The PROSECUTOR
Feature

Shifting the Paradigm from Prosecution to Protection of Child Victims of Prostitution

Part Two of Three

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Editor's Note: *This article is a reprint of Update, volume 22, number eight, 2010, and is part two of a three-part series. Part one, which appeared in volume 43, number two, of* The Prosecutor, *studied New York's legislative approach addressing juveniles involved in prostitution and also examined the model implemented in Boston, Massachusetts. Part two will provide an overview of the alternative responses used in Dallas, Texas; Georgia and Alberta, Canada. Part three will further examine the effectiveness of these models and provide suggestions to improve responses to domestic minor sex trafficking victims.*

WHETHER THEY ARE TRAPPED in forced sexual or labor exploitation, human trafficking victims cannot walk away, but are held in service through force, threats, and fear. All too often suffering from horrible physical and sexual abuse, it is hard for them to imagine that there might be a place of refuge.

— *Rhode Island General Assembly*[1]

DALLAS POLICE DEPARTMENT, CHILD EXPLOITATION/HIGH RISK VICTIMS TRAFFICKING UNIT

In 2005, the Dallas Police Department created the Child Exploitation/High Risk Victims Trafficking Unit ("Unit") to identify and help juvenile sex trafficking victims. Prior to the Unit's creation, juveniles involved in prostitution were treated as criminals rather than victims of sexual exploitation.[2] According to the Unit's supervisor, Sgt. Byron A. Fassett, "[i]f a 45-year-old-man had sex with a 14-year-old-girl and no money changed hands . . . he was likely to get jail time for statutory rape . . . [i]f the same man left $80 on the table after having sex with her, she would probably be locked up for prostitution and he would probably go home with a fine as a john."[3] To change the community perception of these juveniles and to identify at risk children, Sgt. Fassett began to look for factors that contributed to minors becoming sex trafficking victims. Sgt. Fassett found that 80 percent of juveniles charged with prostitution by the Dallas Police Department had run away from home at least four times.[4] With a runaway population estimated at 6,000 children each year, Dallas was experiencing an epidemic of minors trafficked for sex.[5]

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To identify and prevent minors from becoming trafficking victims, the Unit developed a database to track high risk victims.[6] A high risk victim ("HRV") is a minor who has run away from home four or more times in one year.[7] The HRV list also includes repeat victims of sexual abuse and sexual exploitation. The Unit then established a protocol requiring the 32 Dallas county police agencies to refer all HRVs or any juveniles who are suspected of being involved in prostitution to the Unit.[8] In addition to training law enforcement to identify HRVs and trafficked minors, the Unit distributes a card to front-line officers and investigators instructing them to contact the Unit whenever they encounter an HRV or a minor suspected of being involved in prostitution.[9] Unit detectives are available twenty-four hours a day, seven days a week.

Unit detectives almost always conduct interviews of HRVs or juvenile trafficking victims. Juvenile sex trafficking victims are transported to the Dallas Police Department headquarters where they are placed in an environment appropriate to their status as a victim of sexual assault. Recognizing that traditional forensic interview models are not effective with this population, the Unit has developed and employs an interviewing model for adolescents who do not trust law enforcement and have been instructed by their pimp or trafficker to lie.[10] This approach recognizes the need for multiple interviews. Additionally, in contrast to the typical law enforcement tactic, the Unit uses a "child-first" approach, focusing on the juvenile's needs rather than attempting to gain information needed to charge the pimp/trafficker. In this way, the Unit fosters a relationship of trust with the juvenile sex trafficking victim, which may eventually lead to securing information necessary to prosecute the trafficker/pimp.

Despite the fact that the Unit uses a "child-first" approach, and recognizes that juveniles exploited through prostitution should be treated as victims, the Unit still charges these minors. These children are charged criminally because no alternative exists to detain the victims in a facility where they will be protected from the trafficker/pimp and receive services.[11] Although juvenile sex trafficking victims can be charged with prostitution or compelling prostitution, the Unit frequently charges these children with lesser offenses such as loitering, truancy, or violating curfew.[12] Furthermore, due to an agreement with juvenile court, prosecution of these lesser offenses is deferred if juvenile sex trafficking victims accept and complete a program implemented by a caseworker. These decisions represent the Unit's primary goal of getting juvenile sex trafficking victims off the streets so that they can address their problems and eventually return to their primary caregivers.

