

A woman's profile is shown in silhouette against a blue background. Her hair is long and wavy, and she is looking towards the right. The lighting is soft, highlighting the contours of her face and hair.

## THE SEX TRAFFICKING MARKETPLACE:

*Addressing Demand  
through Legislation  
and Tactics*

children  
at Risk

*Speaking Out + Driving Change for Children*



# RESEARCH & PRODUCTION TEAM

**Robert Sanborn, Ed.D.**

*President & CEO*

**James Caruthers, J.D.**

*Senior Staff Attorney*

**Todd J. Latiolais, J.D.**

*Staff Attorney*

**Jessica A. Brautigam**

*Summer Institute Law Fellow*

**Ashley D. Knarr**

*Summer Institute Law Fellow*

**Alice Li**

*Summer Institute Law Fellow*

**Paul Osadebe**

*Summer Institute Law Fellow*

**Benjamin P. Rowe**

*Summer Institute Law Fellow*

**Crystal Walsh**

*Public Policy & Law Center Intern*

**Jesus Davila**

*Assistant Director, Center for Social Measurement and Evaluation*

**LaPorcha Carter**

*Assistant Director, Center for Social Measurement and Evaluation*

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Printed in Houston, TX

Design and Layout by *Squidz Ink Design*

## ABOUT CHILDREN AT RISK

CHILDREN AT RISK is a non-partisan research and advocacy organization dedicated to improving the quality of life for Texas' children through strategic research, public policy analysis, innovation, legal action, community education, and collaboration. The organization began in 1989 when a group of child advocates met to discuss the lack of data on the status of children and the absence of strong public policy support for Houston's children. Through its biennial publication, *Growing Up in Houston: Assessing the Quality of Life of Our Children*, CHILDREN AT RISK tracks over 140 indicators measuring the quality of life of kids in our community. CHILDREN AT RISK has evolved from an organization researching the multitude of obstacles our children face into one that also drives macro-level change to better the future for Texas' children. Through its Public Policy & Law Center, CHILDREN AT RISK uses policy and legal expertise as a powerful tool to drive change for kids. In recent years, CHILDREN AT RISK has grown exponentially in its capacity to speak out and drive change for children and has become the premier resource on children's issues among major media outlets, public officials, and the non-profit sector.

## ABOUT THE TEXAS BAR FOUNDATION

The Texas Bar Foundation solicits charitable contributions and provides funding to enhance the rule of law and the system of justice in Texas, especially for programs that relate to the administration of justice; ethics in the legal profession; legal assistance for the needy; the encouragement of legal research, publications and forums; and the education of the public. The Texas Bar Foundation is the largest charitably funded bar foundation in the nation. Membership is composed of the most elite Texas attorneys. The Foundation's members are nominated because of their dedication to the administration of justice and high professional standing among his or her peers. For more than four decades, the Texas Bar Foundation has helped organizations to: educate the public about their rights and responsibilities under the law; provide legal services to the poor; and assist those who turn to the legal system for protection. Grants are made possible by the generosity of Fellows and charitable gifts from individuals and law firms across the state. The Texas Bar Foundation and its members are committed to the mission of advancing justice in Texas by providing opportunities to support the rule of law in Texas.

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## FOREWORD BY DR. ROBERT SANBORN, ED.D.

*President and CEO, CHILDREN AT RISK*

Prostitution is not a victimless crime. The demand for commercial sex fuels a black market industry that abuses and trafficks women and children, denies them autonomy over their own bodies, and comes with a host of ancillary crimes including drug trafficking and money laundering. CHILDREN AT RISK received funding from the Texas Bar Foundation to study the demand for commercial sex in Texas in part because more and more, the demand side of the commercial sex equation is being seen as an answer to eliminating, or at least seriously reducing, human trafficking.

This is because attacking the supply side results in arresting mainly victims—those prostituted individuals who are likely acting under a trafficker’s control. While Texas has strong anti-trafficking laws, developing a case against a trafficker is often difficult and time-consuming. Buyers, however, are both culpable and easier to target. Because there is no feasible way to segregate “adult” prostitution from the prostitution of minors, CHILDREN AT RISK, along with other Texas advocates, is striving to reduce demand across the board, as a reduction in human slavery overall will also result in fewer sexually abused minors.

With this framework in mind, CHILDREN AT RISK’S legal researchers set out to try to find answers to some important questions, such as what compels buyers to solicit commercial sex, what the current legal framework is with respect to prostitution and trafficking, and how various law enforcement jurisdictions around the state are doing with demand reduction. The answers are complex and the data surprising, but there can be no doubt that culture helps to shape demand, that both federally and statewide our laws are strong but can be improved, and that more deterrence is needed to prevent buyers from purchasing another person like chattel.

While our researchers endeavored to obtain arrest records from jurisdictions across Texas on prostitution and related crimes, many of the public information requests went unfulfilled. This appears to be mainly due to the fact that data systems and capacity differ greatly from department to department. Some jurisdictions were unable to fulfill the request despite having months to do so, citing a backlog and lack of manpower. Other jurisdictions reported being unable to search for prostitution arrests at all, due to the age and insufficiency of their

databases. What became clear is that if Texas wants to be able to determine what reduction efforts are working and where, a mandatory statewide prostitution database is badly needed. Despite these setbacks, this volume presents the first quantification of the demand for commercial sex in Texas as reflected by buyer and seller arrests, as well as the arrests of those charged with compelling prostitution (pimping) and other, similar, crimes.

This same lack of data is reflected in human trafficking research overall. While most people in the anti-trafficking movement are aware that hard numbers are lacking, the research within this volume has definitively uncovered the fact that many estimates are unverifiable, and that more and better data collection is required in order to get a complete picture of human trafficking in Texas and in our nation.

We hope that this publication will be a valuable resource for attorneys, the judiciary, policymakers, and the community to learn more about the demand side of the commercial sex equation in Texas. CHILDREN AT RISK will continue to work with these stakeholders to improve data collection and advocate for stronger laws and a more comprehensive victim response until human trafficking is eliminated in our great state. Texas has been a leader in the fight against human trafficking, and we hope that this publication serves as a reminder to everyone that the fight against modern day slavery is far from over, and that for the sake of our children, we must keep working to eliminate human trafficking in all its forms.

Hug your kids,

A handwritten signature in black ink, appearing to read "R. Sanborn". The signature is fluid and cursive, with a large "R" and a long, sweeping underline.

Dr. Robert Sanborn  
President and CEO  
CHILDREN AT RISK

# WHAT IS HUMAN TRAFFICKING?

Human trafficking is a serious human rights violation that takes place in countries all over the world. In the United States, the Trafficking Victims Protection Act (TVPA) categorizes “severe forms of trafficking in persons” as either sex trafficking or labor trafficking.<sup>1</sup> Under the federal definition, sex trafficking occurs when a commercial sex act is induced by force, fraud, or coercion; however, no force, fraud, or coercion is necessary if the person induced to perform the commercial sex act is younger than 18 years of age.<sup>2</sup> Labor trafficking is defined as “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”<sup>3</sup> Despite the connotation of the term “trafficking,” physical transportation from one location to another is not necessary for a crime to fall within the definition of human trafficking. The Texas human trafficking law contains elements and definitions which are similar to the federal legislation.<sup>4</sup>

Acquisition of trafficked slaves primarily occurs in one of five ways: deceit, sale by family, abduction, seduction or romance (with sex trafficking), or recruitment by former slaves.<sup>5</sup> Trafficking victims are difficult to identify, and legal, institutional, and attitudinal challenges create barriers to prosecuting trafficking cases, causing the current number of convictions and identified victims to most likely be an underestimate of the actual number of traffickers and trafficking victims.<sup>6</sup>

Texas is believed to be a particular hotspot for human trafficking due to its large cities, international airports, busy interstate highways, and vast border with Mexico. It was the second most common origin of calls to the National Human Trafficking Resource Center in 2014, with 9.6% of calls to the human trafficking hotline originating in Texas.<sup>7</sup> The Human Trafficking Reporting System (HTRS) recorded 737 human trafficking-related incidents in Texas from January 1, 2007 to August 31, 2014, and the Federal Bureau of Investigation (FBI) Innocence Lost Initiative reported 444 child victims of sex trafficking from Texas-based task forces during the same period.<sup>8</sup> Because of the illegal, hidden nature of human trafficking and the lack of sufficient data, accurate estimations of the true scope of human trafficking are difficult to determine. There have been no comprehensive prevalence studies of trafficking in the United States to date, and more research is necessary in order to determine the scope of human trafficking.



## PURPOSE OF THE PUBLICATION

Underground markets that offer illicit goods and services operate on economic principles similar to those found in legitimate markets. According to the basic principles of economics, market prices are determined by the intersecting forces of supply and demand.<sup>9</sup> “Supply” refers to the quantity of a good or service that can be offered while “demand” refers to the quantity desired by buyers of the good or service. Both forces are necessary to sustain any market, including the market for trafficked individuals.

To date, efforts to combat human trafficking have been primarily focused on identifying and protecting victims of this crime (the supply) and punishing the traffickers who profit from this exploitation (the suppliers), but the buyers (the demand) have largely escaped attention. Demand reduction as a strategy to combat trafficking is a growing national trend with considerable support among law enforcement, policymakers, and anti-trafficking advocates. The demand theory proposes that a reduction in the demand for commercial sex and forced labor will mean a commensurate reduction in the supply of victims. Additionally, demand theory is attractive because, due in part to their insulated roles, pimps and traffickers are notoriously hard to identify and apprehend and arresting prostituted individuals often just penalizes those who are likely to be unwilling participants. Attacking various components of this criminal market would ultimately impact demand (for example, making the cost of conducting business higher for pimps and traffickers would influence the price paid by consumers),<sup>10</sup> but this publication focuses specifically on tactics aimed at the buyer population itself. Addressing the buyers in the equation is seen by the demand theory’s advocates as both feasible and effective.

Before continuing, it should be clarified that there is a legal distinction between prostitution and sex trafficking, although both offenses involve sexual services in exchange for something of value. Prostitution is defined under Texas law as offering to engage, agreeing to engage, or engaging in sexual conduct for a fee, or soliciting another in a public place to engage with the person in sexual conduct for hire.<sup>11</sup> Whereas the sex trafficking of adults requires force, fraud, or coercion, prostitution does not necessarily entail those elements.<sup>12</sup> Victims of sex trafficking therefore constitute some unknown percentage of all individuals involved in prostitution, but not all individuals in prostitution can be legally classified as victims of sex trafficking.

The purpose of this publication is to begin to examine the issue of demand for commercial sex in Texas, with an understanding that this demand drives the entire underground sex economy, including both prostitution and sex trafficking. This publication will provide an overview of the parties

involved in prostitution (supplier, seller, and buyer), discuss the related issue of commercial sexual exploitation of children, analyze legislation around commercial sex and the impact of the law on sex buyers, highlight a variety of demand-reduction tactics currently in use, and provide recommendations for future research and policies related to sex trafficking and prostitution.

As part of examining the demand for commercial sex in Texas, this publication will also analyze arrest records from several counties for prostitution-related offenses. The purpose is to paint a picture of the current law enforcement response to demand. This is the first time that this data has been collected and presented to the public in Texas, and the first attempt to compare arrests of sex buyers to arrests of prostituted individuals. Clearly, those who are arrested only represent a portion of the total demand for illegal commercial sex, but this is an important first step in attempting to quantify who is purchasing illegal commercial sex and how that can inform anti-trafficking policy.

## THE CRIMINAL MARKET FOR COMMERCIAL SEX

### Suppliers: Pimps, Traffickers, and Managers

In a legal context, a “pimp” is an individual who earns money through the facilitation of commercial sex transactions.<sup>13</sup> The popular understanding of a “pimp,” however, is more specific than the legal definition and refers to an individual who “controls the actions and lives off the proceeds of one or more women who work the streets.”<sup>14</sup> The legal distinction between pimping and trafficking is often blurry, although pimping generally becomes trafficking when there is use or threat of force, coercion, abduction, fraud or deception, or when a minor is being prostituted.<sup>15</sup>

Research about pimps and traffickers has been limited and difficult due to the illegal nature of their work. According to a sample of incarcerated pimps, they are mostly, but not always, male and diverse in terms of race and level of education.<sup>16</sup> African-American offenders appear to constitute a disproportionately large percentage of arrested and convicted pimps and traffickers,<sup>17</sup> though it is unclear whether they are representative of all pimps or whether African-American offenders are more likely to be arrested and convicted. Reported entry points into pimping are varied and include family experience with pimping or prostitution, neighborhood context and community influence, transitioning from drug dealing, recruitment by women in prostitution, and mentorship by other pimps.<sup>18</sup>

Women in prostitution themselves can later transition to pimping.<sup>19</sup> Female pimps include madams or business partners, who manage activity within a structured prostitution setting; women who traffic their children or other family members; women who help their sons or husbands with

pimping; women who are complicit and peripherally involved in pimping; and “bottoms,” women who work for a pimp and also recruit, train, and discipline other women who work for the pimp.<sup>20</sup>

Traffickers are similarly diverse and have no standard profile, ranging from strangers to boyfriends to family members. At least 28% of traffickers worldwide are women, which makes trafficking one of the crimes with the highest proportion of female offenders.<sup>21</sup>

## *Case Study: Female Traffickers in Texas Cantinas*

Two Texas cases highlight the reality of female traffickers and show they can be as cruel as their male counterparts. In *United States v. Hortencia Medeles-Arguello*, the defendant, who went by the name “Tencha,” was a 68 year old woman and the ringleader of a trafficking organization that specialized in providing minor girls, some as young as 14, to buyers in Houston’s East End through cantinas that she owned. The victims were mostly from Mexico and Central America and were brought to Texas illegally. The girls were subjected to beatings, kept in locked rooms, and severely punished if customers complained about their services or if they attempted to escape. Twelve rescued victims testified at trial against Tencha, and evidence at trial indicated that Tencha made more than \$1.6 million dollars from her trafficking operation in a 19-month period.<sup>22</sup>

In *United States v. Hortencia Medeles-Arguello*, Maria “Nancy” Rojas was charged in and pleaded guilty to a conspiracy to smuggle Mexican women and at least five minor girls into the United States and forcing them to work as prostitutes at a bar she owned.<sup>23</sup> Some of the girls were smuggled into the United States under the pretense that Rojas and her co-conspirators would get legitimate jobs for them, then they were forced to work as prostitutes in order to pay off the smuggling debt. Rojas and the other defendants obtained false identification for the minors and altered their appearance to make them look older. Several of the girls were beaten or threatened with violence to them or their families. Evidence at trial showed that Rojas and the other defendants made a minimum of \$15,000 per day on weekends through condom fees and room rentals (which were used for prostitution) alone. Rojas was sentenced to 192 months in prison and her sentence was affirmed on appeal.

Trafficking can range from a small, local operation to an organized crime operation involving a large number of victims.<sup>24</sup> While transnational trafficking rings do exist, the prevalence of organized crime involvement in transnational sex trafficking is currently not known.

Many pimps are organized in an informal social network, sharing or exchanging employees, resources, and information to avoid detection by law enforcement.<sup>25</sup> Although pimping is not considered to be a crime most commonly perpetrated by gangs or organized crime networks, gangs are sometimes involved in pimping and sex trafficking.<sup>26</sup> Indeed, the Texas Department of Public Safety has identified at least six gangs involved in human trafficking.<sup>27</sup>

Some pimps manage massage parlors or other commercial properties, using

them as fronts for underground prostitution. Other pimps can be highly mobile, frequently traveling to different cities around the country for purposes such as avoiding police crackdowns on prostitution, migrating to areas with large crowds, and capitalizing on the “newness” of their employees in a new city.<sup>28</sup> Additionally, pimps can have relationships with legal businesses, such as hotels that facilitate their criminal behavior.<sup>29</sup> Some pimps have self-reported having relationships with law enforcement as well, alleging that some of their customers were police officers, though those relationships varied in their alleged levels of protection and exploitation by law enforcement.<sup>30</sup>

The individuals that pimps recruit into prostitution vary in their age and demographics. Some pimps recruit minors, while some avoid recruiting minors, citing ethical or pragmatic (i.e. believing that minors do not make as much money or that hiring minors would lead to arrest) reasons.<sup>31</sup> Pimps can recruit individuals through a “gorilla pimping” style, using violence or threats to coerce an individual into trading sex, or through a “finesse pimping” style, using non-physical persuasion and manipulation such as engaging in romantic relationships with the women they are recruiting.<sup>32</sup> Both male and female pimps can utilize “gorilla pimping” methods.<sup>33</sup> Pimps frequently impose rules and quotas on their workers and can punish rule-breaking through violence or other forms of coercion.<sup>34</sup>

### *Case Study: King Kidd*

In April 2014, a Houston man entered a guilty plea on two charges of sex trafficking of minors.<sup>35</sup> Twenty two year old Tevon Harris, also known by the aliases “Da Kidd” and “King Kidd,” utilized the internet both for the recruitment and the exploitation of his victims. Harris met young girls on social networking websites, gained their trust, and made promises of helping the minors become models. After recruiting a girl via the internet with these false promises, he quickly transitioned into more forceful or “gorilla” pimping. After picking up the girls he met online, Harris would take them to motel rooms, rape them, and confiscate their cell phones. Upon discovering that one girl attempted to contact her mother for help, Harris beat the victim with a towel rack torn from the wall. It was also reported that Harris forced one of the girls to go without food for more than four days because he was not satisfied by her performance with sex buyers. Harris prostituted these children by posting their pictures in online advertisements. Any money received by the girls in exchange for commercial sex acts was turned over to Harris. In the summer of 2014, a federal judge sentenced Harris to 40 years in prison.<sup>36</sup> Additionally, he is required to register as a sex offender and, when released, must spend the rest of his life on supervised release.<sup>37</sup>

## **Sellers: Individuals in Prostitution & Sex Trafficking Victims**

Individuals in prostitution comprise a diverse population that is mostly female, but also includes males in not insignificant numbers. Between 2000 and

2014, approximately 26% of the 88,000 prostitution arrests voluntarily reported to the Texas Department of Public Safety by law enforcement departments across Texas were of male offenders.<sup>38</sup> Age of entry and race vary considerably, as do reasons for entry into prostitution, which include: economic need; homelessness; encouragement of family members, friends, or acquaintances; support for substance abuse habits; desire for social and emotional acceptance (particularly for transgender individuals); and continuation from legal sexually oriented business activity (such as stripping).<sup>39</sup> Some individuals enter prostitution due to an inability to find any other job, others have previously held legitimate employment but found their wages insufficient to live on, and still others have legitimate employment and use prostitution as a supplemental source of income.<sup>40</sup>

Individuals in prostitution are generally divided into indoor prostitutes and street-based prostitutes. Indoor prostitution is characterized by solicitation and sexual exchange occurring off the street and includes individuals who work in brothels, in massage parlors, in residences or hotels, and as escorts. While the exact percentage of individuals in street versus indoor prostitution is uncertain, street prostitution does constitute a minority of overall prostitution.<sup>41</sup> Recent decades have seen increasing use of the Internet by individuals in prostitution in order to solicit buyers by posting ads, and use of the Internet is helping to expand the underground commercial sex market by providing a new venue to solicit prostitution.<sup>42</sup>

Risks reported by individuals in street and indoor prostitution include arrest, violence and coercion from pimps, abuse and violence from buyers, a higher incidence of psychiatric disorders, rape, and sexually transmitted diseases.<sup>43</sup> Individuals who are trafficked for sex include both domestic individuals and migrants from other countries. The majority of sex trafficking victims are female, though 3% of identified worldwide sex trafficking victims are male.<sup>44</sup> Migrants from other countries who are ultimately sex-trafficked may initially immigrate in the belief that they would find legal employment in the U.S. unrelated to commercial sex, only to end up under the control of sex traffickers and being forced or coerced into prostitution. Some other migrants may immigrate with the knowledge that they would be employed in the sex industry upon arriving in the U.S., but unexpectedly find themselves working in exploitative, abusive conditions.

