

Understanding Criminalization of Girls and Gender Expansive Youth Impacted by Commercial Sexual Exploitation

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The commercial sexual exploitation (CSE) of children, also known as child sex trafficking, is a primary driver of incarceration for girls and gender expansive youth.¹ According to the federal Trafficking Victims Protection Act of 2000 (TVPA), sex trafficking is “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for a commercial sex act . . . *in which the person induced to perform such an act has not attained 18 years of age*” (emphasis added).² A “commercial sex act” is any sex act for which “anything of value” is given or received: this can include money, food, clothing, shelter, or other items or services.³ Notably, there is no requirement of force, fraud, or coercion when minors are involved—and no requirement that there be a third party trafficker.⁴ CSE can take many forms—through street exploitation, in strip clubs and massage parlors, on internet sites, and/or through the creation of child sexual abuse material.⁵

Under these definitions, youth in the sex trade are victims and survivors of trafficking.⁶ Thus, definitively, there is no such thing as a “child prostitute.”⁷ As the next section describes, about 60 percent of U.S. states no longer allow the arrest and/or prosecution of youth under 18 for the crime of prostitution.⁸ The TVPA also recognizes that “victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked.”⁹ However, despite these legal changes, concerted efforts to shift the language around and perceptions of impacted youth, and integration of promising practices into service arrays, girls and gender expansive youth impacted by trafficking continue to be criminalized and incarcerated.¹⁰

Why is it happening? And what can we do? In this issue brief, you will find information on the

- harms of criminalization and who is most impacted;
- pathways to criminalization for youth impacted by CSE;
- current challenges and legal system gaps; and
- opportunities and interventions aimed at reducing criminalization.

Scope of the problem

Data is limited on the true scope of the criminalization of youth impacted by CSE due to under-identification and the quickly evolving legal landscape. In line with federal law, as of 2024, 30 states and the District of Columbia have passed non-criminalization laws that prohibit the prosecution of youth under 18 on prostitution charges.¹¹ However, that means that 20 states still allow youth experiencing CSE to be prosecuted for those charges. In 2020 in the United States, there were 110

arrests of youth under 18 for prostitution.¹² As the following paragraphs will describe, many more youth are still criminalized for survival behaviors, status offenses, proxy offenses, and forced criminality.¹³ Data also indicates that upon turning 18, youth who were previously identified as exploited and legally considered “victims” are arrested for prostitution in significant percentages. Although their circumstances remain largely unchanged, the criminal consequences increase significantly for transition-age youth.¹⁴

Studies show that youth impacted by exploitation have high rates of legal system contact. In California, nearly 40 percent of youth prosecuted as adults reported trafficking prior to their incarceration.¹⁵ A 2018 study of youth on probation in Los Angeles found that girls who had been identified as CSE had significantly more arrest referrals, entrances into juvenile hall, violation hearings, bench warrants issued, and petitions filed and sustained in juvenile court than their non-CSE peers.¹⁶ A 2016 study of youth involved in the sex trade in New York found that 65 percent of participants reported a prior arrest, 16 percent reported a prior prostitution arrest, and 11 percent reported a prostitution arrest in the past year.¹⁷ Another study of youth engaged in survival sex in New York City found that 70 percent had been arrested at least once.¹⁸ In a 2023 national survivor survey, 22 percent of survivors reported having been in the juvenile criminal legal system, and 62 percent reported having had contact with law enforcement.¹⁹ Of those, 81 percent had law enforcement contact while they were being exploited, and 90 percent of those with a criminal record reported that all or some of their records were directly related to their exploitation.²⁰

Girls with histories of abuse, before and due to exploitation, are overrepresented in the carceral/legal system, a phenomenon known as the sexual abuse to prison pipeline.²¹ A study examining a nationally representative sample of youth incarcerated on prostitution charges found that while nearly all surveyed youth (94 percent) had experienced at least one type of childhood victimization, girls had significantly higher rates than boys of nearly all forms of victimization, with almost two thirds having experienced sexual abuse and half having experienced rape.²² Data from Los Angeles County’s Law Enforcement First Responder Protocol (FRP) for Commercially Sexually Exploited Children shows that of 561 children, 95 percent had a prior child welfare referral, with an average of 13.3 prior referrals per child; 65 percent of these referrals were for sexual abuse.²³

Harms of criminalization on trafficked youth

“In any other context our values are clear—when an adult rapes a child, the child is a victim and the adult is the criminal. When money changes hands . . . this same child is criminalized and the adults, more often than not, walk away.”

Leslie Starr Heimov & Kate Walker Brown, “Taking Action to Protect Sexually Exploited Children,” *The Imprint*, November 30, 2015, <https://imprintnews.org/opinion/taking-action-protect-sexually-exploited-children/14630>.

