

# Children in Care and Domestic Minor Sex Trafficking

**Eva J. Klain, JD**  
**ABA Center on Children  
and the Law**  
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# What are we going to do today?

- ▶ What is domestic child sex trafficking?
- ▶ How can you better identify and address the needs of children in care who may be sex trafficking victims?
- ▶ How does trauma play a role in your interactions with clients?
- ▶ How does the Preventing Sex Trafficking and Strengthening Families Act apply?
- ▶ Putting it all together: how can you enhance your response with child survivors of sex trafficking?
  - ▶ State Examples
  - ▶ Available Resources

# Definition of Sex Trafficking

## Trafficking Victims Protection Act of 2000 (TVPA):

- The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or *in which the person induced to perform such act has not attained 18 years of age*; and
- or for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

+Any child under the age of 18 engaged in commercial sex is a victim of trafficking.

+“Commercial sex act” means any sex act for which anything of value is given to or received by any person.

# Myths and Facts

## Myth

- Sex trafficking only happens overseas to young girls.

## Fact

- Commercial sexual exploitation and sex trafficking **occur every day in the United States**. Its victims – both girls and boys – live in cities and small towns across America.

IOM (Institute of Medicine) and NRC (National Research Council). 2013. *Confronting commercial sexual exploitation and sex trafficking of minors in the United States*. Washington, DC: The National Academies Press.

# Myths and Facts

## Myth

- Minors who are commercially sexually exploited or trafficked for sex are recognized as victims of crime and abuse.

## Fact

- Sexual exploitation and sex trafficking are **forms of child abuse**, but the children and adolescents who are **victims can still be arrested for prostitution**, detained or incarcerated, and subject to permanent records as offenders in many states.

# Myths and Facts

## Myth

- It is easy for professionals who interact with minors to recognize victims, survivors, and youth at risk of commercial sexual exploitation and sex trafficking.

## Fact

- Many teachers, doctors and nurses, child welfare workers, legal professionals, and others who interact with youth are unaware that CSEC and sex trafficking occur in their communities, or **lack the knowledge or training** to identify and respond to them.

# Myths and Facts

## Myth

- Help is readily available for victims and survivors of commercial sexual exploitation and sex trafficking.