In addition to the risks and harms faced by non-trafficked individuals in prostitution, victims of trafficking into prostitution are also particularly vulnerable to coercion and abuse, whether physical, sexual, or psychological, from their traffickers. Threats of violence from their traffickers, as well as psychological repercussions from the experience of being trafficked (such as post-traumatic stress disorder, depression, or anxiety), can make it difficult for trafficked individuals to escape from their exploitative situations.<sup>45</sup> Individuals who were trafficked into the U.S. from other countries often fear the possibility of arrest and deportation, which can prevent them from contacting law enforcement. Additionally, law enforcement may arrest trafficking victims for prostitution, sometimes arresting the same individual on multiple occasions, while failing to identify them as trafficking victims.<sup>46</sup> To help remedy this, Texas passed a bill

which mandated minimum four-hour human trafficking training for newly-licensed law enforcement officers as well as those officers wishing to advance in rank.<sup>47</sup>

## Kids for Sale: The Commercial Sexual Exploitation of Children

The Trafficking Victims Protection Act (TVPA) classifies any person under the age of 18 who performs a commercial sex act as a victim of sex trafficking, regardless of whether force, fraud, or coercion was involved.<sup>48</sup> Texas law also recognizes that no force, fraud, or coercion must be proved when a child is trafficked for commercial sex.<sup>49</sup> It is estimated that half of minors engaged in prostitution are under the control of a pimp.<sup>50</sup>

Traffickers derive a profit from a variety of sexual abuses against children beyond prostitution. Commercial sexual exploitation of children (CSEC) is defined by the U.S. Department of Justice as “sexual abuse of a minor for economic gain,” involving physical abuse, pornography, prostitution, and smuggling of children for unlawful purposes.<sup>51</sup> Under Texas law, human trafficking occurs when a child is transported, enticed, recruited, harbored, provided, or otherwise obtained by any means and is then caused by any means to engage in, or become the victim of a wide range of offenses including prostitution, child pornography, and stripping or working in a sexually oriented commercial activity.<sup>52</sup> Anyone who “engages in sexual conduct”<sup>53</sup> with a trafficked child can be prosecuted under Texas’s trafficking statute.<sup>54</sup>

There are currently no concrete national estimates about how many minors are involved in commercial sexual exploitation,<sup>55</sup> nor are there absolute statistics for the average age of entry among minors.<sup>56</sup> However, studies indicate that the majority of prostituted individuals enter into prostitution below the age of 18 and indicate that around 15-16 years of age is a common age of entry.<sup>57</sup> Although CSEC is often believed to primarily affect girls, studies have found substantial numbers of boys involved in street prostitution in at least one major city.<sup>58</sup> Researchers and advocates in New York have described CSEC as primarily affecting runaway youth, children who have experienced abuse, minors who are unable to find legitimate employment, and children who are vulnerable to control and manipulation by adults seeking to profit.<sup>59</sup> Prior involvement with child welfare and juvenile justice systems also appear to be associated with CSEC.<sup>60</sup>

Additionally, CSEC disproportionately affects youth who are people of color, as African-American and Latino or Latina youth are significantly more likely to be engaged in survival sex than white youth.<sup>61</sup> Homelessness is one of the most prominent drivers of youth engagement in prostitution, with national estimates of runaway and homeless youth involved ranging from 10 percent to 50 percent of that population.<sup>62</sup> Being a lesbian, gay, bisexual, transgender, or queer (LGBTQ) youth is another significant vulnerability to commercial sexual exploitation: a disproportionate number of homeless youth identify as LGBTQ, and surveys have found that LGBTQ youth are seven times more likely than heterosexual youth to have traded sex for a place to stay, and transgender youth are eight times more

likely than nontransgender youth to do so.<sup>63</sup>

The New York research shows that pathways into CSEC include initiation by friends and peers, being approached by buyers, and exploitation by family members.<sup>64</sup> Recruitment by pimps was identified as an entry point for girls, but rarely an entry into CSEC markets for boys and transgender youth.<sup>65</sup>

The increasing use of the Internet and mobile technologies has diversified the ways by which traffickers can lure minors into prostitution. One analysis found that 27% of identified sex trafficking cases used the Internet as a trafficking tool.<sup>66</sup> Aside from using the Internet as a venue to place ads for trafficking victims, traffickers can also make contact with minors using social media websites.<sup>67</sup> Traffickers vary in their technological sophistication, therefore the use of technology by traffickers may depend on their access to and familiarity with such technology.<sup>68</sup>

Minors involved in prostitution experience the same risks and harms as adults involved in prostitution, such as violence from customers, harassment, risk of sexually transmitted infections, and problems due to substance abuse.<sup>69</sup> Both male and female youth are vulnerable to violence and sexual assault from customers.<sup>70</sup> Minors who are exploited by pimps or traffickers are vulnerable to physical, sexual, and psychological abuse, as well as negative psychological effects from the experience of being trafficked. The majority of youth involved in prostitution would like to exit but identify barriers to leaving that include lack of other stable employment, lack of education, lack of stable housing, and drug addiction.<sup>71</sup> Although under federal law all prostituted children are classified as sex trafficking victims, minors can still be arrested for prostitution and related charges in states that do not have safe harbor laws.

### *Case Study: In the Matter of B.W.*

B.W. was 13 years old when she was picked up by an undercover policeman for offering him sexual services.<sup>72</sup> B.W. initially told authorities that she was 19 and was charged as an adult; when her true age was learned, the criminal charge was dismissed and prostitution charges were refiled in juvenile court. B.W. plead guilty to prostitution and was sentenced to 18 months of probation and appealed, eventually reaching the Texas Supreme Court. The essential holding of *In the Matter of B.W.* is that a child under the age of 14 cannot be prosecuted for prostitution because the child does not have the capacity to consent to sex. However, minors between the ages of 14 to 17 may still face prostitution charges.

## Demand: Sex Buyers

In order to understand the market for commercial sex and the state of demand in Texas, it is essential to have an accurate understanding of the buyers of commercial sex. Many analysts divide the different theories about the demographic, psychological, and criminal nature of sex buyers into what could be approximately described as the “peculiar man” and “ordinary man” theories.<sup>73</sup> The “peculiar man” theory asserts that men who purchase sex are distinct from non-buyers in significant, and usually negative ways.<sup>74</sup> This position typically contends that sex buyers are men of inferior psychological or moral character who are more likely than other men to engage in other forms of criminality, believe in rape myths<sup>75</sup> which are considered predictors of likelihood to commit sexual assault, or are prone to actually assaulting women.<sup>76</sup> Methods aimed at addressing this theory of the customers often focus on their status as sick or depraved individuals; consequently, responses often range from a focus on sexual addiction and anger management to calls for increased incarceration and incapacitation of sex buyers as potentially dangerous offenders.

On the opposite end of the spectrum, the ordinary man perspective proposes that there are few meaningful demographic or psychological differences between buyers and non-buyers. In this view, men who purchase sex are not necessarily troubled individuals with histories of mental illness or antisocial behavior, nor are they criminals who simply expanded their activities to the commercial sex market.<sup>77</sup> They are truly the “Buyer Next Door.” They are neighbors, school bus drivers, CEOs, lawyers, doctors, taxi drivers et cetera. This theory, when coupled with the old saying that prostitution is “the world’s oldest profession,” frequently leads to the assumption that a thriving commercial sex market is inevitable or that purchasing sex is a typical element of male sexuality.

Despite the adage that “boys will be boys,” the vast majority of men both in the United States and abroad do not purchase sex. In the United States, only 16 percent of adult men have ever purchased sex and only 1 percent of those did so in the last year.<sup>78</sup> These numbers are even lower in other countries like the United Kingdom where the percentage is as low as 7 percent.<sup>79</sup> These estimates indicate that the decisions of sex buyers are not representative of the male population at large. The data also suggests that the acceptance and patronization of prostitution is culturally determined and is not an unavoidable byproduct of society.

Despite the low rate of sex buying, research lends some credence to both the “peculiar man” and “ordinary man” ends of the spectrum. There is a well-documented group of buyers that have been termed “high frequency buyers” or “hobbyists.”<sup>80</sup> These are buyers that purchase habitually and continually, and they are the ones that purchase the highest volume of commercial sex acts and thus provide the demand necessary to sustain the market. These buyers often congregate and discuss purchasing sex on online forums and review sites like The Erotic Review.<sup>81</sup> When these men meet online, they provide each other with reviews of purchased sexual services, inform each other of places to buy sex, and trade tips on avoiding police stings.<sup>82</sup> When compared to non-buyers and



even less active buyers, this subpopulation tends to be whiter, richer, older, less likely to be married, more educated, more sexually liberal, more likely to believe that prostitutes enjoy their jobs, and more committed to participating in the commercial sex market.<sup>83</sup> When these men do have wives or regular partners, there is often a mismatch in sexual desire between these men and their significant other as they are likely to enjoy sex more than their partner or to enjoy a different type of sex.<sup>84</sup> Their higher social status, increased knowledge, and ability to pay for higher priced indoor prostitution largely insulates them from public shaming efforts or criminal prosecution.<sup>85</sup> These high frequency buyers are also far more likely than both less active and non-buyers to be involved in other aspects of the commercial sex market, such as visiting strip clubs, and viewing pornography.<sup>86</sup>

Many of these high frequency buyers seek a girlfriend experience or “GFE” in which the sex provider creates an illusion of a conventional relationship that is more intimate than other types of prostitution.<sup>87</sup> Although this experience is at least superficially more intimate than other types of prostitution, it is still purposefully limited by the transactional nature of the interaction. The seller seems more receptive to the buyer’s attention, so the man feels less guilty about the exchange and it becomes easier for him to feel that the desire is mutual. However, unlike conventional relationships the meetings still occur almost entirely on the man’s terms and the woman has little power in the interaction.<sup>88</sup>

Finally, there is a subset of customers that are judgmental toward prostitutes and more likely to enjoy violence and violent sexuality.<sup>89</sup> Somewhat counterintuitively, the men with a consumerist or transaction-focused attitude toward sex are not the most likely to exhibit these traits. Those most likely to pose a danger to prostituted women are those with “fragile masculinities” that may be purchasing sex due to lack of success with conventional relationships.<sup>90</sup> These men purchase sex in order to experience intimacy and to reinforce their masculinity and thus may act out through violence in order to assert control or when they become frustrated by a perceived lack of enthusiasm by the prostitute.<sup>91</sup> They may judge women harshly for their sexuality but view themselves as good people.<sup>92</sup> At the same time, they violate that morality by patronizing prostitutes. The conflict between the actions, behaviors, and self-concept of these men may lead them to blame the women they pay for enticing them into violating their morals.<sup>93</sup> This anger can lead to violence against prostituted individuals, and these men may account for much of the violence against them.<sup>94</sup>

Unlike habitual buyers, most buyers purchase sex infrequently and in a way that is more influenced by the events in their lives than by inherent personality defects.<sup>95</sup> Purchasing sex is not part of the self-identity of these men. These men generally do not differ significantly from non-buyers in their demographics, attitudes, acceptance of rape myths, or propensity toward violence.<sup>96</sup> These men may be the most likely to be picked up in reverse stings due to their inexperience with purchasing sex and are possibly the most likely to be deterred from reoffending due to the shock of arrest, shaming, and possible jail time.<sup>97</sup> However, due to that same lack of sophistication, these customers are also more likely to be involved in street prostitution, rather than escort or indoor services.<sup>98</sup> Many of

these first time or inexperienced buyers report that they had no regular partner or had not had sexual experiences within the past year, which implies that for many of these men, their purchasing was brought on by sexual frustration, rather than any type of pathology.<sup>99</sup>

Overall, the research is clear in showing that there is more than one type of sex buyer. The buyer population is just as diverse as the non-buyer population and contains people who interact with the commercial sex market in a number of different ways. On the whole, the evidence seems to show that the “ordinary man” perspective is closer to being representative of most buyers, but that there is a sizeable subset of buyers that are more peculiar, more distinct from the general population and more dangerous to prostituted women.

## *Reasons Men Buy Sex*

There is no clear or singular reason why the demand for commercial sex is so high among some men. At the same time, many of the reasons that fuel men’s demand for commercial sex are intuitive and overlap with many of the public’s assumptions about men’s reasons for purchasing sex.<sup>100</sup> One framework divides men’s motivations and reactions to purchasing sex into four categories: 1) men who do not enjoy sex with prostitutes but do so anyway; 2) those who do enjoy it, but have tried to stop and failed; 3) men who enjoy it, feel that commercial sex should be legalized, and see no reason to attempt to stop; and 4) buyers who feel they have no other options due to physical, social, or psychological deficiencies.<sup>101</sup>

While this typology is useful, each buyer has his own reasons or combination of explanations for his participation in the commercial sex market.<sup>102</sup> Some believe that purchasing sex is normative behavior for men or that it reinforces their masculinity.<sup>103</sup> Other men are particularly promiscuous and want more sexual partners in addition to their voluntary and uncompensated companions. Many say that they are seeking to experiment with a woman other than their wife or regular sex partner.<sup>104</sup> They want sex free from the emotional demands and reciprocity their partners would expect in a conventional romantic relationship. Some want to focus exclusively on their own pleasure, rather than the pleasure of their partner.<sup>105</sup> Others want to have sex with a woman they believe has a special level of sexual prowess that cannot be found with conventional partners.<sup>106</sup>

Many want to experience sex with women of a variety of age, races, and body types or women that they consider especially “exotic” or unusual.<sup>107</sup> Frequently, married buyers want to have an affair without the risk and emotional vulnerability associated with pursuing an affair with a non-prostitute.<sup>108</sup> They want an illegal, secret, and thrilling experience. Some like to pursue or “hunt” women in a way that eliminates the possibility of failure.<sup>109</sup> Buyers may want to experience or perform sexual acts that they are unwilling to ask their partner to engage in due to fear of rejection, ridicule, anger, or a loss of her self-esteem.<sup>110</sup> Some explicitly seek the power that paying for someone’s sexual compliance provides and the accompanying sense of control over that person, while others simply want a temporary and limited sense of intimacy that they feel they cannot acquire

elsewhere.<sup>111</sup> Finally, some seek out commercial sex because of shyness, mental illness, physical deformities, or other issues which prevent them from believing women would willingly have unpaid sex with them.<sup>112</sup>

Despite at least a basic awareness of the true transactional nature of the situation, even buyers that do not specifically seek the “Girlfriend Experience” typically want to experience some level of warmth, passion, and at least the impression of mutual desire, rather than a cold, mechanical commercial transaction. Beyond the demand for the sex acts themselves, there is a high demand for “emotional labor” from the prostitute and often anger or disappointment when that labor is not performed or performed unconvincingly.<sup>113</sup>

This labor is often seen as an essential part of the transaction.<sup>114</sup> Furthermore, many buyers have a consumerist attitude toward both prostitution and sex in general, viewing sex as a commodity that can and should be bought and sold freely.<sup>115</sup> They often make the argument that conventional marriage and dating relationships also involve financial exchanges and thus their purchase of sex is simply a shortcut that allows both parties to receive what they really want in a quicker way.<sup>116</sup> When this type of consumerist attitude spreads to even the most intimate of activities, it goes a long way toward normalizing the purchase of another person’s sexuality. A general disconnection of sex from love or even friendship is commonplace, and for many people, it is now a form of entertainment or even just a commodity.

## *Cultural Influences on Demand*

Consumer demand is “a socially, culturally and historically determined matter.”<sup>117</sup> Levels of demand for commercial sex and differences across countries have been speculated to be related to culturally-dependent conceptions of masculinity and pressures of social conformity.<sup>118</sup> A culture in which buying sex from women is normalized, or in which having sex with women is bound up with perceptions of masculinity, could foster an increased demand for commercial sex. Moreover, a culture with a substantial frequency of violence against women generally, such as sexual assault and domestic violence, could exacerbate the likelihood of violence and assault experienced by people who are as criminalized and severely stigmatized as individuals in prostitution. Any explanation for demand based on cultural notions of gender inequality, however, can only be a partial explanation, as it does not explain why some men purchase sex and some do not. It also does not provide a complete explanation for the existence of male individuals in prostitution, though gender violence is arguably connected with violence against men engaged in sexual conduct with other men.

Although culture plays a huge role in influencing the demand for commercial sex in every society, that role is rarely acknowledged and often poorly understood. As previously discussed, the level of demand for commercial sex varies greatly depending on the environment, with some societies largely viewing the purchase of sex as normative behavior, while it is comparatively rare and stigmatized in other cultures. For example, the number of men who have visited a prostitute

ranges from an estimated 39 percent in Spain down to around seven percent in the United Kingdom.<sup>119</sup> Although men in every country, culture, and time period have experienced troubled marriages, have had free time, struggled with loneliness or sexual frustration and other risk factors, it is far more common for men in some countries to translate this temptation into purchasing commercial sex than men in others. These differences make it clear that the size of the commercial sex market in a place is partially determined by the way their culture primes men to respond to these pressures.

American culture produces widespread attitudes that lead many people to view sex as entertainment on the same level as movies or videogames or as a product like any other. Goods, services, and people are increasingly sexualized and that sexualization is increasingly normalized. With this attitude, it is easy to be less alarmed by the demand for prostitution, or involvement with other components of the commercial sex industry, such as erotic massage parlors, spas, strip clubs, pornography, and more. Additionally, criminal sanctions against sex buyers are traditionally low across the country, further feeding the cultural perception that this is not a serious problem.

Many men are heavily influenced by a specific ideal of masculinity that demands they seek out as many sexual partners as possible in order to prove their masculinity or risk humiliation and lower status. Many men respond to this by purchasing sex to regain or reinforce that sense of accomplishment and security.<sup>120</sup> Similarly, our culture may place too much pressure on men to be sexually proficient and so men may feel the need to “practice” with prostitutes in order to feel more attractive to non-prostitute women. These unhealthy concepts of masculinity and the view of sex as entertainment can be carried out through instances such as bachelor parties that purchase prostitutes for the party goers or a father or uncle taking his son or nephew to a prostitute as a rite of passage.

Moreover, despite the encouragement of a fixation on sex for men, awareness of the existence and prevalence of sexual addiction is not widespread and thus many men seek commercial sex as an outlet for their desires, rather than seeking treatment.

Another element of the cultural generation of demand is the promotion of pursuing instant sexual gratification. An outlook on social interaction that focuses on short term satisfaction may increase the appeal of bypassing the potentially complicated, time consuming, and emotionally risky process of forming or maintaining a traditional relationship. As a result, some men develop the desire to move straight to immediate pleasure by simply paying for sex.

That same type of entitlement may also lead to the idea that men should have the privilege of having sex on demand with whomever they choose, whenever they choose, as long as they have the disposable income to pay for it. This is especially problematic because this attitude is based on an underlying concept of relationships that conceptualizes the ultimate purpose of male-female interactions as sexual contact and little else and all other elements of the relationship as burdensome obstacles, rather than mutually enriching experiences. Hence, the demand for commercial sex is increased when sex is divorced from interpersonal

relationships and personalities, rather than being an inherently reciprocal activity, leaving the other partner as little more than a means to facilitate one participant's enjoyment.

A related problem is that our culture encourages some men to indulge a desire and sense of entitlement to the performance of sexual activities that are likely to be damaging to the self-esteem and overall wellbeing of a partner. Finally, a major contributor is the cultural support for the idea that if you pay someone for something, they have to do whatever you demand of them, regardless of how that infringes on the provider's rights or true wishes. This is an issue because it can lead to making buyers feel entitled to acts they would not be willing to ask a non-prostitute to engage in because of their degrading or violent nature. Another major factor is the fact that our media is saturated with sexual images and language that reinforces an obsession with sex and makes sex inescapable. These messages objectify women and reduce them to objects of sexual gratification and stimulation in the minds of some men and contribute to the perception that obtaining sex is the main goal of interacting with women. Our culture also says that people seeking a thrill can fulfill that through secretly purchasing sex and risking arrest, rather than safer and more productive thrills.

Common cultural myths concerning prostitutes themselves also contribute to creating a high demand for sexual services among men. As previously discussed, there is an extremely widespread piece of folk wisdom that claims that prostitution is "the world's oldest profession" and several other misconceptions typically surround the phrase. Our society has taught many sex buyers that any prostitute they are dealing with must be engaging with them voluntarily or possibly that they even enjoy the work. They believe that they are helping the prostitutes by giving them money or prostitution is a victimless crime. They believe that prostitution and their participation in the market are essentially inevitable and simply a modern continuation of "the oldest profession." They also believe that signs of abuse and trafficking must be readily apparent for trafficking to have taken place.

Most sex buyers are not inherently sociopathic, and want to retain a positive self-image so they willingly believe in these pervasive myths and continue to patronize prostitutes. Our culture does not recognize the problems associated with these myths or warn buyers about the substantial risk that they will directly or indirectly contribute to the abuse of a human trafficking victim if they participate in the commercial sex market. Without that education and awareness, the demand for commercial sex will continue at the current level or even expand.

## FEDERAL LEGISLATION

*“The United States was founded on the principle that all people are born with an unalienable right to freedom . . . Yet even today, the darkness and inhumanity of enslavement exists . . . Fighting modern slavery and human trafficking is a shared responsibility . . . Together we can and must end this most serious, ongoing criminal civil rights violation.”<sup>121</sup>*

— President Barack Obama, January 2010

### The Trafficking Victims Protection Act of 2000

The hallmark of human trafficking legislation in the United States is the Trafficking Victims Protection Act of 2000 (TVPA). The TVPA, for the first time, created a federal criminal offense for those who engage in human trafficking, including sex trafficking. The TVPA defines and criminalizes sex trafficking for anyone who by force, fraud or coercion; recruits, harbors, transports, provides, or obtains a person for the purpose of a commercial sex act.<sup>122</sup> The TVPA also recognizes that minors are an especially vulnerable population and criminalizes sex trafficking of individuals under the age of eighteen without having to show force, fraud or coercion, and declares such an act a severe form of trafficking, allowing for higher criminal penalties for those who prostitute minors.<sup>123</sup>

The TVPA also allows foreign [non-resident/alien] citizens to apply to receive benefits and services if they were brought into the country and then trafficked.<sup>124</sup> Additionally, the TVPA established the Interagency Task Force to Monitor and Combat Human Trafficking which is tasked with the duty to bring domestic and foreign agencies together to measure and monitor worldwide human trafficking.<sup>125</sup>

The drafters of the TVPA recognized that the victims of trafficking are in need of special protection in order to be able to safely testify against their traffickers, so the law allows the testifying victims to be placed into the witness protection program as well as provides additional security benefits. The TVPA required for the first time that traffickers pay full restitution to their victims and authorized the forfeiture of any property that a trafficker had directly used in a trafficking act.<sup>126</sup> The TVPA was the first step in recognizing that individuals who have been trafficked and prostituted are victims and not criminals and that the true criminals were the ones who benefited from the trafficking activity.<sup>127</sup>

### *The TVPA Re-Authorizations*

Recognizing that human trafficking is an evolving crime, Congress required that the TVPA be reauthorized every few years in order to update the act, allowing it to evolve to better combat human trafficking.<sup>128</sup> Many of the updates have dealt with combating international trafficking or labor trafficking, but the key domestic updates are presented below.

**2003:** The TVPA was amended to allow a civil action so that the victims of trafficking could sue their traffickers.<sup>129</sup>

**2005:** A pilot program was added to provide grants for shelters who took in minors who were the victims of trafficking.<sup>130</sup> Additionally, a grant program was established for local and state governments to receive money to assist in the combating of human trafficking.<sup>131</sup>

**2008 and 2013:** In these updates, services and protections were expanded for foreign nationals trafficked in the United States and the laws regarding labor trafficking were modified.<sup>132</sup>

## *The TVPA and Recognizing Victims*

There is no federal statute for prostitution, so individuals who have been trafficked are not at risk of criminalization for selling sex unless there is an ancillary federal offense. State laws on prostitution make it possible to prosecute an individual for selling or attempting to sell sexual services, so precautions are necessary to ensure trafficking victims are not conflated with true willful offenders.<sup>133</sup> While federal law does not touch on prostitution, the TVPA specifically defines those who have been subject to severe forms of trafficking as victims and uses that term throughout the act, indicating that the federal government does not view these persons as criminals.<sup>134</sup> The TVPA states that a victim should not be held in custody, that they should be given information based on their victim status, and that as a victim they should be given protection.<sup>135</sup>

The TVPA recognizes that child victims are especially vulnerable and that their protection is critical in combatting human trafficking.<sup>136</sup> The TVPA created a special offense in which sex trafficking of children under the age of fourteen is punished potentially by up to life in prison.<sup>137</sup> If the child was over the age of fourteen but not yet eighteen, the punishment could reach as high as twenty years in prison.<sup>138</sup>

## *The TVPA and Demand*

The TVPA has rarely been used to go after the buyers of commercial sex though it has been long used to go after the suppliers of victims.<sup>139</sup> The first known prosecution of buyers of minor commercial sex occurred in 2009 after a local task force, including the United States Attorney's Office of the Western District of Missouri, launched Operation Guardian Angel in which ads for underage prostitutes were placed online.<sup>140</sup> The result of this operation was that seven people were charged as sex traffickers for attempting to purchase sex from underage children.<sup>141</sup>

The next known charge under the TVPA for buyers was in 2011 when a South Dakota task force replicated the Operation Guardian Angel approach by placing ads of underage children online.<sup>142</sup> Two individuals responded to the ads and were convicted of violating the TVPA in regards to sex trafficking of a minor.<sup>143</sup> They

appealed their conviction arguing that simply purchasing sex does not make them sex traffickers and that the act only applied to the suppliers of trafficked victims. The 8<sup>th</sup> Circuit Court of Appeals disagreed and stated that “obtained” in the TVPA applied to those who purchased sex as well as those who supplied trafficking victims and upheld the convictions.<sup>144</sup> Even after the 8<sup>th</sup> circuit’s ruling there was still some confusion about who was a sex trafficker under the TVPA. Enter the JVTa.

