
FROM ABUSED AND NEGLECTED TO ABUSED AND EXPLOITED:

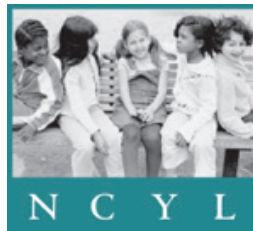
The Intersection of the Child Welfare System with the Commercial Sexual Exploitation of Children

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ABOUT THE NATIONAL CENTER FOR YOUTH LAW

The National Center for Youth Law (NCYL) is a national, non-profit organization that uses the law to improve the lives of poor children. NCYL works to ensure that low-income children have the resources, support, and opportunities they need for a healthy and productive future. Much of NCYL's work is focused on poor children who are additionally challenged by abuse and neglect, disability, or other disadvantage.

NCYL focuses its work in four areas:

- Safety, Stability, and Well-Being of Abused and Neglected Children
- Access to Quality Health and Mental Health Care
- Financial Stability for Low-Income Families and Children
- Juvenile Justice

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The Intersection of the Child Welfare System with the Commercial Sexual Exploitation of Children

INTRODUCTION

Over the past few years, it has become increasingly clear that sex trafficking is a domestic problem, and not just an international issue. Children are sold for sex each night in most major cities across the United States. Some of this country's most marginalized children are disproportionately at risk of being trafficked or exploited, including minorities; those who identify as lesbian, gay, bisexual, transgendered, or questioning (LGBTQ); and children with cognitive and developmental delays. Although much has been written and studied in the past decade, the magnitude of the problem is still unclear, and we do not have a solid grasp of the populations affected. The technology sector is in a unique position to aid the anti-trafficking community by helping develop technology-based strategies for prevention and intervention.

Many anti-human trafficking advocates have begun examining why certain children are more vulnerable than others to falling victim to commercial sexual exploitation. One clear pattern quickly emerges—a large proportion of victims of commercial sexual exploitation have been involved with the child welfare system. Many organizations, agencies, and reports have documented the intersection between involvement in the child welfare system and child sex trafficking; between 50 and 98 percent of identified child victims of commercial sexual exploitation have previously been involved with the child welfare system.¹ This seemingly inextricable link was likely the impetus for recent actions on the part of federal, state, and local governments urging child welfare systems to provide prevention and early intervention services for trafficked youth and children who are at risk of being exploited.²

ROADMAP

This paper will explore the intersection between child sex trafficking/exploitation and the child welfare/foster care system. It will provide a brief explanation of the child

¹ MISSSEY INC., FRAMING THE ISSUE OF THE COMMERCIAL EXPLOITATION OF CHILDREN (2009), available at http://www.misssey.org/documents/framing_the_issue.pdf; Child Welfare's Role in Prevention and Intervention: Hearing Before the U.S. S. Comm. on Sex Trafficking and Exploitation in America, 113 Cong. (2013) (testimony of Joette Katz, Comm'r of Conn. Dep't of Children & Families), available at [http://www.finance.senate.gov/imo/media/doc/Final%20US%20Sen%20Finance%20Committee%20\(1\)%206_5_13%20\(2\).pdf](http://www.finance.senate.gov/imo/media/doc/Final%20US%20Sen%20Finance%20Committee%20(1)%206_5_13%20(2).pdf) [hereinafter Katz Testimony]; KATE WALKER, CAL. CHILD WELFARE COUNCIL, ENDING THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN: A CALL FOR MULTI-SYSTEM COLLABORATION IN CALIFORNIA 11 (2013), available at <http://www.youthlaw.org/fileadmin/ncyl/youthlaw/publications/Ending-CSEC-A-Call-for-Multi-System-Collaboration-in-CA.pdf>.

² See, e.g., PRESIDENT'S INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, COORDINATION, COLLABORATION, AND CAPACITY: FEDERAL STRATEGIC ACTION PLAN ON SERVICES FOR VICTIMS OF HUMAN TRAFFICKING IN THE UNITED STATES, 2013-2017 (2013), available at <http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf>; FLA. STAT. ANN. § 39.201; FLA. ADMIN. CODE ANN. r. 65C-29.002.

welfare system and its purpose. A case study derived from a child trafficking case will highlight many of the issues the child welfare system faces in addressing the growing problem. Though data is limited, the paper will discuss available data linking trafficking and involvement in the child welfare system. The risk factors and vulnerabilities that are common among children involved with the child welfare system and trafficking will be discussed. The paper will provide recommendations and opportunities where the technology sector can assist in addressing this problem.

BACKGROUND ON THE CHILD WELFARE SYSTEM

National child welfare policy first focused on protecting children from physical abuse, and has since expanded to include neglect, as well as other forms of abuse. The federal government recognizes that best practice should take into account trauma and the potential psychological impact abuse and neglect can have on a child.³ In the past several decades, the federal government has taken a more comprehensive approach, and now provides significant oversight by making federal funding contingent on a state's ability to comply with rules and regulations related to the care and protection of children.⁴ Each state defines the purpose of its child welfare system differently, but they all have similar components: (1) protection from harm or risk of harm, (2) provision of services, and (3) preservation of families. For example, under California law, the state is required to:

Provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm. This safety, protection, and physical and emotional well-being may include provision of a full array of social and health services to help the child and family and to prevent re-abuse of children. The focus shall be on the preservation of the family as well as the safety, protection, and physical and emotional well-being of the child.⁵

Each state has developed its own definitions for the acts or omissions that constitute abuse or neglect and that may bring the child under the jurisdiction of the child welfare system. For example, sexual exploitation is a form of sexual abuse, which falls under physical abuse. According to several states' law, sexual exploitation encompasses a variety of forms of abuses, including "prostitution."⁶

