

The State of Human Trafficking Law, Policy and Education

*Legislative Review and Policy
Recommendations*

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Executive Summary

I. INTRODUCTION

Human trafficking is a global problem with complex causes and manifestations. Much attention has been given to the supply side of the problem – victims and traffickers – but only recently has attention shifted to interrogate the demand side. The demand for commercial sex drives the \$810 million dollar a year underground sex economy in San Diego. This report explores combatting human trafficking through educational and legislative measures aimed at reducing the demand for commercial sexual services. In it is proposed new legislation, as well as substantive and procedural recommendations for future consideration by California policymakers.

This study integrated legislative analysis, open source research, interviews with 15 subject matter experts (SMEs) from four broad sectors: *Victim Services and Advocacy*, *Criminal Justice*, and *Public Education Campaigns*. Current anti-trafficking legislation presents controversial responses and opinions.

II. CURRENT ANTI-TRAFFICKING LEGISLATION

There are currently 26 bills and one budget proposal related to Commercial Sexual Exploitation of Children (CSEC) pending in California. They fall into four general categories including: 1) increasing and improving victim services and protections; 2) reducing and eliminating penalties for victims/barriers to victim testimony; 3) trafficking prevention; and, 4) increasing resources to prosecute trafficking. Stakeholder interviews reveal a series of repeatable controversies associated with each category. Recommendations regarding current legislation include:

1. Bringing California legislation in line with the amendments to the federal Trafficking Victims Protection Act (TVPA) to include labor trafficking in its various forms;
2. Changing Penal Code Section 1192.7 to reflect human trafficking as a serious felony offense, and a violent felony offense under certain circumstances;
3. Amending AB 1731 to include the District Attorney’s Office; and,
4. Amending AB 1822 to add a quality control measure in which already established “John Schools” continue to operate, but are held accountable to the same evaluation criteria as probation operated programs.

II.A. CONTROVERSIES WITHIN THE CURRENT LEGISLATION

Different legislative proposals come from conflicting perspectives and have, in some cases, caused conflicts between organizations and agencies that usually work together. The most contentious proposals are those that seek to reduce or eliminate penalties for victims, seal records, or exempt victims from prosecution. Law enforcement, prosecutors and some victim service providers are concerned that this effectively removes three important mechanisms for intervention with CSEC: 1) The ability to physically disconnect the victim from her/his trafficker; 2) Mandating services for victims who don't yet believe or know that they are victims; and, 3) Detaining in order to investigate.

III. POTENTIAL ANTI-TRAFFICKING LEGISLATION

There is support among advocates for providing a clear civil cause of action to ensure that CSEC victims can sue their "johns" (purchasers). This could be done by specifically incorporating the federal statute's definition by reference and /or by specifically creating a right for victims to sue any party involved in trafficking including, but not limited to, individuals involved in the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. However the majority of stakeholders interviewed in San Diego County and Sacramento did not view this legislation as feasible. Among the objections raised include the difficulty of tracing what is actually cumulative damage to one buyer or incident, and the practical issue that victims, especially child victims, of trafficking do not have the knowledge, sophistication, or resources to file a civil action. Thus, while a civil cause of action may have merit and warrant support, it is unlikely to create actual disincentives or to create reliable sanctions given the reality facing these victims.

III.A. CREATING A PUBLIC CIVIL REMEDY OPTION

An alternative that fills the current vacuum could expedite and increase prosecutions of johns, and pimps as well, is the use of civil prosecutions in equity for restitution and civil penalties. This is an alternative to the idea of a civil remedy through victim suit, which has the practical obstacles raised by stakeholders and discussed above. One approach that would address the current shortcoming would be to adapt the Unfair Competition Law format giving the Attorney General (AG), District Attorneys (DAs) (who must inform the AG of any such case to assure coordination), and the city attorneys of the large cities the clear authority to bring these actions.

III.B. CREATING A THIRD TRACK IN THE JUVENILE JUSTICE SYSTEM

CSEC are a unique population of children and youth since they are not criminals, but instead are victims. Therefore, they should not be placed in a juvenile detention facility or otherwise treated as criminals. Unfortunately, the other option in California’s juvenile justice system is the dependency system and the dependency system in California is not currently equipped to deal appropriately with CSEC. Victims often will run away from their placements to return to the traffickers, who were victimizing them. In addition, there are a myriad of other challenges that victims face, socially, physically, and psychologically, with which the dependency system is not equipped to deal. CSEC are, however, victims. As such, the juvenile justice system is not the appropriate setting in which to address CSEC either.