Addressing the criminalization of youth experiencing CSE is of urgent concern. Youth with this experience face the dual harms of victimization: first from the trafficking itself, which can lead to long lasting physical and mental health, emotional, relational, financial, and other harms; and second from legal system contact, where the harms to all youth have been well documented: they too often experience further physical and sexual abuse, damage to physical and mental health, disruptions to education, disconnection from community, and collateral consequences such as difficulty securing public benefits, housing, and employment.²⁴ The negative impact of incarceration is exacerbated when the young person has also been victimized through trafficking because it

- punishes survivors for their victimization, which increases shame and impedes healing from trauma;
- mirrors harmful abuse and power dynamics present in trafficking, resulting in further trauma, loss of agency, and isolation (for example, locking youth in facilities due to “safety

concerns” has the effect of restricting youth movement and choice about what they can wear, do, and eat and isolating them from community and healthier relationships in ways that are similar to a trafficker’s control tactics);

- fails to address the root causes or risk factors that led to trafficking, leaving youth vulnerable after release to being targeted again by exploiters or returning to unsafe behaviors, such as trading sex, to meet their basic needs; and
- removes youth from positive activities and relationships in their communities that are protective against future exploitation and harm.

Intergenerational harms of criminalization

When exploited youth are criminalized it can cause intergenerational harm. Many trafficked

“Overall, Family Courts and Child Protective Services (CPS) do not have an understanding of how human trafficking can affect a survivor’s experience with obtaining and keeping custody of their children, especially when the other parent is a trafficker.”

Survivor expert quoted in Sabrina Thulander and Caren Benjamin, *In Harm’s Way: How Systems Fail Human Trafficking Survivors* (Washington, DC: Polaris Project, 2023), 36, <https://perma.cc/5Q7M-4D3R>.

individuals are pregnant or parenting. A study of girls and young women participating in Los Angeles County’s specialized CSE court from 2012 to 2016 indicated that 31 percent had been pregnant, and of those, 18 percent had experienced two or three pregnancies.²⁵ Another study of adults with trafficking experience found that 62 percent were parents, and of those, 44 percent had children while they were being exploited.²⁶ Thirty-five percent had children with their exploiter, and of those who had a custody battle with their exploiter, 62 percent lost custody.²⁷

Systemic barriers create many challenges for individuals experiencing trafficking to access prenatal and postnatal care, maintaining relationships with and custody of their child(ren), and navigating parenthood, all of which are exacerbated by criminalization and incarceration.²⁸ Youth impacted by exploitation report feeling judged by service providers during their pregnancy and while parenting, and experiencing increased surveillance that could lead to legal system contact or removal of their child(ren) from their care.²⁹ Harsh restrictions on contact between incarcerated parents and their children—such as removing babies born to incarcerated parents immediately after birth, strict rules preventing parents from hugging their children during visits, limited visiting hours, or video-only visits—severely interrupt the parent-child bond and relationship building, which is detrimental to children’s development.³⁰ Further, the collateral consequences of criminalization—such as limits on employment, housing, and public benefits, as well as loss of control over who parents their child(ren) if they are unable to—create further barriers to parenting. The stigma, lack of support, and all-too-frequent family separation of exploited youth from their own child(ren) can have lasting effects for both them and their children, including increasing vulnerability of their children to future trafficking.³¹ Given these harms, and that these youth are defined as victims of trafficking under the law, why do we continue to criminalize survivors of CSE?

Structural vulnerability to exploitation and criminalization

Commercial sexual exploitation disproportionately affects youth and communities that are already marginalized due to race/ethnicity, poverty, homelessness, immigration and nationality status, sexual orientation and gender identity, past trauma histories, and intergenerational trauma.³² These effects can be heightened for youth who hold several of these intersecting identities and experiences.³³ Structural factors—including the government’s failure to invest in housing, schools, and social services in communities of color, combined with racial and gender discrimination and

biases—increase exposure to harm.³⁴ In addition, increased law enforcement presence in communities of color, immigrant communities, and among LGBTQ+ people may make it more likely that their experiences of victimization are met with criminal justice system responses rather than support.³⁵ These same factors, which lead to overrepresentation of youth of color within school discipline, mandatory reporting, entry into the child welfare system, and the criminal legal system, also increase the risk of trafficking.³⁶ Many youth are first exposed to exploitation while unhoused, in foster care, or in juvenile hall.³⁷

Racial and gender disparities are borne out in the data. Of youth participating in a 2023–2024 Boston-based survivor empowerment program, 63 percent were Black, Latinx, or multiracial, despite these groups collectively making up 25 percent of Massachusetts’s population.³⁸ Ninety percent were cisgender girls and 51 percent identified as LGBTQ+. Of youth identified through Los Angeles County’s FRP since 2014, nearly all are girls and 70 percent are Black.³⁹ A 2016 study of youth ages 13–24 involved in the sex trade in six U.S. cities found that nearly half were LGBTQ+ and 70 percent were Black.⁴⁰ A 2019 survey of Native American students in Minnesota found that LGBTQ+ youth were twice as likely to report having traded sex as cisgender heterosexual girls—and more than three times as likely as cisgender heterosexual boys.⁴¹

