured support facilities, trauma-responsive treatment, and other community-based services provided through other social services providers.</p>
<p>Expand training: Increase scope of training for criminal-justice, child-welfare, educational, first responder, and medical personnel to ensure they are adequately trained on identifying signs of child sex trafficking, implementing a multidisciplinary, victim-centric response model, and building avenues for victim compensation and restitution.</p>	<p>Foster online safety for children: Work with industry and schools and enact legislation, to develop an online culture of safety for children (e.g., age verification, ensure default settings for minors are the most secure and private).</p>

⁷³ <https://www.whitehouse.gov/wp-content/uploads/2021/12/National-Action-Plan-to-Combat-Human-Trafficking.pdf>

<p>Support for online providers in responding to legal process: Create DOJ model subpoena returns to share with electronic service providers to clarify the scope of standard subpoena requests, as well as how to respond in a format that state and federal prosecutors can easily use.</p>	<p>Child sex trafficking research: Conduct additional research assessing the impact of race, poverty, sex, and sexual orientation and gender identity on the identification of, and response to, child sex trafficking victims and provision of services.</p>
<p>Expand investigatory toolkit: Increase law enforcement’s awareness of and access to many free or low-cost technological tools that can identify (potential) offenders and victims of child sex trafficking.</p>	<p>Ensure sustainability for human trafficking task forces: Explore avenues to ensure the funding for human trafficking task forces is sustainable while also ensuring that task forces are held accountable for their adherence to victim-centered, trauma-informed approaches.</p>
<p>Improve human trafficking victimization data capture: Add questions regarding trafficking to national surveys, such as the CDC’s Youth Risk Behavior Surveillance System.</p>	

Review and update training, policies, and guidance for law enforcement to protect human trafficking victims

The criminalization of human trafficking in 2000 was, in part, a response to the inappropriate treatment and penalization of human trafficking victims. For almost 20 years, the federal government has been working to safeguard victims of human trafficking from inappropriate incarceration, fines, or penalties for unlawful acts committed as a direct result of being trafficked.⁷⁴ That said, more work is needed to effectively implement this principle and to encourage state, local, tribal, and territorial governments to do the same, including through training and collaboration with survivor experts.⁷⁵

Federal training and policies should be reviewed with the understanding that victims should not be criminalized for the unlawful acts their traffickers compelled them to commit. Unlawful activity may include, but is not limited to, engaging in commercial sex acts, entering the country without documentation, or working without authorization or with false documents. Federal law enforcement agencies should also provide field offices and task forces with training and information on best practices for victim-centered, trauma-informed law enforcement operations, options for appropriate shelter rather than jail or detention for individuals identified as trafficking victims, and screening for human trafficking during other operations, including worksite, drug, and gang-related enforcement operations, before arrest or detention.

Federal law enforcement agencies should also work with state, local, tribal, and territorial authorities and task forces on policies to prevent the inappropriate arrest of human trafficking

⁷⁴ 22 U.S.C. § 7101(b)(19).

⁷⁵ The term “survivor expert” is used in this report to refer to a human trafficking survivor who has expertise on human trafficking issues.

victims for unlawful conduct resulting directly from victimization and to offer trauma-responsive victim services. State, local, tribal, and territorial partners should be encouraged to update their policies and recommendations with respect to victims of child sex trafficking to ensure they are victim-centered and trauma-informed. All training and technical assistance should include information on the benefits of accurately identifying child sex trafficking, on protocols that mandate law enforcement refer sexually exploited minors to child welfare or community-based services, and on the impacts of the demand for sex on the lives of children and on communities.

Create comprehensive training on restitution

Financial restitution may be the most important aspect of justice for some victims. Many of these victims will find themselves penniless and in need of medical and mental health care, adequate and safe housing, job training, and other resources to care for themselves and other family members due to their victimization. Federal law mandates that victims receive restitution, that forfeiture be ordered in human trafficking cases, and that victims be prioritized to receive the value of forfeited assets.⁷⁶

