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Into Hell: Gang-Prostitution of Minors

Jan Fox

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Into Hell: Gang-Prostitution of Minors

Jan Fox*

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Introduction

“With the young girls, you promise them heaven, they’ll follow you to hell.”

- Harvey Washington, convicted pimp¹

In January 2012, a SUR-13 gang member was arrested and accused of prostituting juvenile runaway girls in Prince William County, Virginia. Additional reporting indicated the SUR-13 gang member forced a juvenile into prostitution by choking and beating her until she was unconscious.

According to June 2011 FBI reporting, MS-13 gang members in the Washington, DC metropolitan area branded their prostitutes’ bodies with “M” and “S” gang symbols using knives and razors to show ownership.

- National Gang Intelligence Center. & Crimes Against Children Unit, FBI, Gang Criminal Activity Expanding Into Juvenile Prostitution: Intelligence Report (2012).²

Unfortunately, the incidents detailed above are not unique—gangs are becoming increasingly involved in the prostitution of minors. While the problem of child sex trafficking, also referred to as youth prostitution or commercial sexual exploitation of children,³ has received increased attention over the past decade, the parallel problem of gang-controlled

1. Ian Urbina, *Running in the Shadows: For Runaways, Sex Buys Survival*, N.Y. TIMES, Oct. 27, 2009, at A1, available at <http://www.nytimes.com/2009/10/27/us/27runaways.html?pagewanted=all>.

2. NAT’L GANG INTELLIGENCE CTR. & CRIMES AGAINST CHILDREN UNIT, FBI, GANG CRIMINAL ACTIVITY EXPANDING INTO JUVENILE PROSTITUTION: INTELLIGENCE REPORT 3 (2012), available at <http://www.goccp.maryland.gov/victim/documents/human-trafficking/research-policy/Gang-Criminal-Activity-Expanding-Into-Juvenile-Prostitution.pdf> (citations omitted).

3. This Note uses the following terms interchangeably: youth prostitution, commercial sexual exploitation of children, domestic minor sex trafficking, prostitution of minors, and child sex trafficking. While each of these terms was adopted in varying contexts they essentially refer to the same phenomenon of “commercial sexual exploitation of American children within U.S. borders for monetary or other compensation.” See *FAQs*, SHAREDHOPE.ORG, <http://sharedhope.org/learn/faqs/> (last visited Sept. 20, 2013) (noting that domestic minor sex trafficking “is synonymous with child sex slavery, sex slavery, child sex trafficking, prostitution of children, and commercial sexual exploitation of children (CSEC)”) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

youth prostitution has not yet received sufficient recognition.⁴ Street gangs are becoming increasingly involved in the business of prostitution and often target vulnerable girls⁵ as young as twelve years old.⁶ Gangs have come to view prostitution as a low-risk, high-profit enterprise, and, indeed, income from prostitution is now second only to drug sales for some gangs.⁷ Gangs have quickly adapted strategies to recruit and trap young girls into sexual exploitation, often targeting run-aways, foster children, and other at-risk youth.⁸ However, the impact of gang-related youth prostitution is not limited to urban or traditionally vulnerable girls, as suburban, middle, and upper class girls are victimized as well.⁹ The danger presented to prostituted youth cannot be overstated—on average, a juvenile lives only

4. See Laura J. Lederer, *Sold for Sex: The Link between Street Gangs and Trafficking in Persons*, The Protection Project, 4 J. HUM. RTS. & CIV. SOC'Y 1, 3 (2011), available at <http://www.protectionproject.org/wp-content/uploads/2011/11/The-Protection-Project-Journal-of-Human-Rights-Civil-Society-Volume-IV.pdf>; see also NAT'L GANG INTELLIGENCE CTR., *supra* note 2, at 2.

5. This Note will generally refer to victims of gang-controlled prostitution in female terms. This is due to the fact that reported cases of sex trafficking of minors by gangs almost always involves female victims. While recognizing that females are overwhelmingly targeted by gangs in trafficking activities, this Note does not mean to refute the fact that there may be male victims as well. See CHICAGO ALLIANCE AGAINST SEXUAL EXPLOITATION, KNOW THE FACTS: COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN 1 (2009), available at http://g.virbedn.com/_f/files/59/FileItem-150155-KtF_CSEC.pdf (noting that “[u]nderage girls are the bulk of victims in the commercial sex markets”).

6. Carrie Johnson, *Gangs Enter New Territory with Sex Trafficking*, NAT'L PUB. RADIO (Nov. 14, 2011), available at <http://www.npr.org/2011/11/14/142300731/gangs-enter-new-territory-with-sex-trafficking>.

7. NAT'L GANG INTELLIGENCE CTR., *supra* note 2, at 2; Attiyya Anthony, *Innocence Lost*, THECRIMEREPORT.ORG (July 24, 2012), <http://www.thecrimereport.org/news/inside-criminal-justice/2012-07-innocence-lost> (last visited Sept. 13, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

8. See MICHEL DORAIS & PATRICE CORRIVEAU, GANGS AND GIRLS: UNDERSTANDING JUVENILE PROSTITUTION 45 (2009) (noting in particular that gangs have targeted girls at foster care facilities); see also Lederer, *supra* note 4, at 11 (“U.S. citizen children involved in commercial sexual exploitation are often runaway, troubled, and homeless youth.”); Johnson, *supra* note 6, (noting that gangs take “advantage of people that are in a desperate situation, usually runaways or someone that’s looking for help from the gang”); Anthony, *supra* note 7 (noting that “[m]any runaways are attracted by the offer to become part of a gang for protection reasons—but then quickly find themselves the sexual ‘property’ of gang members”).

9. See Pamela Brown, *Gang Sex Trafficking Victim Speaks Out*, WJLA.COM (Nov. 16, 2012), <http://www.wjla.com/articles/2012/11/gang-sex-trafficking-victim-speaks-out-82134.html> (last visited Sept. 13, 2013) (detailing the story of an “upper middle class teenager” who was sex trafficked by a Virginia gang) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

seven years once she has entered prostitution.¹⁰ While federal and state governments have taken concrete steps to combat child sex trafficking, they have not adequately recognized the increasing role of gangs in this illegal industry.¹¹ This lack of recognition has inevitably led to a failure to provide specific, targeted assistance to minors who are victims of gang-related exploitation, and furthermore, has failed to thwart the victimization of new young girls.¹² Some states continue to funnel victims into criminal and juvenile justice systems unable to adequately meet the needs of trafficking victims, particularly those associated with gangs.¹³

This Note addresses the increasing role played by gangs in youth prostitution and its interaction with the current federal and state approaches to child sex trafficking in general. It will analyze current legislative, judicial, and community initiatives tasked with handling this issue.

Part I introduces the geographic presence and characteristics of street gangs within the United States, the females usually targeted by gangs for prostitution, and the recruitment methodologies utilized. Part I also discusses the particular obstacles that hinder the escape of youth from gang-controlled prostitution.

Part II provides an overview of current federal law relevant to juvenile prostitution and analyzes each regime in relation to its potential efficacy for addressing gang-controlled exploitation. This Part discusses federal trafficking statutes and analyzes the Racketeer Influenced and Corrupt Organizations Act (RICO), with a particular focus on the Act's recent utilization in gang-related youth prostitution cases.

10. CHICAGO ALLIANCE AGAINST SEXUAL EXPLOITATION, *supra* note 5, at 2.

11. *See* Lederer, *supra* note 4, at 3 (noting that the anti-trafficking and anti-gang efforts have not been intertwined to effectively deal with the overlap of gang-activity and trafficking); *see also* Keith G. Burt, Webinar, Missing and Exploited Children's Program, The Office of Juvenile Justice and Delinquency Prevention, The Sexual Exploitation of Girls in Gangs (June 20, 2012), <http://vimeo.com/44459741> (last visited Sept. 21, 2013) (noting that there must be communication and cooperation between anti-trafficking task forces and gang task forces for the issue of gang-controlled youth prostitution to be adequately addressed) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

12. *See* Burt, *supra* note 11; *see also* Laura E. Litvinoff, Exploring the Link between Street Gangs and Youth Prostitution in San Diego 102 (2008) (unpublished M.S. thesis, San Diego State University) (on file with author) (noting that "[t]he expanding dynamics of gangs and youth prostitution as separate and blended enterprises requires more attention by criminal justice officials, policy-makers, and society").

13. *See Policy Issues*, SHAREDHOPE.ORG, <http://sharedhope.org/learn/policy-impact-2/> (last visited March 3, 2014) (discussing the continued placement of trafficking victims into the juvenile criminal process which may re-victimize the victims).

Part III addresses state trafficking, “safe harbor” laws, and the various systematic approaches to providing services and protection to trafficking victims prescribed by these statutes. This Part also discusses “anti-gang legislation” which every state has adopted in some form and addresses the utility of these laws in halting the expansion of gangs into youth prostitution.

Part IV presents numerous recommendations for addressing the problem of gang-controlled prostitution of minors at the federal, state, and local levels. Suggestions include ideas for more effective prosecution of gang members who act as pimps, as well as potential solutions to safely and compassionately assist victims.

Finally, Part V concludes that comprehensive action is necessary on the part of local, state, and federal actors to address the rising threat of gang-controlled prostitution of minors, and notes that this issue must be recognized as a unique problem calling for tailored solutions which may or may not overlap with those relevant to general human trafficking approaches.

I. Street Gangs in America and the Girls They Prostitute: An Introduction

In order to address the problem of gang-controlled youth prostitution, it is necessary to first develop an understanding of the structure and activities of street gangs within America, the tactics gangs use to recruit juvenile prostitutes, and the characteristics of youths targeted by gangs for this enterprise. This Part provides an overview of these topics, thereby laying a foundation for analyzing state and federal legislative responses to the problem of juvenile prostitution.

A. Gangs in America

According to the National Gang Intelligence Center there are approximately 30,313 gangs within the United States with about 1,140,344 members.¹⁴ There is no universally accepted definition of a “gang,” and state and federal legislation varies in their respective definitions.¹⁵ Despite this variation, this Note adopts the definition set out by the National Gang

14. Burt, *supra* note 11.

15. *Frequently Asked Questions about Gangs*, NAT'L GANG CTR., <http://www.nationalgangcenter.gov/About/FAQ#q1> (last visited Sept. 20, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

Center—a gang is a group which has three or more members, generally aged 12–24, who share an identity, typically linked to a name and often other symbols, view themselves as a gang and are recognized by others as a gang, the group has some permanence and degree of organization, and the group is involved in an elevated level of criminal activity.¹⁶ While “most street gangs are only loosely structured, with transient leadership and membership, easily transcended codes of loyalty, and informal rather than formal roles for the members,”¹⁷ recent reports suggest that gangs are becoming increasingly sophisticated, establishing more organized criminal networks and expanding into non-traditional gang-related crime, including prostitution.¹⁸ To date it has been officially reported that the Bloods, Crips, Folk, Gangster Disciples, Latin Kings, Mara Salvatrucha, Starz Up, Sur-13, and Hells Angels are active in juvenile prostitution throughout the United States.¹⁹

Gangs have traditionally been, and remain, male-dominated organizations.²⁰ There is disagreement among experts on the exact percentage of female membership, with law enforcement surveys reporting approximately six percent female membership and scholarly research indicating a much higher range of twenty-four to forty-six percent.²¹ Regardless of the exact number of female gang members, it is well documented that most gangs espouse a sexist, machismo view towards females, viewing them as “objects to be used and abused in satisfying their sexual needs.”²² Even females who are members of a gang are subject to

16. *Id.*

17. *Id.*

18. See NAT'L GANG INTELLIGENCE CTR., 2011 NATIONAL GANG THREAT ASSESSMENT: EMERGING TRENDS 9 (2011), available at <http://www.fbi.gov/stats-services/publications/2011-national-gang-threat-assessment/2011-national-gang-threat-assessment-emerging-trends> (noting that gangs have begun to “engag[e] in less typical and lower-risk crime, such as prostitution and white-collar crime”); see also NATIONAL GANG INTELLIGENCE CENTER, *supra* note 2, at 2 (stating that gangs “have recently become involved in non-traditional criminal activity such as mortgage fraud and identity theft” and some “appear to be diversifying their income by reducing or eliminating drug trafficking activities in favor of juvenile prostitution”).

19. NAT'L GANG INTELLIGENCE CTR., *supra* note 2, at 3.

20. Burt, *supra* note 11; see also DORAIS & CORRIVEAU, *supra* note 8, at 26 (“[T]he gang is a boy’s world, one that is imagined, created, and managed by boys.”); Lederer, *supra* note 4, at 4 (“Traditionally, gangs have been male dominated, and this remains true today.”).