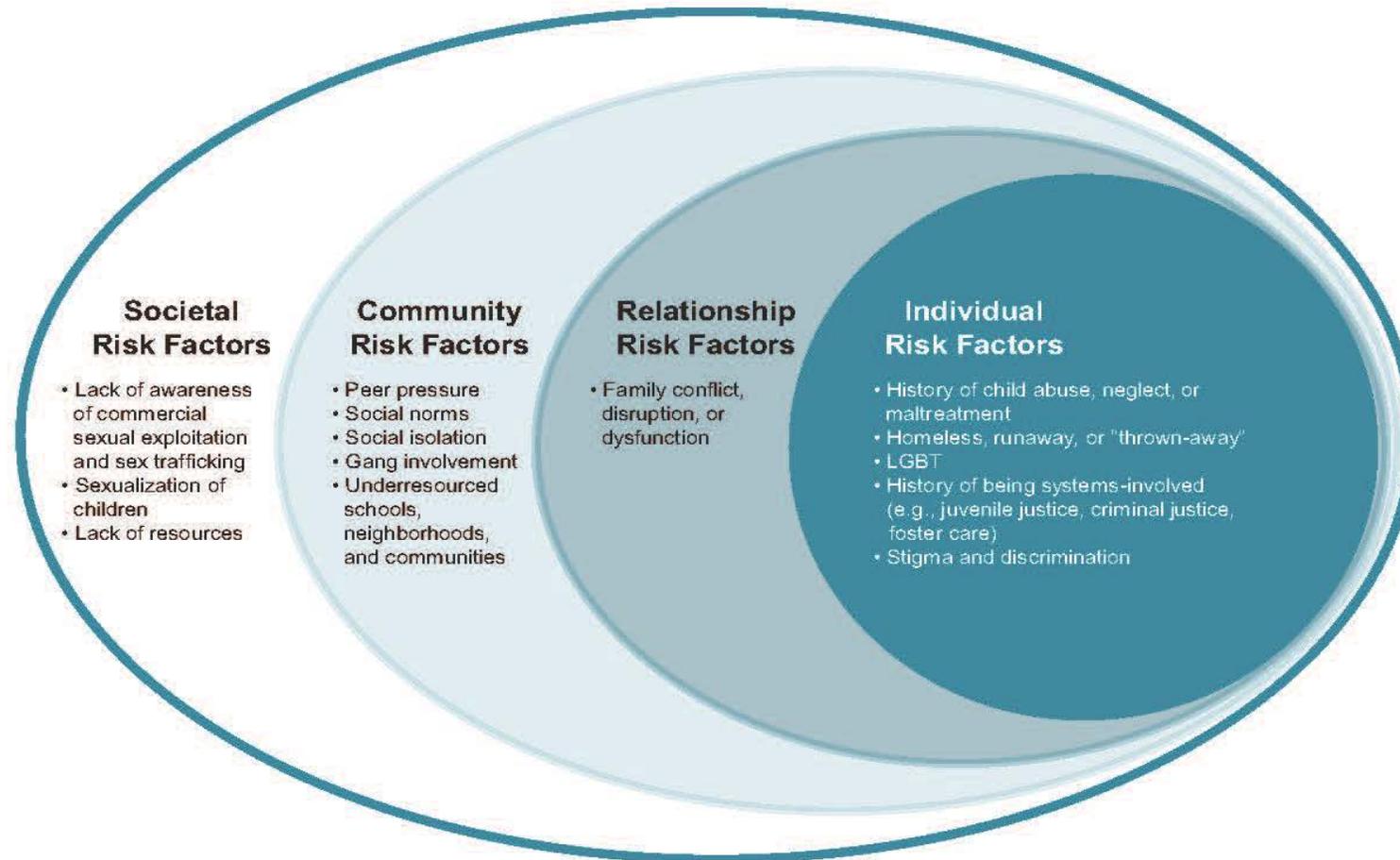
## Fact

- There are **too few services to meet current needs**. The services that do exist are unevenly distributed geographically, lack adequate resources, and vary in their ability to provide specialized care.

“Playground” film clip:

What did you see?

What risk factors did you identify?



**FIGURE 2** Possible risk factors for commercial sexual exploitation and sex trafficking of minors.  
NOTE: LGBT = lesbian, gay, bisexual, or transgender.

# Child Welfare and Child Sex Trafficking

- Up to 80% of youth who are currently or formerly in foster care become victims of sex trafficking
- Previous child abuse is a common characteristic of youth who are sex trafficked
- Between 11 and 37% of youth aging out of foster care experience homelessness after they transition and another 25-50% percent face unstable housing

- Gluck, Elliott & Rricha Mathur, *Child Sex Trafficking and the Child Welfare System*. State Policy Advocacy and Reform Center, July 2014.
- U.S. Department of Housing and Urban Development. *Housing for Youth Aging out of Foster Care*, 2014, 5-6.

# Characteristics and Needs of Youth in Sex Trade

- Average when youth first traded sex was 15.8 years old
- Disproportionally black/African-American (70% of interview subjects)
- Arrests for prostitution low (1,130 in 2009) but being arrested for other offenses: 16% for prostitution, 65% for any offense, including petty larceny, shoplifting, drugs, trespassing/loitering, lack of identification
- Childhood trauma
- Needs youth identified as top three (over counseling):
  - Housing/utilities
  - Employment/education
  - Food/money
- Swaner et al., Youth Involvement in the Sex Trade: A National Study, Center for Court Innovation, 2016.

# Trauma: What is it? Why does it matter?

A traumatic experience:

- Threatens the life or physical integrity of a child or of someone important to that child (parent, grandparent, sibling)
- Causes an overwhelming sense of terror, helplessness, and horror
- Produces intense physical effects such as pounding heart, rapid breathing, trembling, dizziness, or loss of bladder or bowel control

# Trauma Reactions

- Best understood as adaptations to survive
- Are logical in the context of trauma
- Whatever it takes to survive their experience and pain – RESILIENCY!
- Trauma reactions often misdiagnosed or overlooked as symptoms of other mental illness