Following the initial interview, juvenile trafficking victims are detained at the Letot Center. The Letot Center was formed in 1979 through a partnership with the Dallas County Juvenile Department, the Dallas school district and the Junior League of Dallas.[13] The mission of the center is to assist abused and exploited adolescents and to prevent them from entering the juvenile justice system.[14] The Texas Department of Family and Protective Services designated the Letot Center as an emergency shelter.[15] Additionally, all caseworkers at the center are certified Dallas County juvenile probation officers.[16] These caseworkers have experience working with juvenile trafficking victims that enables them to better assess the juveniles' needs and provide the juvenile victims with appropriate services. Because the center is sanctioned by the Dallas County Juvenile Justice Department, all juvenile sex trafficking victims placed at the center are eligible to receive services through the department.[17] These services include medical care and substance abuse treatment as well as education and psychological services.[18] The center can provide shelter for domestic minor sex trafficking victims for up to 30 days.[19] Under federal law, minors detained in state and local secure facilities, similar to a typical juvenile detention center, are entitled to a detention hearing within 24 hours and every 10 days after that. Because Letot is only a staff-secure facility, a detention hearing is not required for minors placed there. In 2007, 483 juveniles were detained at the Letot Center.[20] Of those, 78 percent were females and 29 percent were classified as sexually exploited.[21]

The creation of the Dallas Unit has improved the identification and treatment of juvenile trafficking victims. In 2005, the Unit identified 136 HRVs of which, 85 were involved in prostitution.[22] Identification is growing: in 2007, 189 HRVs were identified, of which, 119 were found to be involved in prostitution.[23] Additionally, the Unit's use of specialized adolescent interviewing protocols that place the juvenile's needs above prosecuting the trafficker/pimp demonstrates the unit's commitment to treating juvenile trafficking victims as victims and not criminals. Furthermore, the Letot Center provides a safe and supportive alternative to the typical juvenile detention center where most juveniles involved in prostitution are placed.

Despite its benefits, the Dallas model can be improved. The Letot Center is only able to house domestic minor sex trafficking victims for 30 days; this is often too short a time period to address the many problems that these juveniles suffer. Sgt. Fassett recognizes this, stating, "[i]t's impossible for us to try to solve 15 years of problems in 30 days."[24] Additionally, juvenile trafficking victims are still charged as criminals under the Dallas model and while they are not charged with prostitution related offenses, the arrests for the lesser charges are not expunged from the juvenile trafficking victims' record even if they are never prosecuted for the offense.

The Georgia Care Connection

On July 1, 2009, the Georgia Governor's Office for Children and Families ("GOCF") launched the Georgia Care Connection treatment program.[25] Billed as the nation's first statewide response to address the needs of child sex trafficking victims, the Georgia Care Connection ("GCC") serves as the single care coordination center for commercially sexually exploited girls.[26] The mission of the GCC is

to identify commercially exploited children and link them to services without subjecting them to arrest.[27] GCC also tracks child sex trafficking victims as part of a state and national database.

Following the recommendation of a task force convened by the Governor's Office for Children and Families in August 2008 to study child prostitution in the state, Georgia implemented GCC. The task force determined that there were inconsistent responses across the state to commercially exploited children from child-service agencies, juvenile courts and health care providers.[28] Furthermore, it was difficult for commercially sexually exploited children ("CSEC") to access service programs without becoming involved in the criminal justice system.[29]

GOCF recognized this problem that child victims faced, and came up with a solution. GCC permits any person to refer actual and potential CSEC victims to this service coordinating agency. GCC brings city and state agencies and service providers into the same room to devise a unified case plan for that CSEC victim, explains Jennifer E. Bennecke, Executive Director of the Governor's Office of Children and Families.[30] Following the assessment, GCC will connect that child to the appropriate service provider.[31]

GCC was created on the heels of the passage of Georgia Senate Bill 69 that expanded state mandatory reporting requirements to include instances of child prostitution.[32] Senate Bill 69, signed into law in May 2009, amended Georgia's existing mandatory child abuse reporting statute to require mandatory reporters to alert Georgia's Department of Human Resources when, "they have reasonable cause to believe that a child is being sexually exploited by any person (emphasis added)."[33] Under the old law, a reporter was only required to notify the Department of Human Resources when a parent or caretaker sexually exploited a child. The old statute thus excluded a large portion of CSEC victims.[34] This change in the law will help the GCC identify more CSEC victims through doctors, schools and social workers, and not only law enforcement.

