

Strategies for the Reduction of Commercial Sexual Exploitation of Minors in the District of Columbia

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This policy memo addresses the commercial sexual exploitation of minors in the District of Columbia and outlines The Amara Legal Center’s strategic plan for reducing the phenomenon.

Question:

Which local policies should the Amara Legal Center (Amara) advocate for to reduce the commercial sexual exploitation of minors in the District of Columbia?

Scope:

This memo advocates for better policies as they relate to minors being commercially sexually exploited in the District of Columbia. Amara recognizes that there are also adults in the District who are commercially sexually exploited and will address this in a forthcoming policy memo.

Brief Answer:

To reduce the commercial sexual exploitation of minors in the District of Columbia, Amara will advocate for the Council of the District of Columbia (Council), the District of Columbia’s legislative body, to implement a holistic approach to the problem that will increase the enforcement of penalties for the exploiters of minors while rehabilitating the victims and preventing more minors from being victimized. Such an approach should include 1) the stricter enforcement of penalties for those who buy and sell minors for sex, 2) a shift from prosecution to diversion and rehabilitation for exploited minors, and 3) the development and implementation of a mechanism to identify at-risk youth before they become involved with the court system.

Facts:

Approximately 105,000 of the United States’s 73.9 million minors live in the District of Columbia.¹ Nationwide, almost 300,000 American children are believed to be at risk of

¹ Office of Juvenile Justice and Delinquency Prevention, *Easy Access to Juvenile Populations: 1990-2012*, http://www.ojjdp.gov/ojstatbb/ezapop/asp/comparison_display.asp.

becoming the victims of commercial sexual exploitation.² Amara estimates that if the same percentage is applied to young District residents, then there are about 420 minors who are potentially at risk of exploitation or are already being exploited.³ Thankfully, many states and federal agencies are taking steps to address the commercial sexual exploitation of minors around the country.

Minors become caught up in commercial sexual exploitation, commonly referred to as “the life,” through multiple avenues. However, one of the most common avenues is for pimps, or traffickers, to lure young girls into the life by promising the girls love, shelter, clothing, and food. More often than not, these girls are homeless, involved in the foster care system, or have a low level of family support. After the pimp has befriended a victim, the pimp will often ask the girl to begin “working,” or selling sex commercially for him. At this time, the girl often becomes addicted to drugs and alcohol, drops out of school, and begins to feel trapped. For more on this phenomenon, please read Shared Hope International’s 2009 report on domestic minor sex trafficking.⁴

In 2011, the Department of Justice’s Office of Juvenile Justice and Delinquency Prevention spent \$3 million to commission a report on the commercial sexual exploitation of minors and to fund community service organizations to increase services to minors to reduce this kind of victimization. To date, 18 states have enacted specific legislation targeted at protecting these victims. These protections include: age-based immunity from criminal arrests, conditional diversion from criminal incarceration, and increased financial penalties for buyers.⁵ Moreover, New York recently created a new court system, the Human Trafficking Intervention Court, in which specially trained defense attorneys, prosecutors, social workers, and judges handle all prostitution-related cases and divert defendants to services in an effort to help the defendants avoid returning to the sex trade.⁶

Analysis:

The discourse around the commercial sexual exploitation of children in the United States has only recently become mainstream. Amara is using the current awareness of the issue to advocate

² See Rights4Girls, *Trafficking of Girls*, <http://www.rights4girls.org/#!/trafficking-of-girls/cthj>; Innocence Lost Working Group, *Commercial Sexual Exploitation of Children: A Fact Sheet*, <http://www.cpe.rutgers.edu/NJDCF2013/docs/024-Fact-Sheet.pdf>.

³ 300,000 is .004 percent of 73.9 million. 420 is .004 percent of 105,000.

⁴ See Shared Hope International’s *The National Report on Domestic Minor Sex Trafficking*, http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf (2009).

⁵ Polaris Project, *2013 Analysis of State Human Trafficking Laws*, <http://www.polarisproject.org/storage/2013-Analysis-Category-6-Safe-Harbor.pdf>.

⁶ William K. Rashbaum, *With Special Courts, State Aims to Steer Women Away From Sex Trade*, NEW YORK TIMES, September 25th, 2013, available at http://www.nytimes.com/2013/09/26/nyregion/special-courts-for-human-trafficking-and-prostitution-cases-are-planned-in-new-york.html?_r=0.

for better policies in the District. While the District has not enacted legislation specifically directed toward providing a safe haven, or immunity from arrest, for minors being sexually exploited, its current laws can be better used to protect minors. Consequently, Amara supports policies that reflect the legislative intent already evident in the D.C. Code. Specifically, Amara supports 1) the stricter enforcement of penalties against the buyers and sellers of sex with anyone under the age of 18, 2) the diversion of minors arrested on prostitution-related offenses from the juvenile justice system, and 3) the development of a mechanism to identify and provide services for at-risk youth in order to prevent their victimization.