# Trauma-informed Advocacy

- **Know how child's trauma history influences behavior**
  - Be aware of child's trauma triggers
  - Understand how child's behavior is often coping mechanism
  - Understand how trauma relates to controlling behaviors
- **Consider child's chronological and developmental age**
- **Enhance child's resilience**
  - Help child find mastery, or success. Mastery helps build self-esteem, crucial to maltreated children
  - Help child regulate feelings and emotions
- **Build child's relational capacity**
  - Ensuring child maintains or develops deep emotional connection to at least one supportive adult
  - Focus on client's functional ability
- **Advocate for evidence-based treatments**
  - Seek trauma-informed therapists

# Identification / Screening

- **Generally conducted by agency**
  - Know local screening practice
  - Available screening tools
- **What is the role of the court and/or attorneys?**
- **Identifying potential victims in your caseload**
  - Developmentally and age appropriate language
  - Most effective when rapport/sense of safety is established
  - Establishing trust, trauma-informed legal practice

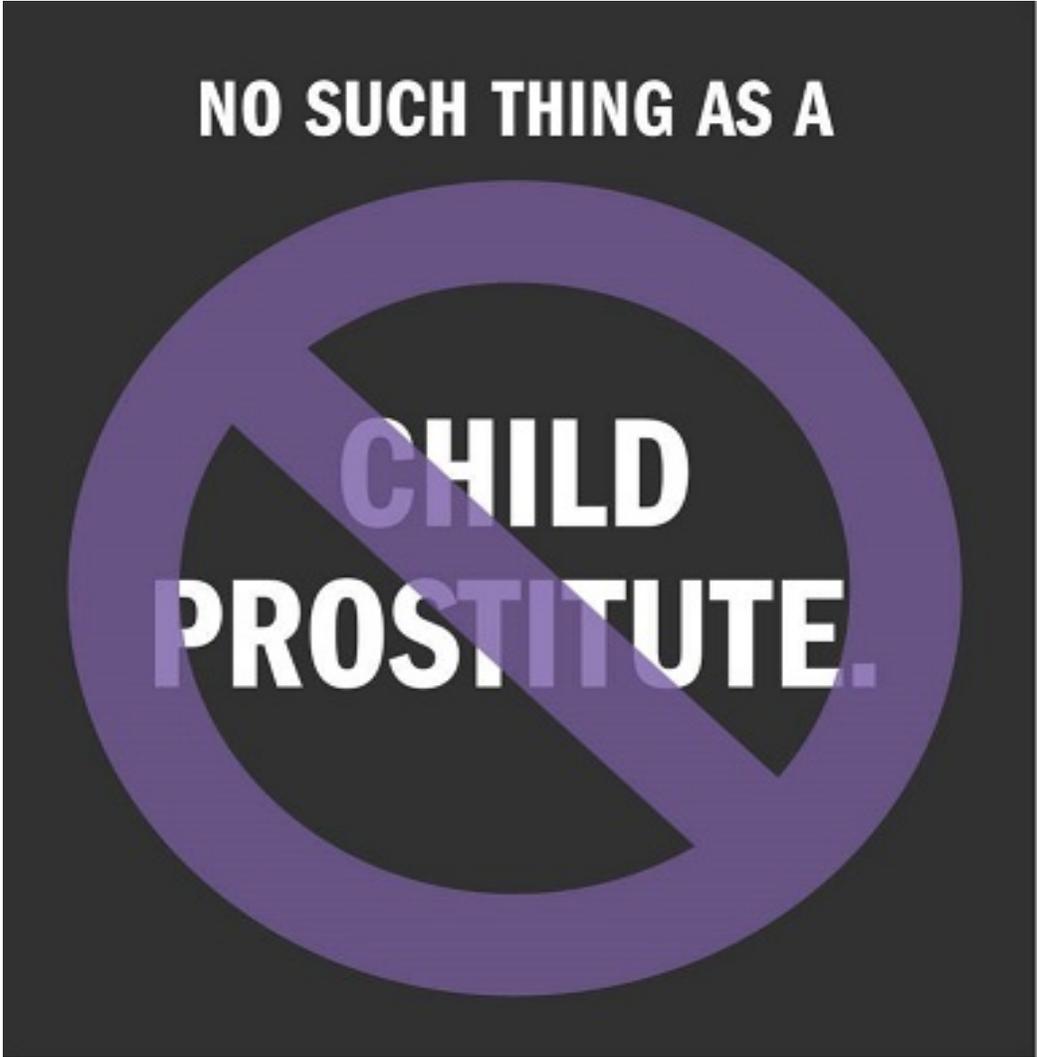
# Potential Questions

- Were you told to do anything you did not want to do?
- Did anyone promise you something if you did? Who?
- Were you paid? Did you get to keep the money?
- Were you ever hurt?
- Did anyone say he or she would hurt you, your friends, or your family?
- Where did you sleep? Was it in the same place every night?
- Did you travel to different places?
- What did you do at night?