Consequently, there should be a third track that provides the necessary resources for victims, while ensuring a secure environment from which victims cannot run back to their traffickers. A third track could also address many of the concerns voiced by opponents of bills like SB 1322 (decriminalizing prostitution for minors) because it would provide a way to address the myriad of unique issues that face victims of trafficking, such as separating them from their traffickers, addressing non-trafficking-related crimes committed by victims in the course of their victimization, and providing a more security and protection for victims.

IV. EDUCATIONAL PROJECTS

Education is the twin pillar to tougher legislation: both are required to shift the general acceptance and acquiescence that characterizes public attitudes towards “prostitution.” Combatting demand requires intentional work to change cultural norms and values that devalue women. The final section of this report explores the state of current educational projects prominent in the anti-trafficking movement that aim to decrease demand. These campaigns included themes such as johns, purchasers of sex, naming and shaming, and finally any campaign that generally addressed men.

IV.A. SCHOOL CURRICULUM AND PREVENTION TRAINING

SB 1165 amended the California Education Code to add sexual abuse and sex trafficking prevention to the sexual health education. Although the bill does not require training – the bill passed with the following language: “A school district *may* provide sexual abuse and sex trafficking prevention education” – it is a big step forward.

Specific to San Diego, Susan Davis introduced H.R. 5061 *Empowering Educators to Prevent Trafficking Act* in April 2016. H.R. 5061 would “award grants to local educational agencies to

establish, expand, and support programs to train school staff to recognize and respond to signs of labor trafficking and sex trafficking.”¹

Currently, three initiatives provide sex trafficking prevention education to students and educators. First, *The PROTECT Project* is the result of a coalition of three non-profit organizations, in partnership with the Office of the Attorney General for the State of California and the California Department of Education (CDE). The curriculum has been developed for 5th, 7th, 9th and 11th grade teachers and has already been piloted with over 18,000 5th, 7th and 9th graders with material appropriate to each age group.

Second, The *Education Sub-Committee* of the County Human Trafficking and CSEC Advisory Council has coordinated and provided ad-hoc trainings in individual school districts or school sites, and has also coordinated the development of a curriculum that can be utilized in schools. This curriculum was piloted for the first time in August 2016.

Finally, *Point Loma Nazarene University's* Center for Justice and Reconciliation is piloting a peer-to-peer curriculum in five area high schools in Fall 2016.

IV. B. EDUCATIONAL PROGRAMS FOR PURCHASERS OF COMMERCIAL SEX

1. The San Diego City Attorney's Office has developed the *Prostitution Impact Panel (PIP)* also known as the “John School.” Since its implementation in 2002, this program is designed to educate those that have been arrested for buying sex. The “John School” offers six classes per year (two per month) to help intervene in the lives of those who have been caught purchasing sex and/or loitering for prostitution.
2. *Breaking Free*, a non-profit social justice organization, created a John School Offenders Prostitution program as a way to address demand through education and awareness. This program primarily uses technique of restorative justice to understand one's motivations to engage in activities of or relating to human trafficking.
3. *New Friends New Life* in Texas is an advocacy group that works to restore and empower the lives of victims of sex trafficking. New Friends New Life has promoted two demand-centered campaigns. The first is the Men's Advocacy Group. This group mobilizes men through volunteering and advocacy opportunities. Men join together to take action in productive ways as change makers in the world of human trafficking.
4. *Organization for Prostitution Survivors (OPS)* in Seattle is an organization that primarily focuses on survivor services, education, and accountability of men. OPS created a program for men titled “Stopping Sexual Exploitation.” This program uses restorative justice tactics to help men understand their behavior and influences in the realm of human trafficking and prostitution.

¹ California, 114th Congress, H.R. 5061 Empowering Educators to Prevent Trafficking Act

IV.C. PUBLIC ANTI-TRAFFICKING CAMPAIGNS

Out of all fifty states in the U.S., only sixteen had campaigns that we could analyze that dealt with the demand side of trafficking. Below are six programs out of the sixteen selected for their strengths, and their difference in design.