## The Justice for Victims of Trafficking Act

*“Human trafficking is a criminal enterprise that exists in cities across the nation, especially in my hometown of Houston, Texas. The Justice for Victims of Trafficking Act (JVTa) implements a robust and aggressive strategy to help combat human trafficking in the United States. After years of hard work on this issue, Congress has taken a historic and necessary step today to help end modern day slavery in America.”<sup>145</sup>*

— Congressman Ted Poe

The Justice for Victims of Trafficking Act of 2015 (JVTa) was signed into law by President Obama in May of 2015. The JVTa is an attempt to address several concerns and clarify certain aspects of the TVPA. The chief concerns were to make sure buyers of commercial sex are regarded as traffickers along with making sure domestic victims received access to services that were authorized foreign national victims.<sup>146</sup> The JVTa also changes the way that restitution is paid to trafficking victims. The TVPA previously required that prosecutors determine what property was used directly in an act of trafficking in order to use forfeiture to get restitution for victims, but the JVTa allows for prosecutors simply to show that certain assets were used in the crime, eliminating the burden of finding direct traceability.<sup>147</sup> This will allow more funds to be available to victims for restitution. The JVTa also created a fund that will be financed by a special assessment on all persons convicted of trafficking, as well as other related offenses, which would be used to provide resources to victims.<sup>148</sup> The fund is estimated to bring in around \$31 million dollars per year to be spent on victim services.<sup>149</sup>

### *The JVTa and Recognizing Victims*

The JVTa continues the TVPA’s approach that victims of trafficking are to truly be considered victims and not criminals for the acts they engage in while being trafficked. The JVTa does this by amending another statute (The Omnibus Crime Control and Safe Streets Act) so that grants requested by state authorities under that statute will be given higher priority if the state requesting the grant has a law that treats a minor who has engaged in, or has attempted to engage in, a commercial sex act as a victim of a severe form of trafficking.<sup>150</sup>

Higher priority will also be given if the state has laws that have the effect of



discouraging or prohibiting the charging or prosecuting of the trafficked victim for a prostitution or sex trafficking offense and encourages the diversion of victims to appropriate service providers.<sup>151</sup>

## *The JVTa and Demand*

The JVTa clarifies the TVPA's definition of what constitutes sex trafficking by adding the words "patronizes" or "solicits" to make it perfectly clear that one who buys sex from a trafficking victim is subject to the act's penalties.<sup>152</sup> By changing this definition, and making it perfectly clear that the law applies to buyers, a victim will now also be able to sue their buyer under the civil suit provisions created under the TVPA. The JVTa also extends the time that a child victim is allowed to sue a trafficker to ten years after the victim turns eighteen rather than a simple ten year statute of limitations.<sup>153</sup>

The JVTa also changes some fundamental policies on how buyers should be dealt with by law enforcement. The Act directs the Attorney General to ensure that federal law enforcement are engaged in activities, programs, or operations involving the detection, investigation and prosecution of buyers.<sup>154</sup> The JVTa also leverages existing resources by directing federally funded law enforcement task forces that are part of the Innocence Lost National Initiative to focus on fighting demand for human trafficking through the investigation, arrest, and prosecution of persons who purchase sexual acts with human trafficking victims.<sup>155</sup> The key to these policy shifts is making sure that the buyer is included in law enforcement activities in addition to going after traffickers.

The JVTa also compels the Attorney General to ensure all training programs on human trafficking that are operated by the DOJ on the federal, state and local level include effective strategies for apprehending buyers as well as training in regards to how to identify and refer victims to appropriate services.<sup>156</sup>

Current federal law which criminalizes interstate travel with the intent to engage in a sex act with a minor has a provision allowing a buyer to claim by a preponderance of the evidence (more likely than not) that they were unaware that the person they were going to engage in the sex act with was under the age of eighteen.<sup>157</sup> The JVTa changes the standard to a clear and convincing standard (highly and substantially more probable to be true than not).<sup>158</sup> This means that buyers who are responding to online advertisements for sex with minors cannot claim that they thought the child was eighteen just because the age on the advertisement was falsely listed.

## *The Future of the TVPA and JVTa*

With the addition of the clarifying language to the TVPA in regards to buyers of commercial sex as well as the clarity in federal policy that buyers are guilty of trafficking, the federal government has taken a clear stance that reducing demand will be a primary tactic in combatting trafficking. The ability for the victims of trafficking to be able to sue their buyers will help ensure that victims are made as

whole as possible. The additional resources available to prosecutors will hopefully result in an increase in buyer prosecutions as traffickers and thus will send a clear message to all potential buyers that severe penalties will follow if they engage in commercial sex acts with children.

The clear recognition that the victims of trafficking are indeed victims and not criminals themselves goes a long way in recognizing the plight of trafficking victims. This legislation will help combat trafficking on all fronts: suppliers, victims, and buyers.

## STATE AND LOCAL LAWS

### Texas Legislation

In 2003, Texas became one of the first states in the nation to enact a trafficking statute.<sup>159</sup> Chapter 20A, Trafficking of Persons, was added to the Texas Penal Code, defining human trafficking for the first time in Texas and providing state prosecutors with a new avenue to combat this activity. Following the creation of Chapter 20A in 2003, the trafficking statute has seen amendments in 2007,<sup>160</sup> 2009,<sup>161</sup> 2011,<sup>162</sup> and 2015.<sup>163</sup> Additionally, new statutory language in other areas of the state code have been added specifically to address various aspects of human trafficking during each of the past five legislative sessions. These amendments reflect the legislature's attempts to adapt as human trafficking is better understood and as the crime continues to evolve. Texas has strengthened its human trafficking and prostitution statutes, mandated law enforcement training, increased penalties on buyers, established a statewide Human Trafficking Prevention Task Force, improved resources for victims, and made various other changes in the past decade.

Texas law allows conviction for trafficking if a person has knowingly transported, enticed, recruited, harbored, provided, or otherwise obtained another person by any means with the intent that the trafficked person engage in forced labor or services; the trafficker is also liable if he uses force, fraud, or coercion to cause a trafficked person to engage in a prostitution related crimes.<sup>164</sup> Moreover, the statute allows a trafficking conviction of anyone who "receives a benefit from participating in a venture" that involves these types of trafficking activity or "engages in sexual conduct" with a trafficking victim.<sup>165</sup>

In alignment with federal trafficking laws, Texas requires no proof of force, fraud, or coercion for sex trafficking a child.<sup>166</sup> While the state's adult sex trafficking provisions reference four applicable prostitution offenses,<sup>167</sup> the Texas Legislature recognizes that children are an especially vulnerable population and allows a trafficking conviction if the trafficker has caused a child to engage in conduct prohibited by any of eleven different offenses.<sup>168</sup> These include a wide range of crimes related to the sexual exploitation of children from prostitution to child pornography and employment harmful to a minor.<sup>169</sup> A conviction under the child sex trafficking statute results in a felony of the first degree with an applicable penalty of up to life in prison,<sup>170</sup> and Texas law does not allow a trafficker to claim

that he did not know the child's age when he trafficked the child as a defense.<sup>171</sup> In the most recent legislative session, the legislature established a Child Sex Trafficking Prevention Unit within the office of the governor to attempt to prevent child sex trafficking as well as identify victims and refer them to available services.<sup>172</sup>

Only child victims can receive mandatory restitution from their traffickers, as awarded by a criminal court, and the restitution addresses "the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment."<sup>173</sup> This excludes all victims over 18, and leaves out significant damage categories such as actual damages, including damages for mental anguish and exemplary damages.

Texas law also provides for a private right of action which allows a victim of trafficking to recover actual damages (including mental anguish), court costs and attorney's fees against their trafficker through a civil lawsuit.<sup>174</sup> There are no age limits on the civil cause of action, and a suit may be brought by a victim of sex or labor trafficking. In the 2015 session, legislation was passed to allow an individual business owner or shareholder to be jointly liable with the actual trafficker if the owner or shareholder benefited from the trafficking.<sup>175</sup> Businesses that engage in trafficking are often shell or sham business that do not have any assets a victim can recover. This bill solves that problem by allowing the trafficking victim to get damages directly from an owner or shareholder who had knowledge that trafficking was taking place.

## *Prostitution as an Intersecting Crime*

Although prostitution and human trafficking are distinct crimes, it is impossible to completely divorce the two activities as both crimes involve commercial sex transactions, and prostitution offenses are explicitly referenced in anti-trafficking law. Sex trafficking typically involves an act of prostitution with a minor or an act of prostitution with a threat of force, fraud, or coercion. The provider of commercial sex is treated as a criminal under prostitution laws but viewed as a victim if the circumstances qualify for a trafficking offense. As traffickers become increasingly adept at manipulation without brute force, it is often difficult to distinguish between which providers of commercial sex the legislature intends to treat as a true offender or a victim.

While anyone who prostitutes a child (with or without force) is viewed as a trafficker under both state and federal law, not all children in a life of prostitution are immune from prosecution. Some states have taken legislative measures to discourage or completely prohibit juveniles from being charged for prostitution. Federal law also incentivizes states through grant funding and other mechanisms to adopt policies which recognize children in prostitution as victims. Texas has not fully embraced the approach of treating all minors who have engaged in prostitution as victims. Texas has no statute that prohibits the prosecution of a minor for a prostitution offense; however, as discussed *supra*, under Texas Supreme Court case law, a child under the age of fourteen is not allowed to be prosecuted

for prostitution in Texas because they cannot legally consent to have sex.<sup>176</sup> Texas prostitution laws allow an affirmative defense to a prostitution charge if the victim can show that he or she has been trafficked.<sup>177</sup>

In 2015, a section was added to the general trafficking statute to allow prosecutors to require the testimony of a trafficked victim in order to convict a trafficker.<sup>178</sup> The section protects the victim from prosecution for any crime about which they are required to provide testimony or evidence against the trafficker.<sup>179</sup> The underlying policy is based on the understanding that trafficking is an extremely difficult crime to prove without testimony of the trafficking victim.<sup>180</sup> By requiring the victim to testify against their trafficker, the state is increasing the likelihood of convicting the trafficker and assuring the victim that they will not be prosecuted for the underlying offense for their cooperation.

Prior to 2015, Texas had a global prostitution statute which made no distinction between those who purchase sex and those who sell sex. The buyer and the seller were guilty of the same offense and punishable by the same penalties.<sup>181</sup> Recognizing the distinct role of buyers, the prostitution statute was amended to make separate categories for the buying and selling of sexual services; however, the state did not create a completely separate offense for patronizing a prostitute.<sup>182</sup>

Another bill passed by the legislature, but ultimately vetoed, would have subjected those in a life of prostitution to softer penalties than those faced by their buyers. First time offenders, whether buyer or seller, currently face a Class B misdemeanor with punishment of up to 180 days in jail.<sup>183</sup> Individuals with a single prior prostitution conviction currently commit a Class A misdemeanor with punishment up to a year in jail;<sup>184</sup> the vetoed bill would require three prior convictions before enhancement from a Class B to a Class A misdemeanor for sellers but would have kept the current framework for buyers.<sup>185</sup> Finally, it is currently a state jail felony with punishment up to two years in prison if an individual has three or more prostitution convictions.<sup>186</sup> The vetoed bill would have required six prior convictions before the enhancement to a state jail felony for sellers but kept the enhancement at three prior convictions for buyers.<sup>187</sup> According to the author of the bill, changes to the law are worthwhile because current penalties “may be criminalizing individuals who have been coerced into engaging in prostitution.”<sup>188</sup>

This bill would have been a first step in recognizing that many prostituted individuals are not willingly in ‘the life’ and that the buyers are the one’s keeping the demand for trafficked victims high. This bill was vetoed by the Governor whose veto statement read in part, “Reducing penalties for willful repeat offenders is not in the best interest of the offender or the people of Texas.”<sup>189</sup> From this perspective, the existing affirmative defense is a sufficient protection for those who are true victims.

## *Texas Laws on Demand*

As discussed earlier in the section on the Commercial Sexual Exploitation of Children, a variety of offenses are incorporated into the state's child sex trafficking law. Because these offenses are profit-driven and commercial in nature, there are necessarily consumers of this illicit activity, individuals who drive the demand and face stiff criminal penalties. Additionally, even if commercial elements are difficult to prove, prosecutors enjoy a wealth of strong criminal laws to prosecute child sexual abuse.

If a sex buyer is convicted for soliciting a minor to engage in an act of prostitution, he faces a second degree felony, and a mistaken belief concerning the child's age is no defense. Conversely, if the same buyer had solicited an adult to engage in an act of prostitution, he would have faced a Class B misdemeanor. Although no such cases have been found, sex buyers can technically be prosecuted under the state's human trafficking law and charged with a second degree felony for engaging in sexual conduct with an adult victim or a first degree felony for engaging in sexual conduct with a minor victim.

During the 84<sup>th</sup> Legislative Session in 2015, House Bill 10 was introduced to propose policy recommendations made by the Texas Human Trafficking Prevention Task Force.<sup>190</sup> Included in this bill, which was ultimately signed by the governor, were several measures to be tougher on demand, particularly demand for child sex trafficking victims. In order to address demand and arrest buyers of commercial sex, law enforcement relies on reverse stings utilizing undercover officers. It is currently a second degree felony to solicit a minor for commercial sex, but because these officers are not minors, the buyers cannot be charged under that provision. House Bill 10 enables charging individuals under this provision if the person from whom they were soliciting represented themselves to be a minor or they believed them to be a minor. This change is in alignment with existing laws related to online solicitation of a minor. Moreover, if convicted, individuals who purchase sex from minors are now required to register as sex offenders. Legislation in the 2015 session was also passed that added demand as an item to be discussed and analyzed by the Texas Human Trafficking Prevention Task Force, which may result in additional recommendations for 2017.<sup>191</sup>

## **Selected State Comparisons**

### *Comparison of Prostitution Punishments - 1<sup>st</sup> Offense*

Prostitution laws vary by state. Many states have equal punishments for sellers and buyers, although some have enhanced penalties for buyers and some for sellers. These differences reflect differing approaches in how states are trying to combat prostitution. A state with a high penalty on the seller is generally attempting to attack the supply side of the equation whereas a state with a high penalty on the buyer is attempting to combat demand. Most states view prostitution as a non-violent crime and thus the penalties in most cases for a first offense are most often light, with most penalties for sellers not exceeding six months and buyers not exceeding one year.

**SAMPLE COMPARISON OF PROSTITUTION PUNISHMENTS  
FOR FIRST OFFENDERS**<sup>192,193,194,195,196,197</sup>

STATE	SELLER	BUYER
Texas	Up to 6 months	Up to 6 months
Delaware	Up to 6 months	Up to 30 days
Montana	Up to 6 months	Up to 1 year
Nebraska	Up to 6 months	Up to 1 year
New York	Up to 3 months	Up to 1 year
Kansas	Up to 6 months	Up to 1 month

*Comparison of Safe Harbor Laws for Minors*

During the course of their exploitation, trafficking victims are often forced into prostitution or other criminal activity. This can result in the individual being treated as a criminal rather than a victim. In order to combat this problem, some states have developed safe harbor legislation or case law that provides immunity or enhanced protection against prosecution if the prostituted individual is under a certain age. These laws vary widely by state, and some states have no safe harbor laws at all. Some states have set up rebuttable presumptions for a minor, meaning that a minor is considered a victim and not to be prosecuted unless the state can prove that she entered into a prostitution or related offense completely on their own.

**SAMPLE COMPARISON OF MINIMUM AGE FOR A PROSTITUTION  
PROSECUTION**<sup>198,199,200,201,202,203</sup>

STATE	SELLER	BUYER
Texas	Up to 6 months	Up to 6 months
Delaware	Up to 6 months	Up to 30 days
Montana	Up to 6 months	Up to 1 year
Nebraska	Up to 6 months	Up to 1 year
New York	Up to 3 months	Up to 1 year
Kansas	Up to 6 months	Up to 1 month

*Comparison of How Buyers and Sellers are Defined*

Texas defines buying and selling as both being prostitution under the same criminal statute. Some states make these two separate offenses, which allows for easier tracking.<sup>204,205,206</sup>

STATE	BUYERS DEFINED	SELLERS DEFINED
Texas	Prostitution	Prostitution
New York	Patronizing	Prostitution
Washington	Patronizing	Prostitution

## Ordinances

In addition to the state laws around the commercial sex industry, most cities have local ordinances to directly prohibit activities related to prostitution or otherwise enact various regulations impacting this illicit economy. The municipal codes of smaller cities are difficult to access online or are frequently out of date, but research indicates that major cities often use very similar language to one another. Generally, a city ordinance cannot have a punishment that is greater than \$500 and can include no jail time;<sup>207</sup> however, certain ordinances, including those regulating public health, can carry a penalty of up to \$2,000.<sup>208</sup>

Although state law regarding prostitution offenses take precedence over local ordinances, a number of other local ordinances did surface as actionable arrests during the data collection process of this publication. This included arrests for loitering, transportation for immoral purposes, manifesting for the purposes of prostitution, and violations of local sexually oriented business regulations. In order to combat prostitution many cities use nuisance abatement powers under state law.<sup>209</sup> These powers allow local prosecutors to more or less condemn an area that is being used for prostitution or a related prostitution offense, and serve as a key tool in the fight against commercial front brothels.

## WHY LEGALIZATION IS NOT THE ANSWER

Many people are willing to acknowledge the link between the existing prostitution market, violence, and human trafficking; however, a popular response is that the problems faced by those in a life of prostitution are primarily caused by the illegal, black market nature of prostitution. For this perspective, it naturally follows that many of the most serious prostitution related abuses could be curbed by legalizing and regulating the market. Proponents of this view agree that forced prostitution and trafficking are abhorrent, but see commercial sex in general as a legitimate industry to be regulated. The argument typically states that legalization would create licensing standards and increase the level of attention the government pays to the commercial sex market. Increased attention would allow the government to hold brothel owners accountable for their practices, and thus increase transparency, making the practice of sex trafficking more difficult. Despite these predictions, there are multiple significant problems with these arguments. Several European countries and counties in Nevada have attempted various legalizations of prostitution in order to achieve these same benefits, but have not been proven successful in eliminating the stigma, fear of violence, and potential for facilitating human trafficking that are associated with prostitution under any legalization scheme.

## Implications for Sex Trafficking

Legalization alters the fundamental attitude of law enforcement and the public towards prostitution.<sup>210</sup> This shift in attitude prevents the community from maintaining maximum diligence when observing the operations of the commercial sex market. Instead of functioning on a presumption of illegality and possible coercion whenever an instance of prostitution or pimping is discovered, law enforcement and potential informants will likely presume legality and that every party to the transaction participated voluntarily.<sup>211</sup> Such a predicament is reminiscent of a key reason why labor trafficking is so difficult to identify and therefore frustratingly underreported; it is much more challenging to spot force, fraud, or coercion in work which otherwise appears legitimate, such as construction, cleaning, or agriculture. Even if investigators consciously fight this bias, the change would likely make it more difficult for law enforcement to focus on potential victims when compared to a system where transactions for commercial sex are considered inherently invalid. Human traffickers would be able to use this change to exploit the existence of a legal market, and the market's legal status would provide them the ability to hide their activities behind a shield of legitimacy. Sex trafficking would come to be viewed as a rare standalone crime, or a form of labor abuse, rather than a particularly heinous form of a generally criminal and exploitative enterprise.<sup>212</sup>

Shifting from a prohibition on the purchase of sex to legalizing and regulating it provides sex buyers with a clear societal endorsement of their activities by removing the penalties for patronizing.<sup>213</sup> Currently, most men do not purchase sex, but the demand for commercial sex would likely grow significantly under a system of legalization. This is because the current system stigmatizes purchasing sex both socially and through the possibility of criminal penalties, however rarely these penalties may be enforced against buyers. The resulting fear of incarceration, fines, and public shaming reduces the demand for commercial sex by raising the price in the buyer's mind, independently of the price charged by the provider or her pimp. Legalizing prostitution would, by definition, eliminate these criminal penalties and fines. Since those sanctions are thought to be some of the most substantial barriers to many purchaser's participation in the commercial sex market, on average, buyers would be more willing to pay for sex than when criminal sanctions were enforced.<sup>214</sup> The abuse of sex trafficking victims is facilitated through the actions of both buyers who are aware and those who are unaware of any abuse suffered by the provider, so any legal change that increases the demand for commercial sex would also likely increase the actual abuse of victims of human trafficking. This logic is bolstered by the fact that many men self-report that they would be deterred by arrest and that men often are very price sensitive, to the point of being willing to cross borders to obtain cheaper sex.<sup>215</sup>

Pro-legalization arguments are often erroneously based on the ideal of a strong, sexually liberated, autonomous woman who chooses sex work from a number of viable employment options. However, even under a system of legalization like the Dutch system, prostitution is still largely considered a



particularly degrading and stigmatizing job that is generally reserved for the poor and for minorities and performed for the benefit of men with disposable income.<sup>216</sup> Legalizing prostitution will make buyers and law enforcement less alarmed when they come into contact with someone with poor language skills, no money, or other warning signs who is participating in the commercial sex trade.