21. Burt, *supra* note 11.

22. LEWIS YABLONSKY, GANGS IN COURT 54 (2d ed. 2008); see also DORAIS & CORRIVEAU, *supra* note 8, at 33 (noting that even for females who are recognized as gang members there are “few non-sexualized positions available for girls in gangs”); Anthony,

the gang's sexual degradation—at least twenty-five percent of female gang members are expected to perform sexual services for male gang members or the general public.²³ The sexual victimization of female gang members is made even more unfortunate by the fact that up to seventy percent of girls who join gangs do so as a result of fleeing sexual abuse in their home lives.²⁴ Additionally, many of the girls who become gang members are used by the gang to recruit new young girls into prostitution for the gang's profit.²⁵

B. Gang Recruitment of Female Minors into Prostitution

As noted above, gangs have become increasingly sophisticated in their criminal operations and have adopted a number of methods for obtaining girls for prostitution. One of the most strategic of these methods is the gang's decision regarding which girls to recruit or force into the prostitution business. The girls typically forced or recruited into prostitution by gangs tend to fall into three main categories: (1) female gang members, (2) those within the "prostitution stable" (often runaways or drug-addicted young women), and (3) gang groupies, girlfriends, and other associates.²⁶ Gangs tailor their approach to each group of females differently.²⁷

In relation to female gang members, sexual exploitation may be framed as the "price" for being granted membership status.²⁸ Beyond the

supra note 7 (citing a professional who works with prior female gang members as saying "gangs view women as sex objects, and even if the girl isn't prostituted, but participates in less overt crimes such as drug smuggling or providing an alibi, they are still solicited for sex by their fellow gang members").

23. RICHARD J. ESTES & NEIL ALAN WEINER, *THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN THE U. S., CANADA AND MEXICO* 71 (2001).

24. Burt, *supra* note 11.

25. DORAIS & CORRIVEAU, *supra* note 8, at 33; *see also* John Asbury, *Riverside: Gang Indicted in School Sex Trafficking Ring*, *THE PRESS ENTERPRISE* (Aug. 9, 2012), <http://www.pe.com/local-news/riverside-county/riverside/riverside-headlines-index/201208-09-riverside-gang-indicted-in-school-sex-trafficking-ring.ece> (last visited Sept. 20, 2013) (detailing how a gang had used its lead female gang-member and prostitutes to recruit girls at high school) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

26. Burt, *supra* note 11; *see also* DORAIS & CORRIVEAU, *supra* note 8, at 46 (dividing victims into four main categories: "submissives," "independents," "sex slaves," and "daredevils").

27. *See* Burt, *supra* note 11.

28. *See* DORAIS & CORRIVEAU, *supra* note 8, at 28–32 (discussing the "sex-in" phenomenon and other sexual victimizations that accompany becoming a female gang member); *see also* Lederer, *supra* note 4, at 18 (noting that some female gang members see

endemic objectification of women present in most gang ideology, females who wish to become part of a gang are sometimes subject to a “sex-in,” a gang initiation during which the female is forced to have sex with multiple gang members simultaneously or in rapid succession.²⁹ Although an aspiring female gang member may believe that this initiation will terminate her sexual exploitation by the gang, she is often further victimized by being forced to “do her part” and bring in money for the gang through prostitution.³⁰ Indeed, this brutal initiation tactic is believed to be used in order to “desensitiz[e] both the victim and the assaulters in preparation for their respective roles in prostitution.”³¹

Other girls may have no knowledge of or desire to be part of the gang lifestyle and are kidnapped, drugged, or otherwise violently coerced into prostitution by a gang. These girls are said to be part of the “stable,” or group of prostitutes controlled by the gang,³² and are often confined to a hotel or bedroom where they are forced to perform sexual acts for gang members and paying clients.³³ Gangs often target runaways or other at-risk females by recruiting or kidnapping them near homeless shelters, detention centers, and public housing developments.³⁴ In addition to use of violence, gangs may entice girls by providing shelter, food, and, at first, camaraderie.³⁵ Gangs often provide drugs to these girls, luring them into addiction and perceived debt, thereby securing continued control over these

prostitution “as an obligation—an onus that must be performed to earn a place in their new ‘family’”).

29. DORAIS & CORRIVEAU, *supra* note 8, at 29; Videtta A. Brown, *Gang Member Perpetrated Domestic Violence: A New Conversation*, 7 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 395, 405 (2007).

30. *See supra* note 27.

31. DORAIS & CORRIVEAU, *supra* note 8, at 29.

32. Burt, *supra* note 11.

33. *Id.*; Lederer, *supra* note 4, at 1 (discussing the case of gang-prostitutes who were “trapped in a hotel for 12 hours a day as men who had purchased their bodies from the gang members had sex with them”).

34. DORAIS & CORRIVEAU, *supra* note 8, at 45; *see also* Litvinoff, *supra* note 12, at 40 (noting that minors had been recruited by gangs into prostitution from homeless and runaway shelters, and detention facilities in San Diego).

35. *See* DORAIS & CORRIVEAU, *supra* note 8, at 35–45 (noting that the “names and numbers of ‘good guys’ willing to ‘help’ runaways are passed from hand to hand at [facilities serving vulnerable girls]”); *see also* Litvinoff, *supra* note 12, at 94 (detailing the story of one young girl who was recruited while she was living in a shelter and noting that the girl was persuaded because she was “tired of living on the streets and that prostitution would help make her money to get off the streets”).

girls.³⁶ The females within this group are those most likely to be subject to severe violence at the hands of their gang pimps.³⁷

The third group of girls involved in gang-controlled youth prostitution is made up of those who, while not gang members, are associated with the gang in some way. Often these are girlfriends of gang members, but sometimes family, friends, and social acquaintances are targeted as well.³⁸ The tactic most utilized by gangs to entice this group of females into prostitution may be referred to as “love bombing.”³⁹ This process involves overwhelming a female with attention, affection, and gifts in order to induce her infatuation with a particular gang member or the gang lifestyle.⁴⁰ Gang members approach such girls in a variety of strategically chosen places, including schools, subway stations, malls, and gang-thrown house parties.⁴¹ By analyzing a young girl’s insecurities and showering her with complements, a gang member is able to induce the vulnerable girl into trusting him and eventually into believing that they are in a loving relationship.⁴² Slowly the gang member boyfriend may ask the girl to engage in more and more sexual activity for the gang, starting with having sex with another gang member or “just this once” to make money.⁴³ Often gang-prostituted girls continue to live at home and attend school, engaging

36. See Lederer, *supra* note 4, at 6 (detailing how gang members provide free drugs to young women and girls, thereby addicting them so the boy who recruited her can later use her feelings of indebtedness to manipulate her into coerced commercial sex acts); see also Anthony, *supra* note 7 (noting that gang-trafficking victims are “often exposed to all kinds of drugs in an effort to keep them subservient and calm”).

37. Burt, *supra* note 11.

38. *Id.*

39. DORAIS & CORRIVEAU, *supra* note 8, at 35.

40. *Id.* at 35–36; see also Lederer, *supra* note 4, at 6 (noting that gang members often recruit girls by giving them expensive gifts, and stating that the girls are later forced into prostitution as “the price they pay for love and affection”).

41. See DORAIS, *supra* note 8, at 36 (noting that gangs recruit girls “wherever teenage girls hang out” including schools, concerts, malls, restaurants and parks); Anthony, *supra* note 7, at 3 (discussing the phenomenon of “skip parties,” hosted by gangs that provide “[a]lcohol, marijuana, cocaine, and ecstasy free of charge. As the party progresses, the girls are expected to have sex”).

42. See Litvinoff, *supra* note 12, at 37 (“[W]hen a pimp recruits or panders a new prostitute he often looks to identify the vulnerabilities in an information-gathering conversation and tries to fulfill girls’ voids by providing food, shelter, clothing, and simple flattery.”); see also DORAIS, *supra* note 8, at 41 (noting that “[g]angs quickly become experts at identifying a girl’s particular vulnerability and using it to break down her defences”).

43. *Id.*; DORAIS, *supra* note 8, at 42 (noting that the boyfriend takes steps to lower the girl’s inhibitions, such as encouraging erotic games at a party or to have sex with a “love-sick friend”).

in prostitution only part-time and hiding the activity from family.⁴⁴ The young girl groomed to believe that prostitution is “proof of love for the pimp,” in this case her gangster boyfriend.⁴⁵ Eventually violence and other coercive tactics are introduced to intimidate the girl into continuing her sexual activity for the gang and public.⁴⁶

In addition to “love bombing,” gangs often entice young girls into prostitution by promising a lifestyle of wealth and excess.⁴⁷ The image of an independent, strong, beautiful woman enjoying a life of riches and respect by living as a prostitute is played up by popular culture in music, movies, and television (think *Pretty Woman* and the new television series “*The Client List*” starring Jennifer Love Hewitt).⁴⁸ Often it is the “head prostitute” of a gang or another female gang member who recruits girls in this manner by discussing the ease and perks of the profession.⁴⁹ Once recruited into prostitution, the dream of making quick money and gaining peer respect quickly dissipates as the gang takes control of the girl’s role in prostitution, setting up her appointments and keeping the profits.⁵⁰ In addition to physically recruiting young females at schools, malls and other public places, gangs reach out to girls online, via social networking websites such as Facebook, as well as through telephone chat lines and classified listings on websites such as Craigslist.org.⁵¹ These technologies

44. See Anthony, *supra* note 7, at 2 (noting that “the gangs have found ways to escape law enforcement scrutiny by trafficking girls who still live at home”); Brown, *supra* note 9 (detailing the story of a gang-prostituted girl who continued to live at home during the ordeal).

45. DORAIS, *supra* note 8, at 41.

46. *Id.*

47. *Id.* at 52–58; Burt, *supra* note 11.

48. Burt, *supra* note 11; see also Litvinoff, *supra* note 12, at 75 (quoting one former prostitute who explained, “[p]rostitution is more normalized with sex and violence in the media, TV, music, and video games. They see the glamour, even though it isn’t.”).

49. See DORAIS, *supra* note 8, at 54–55 (discussing the “showcase effect,” whereby to prospective recruits the successful prostitute’s money and success is viewed as typical and desirable); see also *supra* note 24 (discussing the role of female gang-members and prostitutes in recruitment of new girls for prostitution).

50. See DORAIS, *supra* note 8, at 53–54 (noting that even in cases in which the girls initially believe they will be able to control their role in prostitution, gangs are adept at quickly robbing them of their ability to exit the lifestyle via bribery and violent coercion); NAT’L GANG INTELLIGENCE CTR., *supra* note 4, at 5 (noting that the gang controlled “[obtaining] clients, scheduling prostitution appointments, transporting juvenile females to appointments, and collecting money”).

51. See NAT’L GANG INTELLIGENCE CTR., *supra* note 4, at 2–4 (“The gang used Internet websites such as Facebook, Twitter, and Craigslist to advertise their victims and find customers.”); see also Lederer, *supra* note 4, at 4 (“Increasingly, gangs use the Internet

are then subsequently used to manage the prostitution of these young recruits.⁵²

C. Special Considerations: Leaving Gang-Controlled Juvenile Prostitution

Youth who are trapped in gang-controlled prostitution present a number of unique considerations for service providers who wish to assist them in escaping the enterprise.⁵³ The willingness or ability of prostituted youth to escape from the gang-controlled prostitution is usually hindered by many factors. First, it must be noted that some young girls who are engaged in gang-related prostitution do not view themselves as victims, and instead insist that their participation is a result of voluntary choice.⁵⁴ Girls who are or were in love with their gang-member pimps may not self-identify as a prostitute, nor view the gang member as their pimp.⁵⁵ Even those girls who accept the reality of their situation may be hesitant to leave or testify against the pimps who had once been their lovers.⁵⁶ In addition to forming emotional bonds to the gang-members who act as their pimps, victims may not wish to leave the “family” they perceive they have found in the gang.⁵⁷ This is especially true for females who have become gang members and for those girls who initially associated with the gang for camaraderie.⁵⁸

The mentality espoused by gang members towards “rats,” or those who cooperate with law enforcement, may have been adopted by the girls so that they are hesitant to reach out for help despite awareness of entrapment in gang-controlled prostitution.⁵⁹ This hesitance to accept or

to recruit new members, to intimidate rival gang members, and to boast about gang activity.”).