1. *Shared Hope International* in Washington State created the Ambassadors and Defenders Program. Shared Hope recognizes all types of victims (male, female, and children) and reaches out to everyone to become an Ambassador in fighting human trafficking. Ambassadors go through multiple in-depth trainings to understand all facets of trafficking and become individuals that are ready to advocate and educate others on the dangers of human trafficking within their community.
2. *The Cease Network* in Phoenix, Arizona has collaborated with eleven different cities in the area with the common goal of cutting the demand on prostitution. The goals of this organization strive to decrease demand by 20% by the year 2017. The campaign titled “Not Worth It” begins to address human trafficking shifting the perspective away from the victims and onto those who perpetuate and fund the cycle of human trafficking.
3. Atlanta Mayor Shirley Franklin created Georgia’s “*Dear John Campaign, It’s Over*” campaign in 2005 by writing a post to “johns” on Craigslist and creating a YouTube video addressed to buyers of sex.² Mayor Franklin also formally called for Craigslist to ramp up its warning messages against erotic services and personal ads, and to remove postings that offer sexual or similar services for sale.

V. FINAL CONCLUSIONS AND RECOMMENDATIONS

Four broad conclusions emerge from this study. The first addresses the conditions necessary for drafting successful statewide legislation. Given the complexity of this issue, it is vital to take a systems perspective so that “behavior that is competent from the standpoint of each individual actor does not [detract] from the overall goals which collectively all the actors in the ‘system’ say they are working towards, in different ways.”³ Specifically, efforts should be made to include the California Teachers Association, California School boards Association, California Medical, Nurses and Hospital Associations, Association of California School Administrators, California Association of Counties and California League of Cities. All of these entities are touched by and have a deep interest in finding solutions to this issue.

² http://shirley-franklin.com/?page_id=732

³ Levine, M., Prosser, A., Evans, D., & Reicher, S. (2005). Identity and emergency intervention: How social group membership and inclusiveness of group boundaries shape helping behavior. *Personality and Social Psychology Bulletin*, 31: 443-453.

The second addresses possible amendments to existing legislation. Specifically, efforts should be made to: 1) bring California legislation in line with the amendments to the TVPA Act to include labor trafficking in its various forms; 2) change Penal Code Section 1192.7 to reflect human trafficking as a serious felony offense, and a violent felony offense under certain circumstances; 3) amend AB 1731 to include the District Attorney's Office; and, 4) amend AB 1822 to add a quality control measure that allows the already established "John School" in San Diego continue to operate.

The third contains ideas for new legislation that address the demand side of trafficking and ensure that CSEC victims across the state receive the services that they need. Specifically, it is recommended that California: 1) Adapt the Unfair Competition Law format giving the Attorney General, District Attorneys, and the city attorneys of large cities the clear authority to bring civil prosecutions in equity for restitution and civil penalties; and 2) Draft new legislation for a Safe Harbor Law.

The fourth recommendation is to promote the widespread adoption of sex-trafficking prevention curriculum in San Diego County Schools via three main avenues:

1. Support H.R. 5061 for federal grants to "establish, expand, and support programs to train school staff to recognize and respond to signs of labor trafficking and sex trafficking".⁴
2. Support the adaptation and adoption of existing curriculum. The project with the most comprehensive potential scope is Project PROTECT, a consortium of Non-Governmental Organizations (NGOs) in partnership with the California Department of Education and the Office of the Attorney General.
3. Build collaboration between existing initiatives. Better coordination between initiatives might go a long way towards scaling up sex-trafficking prevention education in all of San Diego County. Given the inherently political nature of this issue, any future efforts should be geared towards collaboration and consensus building.

⁴ California, 114th Congress, H.R.5061 Empowering Educators to Prevent Trafficking Act.

I. INTRODUCTION

Human trafficking⁵ is a global problem with complex causes and manifestations. Much attention has been given to the supply side of the problem – victims and traffickers— but only recently has attention shifted to interrogate the demand side. The demand for commercial sex drives the \$810 million dollar a year underground sex economy in San Diego. This report explores combatting human trafficking through educational and legislative measures aimed at reducing the demand for commercial sexual services. According to Yen (2008),⁶ these methods include “educating the men who use prostitutes, changing misguided male attitudes toward commercial sexual services and prostitutes, and enacting and enforcing legislation that criminalizes the purchase of sex.”