When prostitution moves toward being viewed as similar to any other business, there will be less concern that someone trapped in this dire situation was there involuntarily, and it would become easier for traffickers to operate relatively openly, as long as they can exert enough control to prevent their captives from speaking out and seeking help. While many similar problems exist in systems where prostitution is illegal, these systems have the advantage of recognizing that prostitution is often a career of last resort, or what is left in the absence of other options, rather than an opportunity for empowered women who wish to quickly earn additional income.

Legalization fails to reduce the stigma surrounding the commercial sex market and prostituted women in particular.<sup>217</sup> One of the proposed benefits of legalization is an increase in openness and transparency and reduced stigma. Even in areas that have legalized prostitution, the commercial sex market retains many of the hallmarks of a dangerous and secretive black market.<sup>218</sup> The deep social stigma that society attaches to participating in the commercial sex market, either as a buyer or seller, does not spring solely from the official legal stance of the government toward the market. Just as significant are the more basic social, religious, and gender attitudes widely held by average people and law enforcement. Even under a system of legalization, these issues still remain, and they make both prostitutes and buyers reluctant to do business as openly as legalization proponents expected. For example, many people continue to pay in cash and refuse to provide their real names, despite the lack of possible criminal penalties if their activities are discovered. Therefore the expected benefits of legalization in terms of increased monitoring and disclosure do not materialize in practice because disclosure does not necessarily increase.<sup>219</sup> As a result, a large amount of resources must be devoted to regulation. It remains difficult to track the nature of the market and thus human trafficking can still thrive. If the stigma persists, human trafficking victims will not feel comfortable identifying themselves as victims.

Furthermore, legalization is typically used to geographically zone the market into isolation and contain the incidences of prostitution in less-desirable areas. Hiding it in this way only makes it harder for potential victims to be found. In Nevada, legal prostitutes working in brothels are often restricted to particular parts of the town and hidden from view. Rather than illuminating the marketplace, legalization simply pushes it further underground and further stigmatizes it.<sup>220</sup> Finally, even if prostitution is legalized, illegal and street level prostitution will continue to exist as long as some women are compelled to enter the sex trade through economic necessity. Despite legalization, some women will always be particularly desperate for quick payment and a significant minority of men will continue to seek lower prices than the minimum prices likely to be allowed by

regulations and the sexual experiences that will be the most novel and stimulating to them. Legalization would simply push the dangerous illegal market further underground where victims will be even harder to discover than the ones that exist within the ostensibly legal system. As legalization in Nevada has shown, when prostitution is legalized in one place and in one form, many people come to think that it has been legalized in every way, everywhere. That unanticipated side effect should not be duplicated elsewhere.

The experience of the Netherlands regarding regulation of their brothel and window prostitution provides an example of the negative consequences associated with legalization. It was expected that once legalization and widespread regulation were implemented, the criminal justice system would be able to shift its focus to investigating and prosecuting sex trafficking cases. Instead, they ran into capacity issues which continued to allow sex workers in the legal sector to suffer under pimp control. In the Netherlands, police are still considered the primary regulators of the legal sector as well, so resources that were focused on policing street and escort prostitution were diverted to enforcing restrictions on legal brothels. Monitoring and regulating the legal sector drains resources from the stubborn and even more dangerous illegal commercial sex sector.<sup>221</sup> This can go as far as to make legal brothels open and easily accessible outlets for victims of human trafficking by soaking up the resources that would have gone to the necessary investigation and eventual rescue.<sup>222</sup>

The Netherlands shows that legalization schemes also tend to focus too heavily on business owners and ignore the important role of pimps and their exploitation of informal relationships, familial ties, love, violence and the existence of economic necessity.<sup>223</sup> In the Netherlands, legalization policy ignored the prospect that such influences are just as possible in a jurisdiction where prostitution is legalized as they are in places where prostitution is prohibited and that neglect can lead to the tragedy of women being trafficked in plain sight.<sup>224</sup> The infamous *Sneep* case there provides evidence that legalization and regulation of prostitution does not afford substantial protection for human trafficking victims in the legal sector.<sup>225</sup> In that case, three German-Turkish men, led by Saban B., ran one of the biggest human trafficking rings in Dutch history with as many as 78 victims at the time of their arrest. The gang got acquainted with the women in Dutch and German nightlife.<sup>226</sup> The pimps often started relationships with the women, and later took their passports and subsequently the women, as well as their relatives back home, were threatened and intimidated.<sup>227</sup> The victims were being openly advertised in legal window prostitution, not locked in darkened rooms. Saban B. and his associates brazenly operated this business for years in the presumably highly scrutinized legal red light districts of multiple cities in the Netherlands.<sup>228</sup> It is unlikely that the *Sneep* human trafficking ring could have achieved the same manner or level of success if there was a presumption that their activities were illegal and that the pimps were coercing these women, rather than an assumption that they were working voluntarily.

## Continued Harms of the World's Oldest Oppression

Beyond legalization's negative effects on the prevalence and severity of sex trafficking, extensive research has documented that a substantial number of women enter into prostitution after experiencing childhood abuse and neglect, poor employment prospects, and a lack of adequate shelter.<sup>229</sup> Minorities and the poor are disproportionately forced to participate in the commercial sex market both worldwide and in Texas. Rather than seeking to change the culture or give these women resources to deal with their desperation and histories of abuse, legalization would institutionalize the exploitation of these women.

Second, as Brents and Hausbeck explained, social norms regarding sex and its sale still exist regardless of formal regulation and they override formal regulations in a way that influences both formal and informal controls of the commercial sex market.<sup>230</sup> Whether officially or unofficially, regulatory systems often reflect various levels of patriarchy, racism, and homophobia by means of nonsystematic enforcement and selective criminalization.<sup>231</sup> This is true both in Nevada and the Netherlands, and would very likely be true throughout the United States and in Texas. There is little reason to think that a new system of legalization would be enforced equally across racial, geographical and socioeconomic lines, and legalization may simply become another form of abuse that prostituted women are forced to contend with as the law pushes their struggles further underground.

Legalization of the commercial sex market does not change the fact that the fear of violence is constant and central to the profession. According to many Nevada brothel workers, frequently used safety measures such as intercom systems and panic buttons in reality do little more than provide a false sense of security.<sup>232</sup> Brents and Hausbeck tell an illuminating story of a woman in a legal Nevada brothel who had her neck fractured by a drunk client.<sup>233</sup> This illustrates how the intimacy of the work, the required vulnerability during work, and the lack of any real way to screen clients adds a significant element of danger to every interaction. The fear of violence stems from these factors, not from the criminalization of purchasing sex.<sup>234</sup> Even researchers who are otherwise pro-legalization acknowledge the existence of an irreducible risk to prostitutes.<sup>235</sup>

Female prostitutes in systems of legal brothel prostitution are lined up like ordinary commodities for customers to pick and choose from based on their physical appeal to men.<sup>236</sup> Whether operating legally or illegally, many argue that this system is degrading, objectifies women, and causes damage by reinforcing the view of women as tools for sexual pleasure in the eyes of observers and buyers. They are essentially treated as sex objects, judged by unknown male customers in front of the others. This leads to conflicts and competitions between providers that are entirely centered around who is best suited for being chosen by the men they serve.<sup>237</sup> While reasonable minds can differ about whether this practice is inherently degrading to the women involved or to women in general, the potential negative effects should give pause to legislators contemplating policies that serve as a tacit endorsement of this system.

Nevada brothel prostitutes typically have heavily paternalistic movement

restrictions and surveillance policies imposed upon them by brothel owners.<sup>238</sup> They often are not allowed to leave the brothel, even when they are not on duty, and must obtain permission from the brothel owner to leave in the first place. Some require workers to specifically log the locations of their errands if they do allow them. Those not allowed to leave must ask or pay a brothel staff member to do errands for them. Few other jobs are characterized by this level of employer control. When combined with the propensity of brothel owners to take as much as 50 percent of their worker's earnings and the worker's status as independent contractors without benefits, legal brothels become nearly indistinguishable from legalizing abusive pimping.<sup>239</sup>

Furthermore, the justifications for these restrictions and the practices themselves increase the stigma against prostituted women. They are explicitly based on the argument for a need to restrict their contact with the rest of society in order to protect their safety and the safety of the community. Such arguments are underpinned by assumptions of a corrosive influence by prostitutes on the community and will likely be replicated anywhere where the same stigmas exist, even after legalization. These attitudes are not unique to Nevada and thus legalization will fail to raise the public image of sex workers into respected and autonomous workers like anyone else.<sup>240</sup>

It is also not unusual or unfair for the government to outlaw and regulate market exchanges and employment agreements that are likely to be dangerous or exploitative. Like regulatory bodies do with other professions and agreements, they can decide that a superficially free agreement between employer and employee or customer and provider is invalid because the job is too dangerous or too degrading for one party.<sup>241</sup> Similar to other prohibited jobs, they could decide that the power differentials between parties generally preclude assuming that a truly equal bargaining agreement was reached. It would not be strange for society to state as a matter of law that it rejects the argument that any sexual service that one person can get another to agree to is a positive or legitimate exchange.<sup>242</sup>

Finally, prostitution is not "just like" other work as is often asserted. Unlike other jobs, there are basic human rights at issue in every transaction. Binding contracts and lawsuits for nonperformance or underperformance become highly problematic because women retain the right to sexual autonomy. Any attempt by the employer or sex buyer to interfere with that is an interference with these basic rights, so the market does not operate in the same way as others. However, the woman's desire to assert control over her body and sexuality will lead to potential conflicts with each customer that puts the prostituted woman at risk of violence or termination by her employer for failure to succumb to his or the buyer's requests.

For these reasons, prostitution should and could never become a job that a woman is required to take in order to be considered a productive member of society. Ultimately, the goal of any business, including a brothel or escort service is to make profits. If the interest of making profits does not align with the safety and autonomy of sex workers, then the economic duress that drove those women to prostitution in the first place can be used to subordinate their safety and autonomy to financial interests. This exploitation can include practices like encouraging sex

workers to provide more dangerous sex acts or to provide the same acts with less supervision and fewer safeguards.

## WHY COMPLETE DECRIMINALIZATION IS NOT THE ANSWER

A third legal framework for prostitution apart from legalization and criminalization is decriminalization. Decriminalization is the elimination of laws that criminalize prostitution, without necessarily including regulation of the commercial sex industry.

There are two different forms of decriminalization: total decriminalization and partial decriminalization. Total decriminalization most often refers to the decriminalization of all consensual parties of the commercial sex industry, including buyers, sellers, and businesses; however, sex trafficking is still a crime, and buying sex from a minor is still criminal. An example of a country that has implemented total decriminalization is New Zealand, which decriminalized prostitution in 2003.<sup>243</sup>

Partial decriminalization decriminalizes individuals in prostitution, but it continues to criminalize the buying of sex. The most well-known example of partial decriminalization occurred in Sweden in 1999 (the Swedish model), with Norway and Iceland adopting similar legislation in 2009.<sup>244</sup>

Examples of countries with variations on decriminalization include Spain, the Czech Republic, and Denmark.<sup>245</sup> Additionally, some countries that have decriminalized prostitution continue to prohibit non-residents from working in the sex industry.<sup>246</sup>

### Amnesty International's Proposal for Decriminalization

*"Amnesty International recently adopted a proposal that recommends decriminalizing the sex trade, a move that it says is for the human rights and equal protections of sex workers. This proposal instead gives amnesty to pimps, brothel owners and sex buyers by recognizing everyone in sex work as "consenting adults." Men and women in the vulnerable position of selling their bodies for sex should be offered services and solutions to provide them with safe alternative. The proposal instead legalizes their exploitation."*<sup>247</sup>

– Cindy McCain, chairman of the Human Trafficking Advisory Council at the McCain Institute for International Leadership.

Amnesty International's recent proposal calls for the decriminalization of sex work in as a means of addressing the high rates of human rights abuses and violations that individuals in prostitution experience globally.<sup>248</sup> While Amnesty

International continues to view sex trafficking and the sexual exploitation of children as criminal, its proposal fails to take into account the evidence, seen *infra*, that decriminalization exacerbates these crimes.<sup>249</sup> It also, paradoxically, calls for countries to protect individuals in prostitution from discrimination, take measures to eradicate stigma, and effectively prosecute and punish violence against individuals in prostitution.<sup>250</sup> Amnesty International believes that countries should be allowed to impose regulations on prostitution, as long as those regulations comply with international human rights law.<sup>251</sup> Amnesty International also recommends that countries provide access to support programs, in order to ensure that individuals are able to leave prostitution if they desire to do so.<sup>252</sup>

Former President Jimmy Carter, also representing The Elders, the King Center, Gloria Steinem, Peter and Jennifer Buffet, Equality Now, and the European Women's Lobby made a strong written appeal to Amnesty International to reconsider, saying, "We urge you to reject any proposal that does not hold buyers, pimps, and other exploiters accountable for the harm they are doing to the sellers (who should not be criminalized). Unfortunately, you have not likely been afforded the wealth of research that shows that sex trafficking expands at an accelerated rate in areas that do not restrict the buying."<sup>253</sup>

## *Decriminalization in New Zealand*

New Zealand's Prostitution Reform Act of 2003 (PRA) decriminalized prostitution (while not endorsing or morally sanctioning prostitution or its use, and while implicitly promoting exit from the sex industry).<sup>254</sup> The PRA continues to prohibit sex trafficking, the participation by non-residents in the sex industry, and the arrangement, reception, facilitation, or reception of payment for commercial sexual services from a person under 18, although a person under 18 who sells sexual services is not criminalized.

A report on the results of the PRA, while acknowledging difficulties in being able to accurately count the number of individuals in prostitution, concluded based on the available information that decriminalization had not increased the number of individuals in prostitution.<sup>255</sup> Additionally, the report found no identified incidences of transnational sex trafficking in New Zealand.<sup>256</sup> Of the surveyed individuals in prostitution, 3.9% reported being made to work in prostitution by a third party, and 1.3% were found to be underage.<sup>257</sup> Based on the information available, it was unclear whether the number of underage individuals in prostitution was stable or had increased.<sup>258</sup>

The report commented that stigmatization had not disappeared in the aftermath of decriminalization.<sup>259</sup> The report was unable to determine if violence against individuals in prostitution had decreased since decriminalization, but noted that violence continued to occur.<sup>260</sup> Continued stigmatization was identified as one possible reason that individuals in prostitution remained reluctant to report violence to the police; however, attitudes among interviewees were mixed, with some stating that individuals were more likely to report incidents of violence after decriminalization.<sup>261</sup> Interviewed individuals also expressed improved ability to

negotiate safer sex.<sup>262</sup>

An article by Dr. Melissa Farley, “What really happened in New Zealand after prostitution was decriminalized in 2003?”, alleges that prostitution and sex trafficking have increased in New Zealand, there is inadequate protection for minors against prostitution, and stigma, prejudice, and violence have continued since decriminalization.<sup>263</sup>

## *The “Swedish Model” of Partial Decriminalization*

In 1999, Sweden enacted a law prohibiting sex buying.<sup>264</sup> In 2005, this was replaced with a provision in Sweden’s new sex crimes reforms which criminalized sex-buying and those who facilitate sex buying, e.g. pimps, while “decriminalizing” the prostituted individuals.<sup>265</sup> The government also pledged money and assistance to women who are victims of male violence and to help prostituted individuals exit prostitution.<sup>266</sup> This change was an express attempt to reduce demand and recognize buyers and pimps as being the most culpable, reflects the belief that reducing demand will reduce prostitution and trafficking overall, and recognizes prostitution as a form of violence against women.<sup>267</sup>

In 2009, the Swedish government launched an intensive study on prostitution after the criminalization of buyers; they discovered that street prostitution in Sweden had been reduced by half during the period 1999-2008.<sup>268</sup> They also determined that no appreciable increase in other commercial sex venues (such as online) had occurred.<sup>269</sup>

Human trafficking has also decreased in Sweden, especially when compared to Denmark (where prostitution is decriminalized), and Germany (expanded legalization), and the analysis suggests that trafficking decreases with criminalization and increases with legalization.<sup>270</sup> Swedish men are also now less likely to buy sex.<sup>271</sup> Population studies to determine the level of support for the Swedish Act prohibiting the Purchase of Sexual Services has remained consistently high, and in 2014 showed that 72 percent were in favor of the Act.<sup>272</sup>

While some studies claim that violence against prostituted women has increased, the studies appear to achieve this result by conflating relatively less traumatic incidents, such as verbal abuse, with much more serious instances such as rape and battery.<sup>273</sup> While less traumatic violence, such as verbal abuse and hair-pulling, appears to have increased, reports of rape are down by nearly half in Oslo, and incidents of being struck with a fist are down by 38% since 2007.<sup>274</sup>

## **TACTICS FOR ADDRESSING DEMAND**

A variety of tactics are being implemented throughout the country in order to deter the demand for sex trafficking and commercial sex. This section will provide an overview of some of the most commonly used techniques with a particular emphasis on efforts in Texas.

## Reverse Stings

Law enforcement plays a key role in addressing demand. The “reverse sting” operation is the most commonly used tactic to attack demand for commercial sex.<sup>275</sup> The term describes an undercover operation where decoy officers pose as prostitutes waiting to be approached by buyers of commercial sex.<sup>276</sup> Reverse stings are conducted differently by different departments but all involve a complicated scheme of decoys, surveillance, and arrest operations.<sup>277</sup> Approximately 46 jurisdictions in Texas have reported conducting reverse sting operations.<sup>278</sup> There are generally three different types of reverse sting operations that a given jurisdiction may conduct in order to address different venues of the commercial sex market: street level, web based, and brothel based.<sup>279</sup>

### *Street Level Reverse Stings*

Street level reverse prostitution stings were the most popular methods used throughout the 1990’s and early 2000’s, prior to the industry moving to the internet.<sup>280</sup> The street level stings are still conducted, but are typically conducted based on community demand or complaints.<sup>281</sup> The first reported street level type reverse stings were conducted in 1964 in Nashville, Tennessee.<sup>282</sup> The typical street level reverse sting is conducted in high-prostitution areas, where known providers are typically found. The timing of the sting will also be selected based on high-prostitution times. Typically these times are lunch time, after 5:00 p.m., and after bars close.<sup>283</sup> In order to prepare the streets for the prostitution sting, and to avoid conflict with local providers, local law enforcement will sometimes conduct a sting to arrest providers days before the reverse sting is conducted. This clears the streets of local providers, and sometimes their pimps, so that law enforcement can avoid their operation being discovered.<sup>284</sup>

The decoy in these types of reversal operations is an undercover officer posing as a street level prostitute. The undercover officer is typically a female, though undercover male officers sometimes serve as decoys in areas known for street level male prostitution. The size of the operation depends on the availability of decoys and surveillance officers, orders from the police chief or department head, and how big the problem is at a given time.<sup>285</sup> Training and experience of the officers selected to conduct the reverse sting operation will vary from department to department. Some departments will not use any specific training techniques, while other larger departments have entire decoy training programs set up.

A small operation will have one to two decoy officers surrounded by a team of male officers for surveillance and apprehension purposes. Occasionally, there is a department jail arrest van nearby where the buyers are processed.<sup>286</sup> The decoy is almost always wired for recording of conversations, and there is often clear surveillance video.<sup>287</sup> The video surveillance is used for both safety purposes, and to record gestures, such as nodding of the head, to make an agreement for sex in exchange for money.<sup>288</sup> Some departments will have a male officer in plainclothes posing as the “pimp” of the decoy. This allows an officer to be close by to the operation for safety purposes.<sup>289</sup>



The decoy officer must try to appear as a typical street level provider. The majority of street level providers are not dressed well, unkempt, and addicted to drugs.<sup>290</sup> In order to maintain their cover, street level decoys must look, act, and sound the same as typical providers. One female decoy officer indicated she will dress in a tank top and jeans and mow her lawn all morning in preparation of participating in the reverse sting that evening, and it has been suggested that attractive decoys may scare buyers off.<sup>291</sup> Especially in street level operations, it is important for the decoy to know and use the street jargon naturally. Certain types of commercial sex acts go for certain amounts. If the decoy is not aware of the street jargon, her cover can be blown and the department may fail to arrest the buyer.<sup>292</sup>

The street level decoy will typically wait for a buyer to drive up and start a conversation. She will approach the vehicle and attempt to engage them. Engaging the buyer takes a certain skill that is learned over time working reverse stings.<sup>293</sup> The decoy must use “ego boosters,” eye contact, and flattering language to keep the buyer interested. The goal of the decoy is to get the transaction to meet the elements of the criminal statute. In Texas, this means the buyer must offer to engage, agree to engage, or engage in sexual conduct for a fee.<sup>294</sup> Video surveillance typically catches such actions when buyers try to avoid verbalizing their agreement. The decoy will always try to get the buyer to verbalize since she is likely wired with a voice recording device.<sup>295</sup> Once the elements are met, the signal is made for the apprehension of the buyer. Some departments will formally arrest the buyer, others will issue citations, and still others will try diversion programs such as “John schools” for first time offenders.<sup>296</sup>

## ***Web-Based Reverse Stings***

The development of the internet has moved a large portion of the commercial sex industry online. As such, law enforcement agencies have had to adapt their methods in order to conduct reverse stings via the internet. Web based reverse stings are becoming increasingly popular. A “web-based” reverse sting is one where law enforcement agencies post an advertisement on popular commercial sex websites advertising the purchase of sexual conduct with a decoy.

The language of the ad is chosen based on common language used for ads in that given area. The ads will not blatantly advertise the sale of sex, but will use jargon common to the industry. A buyer contacts the number on the ad and arranges the meet up time and location with the decoy. The decoy will then arrange the meeting and the buyer will typically agree to the price and service over the telephone. The ads are placed at high frequency times, such as lunch time. One Texas police department describes the initial call as brief and basic. The buyer calls in, sometimes the agreement is made immediately, and then the buyer is given a call back time. When the buyer returns the call, the decoy will give the buyer a specific spot to go to and return the call again. Little by little, the buyer is given directions to the hotel room at each call back time. He is not given the room number until his final call stating he is outside of the hotel location.<sup>297</sup>

Depending on the type of web based sting that is being conducted, the decoy will use different language with the buyer in order to secure the transaction. When

the sting is conducted for the purposes of targeting buyers of commercial sex acts with minors, the decoy may pose as the “madam” or the pimp. She will let the buyer know that the provider is actually underage. Most of these types of web based stings are conducted for the purposes of targeting sex trafficking of minors directly. When the buyer shows up at the meeting location, he is placed under arrest and charged with the applicable state and/or federal statute.