52. *Id.*

53. See Litvinoff, *supra* note 12, at 103 (discussing recommendations for dealing with gang-controlled prostitution and noting that the current legal and social service framework is inadequate).

54. DORAIS, *supra* note 8, at 89 (noting that gang-controlled youth prostitutes may exhibit resistance to the notion of themselves as victims and may display symptoms similar to ‘Stockholm syndrome’); Lederer, *supra* note 4, at 18 (noting that “many victims do not recognize themselves as such because they are in love with their pimps or consider their abusers to be family”).

55. *Id.*

56. *Id.*

57. *Id.* at 89; see also Litvinoff, *supra* note 41, at 92 (noting that a “purpose of prostitution within [the gang] was to provide a sense of family belonging”).

58. *Id.*

59. See DORAIS, *supra* note 8, at 89 (noting that the prostituted girl may “identify” and

seek assistance from social services or law enforcement may be exacerbated by the fact that many juvenile prostitutes have had prior negative experiences with these agencies.⁶⁰ Gangs often require the young females to commit non-prostitution-related crimes for the gang.⁶¹ The gangs then use the commission of these crimes to scare the girls into believing that if they seek help from law enforcement they will be punished as criminals for those acts.⁶² In addition to failure to self-identify as victims, emotional bonding to the gang pimps, and distrust of law enforcement and social services, many youth prostituted by gangs are drug addicts, often as a result of strategic coercion by the gang, and are unable and unwilling to stop participating in the sexual activity in exchange for drugs.⁶³

Perhaps the most difficult hurdle that victims of gang-controlled prostitution face in escaping that lifestyle is the very real threat of violent reaction by the gang.⁶⁴ Young females who have been roped into gang prostitution are often physically beaten, intimidated, and threatened.⁶⁵ They witness the extreme violence that the gang members engage in on a frequent basis and are constantly reminded of their own vulnerability to

“take sides” with their pimps); *see also* Litvinoff, *supra* note 12, at 95 (noting that “gangs often harm or kill “those who rat” and discussing a case in which female gang-members were involved alongside their male compatriots in conspiring to murder a prior gang member who was acting as a witness).

60. *See* Kate Brittle, *Child Abuse by Another Name: Why the Child Welfare System is the Best Mechanism in Place to Address the Problem of Juvenile Prostitution*, 36 HOFSTRA L. REV. 1339, 1345 (noting that trafficked youth are “distrustful of police officers and social service agencies”).

61. *See* DORAIS, *supra* note 8, at 53 (noting that new prostitutes may have to participate in “bringing in new recruits, laundering money, or passing counterfeit bills” to prove themselves).

62. *See id.* at 53–54 (noting that gangs will often blackmail girls with knowledge of prior crimes to keep them in line).

63. *See id.* at 51 (noting that “[i]nduced drug addiction is an effective means of control”); Litvinoff, *supra* note 12, at 42 (“Many girls continue prostituting because they have developed an addictive behavior [such as drug dependency]”); Lederer, *supra* note 4, at 6 (noting that “after they have been trafficked into prostitution, the girls need the drugs to numb themselves against the commercial sex acts in which they are forced to engage”).

64. *See* DORAIS, *supra* note 8, at 85 (stating that “[t]here is no doubt that many girls have been repeatedly threatened, intimidated, beaten or raped. Some live in fear for their lives”); Litvinoff, *supra* note 12, at 42 (noting that prostitutes are routinely subject to violence and know the retaliatory capability of their pimps); Lederer, *supra* note 4, at 7 (discussing a case in which even as the highest-ranking female gang member a woman was forced to prostitute herself, and was once “beaten so badly that she required surgery to rewire her jaw”).

65. *Id.*

such violence if they do not obey the gang's orders.⁶⁶ One victim of gang-controlled prostitution stated, "[o]nce you've worked for them, it's as if you belong to them for life. Wherever you go, whatever you do, even if you try to get out, they will come after you and threaten you and demand money. You never feel safe."⁶⁷

Even if a young woman is willing or able to stop engaging in prostitution, law enforcement may not be able to detect or identify victims of gang trafficking.⁶⁸ Gang-controlled youth prostitution is atypical in the sense that clients are usually found online or on the telephone as opposed to via street solicitation, and the sexual activity is normally confined to secret, private spaces such as in hotels or in a gang-member's house.⁶⁹ The tendency of gangs to arrange clandestine locales for youth prostitution makes it difficult for law enforcement to detect and assist victims.⁷⁰ Unfortunately, until recently, even when law enforcement officials did identify young prostitutes, they had a tendency to view the girls as criminals, not victims.⁷¹ In a 2010 study of police orientation towards juvenile prostitutes it was found that the juvenile was viewed as a victim only fifty-three percent of the time, as a delinquent thirty-one percent of the time, and as both victims and delinquents sixteen percent of the time.⁷²

66. See *id.* at 49 (noting that the victim has "witnessed the violence of which the boy and his gang are capable. She is scared, and rightly so.").

67. *Id.* at 54.

68. See Burt, *supra* note 11 (discussing identification problems); see also Lederer, *supra* note 4, at 10 (noting that there is a need for law enforcement training on how to identify victims trafficked by gangs).

69. See DORAIS, *supra* note 8, at 60 ("[G]irls are generally offered to clients in clandestine locations such as an apartment, hotel, motel room or backstore area.").

70. *Id.*

71. See Omeara Harrington, *Free Lolita! The Contradictory Legal Status of Seattle's Prostituted Youth*, 9 SEATTLE J. FOR SOC. JUST. 401, 406 (2010) ("Under the current system, prostituted youth are being victimized not only by the pimps who control and use them and the customers who take advantage of them but also by an imperfect criminal justice system that inappropriately criminalizes them"); Megan Anitto, *Consent, Coercion, and Compassion: Emerging Legal Responses to the Commercial Sexual Exploitation of Minors*, 30 YALE L. & POL'Y REV. 1, 18 (2011) ("[D]espite coercion and abuse, the most common response from law enforcement agencies is to pursue prosecution and detention of the youth for prostitution."); Nesheba Kittling, *God Bless the Child: The United States' Response to Domestic Juvenile Prostitution*, 6 NEV. L.J. 913, 913 (2006) (noting the differential treatment of international trafficking victims with domestic juvenile prostitutes, stating that "[o]n one hand, the country has taken a strong stance against those who traffic juveniles across international borders. On the other hand, the Government criminalizes domestic juvenile prostitutes").

72. Kimberly J. Mitchell et al., *Conceptualizing Juvenile Prostitution as Child Maltreatment: Findings from the National Juvenile Prostitution Study*, 15 CHILD

Police tendency to view juvenile prostitutes as criminals as opposed to victims is likely to be even greater where the juvenile is associated with a gang.⁷³

D. Post-Escape: Specialized Services Needed for Gang-Prostituted Girls

While many of the effects of exploitation experienced by gang-controlled youth prostitutes overlap with those of non-gang-related victims, there are a number of considerations, which must be addressed, that are unique to victims of gangs.

Young girls forced into prostitution by gangs face many of the same emotional and physical consequences as do other trafficked children, and may exhibit varying degrees of post-traumatic stress disorder, extremely low self-esteem, and drug addiction.⁷⁴ In addition, gang-related child prostitutes may face emotional turmoil if they have come to love their pimp, gang-member boyfriends, and feel as though they have found a family in the gang.⁷⁵ Leaving prostitution for these girls will likely entail a complete restructuring of their social network and the gang loyalty engrained in these females may be especially difficult to break.⁷⁶ As with victims of domestic violence, gang-controlled youth prostitutes may feel love and hatred simultaneously in relation to their pimps, and since many of these girls come from abusive home lives, the abuse they face from their pimps may not strike them as abnormal.⁷⁷

MALTREATMENT 18, 29 (2010).

73. *Id.* at 30.

74. DORAIS, *supra* note 8, at 91–96.

75. *See id.* at 89–90 (noting that victims often are or have been in love with their gang pimp, and do not view him as such); Litvinoff, *supra* note 12, at 42 (noting the emotional bond that often develops between the victim and pimp); Lederer, *supra* note 4, at 18 (“[M]any victims do not recognize themselves as such because they are in love with their pimps or consider their abusers to be family. Some are even convinced to see sex as an obligation—an onus that must be performed to earn a place in their new ‘family.’”).

76. *Id.*; *See* J.J. PEARCE & J.M. PITTS, YOUTH GANGS, SEXUAL VIOLENCE AND SEXUAL EXPLOITATION: A SCOPING EXERCISE FOR THE OFFICE OF THE CHILDREN’S COMMISSIONER FOR ENGLAND 33 (2011), available at http://www.beds.ac.uk/__data/assets/pdf_file/0003/127371/OCC_Uni-of-Beds-Literature-Review_FINAL.pdf (“[L]eaving the gang usually meant finishing a relationship with a ‘boyfriend’ ... [and] attempting to construct or re-build a social network.”).

77. *See* Burt, *supra* note 11 (noting the prevalence of a history of sexual abuse among females recruited into gang-controlled prostitution); Litvinoff, *supra* note 12, at 31 (“[A] youth is more likely to get involved in prostitution if she shows a history of low self-esteem, early experience with sexual activity, physical and sexual abuse, [and] familial neglect.”).

Even if a gang-prostituted girl recognizes her exploitation for what it is, she faces overwhelming risk to her safety if she attempts to escape the gang's control.⁷⁸ As noted above, youth prostituted by a gang are seen to “belong” to the gang, and thus, girls who attempt to disengage from prostitution may be viewed by all members of the gang as a traitor, threat, or enemy of the gang.⁷⁹ The girl may face violent retaliation not just from her pimp within the gang, but from other gang members as well.⁸⁰ Beyond the perceived disrespect of breaking loyalty to the gang, a youth who has been prostituted may know gang secrets or have been involved in non-prostitution related criminal activity with the gang and thus faces the threat of being silenced by the gang in violent and even fatal manners.⁸¹

Gang intimidation is likely to be present in institutions attempting to rehabilitate the young victim as well.⁸² If sent to a juvenile detention center, as juvenile prostitutes often are,⁸³ there may be a number of gang members within the institution who pose a serious threat to the safety of the victim.⁸⁴ If the victim instead is placed in a shelter or foster care facility, she faces similar risks—recall that gangs often recruit young females into prostitution at these very facilities.⁸⁵ Even if a victim's primary pimp is

78. See NAT'L GANG INTELLIGENCE CTR., *supra* note 4, at 5 (noting cases in which gang pimps carried machetes, branded and cut prostitutes to maintain control over them); Litvinoff, *supra* note 12, at 76 (citing one youth prostitute who explained “how some girls are beaten, shot and raped as punishment and then made to believe that they were abused because they were disobedient to their pimp”).

79. Burt, *supra* note 11; see also *supra* note 58 (discussing the “rat” phenomenon within gang ideology).

80. *Id.*

81. See Pearce, *supra* note 74, at 42 (noting that in addition to the threat from their own gangs, these women may be victimized by rival gang members, stating that “[t]hese young women may be the targets of vendettas against their fathers and therefore need to remain gang-involved in order to receive their protection” and discussing the story of one young woman who was threatened with death by rival gang members); Lederer, *supra* note 4, at 7 (discussing the Outlaws gang's practice of surrounding the “clubhouse” brothel with armed guards and noting that punishment for disobedience ranges from “beating to gang rape”); Litvinoff, *supra* note 12, at 90 (quoting a gang pimp, who stated “[g]irls don't rat us out because they know, ‘who is going to protect them, then?’”).

82. See Litvinoff, *supra* note 12, at 83 (noting the presence of gang members within detention facilities).

83. See SHARED HOPE INT'L, *supra* note 164, at 22.

84. See NAT'L GANG INTELLIGENCE CTR., 2011 NATIONAL GANG THREAT ASSESSMENT: EMERGING TRENDS 30 (2011) (“Many incarcerated gang members continue to engage in gang activities following incarceration and use their connections inside prison to commit crime in the community.”).

85. See Litvinoff, *supra* note 12, at 82 (noting the recruitment of young girls at group and foster homes).

incarcerated for his role in her prostitution, he is likely to continue to intimidate the female from jail.⁸⁶ These issues make it especially difficult for a gang-controlled youth prostitute to escape her exploitation and, unfortunately, as is discussed below, there are few service providers or institutions currently capable of adequately meeting these challenges on behalf of the victims.⁸⁷

II. Federal Law on the Sexual Exploitation of Minors

While there is no particular federal law dealing with the prostitution of minors by gangs, there are a number of federal statutes allowing for the prosecution of persons involved in child sexual exploitation.⁸⁸ This Part examines the most important of these federal schemes, and it analyzes their potential to halt the expansion of the child sex trafficking market by gangs. In addition to a discussion of federal trafficking law, this Part addresses the role of the Racketeer Influenced and Corrupt Organizations Act (“RICO”)⁸⁹ in the fight against child sexual exploitation by gangs.