The research design integrated legislative analysis, open source research, interviews with 15 subject matter experts (SMEs) from four broad sectors: *Victim Services and Advocacy*,⁷ *Criminal Justice*,⁸ and *Public Education Campaigns*.⁹ The recent pivot to arresting and prosecuting buyers (“johns”) has near universal support, with the caveat that California is under pressure right now to free up space in prisons and the heavier proposed penalties for purchasers that include jail time, creates a political conflict of interest.¹⁰

In the following pages, we describe the state of current anti-trafficking legislation in California and the conflicting opinions about particular bills. We propose new legislation, and make a number of substantive and procedural recommendations for future consideration by California policymakers. Finally, we explore the state of current educational programs – awareness campaigns, “John Schools,” and curriculum for middle and high schools – most of which are in nascent stages in San Diego County.

⁵ The California Legislature defined human trafficking as "all acts involved in the recruitment, abduction, transport, harboring, transfer, sale or receipt of persons, within national or across international borders, through force, coercion, fraud or deception, to place persons in situations of slavery or slavery-like conditions, forced labor or services, such as forced prostitution or sexual services, domestic servitude, bonded sweatshop labor, or other debt bondage."

⁶ Yen, I. (2008). Of Vice and Men: A New Approach to Eradicating Sex Trafficking by Reducing Male Demand through Educational Programs and Abolitionist Education. *Journal of Criminal Law and Criminology*, 98 (2), 653-686.

⁷ Subject matter experts from four victim services and advocacy organizations.

⁸ Subject matter experts from six criminal justice organizations.

⁹ Subject matter experts from three public education campaigns.

¹⁰ Other areas of the country have made the pivot successfully however: One public education campaign expert reported that in the past "it was primarily prostituted people who were arrested - now it's 30% prostituted people and 70% buyers." The strategy has also been to focus less on the entrepreneurial pimp and more “on organized crime aspects of trafficking, trying to hit up networks of controlling folks and pimps and networks of johns that are colluding.”

II. CURRENT ANTI-TRAFFICKING LEGISLATION

As of August 16, 2016, there are currently 26 bills and one budget proposal related to Commercial Sexual Exploitation of Children (CSEC) pending in California. There were several more, but some of the bills have been amended such that the trafficking language is no longer a part of the bill, and some bills were “spot bills”¹¹ that have not been utilized to put forward trafficking legislation. The 26 CSEC bills fall into four general categories:

- 1. *Increasing and improving victim services and protections:*** The bills in this category seek to provide victims with more confidentiality (AB 2498), provide victims, particularly child victims, with more services (AB 1730, AB 1760 and SB 1064), and provide victims with tools they need to pursue remedies (AB 1678, and AB 1682). There is a \$15 million budget request for specialized services for all trafficking victims as well as trainings, prevalence studies and evaluations.
- 2. *Reducing and eliminating penalties for victims/barriers to victim testimony:*** The bills in this category recognize that many victims of human trafficking commit crimes related to their status of victims. Several of these bills address this issue by reducing or eliminating penalties, sealing records, or exempting victims from prosecution (AB 1675, AB 1761, AB 1762, SB 823, SB 1129, SB 1322). Other bills (AB 1276, for example) provide tools to eliminate barriers to victim testimony and cooperation.
- 3. *Trafficking prevention:*** A number of bills seek to prevent trafficking utilizing several approaches: increasing the severity of penalties for traffickers who target children (AB 1708, AB 1912, AB 2327, AB 2513), addressing parents who participate in or consent to trafficking their children (AB 1702), addressing the johns (purchasers) (AB 1822), creating interagency collaboration to address trafficking prevention among other issues related to trafficking (AB 1731, AB 1760), and providing education to public and private employees who could potentially come into contact with trafficking victims in the transportation and hospitality industries and law enforcement (AB 1595, AB 1942, AB 1760).

¹¹ A “spot bill” is a non-substantive placeholder whose contents will be replaced with substantive provisions at a later date.