Although they are known to be at higher risk of trafficking, Black, Latinx, and Indigenous youth are less likely to be identified as victims or believed when they come forward. They are often viewed as more mature and more responsible for their actions than white youth and are more likely to be sexualized.⁴² This adultification bias applies at early ages: “even 6-year-old Black girls are perceived as less credible (and perhaps more sexual) than 6-year-old [w]hite girls.”⁴³ This means they are considered “less traumatized by their victimization than their white peers.”⁴⁴ Scholars have observed that the legacy of slavery contributes to this adultification and the lack of protection for Black girls from trafficking. The severing of the parent-child relationship and the “sexual and physical exploitation Black girls experienced during slavery separated them from the characteristics associated with . . . girlhood.”⁴⁵ They were labeled as seductresses or prostitutes, and because they were viewed as property, were considered incapable of withholding consent to sex. Many of these same stereotypes continue today—incarcerated Black girls identified as CSE do “not enjoy the presumptions of childhood that undergird antitrafficking initiatives.”⁴⁶

Similarly, patterns of violence, commodification, and marginalization of Indigenous women and girls—both historically and today—may contribute to their increased risk of exploitation and decreased likelihood of being treated as victims.⁴⁷ Historical accounts indicate that the European system of prostitution and other sexual violence was imposed on tribal communities.⁴⁸ Forced assimilation, displacement, family separation, and ongoing intergenerational experiences of violence and trauma during the colonial period led to many current day challenges that increase risk for trafficking, including high rates of poverty, homelessness, substance use, and mental and physical health problems.⁴⁹ The stereotypes that justified colonization continue to fuel present day exploitation and violence, with large numbers of Indigenous women in the sex trade reporting fetishization and explicitly racist verbal abuse from their primarily white sex buyers.⁵⁰

When combined, these historical and present-day factors contribute to heightened risk of girls and gender expansive youth of color being trafficked and facing criminalization related to their victimization.

Pathways to Criminalization

Limitations of safe harbor laws

Forty-nine states and the District of Columbia have some form of safe harbor law that limits the criminalization of survivors of trafficking for the crime of prostitution, though the type and scope of protection varies.⁵¹ Thirty states and DC have non-criminalization laws that remove criminal liability from minors for prostitution-related offenses, while 20 states still permit the arrest and prosecution of children for prostitution.⁵² Some states allow for relief from criminal liability for victims of human trafficking through affirmative defenses, diversion, mitigation in sentencing, or other alternative responses once prosecution has already been initiated and/or as post-disposition relief such as resentencing or vacating convictions.⁵³ There is significant variation among states as to the mechanisms for this relief—including whether they are mandatory or discretionary, at which stage of a proceeding they apply, and who may act to seek or carry out such relief. For example, some states require judges or prosecutors to take a particular action when evidence of trafficking is present, such as imposing the lower end of a statutorily defined sentencing range, or considering an individual's trafficking or trauma history during plea negotiations.⁵⁴ Others allow parties to seek relief, such as a stay in proceedings, but do not require that the court or prosecutors take the requested action.⁵⁵ Some require the young person to participate in programming to be eligible for relief.⁵⁶ In addition, some protections are specific to prostitution offenses only, while others are broader, covering a range of charges if they are “directly related” to human trafficking, occur within a certain time period proximate to trafficking, or are committed against a trafficker or abuser.⁵⁷ The approaches vary widely and relief is often limited or unavailable for more serious or violent felonies.⁵⁸ Evidence on the effectiveness of these laws in reducing incarceration of trafficked youth is mixed and more must be done to support widespread implementation and assess their effectiveness.⁵⁹

Criminalizing survival and self defense

“We need to uplift and empower youth to be self-sufficient. . . . People want to create a solution to a problem but they don’t want to focus on the cause of the problem. If you ignore poverty and lack of equity that factor into the risk, you are not actually tackling the issue.”

Lived experience expert quoted in Mae Ackerman-Brimberg, Kate Walker Brown, Maria Contreras, et al., Los Angeles County Five-Year Strategic Plan to Prevent and Address Child Trafficking (Los Angeles: National Center for Youth Law, 2024), 52, <https://perma.cc/S3PP-HCYK>.

“[Y]ou gotta give her money. Or help her financially. Because right now that’s her only financial situation. That’s her only means of survival. If she feels like that is the only way she’s going to survive in this world, that’s all she is going to do.”

Interview subject quoted in The Global Health Justice Partnership of the Yale Law School and Yale School of Public Health, *Diversion from Justice: A Rights-Based Analysis of Local “Prostitution Diversion Programs” and their Impacts on People in the Sex Sector in the United States* (working paper, New Haven: Yale Law School and Yale School of Public Health, 2018), <https://perma.cc/9EB4-J2YN>.

Exploitation, for many youth, is the means by which they meet their basic needs. Whether at the direction of a trafficker or on their own, trading sex allows them to access food, shelter, clothing—and, for many, love, belonging, and protection as well—even if that comes with harm. Even if they are not criminalized for the sexual exploitation itself, girls and gender expansive youth often continue to be criminalized for their other means of survival—like petty theft for stealing hygiene products (including diapers for a child), clothing, or food. Youth report resorting to these survival tactics

because they are unable to get needs met through foster care placements, community organizations, or public benefits due to stigma, onerous or confusing application processes, lack of necessary documentation, or other eligibility requirements.⁶⁰ Charges may appear unrelated to trafficking even though there is a connection if, for example, the youth is using drugs to cope with trauma, or presenting false identification or resisting arrest out of fear.⁶¹

A number of high-profile cases in which an exploited youth acted in self-defense and killed or seriously injured a violent buyer or trafficker also highlight how survival in exploitation can intersect with criminalization.⁶² Even with public outcry about the connection between their actions and their victimization, many of these survivors have still received long and severe prison sentences.⁶³

Forced criminality

Part of a trafficking experience may also include forced criminality, when a young person is forced or coerced into committing a crime to benefit a trafficker.⁶⁴ Examples include selling drugs, robbing or assaulting a sex buyer, recruiting others into trafficking, or even murder. Without recognition of the dynamics of trafficking—the unshakably strong trauma bond between a young person and their trafficker, and the influence a trafficker has on a youth’s actions—youth will continue to be criminalized for their victimization.