In order to bring a child under the jurisdiction of the child welfare agency, an individual must commit an act or fail to act in some way that puts the child at risk. In almost every state, in order for a child to enter the child welfare system, the parent or guardian must be the perpetrator and either inflict harm on the child or fail to protect the child from

³ See, e.g., CHILD WELFARE COMM., NAT'L CHILD TRAUMATIC STRESS NETWORK, CHILD WELFARE TRAUMA TOOLKIT: COMPREHENSIVE GUIDE (2008), available at http://www.nctsn.org/nctsn_assets/pdfs/CWT3_CompGuide.pdf

⁴ KASIA O'NEILL MURRAY & SARAH GESIRIECH, A BRIEF LEGISLATIVE HISTORY OF THE CHILD WELFARE SYSTEM 3-4 (2004), available at http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Foster_care_reform/LegislativeHistory2004.pdf.

⁵ CAL. WELF. & INST. CODE § 300.2 (emphasis added).

⁶ See, e.g., OR. REV. STAT. § § 419B.005(1)(a), 419B.005(1)(a)(E)(2) ("Abuse is ...allowing, permitting, encouraging or hiring a child to engage in prostitution."); MINN. STAT. ANN. § 626.556(2)(d) ("[S]exual abuse includes any act that involves a minor that constitutes a violation of prostitution offenses.").

harm. More recently, some jurisdictions have expanded the definition of perpetrator to include third parties, which allows the child to come under the jurisdiction the child welfare agency even without a nexus to the parent or guardian.⁷ In those jurisdictions that include third party perpetrators, children who are trafficked by an exploiter or pimp may come under the child welfare system.⁸ In the jurisdictions that require the parent to be the perpetrator, the local law enforcement agency is typically responsible for investigating child abuse or neglect by a third party perpetrator.

Child welfare agencies are typically alerted of potential cases of abuse and neglect through the child abuse or child protection hotline. Certain individuals, like doctors, teachers, and law enforcement officers, are mandated reporters and are required to report abuse and neglect to this hotline. In most states, these individuals are required to make a report to the child protection hotline when they know or reasonably suspect a child has been abused or neglected.⁹ The report is required irrespective of whether the perpetrator is a parent/guardian or a third party.¹⁰ Child welfare agencies are responsible for accepting, evaluating risk, and responding to calls from mandated reporters within specified time periods depending on the risk to the child.¹¹ In many states, the child welfare agency is also responsible for cross-reporting the mandated reporter's allegation to law enforcement so that they may investigate and determine whether to pursue a criminal case against the alleged perpetrator.¹²

In California, as well as other jurisdictions, many law enforcement agencies, emergency department physicians and nurses, and teachers do not necessarily view sex trafficking or "child prostitution" as a reportable offense. As a result, these individuals do not report the suspected abuse to the child protection hotline, and no one alerts the child welfare system about potential abuse or neglect. Instead law enforcement arrests the child for prostitution or loitering, and he/she is funneled through the juvenile justice system. Many advocates throughout country argue that the child welfare system is the more appropriate and better-equipped system to serve trafficking victims because, ultimately, these children are victims of serial sexual abuse.¹³ And, in most cases, trafficking victims have already had some contact with the child welfare system, either through child protection hotline referrals, voluntary services, or formal child welfare involvement.

Despite the fact that many victims of sex trafficking have previous involvement in the child welfare system, many jurisdictions do not have initiatives or protocols in place to train child welfare workers on commercial sexual exploitation and how to identify children who either have been exploited or are at risk for such exploitation. The following

⁷ See, e.g., N.Y. SOC. SERV. § 371(4)(b)(iii).

⁸ See REBECCA EPSTEIN & PETER EDELMAN, BLUEPRINT: A MULTIDISCIPLINARY APPROACH TO THE DOMESTIC SEX TRAFFICKING OF GIRLS 7 (2013), available at <http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/loader.cfm?csModule=security/getfile&pageid=169026> (quoting Tammy Sneed of the Conn. Dep't of Children and Families, "We, at this point, can accept a case even if a parent or guardian is not the alleged perpetrator...[O]ne of the challenges is when the pimp or the john, the abuser, is not the caretaker, ...most states cannot accept those cases. We now accept those cases. And that is not legislatively mandated. That is a commitment from the department....[M]ost of these girls...are known to our system. But even if they're not, this is abuse, and we feel the need to be able to respond.").

⁹ See, e.g., FLA. STAT. ANN. § 39.201; FLA. ADMIN. CODE ANN. r. 65C-29.002; 325 ILL. COMP. STAT. 5/4, 5/7; ARK. CODE ANN. § 12-18-402(a); N.Y. SOC. SERV. LAW § § 413(1)(a), 415; 2 N.Y. LAW OF DOM. VIOLENCE 40:30.

¹⁰ See, e.g., CAL. PENAL CODE § 11166.

¹¹ See, e.g., CAL. WELF. & INST. CODE § 16504; ARIZ. ADMIN. CODE § R6-5-5505; 12 COLO. CODE REGS. § 2509-3:7.202.4; CONN. AGENCIES REGS. § 17a-101(e)-4.

¹² See, e.g., CAL. PENAL CODE § 11166(j); TENN. CODE ANN. § 37-1-605(b)(2); OR. REV. STAT. § § 419B.015(1)(b), 419B.015(2); N.J. STAT. ANN. §9:6-8.10(a)(1)(e) (noting that only substantiated reports are to be forwarded to law enforcement).

¹³ EPSTEIN, supra note 8, at 4, 7.

case outlines many issues children face prior to entering and while in the child welfare system. Many of these vulnerabilities increase the risk that a child will be exploited.