- 4. Increasing resources to prosecute trafficking:** Finally, there are bills that seek to provide further resources to counties for the purpose of prosecuting trafficking. One addresses immigrants who are victims of human trafficking (AB 2027). The other encourages a vertical prosecution¹² methodology for the prosecution of human trafficking crimes (AB 2202).

II.A. CONTROVERSIES WITHIN THE CURRENT LEGISLATION

Various pieces of legislation take different approaches to combatting human trafficking and “have struggled to find consensus, in some cases pitting advocates against law enforcement, and in others, stirring clashes between organizations and agencies that typically align on the same side of the cause.”¹³ The following sections describe the main controversies in current anti-trafficking legislation, as relayed during interviews with advocacy organizations, assistant attorney generals, district attorneys, social service agencies, prosecutors, and law enforcement agencies. They are sorted into subsections matching the four categories described above.

Increasing and improving victim services and protections

AB 1678 requires the state or local law enforcement agencies to provide Domestic Violence (DV) incident reports to a victim of sexual assault, stalking, human trafficking, elder abuse, or any crime in which the victim and the perpetrator are in a domestic relationship. The main concern with this bill is the potential dangerous consequences of providing a physical report to a victim who, research shows, usually lives with the abuser – the boyfriend, the father, the “manager.” For the same reason, other individuals – witnesses, victims/survivors – described in the incident report could be at risk.

Reducing and eliminating penalties for victims/ barriers to victim testimony

SB 1322 would make crimes of soliciting or engaging in any act of prostitution inapplicable to a child under 18 years of age. Law enforcement, prosecutors and some victim service providers are concerned that this effectively removes three important mechanisms for intervention with CSEC: 1) The ability to physically disconnect the victim from her/his trafficker; 2) Mandating services for victims who don’t yet believe or know that they are victims; and 3) Detaining in order to investigate. As one criminal justice subject matter expert expressed:

¹² Vertical prosecution, as opposed to horizontal, means that one Assistant District Attorney (ADA) handles the case from beginning to end. The benefit is that ADA is then intimately familiar with all the relevant facts and has the opportunity to fully investigate the case from the beginning.

¹³ Ulloa, J (2016). *State Lawmakers Competing Ides on How to Stop Human Trafficking Prevent Steps Forward, Critics Say*. Los Angeles Times, August 2, 2016.

“What you’re doing is you’re decriminalizing prostitution for minors - you’re decriminalizing the target offense for which you are investigating. So you have to really create very clear language that allows the officers time to investigate, to detain, to do those things or else no one is going to do it...Here, [CSEC victims] that refuse to admit [that they are victims] don’t have any reason to accept services. Just 10 minutes later they could be in a different hotel prostituting and we can’t do anything.”

An additional concern, also discussed below in reference to AB 1760, is that decriminalization could make minors *more* attractive to traffickers and pimps who know that minors are immune from prosecution.

AB 1675 requires the probation officer, in a case in which a minor is alleged to have committed specified prostitution-related offenses, to delineate a specific program of supervision for the minor in lieu of requesting that the prosecuting attorney file a petition to have the minor declared a ward of the juvenile court. The bill would also allow these minors to participate in a program of supervision even if they have previously participated in a program of supervision.¹⁴

There are three main concerns with this bill. First, there is currently no mechanism for the court to provide additional interventions the second, third or fourth time a minor enters the program of supervision. At this point it may be that *“their neighborhood and the generational abuses are too tough, and they may need to go to Mingus Mountain like in Arizona, to a residential school so they can get away from all the influences and have a better, a safer life.”*¹⁵ There was broad support for the idea of giving courts more discretion as to the most appropriate treatments for minors with recurring prostitution-related offenses.

Second, some prosecutors worried that this legislation undercuts their ability to work with victims to find and prosecute their traffickers.

Third, there was an expressed desire to see the same option for diversion extended to adults since research shows that a majority of adults were first prostituted as minors. One suggestion was to model a program for adult victims after similar programs for drug addicts. *“If somebody’s a drug addict, when they first touch the system, they get sent to rehab. And then they fail, generally. And we all know that. They relapse, they come back around again, we send them to rehab again. And there’s a real recognition by the system, I think, that – it’s a long process...There is nothing for [adult] victims of prostitution”*¹⁶ aside from the first time offenders diversion program offered by

¹⁴ The bill would further require the probation officer to make a report to the county child welfare agency if the officer has reason to believe the minor is the victim of abuse or neglect.

