Sex Trafficking and Child Welfare

Jamie Cork

Follow this and additional works at: https://ir.stthomas.edu/ustjlpp

Part of the Civil Law Commons, Human Rights Law Commons, International Humanitarian Law Commons, and the Other Law Commons

Bluebook Citation

This Article is brought to you for free and open access by UST Research Online and the University of St. Thomas Journal of Law and Public Policy. For more information, please contact Editor-in-Chief Patrick O’Neill.
SEX TRAFFICKING AND CHILD WELFARE

JUDGE JAMIE CORK

This is what I start every single presentation with. I do this because I want everyone in the room to be on the same page. These are victims, and I want everybody to be on the same page with that.

Children do not wake up one morning and say that they want to be prostituted by anybody. They are victims. I primarily present on trafficking about minors, and you will hear me say that a lot. You might also hear me refer to females or girls and, I know, there are definitely a lot of boy victims out there too. Primarily what I worked with were females and you will hear me say that quite often.

I know you were told to watch a training video, and some of you may be like me and not have watched the training video. Even if you did watch the video, I am going to cover a little bit of awareness. I do not think it is bad to hear it over and over again because many times we hear something new each time that we hear it. And it does not hurt to really sink it into our heads what it is that we are talking about.

Over 300,000 children are exploited each year in the United States. Now, Mr. Luger just talked about international trafficking, but we are talking about trafficking in the United States. Often when people hear of trafficking they think of international trafficking, but domestic trafficking exists in a big way. I would say domestic trafficking is a huge problem. The average age of victims is 11-14. When I left the Hennepin County’s Attorney’s Office, I worked in child protection and reviewed every report that came in regarding child sexual exploitation. That number tripled from 2012-2015. I have reviewed 153 cases or reports. We were getting younger and younger kids. I was seeing kids that were 12, and I am sure that trend is continuing and, not that it is a good trend, but it is continuing.
The FBI has identified Minnesota as one of 13 places where a lot of trafficking happens.\(^4\) Minnesota is not in the top 13, nor number 13, but one of 13. The reason for that is we have a lot of highways, Interstate 35 goes straight down to Texas, we have truck stops, we have a lot of international people that are coming in and out, and we have the Mayo Clinic. There is a lot of trafficking that goes on in Minnesota and I think a lot of people like to think that it does not happen. But it does happen a lot and I saw a lot of it happening all over the State of Minnesota, as well as other small rural areas in various States, where people prefer not to talk about what is happening.

A little bit about the human cost. What are we looking at? 85% of the victims were childhood sex abuse victims.\(^5\) That is why child protection is so important. It took a long time for us to get trafficking into child protection, but many of these victims, even as adults, were victims of child abuse when they were children and slipped through the cracks. We did not catch them and now we need to provide them services.

70% of trafficking victims suffer from an emotional, physical, or mental disability.\(^6\) 83% are victims of assault with a deadly weapon at the cost of the commercial sexual abusers or at the cost of their pimps.\(^7\) As I believe Dr. Martin said, they do not go for help because the police do not listen to them, or they think they put themselves in that position. Victims have significant rates of traumatic brain injury or chemical dependency.\(^8\) Many of the victims that I saw or worked with, or survivors that I have talked to, did not start being chemically dependent but they were after. The homicide rate for prostituted women is 40 times higher.\(^9\)

And I am going to have a few statistics about juveniles once they enter into the life. When I say “the life,” that is typically what victims refer to it as. There are a lot of slang terms that I did not put up, but you might hear that it is called “the life” by a lot of the people that are involved in the life.

\(^7\) Id.
\(^8\) Id.
92% of women in prostitution report physical and sexual violence. Law enforcement, when I have trained them over and over again, a lot of times do not believe sexual violence can happen to women that are being prostituted. This is what we are looking at people. This is a young girl that starts out, if you watch the video, I believe there was something similar. This is the reality. There are a lot of statistics and a lot of things that I could put up here, but this is the reality of what you need to see.

I saw young girls that I would have in court with me, and they would come back after being on the run for maybe a month. They would lose 40 pounds and they had been gang raped multiple times. This is what we are seeing; that is the human side of what trafficking is.

