



3 Key Challenges in Combating the Sex Trafficking of Minors in the United States

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Withelma Ortiz Walker Pettigrew, known as T, spent much of her early childhood in the foster care system, and at age 10, a man who was nearly twice her age targeted her. He began to sexually exploit her and sell her to any willing buyer; this abuse continued for the next seven years. During this time, T was repeatedly arrested and charged with crimes such as solicitation and prostitution and sent to juvenile detention facilities, where she was treated as a criminal rather than a victim of serious sexual abuse and was further traumatized and humiliated by the agencies designed to help her.¹

T is not from Southeast Asia or Eastern Europe; she was born and raised in the United States. And tragically, she is not alone. While human trafficking is often thought of as an international problem that occurs in far-flung locations around the world, sex trafficking of children in the United States is becoming increasingly common.

After many years of advocacy by anti-human-trafficking organizations and service providers, the issue of sex trafficking of children in the United States is receiving unprecedented levels of attention from leaders at all levels of government, including President Barack Obama, who recognized the presence of sex trafficking here in remarks to the Clinton Global Initiative in September 2012:

But for all the progress that we've made, the bitter truth is that trafficking also goes on right here, in the United States. It's the migrant worker unable to pay off the debt to his trafficker. The man, lured here with the promise of a job, his documents then taken, and forced to work endless hours in a kitchen. The teenage girl, beaten, forced to walk the streets. This should not be happening in the United States of America.²

There are a number of bills currently pending in Congress to address various facets of the problem, and states across the country are enacting legislation to better protect children and teenagers from this form of violence and abuse.

But despite this attention and a remarkable group of bipartisan leaders looking to address the issue, significant challenges remain to successfully combat sex trafficking of children in the United States. First, there is an extreme paucity of reliable and comprehensive data regarding the scope and nature of the sex trafficking of minors. Second, although there has been an evolution in the way victims of sex trafficking are perceived in this country, there is still a great deal of work to be done to reframe the issue as one of abuse and exploitation of children rather than one of teenage prostitution. Third, breakdowns and failures of a number of overlapping justice and social service systems contribute to the continued victimization of already vulnerable youth and create numerous missed opportunities to identify victims of trafficking and offer them a safe way out. Each of these challenges contributes to and reinforces the others. A successful national strategy to combat this horrific form of child sexual abuse will require significant action on all three challenges.

Assessing the scope of the problem

Before we can develop policies and programs to adequately address the sex trafficking of children in the United States, we first must understand the scope and nature of the problem. And while we certainly know more now than ever before about sex trafficking of children and teenagers, the available data are far from comprehensive.

The primary statistics used to describe the prevalence of child sex trafficking in the United States are estimates of the number of children who are at risk of becoming victims of this crime. The Federal Bureau of Investigation, or FBI, estimates that roughly 293,000 American youth are at risk of becoming victims of sex trafficking.³ The National Center for Missing & Exploited Children estimates that one in seven of the endangered runaways reported to its hotline in 2013 were likely victims of sex trafficking.⁴ The limits of these figures are obvious—they are merely estimates of the scope of sex trafficking of children in this country. And while they are reliable estimates, these figures still fall short of an actual count of victims. A recent study by the Urban Institute aimed at ascertaining the scope of sex trafficking in eight major U.S. cities estimated that the underground commercial sex economy—which includes the sex trafficking of minors—ranged from \$39.9 million to \$290 million in each city in 2007.⁵

More specific data on confirmed instances of sex trafficking of minors show much lower numbers than these estimates. The FBI reports that it rescued more than 2,700 victims of child sex trafficking between June 2003 and June 2013 through the Innocence Lost National Initiative, a partnership between the FBI, the U.S. Department of Justice Child Exploitation and Obscenity Section, and the National Center for Missing & Exploited Children.⁶ However, this is probably a significant underrepresentation of the total universe of sex-trafficked children in the United States, as these cases are far more likely to be handled locally.⁷