Most web based stings will have a hotel location as the meet up spot. The law enforcement agency will rent at least two rooms, side by side. One room will be set up for the decoy and the buyer to meet in. The other will have the other officers and recording equipment. The decoy room will be set up with both voice and video recording devices. The decoy will remind the buyer of the agreement, service, and price such that it is recorded properly. Once the agreement is made, the officers in the other hotel room enter and place the buyer under arrest.

### ***Brothel-Based Reverse Stings***

A brothel-based sting is one in which decoys are placed as staff members within an operating brothel, sexually oriented business, or other commercial sex venue.<sup>298</sup> As defined by the legislature, a sexually oriented business “means a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.”<sup>299</sup> These are the least common type of reverse sting operation, and only twenty-five jurisdictions nationwide have reported using this type of sting operation.<sup>300</sup> These types of stings focus on arresting buyers.<sup>301</sup>

Decoys are placed within the business to investigate what activities are being bought and sold. Brothel stings that occur in nail salons or massage parlors will likely have the entire staff and survivors replaced with decoys who continue to make appointments and serve customers, at which point arrests will be made according to the sting operation.<sup>302</sup>

### ***Case Study: Houston Modeling Studio***

Many jurisdictions have been experimenting with a tactic that mixes both web based and brothel-based reverse sting operations. One example of such a blending of tactics was the Houston Police Department Vice Division modeling studio reverse sting operation conducted in January of 2015.<sup>303</sup>

The operation began on January 20, 2015 and resulted in the arrest of sixty-five men for attempting to purchase sex.<sup>304</sup> The Houston Police Department reported hundreds of men contacting the modeling studio to purchase sex.<sup>305</sup> The operation was staged as a web-based reverse sting operation with a meeting location that was functioning as a front for a brothel. Ads were placed on popular websites known for advertising the purchase of sex. The Houston Police Department rented out a physical location that appeared to be a typical storefront

operating as a walk-in modeling studio. Decoy officers were placed as staff members. The buyers showed up to the studio and selected a decoy to purchase for sexual services. Houston police officers then entered the studio staging a raid type sting wherein they asked for identification from the buyers within the studio. The identity of the buyers was recorded. The men were permitted to leave and then were subsequently arrested at a later date.<sup>306</sup> The arrests began on February 19, 2015.<sup>307</sup> This set-up allowed the police department to continue the sting operation for weeks without detection from local buyers.<sup>308</sup> The mugshots were released to local news stations and media outlets. Photographs along with basic identifying information were available for the public to view.<sup>309</sup>

Police departments often face several obstacles when trying to organize operations such as this one. One such obstacle is public backlash. The Houston Chronicle article reporting the success of the operation that was posted on the Chronicle's website had approximately 300 comments on the news story. Of these 300 comments, approximately 200 of them were negative responses to the efforts of the Houston Police Department. Only 20 of the comments posted were in support of this operation.<sup>310</sup>

## *National Day of Johns Arrests*

National Day of Johns Arrests is a term given to a period of time and widespread operations where law enforcement agencies across the nation concentrate efforts on reverse sting operations with the purpose to reduce demand for commercial sex.<sup>311</sup> The efforts began in Cook County, Illinois under the leadership of Sheriff Thomas Dart.<sup>312</sup> The first National Day of Johns Arrests was conducted in October of 2011 with eight participating agencies.<sup>313</sup> As a result of the first National Day of Johns Arrests, 216 buyers and two “pimps” were arrested.<sup>314</sup> To date, there have been a total of nine National Day of Johns Arrests. Harris County Sheriff's Office was the first Texas law enforcement agency to participate in October of 2012 which yielded a total of ninety-four arrests of sex buyers, thirty-eight civil citations, seven possession of drugs arrests, two weapons arrests, and eight warrant arrests.<sup>315</sup>

Since October, 2012, several Texas law enforcement agencies have participated in the National Day of Johns Arrests including Harris County Sheriff's Office, Houston Police Department, Harris County Constable Precinct 4, Harris County Constable Precinct 3, Bexar County Sheriff's Office, San Antonio Police Department, Texas Office of the Attorney General, Bexar County District Attorney's Office, and Texas Department of Public Safety. The most recent National Day of Johns Arrest was conducted in February 2015 during the weeks surrounding the Super Bowl. Thirty-seven law enforcement agencies participated nationwide. Nationally, the operations resulted in twenty-three sex trafficking and pimping arrests, 570 sex solicitation arrests of buyers, eighteen weapons seized, four narcotics arrests, and sixty-eight rescued victims.<sup>316</sup> Of the sixty-eight rescued victims, fourteen of them were minors.<sup>317</sup> These operations targeted the

online market for commercial sex by posting fake ads on Backpage and Craigslist. About 64% of those arrested responded to Backpage ads.<sup>318</sup> Another 7% had responded to Craigslist ads.<sup>319</sup> At a state wide level, the three participating Texas law enforcement agencies arrested 162 offenders.<sup>320</sup> Harris County Sheriff's Office arrested 100 buyers, Houston Police Department arrested forty-eight buyers, and Texas Department of Safety arrested fourteen buyers.<sup>321</sup>

## **“John Schools”/Diversion Programs**

“John” is a colloquial term used to identify sex buyers and a “John school” is a program designed to educate or treat purchasers of commercial sex.<sup>322</sup> Depending on the jurisdiction, the program may be a part of a roadside deterrent effort, a pre-trial diversion program, a component of a deferred adjudication agreement, or even an intervention tactic used in place of first arrest. The common goal of the programs is to reduce demand through education and therapy.

### ***One Day John School Program***

The one day schools are typically associated with pretrial diversion programs or deferred adjudication requirements.<sup>323</sup> This means that in order to successfully complete a court ordered agreement, the buyer must attend the one-day school program. Each school has a different curriculum, but most are designed to educate buyers of potential dangers of engaging in such activity, treat certain addictions typically associated with the activity of purchasing sex, and address the potential effects such activity have on personal relationships such as marriage. Currently, there are at least three schools in operation in Texas in Waco, Dallas, and San Antonio.

The first school in Texas was started by the Waco Police Department in 2002. The school was spearheaded by Waco Police Department Investigator Anita Johnson. She first learned of this type of program through a television show and proposed it to the Waco Police Department in 1998. The idea for the school was initially turned down but eventually approved and held for the first time in 2002.<sup>324</sup>

Buyers end up attending the program as a result of an agreement made with Waco police officers at the time of custody following a successful reverse sting operation. Following the agreement between the decoy and the buyer, the buyer is taken into custody. A background search is conducted to determine whether the buyer qualifies for the option to attend the school instead of being arrested, charged, and prosecuted. If the buyer qualifies, he is offered the opportunity to pay for and attend the school without an official arrest.<sup>325</sup> The first school had twelve attendees. It was an all-day course with a fee of \$150.00 per attendee.<sup>326</sup> The original curriculum included information on drug and alcohol abuse, the dangers of contacting sexually transmitted diseases and HIV, a mandatory and free STD/HIV test, information on sex addictions, a survivor's story on the effects of prostitution in her life and the dangers to purchasers, and a Cook County Human Trafficking video presentation.<sup>327</sup> Later, the fee was changed to \$350.00 and the curriculum was altered to include a lesson on the effects of prostitution

on a neighborhood as well as information on family violence. The programs are scheduled and run by investigator Anita Johnson a couple weeks following every reverse sting operation. To date, the program has had 135 attendees and only three participants have been re-arrested.<sup>328</sup> Re-offenders are arrested and processed through the criminal system without the option to attend the school. Currently, the Waco Police Department program is being revised.<sup>329</sup>

The Dallas S.T.O.P. Program (Solicitors, Traffickers, and Offenders of Prostitution) is held four times per year. It is a one day, eight hour course that costs the buyer \$250.00 to attend.<sup>330</sup> Buyers that go through this program have been processed through the criminal justice system and have been referred to the program by a judge or as a part of a plea deal reached with the Dallas County District Attorney's Office.<sup>331</sup> The program is put on by a group of volunteers who work in different areas including law enforcement, criminal law, and therapy.<sup>332</sup> The program curriculum includes sections on the impact on the community/family/selves, impact on health, pornography and sex addictions, and the recovery process. An average class will have approximately thirty-five to forty attendees.<sup>333</sup> This program is offered in both English and Spanish. Attendees must stay for the entire program and complete the STD/HIV blood test, in order to receive certification of completion of the program.

### *Virtual John School*

A video John school is presented in the form of a DVD to buyers being processed at the time of arrest. Buyers are still processed through the criminal justice system; however, the video is an attempt to educate at point of first contact with law enforcement. This method was most notably used by Cook County Sheriff's Office in Chicago, Illinois. The sheriff's office created and produced approximately 4,000 copies of the program through a grant given by Demand Abolition. The DVDs were disseminated to law enforcement agencies to be used at point of arrest. The curriculum was designed to deter individuals from purchasing sex through educating buyers on the legal and health consequences of purchasing commercial sex.<sup>334</sup>

An online John school is typically ordered through a conviction, deferred adjudication agreement, or pre-trial diversion program. Some jurisdictions permit the offender to complete the school online and receive a certificate. The offender is ordered to take the course, pays and signs up online, and receives the certification after watching the video and completing the final examination.<sup>335</sup>

### *Roadside John School*

Some jurisdictions are practicing a "roadside" method to the John school tactic, very similar to the "video John school" seen above. The program is a condensed video presentation shown to suspected buyers in high prostitution areas that are not arrested. The goal is deterrence through preventative education and highlights the legal and health dangers associated with purchasing commercial sex.

The Tucson Police Department instituted the Safety Through Deterrence

(STD) program wherein they approached suspected buyers, checked their identification, and administered the roadside video and disbursed educational materials. Within the first five weeks of the program, 217 buyers were approached. The video and materials were disbursed, allowing the buyers to leave without being arrested. Tucson Police Department will arrest a buyer if he is approached a second time.<sup>336</sup>

### ***Texas Bill: Buyer Offender Programs***

In 2011, House Bill 1994 passed, authorizing the creation of first offender prevention programs at the local level for eligible first-time prostitution and trafficking offenders. The bill defines “first offender prostitution prevention program” as a program with certain essential characteristics and sets out the powers and duties of a first offender prostitution prevention program.<sup>337</sup> This bill sets out eligibility for offenders to participate and grants authorization to collect a fee for the program.

In order to be an authorized program, the bill requires that the program have (1) the integration of services in the processing of cases in the judicial system; (2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety, to reduce the demand for the commercial sex trade and trafficking of persons by educating offenders, and to protect the due process rights of program participants; (3) early identification and prompt placement of eligible participants in the program; (4) access to information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse; (5) a coordinated strategy to govern program responses to participant compliance; (6) monitoring and evaluation of program goals and effectiveness; (7) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and (8) development of partnerships with public agencies and community organizations.<sup>338</sup>

In order to be eligible to participate in a first offender program, the attorney representing the state must consent to the defendants participation in the program and the court in which the criminal case is pending must find that the defendant has not been previously convicted of a felony or previous prostitution related offense.<sup>339</sup> Additionally, a defendant is not eligible to participate in the program if the defendant offered or agreed to hire a minor under the age of eighteen at the time of the offense.<sup>340</sup>

The curriculum must provide each participant with information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, substance abuse, and classroom instruction related to the prevention of prostitution. Successful completion of the program will result in a dismissal if the defendant has not been previously convicted of a felony offense, and is not convicted of any other felony offenses before the second anniversary of the defendant’s successful completion of the program.<sup>341</sup>

## General Awareness and Education Campaigns

General education and awareness campaigns include materials and programs directed towards people who are not already personally involved in the commercial sex market. Potential targets include police, service providers, teachers, students, and other citizens. These messages can take the form of billboards, fliers, social media postings, lesson plans, lectures by prostitution survivors and more. Campaigns that focus on demand for commercial sex are probably the most promising tool for reducing the demand for human trafficking victims because the biggest reductions in demand are likely to materialize as a result of a culture shift away from purchasing sex.

Arrests and penalties may deter an individual or others who hear about the possibility of arrest, but only a lack of desire to purchase sex in the first place can prevent exploitation through sex trafficking. General education campaigns can work to reduce that desire by informing the public of the potential harm and danger involved for both parties participating in the commercial sex market. These campaigns exist on a local, state, national, and international level with many having been implemented in Texas.

### *Public Awareness*

In Texas, some of the most common tactics are visual and audio media campaigns directed at large audiences in a given area. In particular, the FBI, United Against Human Trafficking and Clear Channel Outdoor partnered to increase public awareness through media and ad campaigns that began on June 3, 2014.<sup>342</sup> These messages were dispersed to all residents and visitors in the selected areas. Billboards were distributed statewide, but with a particular focus on urban areas with particularly active commercial sex markets, like Houston and Dallas.

Public service ads were displayed on Houston area Yellow Cabs, Metro buses and area shopping malls. Public service announcements also aired on Univision Television, Univision Radio, and Clear Channel owned radio stations throughout Texas. These ads were both in English and Spanish and all of them included the number to the National Human Trafficking Resource Center and other reporting resources. As part of this effort, the FBI posted billboards wanted poster pictures and names of the most wanted human traffickers and offered up a 10,000 dollar reward for information that led to their capture. The central purpose of this program was to introduce to the injustice of human trafficking to the public and to get the average Houstonian to feel they had a duty to report and reduce the incidence of human trafficking in their community.

Another widely publicized human trafficking and awareness effort is the Atlanta Dear John Campaign.<sup>343</sup> Supported and championed by the former mayor of Atlanta, Shirley Franklin, the program utilized print ads, billboards, and PSAs targeted toward actual and potential sex buyers that informed them of the social and legal consequences they could face for buying sex. They also served to raise awareness of all forms of sexual exploitation among the general public and

especially policy makers. The Edelman firm and the Mayor's Office developed themes and text for print media messages, and a nonprofit organization, Atlanta Women in Film, produced three 30-second public service announcements (PSAs), pro bono. The campaign's products were released to the public in 2006. A PSA featuring the mayor was taken to local television stations that ran it for free during slow media times, and the PSA was also available on the city's website. "Dear John" print ads were placed without charge in several local publications. The campaign attracted high levels of attention, both in the Atlanta area and nationwide, and likely succeeded in raising awareness of human trafficking as an issue. However, the campaign's effect on the behavior of sex buyers was not tracked or formally evaluated.

Real Men Don't Buy Girls was a social media campaign created by Ashton Kutcher and Demi Moore's nonprofit DNA Foundation, recently renamed Thorn.<sup>344</sup> Their purpose was to change the cultural acceptance of purchasing sex by changing the definition of masculinity to reject such behavior. Their specific focus was to target the men that knowingly or unknowingly purchase sex from minors. The campaign utilizes Twitter messages and short, interactive videos that feature famous male celebrities such as Drake, Justin Timberlake, and Brad Pitt. The celebrities act out stereotypically masculine behaviors and then contrast that with the exploitative behavior of purchasing sex, thus contrasting the real men in the video from men that purchase sex. While the message is serious, the videos are meant to be both informative and entertaining. The celebrities also used the Twitter hashtag #RealMenDontBuyGirls which also included them with pictures of themselves holding signs that stated that real men don't purchase sex.

Traffick911, a North Texas anti-trafficking organization developed PSAs as a preemptive measure to reduce the possible influx of sex buyers that could increase the incidence of human trafficking in Dallas during the Super Bowl.<sup>345</sup> These materials were created as part of the "I'm Not Buying It" campaign which was a partnership between Traffick911 and several other anti-trafficking groups. The campaign was directed toward both the public and sex buyers. They created posters and public service announcements to be publicized around the Super Bowl. Some of the TV ads featured Cowboy's player, Jay Ratliff communicating the message that real men don't buy sex. Although the Super Bowl ad selection committee did not actually allow posters or PSAs to be officially affiliated with the Super Bowl, Traffick911 posted the materials online for the public to view.

In 2011, Free The Captives, a Houston faith-based anti-human trafficking non-profit collaborated with Harris County Sheriff Adrian Garcia to conduct an anti-demand public awareness campaign in Harris County.<sup>346</sup> The ad blitz was timed to coincide with the annual Offshore Technology Conference when thousands of people, including many men and potential buyers, would be entering the Houston area. Sheriff Garcia was featured in a video named "Buyer Beware: You Will Be Arrested (The Realities of Sex Trafficking)" featured on television and YouTube that addressed many of the myths that buyers use to justify their behavior.



Sheriff Garcia informed them of the inevitability of their capture and punishment. Billboards featured either a sex buyer in handcuffs or an exchange between a trafficking victim and a buyer and clearly informed the public of the link between purchasing commercial sex and the perpetuation of the commercial sex market. These billboards also included the message “Buy Sex? Bye Bye Freedom” as a warning to current and future sex buyers. Radio segments carried a similar message. Officers at the Offshore Technology Conference also handed out flyers warning the men attending the conference that purchasing sex would be contributing to sexual exploitation and would lead to their arrest.

## *Education*

The Chicago area nonprofit Chicago Alliance Against Sexual Exploitation (CAASE) provides possibly the most well-known general education and awareness campaign aimed at high school aged male and female students. The program is called Empowering Youth to End Sexual Exploitation, and it aims to teach students about human trafficking and sexual exploitation through a focus on healthy concepts of masculinity and femininity and an emphasis on reducing gender-based violence. The CAASE curriculum also emphasizes the influence of media content such as music and television in shaping attitudes toward gender identities and sexual abuse. The program is divided into four 45 to 60 minute sessions. These lessons usually take the form of guided discussions. Students are asked for their thoughts concerning sexual exploitation, gender-based violence, and other trafficking related issues. The instructor is supposed to encourage students to examine the role of men’s demand for commercial sex in creating these abuses and their role in curbing these abuses. CAASE has also established programs that focus on high school faculty with the highest likelihood of influencing young men’s attitudes towards purchasing sex. These programs are specifically targeted at high school teachers and coaches. They specifically tackle the problem of demand for commercial sex by informing the coaches and then asking them to lead discussions on the myths and realities surrounding commercial sex and the risk of harm to providers if these students purchase sex in the future.

The MTV Exit Map Workshop takes the approach of using music videos, musicians, celebrities and other things that appeal to young people to increase awareness and educate students about human trafficking.<sup>347</sup> It was developed through a partnership between MTV, USAID, AusAID, Walk Free, and ASEAN and is a self-described “behavior change” campaign that aims to induce young people to critically examine actions they currently perceive as harmless, including the purchase of commercial sex from men or women who appear to be selling sex voluntarily. It also encourages young people to inform their peers and their larger community to do the same. The program is directed toward moderately sized groups of people ranging from 18 to 25 years of age.

The curriculum is meant to be delivered over six hours and can be broken up into several smaller modules centered on specific subjects, such as the terminology surrounding human trafficking or what students can do to eliminate it.

The program provides vivid and relevant case studies of typical traffickers, buyers, and human trafficking victims and illustrates how these parties interact. It also explicitly highlights the role of demand in the equation and informs students that even unknowing sex buyers can victimize those that are trafficked and provide profits to traffickers.

A21's "Bodies Are Not Commodities" is another national, demand focused education program.<sup>348</sup> It is aimed at high school students of both sexes. It is delivered through 5 interactive sessions that inform students about the concepts of social justice and human rights. Bodies Are Not Commodities does this through videos, text, essays, and individual and group activities concerning the abuses involved in human trafficking. The lessons draw attention to the major historical similarities and differences between modern day slavery and the types of slavery encountered by abolitionists in the past. It provides an overview and description of all of the major forms of human trafficking, including sex trafficking. It informs students of the scope of the human trafficking issue and connects the depth of the sex trafficking problem to society's acceptance of commercialized sex. The overall goal of the program is to teach both potential buyers and sellers that the human body is not a commodity and that the way to stop the degradation involved in that type of transaction is to refuse to purchase commercial sex. It is a conscious attempt to shift our culture from one that accepts commercial sex to one that rejects the purchase of human beings under any circumstances.

Finally, the Love146 Abolitionist Curriculum was created by Love146, an international sex trafficking abolitionist non-profit with an office in Houston which was opened in 2013.<sup>349</sup> The curriculum is directed at students and aims to empower them to be aware of and thus to avoid any form of participation in the human trafficking or commercial sex markets. Their prevention program typically focuses on at-risk youth and high school students. In 2014, they created 5 minute presentations that are intended to be presented to at-risk youth. They typically work with a classroom of high school students four times a month. These sessions equip students to understand the realities of human trafficking, better protect themselves and their peers from risk, and get help. The Abolitionist Curriculum discusses the effects of the economic principles of supply and demand and explains how supply for commercial sex drives supply for both the voluntarily and involuntarily prostituted women. Finally, it challenges students to examine how their culture contributes to demand, what measures exist to combat demand, and what they can do to reduce it.

## Shaming

Sex buyers often seek a certain level of anonymity in the commission of their offenses. This is, in part, an effort to avoid detection by law enforcement but is also attributable to the desire to keep this activity from being discovered by friends, family, and colleagues. Sex buyers have reported that the possibility of having their activity exposed would be a deterrent to their transactions; however, the true deterrent effect has not been evaluated. Shaming has been discouraged

by some as an activity which may increase stress and risk of violence within the homes of buyers, may have a detrimental psychological impact on those buyers with true addictions, or may be inappropriate in instances where a buyer has been arrested but not yet convicted.

## *Public Shaming*

One type of shaming tactic is to expose the identity of the sex buyer to the general community. Following a reversal operation, arrests of sex buyers are made public along with images of the individuals arrested. In some jurisdictions, this occurrence is reliant upon local media outlets which have made requests for such images and chosen to publish them, but in other locations, police departments proactively issue press releases upon the arrest of buyers or even post such arrests on their websites or social media pages.

## *“Dear John” Letters*

“Dear John” letters refers to a “shaming” tactic wherein law enforcement sends letters to the homes of buyers, or suspected buyers, of commercial sex.<sup>350</sup> The purpose of these letters is to deter buyers and to inform their partners so that they may protect themselves from potential sexually-transmitted diseases. “Dear John” letters have been used in at least 40 jurisdictions around the country, but their ultimate efficacy is unknown.