CASE STUDY

Felicia¹⁴ was 11 when the juvenile court determined that she should be removed from her home because of her mother's physical abuse and daily use of alcohol and marijuana. Prior to being removed by the court, there had been eight hotline referrals of suspected child abuse in the previous eight years. Two of Felicia's siblings had been removed from her mother prior to Felicia's birth. Within the first year of being placed into the foster care system, Felicia moved between four different foster homes and one relative placement. The child welfare agency returned Felicia to her mother after approximately a year and a half, only to remove her again within three months because of continued physical abuse and substance abuse.

A short time later, the court returned her home. For a few weeks, she ran away from home for a day or two at a time because of constant, volatile (and often physical) arguments with her mother. It was unclear how Felicia was meeting her basic needs while on the run. Within two months, now 12 years of age, the police arrested Felicia for making criminal threats and assault with a deadly weapon against her mother. She had threatened her mother with a knife after her mother was particularly violent towards her. Felicia asked to be placed in a locked facility because she was "addicted to the streets."

While in detention, a psychologist recommended that she be placed in a Level 14 group home to treat her mental health needs. Because she was so young, she was not placed in a therapeutic group home, and instead was placed in an unspecialized group home following her six-month stint in detention. Felicia was miserable in the group home, and ran away after three weeks.

She disappeared for two months and was finally picked up on a probation violation and was detained for six months in a locked camp. When she was released, she returned to her mother's house and ran away again within two weeks. The following month, at age 13, police arrested her for prostitution. During the initial questioning, she reported having been kidnapped, locked, and chained in an apartment basement where she was forced to sell herself to strangers and turn over the money she earned to her kidnapper. Felicia was placed in a foster placement, but eventually returned home. Realizing that nothing at home had changed, she returned to her exploiter, and was recently arrested in another state on solicitation charges.

Felicia's story is not dissimilar to many of her peers who have been involved with the child welfare system—a tumultuous home life, parental substance abuse, placement instability, failed family reunification, and violence. Some of these factors led to her involvement in the child welfare system while others were the result of her interaction with the system. The circumstances combined increased her susceptibility and led to her entanglement in the growing criminal industry of sex trafficking.

¹⁴ The name and any identifying information have been changed to protect the privacy of the victim.

RISK FACTORS FOR CHILD WELFARE INVOLVEMENT AND COMMERCIAL SEXUAL EXPLOITATION

From the limited data available, there seems to be a correlation between child welfare involvement and trafficking. Like Felicia, many children have endured years of abuse or neglect prior to their involvement in trafficking. Often children who have experienced such trauma are left seeking the things a family typically provides—safety, a sense of belonging, and shelter.¹⁵ The statistics below demonstrate this intersection, and should inform prevention and intervention strategies going forward.

The STAR Court, a specialized court for commercially sexually exploited girls in Los Angeles, sees children like Felicia each week. Currently, the STAR court has jurisdiction over 100 girls, nearly 80 percent of whom have been in or are involved with the child welfare system.¹⁶ Their child welfare involvement ranges from child protection hotline referrals to removal from the home and placement in foster homes or other foster care placements.¹⁷ Similarly, WestCoast Children's Clinic, a therapeutic provider located in Oakland, California, provides clinical services to over 100 youth in a specialized program for trafficked children annually. Close to 80 percent of these youth had prior child welfare involvement.¹⁸

Training and clear screening procedures are key to identifying exploited children and ensuring that they do not fall through the cracks.¹⁹ For example, Connecticut began building a system response to child sex trafficking within the child welfare system in 2008. Currently, the state screens every child who interacts with the child welfare system for commercial sexual exploitation.²⁰ Of the 200 plus children identified over the past six years, 98 percent were previously known to the child welfare system.²¹ Anecdotally, jurisdictions around the country are seeing similar trends.

The link between commercial sexual exploitation and the child welfare system should not be surprising. Many of the vulnerabilities that warrant involvement in the child welfare system—physical, emotional, and sexual abuse, and neglect—are the same characteristics exploiters target as they recruit children into their sex trafficking rings.²² Children become involved in the child welfare system because they have experienced abuse and neglect and may lack a family structure or an adult support network.²³ While in the foster care system, factors like placement instability, restricted development and socialization, and the lack of opportunities upon exiting can result in victimization through sex trafficking.²⁴

¹⁵ Interview with Catherine Pratt, Comm'r L.A. Cnty. Superior Court, in Wash. D.C. (Apr. 29, 2014) [hereinafter Pratt Interview].

¹⁶ *Id.*

¹⁷ WALKER, *supra* note 1, at 10.

¹⁸ Symposium, We Can Do Better: Improving Our Response to Child Sex Trafficking in Alameda County, WestCoast Children's Clinic (Apr. 17, 2014).

¹⁹ EPSTEIN, *supra* note 8, at 6-7; KATHERINE KAUFKA WALTZ, INT'L ORG. FOR ADOLESCENTS, BUILDING CHILD WELFARE RESPONSE TO TRAFFICKING 13 (2011), available at http://www.luc.edu/chrc/pdfs/Building_Child_Welfare_Response_to_Child_Trafficking.pdf.

²⁰ EPSTEIN, *supra* note 8, at 22-24.

²¹ Katz Testimony, *supra* note 1.

²² See Anna McCall, Warning Signs of Commercial Sexual Exploitation, EXAMINER (May 11, 2012), <http://www.examiner.com/article/>; COVENANT HOUSE, HOMELESSNESS, SURVIVAL SEX AND HUMAN TRAFFICKING: AS EXPERIENCED BY THE YOUTH OF COVENANT HOUSE NEW YORK 14-16 (2013), available at <http://www.covenanthouse.org/sites/default/files/attachments/Covenant-House-trafficking-study.pdf>; [hereinafter HOMELESSNESS & TRAFFICKING]; WALKER, *supra* note 1, at 19.