A. Federal Anti-Trafficking Legislation

i. The Mann Act

The federal government’s first attempt to deal with domestic sex trafficking was the White-Slave Traffic Act, also known as the Mann Act, adopted in 1910.⁹⁰ As originally adopted, the Act prohibited transporting “any woman or girl for the purpose of prostitution or debauchery, or for any

86. See, e.g., Jonah Spangenthal-Lee, *Pimping From Jail Edition*, SEATTLE WEEKLY (July 15, 2011), <http://www.seattlemet.com/news-and-profiles/publicola/articles/first-amendment-extremists-pimping-from-jail-edition>; see also Yablonsky, *supra* note 21, at 226.

87. See *infra* Part IV.B.

88. See, e.g., 18 U.S.C. § 2251 (addressing the sexual exploitation of children); 18 U.S.C. § 2251A (dealing with the selling or buying of children); 18 U.S.C. § 2252 (regulating activities related to material involving the sexual exploitation of minors).

89. 18 USCA §§ 1961–68 (codifying the prosecution of persons engaged in racketeer influenced and corrupt organizations).

90. White-Slave Traffic (Mann) Act, ch. 395, 36 STAT. 825 (1910) (codified as amended at 18 U.S.C. §§ 2421–2424 (2006)), available at http://www.pbs.org/unforgivable/blackness/knockout/mannact_text.html (prohibiting the interstate or foreign transportation of minors for prostitution or any other criminally sexual purposes or activities).

other immoral purpose” across state lines.⁹¹ While the Mann Act has been amended numerous times, and now explicitly includes a section on the transportation of minors for prostitution purposes,⁹² it has proved ill-equipped to address sex trafficking of minors.⁹³ Unlike many of the more recent federal trafficking laws, the Mann Act requires an element of transport, limiting prosecution to instances in which the federal government can prove intended or actual movement of the victim across state or national lines.⁹⁴ As recent incidents and reports indicate, the transportation requirement is problematic for the prosecution of gang-related exploitation of minors because gangs often participate in this activity on a local level, not in multi-state trafficking operations.⁹⁵

91. *Id.*

92. 18 U.S.C. § 2423.

93. See Kathleen A. McKee, *It's 10:00 P.M. Do You Know Where Your Children Are?*, 23 REGENT U. L. REV. 311, 314 (2010-2011) (noting that statutes adopted prior to the Trafficking Victims Protection Act (TPVA), including the Mann Act, “were not regarded as effective in addressing human trafficking”).

94. 18 USCA § 2421 (2006) (“Whoever knowingly *transports*...or attempts to do so.”) (emphasis added).

95. See, e.g., Pamela Brown, *Gang Sex Trafficking Victim Speaks Out*, ABC7 NEWS (Nov. 16, 2012), <http://www.wjla.com/articles/2012/11/gang-sex-trafficking-victim-speaks-out-82134.html#continue> (last visited July 8, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice); Carrie Johnson, *Gangs Enter New Territory With Sex Trafficking*, NAT'L PUB. RADIO (Nov. 14, 2011), <http://www.npr.org/2011/11/14/142300731/gangs-enter-new-territory-with-sex-trafficking> (last visited July 8, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice); Joseph Hall, *Is Sex Trafficking the New Dope?*, THE LONELY CONSERVATIVE (Feb. 2, 2012), <http://lonelyconservative.com/2012/02/is-sex-trafficking-the-new-dope/> (last visited July 8, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice); *Police Use Wiretaps To Crack Human Trafficking By Street Gangs*, CBS CHICAGO (Aug. 24, 2011, 9:40 AM), <http://chicago.cbslocal.com/2011/08/24/police-use-wiretaps-to-crack-human-trafficking-by-street-gangs/> (last visited July 8, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice); Carrie Johnson, *MS-13 Gang Expanding Its Human Trafficking Territory in 42 States*, NOHUMANTRAFFICKING.ORG (Nov. 14, 2011), <http://nohumantrafficking.org/ms-13-gang-expanding-its-human-trafficking-territory-in-42-states/> (last visited July 8, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice); Pierre Thomas & Marisa Taylor, *Gang Members Arrested on Charges of Sex Trafficking Suburban Teens*, ABCNEWS.COM (March 31, 2012), http://abcnews.go.com/US/gang-members-arrested-alleged-suburban-teen-prostitution-ring/story?id=16046155#.UI2fTW_A9IE (last visited July 8, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

ii. *The Trafficking Victims Protection Act*

In 2000, spurred by growing awareness of the human trafficking taking place domestically and abroad, Congress passed the Trafficking Victims Protection Act of 2000 (“TVPA”),⁹⁶ the first comprehensive legislation to address the sexual exploitation of minors.⁹⁷ Adopted for the stated purpose of “combat[ing] trafficking in persons . . . to ensure just and effective punishment of traffickers, and to protect their victims,”⁹⁸ the TVPA incorporated a strategy originally formulated by the Clinton Administration. It is known as the strategy of the “Three P’s”—prevention, protection, and prosecution.⁹⁹ Although originally adopted with an international focus,¹⁰⁰ the TVPA—as amended in 2003, 2005, and 2008—contains numerous provisions relevant to domestic sex trafficking of minors.¹⁰¹

The TVPA’s prevention measures include raising public awareness of the issue and requiring the Department of State to annually report on the status of governmental efforts to halt trafficking.¹⁰² Further, the statute established an interagency task to coordinate the implementation of the TVPA, measure and evaluate the progress of the United States (and other

96. Trafficking Victim Protection Act of 2000, 22 U.S.C. §§ 7101–12 (2006) (protecting undocumented persons in the country who are victims of human trafficking).

97. McKee, *supra* note 92, at 312–13.

98. 22 U.S.C. § 7101.

99. McKee, *supra* note 92, at 313; Heather Monasky, *On Comprehensive Prostitution Reform: Criminalizing the Trafficker and the Trick, but Not the Victim – Sweden’s Sexkopsilagen in America*, 37 WM. MITCHELL L. REV. 1989, 2022 (2010–2011); Shelly George, *The Strong Arm of the Law is Weak: How the Trafficking Victims Protection Act Fails to Assist Effectively Victims of the Sex Trade*, 45 CREIGHTON L. REV. 563, 570 (2011–2012); Susan Crile, *A Minor Conflict: Why the Objectives of Federal Sex Trafficking Legislation Preempt the Enforcement of State Prostitution Laws Against Minors*, 61 AM. U. L. REV. 1783, 1795 (2012); Stephanie L. Mariconda, *Breaking the Chains: Combatting Human Trafficking at the State Level*, 26 B.C. THIRD WORLD L.J. 151, 168 (2009); Nesheba Kittling, *God Bless the Child: The United States’ Response to Domestic Juvenile Prostitution*, 6 NEV. L.J. 913, 915 (2006).

100. See McKee, *supra* note 92, at 317 (“[The] emphasis of the legislation remained on international rather than domestic trafficking in persons.”); Megan Annitto, *Consent, Coercion, and Compassion: Emerging Legal Responses to the Commercial Sexual Exploitation of Minors*, 30 YALE L. & POL’Y REV. 1, 35 (2011) (“The need to protect foreign-born noncitizens was more readily recognized by the public and federal law enforcement officials than the plight of domestic youth, when the TVPA was enacted in 2000.”).

101. See, e.g., Trafficking Victims Protection Reauthorization Act of 2005 §201, 42 U.S.C. § 14044 (2006).

102. McKee, *supra* note 92, at 315 (citing 22 U.S.C. § 7103).

countries) in preventing trafficking and assisting victims, and expand the government's ability to collect and organize data on sex trafficking.¹⁰³ The TVPA also expands funding for research initiatives on domestic and international trafficking and calls for a biannual conference addressing trafficking within the United States.¹⁰⁴ While these prevention measures are important steps, they were overshadowed by the other two "Ps" of the TVPA—protection and prosecution.

The TVPA offers a number of prosecutorial tools for combating sex trafficking within the United States.¹⁰⁵ Notably, the TVPA does not require a finding of coercion on the part of traffickers if the victim is a minor.¹⁰⁶ Rather, the government may prosecute perpetrators and assist victims of a "severe form of trafficking,"¹⁰⁷ defined as "sex trafficking in which a 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*."¹⁰⁸ Thus, in order to prosecute for the sexual exploitation of a minor under the TVPA, there is a non-rebuttable presumption that the minor could not consent to her own trafficking.¹⁰⁹ This is an important departure from notions inherent in state laws, which criminalize minors for prostitution and recognize that trafficked minors are to be protected as victims—not prosecuted as criminals.¹¹⁰

Further, the current version of the TVPA offers a number of prosecutorial provisions that are particularly important for gang-related trafficking of minors. First, under the TPVA, it is a crime for any person to "cause, or financially benefit from causing, a minor to engage in a commercial sex act, regardless of whether or not coercion was present."¹¹¹

103. *Id.*

104. *Id.*

105. *See, e.g.* 18 U.S.C. § 1591 (criminalizing sex trafficking); 22 U.S.C.A. § 7109 (amending the federal sentencing guidelines to take account of trafficking).

106. 22 U.S.C. § 7102 (including within the definition of victims of "severe forms of trafficking" those induced to perform a commercial sex act who have not attained 18 years of age).

107. 22 U.S.C. § 7105 (mandating services for victims of severe forms of trafficking).

108. 22 U.S.C. § 7102 (emphasis added).

109. *See* Annitto, *supra* note 97, at 40 and 43 (noting that "[b]y definition, TVPA ensures that child victims do not have to prove 'coercion, duress, or fraud' to be considered 'severely trafficked persons' for purposes of protection" and citing the FBI that "children can never consent to prostitution. It is always exploitation").

110. *See id.*

111. 18 U.S.C. § 1591 ("(a) Whoever knowingly--(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United

Violation of Section 1591(a) is punished by the statutorily mandated minimum sentence of ten years (or 15 years if the minor is under age 14).¹¹² The TVPA also amended the criminal title of the United States Code to create a conspiracy provision, allowing for the prosecution of and longer sentences for those who conspire to violate anti-trafficking provisions.¹¹³ In addition, the 2003 amendments to the TVPA added human trafficking to the predicate acts that may be prosecuted under the Racketeer Influenced and Corrupt Organizations Act (“RICO”).¹¹⁴ Finally, the TVPA allows for increased jail terms, amends federal sentencing guidelines that expressly address trafficking, and mandates the provision of grants and training to assist in prosecution and protection activities by state and local law enforcement authorities.¹¹⁵

As noted in Part I, victims of gang-related sex trafficking present special challenges to service agencies and have heightened need for protection against retaliation and recapture by their gang member traffickers.¹¹⁶ The TVPA contains a number of provisions, which, if utilized correctly, may ensure the safety of previously trafficked minors. Including all trafficked minors, Section 7105 of the TVPA provides that victims of severe trafficking, which includes all trafficked minors, while in custody of the federal government, shall be provided shelter in facilities appropriate “to their status as crime victims.”¹¹⁷ In addition, Section 7105 provides that victims should “receive necessary medical care and other assistance and be provided protection if a victim’s safety is at risk or if there

States, recruits, entices, harbors, transports, provides, obtains, or maintains by any means a person; or (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1) knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).”).

112. 18 U.S.C. § 1591(b) (providing for a minimum ten-year sentence).

113. 18 U.S.C. § 1594(a) (criminalizing and punishing any attempt to violate a human-trafficking statute to the identical extent as the completed crime).

114. 18 USCA § 1961(1)(B).

115. Rebecca Carroll Sager, *An Anomaly of the Law: Insufficient State Laws Fail to Protect Minor Victims of Sex Trafficking*, 38 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 359, 365–66 (2012) (citing William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007, Pub. L. No. 110–457, § 232 and 22 U.S.C. § 7105).

116. *See supra* Part I.

117. 22 U.S.C. § 7105(c)(1).

is danger of additional harm by recapture of the victim by a trafficker.”¹¹⁸ Notably, this positive obligation includes “taking measures to protect trafficked persons . . . from intimidation and threats of reprisals from traffickers and their associates.”¹¹⁹ If concretely enforced, this Section is of paramount importance to protecting gang-related victims of sex trafficking.