▫ Katherine Kaufka, T Nonimmigrant Visas and Protection and Relief for Victims of Human Trafficking: A Practitioners Guide, Immigration Briefings, September 2006, at 1.

[www.calxibe.com](http://www.calxibe.com)





[rights4girls.org](http://rights4girls.org)

# Safe Harbor Laws

- Trauma-informed, youth-centered approaches that treat children who have been sex trafficked as victims rather than offenders
- Elements (as identified by ECPAT):
  - CSEC classified as abuse
  - Training to identify trafficking
  - Immunity from prosecution
  - Specialized services
  - Funding source

Steps to Safety: A Guide to Drafting Safe Harbor Legislation to Protect Sex-Trafficked Children (ECPAT USA, New York, NY, 2015).

- Commission or task force
- Promotes public awareness and self-identification
- Discretionary prosecution
- General services
- Financial compensation
- No consent defense
- No mistake or ignorance of age defense
- In-court protections
- Expungement
- Permits temporary detention
- Creates CSEC victim fund

# Preventing Sex Trafficking and Strengthening Families Act

- **President Obama signed the Act (P.L. 113-183) into law on September 29, 2014**
  - **Title I: Protecting Children and Youth at Risk of Sex Trafficking**
  - **Title II: Improving Adoption Incentives and Extending Family Connection Grants**
  - **Title III: Improving International Child Support Recovery**

## Section 101. Identifying, documenting, and determining services for children and youth at risk of sex trafficking

- Agency must develop policies and procedures in consultation with organizations experienced in dealing with at-risk youth
- Applies to children for whom state has responsibility for placement, care, or supervision, including those who were not removed from home, children from foster care who have run away (under age 18 or under age 21 if state extended foster care), and those receiving services under Chaffee program
- States have the option to include young adults under age of 26, regardless of whether involved in foster care



## Section 102. Reporting instances of sex trafficking to law enforcement within 24 hours

- **States must immediately report children under responsibility of state who are identified as sex trafficking victims to law enforcement (by September 29, 2016)**

## Section 102. Reporting

- States must annually report total number of youth sex trafficking victims to Secretary of HHS (by September 29, 2017)
- Secretary must annually report number to Congress and make available to public on HHS website (by September 29, 2018)

## Section 103. Including sex trafficking data in Adoption and Foster Care Analysis and Reporting System (AFCARS)

- Amends AFCARS to require states to submit data on annual number of children in foster care who are identified as victims of sex trafficking including number of children who were victims **before entering foster care** and those who became victims **while in foster care**

## Section 105. Increasing information on children in foster care to prevent sex trafficking

- **By September 29, 2016, using AFCARS data, HHS must report to Congress on children who run away from foster care and their risk of becoming victims of sex trafficking**
- **Reports should include information on:**
  - characteristics of children who run away,
  - potential factors associated with children running away from care,
  - information on children's experiences while absent from care, and
  - trends in number of runaways in each fiscal year
- **Report must summarize information on state efforts to provide:**
  - specialized services,
  - placement options for child victims of sex trafficking, and
  - information on state efforts to ensure children in foster care form and maintain long-lasting connections to caring adults

## Section 104. Locating and responding to children who run away from foster care

- By September 29, 2015, states had to:
  - develop and implement plans to **expeditiously locate any child missing from foster care**;
  - determine **primary factors that contributed** to child's running away or being absent from foster care;
  - determine **child's experiences while absent** from foster care, including **screening** whether child was victim of sex trafficking
- By September 29, 2016, state agencies must:
  - **report within 24 hours** of receiving information on missing or abducted children to the law enforcement authorities for entry into NCIC database and NCMEC

# NCJFCJ & NCMEC

What steps can a judge take when a child runs away or goes missing from care?