The agencies that are more likely to encounter higher numbers of victims—state and local law enforcement and social service agencies—engage in inconsistent data collection and reporting. The best reporting on state sex-trafficking cases comes from the federally funded human-trafficking task forces that operate in 42 jurisdictions around the country. These task forces, created by the 2008 reauthorization of the Trafficking Victims Protection Act, or TVPA, reported 1,407 suspected cases of sex trafficking of minors between January 2007 and June 2010.⁸ Other jurisdictions sporadically report on sex-trafficking cases involving minors. The Alameda County District Attorney’s Office in California, for example, identified 267 cases of sex trafficking of minors from January 2011 to December 2012.⁹ A 2013 study by the Tennessee Bureau of Investigation found that four counties reported more than 100 cases of child sex trafficking, and an additional nine counties each reported between 26 and 100 cases.¹⁰

Congress has attempted to address this vacuum of comprehensive data about human trafficking in the United States by including data collection requirements in the 2008 and 2013 reauthorizations of the TVPA. But significant challenges to collecting these data remain. First, many state and local law enforcement agencies have not received adequate training about the sex trafficking of minors and how to identify these cases. As discussed in the next section, many in law enforcement across the country have been slow to recognize that sex-trafficked teenagers are victims of a serious crime rather than voluntary participants in a consensual sex trade. This lack of training means that many trafficking cases go unrecognized and unreported. The same is true of social service and child welfare agencies: A lack of training means that trafficked and at-risk youth may go unrecognized as victims by service providers and child welfare advocates. Second, even when local authorities have been trained and are on the lookout for these cases, the hidden and underground nature of this crime means that cases often fail to catch the attention of law enforcement.¹¹

A third, significant barrier to comprehensive data collection on sex-trafficked minors in the United States is that victims often do not identify themselves as such. While one might expect more self-reporting by young people—particularly in the form of requests for assistance to social service agencies and organizations—former victims often report that during the time they were being trafficked, they did not consider themselves to be victims of sex trafficking. Rather, they often viewed their exploitation at the hands of traffickers as an extension of the abuse they endured for years in the foster care system or as a necessary means of survival in the absence of support from family or community. Additionally, many young people’s hesitance to perceive themselves as victims may be part of their response to the trauma of their experience or a means of self-empowerment.¹² This failure to view oneself as a victim is likely reinforced by the continued refusal of many in law enforcement to view victims as such.

Certainly, these challenges in data collection are not insurmountable. But until we have comprehensive data about the sex trafficking of minors in this country, it will remain a significant challenge to craft appropriate legislative, policy, and law enforcement responses to address this issue.

Reframing the issue

Lawmakers in every state and in Congress recognize that human trafficking is a serious crime and have enacted laws criminalizing this conduct and imposing serious penalties on traffickers.¹³ In addition to making human trafficking a federal crime that encompasses both labor¹⁴ and sex trafficking, the TVPA created a special category for trafficking that involves underage victims, defining a person under age 18 who is induced to perform a commercial sex act as a victim of sex trafficking, regardless of whether there is evidence of force, fraud, or coercion.¹⁵ Forty-three states have also enacted laws that specifically address the sex trafficking of minors.¹⁶

Since these laws were enacted, many jurisdictions have increasingly begun to target traffickers for prosecution. As mentioned above, the FBI has successfully rescued more than 2,700 children from sex trafficking through the Innocence Lost National Initiative since its founding in 2003.¹⁷ Investigations resulting from these operations led to the conviction of more than 1,300 traffickers who exploited children across the country.¹⁸ Likewise, a number of local prosecutors have begun to aggressively prosecute child sex-trafficking cases. Michigan Attorney General Bill Schuette, for example, launched that office's first Human Trafficking Unit in July 2011 and is currently prosecuting a number of cases that involve minors under Michigan's recently strengthened trafficking law.¹⁹ The Alameda County District Attorney's Office launched a public relations campaign to combat child sex trafficking and obtained convictions of 109 defendants in human sex-trafficking cases between January 2006 and 2010, the majority of which involved the exploitation of minors.²⁰