According to some reports, courts have awarded victims restitution in only a minority of cases,⁷⁷ and even in cases where courts ordered restitution, the full amounts were not recovered from the defendants for transfer to the victims. Actions taken at each stage of a criminal case, from investigation to charging, plea negotiations, and sentencing, affect whether the court orders restitution and/or forfeiture and victims' ability to receive full and timely restitution. Yet, in some cases, forfeiture and restitution are not considered until the sentencing phase of a criminal prosecution. Identifying and seizing the assets of traffickers as soon as possible during the investigation will prevent traffickers from disposing of assets and thus may leave more funds available for victims' restitution down the road. Further, prosecutors and judges may lack awareness of who is entitled to restitution, what is recoverable, and what information is required in determining which property and assets can be forfeited and applied to victim restitution. While significant work has been done to ensure that prosecutors vigorously pursue restitution and forfeiture on behalf of human trafficking victims, more effort is needed to maximize recovery of perpetrators' assets and to ensure that courts are well-informed about mandatory restitution under federal law.

To ensure the government can maximize the recovery of assets for restitution to victims of trafficking, DOJ and federal investigative agencies should provide comprehensive training on the investigation, imposition (charging through sentencing), collection of restitution and transfer of forfeited funds to victims under the Justice for Victims of Trafficking Act.⁷⁸ A training plan should include outreach to the judicial branch via the Administrative Office of the United States Courts and for probation officers at the United States Probation and Pretrial Services National Training Academy. Training should explain the importance of focusing on forfeiture and

⁷⁶ See 18 U.S.C. §§ 1593 – 1594.

⁷⁷ The Human Trafficking Institute, 2019 Federal Human Trafficking Report, available at https://www.traffickinginstitute.org/wp-content/uploads/2020/05/2019-Federal-Human-Trafficking-Report_High-Res.pdf.

⁷⁸ See Pub. L. No. 114-22, § 105 (a)(4) (2015) (18 U.S.C. § 1594(f)); The Attorney General Guidelines for Victim and Witness Assistance, available at <https://www.justice.gov/ag/page/file/1546086/download>

restitution at the early stages of investigation and the role of the Department of Labor in assisting with calculating forfeiture and restitution in sex trafficking cases. Building on the training, the DOJ should develop public materials about advocating for forfeiture and restitution in a case and on the availability of other financial remedies, such as private civil causes of action and crime victims' compensation programs.

Increase victim-centered criminal enforcement through improved coordination among law enforcement agencies and their partners

To target and dismantle complex human trafficking networks and hold human traffickers accountable, federal prosecutors and law enforcement agencies must leverage the diverse perspectives, skills, and capacities of many partnerships, including with survivor experts, NGOs, and state, local, and tribal entities. Coordination can occur by creating federally led initiatives, partnering with private entities that can disrupt trafficking, strengthening referral mechanisms, and expanding task forces to a broad range of partners.

DOJ's Enhanced Collaborative Model Task Forces to Combat Human Trafficking⁷⁹ are one model for multidisciplinary, partnership-oriented, victim identification, and investigatory task forces. These human trafficking task forces bring together professionals from a variety of disciplines who collaborate to identify victims of all forms of human trafficking; engage in victim-centered, trauma-informed investigations; prosecute or refer sex and labor trafficking cases to state, local, tribal, and territorial agencies; and address the needs of human trafficking victims through a comprehensive array of services. Each task force must submit a joint application and will receive two separate cooperative agreement awards – one to a law enforcement entity and one to a service provider.

DOJ completed an evaluation of the structure and impact of the Enhanced Collaborative Model (ECM) Task Force Program, which it published in June 2021.⁸⁰ The evaluation results, which are reflective of a small sample of 10 task forces (OJP has funded close to 100 task forces under this model since 2004) found that the ECM model has helped task forces obtain resources needed to support the work they are doing to address human trafficking, including augmented law enforcement staff (i.e., more detectives and support staff dedicated exclusively to human trafficking), and, in certain places, the establishment of hubs to coordinate work across stakeholders in one location. These additional resources have made a difference in the 10 jurisdictions' capacity to do this type of work more effectively. The results of each task force varied and data concerning the types of cases targeted by the task force relied on each task force's definition of cases related to human trafficking.⁸¹ The sustainability of these task forces was not considered as part of this evaluation, and it is unclear if ECM taskforces can sustain

⁷⁹ This task force program is funded under the TVPA, which authorizes OVC to make grants for direct services to victims of human trafficking. OVC and the Bureau of Justice Assistance (BJA) developed the Enhanced Collaborative Model Task Forces to support the development and enhancement of multidisciplinary task forces.