The provision of adequate services and protection to gang trafficking victims is potentially furthered by the establishment by the TVPA of pilot programs to identify best practices in providing rehabilitative treatment to trafficking victims in residential programs¹²⁰ and creation of a pilot residential program for juvenile victims.¹²¹ Beyond establishing guidelines for service providers, the TVPA provides for federal grants to states, localities, and non-profit organizations charged with assisting victims of domestic trafficking.¹²² In addition, the TVPA creates a private right of action that victims may pursue to recover damages from their traffickers, which could assist in societal reintegration and rehabilitation of the minor.¹²³

Despite the potential of the TVPA to address the issue of gang-trafficked minors, the statute has arguably failed in many ways to halt the rise of such exploitation.¹²⁴ One problem is that while the conspiracy provision of the TVPA allows for prosecution of organized trafficking arrangements, it has failed to spur sufficient prosecution to slow the flow of illicit funds generated by gang activity.¹²⁵ Additionally, while federal law

118. *Id.*

119. *Id.*

120. Trafficking Victims Protection Reauthorization Act of 2005, sec. 203(a)–(b), (d), (f) (codified as amended at 42 U.S.C. § 14044b(a)–(b), (d), (f) (2006)).

121. *Id.*

122. 22 U.S.C. § 7105(b)(2).

123. Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, § 4(4), 117 Stat. 2875, 2878 (codified at 18 U.S.C. § 1595).

124. Kendal Nicole Smith, *Human Trafficking and RICO: A New Prosecutorial Hammer in the War on Modern Day Slavery*, 18 GEO. MASON L. REV. 759, 775–76 (2011) (“[W]hile the TVPA has laid an excellent foundation and allowed prosecutors to make great strides in imprisoning individual traffickers, additional legislation must be utilized to combat the sophisticated trafficking rings that continue to grow in number within the United States.”); Anitto, *supra* note 99, at 42 (noting that the TVPA has provided “little practical reform for domestic-born victims of sexual exploitation who are prosecuted in juvenile courts”).

125. *See id.* at 775 (“[O]btaining justice for victims is often impossible because singular TVPA prosecutions do not cripple an entire trafficking enterprise, which often employs a myriad of individuals engaged in illegal activity that is not covered by the TVPA, but that still furthers the illicit goals of the organization.”).

has evolved to recognize prostituted minors as victims, state law, either explicitly or in practice, continues to criminalize them in many cases.¹²⁶ As local law enforcement is much more likely to encounter and play a role in addressing the issue of trafficking of minors, especially minors prostituted by street gangs, it is essential that the provisions and ideas of the TVPA are adopted at the state and local level.¹²⁷ Further, while the TVPA adapted over time to more fully address domestic sex trafficking, it was not conceived with the particularized problem of gang-trafficking in mind, leaving it in many ways ill-suited to deal with this issue.

B. The Racketeer Influenced and Corrupt Organizations Act (“RICO”)

As noted above, the TVPA does not directly address the issue of trafficking within the framework of organized crime, such as street gangs. This section will address another federal statute that, in contrast to the TVPA, was designed specifically to deal with organized crime—the Racketeer Influenced and Corrupt Organizations Act (“RICO”).¹²⁸

RICO was enacted in 1970 for the stated purpose of “seek[ing] the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.”¹²⁹ In line with its stated goal, RICO offers a number of advantages to prosecutors and victims of organized crime and may be an important tool for those who wish to halt the street gang expansion into juvenile prostitution.¹³⁰ Although not utilized for this reason until recently, RICO has been held to apply to street gangs, and gang members have been

126. See Annitto, *supra* note 99, at 2 (noting that most states treat prostituted minors as criminals rather than victims and often detain and prosecute them).

127. See McKee, *supra* note 92, at 318 (“Primary contact with law enforcement might be at the state or local level rather than at the federal level.”); see also Sager, *supra* note 114, at 366 (“State and local authorities more commonly come into contact with trafficked children than federal authorities do.”).

128. 18 U.S.C. §§ 1961–68.

129. Racketeer Influenced and Corrupt Organizations Act, Pub. L. No. 91–452, Statement of Findings and Purpose, 84 Stat. 922, 923 (1970) (codified as amended at 18 U.S.C. §§ 1961–68).

130. See Smith, *supra* note 123, at 761; SHARED HOPE INT’L, RICO PROSECUTION AND DMST OFFENSES (2012), available at <http://sharedhope.org/wp-content/uploads/2012/09/RICO-Prosecution-and-DMST-Offenses.pdf>; Kathleen A. McKee, *Modern-Day Slavery: Framing Effective Solutions for an Age-Old Problem*, 55 CATH. U. L. REV. 141, 164–78 (2005).

successfully prosecuted for their involvement in youth prostitution rings.¹³¹ The utilization of RICO in federal prosecutions of gangs for child sex trafficking is likely to continue as courts have been quick to apply a rule which states that RICO “shall be liberally construed to effectuate its remedial purpose.”¹³² This provision has allowed prosecutors to reach more organizations than those highly concentrated, formal organizations that were previously addressed under the statute.¹³³ Indeed in *Sedima, S.P.R.L. v. Imrex Co.*¹³⁴ the Supreme Court stated that “[t]he fact that RICO has been applied in situations not expressly anticipated by Congress does not demonstrate ambiguity. It demonstrates breadth.”¹³⁵

As adopted, RICO contains a two-pronged approach to dismantling organized crime, first creating a criminal offense and prosecutorial tools, and second creating a civil cause of action for victims of organized crime.¹³⁶ While “Civil RICO” is not addressed in detail for purposes of this Note, it is important to point out that there is potential for victims whose lives or property have been negatively impacted by gang-controlled prostitution to obtain restitution from their former pimps, a practical and emotionally powerful opportunity for some youth victims of gang prostitution.¹³⁷ This remedy, however, is unlikely to be utilized by these victims given the emotional and physical danger associated with suits against gang members.¹³⁸

131. See e.g., *United States v. Juvenile Male*, 554 F.3d 456, 461 (4th Cir. 2009); *United States v. Vasquez*, 258 F.R.D. 68, 70 (E.D.N.Y. 2009).

132. See Organized Crime Control Act of Oct. 15, 1970, Pub. L. No. 91-452, Title IX, § 904(a), 84 Stat. 922, 947 (1970) (“The provisions of this title shall be liberally construed to effectuate its remedial purposes.”).

133. See Smith, *supra* note 123, at 779 (noting the Supreme Court’s holding that an enterprise is operated by upper management as well as lower rung participants who are under the direction of upper management including associates of the enterprise who exert some measure of control over its affairs).

134. *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479 (1985) (holding that there is no requirement that a private action under § 1964(c) can proceed only against a defendant who has already been convicted of a predicate act or of a RICO violation).

135. *Id.* at 499 (quoting *Harco, Inc. v. Am. Nat’l Bank & Trust Co. of Chicago*, 747 F.2d 384, 398 (1984)).

136. See Smith, *supra* note 123, at 777 (noting that Congress “adopted a two-tiered approach; one tier provided civil penalties, and the other criminal”).

137. See McKee, *supra* note 92, at 178 (discussing the potential use and limitations of civil RICO for trafficking victims).

138. See DORAIS & CORRIVEAU, *supra* note 8, at 85-90 (discussing the difficulties faced by gang-trafficking victims in testifying against their pimps—issues which arguably disincentivize victims from bringing civil actions).

Of more practical relevance for addressing gang-controlled child sex trafficking are the criminal provisions of RICO. There are four main activities criminalized in Section 1962 of RICO, however the one most often utilized is set out in subsection (c) which states: “it shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity or collection of unlawful debt.”¹³⁹ To find a violation of Section 1962(c) “the government must prove (1) the existence of the enterprise; (2) the pattern of racketeering activity; (3) the effect on interstate or foreign commerce; and (4) the conduct of the defendant in relation to the enterprise.”¹⁴⁰ In regards to the existence of an enterprise, the Supreme Court has held that an enterprise is any “group of persons associated together for a common purpose of engaging in a common course of conduct.”¹⁴¹ Subsequent courts have held that many street gangs satisfy this definition and thus are subject to prosecution under RICO.¹⁴²

In addition to the existence of an “enterprise,” subsection (c) prosecutions require that there be a “pattern of racketeering activity.”¹⁴³ Racketeering activity is defined under RICO by a number of various predicate acts, including, “peonage, slavery, trafficking in persons, sexual exploitation of children, and white slave traffic.”¹⁴⁴ Each of these predicate acts are implicated by gang-controlled youth prostitution. In order to establish a “pattern of racketeering activity” RICO requires at least two occurrences of these acts and that the acts be related and amount to or pose a threat of continued criminal activity.¹⁴⁵

The third element under subsection (c) of Section 1962 of RICO is that there be an impact on interstate or foreign commerce.¹⁴⁶ The required effect is likely to be satisfied in gang-prostitution cases as courts have held

139. 18 U.S.C. § 1962(c).

140. SHARED HOPE INT’L, *supra* note 129, at 5.

141. *Id.* (citing *United States v. Turkette*, 452 U.S. 576, 583 (1981)).

142. *See id.* (noting that “most criminal street gangs qualify as an ‘association in fact’ enterprise for the purpose of RICO”).

143. 18 U.S.C. § 1962(c).

144. *Id.* (citing 18 U.S.C. § 1961(1) (Definitions)).

145. SHARED HOPE INT’L, *supra* note 129, at 7 (citing *H.J. Inc. v. N.W. Bell Tel. Co.*, 492 U.S. 229, 240–42 (1989); *Tel-Phonic Serv., Inc. v. TBS Int’l, Inc.*, 975 F.2d 1134, 1140 (5th Cir. 1992)).

146. 18 U.S.C. § 1962(c).

that only a *de minimus* effect need be shown. This requirement has been found to be satisfied in situations where “(1) the enterprise purchased, sold or distributed contraband, in interstate commerce; (2) the enterprise used interstate facilities such as interstate banking systems, telephone calls, or wire transfers; (3) members or associates of the enterprise traveled in interstate commerce or outside the United States to carry out their illegal activities; or (4) the victims of the enterprise’s illegal activities were involved in interstate commerce.”¹⁴⁷

Finally, subsection (c) requires that the defendant “conduct or participate” in the enterprise’s activities.¹⁴⁸ While the Supreme Court has held that this necessarily implies some degree of direction over the enterprise’s affairs, it has also stated that RICO liability is not limited to those with primary responsibility for the enterprise’s affairs, with formal positions in the enterprise, or with significant control over or within the enterprise.¹⁴⁹ Further, the Court has noted that liability is not limited to upper management, but may extend to lower-rung participants in enterprises who are under the direction of upper management.¹⁵⁰ This would appear to reach many of the gang members involved in the prostitution of minors.

In addition to creating criminal liability for substantive crimes related to organized crime, RICO offers a number of prosecutorial and remedial provisions, which may be extremely useful in the context of youth commercial sexual exploitation. First, RICO includes a conspiracy provision, which is more inclusive than those applicable to other federal crimes.¹⁵¹ Specifically, the Supreme Court has stated that there “is no requirement of some overt act or specific act in [RICO], unlike the general conspiracy provision applicable to federal crimes, which requires that at least one of the conspirators have committed an ‘act to effect the object of the conspiracy.’”¹⁵² Instead, under RICO’s more encompassing conspiracy

147. SHARED HOPE INT’L, *supra* note 129, at 8 (citing DOUGLAS E. CROW & MIRIAM BANKS, U.S. DEPARTMENT OF JUSTICE, CRIMINAL DIVISION, ORGANIZED CRIME & RACKETEERING SECTION, RACKETEERING STATUTES IN GANG PROSECUTIONS 1, 3 (1998)).

148. 18 U.S.C. §1962(c).

149. *See* *Reves v. Ernst & Young*, 507 U.S. 170, 179 (1993) (holding that one must participate in the operation or management of an enterprise to be liable under RICO).

150. *Id.* at 184.

151. 18 U.S.C. § 1962(d) (“It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.”).

152. *See* *Salinas v. United States*, 522 U.S. 52, 63 (1997) (“The RICO conspiracy provision, then, is even more comprehensive than the general conspiracy offense in § 371.”).

statute, even those gang members not directly connected with the prostitution of minors may be prosecuted as long as they shared a common purpose with their co-conspirator pimps.¹⁵³ Beyond its broad conspiracy provision, RICO allows for the imposition of a harsher sentence for the underlying offense than would normally be possible. Under RICO a person may face up to a 20-year sentence (or more if the predicate act statute allows for a higher sentence).¹⁵⁴ In addition, RICO requires the defendant to forfeit “any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity....”¹⁵⁵ As noted above, gangs view prostitution of juveniles as a profitable activity with a low risk of detection by law enforcement and thus, the ability to deprive a gang of these profits may be an extremely effective tool in halting the spread of gang activity in this area.