²³ See ELLEN W. CLAYTON ET AL., INST. OF MEDICINE, CONFRONTING COMMERCIAL SEXUAL EXPLOITATION AND SEX TRAFFICKING OF MINORS IN THE UNITED STATES 77-141 (2013), available at http://books.nap.edu/openbook.php?record_id=18358; HOMELESSNESS & TRAFFICKING, *supra* note 22, at 14-16; See also LINDA A. SMITH ET AL., SHARED HOPE INT'L, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING: AMERICA'S PROSTITUTED CHILDREN 49 (2009), available at http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf.

²⁴ HOMELESSNESS & TRAFFICKING, *supra* note 22, at 14-16.

Furthermore, the disproportionate representation of particularly vulnerable youth in the child welfare system, like LGBTQ children and youth with disabilities, increases risk of exploitation. These vulnerabilities must be taken into account as prevention and intervention strategies are developed to address the needs of exploited youth in and entering the child welfare system.

Youth who are sexually abused as children are 28 times more likely to be arrested for prostitution than youth who have not experienced abuse.²⁵ For many children, once they are sexually abused as children, their understanding of appropriate boundaries may be compromised and they may no longer feel like their bodies are their own. They may link repeated sexual abuse with signs of love. Thus, children with this history may be unfazed when their exploiter requires them to have sex with others—it is a continuation of the abuse and cycle of exploitation.²⁶ Youth who are abused and neglected, like Felicia, often leave home to escape this abuse. While on the street, they can be targeted by traffickers.²⁷

A lack of adequate parental supervision or family structure can also increase the likelihood for involvement in both child welfare and commercial sexual exploitation. Identified victims of sex trafficking frequently report that they lacked a caring adult in their lives, and reported that if an adult would have taken an interest in them, they may have stopped engaging in commercial sex earlier.²⁸ Without structure or supervision, adolescents “receive minimal guidance on how to spend their free time or how to define themselves, they may lack consistent guidance on boundaries or limits to their behavior, or they may be treated as adults before being cognitively or developmentally ready for such responsibility.”²⁹

Homelessness is a clear risk factor that increases the chances of exploitation. Covenant House New York recently conducted a study [“Covenant study”] of a random sample of 174 homeless individuals between the ages of 18 and 23, who have received services through its shelter in New York City.³⁰ The study found that just under 80 percent of youth that had engaged in commercial sex reported being raped or molested as children.³¹ Almost one half of the youth that participated in the Covenant study had engaged in commercial sex.³² Many youth cite the lack of a safe place to sleep as one of the primary reasons for engaging in commercial sex.³³ The limited number of shelter beds available for homeless youth on any given night likely exacerbates this problem.³⁴

Youth who identify as LGBTQ often become involved with the child welfare system

²⁵ CATHY SPATZ WIDOM, NAT'L INST. OF JUSTICE, VICTIMS OF CHILDHOOD SEXUAL ABUSE: LATER CRIMINAL CONSEQUENCES 7 (1995), available at <https://www.ncjrs.gov/pdffiles/abuse.pdf>; WALKER, *supra* note 1, at 10.

²⁶ See GEMS Training Curriculum, Continuum of Abuse (on file with the author); CLAYTON, *supra* note 23, at 81 (noting that “children who are sexually victimized develop psychologically and emotionally in ways that make them vulnerable to continuing sexual predation”).

²⁷ SHAHERA HYATT ET AL., SEXUAL EXPLOITATION AND HOMELESS YOUTH IN CALIFORNIA: WHAT LAWMAKERS NEED TO KNOW 2 (2012), available at <http://cahomelessyouth.library.ca.gov/docs/pdf/SexualExploitedHomelessYouthIssueBrief.pdf>.

²⁸ HOMELESSNESS & TRAFFICKING, *supra* note 22, at 15.

²⁹ CLAYTON, *supra* note 23, at 94.

³⁰ HOMELESSNESS & TRAFFICKING, *supra* note 22, at 5.

³¹ *Id.* at 15.

³² *Id.* at 14.

³³ *Id.*

³⁴ *Id.* at 14-15.

³⁵ CHILD WELFARE INFO. GATEWAY, SUPPORTING YOUR LGBTQ YOUTH: A GUIDE FOR FOSTER PARENTS 5 (2013), available at <https://www.>

after being rejected by their families because of their sexual orientation and/or gender identity.³⁵ While only 5 to 10 percent of the general population is believed to be gay, 24 percent of females and 10 percent of males aging out of the child welfare system report a sexual orientation other than heterosexual.³⁶ One study found that LGBTQ youth in the juvenile justice system are twice as likely to have experienced child abuse and to have spent time in out-of-home placements than their heterosexual peers.³⁷ Once in the system, these youth are often harassed and bullied for their sexual orientation and/or gender identity, which can trigger them to run away and become homeless.³⁸ LGBTQ youth “are at an increased risk for becoming sexually exploited due to their overrepresentation in the homeless youth population (twenty to forty percent of homeless youth in California identify as LGBT).”³⁹ A study in New York City estimated that more than one in four homeless LGBTQ children, and nearly half of gay or bisexual boys, have been victims of commercial sexual exploitation.⁴⁰

Racial minorities are also disproportionately represented in child welfare. According to Adoption and Foster Care Analysis and Reporting System (AFCARS), in fiscal year 2012, close to 400,000 children were in foster care.⁴¹ Of that 400,000, just over 25 percent were African Americans and 20 percent were Hispanic.⁴² In contrast, the 2012 census indicates that 13.1 percent of the general population is African American and 16.9 percent Hispanic.⁴³ This disparity is even more pronounced in trafficked youth; nearly 90 percent of the girls participating in Los Angeles’ STAR Court, a specialized court for children identified as sex trafficking victims, are African American.⁴⁴