## *Asset Forfeiture*

Asset forfeiture can provide much-needed funding to combat sex trafficking in Texas. On the federal level, investigations carried out by the U.S. Department of Justice, Criminal Division and the FBI’s Innocence Lost National Initiative have resulted in seizure of over \$3 million in real property, vehicles and monetary assets. Additionally, the Federal Human Trafficking Victims Protection Act mandates asset forfeiture for cases involving human trafficking.<sup>351</sup> Texas, along with thirty-five other states, took specific steps to bolster this law by passing its own law that authorizes courts to seize the assets of those found guilty of human trafficking offenses.<sup>352</sup> Unfortunately, this type of statute is rarely applied by courts. Texas courts should take notice of this provision and use it more frequently so as to increase funds used to combat human trafficking and to take advantage of a statute that is already in place.

## *Driver’s License Suspension*

Texas law currently disqualifies individuals from possessing a commercial driver license (CDL) if they have been convicted of a felony and used a motor vehicle in the commission of that felony.<sup>353</sup> This provision covers the commission of a human trafficking offense, as that is at least a second-degree felony depending on the circumstances of the offense. Suspending an individual’s driver’s license for their lifetime, if they are convicted of human trafficking and used a vehicle

while committing the offense, helps prevent that individual from returning to prior behaviors and habits of driving to engage in human trafficking when they are released from prison. Because driving affords offenders the freedom and mobility to access potential victims, this provision is an essential part of Texas' efforts to combat human trafficking.

## Geographic Restraining ("SOAP") Orders

SOAP ("Stay Out of Areas with Prostitution") orders help prevent convicted sex buyers from visiting areas with prostitution activity and from returning to the area where they were arrested for the offense.<sup>354</sup> These geographic restraining orders may present a roadblock to sex buyers by making it more difficult for them to return to the area where the sex purchasing occurred and thus reducing the demand for sex in areas prone to prostitution. Currently in Texas, Corpus Christi, San Antonio, Waco and Arlington have SOAP orders in place.<sup>355</sup>

## POLICY RECOMMENDATIONS

- Demand reduction efforts in Texas cannot be accurately measured without a mandatory uniform statewide data collection system that tracks prostitution arrests and segregates the arrests by buyer and seller and provides arrestee demographics and arrest information such as location. Without this data, it will be difficult, if not impossible, to determine what demand-reduction tactics are working, and where. As an example, the arrest data collected by CHILDREN AT RISK, which is presented in the Appendix, shows a disproportionate number of female arrests versus male arrests, with a significant percentage of the male arrests being sellers, and no female buyers. Clearly, Texas should be moving towards at least achieving parity in arrests between buyers and sellers. Without statewide tracking, we will have no means of discerning the overall disparity in arrest rates, and therefore cannot effectively implement tactics and allocate resources to do so. Also, the data collected shows that prostitution is increasingly moving indoors, with more and more arrests occurring through stings executed through online escort ads. Statewide data collection will allow Texas to be better prepared for this shift in the market. Additionally, as detailed in the Appendix section, we were unable to obtain any data from a number of jurisdictions. This reinforces the need for the State to require this reporting on a periodic basis.
- Texas should allocate resources directed at increasing the number of reverse stings in all Texas jurisdictions to maximize general deterrence and increase the potential costs of purchasing sex in the minds of buyers.
- There is a need for more education and awareness raised around the problem of sexual addiction and sexual frustration. This is especially relevant for the population of buyers that do not enjoy prostitution and want to stop, but that also did not seek help for their issues.
- A greater focus is needed on addressing the problem of high-frequency buyers. These are the buyers that are sustaining the bulk of the market, and these buyers are harder to reach by current policing methods in many areas of the state.
- Private and/or public funding is needed to research the efficacy of tactics and programs aimed at changing buyer behavior. This funding could be used to study: buyer recidivism rates after arrest and after diversion program attendance (such as John schools), the role of alcohol and other drug consumption prior to the purchase of sex, and sex education curriculum that includes evidence-based information on healthy relationships and healthy concepts of masculinity and femininity. This research can then be used to inform evidence-based efforts around reducing demand at the buyer level.

- A demand reduction subcommittee should be included in all local, regional and state anti-trafficking task forces and conscious efforts should be made to include demand reduction in anti-trafficking efforts, curricula, and trainings.
- More attention should be focused on boys involved in CSEC. According to existing research, boys are unlikely to enter CSEC due to trafficking by a pimp; therefore, measures aimed solely at minors who are being controlled by a pimp or trafficker would largely fail to address this population.
- Texas should implement a general education campaign that focuses on dispelling common myths surrounding commercial sex.
- Adequate and early evidence-based sexual education that also includes a significant focus on healthy sexual relationships and gender equality as well as the dangers of commercial sex.
- Texas should discourage the prosecution of minors arrested for prostitution by giving courts the power to abate minor prostitution prosecutions and permit courts to require the minor to attend rehabilitative services in lieu of prosecution. Doing so would enable the courts to provide the minor with the chance for a fresh start, while still allowing the prosecution to resume in the event the minor fails to comply with court orders.

## ENDNOTES

- 1 22 U.S.C.A. § 7102 (9).
- 2 *Id.*
- 3 *Id.*
- 4 TEX. PEN. CODE §§ 20A.01 et seq.
- 5 Siddharth Kara, Supply and Demand: Human Trafficking in the Global Economy, 67 HAR. INT'L. REV. Summer 2011, *available at*: [http://isites.harvard.edu/fs/docs/icb.topic1498717.files/Supply\\_and\\_Demand.pdf](http://isites.harvard.edu/fs/docs/icb.topic1498717.files/Supply_and_Demand.pdf).
- 6 Amy Farrell, Colleen Owens, & Jack McDevitt, *New Laws but Few Cases: Understanding the Challenges to the Investigation and Prosecution of Human Trafficking Cases*, 61 CRIME, L. & SOC. CHANGE 139, 168 (2014).
- 7 NATIONAL HUMAN TRAFFICKING RESOURCE CENTER (NHTRC), *Annual Report* (2014), 3 *available at* [http://www.traffickingresourcecenter.org/sites/default/files/2014%20NHTRC%20Annual%20Report\\_Final.pdf](http://www.traffickingresourcecenter.org/sites/default/files/2014%20NHTRC%20Annual%20Report_Final.pdf).
- 8 *The Texas Human Trafficking Prevention Task Force Report to the Texas Legislature*, OFFICE OF THE ATTORNEY GENERAL, 3 (2014). The HTRS data is limited by its nature as a self-report measure, the small number of agencies that report to the database, and the inclusion of both federal and state agencies. *Id.* at 11.
- 9 *Economics Basics: Supply and Demand*, INVESTOPEDIA, <http://www.investopedia.com/university/economics3.asp> (accessed Aug 11, 2015).
- 10 *See supra* note 5.
- 11 TEX. PEN. CODE § 43.02; *but see* S.B. 825, 2015 Leg. 84<sup>th</sup> Sess. (Tex. 2015) which subdivided the prostitution offense between those who, in “exchange for a fee” knowingly “offers to engage, agrees to engage, or engages in sexual conduct or “solicits another in a public place to engage with the actor in sexual conduct for hire” and those who do the same “based on “the payment of a fee.”
- 12 *See e.g.* TEX. PEN. CODE §§ 20A.01 et seq. 43.02.

- 13 Meredith Dank, Bilal Khan, P. Mitchell Downey, Cybele Kotonias, Deborah Mayer, Colleen Owens, Laura Pacifici, and Lilly Yu, *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities*, URBAN INSTITUTE, 133 (2014), available at <http://www.urban.org/research/publication/estimating-size-and-structure-underground-commercial-sex-economy-eight-major-us-cities>; see also TEX. PEN. CODE § 43.05.
- 14 *Id.*
- 15 See supra note 1; see also TEX. PEN. CODE § 20A.02
- 16 See supra note 13 at 132.
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289 *Id.*

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293 Supra note 280.

294 See TEX. PEN. CODE § 43.02.

295 Supra note 280.

296 Waco Police Department will detain buyers and then run a criminal background search to confirm whether the individual is a first time offender. If the buyer qualifies for the diversion program, they will not be formally arrested but rather offered the opportunity to attend the Waco Police Department John School.

297 Supra note 280.



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316 DEMAND ABOLITION, <http://www.demandabolition.org/national-day-of-johns-arrests/> (last accessed June 29, 2015).

317 *Id.*

318 *Id.*

319 *Id.*

320 COOK COUNTY SHERIFF'S OFFICE. *570 Sex Buyers Arrested in National Super Bowl Sting Operation (2015)* [http://www.cookcountysheriff.org/press\\_page/press\\_SuperbowlSting\\_02\\_02\\_2014.html](http://www.cookcountysheriff.org/press_page/press_SuperbowlSting_02_02_2014.html) (last accessed Jul 1, 2015).

321 *Id.*

322 M. Shively, K. Kliorys, et al. *An Overview of John Schools in the United States.*,1-28, ABT. ASSOCS. (2012) [http://www.demandforum.net/wpcontent/uploads/2012/01/john.school.summary.june\\_.2012.pdf](http://www.demandforum.net/wpcontent/uploads/2012/01/john.school.summary.june_.2012.pdf) (last accessed Jul 7, 2015).

323 A pre-trial diversion program is one in which the prosecution of the defendant is halted and no plea is entered. The defendant is given the opportunity to complete an ordered program or set of requisites in order to avoid prosecution. If successfully completed, the defendant avoids further prosecution. Deferred adjudication requires the defendant plead guilty or nolo contendere to the charges. That plea remains unless and until the defendant completes the requirements of the agreement. After completion, the prosecutor's office will dismiss the case. If the defendant does not complete the requirements, then the plea is entered by the court.

324 *Supra* note 280.

325 *Id.*

326 *Id.*

327 *Id.*

328 *Id.*

329 *Id.*

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333 *Id.*

334 COOK COUNTY SHERIFF'S OFFICE. *Press Release- Championship Numbers Tell Sad Story*. (2012) [http://www.cookcountysheriff.org/press\\_page/press\\_ChampionshipNumbers\\_02\\_07\\_12.html](http://www.cookcountysheriff.org/press_page/press_ChampionshipNumbers_02_07_12.html) (last accessed Jun 29, 2015).

335 LOGAN SOCIAL SERVICES, <http://www.loganinstitute.com/index.php> (last accessed Jul 16, 2015).

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- 345 *See Traffick 911*, <http://www.traffick911.com/>.
- 346 *Buyer Beware: You Will Be Arrested!* CHRON BLOGS (2013). <http://blog.chron.com/thepeacepastor/2013/03/buyer-beware-you-will-be-arrested/> (last accessed Oct 30, 2015); see also <http://www.freethecaptiveshouston.com/>.
- 347 *See U.S. AID, et al. The MTV EXIT Guide to Understanding Human Trafficking and Exploitation*, available at: [https://d21buns5ku92am.cloudfront.net/38909/documents/23169-dbef7618-c91a-4eb8-b2ae-3669ac548ace-MTV\\_2520EXIT\\_The\\_2520EXIT\\_2520Map.pdf](https://d21buns5ku92am.cloudfront.net/38909/documents/23169-dbef7618-c91a-4eb8-b2ae-3669ac548ace-MTV_2520EXIT_The_2520EXIT_2520Map.pdf).
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- 353 TEX. TRANSP. CODE § 522.081; *see also* Texas Dept. of Public Safety, <https://www.txdps.state.tx.us/DriverLicense/CommercialMVdisqualifications.htm> (last accessed Nov 20, 2015).
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## APPENDIX

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### Supporting Charts, Graphs and Data

## APPENDIX: TEXAS DATA

The illicit economy for sexual services is difficult to quantify or accurately measure, but a number of sources can provide valuable information about both the scope of this problem and the existing efforts to combat it. This appendix attempts to provide some insights on the issue of demand for commercial sex in Texas. In reviewing the available data, it is clear that sex is for sale in cities throughout Texas and that there is relatively little risk in being a buyer in these transactions.

### Arrest Data: Prostitution

In approaching the issue of demand for illegal commercial sex, it seems fitting to assess how many buyers are being arrested for purchasing acts of prostitution. Unfortunately, this is a question that is not easily answered. As discussed in the publication, both buyers and sellers are culpable for the same prostitution offense in Texas. Consequently, no distinction is made between these parties in arrest data, and it is only possible to identify the arrestee's role by actually reading the details of each case in the arrest report.

### *Public Information Requests*

Desiring a statewide picture of law enforcement efforts to combat demand, but facing limitations in time and resources, CHILDREN AT RISK prioritized fourteen counties for data collection. Public information requests were sent to 347 law enforcement agencies within these fourteen counties seeking arrest data for prostitution and other commercial sex crimes for 2000, 2012, 2013, and 2014. A copy of the request sent by CHILDREN AT RISK appears at the end of this appendix. Some record of arrests was received from 117 of these agencies. Unsurprisingly, many smaller agencies reported having no prostitution arrests. These agencies are not included in the tally of 117, although they did respond to the request. Some other larger agencies such as the San Antonio Police Department and Austin Police Department, which received their initial requests in July 2015, reported to CHILDREN AT RISK in October 2015 that they needed up to eight additional months in order to provide arrest reports, citing a lack of manpower and a backlog of requests as the reason for their failure to timely produce them. Unfortunately, this extreme delay prevented buyer and seller information from these areas from being included in this publication. Other agencies, such as the City of Irving, reported being unable to search arrests by offense in their database and were therefore unable to provide even the number of prostitution arrests made by their police department.

Additionally, many jurisdictions sought Attorney General’s opinions in order to withhold information that was considered confidential, for example, arrests made pursuant to investigations of reports of suspected abuse or neglect of children. This information was understandably withheld.

### Analysis of Responses: Records Indicating Buying vs. Selling

Over 600 prostitution arrest reports for the years 2000, 2012, 2013, and 2014 were delivered to CHILDREN AT RISK in response to the public information requests. The details of each arrest were analyzed in order to determine whether the individual arrested was apprehended for buying or selling. Approximately 73% of these arrests were individuals attempting to sell sexual services while the remainder were buyers. Approximately 32% of the individuals arrested were men, but 14% of those arrested men were acting as the prostitute and not the buyer. Summaries of the data recovered from responses to the public information requests are included in the tables below. Although the collected arrest records provide some insightful information, these numbers cannot be interpreted to be indicative of efforts across the state due to the limited nature of the collected data. An information request sent to the Department of Public Safety (DPS) indicates that during the same span of years, a total of 20,741 prostitution arrests were voluntarily reported by agencies around the state and 26% of those arrests were of men. The breakdown of buyers versus sellers in the DPS data is unavailable.

#### BUYERS

RECORDS FROM 2000										
Department	Total Arrests	Male	Gender N/A	Mean Age	White	Black	Asian	Hispanic	Race N/A	Under 18
Bellmead Police Department	3	3	0	64.7	3	0	0	0	0	0
City of McAllen Police Department	1	1	0	22	0	0	0	1	0	0
Universal City Police Department	2	2	0	38	1	0	0	0	1	0
2000 TOTALS	6	6	0		4	0	0	1	1	0
RECORDS FROM 2012										
Department	Total Arrests	Male	Gender N/A	Mean Age	White	Black	Asian	Hispanic	Race N/A	Under 18
Amarillo Police Department	4	4	0	36.75	3	1	0	0	0	0
Arlington Police Department	8	8	0	42.5	4	4	0	0	0	0

Bedford Police Department	2	2	0	24	2	0	0	0	0	0
El Paso Police Department	1	1	0	63	1	0	0	0	0	0
Lubbock Police Department	8	8	0	N/A	7	0	0	1	0	0
Stafford Police Department	1	1	0	29	0	0	0	1	0	0
Sugar Land Police Department	5	5	0	41.4	0	4	0	1	0	0
Tyler Police Department	5	5	0	40.8	4	1	0	0	0	0
Waco Police Department	4	4	0	N/A	2	2	0	0	0	0
Webster Police Department	2	2	0	42.5	2	0	0	0	0	0
2012 TOTALS	40	40	0		25	12	0	3	0	0

## RECORDS FROM 2013

Department	Total Arrests	Male	Gender N/A	Mean Age	White	Black	Asian	Hispanic	Race N/A	Under 18
Amarillo Police Department	15	15	0	35.9	14	1	0	0	0	0
Arlington Police Department	19	19	0	33.9	15	3	1	0	0	0
Baytown Police Department	1	1	0	58	1	0	0	0	0	0
Bellmead Police Department	1	1	0	N/A	1	0	0	0	0	0
Cedar Hill Police Department	2	2	0	19	0	2	0	0	0	2
City of McAllen Police Department	7	7	0	57.7	7	0	0	0	0	0
El Paso County Sheriff's Office	8	8	0	38.4	7	0	0	0	1	0
Garland Police Department	1	1	0	63	1	0	0	0	0	0
Hurst Police Department	1	1	0	18	1	0	0	0	0	0
Lubbock Police Department	1	1	0	N/A	1	0	0	0	0	0
Mesquite Police Department	1	1	0	58	1	0	0	0	0	0
Missouri City Police Department	3	3	0	47	1	0	2	0	0	0



Seagoville Police Department	1	1	0	N/A	0	0	0	0	1	1
Stafford Police Department	7	7	0	29.1	2	0	0	5	0	0
Tyler Police Department	5	5	0	44	4	1	0	0	0	0
University of Houston Police Department	1	1	0	53	0	1	0	1	0	0
Waco Police Department	6	6	0	N/A	4	2	0	0	0	0
Webster Police Department	3	2	1	35	2	0	0	0	0	0
2013 TOTALS	83	82	1		62	10	3	6	2	3
<b>RECORDS FROM 2014</b>										
Department	Total Arrests	Male	Gender N/A	Mean Age	White	Black	Asian	Hispanic	Race N/A	Under 18
Amarillo Police Department	1	1	0	21	0	1	0	0	0	0
Arlington Police Department	15	15	0	38.9	14	1	0	0	0	0
City of McAllen Police Department	4	4	0	40.75	4	0	0	0	0	0
Frisco Police Department	1	1	0	32	1	0	0	0	0	0
Garland Police Department	2	2	0	24.5	2	0	0	0	0	0
Lubbock Police Department	8	8	0	N/A	7	0	0	1	0	0
Stafford Police Department	1	1	0	45	1	0	0	0	0	0
Waco Police Department	7	7	0	N/A	6	1	0	0	0	0
2014 TOTALS	39	39	0		35	3	0	1	0	0
TOTAL	168	167	1		126	25	3	11	3	3
PERCENTAGE		99.40%	0.60%		75.00%	14.88%	1.79%	6.55%	1.79%	1.79%

# SELLERS

RECORDS FROM 2000										
Department	Total Arrests	Male	Female	Gender N/A	Mean Age	White	Black	Asian	Hispanic	Race N/A
Arlington Police Department	54	13	41	0	30.5	27	27	0	0	0
Baytown Police Department	1	0	1	0	42	1	0	0	0	0
Hedwig Village Police Department	1	1	0	0	30	1	0	0	0	0
Tyler Police Department	2	0	2	0	43.5	1	1	0	0	0
Universal City Police Department	2	0	2	0	21.5	2	0	0	0	0
2000 TOTALS	60	14	46	0		32	28	0	0	0
RECORDS FROM 2012										
Department	Total Arrests	Male	Female	Gender N/A	Mean Age	White	Black	Asian	Hispanic	Race N/A
Addison Police Department	1	0	1	0	41	1	0	0	0	0
Anna Police Department	1	1	0	0	25	1	0	0	0	0
Arlington Police Department	33	3	30	0	27.7	17	15	1	0	0
Bedford Police Department	2	0	2	0	29	2	0	0	0	0
City of McAllen Police Department	10	0	10	0	40.9	10	0	0	0	0
Deer Park Police Department	1	1	0	0	37	0	1	0	0	0
El Paso County Sheriff's Office	10	1	9	0	24	8	2	0	0	0
Eules Police Department	5	0	5	0	27	5	0	0	0	0
Farmers Branch	13	0	13	0	26.8	11	2	0	0	0
Frisco Police Department	1	0	1	0	44	0	0	1	0	0
Grapevine Police Department	2	0	2	0	24.5	1	1	0	0	0
Lewisville Police Department	1	0	1	0	N/A					1
Lubbock Police Department	30	0	30	0	N/A	11	12	1	5	1
Northlake Police Department	1	0	1		N/A					1

Rowlett Police Department	1	0	1	0	48	0	0	1	0	0
San Juan Police Department	1	0	1	0	25	1	0	0	0	0
Stafford Police Department	1	0	1	0	22	1	0	0	0	0
Tyler Police Department	3	0	3	0	42.3	3	0	0	0	0
Waco Police Department	4	0	4	0	N/A	2	2	0	0	0
Webster Police Department	20	1	19	0	27.1	14	4	1	0	1
2012 TOTALS	141	7	134	0		88	39	5	5	4

### RECORDS FROM 2013

Department	Total Arrests	Male	Female	Gender N/A	Mean Age	White	Black	Asian	Hispanic	Race N/A
Anna Police Department	1	0	1	0	19	0	1	0	0	0
Arlington Police Department	37	3	34	0	26.9	23	14	0	0	0
Baytown Police Department	1	0	1	0	33	1	0	0	0	0
Bellmead Police Department	1	0	1	0	N/A	1	0	0	0	0
City of McAllen Police Department	7	0	7	0	33.9	7	0	0	0	0
El Paso County Sheriff's Office	17	0	16	1	22.9	14	2	0	0	1
El Paso Police Department	8	1	7	0	26.9	7	1	0	0	0
Farmers Branch	7	0	7	0	32.1	5	2	0	0	0
Garland Police Department	1	0	1	0	53	1	0	0	0	0
Lewisville Police Department	2	0	2	0	23.5	1	0	1	0	0
Lubbock Police Department	17	0	17	0	N/A	6	6	0	4	1
Mesquite Police Department	1	0	1	0	38	0	1	0	0	0
Northlake Police Department	1	0	1	0	33	1	0	0	0	0
Robinson Police Department	1	0	1	0	48	1	0	0	0	0
Rowlett Police Department	1	0	1	0	48	0	0	1	0	0

San Juan Police Department	2	0	2	0	27.5	2	0	0	0	0
Stafford Police Department	10	0	10	0	23.2	2	8	0	0	0
Sugar Land Police Department	1	0	1	0	18	1	0	0	0	0
Tyler Police Department	7	0	7	0	25	2	5	0	0	0
University of Houston Police Department	1	0	1	0	36	0	1	0	0	0
Waco Police Department	3	0	3	0	N/A	1	2	0	0	0
Webster Police Department	10	0	10	0	22.9	8	2	0	0	0
2013 TOTALS	137	4	132	1		84	45	2	4	2

### RECORDS FROM 2014

Department	Total Arrests	Male	Female	Gender N/A	Mean Age	White	Black	Asian	Hispanic	Race N/A
Anna Police Department	1	0	1	0	37	0	1	0	0	0
Arlington Police Department	41	1	40	0	25.4	28	13	0	0	0
Bellmead Police Department	1	0	1	0	N/A	1	0	0	0	0
Castle Hills Police Department	4	0	4	0	N/A	1	0	3	0	0
City of McAllen Police Department	1	0	1	0	24	1	0	0	0	0
El Paso County Sheriff's Office	7	0	7	0	34.6	5	2	0	0	0
El Paso Police Department	10	0	10	0	30.4	8	2	0	0	0
Eules Police Department	4	0	4	0	27.5	2	2	0	0	0
Garland Police Department	1	0	1	0	38	1	0	0	0	0
Hill Country Village Police Department	1	0	1	0	38	0	0	1	0	0
Lubbock Police Department	13	0	13	0	N/A	7	4	2	0	0
Mesquite Police Department	1	0	1	0	56	0	0	1	0	0
Stafford Police Department	6	0	6	0	22.7	2	2	0	2	0

Tyler Police Department	2	1	1	0	21	0	2	0	0	0
Waco Police Department	1	0	1	0	N/A	1	0	0	0	0
Webster Police Department	14	0	13	1	27.2	10	3	0	0	1
Woodway	1	0	1	0	N/A	0	1	0	0	0
2014 TOTALS	109	2	106	1		67	32	7	2	1
Total	447	27	418	2		271	144	14	11	7
Percentage		6.04%	93.51%	0.45%		60.63%	32.21%	3.13%	2.46%	1.57%

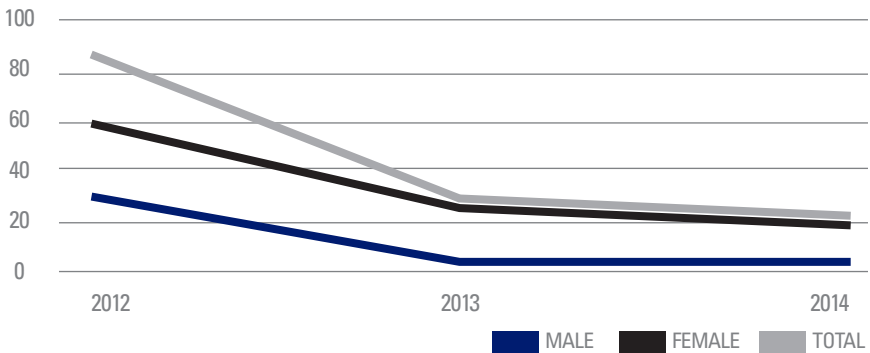
### Analysis of Responses: Records Unable to be Disaggregated

As mentioned above, a number of obstacles prevented the possibility of obtaining and combing through many of the prostitution arrest records originally requested. In response to the disseminated information requests, over 3,000 prostitution arrests were reported with varying levels of detail. Because these incidents were reported without accompanying narratives, it was not possible to disaggregate the arrests based on buying versus selling. Although these records do not definitively show the extent of buyer arrests, they do provide some insightful information about prostitution abatement efforts in various agencies and are outlined below.