In addition to the creation of substantive offenses, a broadened conspiracy provision, and harsher penalties including asset forfeiture, RICO grants a number of prosecutorial tools which may be useful in prosecuting gang members who have played a part in the prostitution of minors.¹⁵⁶ Importantly, RICO allows for joinder of offenses and defendants, which would otherwise not be allowed under the traditional rules of federal criminal procedure.¹⁵⁷ Indeed one scholar has noted “RICO has enabled prosecutors to link together a wide range of different offenses committed by numerous individuals... in ways that would be impossible under traditional rules of joinder, jurisdiction and venue.”¹⁵⁸ Additionally, RICO gives prosecutors flexibility in drafting the charging document, and “[t]he statute permits a prosecutor to charge a substantive RICO offense without specifying the type of enterprise that forms the basis of the charge.”¹⁵⁹ These prosecutorial tools allow the government to reach those lower ranking gang members who have facilitated youth prostitution in some way who otherwise may have remained immune from prosecution.¹⁶⁰

153. *Id.* at 64 (“[S]o long as they share a common purpose, conspirators are liable for the acts of their coconspirators.”).

154. 18 U.S.C. § 1963(a).

155. 18 U.S.C. § 1963(a)(3).

156. *See* Smith, *supra* note 123, at 789 (discussing the prosecutorial discretion allowed under RICO).

157. *See id.* at 790 (noting the expanded joinder options under RICO).

158. Gerard E. Lynch, *RICO: The Crime of Being a Criminal, Parts III & IV*, 87 COLUM. L. REV. 920, 931 (1987).

159. SHARED HOPE INT’L, *supra* note 129, at 11.

160. *See id.* at 6–7 (“The upper echelons of criminal street gangs may be very small,

Thus, RICO represents a very useful tool to be utilized in halting the expansion of street gangs into youth prostitution and successfully punishing those gangs already involved.¹⁶¹ Use of RICO may be necessary to convince gangs that sex trafficking is no longer a low-risk enterprise and that interacting, even in an ancillary manner, with gang-controlled prostitution rings could lead to personal and financial detriment for individual members.

III. State Law on the Sexual Exploitation of Minors

Like their federal counterparts state legislators have become increasingly aware of the problem of the commercial sexual exploitation of children.¹⁶² Many states have enacted anti-trafficking laws to mirror those adopted on the federal level, particularly those outlawing sex trafficking.¹⁶³ Some states have passed “safe harbor” laws, which divert minors who have been involved in prostitution from criminal or juvenile delinquency proceedings to the social services and child welfare systems.¹⁶⁴ Of relevance to gang-controlled prostitution of minors is the fact that nearly

while the low level members carry out numerous crimes. RICO permits prosecutors to reach a range of offenders.”); *see also* Smith, *supra* note 123, at 789 (“[Prosecutors are able to] reach perpetrators who are not directly involved in forcing or coercing victims and are thus not prosecutable under the applicable trafficking statutes, and who also may not be prosecutable under the stricter requirements of the general conspiracy statute.”).

161. *See* SHARED HOPE INT’L, *supra* note 129, at 1 (“The parallels between the human-trafficking problem and other forms of organized crime suggest that prosecutors should utilize the Racketeer Influenced and Corrupt Organizations Act (“RICO”), intended specifically to eliminate organized crime, in conjunction with the TVPA to more successfully eradicate these human-trafficking enterprises.”); Smith, *supra* note 123, at 761 (noting that the advantages offered by RICO make it “highly effective in dismantling complex criminal organizations such as the MS-13 gang”); McKee, *supra* note 129, at 178 (discussing the potential uses of civil RICO in the context of sex trafficking).

162. *See* Wendi J. Adelson, *Child Prostitute or Victim of Trafficking?*, 6 U. ST. THOMAS L.J. 96, 97 (2008) (“[There is a] rise in state legislation geared toward punishing traffickers and protecting child victims of trafficking.”); Melynda H. Barnhart, *Sex and Slavery: An Analysis of Three Models of State Human Trafficking Legislation*, 16 WM. & MARY J. WOMEN & L. 83, 87 (2009) (“As of August, 2009, forty-three states have enacted criminal statutes and other legislation attempting to end the phenomenon of human trafficking.”).

163. *See* Sager, *supra* note 114, at 367 (arguing that state laws which do not already imitate the federal law should be reformed to mirror the protections provided in the TVPA); McKee, *supra* note 92, at 327 (noting that as of January 1, 2010, forty-four states had enacted laws addressing trafficking in persons and discussing some of the protections these laws provide).

164. *See, e.g.*, Safe Harbour for Exploited Children Act, ch. 569, 2008 N.Y. Laws 4076.

every state has adopted some form of “anti-gang” legislation, which, although not tailored to the problem of sex trafficking, may be of use for addressing this issue.¹⁶⁵ In addition, many states have adopted a “RICO” law, which mimics the federal RICO statute and often offers similar prosecutorial and remedial advantages.¹⁶⁶ This Part addresses each of these areas of state law in relation to their ability to assist in halting juvenile prostitution by gangs.

A. State Anti-Trafficking Legislation

Currently forty-seven states and the District of Columbia have statutes outlawing sex trafficking, which include elements of inducing or compelling another through force, fraud, or coercion to engage in a commercial sex act or engage in prostitution.¹⁶⁷ Despite the fact that the overwhelming majority of states have laws addressing sex trafficking, many of these statutes do not expressly address the trafficking of minors.¹⁶⁸ In addition, many state trafficking statutes fail to stipulate that minors who are engaged in prostitution are trafficking victims for purposes of prosecution and victim identification, or to state that minors need not satisfy the elements of force, fraud or coercion required of adult trafficking victims.¹⁶⁹ Furthermore, state sex trafficking statutes vary greatly in how closely their provisions mirror federal trafficking law in terms of enhanced penalties for traffickers, clients, and facilitators, asset forfeiture, enhanced investigative tools, creation of task forces, creation of civil remedies, and services provided to victims.¹⁷⁰

165. *Highlights of Gang-Related Legislation*, NAT'L GANG CTR. (last updated Dec. 2012), <http://www.nationalgangcenter.gov/Legislation/Highlights>.

166. *See, e.g.*, California Control of Profits of Organized Crime Act, CA PENAL. § 186.1 et seq.

167. POLARIS PROJECT, 2012 COMPLETE RATINGS PACKET 4 (2012), *available at* <https://na4.salesforce.com/sfc/p/300000006E4SZ2vOAvBtmKICytWEBvS.6oLeE4k=>.

168. *See* SHARED HOPE INT'L, PROTECTED INNOCENCE CHALLENGE: STATE REPORT CARDS ON THE LEGAL FRAMEWORK OF PROTECTION FOR THE NATION'S CHILDREN 21 (2012), *available at* <http://sharedhope.org/what-we-do/bring-justice/state-by-state-grades/> (“[While t]he vast majority of states have human trafficking laws . . . , there are variations in coverage; some do not expressly cover the sex trafficking of minors”).

169. *See id.* at 27 (noting that states must reform their trafficking statutes to ensure that “all minors under the age of 18 should be deemed unable to consent to involvement in commercial sex acts, thus rendering the element of force, fraud or coercion irrelevant in domestic minor sex trafficking cases”).

170. *See id.* at 57 (noting that it is essential that states “enact human trafficking laws that are consistent with each other and federal law in scope and penalty so as to prevent

B. Safe Harbor Laws, Juvenile Justice and Child Welfare Systems, and Expungement

Unfortunately, even with the passage of numerous anti-trafficking statutes throughout the country, many states continue to criminally prosecute juveniles involved in prostitution, despite the federal recognition that a commercially sexually exploited child is always and should be treated as a victim.¹⁷¹ Juveniles involved in gang-controlled prostitution may be placed in a juvenile detention center, where instead of treatment she could face continued control and harassment from her gang pimps.¹⁷² In order to legislatively address this situation eleven states have adopted what have come to be known as “safe harbor” laws.¹⁷³ These statutes stipulate that minor victims of commercial sexual exploitation cannot be prosecuted for prostitution, and instead are diverted to the child protection system or victim service programs rather than criminal or juvenile detention programs.¹⁷⁴ These statutes come closer to the treatment victims receive under federal trafficking laws, although the protection afforded to minors under these state statutes diverges in many situations. For example, under New York’s safe harbor statute a second-time “offender” involved in child prostitution will be denied its protection and instead of diversion into a safehouse will be placed in juvenile delinquency proceedings despite her status as a minor.¹⁷⁵ Other “safe harbor” laws have age thresholds, which disallow diversion for minors over a certain age—such as age 16 in Connecticut.¹⁷⁶

migration of trafficking crimes to more lenient states or onto tribal lands”).

171. See Annitto, *supra* note 97, at 2 (noting that “[m]ost states view and treat [juvenile prostitutes] as offenders for prostitution, and they are often detained and prosecuted”).

172. See *id.* at 9 (noting that “girls’ detention centers sorely lack programming relevant to the experiences of sexually exploited youth,” and “sexual misconduct and harmful behavior by staff members in these facilities is well documented”).

173. POLARIS PROJECT, *supra* note 163, at 3–4 (including the following states: Connecticut, Florida, Illinois, Massachusetts, Minnesota, Ohio, New York, New Jersey, Tennessee, Washington and Vermont).

174. See *id.* at 8 (defining safe harbor laws as “statute[s] that dictate that minor victims of sex trafficking or commercial sexual exploitation cannot be prosecuted for prostitution, and instead are diverted to the child protection system and/or victim service programs rather than criminal/juvenile detention programs”).

175. See Carrie N. Baker, *The Influence of International Human Trafficking on United States Prostitution Laws: The Case of Expungement Laws*, 62 SYRACUSE L. REV. 171, 179 (2012) (noting that New York’s safe harbor statute applies only to first-time “offenders”).

176. See *id.* (citing CONN. GEN. STAT. ANN. § 53a-82 (West Supp. 2011)).

Diversion of minors into the child welfare system would demonstrate legislative recognition that juvenile prostitutes are victims, rather than criminals.¹⁷⁷ Scholar Kate Brittle has argued that the child welfare system is the “most appropriate mechanism currently in place to address the needs of prostituted domestic juveniles.”¹⁷⁸ Noting that the welfare system is “accustomed to handling the needs of abused and neglected youth,” Brittle argues that utilization of the child protection system will allow for provision of the individualized service and attention necessary to adequately assist trafficked minors.¹⁷⁹

While it may be true that the welfare system is the institution best suited to protect prostituted juveniles, there are a number of limitations that must be addressed in its application to gang-controlled youth prostitution. First, the level of necessary protection and separation from the pimp may be heightened for those girls who have been trafficked by gangs.¹⁸⁰ As discussed previously, many girls may identify with the gang, be a gang-member herself, or have emotional attachments to a member of the gang.¹⁸¹ In addition, the safety of girls at foster-care or other child welfare facilities may be compromised as gangs often infiltrate these institutions and even recruit there.¹⁸² Thus, it may be necessary to place gang-prostituted victims in facilities located some distance away from the area controlled by her gang-affiliates. If this means crossing state borders there will be jurisdictional complications since each state controls its internal welfare systems independently.¹⁸³ Finally, the need to move a young girl away from her home location may conflict with parental rights and desires.¹⁸⁴

177. See Brittle, *supra* note 59, at 1361 (noting that the child welfare system could adequately provide services to “prostituted domestic juveniles [as] victims, not criminal offenders”).

178. See *id.* (arguing that recognition of juvenile prostitution as a form of child abuse by either parents or pimps would satisfy the jurisdictional threshold for intervention and placement of the child).

179. *Id.*

180. See *supra* Part I.D (discussing the dangers faced by youth who escape gang-controlled prostitution).

181. *Id.*

182. See *supra* note 8.

183. See Brittle, *supra* note 59, at 1362 (“[T]he actual child welfare systems are state entities, organized and administered by each state’s governing statutory provisions. Therefore, each state has specifically defined situations where intervention is permitted.”).

184. See *id.* (“The child welfare system continually struggles with balancing the tension between competing parental rights and a child’s individual rights.... Parents have a constitutionally protected right to raise their children as they see fit.”).