It happens anywhere. Anywhere that has runaways and the internet. And that is surprising to a lot of people. I went and did a training in Oswego, New York and they did not think it was happening there, and they are actually an international port similar to Duluth. So, I looked up some ads for them and said here they are; here are your ads. If you have the internet anywhere and you have runaways, which every place in the United States does, there is trafficking happening.

Risk factors are being a runaway, poverty, I think those were mentioned already, child abuse, domestic violence, homelessness, sexual abuse. Those are high risk factors. 45 girls under the age of 18 are sold on the internet every night. Victims have seven years life expectancy after they are entered into “the life.”

75% of victims are trafficked online, it is easier, we do not see what we are used to with people on the streets. That still happens, but it is harder on the internet to be caught. Many of you may not have seen a Backpage ad, but that is what it looks like. It looks like a Craigslist ad and looks like you are going to get a washer or a dryer. It talks about specials. I know Dr. Martin talked about before work specials and after work. There are two for one specials. These are ads you see.

This is one ad that came from here in the Minneapolis area in Hennepin County. I took out the face, but if you look at that it is unlikely that young lady is 19. This is what is on the internet. This is what you are seeing on the internet. You get that list, you click on that list, and this is what you

---

10 Pierce, supra note 5, at 2.
11 Id.
12 Supra note 1, at 1.
get. It is like ordering pizza to your room. It is sad, but that is the reality of what people are seeing and where people are buying this from.

I am covering the child welfare area. Why should it be in child protection? I know one gentlemen asked the question about children being sent to the juvenile child protection system, but what happens with the adults? Well, with the juveniles, I do think some of the benefit is, and some of the things that they are going to have a hard time with the adults, is where are they going if they are not in the criminalized system?

Human trafficking threatens everybody in the family. It threatens both children and women. What I will say is that when I did a lot of these trainings, it was interesting to see the different perspective from people. Advocates knew exactly who the victim was, or who they thought the victim was. The advocates were very sound that it was the young child being victimized, and that is that victim-centered approach. When I trained child protection workers, they had to look at it differently. We work with the whole family; it is the family that are victimized. Is it the young girl or young boy that is victimized, or is it that parents are victimized?

And when we looked at a victim-centered approach, I did not think about it that way until they said that, and I thought, you know, you are right. I would have parents in court with me crying: “you know, you need to put my daughter in a secure facility; you need to lock her up because she is getting abused over and over, and I find her, and you keep letting her out.” Then you have the other side, the advocates that say you cannot lock up victims. So, it is kind of a cycle. And we cannot always say that it is the parents’ fault. So, it is difficult when you are working these cases as an attorney, or whether you are working them as a social worker, to really get the feel for who is the victim.

Families suffer. I saw other siblings suffer where I returned a young girl back into a home, and then the younger siblings in that home were scared because the traffickers were coming to the home and threatening the parents, and then violence was threatened against the rest of the family. So, when we are looking at victim-centered approaches, we cannot forget the families and the parents of these victims when we are talking about the juveniles.

Child sex trafficking, when I looked at NCMEC (National Center for Missing and Exploited Children), this is the newest statistic that they had. One in six of the 18,500 runaways reported to NCMEC were likely sex trafficking victims.¹⁴ Now, 18,500 were reported to them, but up until

---

probably 2016, Hennepin County was not reporting their runaways to NCMEC. So, those are very, very skewed. They look like bad statistics, but they are even skewed because they are probably a lot worse because there are probably about 100,000 children that should be reported to them and they are not. It is just not a protocol that was taken advantage of and 86%, this is a scary statistic, 86% of those victims were in social services when they went missing. And so that is scary because we, as a system, working for these youth, are not doing a very good job. And when they run away we need to find them, and we need to put an effort into working with them so that this is not happening because, 86% of those victims, that’s a high number.

So, they came out with some new things this year. This is actually the Justice for Victims of Trafficking Act and Child Abuse Prevention and Treatment Act that came out in 2017, and basically what that said to States is that your child welfare agencies have to identify and provide services to sex trafficking victims. So, even though in Minnesota the law changed a long time ago, it was not until 2017 that the agencies across the country were required to provide services that they need to train their social workers. Most social workers are not, in the State of Minnesota, trained in child sexual exploitation. They do not have the training, and it is sad because, even if you identify it, and you are not trained in it, you are likely not going to give the effective services they need.