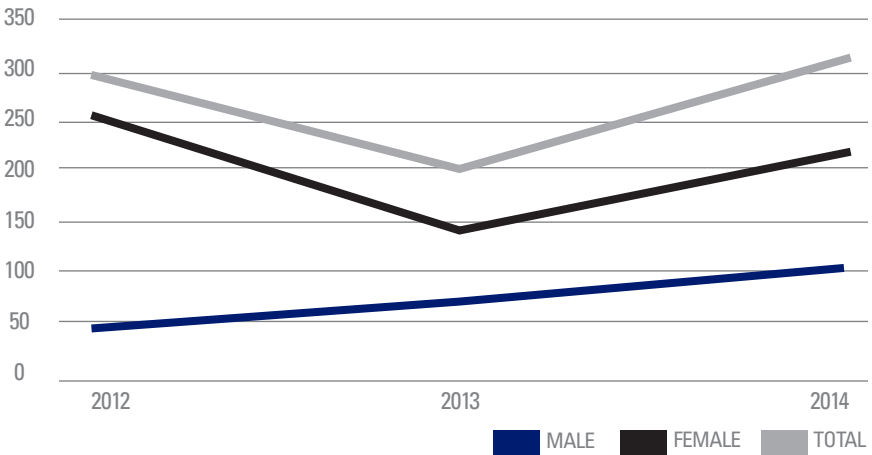
### SAN ANTONIO PROSTITUTION ARRESTS

YEAR	MEAN ARREST AGE	TOTAL ARRESTS
2012	31.04688	335
2013	31.11976	346
2014	32.33333	412

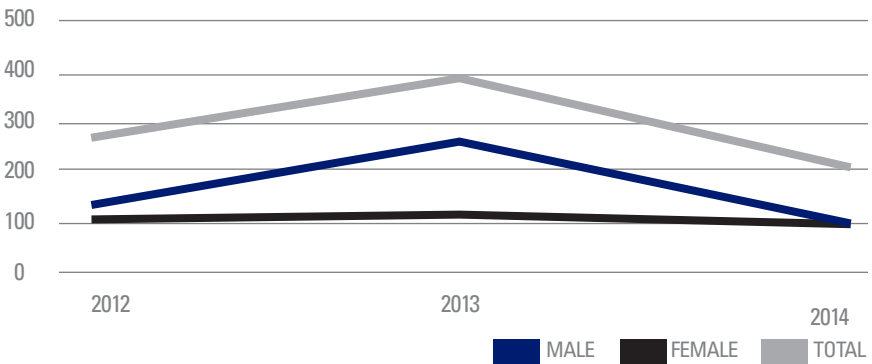
### ARLINGTON PROSTITUTION ARRESTS



## TARRANT COUNTY PROSTITUTION ARRESTS



## AUSTIN PROSTITUTION ARRESTS



### Deeper Dive: Houston Police Department

The Houston Police Department (HPD) had over 1,500 prostitution arrests in each of the four years (2000, 2012, 2013, and 2014) examined during this project. Due to the large number of prostitution arrests in Houston, random samples of prostitution arrest records were taken from each of the four years of arrest data using the “sample” function of the “R” statistical software. Records within the random sample were analyzed and coded as either a buyer or seller using the record’s narrative, and other demographic information was collected from the sample. Each year had a sample size of 300 prostitution arrest records for a total of 1,200 analyzed arrests. The resulting sample for each year has a 95% confidence interval

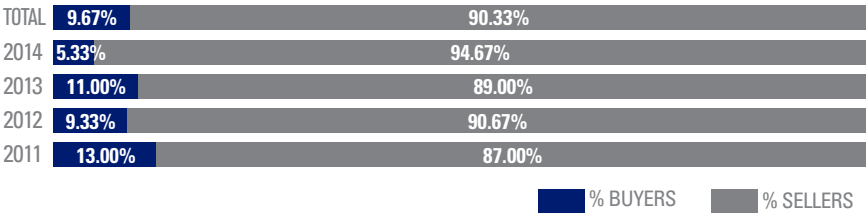
with a 5% margin of error and was used to provide the percentage of arrests attributable to buyers versus sellers. CHILDREN AT RISK is thankful to HPD for its professionalism and courtesy in making these files available for review.

Across the four years of prostitution arrests gathered, 90% of arrested individuals were attempting to sell sex and 10% were attempting to purchase. As was the case with the statewide data collection effort, every sex buyer in the HPD sample was male, reinforcing the notion that this crime is heavily gendered. While no identified buyers were female, a small number of male escorts were arrested after attempting to sell sexual services to female decoys, indicating that such a market does exist. We found that 22% of all arrests in the HPD sample were of men; however, over half of those men were male prostitutes and not buyers. This high rate of male prostitution highlights the fact that while a breakdown of arrests by gender is valuable, it does not paint a complete picture of efforts to stop sex buyers. Beginning in 2015, HPD’s Vice Division has proactively adjusted its data collection and reporting such that it will be able to distinguish between buyers and sellers in future prostitution arrests. We applaud this effort to improve the state of data around this issue.

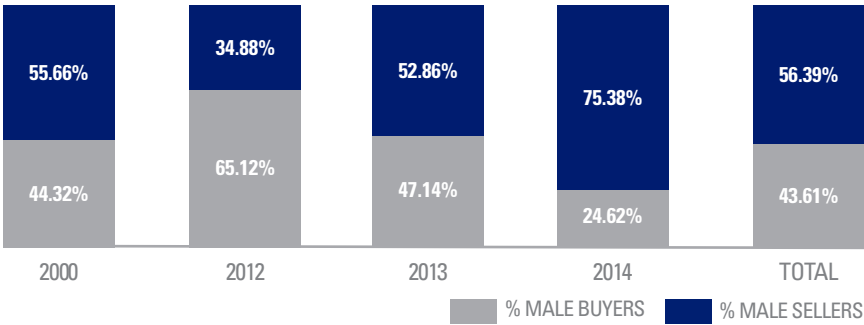
### RANDOM SAMPLE OF HPD ARRESTS

YEAR	SAMPLE SIZE	BUYERS	SELLERS	MALE ARRESTS	FEMALE ARRESTS
2000	300	39	261	88	212
2012	300	28	272	43	257
2013	300	33	267	70	230
2014	300	16	284	65	235
TOTAL	1,200	116	1,084	266	934
	PERCENT	9.67%	90.33%	22.17%	77.83%

### ARRESTS OF BUYERS VS. SELLERS

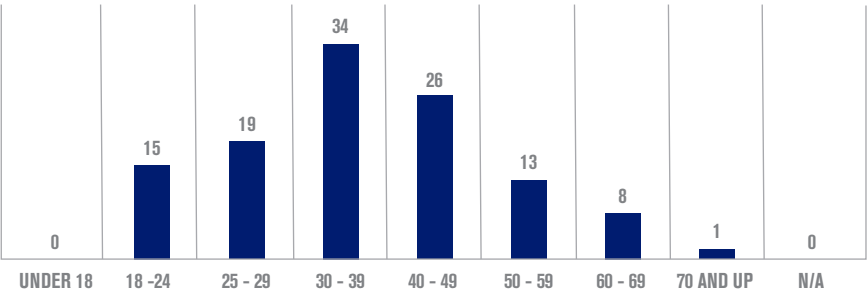


**BREAKDOWN OF MALE ARRESTS**



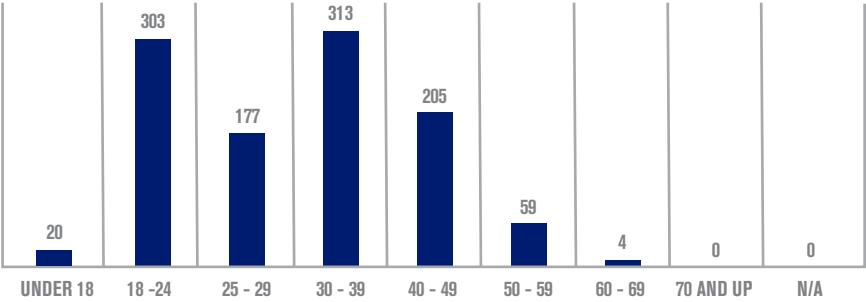
The primary purpose of the data analysis was to disaggregate the population of buyers from the population of prostituted individuals in existing arrest records. In the course of this research, the team was able to identify other qualitative and quantitative findings. For example, the age and the race of the arrested individuals was collected as was the location of the offense. Over 60% of the arrests were for street-level prostitution. Approximately 30% of arrested sellers were under the age of 25 compared to about 13% of buyers. White individuals made up the largest percentage of arrestees; however, it is unclear what percentage of individuals classified as White may be Hispanic or Latino. Interestingly, only about 4% of individuals arrested for selling sex were Asian, but over 75% of those individuals were arrested while providing sexual services in massage parlors and spas. It also became clear in the course of reading these prostitution arrest records that the market manifested itself differently in various venues. Sexual services were often offered on the streets for \$15-\$30 and it was not uncommon for these cases to have ancillary drug and other offenses associated with them. Meanwhile, transactions that began on the internet typically had values of \$100 and above, and massage parlors and spas often required a house fee of \$60 or more plus payment to the prostituted individual of an amount typically equal or greater than the entry fee.

**BUYER ARRESTS BY AGE**

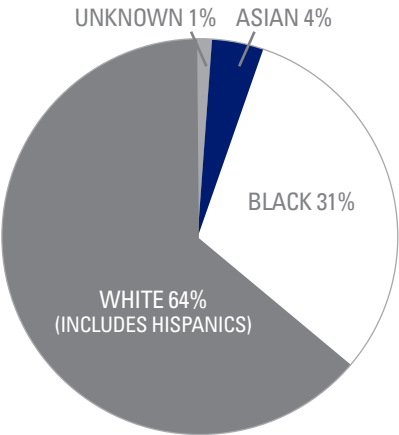




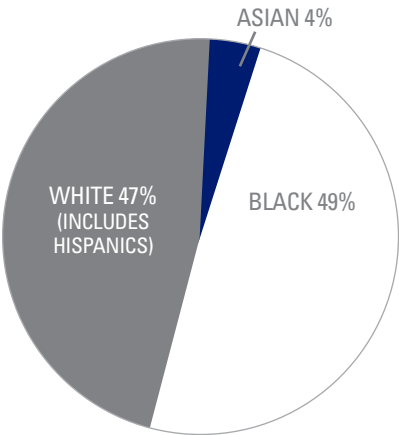
**SELLER ARRESTS BY AGE**



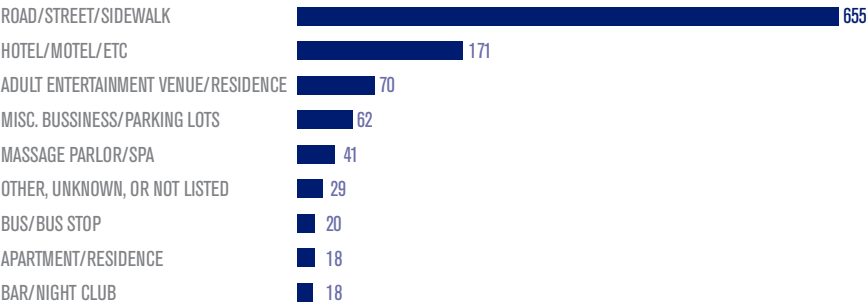
**RACIAL BREAKDOWN OF BUYERS**



**RACIAL BREAKDOWN OF SELLERS**



**NUMBER OF SELLER ARRESTS BY LOCATION**



## NUMBER OF BUYER ARRESTS BY LOCATION



## Prostitution Arrest Data from the Department of Public Safety

Law enforcement agencies across Texas may voluntarily report prostitution arrests to the Texas Department of Public Safety (DPS). An information request to DPS indicates that over 88,000 prostitution arrests have been reported from 533 agencies in 162 counties between 2000 and 2014. Approximately 26% of arrests over that 14 year timeframe have been of males, which sits between the 22% of arrests in the HPD sample and the 32% of arrests in the responses to the multi-county public information request. While the DPS data does not disaggregate between buying and selling, it is safe to assume that most (if not all) of the arrested women were acting as prostitutes as were a significant number of the men. The chart below shows the reported arrests from 2000-2014 based on the age of the arrestee. Of special note for child advocates is the fact that over 800 minors were arrested on prostitution offenses during this timeframe. The 6 indicated arrests of 13 year olds occurred prior to the change in law prompted by the Texas Supreme Court in 2010 discussed earlier in the case study on *In the Matter of B.W.*

## 2000-2014: ARRESTS REPORTED TO DPS BY AGE

AGE	FEMALE	MALE
13	6	0
14	39	2
15	74	9
16	180	31
17	400	94
18-24	12,893	4,183
25-29	10,289	3,929
30-34	10,557	3,635
35-39	10,731	3,295
40-44	9,869	2,861
45-49	6,603	2,124
50-54	2,897	1,371
55-59	772	834
60 and above	177	852
	65,487	23,220

## Offense Data for Other Crimes

The bulk of this project centered on efforts related specifically to the offense of prostitution; however, a number of other crimes are also implicated when an individual is exploited for commercial sex, particularly when that individual is a child. In order to get a broader sense of law enforcement efforts to combat this exploitation, the public information request distributed by CHILDREN AT RISK asked for information concerning offenses and arrests for the following crimes found in the Texas Penal Code:

- § 15.031(b) Criminal Solicitation of a Minor
- § 20A.02 Trafficking of Persons
- § 33.021(b), (c) Online Solicitation of a Minor
- § 43.03 Promotion of Prostitution
- § 43.04 Aggravated Promotion of Prostitution
- § 43.05 Compelling Prostitution
- § 43.25 Sexual Performance by a Child
- § 43.251 Employment Harmful to Children
- § 43.26 Possession or Promotion of Child Pornography

The following table provides aggregate information from responding agencies for the listed offenses. The number of offenses is not necessarily indicative of the scope of the problem in a given jurisdiction but provides some insight on the existence of demand for such acts around the state as well as the current activity of law enforcement.

AGENCY	TEXAS PENAL CODE PROVISION	2012	2013	2014
Alamo Heights Police Department	33.021(b)(c) Online Solicitation of a Minor	1	0	0
Allen Police Department	20A.02 Human Trafficking	1	0	0
Allen Police Department	33.021(b)(c) Online Solicitation of a Minor	0	1	0
Amarillo Police Department	15.031(b) Criminal Solicitation of a Minor	0	1	1
Amarillo Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	0
Amarillo Police Department	43.26 Child Pornography	2	5	5
Anna Police Department	43.03 Promotion of Prostitution	0	1	0
Arlington Police Department	15.031(b) Criminal Solicitation of a Minor	5	19	15
Arlington Police Department	43.03 Promotion of Prostitution	17	0	0
Arlington Police Department	43.25 Sexual Performance by a Child	99	135	126
Arlington Police Department	43.26 Child Pornography	11	34	41
Austin Police Department	15.031(b) Criminal Solicitation of a Minor	16	14	25
Austin Police Department	20A.02 Human Trafficking	46	45	73
Austin Police Department	43.03 Promotion of Prostitution	19	26	27
Austin Police Department	43.04 Aggravated Promotion of Prostitution	1	0	2

AGENCY	TEXAS PENAL CODE PROVISION	2012	2013	2014
Austin Police Department	43.05 Compelling Prostitution	14	18	14
Austin Police Department	43.25 Sexual Performance by a Child	0	3	2
Austin Police Department	43.251 Employment Harmful to a Minor	0	0	0
Austin Police Department	43.26 Child Pornography	28	31	54
Azle Police Department	43.26 Child Pornography	0	0	1
Baytown Police Department	43.03 Promotion of Prostitution	0	1	0
Baytown Police Department	43.25 Sexual Performance by a Child	0	1	0
Baytown Police Department	43.26 Child Pornography	4	3	2
Bedford Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	1
Bedford Police Department	43.04 Aggravated Promotion of Prostitution	1	0	0
Bedford Police Department	43.25 Sexual Performance by a Child	0	0	1
Bedford Police Department	43.26 Child Pornography	4	1	3
Bellaire Police Department	43.26 Child Pornography	0	1	1
Benbrook Police Department	43.25 Sexual Performance by a Child	0	0	1
Benbrook Police Department	43.26 Child Pornography	2	4	1
City of McAllen Police Department	20A.02 Human Trafficking	1	1	0
City of McAllen Police Department	43.03 Promotion of Prostitution	1	0	1
City of McAllen Police Department	43.26 Child Pornography	3	3	3
Converse Police Department	33.021(b)(c) Online Solicitation of a Minor	1	0	3
Corinth Police Department	43.25 Sexual Performance by a Child	0	1	1
Dallas County Sheriff's Department	20A.02 Human Trafficking	12	6	5
Dallas County Sheriff's Department	43.04 Aggravated Promotion of Prostitution	7	9	10
Dallas Police Department	20A.02 Human Trafficking	3	9	9
Dallas Police Department	43.03 Promotion of Prostitution	5	12	18
Dallas Police Department	43.04 Aggravated Promotion of Prostitution	3	7	8
Dallas Police Department	43.05 Compelling Prostitution	13	9	0
Denton County Sheriff's Department	15.031(b) Criminal Solicitation of a Minor	0	0	1
Denton County Sheriff's Department	20A.02 Human Trafficking	4	1	4
Denton County Sheriff's Department	33.021(b)(c) Online Solicitation of a Minor	5	5	3
Denton County Sheriff's Department	43.05 Compelling Prostitution	3	0	1
Denton County Sheriff's Department	43.25 Sexual Performance by a Child	0	2	2
Denton County Sheriff's Department	43.26 Child Pornography	9	12	7
Denton Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	1
DeSoto Police Department	43.03 Promotion of Prostitution	1	0	0
El Paso County Sheriff's Office	33.021(b)(c) Online Solicitation of a Minor	0	0	2
El Paso County Sheriff's Office	43.04 Aggravated Promotion of Prostitution	0	1	0

AGENCY	TEXAS PENAL CODE PROVISION	2012	2013	2014
El Paso County Sheriff's Office	43.26 Child Pornography	0	1	0
El Paso Police Department	15.031(b) Criminal Solicitation of a Minor	0	1	0
El Paso Police Department	22.021 (B) Aggravated Sexual Assault of a Child	1	0	0
El Paso Police Department	33.021(b)(c) Online Solicitation of a Minor	2	0	0
El Paso Police Department	43.03 Promotion of Prostitution	0	1	0
El Paso Police Department	43.26 Child Pornography	5	6	2
Eules Police Department	33.021(b)(c) Online Solicitation of a Minor	1	1	1
Eules Police Department	43.03 Promotion of Prostitution	5	0	4
Eules Police Department	43.25 Sexual Performance by a Child	5	0	1
Eules Police Department	43.26 Child Pornography	2	1	0
Fort Bend County Sheriff's Office	33.021(b)(c) Online Solicitation of a Minor	2	1	2
Fort Bend County Sheriff's Office	43.26 Child Pornography	0	0	13
Fort Worth Police Department	20A.02 Human Trafficking	2	3	8
Fort Worth Police Department	33.021(b)(c) Online Solicitation of a Minor	11	19	18
Fort Worth Police Department	43.25 Sexual Performance by a Child	0	2	1
Fort Worth Police Department	43.26 Child Pornography	30	32	22
Frisco Police Department	20A.02 Human Trafficking	0	0	1
Frisco Police Department	33.021(b)(c) Online Solicitation of a Minor	1	1	4
Frisco Police Department	43.26 Child Pornography	1	5	3
Garland Police Department	15.031(b) Criminal Solicitation of a Minor	2	0	0
Garland Police Department	33.021(b)(c) Online Solicitation of a Minor	7	3	8
Garland Police Department	43.03 Promotion of Prostitution	2	0	0
Garland Police Department	43.25 Sexual Performance by a Child	2	1	1
Garland Police Department	43.26 Child Pornography	5	10	9
Grapevine Police Department	33.021(b)(c) Online Solicitation of a Minor	1	0	1
Grapevine Police Department	43.25 Sexual Performance by a Child	0	1	0
Grapevine Police Department	43.26 Child Pornography	1	4	1
Helotes Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	1
Hidalgo County Sheriff's Office	33.021(b)(c) Online Solicitation of a Minor	1	3	6
Hidalgo County Sheriff's Office	43.25 Sexual Performance by a Child	0	0	1
Hidalgo County Sheriff's Office	43.26 Child Pornography	2	0	2
Highland Village Police Department	33.021(b)(c) Online Solicitation of a Minor	0	1	0
Highland Village Police Department	43.26 Child Pornography	0	0	2
Humble Police Department	20A.02 Human Trafficking	0	1	0
Humble Police Department	43.05 Compelling Prostitution	0	1	1