CHILD WELFARE INVOLVEMENT AS A RISK FACTOR FOR EXPLOITATION

Involvement in the child welfare system itself can be a risk factor for involvement in the sex trade. Exploiters strategically target vulnerable youth, especially those involved in foster care because they are easier to manipulate, given their histories of violence, trauma or neglect, and they often lack basic necessities.⁴⁵ Pimpology, a book written by a pimp on basic, and extremely disturbing, tactics for manipulating victims, urges prospective exploiters to look for the kids that appear lost, alone, and with little self-confidence.⁴⁶ By providing youth with a sense of belonging, food, shelter, clothes, and some affection, traffickers often fill voids in these children’s lives. Traffickers know where group homes are, and seek out children in those placements for recruitment purposes.⁴⁷

childwelfare.gov/pubs/LGBTQyouth.pdf [hereinafter SUPPORTING YOUR LGBTQ YOUTH]; KATAYOON MAJD ET AL., THE EQUITY PROJECT, HIDDEN INJUSTICE: LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH IN JUVENILE COURTS 71-72 (2009), available at http://www.hivlawandpolicy.org/sites/www.hivlawandpolicy.org/files/hidden_injustice.pdf.

³⁵ SUPPORTING YOUR LGBTQ YOUTH, supra note 35, at 4.

³⁷ Angela Irvine, “We’ve Had Three of Them: Addressing Invisibility of Lesbian, Gay, Bisexual, and Gender Non-Conforming Youths in the Juvenile Justice System, 19 COLUM. J. GENDER & L. 675, 689 (2010).

³⁸ See SUSAN DOUGHTERY, NAT’L RESOURCE CENTER FOR PERMANENCY AND FAMILY CONNECTIONS, BULLYING AND CHILDREN IN THE CHILD WELFARE SYSTEM (2013), available at http://nrcpfc.org/is/downloads/info_packets/bullying.pdf.

³⁹ HYATT, supra note 27, at 2; WALKER, supra note 1, at 21.

⁴⁰ Brett M. Figlewski & Lee W. Brannon, Trafficking and the Commercial Sexual Exploitation of Young Men and Boys, in LAWYER’S MANUAL ON HUMAN TRAFFICKING: PURSUING JUSTICE FOR VICTIMS 149, 155 (Jill L. Goodman & Dorchen A. Leidholdt eds., 2011), available at <http://www.nycourts.gov/ip/womeninthecourts/LMHT.pdf>; Taya Moxley-Goldsmith, Boys in the Basement: Male Victims of Commercial Sexual Exploitation, UPDATE (Am. Prosecutors Research Inst., Alexandria, VA.) 2005, at 1-2, available at http://www.ndaa.org/pdf/child_sexual_exploitation_update_volume_2_number_1_2005.pdf; WALKER, supra note 1, at 21.

⁴¹ ADMIN. OF CHILDREN YOUTH AND FAMILIES, OFFICE OF DATA, ANALYSIS, RESEARCH, AND EVALUATION, DATA BRIEF 2013-1, RECENT DEMOGRAPHIC TRENDS IN FOSTER CARE 1 (2013) available at http://www.acf.hhs.gov/sites/default/files/cb/data_brief_foster_care_trends1.pdf

⁴² Id.

⁴³ U.S. Census Bureau, State & County Quick Facts, <http://quickfacts.census.gov/qfd/states/00000.html> (last updated Mar. 27, 2014).

⁴⁴ Pratt Interview, supra note 15.

⁴⁵ WALKER, supra note 1, at 5; CLAYTON, supra note 23, at 124.

⁴⁶ See PIMPIN’ KEN & KAREN HUNTER, PIMPOLOGY (Gallery Books 2008).

⁴⁷ WALKER, supra note 1, at 18-19.

Furthermore, youth often run away or become homeless while in foster care.⁴⁸ As discussed above, homelessness and increased time on the streets has been shown to increase likelihood for victimization and exploitation.⁴⁹ Many youth placed in out-of-home care run away from their placements.⁵⁰ And more specifically, those in residential care are more likely to run away than those living in a foster home or the home of a relative.⁵¹ While on the street, these children must fend for themselves, and may resort to “survival sex,” if they have no other way to meet their basic needs.⁵²

Children in foster care face additional challenges because of restrictions placed on youth in many placements. In placements, children’s interaction with non-system involved peers is limited because they are prohibited from sleeping over. They also have difficulty finding privacy to explore their sexuality and gender identity.⁵³ Children in the system, whether in foster homes or group homes, also have restrictions placed on their use of technology.⁵⁴ Group homes are not required to provide youth with cell phones, and if a child comes into a home with a cell phone, the caregiver is not obligated to make ongoing payments.⁵⁵ Monthly personal allowances for foster youth, which range from twelve dollars to twenty-five dollars, are usually insufficient to cover the cost of purchasing cell phones and making monthly payments.⁵⁶ Currently, specific federal and state funding for the purchase and use of cell phones is only available for foster youth over the age of 18.⁵⁷ Moreover, some group homes forbid residents from having cell phones altogether.⁵⁸ As a result, some foster children seek normalcy and connection with others outside of their foster care placement. Often they run away, and if pimps target them, they will often give the youth cell phones.⁵⁹ Pimps use cell phones to both entice foster children, since they were likely forbidden from having a phone in their placement, but they also use them to control and track the youth.⁶⁰

⁴⁸ CLAYTON, supra note 23, at 86 (highlighting that “youth who have been in foster care are at a particularly high risk for becoming homeless”); MARK E. COURTNEY ET AL., CHAPIN HALL, CTR. FOR CHILDREN AT THE UNIV. OF CHI., YOUTH WHO RUN AWAY FROM OUT-OF-HOME CARE (2005), available at [http://www.chapinhall.org/sites/default/files/publications/ChapinHallDocument\(2\)_6.pdf](http://www.chapinhall.org/sites/default/files/publications/ChapinHallDocument(2)_6.pdf)

⁴⁹ WALKER, supra note 1, at 18; Chi. Alliance Against Sexual Exploitation, Know the Facts: Commercial Sexual Exploitation of Children, 8 CONNECTIONS 2 (2011), available at <http://www.wcsap.org/sites/wcsap.huang.radicaldesigns.org/files/uploads/documents/CommercialSexualExploitationofYouth2011.pdf>.