⁸⁰ Evaluation of the Enhanced Collaborative Model to Combat Human Trafficking (2021), Technical Report, available at <https://www.ojp.gov/pdffiles1/nij/grants/300863.pdf>.

⁸¹ Qualitative results of small samples selected from each taskforce revealed that some taskforces reporting a high volume of cases also reported a high percentage of prostitution/facilitating prostitution charges instead of human trafficking charges. See [Evaluation of the Enhanced Collaborative Model to Combat Human Trafficking, Technical Report | National Institute of Justice \(ojp.gov\)](#) at pg. 43.

improvements after their funding ends. This evaluation and future feedback from the field, evaluations, and partners noted below will inform the evolution of the ECM task force model. OVC, which oversees the ECM program, continues to request, receive, and incorporate feedback on the task force model from current and past task force recipients, other federal partners, and discussions with the U.S. Advisory Council on Human Trafficking and their Annual Reports. DOJ will continue to provide training and technical assistance to task force recipients to build and sustain increased collaboration among law enforcement, victim services, and community stakeholders. Any program modification will continue to be informed by survivor experts. In FY22, NIJ was awarded a grant to conduct a more rigorous evaluation of the ECM model.

In addition to evaluating and evolving its own task force models, DOJ must collaborate to establish or enhance state, tribal, territorial, or locally led human trafficking task forces that fulfill the principles of victim-centered law enforcement and trauma-responsive victim services. These efforts must draw on lessons from evaluations of other collaborative multidisciplinary efforts, including the Enhanced Collaborative Model Task Forces, and survivor experts must inform program development.

Task forces should be distributed broadly across the country building toward at least one task force, whether funded through federal or other sources, in each state, and should cover both urban and rural areas. These task forces should build on lessons learned, including the development of community-based, sustainable, multi-disciplinary collaborations with the goal of effective law enforcement, victim services, and survivor-informed leadership to build, retain, and exchange institutional knowledge. Task forces should work to sustain collaborations among grant recipients and federal law enforcement and promote actionable intelligence sharing, investigative capacity, and a strategic approach to increased victim identification and victim-centered prosecution at all levels of government. A human trafficking victim's access to protection and resources, regardless of whether and when victims collaborate with law enforcement, is a fundamental principle of the ECM Task Force model important to successful enforcement. Task forces can provide critical assistance to victims, which allows them to stabilize, rebuild their lives, and, in some cases, become ready to collaborate with law enforcement investigations and prosecutions of human traffickers.

Engage relevant stakeholders to increase child sex trafficking prosecutions

DOJ must bring together investigative and prosecutorial stakeholders from the federal, state, local, tribal, and territorial levels with survivors and survivor organizations to describe the child sex trafficking threat landscape, develop strategies for strengthening investigations and prosecutions, and identify subject matter experts available to provide training and outreach. Since passage of the TVPA of 2000, federal child sex trafficking investigations and prosecutions have steadily increased. However, since most crimes are not prosecuted federally, and given the limitations on federal resources and the strong state, local, tribal, and territorial equities, the federal government must continue to invest in building capacity of these law enforcement partners. Partners should consider appropriate sentences for child sex trafficking and should be trained on child sex trafficking investigations and prosecutions, including protecting trafficked children. Partners in this capacity-building effort could include, but not limited to, the National Association of Attorneys General, the National District Attorneys Association, the International

Association of Chiefs of Police, the National Congress of American Indians, AEquitas, and the National Advisory Committee on the Sex Trafficking of Children and Youth in the United States, which includes members of the judiciary, prosecutors, law enforcement, survivors and other important stakeholders.

Enhance capabilities to locate children who are missing, including those who have run away from foster care, and are vulnerable to human trafficking

Enhanced efforts and abilities are needed to locate missing children, including children who have run away from foster care and are highly vulnerable to sex trafficking. The Departments of Justice, Homeland Security (DHS), and Health and Human Services (HHS) must facilitate the sharing of information on potential child trafficking victims among the technology industry, state, local, tribal, and territorial child welfare agencies, the National Center for Missing & Exploited Children (NCMEC), and law enforcement at all levels, consistent with relevant legal authorities and privacy, civil rights, and civil liberties protections.