It amends, it orders or directs the States to amend their definition of child abuse and neglect. So, typically people did not view this as sexual abuse because it was not done by a parent or significant other in the home where there is significant relationship or person of authority. This basically said you need to define sex trafficking victims no matter who the perpetrator is as child abuse and neglect victims. So, it pushed it into many of the States’ child maltreatment statutes. I am going to talk about that in a minute. This also was set with funding, and I am sure most of you probably know that this is how the federal government gets States to do things. So, if they do not do it, they are not going to get the funding. So, a lot of people right now, and I would say a majority of counties in the State of Minnesota, are still scrambling to figure out how to enforce these changes.

There is a Preventing Sex Trafficking and Strengthening Families Act Amendment, these are all Amendments that happened this year so they

---

15 Id.
17 Id.
18 Id.
19 Id.
are very recent. Child welfare and probation agencies, this is what I was talking about identifying the runaways; they are required to identify the runaways, and they need to report them immediately. In the State of Minnesota we have a statute that says they need to be reported to law enforcement if they are in foster care or getting services within 24 hours. So, child protection social workers, when I was working in child protection, they reported them as runaways, and they filed what we call social service warrants which do not go anywhere except the local agency you are in. So, it does you really no good. This told them that they needed to report them to law enforcement so that they are put in what is called NCIC (National Crime Information Center). It is a national crime database, so that they are in there if they are picked up in another State somewhere. I would have runaways on a fairly regular basis that would be stopped in Tennessee or Texas. They did not even know they were runaways because we had a social service warrant that was only in the State of Minnesota, and not only in the State of Minnesota, but only in Hennepin County. It was not anywhere else. This new law requires that the agencies, and these are for foster care kids primarily, that they report them, not just to law enforcement so they are in NCIC, but they need to report them to NCMEC within 24 hours.

And the kids that I had that happen to, actually I had one young lady turn herself in and say, “I saw my picture somewhere. Why is that? I am not missing; here I am.” But it helps. And NCMEC provides services. They provide a case manager. They will put out posters. They do a lot of things to help find these runaways.

It also required that when these kids, the runaways, were taken back into custody, or they came back into the system, that there was a debriefing. That we asked the kids many times, when you are working with kids you will find that there are certain ways that you need to screen them. If you ask them what happened to themselves, they will say nothing. If you ask them, you know, where did you go? A friends. But if you ask them about what happened to their friend, they might be more likely to tell you what happened. So, there has been a lot of data and research on what screening tools to use, but agencies are required now to at least use them and assess what services they need, and I have on here, it is called Title IV-E funding, is dependent on this compliance. IV-E funding, and I do not expect you to know this, but that pays for a majority of foster care. It gets a lot of refunding, federal refunds, and if Minnesota were to lose their Title IV-E funding, I know Hennepin

---

20 Id. at 5.
22 Supra note 3, at 5.
23 Id.
24 Id. at 4.
County alone would lose millions of dollars. So, if they do not comply with it, and they lose that federal funding, which the federal government will come in and do an audit to see if they are complying, they will lose the funding. And it is unfortunate that the federal government has to do that, that they have to say, you know, we will take away your funding if you do not do this because this is what we have been campaigning to do; this is what we have been talking about. And the federal government has to come in and say you guys do it or we will take your funding away. It is not uncommon; that happens a lot.

They also have the Stop Exploitation through Trafficking Act Amendment which creates incentives for States, so if States treat minors as victims, and they discourage or prohibit charging the victims, which is a Safe Harbor. Not all Safe Harbors in every State include that though, and they encourage diversion. They are given priority on the list for federal funding.

So, State responses, and I know Representative Pinto talked a lot about this, but I think you will be a little bit surprised only 19 States and the District of Columbia eliminated the liability for minors of prostitution offenses. That is 19 out of 50. I think people think that Safe Harbor and decriminalization covers the whole country; it does not at all. I went to New York, and I did a training. So, I did some research on their Safe Harbor law, and they are touted as being the first State to have Safe Harbor, and they were.