While law enforcement agencies across the country have made significant advancements in targeting and prosecuting traffickers, many jurisdictions have fallen far behind in terms of how they perceive and treat the underage victims of this crime. While the legal definitions of sex trafficking under federal law and in many states provide that any individual induced or caused to engage in commercial sexual activity who is under a certain age—18 years, according to federal law²¹—is a victim of trafficking, the notion of a teenage prostitute who voluntarily engages in this conduct is a persistent one. Moreover, juvenile prostitution continues to fall under the jurisdiction of juvenile courts in many states, channeling child victims of commercial sexual exploitation and trafficking into the juvenile justice system to be punished for their victimization.²² The failure to recognize these young people as victims of a serious crime in many jurisdictions means that they are often repeatedly arrested for prostitution, prosecuted, locked up in jails or juvenile detention facilities with dangerous offenders, and released back into the community with nothing more than a criminal record—and frequently more trauma from the experience. And often, their abuser is waiting on the other side to put them right back to “work.”

The movement to recognize human trafficking as a serious criminal enterprise that threatens public safety is therefore only partially complete. While states should be applauded for recognizing trafficking as a crime and working diligently to prosecute the traffickers, this addresses only one side of this issue. Providing appropriate and compassionate support and services to the victims is perhaps equally or even more important than stopping the traffickers. Young people who are the victims of sex trafficking—many of whom are already vulnerable to abuse and exploitation, as discussed in the next section—must be treated by law enforcement unequivocally as victims of crime, not as perpetrators of their own vice or quality-of-life offenses. We would never assign blame or culpability to a child-abuse or rape victim in another context, so why do we continue to do so in the context of commercial sexual exploitation?

Fortunately, there is a growing movement among states to change the conventional thinking about underage victims of trafficking and how they should be treated by the criminal justice system. As of August 2013, 18 states have enacted some form of “safe harbor” legislation—laws that mandate that law enforcement agencies treat these young people as victims, rather than as perpetrators of their own crimes.²³ A bill introduced by Sen. Amy Klobuchar (D-MN) seeks to further propel this movement toward ensuring that states appropriately respond to child sex-trafficking cases by providing incentives for states to enact safe-harbor laws.²⁴ Another bill introduced by Sens. Ron Wyden (D-OR) and John Cornyn (R-TX) provides essential services to child sex-trafficking victims and encourages alternatives to detention that would recognize these children as victims of crime, not delinquents.²⁵

There is a third side to the issue of the sex trafficking of minors that has received insufficient attention from law enforcement authorities across the country—the people who create the demand for sex-trafficked youth. By and large, the enforcement of laws against the individuals who are the ultimate “consumers” of the “product” offered for sale by trafficking—in other words, the individuals who pay to rape and sexually abuse children and teenagers—is nonexistent. Significant barriers to the prosecution of these individuals include the laws themselves and the unwillingness to enforce them against buyers. While the federal sex-trafficking law applies both to the conduct of the traffickers and the buyers,²⁶ it is rarely used in the context of buyers of child sex. Moreover, unlike the federal statutory scheme, many state sex-trafficking crimes only apply to the traffickers.²⁷

Some states fill this gap with specific laws that target individuals who buy sex from minors and impose a higher penalty than traditional crimes for patronizing a prostitute, which are generally low-level misdemeanor offenses. But even in states that have imposed a stronger penalty on individuals who buy sex from trafficked youth, there is often a discrepancy between the laws regarding child sexual abuse and the laws regarding patronizing an underage prostitute. In Missouri, for example, it is a class A misdemeanor for someone to patronize a prostitute who is between the ages of 14 and 18,

which carries a maximum penalty of one year in prison.²⁸ However, the same conduct is a more serious crime outside of the context of commercial sexual activity: It is a class C felony, which carries a maximum penalty of seven years in prison, to have sexual intercourse with someone under age 17 if the perpetrator is older than age 21.²⁹ These discrepancies further demonstrate the harm that results from continuing to frame child sex trafficking in the context of prostitution, rather than one of child sexual abuse.