“Once it was time for me to be released [from juvenile hall], I was there for an additional two months because they couldn’t find me placement. Because I was a “hard to place youth,” the [Commercially Sexually Exploited Children] label itself made it hard to get into an appropriate housing situation.”

Youth quoted in Mae Ackerman-Brimberg, Kate Walker Brown, Maria Contreras, et al., *Los Angeles County Five-Year Strategic Plan to Prevent and Address Child Trafficking* (Los Angeles: National Center for Youth Law, 2024), 40, <https://perma.cc/S3PP-HCYK>.

“There’s a young woman who has had a lot of time absent or missing from [residential care], and a lot of experience of sexual violence when she’s been absent or missing from [care]. Because of her experience of sexual abuse and assault, whenever she’s apprehended by multiple police officers, predominantly men, her reaction is pretty violent because she’s so incredibly traumatised. And seeing then what would happen for her in terms of charges being laid, a whole raft of charges, and then the pathway into youth justice.”

Independent children’s advocate quoted in Tatiana Corrales, Claire Paterson-Young, Ian Warren et al., “Criminalising Processes At The Intersection Of Policing And Residential Care,” *Journal of Criminology* 1, no. 21 (2025),

The “system trap,” status offenses, and safety confinements

Youth entrenched in the child welfare and juvenile legal systems are subject to increased surveillance and can face further criminalization for behaviors and actions that are manifestations of trafficking, common adolescent behaviors, or the results of trauma from system involvement, leading to a vicious cycle. Behaviors like getting into fights in a group home, with a caregiver, or in juvenile hall are more likely to lead to law enforcement involvement and to new charges being filed.⁶⁵ Youth are also penalized for status offenses, such as running away from home or care, curfew violations, or probation violations, like missing a required appointment.⁶⁶ Indeed, girls and gender expansive youth are disproportionately incarcerated for low-level offenses, even when risk assessments have indicated that they do not present a risk to public safety and thus do not require detention.⁶⁷

These effects are elevated for youth experiencing CSE. A 2016–2018 study of girls impacted by CSE found that they reported running away from home or care at higher rates than their non-CSE peers, and that youth impacted by CSE in the child welfare system were more likely to have a placement change due to leaving care without permission.⁶⁸ The most common reason given for running away the first time was “abuse or other negative things happening at home.”⁶⁹ Others left to be with a significant other or siblings, or may have been recruited or forced to leave by a trafficker or the trafficker’s proxy.⁷⁰ For youth already on probation, this common experience of leaving home or care can lead to further criminalization. In some places, when a youth cannot be located by probation, a bench warrant is issued, which can lead to incarceration even if there is no other probation or law violation.⁷¹ Federal law requires states to locate children missing from care, and to report on why they left and what experiences they had during the period when they were missing.⁷² It does not require states to criminalize and incarcerate them.

Judges, probation officers, social workers, and even parents also report requesting that trafficked youth be locked up “for their own safety,” a practice known as “safety confinements.”⁷³ For youth experiencing CSE, these practices can be especially harmful because they frequently do not interrogate the underlying reasons that the youth felt compelled to leave and may deter them from seeking help or safety from a trafficking situation for fear of incarceration. Further, if the root causes of trafficking or the safety concerns are not addressed, youth returning to the community after so-called safety confinements are not any safer than they were before their incarceration. In fact, some youth report that detention can increase their safety risk because they are perceived as having cooperated with law enforcement or because they have lost access to supports such as housing or a job while they were incarcerated.

Current Challenges and Legal System Gaps

The ongoing criminalization of girls and gender expansive youth is due, in large part, to two interacting causes: harmful and inaccurate beliefs and attitudes about impacted youth and legal system gaps. As noted, negative perceptions mean that girls and gender expansive youth experiencing exploitation are less likely to be believed when they come forward, more likely to be considered consenting participants, and therefore more likely to be criminalized for their victimization. In addition, a number of legal system gaps contribute to the ongoing incarceration of girls and gender expansive youth impacted by CSE:

- over-reliance on law enforcement responses to identify victims, coupled with law enforcement officers who are insufficiently trained on trauma-informed practices;
- lack of early interventions for both youth and families—including education about trafficking and services to address root causes, such as poverty—to avoid trafficking, prevent investigation by and entry into the child welfare system, and prevent crossover into the juvenile legal system;⁷⁴
- inconsistent or minimal screening for trafficking in both child welfare and juvenile legal systems to identify trafficked youth and offer necessary services;⁷⁵
- insufficient collaboration among system and community-based partners once a youth has been identified, which prevents provision of coordinated, trauma-informed services;
- lack of safe, stable housing and placement options in the community, leading to safety confinements;⁷⁶
- barriers to accessing services for youth and families, such as confusing and restrictive eligibility requirements, transportation challenges, and lack of required documentation;
- funding, access, and eligibility restrictions for services without formal system involvement;
- barriers to families accessing help for their children until severe harm, including trafficking, has occurred;⁷⁷