- Ensure coordinated response is in place
- Ensure agency policies include requesting an immediate court hearing
- Issue an order (individual case or standing) requiring the agency to report
- Require agencies take current photographs
- Consider requiring safety assessments of suspected sex trafficking when a child returns
- Consider continuing placement while missing

*Missing Children, State Care, and Child Sex Trafficking: Engaging the Judiciary in Building a Collaborative Response.* Technical assistance brief. National Center for Missing & Exploited Children, Alexandria, Virginia, and National Council of Juvenile and Family Court Judges, Reno, Nevada, 2015.

# State Examples

- **Michigan Administrative Order:**
  - Each circuit court must develop a plan for reviewing cases involving children who are absent from placement without permission of the court
  - Plan must include establishment of special docket or other expedited process for review of cases
- **Kentucky Statute and Provisional Juvenile Court Rules of Procedure and Practice (JCRPP)**
- **Specialized courts or dockets: NY, Los Angeles**

# Questions Judges (or You) Can Ask

- When a youth is missing from care
- When a youth returns from a runaway episode

*The Role of the Court in Implementing the Older Youth Provisions of the Strengthening Families Act* (ABA Center on Children and the Law & Juvenile Law Center, 2015)

# Questions to Ask at Hearings: Youth who Run Away from Care

## Questions to Ask When a Youth is Missing from Foster Care

- What efforts are being made to locate the youth?
- Have the required reports been made to law enforcement?
- How is the agency collaborating with NCMEC?
- Where was the youth placed when he or she ran away?
  - a. Was this the least restrictive, most family like placement?
  - b. Were any concerns raised about the placement before the youth ran away?
  - c. Was the youth participating in age or developmentally appropriate activities?
- What services or treatments was the youth receiving when he or she ran away?
  - a. Was the youth making progress with those services and treatments?
  - b. Were there any unmet service or treatment needs?
  - c. What was the status of the youth's education and educational progress when he or she ran away?
- Does the youth have any special needs or a disability or was there a need for any special screenings or assessments to determine if there is a disability or special need?
- Were there any unaddressed trauma or behavioral health issues?
- Was the youth connected to his or her biological family or other supportive adults?
- Was or are there any concerns or evidence of involvement in sex trafficking?
- What services will the child need when they return and what steps are being taking to arrange for those services?
- Is the child's previous caregiver willing to have the child return to the placement when he or she returns?

# Questions: When a Youth is Missing from Care

- What efforts have been made to locate youth
- What was the youth's placement prior to runaway episode?
  - Was it the least restrictive, most family like placement?
- What services was youth receiving?
- Were there any unaddressed trauma or behavioral health question?
- Was there any concern, indication, or evidence of involvement in sex trafficking?
- What services will be needed upon return? Steps to arrange these services?

# Questions: When a Youth Returns

- **Is the youth safe? Is there a need for protective orders or other placement requirements to ensure safety?**
- **What screening or assessment has been done?**
- **Has the youth debriefed with anyone?**
- **What changes have been made to the placement and service array to respond to youths needs?**
- **What's the plan to stabilize youth and prevent future runaway episodes?**

# Resources

- IOM/NRC, **Confronting commercial sexual exploitation and sex trafficking of minors in the United States:**  
[www.iom.edu/sextraffickingminors](http://www.iom.edu/sextraffickingminors)
- Vera Institute, **Screening for Human Trafficking, Out of the Shadows:**  
<https://www.vera.org/publications/out-of-the-shadows-identification-of-victims-of-human-trafficking>
- ABA/JLC, **The Role of the Court in Implementing the Older Youth Provisions of the Strengthening Families Act:**  
[http://www.americanbar.org/groups/child\\_law/what\\_we\\_do/projects/youth-engagement-project.html](http://www.americanbar.org/groups/child_law/what_we_do/projects/youth-engagement-project.html)
- NCJFCJ/NCMEC, **Missing Children, State Care, and Child Sex Trafficking:**  
[http://www.missingkids.org/en\\_US/publications/missingchildrenstatecare.pdf](http://www.missingkids.org/en_US/publications/missingchildrenstatecare.pdf)
- Center for Court Innovation, **Youth Involvement in the Sex Trade:**  
<http://www.courtinnovation.org/youthstudy>



## Contact Information

**Eva J. Klain, JD**

**ABA Center on Children and the Law**

**(202) 662-1681**

**[eva.klain@americanbar.org](mailto:eva.klain@americanbar.org)**

**[americanbar.org/child](http://americanbar.org/child)**