This widespread failure to recognize the individuals who create the demand for sex-trafficked youth as sexual predators who rape and exploit children is a symptom of the overall failure to view sex-trafficked youth unequivocally as victims who are not complicit in or responsible for their abuse. In any other context, we view adults who sexually abuse underage youth as serious criminals and sexual predators deserving of felony convictions, registration as sex offenders, and long prison sentences. If we truly want to combat child sex trafficking and eradicate this form of child sexual abuse, we must shift our collective thinking about the role of “johns” and consider them as equally culpable as the traffickers in perpetuating the cycle of exploitation. The Wyden-Cornyn legislation would finally address this glaring deficiency in our current criminal justice response by providing funds for increased training of law enforcement and prosecutors to go after buyers of child sex; removing all doubt as to the TVPA’s criminal applicability to buyers of child sex; and calling on the anti-trafficking task forces throughout the country to increase state and local law enforcement’s investigative capabilities to prosecute buyers of child sex.

Addressing breakdowns in overlapping systems

While we lack comprehensive data about the precise nature and scope of sex trafficking of minors in the United States, one thing is clear: The young people who are targeted by traffickers are overwhelmingly members of particularly vulnerable communities who have frequent contact with multiple social service agencies that are ill equipped to adequately address their needs.

First, the limited data available suggest that a large majority of victims of sex trafficking are, in fact, young people. A Baylor University study of known cases of sex trafficking of minors in the United States from 2000 to 2009 found that the victims were as young as 5 years old and the mean victim age was 15 years old.³⁰ A review of sex-trafficking cases reported to the Human Trafficking Reporting System,³¹ or HTRS, between January 2008 and June 2010 found that 85 percent of confirmed victims of sex trafficking were under age 25, and 54 percent were age 17 or younger.³² Of the roughly 2,500 suspected human-trafficking incidents opened for investigation during this period—which include both labor- and sex-trafficking cases—40 percent involved allegations of trafficking or the sexual exploitation of children.³³ Additionally, data suggest that these victims are quite young: According to the FBI, the average age of a child targeted for prostitution in the United States is between 11 and 14 years old.³⁴

Second, the available data suggest that the victims of sex trafficking are overwhelmingly female.³⁵ Ninety-four percent of the confirmed sex-trafficking victims identified by the HTRS between January 2008 and June 2010 were female.³⁶ A review of hotline calls received by the Polaris Project, a global anti-trafficking organization that operates the National Human Trafficking Resource Center hotline, revealed that 85 percent of sex-trafficking cases reported to the national trafficking hotline between 2007 and 2012 involved female victims.³⁷ The Baylor University study found that 94 percent of the victims of child sex-trafficking cases whose gender was known were female.³⁸

Third, child and teenage victims of sex trafficking are often minorities. The study of HTRS cases found that 35 percent of confirmed victims of sex trafficking were African American and 21 percent were Hispanic.³⁹ In Los Angeles County, 92 percent of the youth identified as sex-trafficking victims by the Los Angeles County Probation Department were African Americans.⁴⁰