- lack of capacity at community-based programs to serve youth and families without system involvement because their funding is tied heavily to public agency contracts;
- diversion programs that purportedly allow people to avoid prosecution but still require law enforcement or system (e.g. child welfare, juvenile legal) contact, which can be harmful and traumatic in itself, as well as diversion programs that position the system or courts as gatekeepers and managers of what limited services are available, presenting limits to confidentiality and relationship-building with providers;⁷⁸
- youth who remain system-involved for longer than necessary just to ensure access to services;⁷⁹
- requirements that youth self-disclose trafficking and/or accept services focused exclusively on trafficking without accounting for their holistic needs; and
- lack of mandated and consistent data collection on trafficking experience and interaction with systems, such as child welfare and juvenile legal systems.

Interventions Aimed at Preventing Criminalization

Reducing incarceration of girls and gender expansive youth impacted by trafficking requires a multi-pronged, collaborative, and community-based response. Each jurisdiction must work together with stakeholders, including youth, families, individuals with lived experience, and nongovernmental organizations to understand the specific drivers of incarceration, resources available, and services and supports needed. Importantly, legal and policy changes must be accompanied by investment in community-based supports to ensure the needs of youth and families can be met outside of the juvenile legal system. Additionally, education, awareness building, and narrative change are essential to preventing and combatting commercial sexual exploitation of children and ending the ongoing incarceration and criminalization of impacted youth. The following list provides examples of interventions that should be considered to decrease criminalization and increase support for youth experiencing or at-risk for trafficking and their families.

- 1. Change policies to end the criminalization of survivors of trafficking, including detention for a young person's own protection.**
 - a. Expand non-criminalization laws to all 50 states through changes to state penal codes, affirming there is no such thing as a "child prostitute." Ensure that youth cannot be arrested and prosecuted for prostitution or crimes related to their trafficking.
 - b. Pass laws, such as Sara's Law and the Justice for Survivors Act, that require courts and other legal system actors to consider trafficking and underlying trauma when survivors are charged with crimes and expand options for diversion, referral to specialized collaborative courts or units, affirmative defenses, sentencing relief, and clearing records clearing or vacating convictions.⁸⁰
 - c. Increase screening, identification, and documentation of youth impacted by CSE in child-serving systems, including health and mental health care, juvenile legal, and child welfare systems, with clear processes for referral to services to address underlying needs.
 - d. Prohibit and create alternatives to using detention for a youth's own protection or due to lack of safe, stable housing options.
 - e. Eliminate incarceration for status offenses (for example, running away) and make no-bail warrants discretionary rather than mandatory.
 - f. End the practice of transferring child survivors of trafficking to adult criminal court when they are accused of crimes.⁸¹

2. **Prioritize and fund low-threshold community-based services to be available without formal system involvement as preventative measures before trafficking and as interventions if trafficking has occurred.**⁸²
 - a. Fund an array of community-based, trauma-informed, culturally responsive services that meet the self-identified needs of youth and families with a “no wrong door” approach and allow youth to remain in their communities. This array should include
 - i. meeting basic needs, including food, clothing, and hygiene products (including menstrual supplies),
 - ii. poverty alleviation, including support for accessing public benefits, financial literacy, and economic empowerment,
 - iii. housing, including both short-term and long-term options, as well as supports for caregivers to enable youth to remain at home or in their communities,⁸³
 - iv. educational and vocational support,
 - v. positive youth development activities,
 - vi. healthy relationships and mentorship,
 - vii. health and mental health care, including substance use treatment,⁸⁴
 - viii. reproductive health care,
 - ix. support for pregnant and parenting youth, including childcare and supplies such as diapers and car seats, and
 - x. legal support, including immigration, child custody, guardianship, and public benefits support.
 - b. Ensure transition-age youth (TAY) who are typically ages 18-25 impacted by exploitation have access to the services listed above, both prior to and after the transition to adulthood. Service offerings for TAY should have a specific focus on
 - i. job training and financial literacy,
 - ii. education support,
 - iii. specialized advocacy and mentorship,
 - iv. transitional and long term-housing options,
 - v. support during pregnancy, parenting, and child care, and
 - vi. legal relief, including record clearing.
 - c. Expand the use of multidisciplinary collaborations, including multidisciplinary teams (MDTs) in which child-serving system partners, community-based partners, and youth and families do collaborative case planning and identify supportive services.⁸⁵ These collaborations should prioritize service-based alternatives to arrest, detention, and extended probation supervision. MDTs should be used as part of crisis response and for longer-term planning and support.
 - d. Create and fund community-based, CSE-specific advocacy organizations, especially those with peer and survivor expert staff members, credible messengers, and those with shared lived experience.
 - e. Expand supports to families and caregivers, such as trafficking prevention programs, economic supports, parent partner/peer mentor and coaching programs, and culturally responsive healing methods and services.