But clearly it should have been tweaked quite a bit because it is up to the judge there whether or not they go through delinquency or whether they go through child protection. They call it CHINS there, but it is up to the judge. The first time they might get the CHINS; the second time they may go through delinquency. So, it does not decriminalize completely. Because Minnesota's statute decriminalizes trafficking for minors completely, I think a lot of people just assume that Safe Harbor does that everywhere, and it does not. There are many different levels. Twenty-nine States provide an avenue for services for the victims; 22 of them are specialized services. This number should be changing as of May 2017 when all the other amendments went into effect. They should be changing because they are required to do it, but right now those are the statistics as of 2016. Minnesota, and I think Representative Pinto covered this, Minnesota passed the legislation in July of 2011. I was part of that; we pushed through the Safe Harbor law. As of August 1, 2011, child protection included the sexual exploitation statute. However, it was not until August 1, 2014 that it was decriminalized. And actually, what happened is it initially decriminalized for people under the age of 25.

\[^{25}\text{Id. at 6.}\]
\[^{26}\text{Id.}\]
of 16, so 17 and 18-year-olds could still have been charged. Before it actually went into effect, it changed. So, before August 1, 2014 hit, it did change to under the age of 18.

May of 2016, it includes the 18 to 24-year-olds. That is for services. The Safe Harbor grants that went out always allowed that, and I think it is good for people to know because if there are a lot of victims between the ages of 18 and 24, they can get services through Safe Harbor which include very specialized services such as shelters. There is a shelter down in Prior Lake that has apartments where people can even have at least one child. They can have one child, so that is important for young adults. So, it is important to know that, May of 2017, they changed in Minnesota the sex abuse definition, which specifically now includes sex trafficking victims.

In May of 2017, there was a lot of discussion about this one, but it is a mandatory report and it is a mandatory investigation. If a child is a victim of trafficking it is a mandatory investigation. That was a huge, huge issue with child protection advocates back and forth, and a huge argument, and the reason it was is because advocates did not want to report them; and child protection, as busy as they are, did not want to investigate them; and many people felt like they did not want to investigate them because it was not the parents that were at fault. So, there has been a lot of argument. I think we have been arguing about this since 2010, when I started working on the Safe Harbor stuff, about whether or not parents should be investigated, under maltreatment, whether or not these should be maltreatment findings, and whether they should be mandatory reports or not. Now there is no doubt about it, the statute changed. They need to be investigated and it does not matter who the perpetrator is. Those of you that are not familiar with child protection would not know this, but typically sex abuse cases are only investigated by child protection if, as I stated before, if the perpetrator is the person’s parent, is someone that has significance in their home, or someone who is a caregiver for them. So, they are not all investigated.

We came up with what’s called the “No Wrong Door” model, and the emphasis behind that is no matter what door these victims come in, they can get services. Representative Pinto, showed you the map about that. Hennepin County, just so you know, has their own “No Wrong Door” policy and protocol. So there’s a State wrong door, and then there is Hennepin County’s “No Wrong Door.”

Minnesota had zero funding in 2011; 13.3 million in May of 2017 going towards sex trafficking. So, we have made some huge strides in Minnesota.

---

Housing and trauma-informed care increased from two beds in 2011 to 48 beds in 2016, and 60 beds are projected.²⁸ It got to a point, actually, when I was working in child protection that I could place a trafficking victim in a shelter faster than I could place an eight-year-old physical abuse victim, because the beds for trafficking became so much greater and we had lack of beds for the younger kids. So, it is great that we have received that many but there are needs, and shelter, just in general.

We trained over 2,000 law enforcement officers, prosecution has increased by 76%, of traffickers, so the increase in reports and the increase in prosecution is huge, but we have a long way to go. Representative Pinto went over this a little bit, but I just want to cover; sexual exploitation covers a broad spectrum of people: survival sex, stripping, pornography, and the prostitution sex trafficking. Any sexual act or contact for monetary value; food, clothing, shelter should be considered sexual exploitation.