While the welfare system is ultimately concerned with the safety of children, parental rights have been foundational in the system's functioning and ideology, and preservation of the family unit is a high priority.¹⁸⁵ This presents the problematic situation whereby girls who have been prostituted while living at home may need to be moved away for their own safety, but thereby lose the protection and daily guidance of their parents. Thus, while Brittle may be correct in her assertion that the child welfare system presents the best option for protecting victims of child sex trafficking, there are issues which must be adequately addressed to ensure that this system is sufficiently tailored to the needs of gang-related juvenile prostitutes.

In addition to "safe harbor" legislation, which protects minors from prosecution for their involvement in prostitution, some states have passed expungement laws which "allow courts to vacate prostitution convictions of sex trafficking victims."¹⁸⁶ These laws address the fact that, despite the fact that juvenile records are normally sealed, there are situations in which they may continue to impact a victim in her adult life.¹⁸⁷ The anti-trafficking advocacy organization, Shared Hope International, stated that "[v]ictims of domestic minor sex trafficking report being hampered in attempts to restore their lives through employment or education because they have criminal records. Juvenile delinquency records can prevent survivors from obtaining academic scholarships, securing certain employment, and working with children in some cases."¹⁸⁸ Thus far, seven states have enacted legislation to prevent the past victimization of child prostitutes to continue to impact them in this manner.¹⁸⁹

185. See CHILD WELFARE INFO. GATEWAY, DETERMINING THE BEST INTERESTS OF THE CHILD: SUMMARY OF STATE LAWS 2 (2010), available at https://www.childwelfare.gov/systemwide/laws_policies/statutes/best_interest.pdf (stating that approximately twenty eight state welfare policies explicitly note the importance of family integrity and preference for avoiding removal of the child from his/her home).

186. See Baker, *supra* note 173, at 180 ("Whereas safe harbor laws prevent prosecution of minors picked up for prostitution, expungement laws allow for people convicted of prostitution to clear their records if they can show that they were victims of sex trafficking."); see, e.g., N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney Supp. 2011); NEV. REV. STAT. § 176.515(5); 725 ILL. COMP. STAT. 5/116-2.1.

187. See Melissa Golke, *The Age of Consent: How Minnesota's Safe Harbor for Sexually Exploited Youth Act of 2011 Falls Short of Fully Addressing Domestic Child Sex Trafficking*, 33 HAMLIN J. PUB. L. & POL'Y 201, 219–220 (2011) ("[T]he mandatory minimum sentencing guidelines in Minnesota allow juvenile adjudications to negatively affect an individual's criminal history score as an adult.").

188. SHARED HOPE INT'L, *supra* note 164, at 22.

189. POLARIS PROJECT, *supra* note 163, at 3–4 (Maryland, Hawaii, Illinois, Nevada, New York, Vermont, and Washington).

C. Anti-Gang Legislation and State RICO Statutes

According to the National Gang Center, every state has adopted some legislation relating to gangs or gang activity.¹⁹⁰ These statutes deal with a range of gang-related issues, from outlawing recruitment of gang members to forbidding gang-related clothing within schools.¹⁹¹ Gang-related legislation may be of use to those who wish to slow the spread of gangs into juvenile prostitution. These statutes may address the recruitment tactics of gangs by banning recruitment of minors, outlawing gang representation in the school setting, and prohibiting the use of “sex-ins” which gangs may use to initiate a young girl’s entrance into the gang.¹⁹² In addition, these statutes may provide enhanced penalties for gang pimps, allow for expert testimony to be introduced at trial, mandate asset forfeiture, provide civil causes of action for victims, and ensure the creation and maintenance of gang databases.¹⁹³ Anti-gang statutes may also allow law enforcement to reduce the number of public spaces available for gang use, including prostitution.¹⁹⁴ For example, under Georgia law “any real property used by criminal street gangs for criminal gang activity is declared a public nuisance.”¹⁹⁵ Also of importance is the fact that many states have adopted anti-gang legislation providing funding and instruction for the protection of victims of gang-related criminal activity or who are witnesses in the prosecution of a gang member.¹⁹⁶

In addition to these piecemeal anti-gang statutes, many states have adopted RICO laws, which mirror the federal RICO statute addressing

190. Highlights, *supra* note 164.

191. *Id.*

192. *See, e.g.*, N.D. CENT. CODE § 12.1-20-04 (2013) (“A person who engages in a sexual act or sexual contact with another, or who causes another to engage in a sexual act or sexual contact, is guilty of a class B felony if the actor: [e]ngages in a sexual act or sexual contact with another, whether consensual or not, as part of an induction, initiation, ceremony, pledge, hazing, or qualification to become a member or an associate of any criminal street gang as defined in section 12.1-06.2-01.”).

193. *See* Highlights, *supra* note 164 (presenting information on state legislation related to gang activity).

194. *See Public Nuisance*, NAT’L GANG CTR., <http://www.nationalgangcenter.gov/Content/HTML/Municipal-Codes/municipal%20codes--public%20nuisance.htm> (last visited July 8, 2013) (listing state laws on this topic) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

195. LENTZ SCH. SEC. § 16:2 (2013) (referencing GA. CODE ANN. § 16-15-7).

196. *See, e.g.*, CONN. GEN. STAT. § 54-82t (“Protective Services for Witness at Risk of Harm”).

organized crime.¹⁹⁷ The potential for these RICO statutes to assist victims of gang-controlled juvenile prostitution parallels that of the federal statute.¹⁹⁸ The prosecutorial, investigative, and remedial benefits provided by the federal law are available to varying degrees in state RICO statutes.¹⁹⁹ Importantly, to be of use, the state RICO act must include the commercial sexual exploitation of minors as a predicate act.²⁰⁰ Some states have statutes which explicitly recognize sex trafficking offenses as predicate acts within their racketeering statutes,²⁰¹ while other states include commercial sexual exploitation or prostitution offenses as predicate acts.²⁰² While current state law addressing gangs varies too dramatically to make many generalizations in regard to their impact on gang-controlled juvenile prostitution, there is definite potential for the utilization of anti-gang legislation in conjunction with RICO and trafficking statutes to more comprehensively deal with the role of gangs in juvenile prostitution.

IV. Recommendations

The problem of gang-controlled prostitution of minors is complex and necessitates cohesive and strategic solutions. This Part presents a number of suggestions on how states and local governments can more effectively halt gang-involvement in the sex trafficking of minors and better assist victims. It is important to emphasize that these suggestions do not represent every action that must be taken to address this phenomenon, nor are they appropriate in every locality or situation. Indeed, as noted below, there is a dire need for more research on the incidence of gang-controlled youth prostitution.

197. SHARED HOPE INT'L, *supra* note 127, at 15; *see* SHARED HOPE INT'L, *supra* note 166, at 32. *See, e.g.*, MINN. STAT. § 609.903(1)(1)-(2) (Racketeering); FLA. STAT. ANN. § 895.03(1) (Prohibited activities and defenses); DEL. CODE tit. 11 § 1503(a) (Violations).

198. THE POLARIS PROJECT, HUMAN TRAFFICKING LEGISLATIVE ISSUE BRIEF: HUMAN TRAFFICKING IN STATE RICO STATUTES (2012).

199. SHARED HOPE INT'L, *supra* note 164, at 19.

200. *See id.* (“Amending or enacting a RICO or gang crime statute that includes sex trafficking and CSEC offenses as predicate acts provides states with a powerful tool to combat sex trafficking enterprises.”).

201. SHARED HOPE INT'L, *supra* note 166, at 32 (citing COL. REV. STAT. § 18-17-104(3)).

202. *Id.*

A. Legislative Action

There are a number of ways state legislatures can ensure that victims of gang-controlled youth prostitution are protected and perpetrators are punished. Indeed, many of the following suggestions are adopted from comprehensive action lists and ratings systems constructed by the Polaris Project and Shared Hope International, two advocacy organizations that aim to address domestic and international legislation.

First, states must ensure that their sex trafficking statutes explicitly address sex trafficking of minors as victims, without regard to force, fraud or coercion.²⁰³ Further, they should adopt a separate statute outlawing the commercial sexual exploitation of children, which “refer[s] to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.”²⁰⁴ States should also adopt a racketeering statute that “includes sex trafficking and commercial sexual exploitation of children offenses as predicate acts allowing the statute to be used to prosecute trafficking crimes.”²⁰⁵

Additionally, states should embrace criminal provisions that adequately address demand for child prostitutes.²⁰⁶ For example, the state sex trafficking and CSEC statute should be applicable to buyers of

203. SHARED HOPE INT’L, *supra* note 161, at 27 (identifying all states that have RICO statutes that mirror the federal RICO statute).

204. *Id.* at 31; *See, e.g.*, WASH. REV. CODE § 13.40.219 (Arrest for prostitution or prostitution loitering states in part that in any juvenile proceeding “related to an arrest for prostitution or prostitution loitering, there is a presumption that the alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code [the federal trafficking Victims Protection Act of 2000 (TVPA), as amended], and that the alleged offender is also a victim of commercial sex abuse of a minor”).

205. *Id.* at 32; *See, e.g.*, COLO. REV. STAT. § 18-17-104(3) (making it a crime for “any person employed by, or associated with, any enterprise to knowingly conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt”); COLO. REV. STAT. § 18-17-103(5) (defining “racketeering activity” as “to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit: (a) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1) (A), (1) (B), (1) (C), and (1) (D); or (b) (I) Offenses against the person, as defined in . . . 18-3-501 (trafficking in adults), 18-3-502 (trafficking in children), and 18-3-503 (coercion of involuntary servitude); (V) Offenses involving the family relation, as defined in section 18-6-403 (sexual exploitation of children); (VI) Offenses relating to morals, as defined in sections 18-7-102 (wholesale promotion of obscenity or promotion of obscenity), 18-7-203 (pandering), 18-7-206 (pimping), 18-7-402 (soliciting for child prostitution), 18-7-403 (pandering of a child), 18-7-404 (keeping a place of child prostitution), and 18-7-405 (pimping of a child)”).

206. *Id.* at 37–53.

commercial sex acts with a minor, the “solicitation of prostitution laws [should] differentiate between buying sex acts with an adult and buying sex acts with a minor under 18,” and separately criminalize the use of the Internet to lure or purchase sex acts with a minor.²⁰⁷ In addition to targeting buyers of commercial child sex acts, state statutes should include criminal provisions to effectively deter traffickers from trafficking children.²⁰⁸ These provisions should include penalties at least as severe as federal penalties,²⁰⁹ establish that using the Internet for child sex trafficking is a separate chargeable offense,²¹⁰ and require asset forfeiture.²¹¹ In turn, the profits from asset forfeiture should be used to fund victim services.²¹² In recognition of the often loose structure of street gangs, states must also target those who facilitate gang juvenile prostitution.²¹³ The facilitation of child sex trafficking should indeed be criminalized and perpetrators should be subjected to financial penalties.²¹⁴

There are a number of steps that states should take to protect and care for the victims of gang trafficking. States should ensure that “[s]tatutorily-mandated victim services define ‘victim’ to specifically include victims of domestic minor sex trafficking or commercial sexual exploitation of

207. *Id.*; *see, e.g.*, R.I. GEN. LAWS § 11-37-8.8(a) (Indecent solicitation of a child is a separate statute from R.I. Gen. Laws § 11-34.1-3(a) which covers Procurement of sexual conduct for a fee). Section 11-37-8.8(a) provides “[a] person is guilty of indecent solicitation of a child if he or she knowingly solicits another person under eighteen (18) years of age or one whom he or she believes is a person under eighteen (18) years of age for the purpose of engaging in prostitution.”).

208. *Id.* at 55–67.

209. *Id.* at 57; *see, e.g.*, GA. CODE ANN. § 16-5-46(f)(2) (punishing trafficking of persons for labor or sexual servitude for 10–20 years imprisonment and/or a fine not to exceed \$100,000).

210. *Id.* at 60; *see, e.g.*, 720 ILL. COMP. STAT. ANN. 5/11-25(a) (Grooming criminalizes any person who “knowingly uses a computer on-line service, Internet service, . . . [to] solicit . . . or attempt to . . . solicit . . . a child . . . to commit” a violation of 720); ILL. COMP. STAT. ANN. 5/11-14.4 (discussing the promotion of juvenile prostitution); *see also* 720 ILL. COMP. STAT. ANN. 5/11-19.1 (addressing juvenile pimping and aggravated juvenile pimping).

211. *Id.* at 61; *see, e.g.*, CONN. GEN. STAT. § 54-36p (addressing the forfeiture of moneys and property related to sexual exploitation and human trafficking).