CSEC victims referred to the GCC are given a needs assessment within 72 hours.[35] This multidisciplinary team includes the child's parent or guardian, if possible, the GCC care coordinator, family support specialist, peer support specialist and representatives from service providers and other involved agencies.[36] The team develops a care plan that addresses the child's needs and then connects that child to a service provider based upon the child's specific situation.[37] Each child is then monitored by the GCC treatment team through semi-monthly meetings that include the child.[38] The GCC is also developing the capacity to provide life skills and programming to the child upon completion of the initial care program.[39]

The GCC is developing standard protocols for law enforcement across Georgia's 40 counties, which identify children involved in prostitution or suspected of being involved in prostitution. Without a statewide protocol, the ways in which differing jurisdictions treat prostituted children vary. In Fulton County, law enforcement will charge a prostituted child with a lesser offense as a way of detaining the children for their protection and to provide services.[40] Fulton County, a large urban area which includes Atlanta, has developed a comprehensive commercial sexual exploitation of children protocol which includes law enforcement, the district attorney's office, the department of family and children's services, the children's advocacy center, and juvenile court, among others.[41] Under the protocol, the Fulton County Children's Advocacy Center interviews CSEC victims or suspected victims charged with a delinquent offense and makes arrangements for the child to receive a medical examination at Children's Health Care of Atlanta or other medical facility.[42]

Recently, in Cobb County, a suburban jurisdiction north of Atlanta, two CSEC victims were not charged with criminal offenses but were instead placed in foster care.[43] After a period of time, detectives interviewed both children at the Cobb County Children's Advocacy Center and cases were pursued against the traffickers/pimps.[44] In other parts of the state, CSEC victims may be charged with prostitution and processed through the juvenile justice system.[45]

The GCC is an innovative approach to centralizing the distribution of services to CSEC victims to ensure their needs are met. In its current form, the GCC effectively coordinates the treatment of CSEC victims who are seeking or willing to accept services, or who are compelled to accept services by the criminal justice system. A standard statewide protocol that recognizes the GCC as the coordinator of services for these children needs to be implemented and adopted by law enforcement, prosecutors and juvenile court. Otherwise, Georgia's CSEC victims will not receive consistent treatment and will not receive the help they need.

Alberta's Protection of Sexually Exploited Children Act

One of the most progressive legislative approaches to protecting juvenile victims of prostitution is Alberta, Canada's Protection of Sexually Exploited Children Act ("Act").[46] The Act, formerly known as the Protection of Children Involved in Prostitution Act was amended in 2007 to "remove the stigma associated with prostitution," according

to Children's Services Minister Janis Tarchuk, and to "reflect the true circumstances of these children's lives."[47] Alberta's comprehensive law provides shelter and services to juvenile victims of prostitution without saddling these children with a criminal record.

Under the Act, a juvenile victim of prostitution is not charged criminally, but designated as a child in need of protection.[48] The Act defines a child in need of protection as any person under the age of 18 engaging or attempting to engage in prostitution.[49] According to the Act, a court or "justice of the peace" may grant an order authorizing law enforcement or a "director" (caseworker) to apprehend a juvenile if there are "reasonable and probable grounds" to believe the juvenile is a child in need of protection.[50] Once apprehended, the Act directs that the child in need of protection be confined in a protective safe house for up to five days to "ensure the safety of the child and to assess the child."[51]

Under the Act, a juvenile victim of prostitution is not charged criminally, but designated as a child in need of protection.

The protective safe house provides a secure and supportive environment for the child to receive services. The safe house is a secure facility with restricted access.[52] Children are locked in so that they cannot return to the trafficker/pimp. The safe house is staffed by child care counselors who have experience working with children exploited through prostitution.[53] The safe house is staffed 24 hours-a-day to allow for the admission of a child in need of protection at any time.[54] In addition to keeping the children safe during confinement, the goals of the safe house are: (1) to provide emergency care and stabilization for the child during the initial period of confinement; (2) to provide information to the assigned caseworker to complete the confinement assessment; and (3) to provide programming and services to the child during the extended confinement period.[55] The safe house is specifically not "a police holding cell, police cell, or young offender facility."[56] Currently, there are two facilities in Alberta designated as protective safe houses: Yellowhead Youth Centre in Edmonton and Hull Child and Family Services in Calgary.[57] Both facilities offer residential treatment services for adolescents suffering from disorders associated with sexual exploitation.[58]