Many times runaways do not feel like they are victims because it is survival sex for them. So who are the victims? I just want to touch on this; boys and girls, boys are the most underreported. It is one in 7 boys who is a victim of trafficking and it is very underreported. To be honest with you, we have a complete lack of services for male victims. So, even if I got a victim who was a boy, one of our shelters has a bed for boys, but most of the shelters do not even take boys. A lot of times, it is not reported and that is pretty much the same across the board, even with sex abuse cases, so it is important to understand who they are.

So I am going to tell you a little bit about what you may not see. This is what is used to get everyone’s attention. This is what they put out there, this is what you’re going to see, but this is not really what you are going to see. Do not expect to see the bound victim and do not expect to see all the cuts and the bruises. Not that is does not happen, because it does happen, but as community, this is what they use to get your attention.

This isn’t really what you are going to see because, this is what you are going to see; people you would never suspect. It is not this obvious thing out there that people are going to think they are going to see. It’s not all what Mr. Luger was talking about; the Thailand thing. That happens, it does, but that is not necessarily what we are seeing domestically here in the United States. That’s not what you are going to see in Minnesota. Families are threatened. I had many families come to me and they were threatened, but this is what you are going to see. You are probably not going to see the ones

who are all beaten and bruised, you might, and eventually they get to that point, but when you are trying to be aware and looking at things, this is what you are going to see.

I’m just going to touch a little bit on recruitment and pimping. These are books off Amazon, people. These are what we are seeing. You can buy a book and teach yourself how to become a pimp off Amazon. They are in Barnes & Noble as self-help books and it is sad. Here is something out of it, and this is sad, but this is the direction that they say:

“You’ll start to dress her, think for her, own her. If you and your victim are sexually active, take it slow. After sex, take her shopping, just buy her one item; hair and/or nails are fine. She’ll develop a feeling of accomplishment. The shopping after a month will be replaced with cash. The lovemaking turns into raw sex. She will be craving the intimacy and will be willing to get back into your good graces. After you have broken her spirit, she has no sense of self value. Now pimp; put a price tag on the item that you have manufactured.”

This is what people are reading, and when you are in poverty and you are looking at making money, this is what these young kids are seeing. How many times has “pimping” stuff, you know, sensationalize; “Pimp Your Ride.” Minneapolis hosted the Pimp’s Ball a few years back. So, I mean, it is an ongoing thing and people just do not even think about it. This is the price tag. This is what some people say when they see it. Interestingly, there are more people being bought and sold at this moment than there were in the entire 300-year history of the Atlantic Slave Trade. This is no different than the slave trade and we need to realize and we need to understand that.

I think Jada Pinkett said it, the truth, “People who are having sex with children are not Johns and Tricks, they are child rapists and pedophiles and we should call them what they are.” Too many times you hear Johns, Tricks, Patrons; they are not, they are commercial. We came up with a term commercial sex abuser, but they are abusers. People feel sorry for these people that are getting picked up and they are getting charged with misdemeanors or, “geez, they did not know how old they were” and it is a felony. These people are abusers. How can you get involved? First of all: be

30 Jada Pinkett Smith Special Report On Sex Trafficking, CNN. (July 21, 2015)
aware of the problem; understand the nature of the views; be sensitive to the needs of the victims; contact your local legislature; support laws and funding; join a task force or volunteer. Be aware of what’s going on. If you really think about it and you talk about the statistics and the numbers, there’s at least 25% of you in here that either know or have been touched by someone that has been trafficked in some way. That is a lot.

If you have teen children or have nieces and nephews that are teens, there’s a good chance that’s been reached out. I have a 14-year-old granddaughter and I was talking with her and she was talking about friends in her class that sent out nudes and didn’t think that was, she thought it was bad, and she got that. We need to know this is happening all the time. It’s pretty consistent no matter who we are, it’s happening and my final note, my final last, I always start with the victim and finish with this, “you may choose to look the other way, but you can never say that you didn’t know,” because I just told you all about it. It’s important that you all understand it, and that you do something about it because if you just sit back and you do nothing because you’re not part of it; you are just part of the oppressors and you are part of the problem.