Together, agencies could take the old idea of putting photos of missing children on milk cartons to increase the number of people looking for children and modernize it to create a “virtual milk carton” to help locate potential child trafficking victims. When a child goes missing from foster care, the state could notify law enforcement and NCMEC, as required by PSTSFA, and provide a photograph of the child. NCMEC could then provide that information and photo to law enforcement, and make it available to social media companies, internet service providers, and NGOs that scrape online sex trafficking advertising and other internet data, so that they can all look for any information on the identity and location of the child. Any information that technology companies or NGOs found could be fed back to law enforcement via NCMEC. Legislation could be considered to support this initiative.

DOJ and HHS, in consultation with the Marshals Service (USMS), should collaborate to expand Operation HOPE nationally to identify children missing from foster care, screen recovered children for potential trafficking, connect victims to appropriate care, and prosecute offenders as appropriate. The first significant challenge in protecting children who are missing from care is in locating the missing child. Operation HOPE has brought together federal, state, and local authorities for joint regional efforts led by HHS OIG Office of Investigations. Its aim is to locate and recover children missing from foster care programs. This program has led to the recovery of 42 children missing from care. This program should be expanded, incorporated into other investigative efforts, and used to develop human trafficking prosecutions as appropriate.

Develop improved technology for human trafficking interdiction and identify technical barriers impeding investigations

Because traffickers frequently use electronic platforms and devices to conduct their illicit activities, including grooming, recruiting, and advertising victims, the federal government must work with the social media and technology industry to identify potential barriers to voluntary reporting of suspected human trafficking on their platforms, and to identify possible solutions. Industry, NGOs, and academia must be engaged to develop innovative technical tools to find and interdict human trafficking, disrupt demand, and to promote adoption of those tools by relevant

stakeholders. The National Advisory Committee on the Sex Trafficking of Children and Youth in the United States is a potential forum, among others, for engaging industry on these issues.⁸²

Law enforcement officials are frequently unable to access data due to privacy and security measures (e.g., encryption) despite the issuance of legal process (e.g., subpoenas, search warrants, or other legal process). These measures make it harder to identify current and historical victims, prevent traffickers from recruiting new victims, collect evidence to assist in identifying and prosecuting human traffickers and co-conspirators, and may prevent the removal of harmful online data or images of the victims. The long-term availability online of these images causes re-victimization and significant trauma. DOJ and DHS, working with their international and domestic partners, should also engage with the social media and technology industry on the need for lawful access to digital evidence in human trafficking investigations, again, consistent with relevant legal authorities and civil rights protections.

Enhance focus on investigating and prosecuting facilitators of human trafficking

Law enforcement at all levels should target entities and individuals that knowingly contribute to or facilitate human trafficking. Facilitators include hotel owners who knowingly profit from sex trafficking and companies that recklessly disregard their labor recruiters' involvement in labor trafficking and should be potential targets. These individuals may be important co-conspirators or participants in the criminal network and are sometimes overlooked by investigators and prosecutors.

Focusing on the demand and facilitators serves two main purposes. First, these people and entities are directly involved in committing the crime of human trafficking and contributing to its profitability. Second, these perpetrators may have assets that could be forfeited and used for restitution. Restitution can help the victims on a road to recovery. Targeting all participants involved in the crime will disrupt traffickers' ability to victimize children and will hold all responsible persons accountable.

DOJ should continue to train federal, state, local, tribal, and territorial investigators, and prosecutors on identifying and prosecuting the demand for and facilitation of human trafficking under relevant statutes using a victim-centered, trauma-responsive approach designed to build trust with law enforcement among victims and potential victims. DOJ should also increase collaboration with its state, local, tribal, and territorial partners who may be able to pursue cases that are not brought to federal court for prosecution.

⁸² The National Advisory Committee on the Sex Trafficking of Children and Youth in the U.S. advises the Attorney General and the Secretary of Health and Human Services on the nation's response to trafficking. The Committee was responsible for [two Congressional reports: Best Practices and Recommendations for States](#) (PDF) (2020) and [Preliminary State Self-Assessment Overview](#) (PDF) (2022).