- f. Remove funding restrictions so system-impacted young people can stay connected to helpful services even when they move to different placements or their case closes in probation or child welfare.
 - g. Develop alternatives to mandatory reporting that emphasize community supports and reduce overreporting of Black, Indigenous, and Latinx families and low-income families to the child welfare system.⁸⁶
- 3. Invest in prevention of trafficking and system involvement of high-risk youth and families.**
 - a. Develop cross-agency and community partnerships to address the root causes of trafficking, including programs addressing poverty alleviation, child abuse, community violence, and gang intervention.
 - b. Reduce trafficking among high-risk youth by offering trafficking prevention curriculum to youth impacted by the juvenile legal and child welfare systems, unhoused youth, and others at high risk of trafficking.
 - c. Mitigate the intergenerational harms of trafficking and system involvement by proactively supporting youth who are pregnant and/or parenting with financial, legal, and other resources that prioritize maintaining connections between youth and their children.⁸⁷
- 4. Reduce the role of law enforcement and build capacity of schools, other first responders, and community members to respond to child trafficking.**
 - a. Create community-based, collaborative, service-based response protocols that provide alternatives to arrest when law enforcement identifies a youth at risk of or experiencing trafficking and prioritize connection to child-serving agencies, street outreach, and other community-based partners.⁸⁸
 - b. Require widespread training on trafficking for law enforcement, school staff, medical and mental health providers, and other first responders, including anti-bias training and trauma-informed practices.
 - c. Establish procedures and safe spaces in the community for youth to go in an emergency or crisis to access help and support (for example, drop-in centers, fire stations, medical facilities, libraries, and other easily accessible locations).⁸⁹
 - d. Do not make services contingent on a survivor's self-disclosure as a victim or their cooperation in a related criminal case.
- 5. Address discrimination, bias, and narrative change through training and public awareness.**
 - a. Invest in community education and awareness to reduce stigma and shift perceptions about youth impacted by trafficking and affirm that there is "no such thing as a child prostitute."
 - b. Train and support all professionals interacting with youth on trafficking, trauma-informed and survivor-centered practices, adolescent development, de-escalation techniques, anti-bias approaches, and safety planning. Professionals to be trained should include
 - i. school staff,
 - ii. medical and mental health providers,

- iii. community-based organizations to which youth and families are already connected,
- iv. social workers,
- v. probation officers,
- vi. foster parents and out-of-home care staff, and
- vii. housing providers.
- c. Train legal system personnel—including law enforcement and other first responders, judges, attorneys, and other courtroom personnel—on trafficking and trauma-informed and survivor-centered practices, as well as community-based prevention opportunities, alternatives to incarceration and diversion programs, and legal relief available to survivors of trafficking.⁹⁰

6. Prioritize youth-centered, survivor-informed data collection.

- a. Regularly collect data on the intersection of trafficking experience and youth criminalization (including arrest, charging, pleas, probation violations, incarceration, electronic monitoring, and others) broken down by race/ethnicity, gender, age and other key metrics.
- b. Define outcome measures in collaboration with youth and families to gauge the impact of the policy changes, programs, and services on youth, families, communities, and identify successes and unintended consequences.
- c. Ensure that data collection, research, and program evaluation always includes gathering qualitative information directly from youth and families.

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The National Center for Youth Law centers youth through research, community collaboration, impact litigation, and policy advocacy that fundamentally transforms our nation's approach to education, health, immigration, foster care, and youth justice. For more information about this brief, contact Mae Ackerman-Brimberg, directing attorney for the Collaborative Responses to Commercial Sexual Exploitation Initiative, at mabrimberg@youthlaw.org.

This brief is part of a multi-part publication that addresses various aspects of ending girls' incarceration. The complete set is available at vera.org/ending-girls-incarceration-how-to.

Endnotes

¹ Observations and uncited information in this document are derived from the National Center for Youth Law's and Vera Institute of Justice's technical assistance provided to jurisdictions nationally and from other internal documents. This information is on file with the authors.

² Under federal law, child sex trafficking is a "severe form of trafficking in persons," 22 USC § 7102(11). The Trafficking Victims Protection Act (TVPA) has been reauthorized numerous times, in 2003, 2005, 2008, 2013, 2017, 2018, 2021, and 2023 as the Trafficking Victims Protection Reauthorization Act. 18 U.S.C. § 1591.