Once confined at the protective safe house, the Act requires the child to be assessed during the initial five-day period. The assessment must include the following: an assessment of the child's physical and emotional well-being; assessment of the child's use of alcohol, drugs and other intoxicating substances; assessment of the child's risk of self-harm and of engaging in or attempting to engage in prostitution; assessment of the level of family involvement with the child and the involvement of other persons having a close relationship with the child; and assessment of whether the child needs intervention services.[59] Additionally, caseworkers are required to consider whether the child has a pre-existing disability which contributes to that child's vulnerability, the child's basic food and clothing needs, the need for life skills training, and the potential for reconnecting to the community.[60] When the assessment is completed, the facility holds an outcome case conference to determine the best course of action for the child. That conference includes the child's caseworker, protective safe house staff involved in the assessment, the guardian, if possible, and the child who is given the opportunity to express his or her wishes.[61] The conference has the option to return the child to his or her guardian and provide non-residential services through a voluntary agreement with the child, release the child on his or her own with a service plan, or, if indicated, apply to the court for a further confinement order.[62]

Following the initial five-day confinement period, the Act authorizes a court to extend the child's confinement for an additional 21 days.[63] Upon application, based upon the child's assessment, a court may continue the confinement of a child in need of protection if the court finds that release of the child from a protective safe house presents a risk to the life or safety of the child because the child is unable or unwilling to stop engaging in or attempting to engage in prostitution and it is in the best interests of the child to order a period of further confinement for the purpose of making services available to the child in a safe environment.[64] A court may order an additional 21-day confinement period, one time, if the previously stated conditions are satisfied for a total of 47 days.[65] The child has the right to apply to the court to review each confinement order, and may request an attorney from the Legal Representation for Children and Youth services through the Office of the Child and Youth Advocate.[66]

Children in need of protection remain eligible for services after their confinement period ends. The child must enter into a "Voluntary Services Agreement" with a director for up to six months.[67] That agreement is renewable

until the child's twenty-second birthday.[68]

The Province of Alberta offers one of the more complete responses to addressing the problem of juvenile victims of prostitution. Victims are not charged with prostitution or lesser offenses and will not suffer the burden of a criminal record as they attempt to leave the streets. Additionally, although victims are detained, they are placed in "secure" residential facilities. Because these facilities provide more safety than facilities that are merely staff secure, there is a better chance of victims accepting the services that are offered. It is not clear, however, if only two facilities are enough for a province of approximately three million people.[69] Furthermore, whether this type of model is transferable to a United States jurisdiction requires further study. Detaining individuals without charge raises due process concerns and the expense of allowing victims to access services into adulthood could be cost prohibitive for many states in the current economic climate.

Conclusion

"Incarcerating children for their victimization is not only unjust, it doesn't work. Services work, support works. Love works. . . . Victims of commercial sexual exploitation and trafficking have a myriad of needs and require comprehensive services. They need to be in an environment where they're supported, not judged, cared for, not shamed."

—Rachel Lloyd, Founder, Girls Education and Mentoring Services [70]

The responses employed by Dallas, Georgia and Alberta represent advances in the way the criminal justice system views juvenile victims of prostitution. Increasingly, these children are seen as victims of a modern day form of slavery that need treatment not punishment. Although problems exist with each model, Dallas, Georgia and Alberta are using innovative methods to help children escape commercial sexual exploitation. Part three of this series will provide further analysis and tie together the best practices from each of the models that have been studied to provide the best approach to assisting juvenile victims of prostitution.

Endnotes

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10 *Id.* at 13.

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13 Jenni Beaucamp & Al Dia, "Runaways On The Rise," *Dallas Morning News*, Jan. 21, 2008, at 1B.

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35 Setting a New Direction: A CSEC System of Care 1-2 (Georgia Care Connection eds., 2009).

36 *Id.*

37 *Id.*

38 *Id.*

39 *Id.*

40 Telephone Interview with Kaffie McCullough, Director, A Future Not A Past, (Feb. 24, 2010).

41 Atlanta-Fulton County Commercial Sexual Exploitation of Children Protocol (2007).

42 *Id.*

43 Telephone Interview with Lt. Christie Nerbonne, Cobb County Police Department, (Feb. 25, 2010).

44 *Id.*

45 *Id.*, Telephone Interview with Kaffie McCullough, Director, A Future Not A Past, (Feb. 24, 2010).