⁵⁰ COURTNEY, supra note 47, at 1 (citing that over 14,000 children in out-of-home care ran away between 1993 and 2003 in Illinois).

⁵¹ Id. at 2.

⁵² HYATT, supra note 27, at 1 (describing survival sex as “the exchange of sex for food, money, shelter, drugs or other basic daily needs”).

⁵³ See Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act, H.R. 4058, 113th Cong. (2nd Sess. 2014), available at <https://www.govtrack.us/congress/bills/113/hr4058/text> [hereinafter H.R. 4058].

⁵⁴ See, e.g., Sarah Seaman & Amelia Franck Meyer, Youth and Technology Use: A Treatment Foster Parent’s Perspective, in CW360: A COMPREHENSIVE LOOK AT A PREVALENT CHILD WELFARE ISSUE 30 (2011), available at http://casw.umn.edu/wp-content/uploads/2013/12/CW360_2011.pdf (demonstrating that, unlike other 17 year olds, Joe is unable to have a cell phone because foster parents worry about cost, and what else he may have access to. His email and facebook accounts are also closely monitored by his foster parents).

⁵⁵ CAL. DEPT OF SOC. SERV., FOSTER FAMILY HOMES, MANUAL LETTER NO. CCL-10-06 115 (2010); OR. DEPT OF HEALTH SERVS., CHILD WELFARE PROCEDURE MANUAL, APPENDIX 4.23 NEW TECHNOLOGY: RECOMMENDATIONS AND GUIDELINES, available at http://www.dhs.state.or.us/csf/safety_model/procedure_manual/appendices/ch4-app/4-23.pdf [hereinafter NEW TECHNOLOGY GUIDELINES].

⁵⁶ See, e.g., Our Kids of Miami-Dade/Monroe, Inc., OK Operating Procedure No. 7000-40-001 (2011), available at <http://www.ourkids.us/ourpartners/Documents/Personal%20and%20Clothing%20Allowances/7000-40-001%20Personal%20and%20Clothing%20Allowances.pdf> (sets monthly personal allowance at \$12/month); Ind. Dep’t of Child Servs., Provider Manual: DCS Managed Foster Parents 2-3 (2011), available at <http://www.in.gov/dcs/files/fostercareprovidermanual.pdf> (sets personal allowance at \$300/year, which is \$25/month).

⁵⁷ See, e.g., Free Cell Phones and Services for Foster Youth Ages 18-21, ALAMEDA COUNTY FOSTER YOUTH ALLIANCE (May 23, 2013), <http://fosteryouthalliance.org/?p=8396>; Cell Phone Program FAQs, ASSURANCE WIRELESS (2013), <http://www.assurancewireless.com/Public/TermsandConditions.aspx>.

⁵⁸ See, e.g., JUVENILE LAW CENTER, KIDVOICE, KNOW YOUR RIGHTS: A GUIDE FOR YOUTH IN SUBSTITUTE CARE IN PENNSYLVANIA 15 (2010), available at <http://www.independentlivingpa.org/Know%20Your%20Rights%202010.pdf>; CAL. DEPT OF SOC. SER., CAL. HEALTH AND HUMAN SER. AGENCY, ALL COUNTY INFORMATION NOTICE NO. 1-17-13 (2013), available at http://www.dss.cahwnet.gov/lettersnotices/EntRes/getinfo/acin/2013/l-17_13.pdf [hereinafter CAL. CNTY. NOTICE]; E-mail from Barbara Hernandez, Vice President of Cmty. Servs., Crittenton Servs. for Children & Families, to author (Apr. 28, 2014, 4:17 PM) (on file with author).

⁵⁹ See, e.g., FBI: 79 Arrested in Child Prostitution Sweep, CBS NEWS (June 25, 2012, 4:43 PM), <http://www.cbsnews.com/news/fbi-79-rescued-in-child-prostitution-sweep/> (noting that girls ages 11-13 were lured by cell phones and other gifts); Interview with Annie Corbett, President & CEO, Corbett Group Homes, in Redwood City, Cal. (Jun. 19, 2014) [hereinafter Corbett Interview].

⁶⁰ Dorchen A. Leidholdt & Katherine P. Scully, Defining and Identifying Human Trafficking, in LAWYER’S MANUAL ON HUMAN TRAFFICKING: PURSUING JUSTICE FOR VICTIMS 37 (Jill L. Goodman & Dorchen A. Leidholdt eds., 2011), available at <http://www.nycourts.gov/ip/womeninthecourts/LMHT.pdf> (noting the traffickers “monitor the whereabouts and activities of their victims through e-mail and text message”).