- ³ 18 U.S.C. § 1591. Although the TVPA does not explicitly define “sex act” in general federal courts often use the definition in 18 U.S.C. § 2246(2).
- ⁴ 8 U.S.C. § 1591(a)(2).
- ⁵ See National Child Traumatic Stress Network (NCTSN), *Facts for Policymakers: Commercial Sexual Exploitation of Youth* (Los Angeles: NCTSN, 2021), <https://perma.cc/9U2R-7ATG>; and Kate Walker, *Ending the Commercial Sexual Exploitation of Children: A Call for Multi-System Collaboration in California* (Sacramento, CA: California Child Welfare Council, 2013), <https://perma.cc/T3AN-UJGW>.
- ⁶ Within this issue brief, we use the term “victim” where it is used in laws defining human trafficking crimes and the services available to those individuals. Otherwise, this brief uses the term “survivor” or other youth-centered language, such as “youth experiencing trafficking.” The authors note that individuals who have experienced trafficking and other crimes use a range of terms to self-identify, including victim, survivor, thriver, lived experience expert, or others. The authors have deferred to those self-selected terms whenever possible.
- ⁷ Within this issue brief, we use the term “prostitution” only in reference to state criminal codes where it continues to appear. See Rights4Girls, “No Such Thing Campaign,” <https://rights4girls.org/campaign/>.
- ⁸ Shared Hope International Institute for Justice & Advocacy, *Safe Harbor Laws: Legal Protections for Trafficked Children & Youth* (Vancouver, WA: Shared Hope International, 2024), <https://perma.cc/7UZ6-D5EQ>.
- ⁹ 22 U.S.C. § 7101(b)(19).
- ¹⁰ Rights4Girls, “No Such Thing Campaign.” One promising practice is the integration of harm reduction approaches. See California Department of Social Services, *All County Information Notice No. I-59-18: Introduction to the Harm Reduction Strategies Series Regarding Commercially Sexually Exploited Children* (Sacramento, CA: California Department of Social Services, September 14, 2018), <https://perma.cc/7JCY-UVJA>; California Department of Social Services, *All County Information Notice No. I-50-19: Harm Reduction Series – Probation Officer* (Sacramento, CA: California Department of Social Services, July 29, 2019), <https://perma.cc/5NMS-3UJF>; and California Department of Social Services, *All County Information Notice No. I-51-53: Harm Reduction Series – Juvenile Courts* (Sacramento, CA: California Department of Social Services, September 5, 2023), <https://perma.cc/A9LX-8T97>.
- ¹¹ Shared Hope International, *Safe Harbor Laws: Legal Protections for Trafficked Children & Youth*, 2024; and Shared Hope International, “Safe Harbor Maps,” <https://reportcards.sharedhope.org/safeharbormap/>. For state-specific analysis, see Shared Hope International, *Report Cards on Child & Youth Sex Trafficking* (Vancouver, WA: Shared Hope International, 2024), <https://reportcards.sharedhope.org/>; and Justice for Youth Survivors Initiative, “50-State Survey of Laws that Reduce the Criminalization of Survivors of Gender-Based Violence,” <https://jysi.org/state-survey/>.
- ¹² Office of Juvenile Justice and Delinquency Prevention, “Estimated Number of Youth Arrests,” archived June 5, 2025, <https://perma.cc/N5K8-A3WD>.
- ¹³ Proxy or masking charges refer to the practice of charging someone with offenses that relate to the conduct or experience of exploitation but are not technically “prostitution.” These include charges like loitering, trespass, resisting arrest, or showing false identification to an officer. See Yasmin Vafa and Rebecca Epstein, *Criminalized Survivors: Today’s Abuse to Prison Pipeline for Girls* (Washington, DC: Rights4Girls and Georgetown Center on Gender Justice & Opportunity, 2023), 8, <https://perma.cc/DW7Z-FCFB>. See also Human Rights for Kids, *High Rates of Trauma of Children Prosecuted as Adults in California* (Washington, DC: Human Rights for Kids, 2021), <https://humanrightsforkids.org/publication/aces-among-children-tried-as-adults-in-california/>. Forced criminality is another form of trafficking in which people are required to perform criminal acts that benefit the person or people forcing them to commit the acts. U.S. Department of State, *The Use of Forced Criminality: Victims Hidden Behind the Crime* (Washington, DC: U.S. Department of State, 2014), <https://2009-2017.state.gov/documents/organization/233938.pdf>.
- ¹⁴ See for example Allison Newcombe, Erin French, Mae Ackerman-Brimberg, and Kate Walker Brown, *Los Angeles Law Enforcement First Responder Protocol for Commercially Sexually Exploited Children: What We’ve Learned: A Six Year Review* (Los Angeles: National Center for Youth Law & Los Angeles County Probation Department, 2020), 11, <https://perma.cc/3ZYF-WYST> (one in three youths identified through LA County’s First Responder Protocol as victims of commercial sexual exploitation (CSE) were arrested for prostitution after turning 18). See also U.S. Department of Justice, Federal Bureau of Investigation, “Crime Data Explorer,” <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/arrest> (showing nearly 3,000 arrests of females ages 18–21 for prostitution between 2020 and 2024).
- ¹⁵ Human Rights for Kids, *High Rates of Trauma of Children Prosecuted as Adults in California*, 1.
- ¹⁶ Carly B. Dierkhising and Mae Ackerman-Brimberg, *CSE Research to Action Brief: Translating Research to Policy and Practice to Support Youth Impacted by Commercial Sexual Exploitation (CSE)* (Los Angeles: National Center for Youth Law and California State University, Los Angeles, 2020), 10, <https://perma.cc/GFM8-KQEA>.
- ¹⁷ Rachel Swaner, Melissa Labriola, Michael Rempel, et al., *Youth Involvement in the Sex Trade: A National Study* (New York: Center for Court Innovation, 2016), 50, <https://perma.cc/94BZ-BBNP>.
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- ²¹ Malika Saada Saar, Rebecca Epstein, Lindsay Rosenthal, et al., *The Sexual Abuse to Prison Pipeline: The Girls' Story* (Washington, DC: Rights4Girls, August 2015), <https://perma.cc/HYR5-9V7Q>; and Vafa and Epstein, *Criminalized Survivors*, 2023.
- ²² Calli M. Cain, "Commercial Sexual Exploitation Victims Treated as Offenders: Examining the Gendered Risk Factors of Incarcerated Youth Charged with Prostitution," *Victims & Offenders* 18, no. 3 (2023), 543, <https://doi.org/10.1080/15564886.2022.2151538> (noting that female youth also had far higher rates of polyvictimization, with 80 percent reporting three or more types of victimization, as compared to 49 percent of males).
- ²³ Newcombe, French, Ackerman-Brimberg, et al., *Los Angeles Law Enforcement First Responder Protocol*, 2020, 9. See also Carly B. Dierkhising, Kate Walker Brown, Mae Ackerman-Brimberg, et al., *Commercially Sexually Exploited Girls and Young Women Involved in Child Welfare and Juvenile Justice in Los Angeles County: An Exploration and Evaluation of Placement Experiences and Services Received* (Los Angeles: National Center for Youth Law and California State University, Los Angeles, 2018), 25, <https://perma.cc/9G4H-MMT6> (indicating that youth eventually identified as having experienced CSE had a significantly higher number of prior child welfare referrals and substantiated abuse reports than their non-CSE peers).
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- ³³ Cain, "Commercial Sexual Exploitation Victims Treated as Offenders," 2023, 545 (summarizing research on prevalence and risk factors).
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- ⁵¹ Georgetown Center on Gender Justice and Opportunity, *Trend Analysis: State Laws That Protect Victims of Sexual Violence* (Washington, DC: Georgetown University Law Center, 2025), <https://perma.cc/6M65-E6HG>. Hawai`i is the only state without a safe harbor provision; however, under Hawai`i law, if a minor “engage[s] in sexual conduct with another person for a fee,” it is considered to be a violation, not a crime, and the young person will be subject to the jurisdiction of the family court. Supplemental Commentary on HI Rev. Stat. § 712-1200.
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of the offense, the person is or was a victim of intimate partner violence or human trafficking.”) and Cal. Penal Code § 1016.7(a) (“[T]he prosecutor shall consider during plea negotiations, among other factors, the following circumstances as factors in support of a mitigated sentence if any of the following were a contributing factor: . . . (3) Prior to the instant offense, or during the commission of the offense, the person is or was a victim of intimate partner violence or human trafficking.”).