46 Protection of Sexually Exploited Children Act, 2000 R.S.A., ch. P-30.3 (Can.).

[47] Alberta's changes to law that protects sexually exploited children kick in Oct. 1, Can. Press, Sep. 27, 2007, Western General News.

[48] Protection of Sexually Exploited Children Act, ch. P-30.3, § 1(2).

[49] *Id.*

[50] Protection of Sexually Exploited Children Act, ch. P-30.3, § 2(1).

[51] *Id.* at § 2(1)(b).

[52] Alberta Children's Services Protection of Sexually Exploited Children Policy Manual § 9.3 (2007).

[53] *Id.* at § 9.4.

[54] *Id.* at § 9.3.

[55] *Id.* at § 9.2.

[56] *Id.* at § 9.3.

[57] Protection of Sexually Exploited Children Regulation Alta. Reg./2007-147, § 1(a),(b) (Can).

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[59] 60 Protection of Sexually Exploited Children Regulation Alta. Reg./2007-147, § 2 (Can).

[60] Alberta Children's Services Protection of Sexually Exploited Children Policy Manual § 6.2 (2007).

[61] *Id.* at § 6.4.

[62] *Id.* at § 6.5.

[63] Protection of Sexually Exploited Children Act, ch. P-30.3, § 3(2).

[64] *Id.* at § 4(a), (c).

[65] *Id.* at § 5.

[66] *Id.* at § 2.1(1), Alberta Children's Services Protection of Sexually Exploited Children Policy Manual § 10.2 (2007).

[67] Protection of Sexually Exploited Children Act, ch. P-30.3, § 7.1.

[68] *Id.* at § 7.2.

[69] Statistics Canada, http://www12.statcan.ca/english/ profil01/CP01/Details/Page.cfm?Lang=E&Geo1=CSD&Code1=4811061&Geo2=PR&Code2=48&Data=Count&SearchText=edmonton&SearchType=Begins&SearchPR=48&B1=All&Custom

[70] In Our Own Backyard: Child Prostitution And Sex Trafficking in the United States: Hearung Before the Subcomm. On Human Rights and the Law of the S. Comm. On the Judiciary, 111th Cong. (2010) (statement of Rachel Lloyd, Founder, Girls Education and Mentoring Services).

Message from the Executive Director

(Continued from page 6)

the defense in my case. This allows me to stand up and feel prepared to handle him. Thank you again. —Asst. DA, Texas.

Dear Derm, *Sorry—been on vacation for a week and just got in. Yes, I got the CD—it's AWESOME!! And thanks for the new stuff. I think I'm going to have a tad bit of fun with this expert come trial time (which is now set for July). Have a great weekend.* —DA, California.

Dear Alec, *Thanks so much for your help! I kept him up there today for a lengthy cross…no verdict yet from the Judge, but I feel very good about the cross. The transcripts came in especially useful !!!!!! It was fun.* —Deputy Atty. General, Washington, D.C.

Hey Joanne, *Hope all is well. I wanted you to know that three different ADA's approached me about how valuable and inspirational your assistance has been. One of them was my chief of homicide. Thanks !! It was great. See you in October.* —Asst. DA, New York.

Kristina, *I wanted to thank you again for all of your help on my case where the girls recanted. I won—5 counts of A Felony Molest and 2 counts of Incest. THANKS AGAIN!* —Asst. Prosecuting Atty, Indiana.

Dear Mark, *I refer prosecutors to you whenever they call me. I usually tell them to "stop what they are doing and immediately call you at NDAA before they do anything else. Too many times they sound as though they are going to have to re-invent the wheel!!"* —Law Enforcement Supervisor, Michigan.

Dear Kristen, *You obviously know your stuff. Thank you again. Just wanted you to know! Thanks.* —Law Enforcement Officer, Arkansas.

I could go on with hundreds of "Thank You" notes from across the country, but this should give you some sense of what your NDAA attorneys and staff are doing every day for prosecutors.

So spread the word and please know that we are all here to serve you, America's prosecutors, with any technical assistance you may need as you continue to exonerate the innocent and hold the guilty accountable.

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- Call us at 703.549.9222.