AGENCY	TEXAS PENAL CODE PROVISION	2012	2013	2014
Humble Police Department	43.25 Sexual Performance by a Child	0	0	1
Humble Police Department	43.26 Child Pornography	0	0	5
Katy ISD Police Department	33.021(b)(c) Online Solicitation of a Minor	2	3	0
Katy ISD Police Department	43.26 Child Pornography	2	1	0
Keller Police Department	43.26 Child Pornography	1	4	1
Kirby Police Department	43.26 Child Pornography	1	0	0
Klein ISD Police Department	43.26 Child Pornography	0	1	2
Lacy-Lakeview Police Department	15.031(b) Criminal Solicitation of a Minor	0	1	1
Lacy-Lakeview Police Department	33.021(b)(c) Online Solicitation of a Minor	1	0	0
Lacy-Lakeview Police Department	43.26 Child Pornography	2	0	0
Lago Vista Police Department	43.26 Child Pornography	0	1	0
Lake Dallas Police Department	33.021(b)(c) Online Solicitation of a Minor	1	0	0
Lancaster Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	1
Lewisville Police Department	20A.02 Human Trafficking	1	0	0
Lewisville Police Department	33.021(b)(c) Online Solicitation of a Minor	2	0	0
Lewisville Police Department	43.05 Compelling Prostitution	0	0	1
Lewisville Police Department	43.24. Distribution of Material Harmful to Minor	0	1	0
Lewisville Police Department	43.26 Child Pornography	4	3	6
Lindale Police Department	43.26 Child Pornography	0	0	1
Live Oak Police Department	43.26 Child Pornography	0	1	0
Live Oak Police Department	43.26 Child Pornography	2	2	0
Lubbock County Sheriff's Office	20A.02 Human Trafficking	0	0	1
Lubbock County Sheriff's Office	33.021(b)(c) Online Solicitation of a Minor	0	1	0
Lubbock Police Department	15.031(b) Criminal Solicitation of a Minor	3	4	0
Lubbock Police Department	20A.02 Human Trafficking	1	8	3
Lubbock Police Department	33.021(b)(c) Online Solicitation of a Minor	9	15	12
Lubbock Police Department	43.03 Promotion of Prostitution	4	2	3
Lubbock Police Department	43.04 Aggravated Promotion of Prostitution	2	27	6
Lubbock Police Department	43.05 Compelling Prostitution	2	8	2
Lubbock Police Department	43.25 Sexual Performance by a Child	3	2	3
Lubbock Police Department	43.26 Child Pornography	8	7	6
McKinney Police Department	15.031(b) Criminal Solicitation of a Minor	1	0	0
McKinney Police Department	33.021(b)(c) Online Solicitation of a Minor	5	4	2
McKinney Police Department	43.03 Promotion of Prostitution	2	0	0
McKinney Police Department	43.25 Sexual Performance by a Child	1	0	1

AGENCY	TEXAS PENAL CODE PROVISION	2012	2013	2014
McKinney Police Department	43.26 Child Pornography	2	2	3
McLennan Community College Police Department	43.26 Child Pornography	0	1	0
McLennan County Sheriff's Office	15.031(b) Criminal Solicitation of a Minor	1	0	0
McLennan County Sheriff's Office	43.25 Sexual Performance by a Child	0	1	0
Meadows Place Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	1
Melissa Police Department	33.021(b)(c) Online Solicitation of a Minor	0	3	1
Mesquite Police Department	43.25 Sexual Performance by a Child	1	0	0
Mesquite Police Department	43.26 Child Pornography	4	0	1
Missouri City Police Department	15.031(b) Criminal Solicitation of a Minor	0	0	1
Missouri City Police Department	33.021(b)(c) Online Solicitation of a Minor	0	2	2
Missouri City Police Department	43.03 Promotion of Prostitution	0	1	0
Missouri City Police Department	43.25 Sexual Performance by a Child	0	1	1
Missouri City Police Department	43.26 Child Pornography	1	2	6
North Richland Hills Police Department	33.021(b)(c) Online Solicitation of a Minor	1	0	1
North Richland Hills Police Department	43.25 Sexual Performance by a Child	0	0	1
North Richland Hills Police Department	43.26 Child Pornography	1	2	0
Northlake Police Department	43.03 Promotion of Prostitution	0	1	0
Northlake Police Department	43.26 Child Pornography	0	1	0
Northside ISD Police Department	43.26 Child Pornography	0	0	2
Olmos Park Police Department	15.031(b) Criminal Solicitation of a Minor	0	0	1
Pflugerville ISD Police Department	33.021(b)(c) Online Solicitation of a Minor	2	1	0
Pflugerville ISD Police Department	43.25 Sexual Performance by a Child	2	0	0
Pflugerville ISD Police Department	43.26 Child Pornography	2	1	0
Pflugerville Police Department	43.26 Child Pornography	2	1	0
Pflugerville Police Department	33.021(b)(c) Online Solicitation of a Minor	2	1	0
Pflugerville Police Department	43.25 Sexual Performance by a Child	2	0	0
Plano Police Department	20A.02 Human Trafficking	0	1	0
Plano Police Department	43.03 Promotion of Prostitution	1	0	0
Plano Police Department	43.05 Compelling Prostitution	0	1	0
Plano Police Department	43.25 Sexual Performance by a Child	0	1	0
Plano Police Department	43.26 Child Pornography	9	32	19
Princeton Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	1
Richardson Police Department	43.26 Child Pornography	2	2	0

AGENCY	TEXAS PENAL CODE PROVISION	2012	2013	2014
River Oaks Police Department	33.021(b)(c) Online Solicitation of a Minor	1	1	0
River Oaks Police Department	43.26 Child Pornography	0	1	0
Robinson Police Department	43.26 Child Pornography	3	0	0
Rowlett Police Department	33.021(b)(c) Online Solicitation of a Minor	1	1	1
Rowlett Police Department	43.26 Child Pornography	0	1	1
Royse City Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	1
Royse City Police Department	43.26 Child Pornography	0	2	0
Saginaw Police Department	20A.02 Human Trafficking	0	1	0
Saginaw Police Department	33.021(b)(c) Online Solicitation of a Minor	1	4	1
Saginaw Police Department	43.26 Child Pornography	1	4	0
San Antonio Police Department	15.031(b) Criminal Solicitation of a Minor	0	0	0
San Antonio Police Department	20A.02 Human Trafficking	2	0	6
San Antonio Police Department	33.021(b)(c) Online Solicitation of a Minor	3	2	3
San Antonio Police Department	43.03 Promotion of Prostitution	8	5	11
San Antonio Police Department	43.04 Aggravated Promotion of Prostitution	4	0	4
San Antonio Police Department	43.05 Compelling Prostitution	0	1	0
San Antonio Police Department	43.26 Child Pornography	0	3	0
Seabrook Police Department	43.26 Child Pornography	1	1	1
South Houston Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	1
Southlake Police Department	33.021(b)(c) Online Solicitation of a Minor	1	0	1
Southside ISD Police Department	43.26 Child Pornography	0	1	1
Stafford Police Department	43.05 Compelling Prostitution	0	2	1
Sugar Land Police Department	20A.02 Human Trafficking	3	0	0
Sugar Land Police Department	33.021(b)(c) Online Solicitation of a Minor	1	2	2
Sugar Land Police Department	43.251 Employment Harmful to a Minor	0	1	0
Sugar Land Police Department	43.26 Child Pornography	6	3	1
Tarrant County Sheriff's Dept	20A.02 Human Trafficking	4	3	0
Tarrant County Sheriff's Dept	33.021(b)(c) Online Solicitation of a Minor	23	19	18
Tarrant County Sheriff's Dept	43.03 Promotion of Prostitution	1	5	10
Tarrant County Sheriff's Dept	43.04 Aggravated Promotion of Prostitution	0	2	2
Tarrant County Sheriff's Dept	43.05 Compelling Prostitution	6	9	22
Tarrant County Sheriff's Dept	43.25 Sexual Performance by a Child	4	10	10
Tarrant County Sheriff's Dept	43.26 Child Pornography	17	22	23
Texas Tech University Police Department	43.26 Child Pornography	0	0	1
Texas Tech University Police Department	33.021(b)(c) Online Solicitation of a Minor	1	0	0

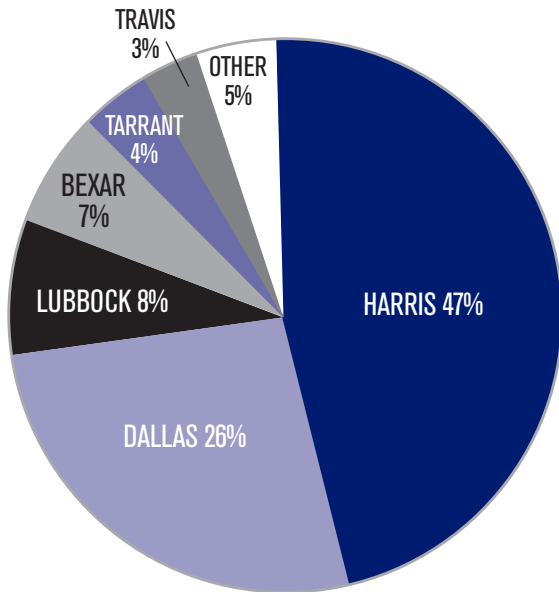


AGENCY	TEXAS PENAL CODE PROVISION	2012	2013	2014
Travis County Sheriff's Dept	20A.02 Human Trafficking	0	2	1
Travis County Sheriff's Dept	43.03 Promotion of Prostitution	4	9	3
Travis County Sheriff's Dept	43.04 Aggravated Promotion of Prostitution	1	0	0
Travis County Sheriff's Dept	43.05 Compelling Prostitution	0	1	1
Travis County Sheriff's Dept	43.26 Child Pornography	7	2	4
Universal City Police Department	43.24. Distribution of Material Harmful to Minor	0	0	1
Universal City Police Department	43.25 Sexual Performance by a Child	0	0	1
Universal City Police Department	43.26 Child Pornography	0	3	1
University of Houston Police Department	43.26 Child Pornography	0	0	0
Waco Police Department	15.031(b) Criminal Solicitation of a Minor	1	2	4
Waco Police Department	20A.02 Human Trafficking	1	0	1
Waco Police Department	33.021(b)(c) Online Solicitation of a Minor	3	4	5
Waco Police Department	43.03 Promotion of Prostitution	0	0	1
Waco Police Department	43.25 Sexual Performance by a Child	0	0	2
Waco Police Department	43.26 Child Pornography	9	5	3
Watuga Police Department	43.26 Child Pornography	0	1	1
Webster Police Department	33.021(b)(c) Online Solicitation of a Minor	2	12	0
Webster Police Department	43.03 Promotion of Prostitution	2	0	1
Webster Police Department	43.05 Compelling Prostitution	2	0	0
Webster Police Department	43.26 Child Pornography	1	5	3
Weslaco Police Department	33.021(b)(c) Online Solicitation of a Minor	0	0	3
Weslaco Police Department	43.26 Child Pornography	0	0	2
Wolfforth Police Department	43.26 Child Pornography	0	1	0
Wylie Police Department	15.031(b) Criminal Solicitation of a Minor	1	0	0
Wylie Police Department	33.021(b)(c) Online Solicitation of a Minor	0	1	0
Wylie Police Department	43.26 Child Pornography	0	1	0

# Prosecution Data: Case Filings for Prostitution, Compelling, and Human Trafficking

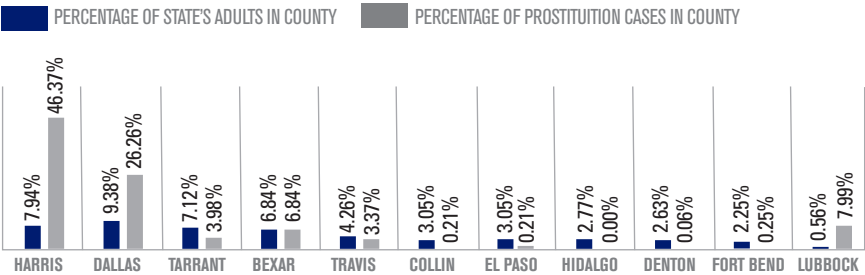
CHILDREN AT RISK researched case filings in all Texas counties for district courts, and for those counties which have them, statutory county courts. We were unable to search constitutional county courts. We researched the number of cases filed on: prostitution, compelling prostitution, and human trafficking. If a county had no case filings in any of these categories in any court, that county was not included in the list. As all counties' case filings were researched, counties are included in this list which do not have agencies selected by CHILDREN AT RISK for information requests regarding prostitution arrests. Additionally, some agencies were unable to fulfill the public information request but have data available for cases filed.

## DISTRICT & STATUTORY COUNTY COURT PROSTITUTION CASES: 2011 - 2014



- 1 TEXAS JUDICIAL BRANCH, About Texas Courts, (2015) <http://www.txcourts.gov/about-texas-courts/trial-courts.aspx>. ("The district courts are the trial courts of general jurisdiction of Texas. The geographical area served by each court is established by the Legislature, but each county must be served by at least one district courts... [d]istrict courts have original jurisdiction in felony criminal cases").
- 2 *Id.* ("Because the [Texas] Constitution limits each county to a single county court, the Legislature has created statutory county courts at law in more populous counties to aid the single county court in its judicial functions." These courts have original jurisdiction over all criminal cases involving Class A and Class B misdemeanors).
- 3 *Id.* ("The Texas Constitution provides for a county court in each of the 254 counties of the state, though all such courts do not exercise judicial functions. In the more populous counties, the county judge may devote his or her full attention to the administration of county government. The constitutional county courts have original jurisdiction over all criminal cases involving Class A and Class B misdemeanors").

COUNTY COMPARISON: PERCENTAGE OF STATE’S ADULT POPULATION VS. PERCENTAGE OF STATE’S CASES



PROSTITUTION CASES IN DISTRICT COURT					
COUNTY	2011	2012	2013	2014	TOTAL
Bexar	61	302	378	310	1,051
Cass	0	1	1	0	2
Collin	0	2	0	1	3
Dallas	145	54	353	289	841
El Paso	0	5	0	0	5
Fort Bend	1	1	2	3	7
Galveston	2	3	0	5	10
Harris	176	567	461	373	1,577
Hays	0	0	1	0	1
Hood	0	1	0	0	1
Hopkins	0	0	1	0	1
Howard	0	0	0	1	1
Jefferson	0	0	0	1	1
Lubbock	298	26	9	2	335
Milam	0	0	1	0	1
Montgomery	0	0	1	3	4
Potter	0	2	0	1	3
Smith	0	2	0	0	2
Tarrant	10	2	18	46	76
Travis	9	4	3	0	16
Trinity	0	8	26	0	34
Winkler	0	0	1	0	1
Zavala	2	0	0	0	2
TOTAL	704	980	1,256	1,035	3,975

PROSTITUTION CASES IN STATUTORY COUNTY COURT					
COUNTY	2011	2012	2013	2014	TOTAL
Bell	29	8	6	8	51
Brazoria	0	1	7	3	11
Cameron	3	4	26	3	36
Collin	5	6	10	8	29
Comal	0	2	0	0	2
Dallas	388	1,145	958	702	3,193
Denton	1	0	3	5	9
Ector	0	0	3	3	6
El Paso	22	8	22	20	72
Ellis	2	1	0	2	5
Fannin	0	0	0	2	2
Fort Bend	1	8	18	4	31
Galveston	0	23	57	20	100
Grayson	1	2	3	1	7
Guadalupe	0	2	0	0	2
Harris	453	1,704	1,783	1,608	5,548
Hays	0	2	0	0	2
Hopkins	1	0	0	0	1
Jefferson	2	27	14	40	83
Johnson	1	0	0	1	2
Kerr	0	4	0	0	4
Lubbock	160	358	207	168	893
McLennan	0	6	8	13	27
Midland	0	7	15	4	26
Montgomery	15	9	9	14	47
Nacogdoches	0	2	0	1	3
Orange	0	8	5	0	13
Parker	0	0	3	0	3
Potter	0	33	18	15	66
Randall	0	0	1	6	7
Rockwall	0	0	2	0	2
Rusk	0	0	0	1	1
Smith	1	6	6	11	24
Tarrant	53	144	122	213	532

PROSTITUTION CASES IN STATUTORY COUNTY COURT					
COUNTY	2011	2012	2013	2014	TOTAL
Taylor	0	3	0	0	3
Tom Green	0	0	4	0	4
Travis	65	146	193	98	502
Van Zandt	0	1	0	0	1
Victoria	0	3	0	0	3
Webb	0	2	10	10	22
Williamson	0	6	4	4	14
TOTAL	1,203	3,681	3,517	2,988	11,389

COMPELLING PROSTITUTION CASES IN DISTRICT COURT					
COUNTY	2011	2012	2013	2014	TOTAL
Bexar	0	2	4	2	8
Collin	0	0	0	1	1
Comal	0	0	2	1	3
Dallas	14	1	32	0	47
Denton	0	3	1	0	4
El Paso	0	0	1	1	2
Fort Bend	0	0	1	1	2
Galveston	0	0	1	0	1
Grimes	0	0	0	1	1
Harris	5	20	23	40	88
Hays	0	0	0	1	1
Howard	0	0	1	1	2
Jefferson	0	0	2	0	2
Lubbock	60	14	18	27	119
Madison	0	0	1	0	1
Mason	0	0	0	1	1
Montgomery	0	0	3	1	4
Parker	0	1	0	0	1
Tarrant	3	2	3	21	29
Travis	0	2	4	1	7
Trinity	0	4	2	0	6
Uvalde	0	2	0	0	2
Victoria	4	0	4	2	10
TOTAL	86	51	103	102	342

## COMPELLING PROSTITUTION CASES IN STATUTORY COUNTY COURT

COUNTY	2011	2012	2013	2014	TOTAL
Harris	0	0	0	6	6
Lubbock	0	38	0	0	38
Randall	0	0	1	0	1
Tarrant	0	11	2	5	18
TOTAL	0	49	3	11	63

## HUMAN TRAFFICKING CASES IN DISTRICT COURT

COUNTY	2011	2012	2013	2014	TOTAL
Bexar	2	4	10	8	24
Collin	0	1	0	1	2
Comal	0	0	2	1	3
Dallas	3	14	12	11	40
Denton	0	2	1	1	4
Duval	0	0	0	10	10
El Paso	0	1	0	0	1
Harris	0	3	0	2	5
Hays	0	0	3	2	5
Hidalgo	0	0	0	1	1
Hopkins	0	0	1	2	3
Howard	0	0	0	1	1
Lubbock	0	10	16	23	49
Madison	0	0	7	0	7
Midland	0	1	0	0	1
Polk	0	0	0	1	1
San Patricio	0	0	0	1	1
Starr	3	0	0	0	3
Tarrant	1	4	0	0	5
Travis	0	3	0	2	5
Victoria	4	0	0	0	4
Webb	0	1	0	0	1
Wharton	0	0	0	1	1
Wilbarger	3	0	0	0	3
TOTAL	16	44	52	68	180

# SAMPLE PUBLIC INFORMATION REQUEST

- Offense reports for all males arrested under Texas Penal Code § 43.02 Prostitution (including age or date of birth, race, sex, name, address, location and time of offense, and information detailed enough to ascertain whether the offense was for buying or selling.) for the year 2000, for a historical perspective, as well as the years 2012, 2013, 2014, Jan. 1st-May 31st, 2015.
- A list of all prostitution arrests under Texas Penal Code § 43.02 Prostitution (including date of arrest, sex, and incident number) for the years 2000, 2012, 2013, 2014, and Jan. 1st-May 31st of 2015. This information will be used to generate a random sample of offense records that will be specifically requested by incident number. The total number that will be requested is dependent on the number of arrests for each year, but will be significantly fewer than the total number of arrests. Only records not already obtained will be requested in this follow-up process.
- The aggregate number of each offense by month for 2013 and 2014 under the sections of the Texas Penal Code listed below. If such a report is unavailable, a list of all the offenses under each category with the date of arrest would also provide the necessary information.
  - § 15.031(b) Criminal Solicitation of a Minor
  - § 20A.02 Trafficking of Persons
  - § 33.021(b), (c) Online Solicitation of a Minor
  - § 43.03 Promotion of Prostitution
  - § 43.04 Aggravated Promotion of Prostitution
  - § 43.05 Compelling Prostitution
  - § 43.25 Sexual Performance by a Child
  - § 43.251 Employment Harmful to Children
  - § 43.26 Possession or Promotion of Child Pornography

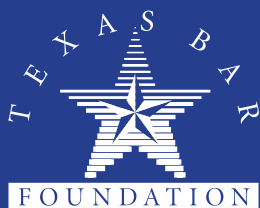












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**WWW.CHILDRENATRISK.ORG**

**HOUSTON OFFICE**

2900 Wesleyan  
Suite 400  
Houston, TX 77027  
T. 713.869.7740  
f. 713.869.3409

**NORTH TEXAS OFFICE**

2900 Live Oak St.  
Dallas, TX 75204  
T. 214.599.0072