Foster youth face challenges long after they leave the foster care system that make them more susceptible to exploitation. Youth who transition out of the child welfare system tend to experience poor outcomes. For example, they are less likely than non-system involved youth to graduate high school or attend college and to obtain employment that pays a living wage.⁶¹ Furthermore, they are much more likely to enter the criminal justice system.⁶² Faced with these barriers to success and without the support and protection of the child welfare system, many youth become victims of traffickers because they have no other way to meet their basic needs.⁶³

Despite clear evidence that they are victims, society still labels exploited children as offenders. The rhetoric that is often perpetuated by media and most law enforcement, probation, court, and child welfare systems imply that these youth choose to engage in commercial sex.⁶⁴ By viewing these children as offenders, child-serving entities, like courts, law enforcement and others, continue to steer victims of exploitation into the juvenile justice system. That system is designed to rehabilitate, but often punishes, child offenders. Notably, in many states, these same children are not legally allowed to consent to sex, which cuts against the argument that they are “offenders.”⁶⁵ Rather, it further supports the notion that children are victims when adults have sex with them for money or when adult pimps force them into exchanging sex for money. Child-serving systems rarely identify victims of exploitation prior to an arrest for prostitution or a related offense. These youth have already experienced such severe trauma that they were removed from their homes for their own safety. Because of a failure to screen and identify them, they risk enduring additional years of violence and trauma at the hands of their exploiters before any systems ever intervene.

RECOMMENDATIONS

Technology companies are in a unique position to improve the way the systems deal with these children. As explained above, the vulnerabilities that bring these children under the jurisdiction of the child welfare system as well as the vulnerabilities created by the system, could be addressed, in part, through initiatives led by the technology sector.

1. One major barrier to understanding and responding to the needs of a child is a lack of coordination and communication between the agencies serving youth. For example, a child’s social worker may not have access to the child’s school attendance information, and as a result, may not be able to recognize chronic truancy, a warning sign for trafficking. Facilitating communication between various systems, whether by creating a centralized database or by allowing multiple databases to interact with each other, would improve collaboration and allow service providers to gather key information. This could lead to early interventions to address risk factors for exploitation and

⁶¹ CASEY FAMILY PROGRAMS, IMPROVING OUTCOMES FOR OLDER YOUTH IN FOSTER CARE 7 (2008), available at http://www.casey.org/resources/publications/pdf/WhitePaper_ImprovingOutcomesOlderYouth_FR.pdf

⁶² *Id.* at 4.

⁶³ HOMELESSNESS & TRAFFICKING, *supra* note 22, at 16 (noting that nearly 50 percent of youth in the Covenant study were first exploited at the age of 18. One explanation is that these children became homeless for the first time when they exited the foster care system, and were forced to engage in commercial sex to survive).

⁶⁴ See, e.g., T.S. Romney, Changing Laws to Help Victims of Child Prostitution, ST GEORGE NEWS (June 2, 2014), <http://www.stgeorgeutah.com/news/archive/2014/06/02/tsrnew-human-trafficking-prostitution-law/#.U5YfC14mOdu>; Youth Advocate Calls on Media to End Use of “Child Prostitute” in News Reporting, RIGHTS4GIRLS (May 12, 2014), <http://te2ma.net/message/wwr7g/o2yekt>; Stop Using the Term “Child Prostitute,” CHANGE.ORG, <https://www.change.org/petitions/stop-using-the-term-child-prostitute> (last visited June 9, 2013).

⁶⁵ CAL. PENAL CODE § 261.5(a); TEX. PENAL CODE ANN. § 22.011; ARIZ. REV. STAT. ANN. § 13-1405.

potentially protect youth from ever being victimized. Any mechanisms to facilitate communication would have to build in security measures so that sensitive information would be protected pursuant to federal and state law, and only accessible after obtaining appropriate authorization to release information from the youth and his or her parent or guardian.

2. Systems-involved youth often have a very small support system, and what exists may be limited because of resource constraints. Social workers and probation officers are often a part of this support system. Unfortunately, there is no way for children to reach out to their social workers or probation officers after hours, when they are most likely to find themselves in risky situations. Providing an on-call or youth hotline that would route a call to an actual social worker or trained advocate would provide youth round the clock support. Access to this type of 24-hour response may help prevent children from becoming exploited or may help youth leave the streets.
3. Currently, few jurisdictions systematically screen children for commercial sexual exploitation. Those systems that do screen often have difficulty in asking the right questions in a way that encourages a youth to disclose exploitation.⁶⁶ Because these are sensitive questions, research has shown that some interviewees “are more inclined to respond to sensitive questions when a computer is asking them” through Interactive Voice Response.⁶⁷ Creating a screening tool using technology may increase disclosures and allow child-serving systems to intervene sooner.
4. Increasingly, children and youth are using social media and texting to communicate with peers and adults in their lives. Unfortunately, many child-serving agencies have restrictions on the use of texting and social media, which vary depending on the jurisdiction. In California, the Reasonable and Prudent Parent Standard gives caregivers the discretion to make sensible decisions on Internet and cell phone use to “maintain the child’s health, safety, and best interest.”⁶⁸ Other jurisdictions such as New York and Oregon have not adopted statutory codes governing Internet and cell phone use. Instead, agencies in each state have developed guidelines that encourage caregiver supervision, parental controls, and discretionary revocation of privileges as a disciplinary measure.⁶⁹ Currently, a federal bill that would mandate the Reasonable and Prudent Parent Standard is awaiting approval by the Senate.⁷⁰ By restricting use, it is possible that we are limiting the interaction that youth have with caring adults in their lives. Creating child protections on agency computers and cell phones, such as limited use or restricted applications, or allowing the creation of profiles solely for work purposes could be a way to bridge the current gap in communication. Anecdotally, the runaway unit of the Los Angeles County’s Department of Children and Families Services maintains a Facebook page and uses it to find and re-engage youth who have run away from placements with some success.⁷¹

⁶⁶ HOMELESSNESS & TRAFFICKING, *supra* note 22, at 5.