- ⁵⁵ See Del. Code tit. 11, § 787 (h)(2023) (“A party to a juvenile delinquency proceeding in which a minor is charged with loitering, or an attorney guardian ad litem or court-appointed special advocate appointed in a proceeding under § 901 et seq. of Title 10, may file a motion on behalf of a minor in a juvenile delinquency proceeding seeking to stay the juvenile delinquency proceedings. Such motion may be opposed by the Attorney General. The Family Court may consider such a motion and, in its discretion, may stay the juvenile delinquency proceeding indefinitely.”).
- ⁵⁶ See Del. Code tit. 11, § 787 (h)(2023) (“Upon such motion [to stay proceedings], the Department of Services for Children, Youth and Their Families and/or the Family Court may identify and order available specialized services for the minor that, in the opinion of the Department of Services for Children, Youth and Their Families or Family Court, are best suited to the needs of the juvenile. So long as the minor substantially complies with the requirement of services identified by the Department of Services for Children, Youth and Their Families and/or ordered by the Family Court, the Attorney General shall, upon motion, nolle prosequi the stayed charges no earlier than 1 year after the stay was imposed. Upon motion of the Attorney General that the minor has not substantially complied with the requirement of services identified by the Department of Services for Children, Youth and Their Families and/or ordered by the Family Court, the Family Court shall lift the stay for further proceedings in accordance with the regular course of such proceedings.”).
- ⁵⁷ Vafa and Epstein, *Criminalized Survivors*, 2023, 21. See for example OK HB 2210(b)(1) (2024) (sentencing relief for minors convicted as an adult for an offense where the person against whom the offense was committed trafficked or abused the minor within 90 days prior to the offenses); and Wyo. Stat. Ann. § 6-2-708(a) (“a victim of human trafficking is not criminally liable for any commercial sex act or other criminal acts committed as a direct result of, or incident to, being a victim of human trafficking”). See also Justice for Youth Survivors Initiative, “50-State Survey.”
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- ⁶¹ Judicial Council of California, *Research Update*, 2020, 8 (of STAR Court participants, the most frequent charges before entering STAR Court were prostitution (53.1 percent), assault and battery (39.6 percent), and theft (31.1 percent), and the most recurring arrests were for resisting arrest and presenting false identification to an officer).
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- ⁷⁰ *Ibid.*, 7, 10.
- ⁷¹ *Ibid.*, 102.
- ⁷² Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) (2014). See also CA SB 794 (2015), implementing the federal law and requiring that county child welfare agencies “develop and implement specific

protocols to expeditiously locate any child missing from foster care,” determine the primary factors contributing to their leaving care, respond to those factors, determine their experience while away from care and whether they experienced sex trafficking.

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