Finally, one key commonality among many victims of child sex trafficking is that they come from family and social backgrounds that render them particularly vulnerable to exploitation. There are substantial data that demonstrate that many child victims of trafficking had previous involvement in the child welfare or foster care system. For example, 60 percent of child sex-trafficking victims rescued in 2013 during an FBI Innocence Lost operation that spanned 72 cities had previously been in foster care or group homes.⁴¹ Reviews of child sex-trafficking cases by law enforcement in other jurisdictions reveal similar numbers: Between 55 percent and 98 percent of child sex-trafficking cases involved children who had prior involvement in the child welfare system.⁴² Runaway and homeless youth are at particularly high risk for exploitation by traffickers: A survey of youth in a homeless shelter in Salt Lake City, Utah, found that 50 percent of homeless youth reported having been solicited for sex by an adult.⁴³ Reports have also indicated that one out of every three runaways will be “lured toward” prostitution within 48 hours of leaving home.⁴⁴

One group of young people that is particularly vulnerable to sex trafficking are lesbian, gay, bisexual, and transgender, or LGBT, youth. LGBT youth are vastly overrepresented in the runaway and homeless youth population in this country. While between 5 percent and 7 percent of American youth overall identify as LGBT, estimates of homeless youth suggest that between 9 percent and 45 percent are LGBT.⁴⁵ In addition to traditional risk factors for homelessness, family rejection is a significant driver of elevated rates of homelessness among LGBT youth.⁴⁶ An estimated 25 percent to 40 percent of LGBT homeless youth left home or were forced out of their homes due to family conflict because of their sexual orientation or gender identity.⁴⁷

Without family support or stable housing, LGBT homeless youth experience disproportionately high rates of victimization. One survey of homeless youth in Hollywood found that LGBT homeless youth were three times more likely to have been sexually assaulted or raped compared to their non-LGBT homeless peers.⁴⁸ Other survey data indicate that young men who have sex with men—including gay and bisexual youth—are also more likely than other youth to be forced into prostitution.⁴⁹ Homeless LGBT youth are exposed to the same traditional risk factors for sex trafficking as other youth but also experience the increased vulnerability brought on by disparities in employment opportunities, increased engagement in survival sex, and frequent lack of even marginal family support.⁵⁰

There are enormous opportunities for service agencies, such as child welfare and foster care agencies and runaway and homeless youth providers, to identify young people who are at risk for this form of exploitation or already victimized by traffickers. Yet in many jurisdictions across the country, these agencies receive little training about the sex trafficking of young people, how to identify victims, and what forms of support and services are appropriate and most likely to be effective. Additionally, the slowly changing narrative around trafficked youth—which is beginning to take hold in the criminal justice system in the form of safe-harbor laws and a more compassionate, victim-centered approach—is also desperately needed in these agencies and providers.

The Senate Finance Committee recently marked up legislation that would help address this gap in the child welfare system by requiring state child welfare administrators to screen for trafficking in their existing caseloads and report all children missing from state care to law enforcement and the National Center for Missing & Exploited Children, as there is a glaring intersection between the youth who go missing from care and those later identified as victims of trafficking.⁵¹ But more work must be done to ensure that these victims are properly recognized and treated as such by the agencies charged with protecting them, rather than dismissed as prostitutes or delinquents who are complicit in or responsible for their own abuse.

Conclusion

While we may not know exactly how many young people like T are being sexually exploited and abused by traffickers in the United States, it is clear that the sex trafficking of children and teenagers is a significant problem that deserves concerted attention. The challenges presented by these cases are not insurmountable, and there is a growing coalition of lawmakers from both parties who are committed to strengthening state and federal laws to better protect young people from this devastating form of abuse. There is also a strong community of anti-trafficking advocates committed to raising awareness about sex trafficking of minors and developing policy proposals and best practices for identifying and apprehending traffickers and providing supportive services to victims.

Others in the progressive community should also get involved and consider how efforts to address other issues—such as poverty, LGBT youth homelessness, racial justice, and violence against women—can be combined with anti-trafficking work to create a more comprehensive approach to this issue.

As President Obama stated in his 2012 remarks to the Clinton Global Initiative, “Our fight against human trafficking is one of the great human rights causes of our time.”⁵² We must continue this work to ensure that our most vulnerable young people, such as T, do not continue to be abused and exploited in communities across the country.

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