212. *See Lederer, supra* note 4, at 20 (“An even better approach would allow all assets seized in street gang trafficking activities to be used for victim services for girls rescued from trafficking situations.”).

213. SHARED HOPE INT’L, *supra* note 161, at 71.

214. *Id.*; *see, e.g.*, IOWA CODE § 710A.2(4), (7) (defining human trafficking as a felony for making any “person who benefits financially or by receiving anything of value from knowing participation in human trafficking . . . [when] the victim is under the age of eighteen”).

children (CSEC) to ensure prompt identification and access to victims' rights and services."²¹⁵ Crime victims' compensation funds should be explicitly made available to victims of child sex trafficking.²¹⁶ Safe harbor statutes should be adopted to clarify that prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.²¹⁷ These statutes should mandate that "commercially sexually exploited children are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities."²¹⁸ Statutory definitions of child abuse and neglect should be adapted to include sexual exploitation or sex trafficking.²¹⁹ To avoid re-victimization of trafficked youth, states should enact expungement laws that require juvenile arrest or criminal records resulting from arrests or adjudications for prostitution-related offenses be expunged or vacated when a victim turns 18.²²⁰ The identification of victims and treatment as such is particularly important. To this end, states should statutorily mandate law

215. *Id.* at 81; *see, e.g.*, COLO. REV. STAT. ANN. § 18-1.3-602(4)(e) ("Notwithstanding any other provision of this section, 'victim' includes a person less than eighteen years of age who has been trafficked by an offender, as described in section 18-3-502 [Trafficking in children], or coerced into involuntary servitude, as described in section 18-3-503 [Coercion of involuntary servitude].").

216. *Id.* at 94; *see, e.g.*, D.C. CODE § 4-501 (defining "crime" for the crime victim's compensation statute as "the offense of, or the attempt to commit the offense of . . . benefitting financially from human trafficking, using a minor in a sexual performance, promoting a sexual performance by a minor, attending or possessing a sexual performance by a minor, trafficking in labor or commercial sex acts, sex trafficking of children, a felony violation of an act codified in Chapter 27 of Title 22 of the District of Columbia Code, where a person was compelled to engage in prostitution or was a minor . . .").

217. *Id.* at 84; *see, e.g.*, TENN. CODE ANN. § 39-13-513(d) ("[N]otwithstanding any provision of this section to the contrary, if it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person shall be immune from prosecution for prostitution as a juvenile or adult.").

218. *Id.* at 86; *see, e.g.*, 720 ILL. COMP. STAT. ANN. 5/11-14(d) (defining prostitution as "if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section is a person under the age of 18, that person . . . shall be subject to temporary protective custody . . .").

219. *Id.* at 90; *see, e.g.*, IDAHO CODE § 16-1602(1)(b) (defining "abuse," in part, as including "[s]exual conduct, including . . . prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child").

220. *Id.* at 98; *see, e.g.*, ALASKA STAT. § 47.12.300(d) (providing that the court shall order a minor's records sealed "within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court releases jurisdiction over the minor").

enforcement training on domestic minor sex trafficking and prostitution, and the creation of a trafficking task force and emergency hotline.²²¹

In addition to these suggestions, states should consider implementing statutorily mandated education and prevention programs to address sexual exploitation as part of gang-prevention efforts.²²² If a state has mandated dating violence education programs, there should, in turn, be a section on gang-related prostitution and exploitation.

B. Necessary Victim Services and Cross-Sector Training

Juvenile victims of commercial sexual exploitation have very specialized needs for which services are unfortunately unavailable in many jurisdictions.²²³ Victims of gang-related prostitution have unique needs within this population and may require specialized services distinct from those provided to other trafficking victims.²²⁴ First, as noted above, child prostitutes should not be funneled into juvenile delinquency proceedings or the criminal justice system.²²⁵ States should recognize these minors as victims and place them in safe housing via the child welfare system or other diversionary institutions as such.²²⁶ Gang-related victims may need to be placed outside of the locality where their prostitution took place as their safety in local programs could be jeopardized by the presence of gang members.²²⁷ Unfortunately, there is currently a dearth of residential shelter housing available to child victims of sex trafficking.²²⁸ A recent study by

221. *Id.* at 107; *see, e.g.*, FLA. STAT. § 787.06(5) (requiring “[e]ach state attorney to develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and to provide for periodic and timely instruction...[and a]fter January 1, 2007, every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation”).

222. *See* Lederer, *supra* note 4, at 19 (“New modules on street gangs can be added to anti-trafficking training courses and components on trafficking in persons must be added to street gang training.”); Litvinoff, *supra* note 12, at 21 (discussing the G.R.E.A.T. gang-prevention program in San Diego).

223. *See* Lederer, *supra* note 4, at 17–20 (discussing various needs and recommendations to deal with gang-related juvenile prostitution).

224. *Id.*

225. *See* Part III.B *supra* (addressing the criminalization of juvenile prostitution).

226. *Id.*

227. *See supra* Part I.B (discussing the fact that gangs often are present and recruiting in juvenile detention centers and foster homes).

228. POLARIS PROJECT, *Shelter Beds for Human Trafficking Survivors in the United States*, <https://na4.salesforce.com/sfc/p/300000006E4S9liF7eeqnpIT97HRFH4FvCSI5v4=> (last visited Sept. 29 2013) (on filed with the Washington and Lee Journal of Civil Rights

the Polaris Project found that there are only 519 beds available for these victims throughout the United States, of which 192 are designated for only adults.²²⁹ In fact, there does not appear to be any specialized housing placements available at all for gang-related victims. This issue must be addressed in order to ensure the safety of minors who have been prostituted by gangs. Funding is essential to ensure placement of these victims in rehabilitative facilities as opposed to the juvenile detention centers in which they are currently placed.²³⁰ While providing residential care for these victims will be costly, if these placements decrease the number of juveniles who choose to return to juvenile prostitution, they will in turn reduce the cost to the juvenile justice system.

In addition to housing, victims of gang-controlled youth prostitution must be provided with specialized counseling, medical, and drug treatment programs to ensure their recovery to good health.²³¹ Especially important for those who are gang-related who may be tempted back into prostitution by lifestyle promises from other gang member, vocational training, employment assistance, and education should be offered to these victims. Prevention and rehabilitation efforts should include former victims, with an emphasis on the de-glamorization of prostitution.²³² Law enforcement, court professionals, and service providers should also be trained on the unique problem of gang-controlled youth prostitution, and there should be frequent communication between trafficking and gang task forces.²³³

and Social Justice).

229. *Id.*

230. See Marihug Cedeño, *Pimps, Johns, and Juvenile Prostitutes: Is New York Doing Enough to Combat the Commercial Sexual Exploitation of Children?*, 22 CORNELL J.L. & PUB. POL'Y 153, 175 (2012) (noting that the lack of funding for shelter under New York's safe harbor law means that "girls have to wait weeks, even months, at interim shelters that do not have the adequate services to meet their immediate needs, sometimes leaving girls with no alternative but to return to their exploiters").

231. See Litvinoff, *supra* note 12, at 42 (noting that victims of gang-trafficking may experience a wide variety of mental and general health problems such as insomnia, post-traumatic stress disorder, depression, anxiety disorders, drug addiction, and even eating disorders).

232. See *id.* at 100 ("[P]revention and outreach efforts aimed at youth who are at-risk of gang membership or prostitution can attempt to de-glamorize these activities. The City Attorney interviewed in this study suggested the importance of employing volunteers and outreach workers whom the kids can better relate to."); see also Lederer, *supra* note 4, at 19 ("[One very good source of help in this task will be survivors—young women and children who were trafficked by gangs and may be best equipped to help develop new and successful outreach programs.]).

233. See Burt, *supra* note 11 (emphasizing that communication between service sectors is essential to meeting this problem).

Cross-sector education and communication is essential to addressing the problem of gang-controlled youth trafficking and collaboration among service providers, advocacy organizations, legislators, law enforcement, educators, court professionals, church officials, and private business owners is key.²³⁴

Despite the paucity of specialized-residential placements for sexually exploited youth, there are a few programs that could stand as models for adoption in other states. One such program, Girls Educational and Mentoring Services (GEMS) in New York, founded in 1998 by a survivor of child sexual exploitation, provides comprehensive services to exploited youth.²³⁵ Focusing on domestically trafficked youth, GEMS employs unique methods to rehabilitate former youth prostitutes.²³⁶ Indeed, using a multi-pronged approach to assisting exploited youth, GEMS provides safe transitional shelter, trauma and long-term counseling, educational and professional guidance and motivation, case management, and legal advocacy.²³⁷ This program capitalizes on the strength of past survivors by encouraging their involvement in advocacy and outreach to current victims.²³⁸ In addition, GEMS recognizes and addresses the cultural and socio-economic causes of child commercial sexual exploitation—a programmatic choice that may prove essential to victims of gang-controlled prostitution.²³⁹ Beyond assisting youth long entangled in the web of prostitution, GEMS conducts prevention workshops in residential and detention facilities to raise awareness about the realities of the commercial sex industry for girls and young women at risk for commercial sexual

234. *Id.*

235. Girls Educ. & Mentoring Servs., *Mission & History*, <http://www.gems-girls.org/about/mission-history> (last visited Sept. 20, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice) (highlighting the history, mission, vision and philosophy of GEMS).

236. *Id.*

237. Girls Educ. & Mentoring Servs., *Our Services*, <http://www.gems-girls.org/what-we-do/our-services> (last visited Sept. 20, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice) (noting the “multi-faceted, holistic approach to [addressing] sexual exploitation”).

238. Girls Educ. & Mentoring Servs., *Holistic Case Management*, <http://www.gems-girls.org/what-we-do/our-services/intervention/holistic-case-management> (last visited July 8, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice) (explaining GEMS’ methods of utilizing past survivors to assist victims).

239. Girls Educ. & Mentoring Servs., *Mission & History*, <http://www.gems-girls.org/about/mission-history> (last visited Sept. 20, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

exploitation.²⁴⁰ Similar programming with a particular focus on gang-related youth should be adopted throughout the United States, and special attention should be given to the lessons-learned and insights of the few organizations, such as GEMS, that already exist to serve this population.

C. Need for Further Research

While there is increasing information and research available on the topic of child sexual exploitation and trafficking in general, there is a scarcity of information on gang-related minor prostitution.²⁴¹ Jurisdictions across the country are slowly realizing the presence of this problem and there have been a number of prosecutions of gang members for child sex trafficking reported in the media.²⁴² There must be increased focus and research on this problem—as well as awareness of this issue—to halt the spread of gang involvement in trafficking. Particularly, there is a need for research on best practices in assisting gang-involved minor victims of commercial sexual exploitation.

V. Conclusion

The rising problem of gang-controlled youth prostitution is now well documented and must be taken seriously by government, civil society, and private individuals. The emotional and physical impact that sexual exploitation has on minors is extreme, and gang-prostituted youth may face even more dire consequences than other trafficked youth. Federal and state law, which has recently adapted to address child sex trafficking, has lagged to adapt to the growing role of gangs. There are a number of policy reforms that local and state governments should undertake to ensure that America's youth are protected and that gang members are prosecuted. We must ensure that youth prostitution is no longer the low-risk, high-profit enterprise that gangs currently perceive it to be. One young girl who had

240. Girls Educ. & Mentoring Servs., *Prevention & Outreach*, <http://www.gems-girls.org/what-we-do/our-services/prevention-outreach> (last visited Sept. 20, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice) (detailing GEMS' prevention and outreach efforts).

241. Lederer, *supra* note 4, at 19.

242. See, e.g., Jerry Seper, *Feds: Crips gang ran teen prostitution ring in Northern Virginia*, THE WASHINGTON TIMES (Mar. 29, 2012), <http://www.washingtontimes.com/news/2012/mar/29/feds-crips-gang-teen-prostitution-ring-no-virginia/> (last visited July 9, 2013) (on file with the Washington and Lee Journal of Civil Rights and Social Justice).

been prostituted by a gang stated the following about the other victims she met during her exploitation, “[t]hey’re totally controlled by the guys and their threats and their drugs. They want to leave, but they always wind up going back. It’s as if they had no other choice. Except suicide maybe.”²⁴³ Another victim recounted how her victimization began, stating “I was pretty naïve. I had no experience. I fell in love with a gang boy.”²⁴⁴ Love should never be twisted into violent exploitation. Indeed, our children deserve the rigorous and effective protection of the law.

243. DORAIS, *supra* note 8, at 50.

244. *Id.* at 51.