⁶⁷ Mobile Technology Innovations in Child Welfare: The Simple Cell Phone, NAT’L RESOURCE CTR. FOR CHILD WELFARE DATA & TECH., <http://www.nrcwdt.org/2011/10/mobile-technology-innovations-in-child-welfare-the-simple-cell-phone/> (last visited June 6, 2014) [hereinafter Mobile Technology].

⁶⁸ CAL. WELF. & INST. CODE § 362.04.

⁶⁹ See, e.g., N.Y. STATE FOSTER CARE YOUTH LEADERSHIP ADVISORY TEAM, PRIVACY ISSUES FOR ALL YOUTH IN CARE (2011), available at <http://ocfs.ny.gov/main/publications/Pub5084.pdf>; NEW TECHNOLOGY GUIDELINES, *supra* note 55.

⁷⁰ H.R. 4058, *supra* note 53.

⁷¹ Mobile Technology, *supra* note 67.

5. Youth tend to have better outcomes living in home-like, community-based settings like foster homes, rather than group homes. Nationally, jurisdictions have challenges recruiting foster homes, especially for older youth.⁷² It is important to have an adequate number of foster homes specially trained to work with these exploited youth available in the community. Some jurisdictions have used social media to recruit foster families for specific populations. Technology companies could be helpful in developing social media campaigns to recruit CSEC-focused foster homes and create ways to distribute recruitment materials.⁷³

6. Increasingly, youth have access to mobile devices and computers at school and through their peers. Although group homes are not required to supply foster youth with cell phones, caregivers have the option of providing them and setting restrictions on their use.⁷⁴ Alternatively, foster youth can purchase phones with money from part-time jobs or gain access to them through their exploiters.⁷⁵ National and local initiatives have also expanded access to technology by supplying computers to foster homes and foster youth individually.⁷⁶ As a result, foster youth are able to have more normalized childhoods and become technologically literate. However, these benefits must be weighed against the danger of potential communication between traffickers and victims, especially when caregivers do not provide adequate restrictions and supervision on usage. Notwithstanding this danger, technology is a powerful tool that can be harnessed to combat sex trafficking. For example, Corbett Group Homes has a CSEC-specific group home in California where youth are allowed to keep cell phones with minimal supervision.⁷⁷ The goal is to encourage open communication channels between staff and youth, many of whom will run away while at the home.⁷⁸ Staff members give youth their personal cell phone numbers and allow them to save their contact information in a manner that traffickers will not detect.⁷⁹ Connecting with youth through text, Facebook, and Instagram gives caregivers a way to reach out to youth and help them if they run away.⁸⁰ Increased access to technology creates an opportunity to develop cell-phone/ technology-based curricula to teach children about sexual exploitation. This technology can be developed with input from young people so that it is youth-friendly and interactive. It would be critical to put in place some protections and safeguards to avoid detection by traffickers. There is also an opportunity to develop cell phone-based coaching for adults caring for children who have been exploited.⁸¹

⁷² See, e.g., SUSAN GOLONKA & KELSEY MCCOY, NAT'L GOVERNORS ASS'N CTR. FOR BEST PRACTICES, THE TRANSITION TO ADULTHOOD: HOW STATES CAN SUPPORT OLDER YOUTH IN FOSTER CARE 7 (2010), available at <http://www.nga.org/files/live/sites/NGA/files/pdf/1012FOSTERCARE.PDF>; CASEY FAMILY PROGRAMS, RECRUITMENT AND RETENTION OF RESOURCE FAMILIES 33-36 (2005), available at http://www.casey.org/Resources/Publications/pdf/BreakthroughSeries_RecruitmentRetention.pdf.

⁷³ Social Media in Adoption Recruitment, CHILD WELFARE INFORMATION GATEWAY, <https://www.childwelfare.gov/adoption/preplacement/social-media.cfm> (last visited June 6, 2014).

⁷⁴ TEX. DEPT OF FAMILY & PROTECTIVE SERS., NORMALCY ACTIVITIES FOR CHILDREN (2013), available at http://www.tffa.org/wp-content/uploads/2013/08/Normalcy-Activities-for-Children-Final_8-8-2013.pdf.

⁷⁵ CAL. CNTY. NOTICE, *supra* note 58; Corbett Interview, *supra* note 59.

⁷⁶ IFOSTER, 1 LAPTOP PER FOSTER YOUTH (2011), available at <http://oneperfofosteryouth.org/sites/default/files/1%20Laptop%20Community%20Child%20Welfare%20Partners%20Participation%20Overview.pdf>; Dan Fiorucci, Fund Drive to Get Computers to Foster Youth Gets Underway, KTUU.COM (May 26, 2012), http://articles.ktuu.com/2012-05-26/foster-children_31863157.

⁷⁷ Corbett Interview, *supra* note 59.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Mobile Technology, *supra* note 67.

7. Trafficking is an ever-evolving criminal activity. The traffickers must be agile in order to evade law enforcement, which means the language, tactics, and forums for trafficking change regularly. Technology companies could develop a portal to monitor emerging trends in exploitation practices. Professionals working with children could access the portal to ensure they have the most updated information, which would make it easier to identify potential trafficking victims. The portal would have to be updated regularly, and would necessitate youth input. Portals could also provide region specific information.
8. One consistent problem for agencies is locating and identifying providers and services that have received training on working with this population. Tech companies could set up a national portal or clearinghouse to catalog available services for this population.
9. A mobile application could be created to provide youth with the location of sexual assault, domestic violence, and trafficking specific programs so that if a youth does try to escape, they can quickly locate available resources that are open at the time. The application would need to be disguised to avoid detection by and repercussions from the trafficker. Similar youth-friendly apps exist that provide young people with information on clinics and providers that provide reproductive health services. These could be used as models for a sexual abuse/ trafficking application.