1. The stricter enforcement of penalties against those who buy and sell minors for sex would act as a deterrent to this activity and would send a message that the District considers the buying and selling of sex from minors unacceptable.

Laws already exist in the District to punish adult participants in the commercial sexual exploitation of minors.⁷ However, the buyers and sellers often remain impune or are released with only mild consequences while the exploited minors are stigmatized and re-victimized through prosecution and incarceration. Amara advocates that this phenomenon be reversed. The adult participants should be prosecuted to the fullest extent of the law, including asset forfeiture. This policy change would not require the Council to enact new legislation to achieve this goal; it need only communicate to law enforcement that the buyers and sellers of sex from minors are the main targets of their operations. The increase in enforcement would make the commercial sexual exploitation of minors a more costly endeavor for participants and the risks would outweigh the potential benefits to buyers and sellers, thus reducing such activity. Similarly, the Council should communicate to the Office of the Attorney General and the U.S. Attorney's Office for the District of Columbia that they are to prosecute buyers and sellers, but divert those who are exploited into social services.

2. Minors who are arrested on prostitution-related charges should be diverted from the juvenile justice system and should be provided with free social and legal services.

Victims of exploitation should not be re-victimized through being prosecuted for crimes for which they cannot legally be found guilty. Generally, minors are considered legally incapable of giving consent for sexual activity. According to D.C. Code §22-3011(a), consent is not a defense to the sexual abuse of anyone under 18 where the perpetrator is at least 4 years older than the victim. Consequently, children are not often prosecuted for prostitution, but they are prosecuted for offenses that arise from their victimization, such as truancy, possession of prohibited substances, abscondance, trespassing, and assault.

In addition to immunity for prostitution charges, minors should not be prosecuted for any charges that are a direct result of their victimization. Instead of being prosecuted, they should be

⁷ D.C. Code § 22-2704 specifically prohibits the abducting, enticing, or harboring of a child for the purpose of engaging in prostitution.

provided with resources and services to help them recover from the exploitation they have suffered. Relevant services should include both individual and family counseling and medical care. Resources should include free access to safe housing, childcare for children of the survivors, and safe after-school programs, which provide a supportive environment and opportunities to gain life skills.

3. A mechanism must be put in place to identify and provide services for minors at risk of exploitation before they become victimized.

Early detection of vulnerable youth is crucial to preventing their victimization. Often, the minors who are at risk of exploitation appear on the neglect and abuse docket in DC Superior Court for offenses such as truancy before they are ever arrested on prostitution-related charges. While detection in the abuse and neglect division of DC Superior Court is helpful, detection before the children reach the courts is ideal. Engaging and training stakeholders such as parents, teachers, coaches, social workers, and service providers to be able to read the signs of vulnerability is an excellent way to begin identifying these children before they reach the court system. Except for parents, all of the aforementioned groups are mandatory reporters. Consequently, Amara advocates for a city-wide comprehensive training policy for mandatory reporters that teaches them to detect the signs of a child who might be at risk of being exploited. Amara recognizes and applauds the training that has already been conducted for police and mandatory reporters in the District. However, Amara advocates for a more systematic and city-wide effort to have all law enforcement, judges, prosecutors, defense attorneys, and mandatory reporters trained to detect the warning signs of commercial exploitation of minors. With such training, these reporters can help the District protect its children.

Furthermore, a screening tool for all juveniles must be implemented to be given to juveniles at the time of arrest. Advocates in Maryland have already created and are using a human trafficking screening tool in their juvenile detention centers. The District is currently working to implement a similar screening tool for use on juveniles at the time of arrest. Amara advocates for this screening tool to be implemented as soon as feasibly possible.

Conclusion:

The District must fight the commoditization of its youth by protecting them and punishing those who would buy or sell them for sex. Amara advocates that the District take an approach that addresses the circumstances that make minors vulnerable to exploitation, minimizes the effects of that exploitation as much as possible, and increases the penalties for adults who exploit children. Implementing one of these policies without the others would not be as effective as implementing all three. By focusing law enforcement's efforts on the buyers and sellers of sex with minors, diverting exploited minors from the juvenile justice system and providing them services, and training stakeholders to identify vulnerable minors before they become victims, the

District can address the commercial sexual exploitation of its youth from multiple angles in an effort to end the exploitation completely. Amara is committed to working tirelessly to see that these suggestions are implemented in the District as soon as feasibly possible.

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