¹⁵ Criminal justice subject matter expert, interview, June 2016.

¹⁶ Ibid.

the City Attorney's Office. If an adult individual is arrested again, they go to jail. And yet research shows that it takes an average of *seven interventions* with victims to result in their acceptance of survivor services.

AB 1761, AB 1762, and SB 823 all specify that victims have the right to have their case records sealed, and AB 1762 *requires* that court and arrest records are sealed. A concern was raised that the contents of victims records (their testimony) are sometimes necessary in order to successfully prosecute traffickers and proposed a modification that would allow records to be unsealed under certain circumstances.

SB 823 would expand existing law to allow a person to petition the court for relief for any crime if the arrest, conviction or adjudication as a ward was the result of an offense committed while s/he was a victim of human trafficking. Many stakeholders believe this bill facilitates new life opportunities for victims. *“This particular bill is so instrumental in being able to give these women and children... a clean slate... They have their whole life ahead of them, and already they are jumping over hurdles.”*¹⁷ However, some victim service providers and prosecutors would prefer to limit this legislation to crimes that are directly related to human trafficking to avoid creating a situation that resembles full impunity.

Trafficking Prevention

AB 1595 requires employers that provide mass transportation services to train specified employees to recognize the signs of human trafficking, and how to report those signs to law enforcement. One concern by victim service providers is that this training might be slanted towards sex trafficking, and they argue forcefully that training must include manifestations of labor trafficking such as illicit candy sales, magazines sales, and begging.

AB 1822 would allow the court to require a person convicted of violating Penal Code 647(b) (providing, or offering or attempting to provide, money or another thing of value, in exchange for an act of prostitution) to attend and successfully complete a sex trade buyer first offender program approved by the probation department, if an approved program is available. The bill would require the probation department in each county to design and implement an approval and renewal process for sex trade buyer first offender programs. While the nature of the program is widely supported, a primary conflict of interest is that the San Diego City Attorney’s Office currently runs the Prostitution Impact Panel (a “John School”). This bill authorizes probation departments to handle offender programs, thus effectively eliminating this reportedly successful program.

¹⁷ Victim services provider, interview, June 2016.

AB 1708¹⁸ sets minimum standards for holding buyers accountable, by setting a “reasonable” minimum jail time and minimum fine, with an additional fine “if the defendant knew or should have known that the other party was a minor, or the defendant intended to purchase sex from a minor.” Interviews indicate broad general support for most aspects of this bill, however two concerns were documented: 1) DAs are concerned that the bill is not clear on whether prosecutors have to prove intent: that the defendant was actually looking for minors; and, 2) A second concern, expressed by organizations that work on preventing demand by providing education and training to buyers, is the lasting effect of shame on the buyer. As shared by a member of the latter group, *“Hopefully this person is able to change and start living a healthy sex life. Since most purchasers are married men, you might be punishing [their] children, creating shame and actually adding to the cycle of vulnerability. I’m not saying it’s a bad idea, I’m just pointing out a possible downside.”* Indeed, empirical research confirms that the majority of sex buyers are married men (Raymond & Hughes, 2001)¹⁹ and that a majority of occasional buyers (men who have bought sex four times on average) expressed a desire to stop (Hughes, 2004).²⁰ It is an open – and researchable – question whether more severe punishments are the most effective interventions for buyers who may be sex-addicted, and wish to discontinue their participation in the commercial sex economy. An alternative is discussed in Section IV.B, which addresses educational programs for sex purchasers.

AB 1731 requires formation of interagency human trafficking task force to: (1) gather data; (2) recommend protocols and best practices for training and outreach to law enforcement and others who might encounter sex trafficking; and, (3) help to increase public awareness about human trafficking. This bill enjoys broad support because (in the words of one advocate) it *“brings together all these organization that are working on [human trafficking] and enables them to fully assess what’s happening, what works, or what didn’t work, and how they can really help these victims escape the life.”* One concern with the bill as it currently stands, however, is that it

¹⁸ The purposes of this bill are 1) to recast the crime of prostitution into three parts, one applicable to the person who agreed to receive, or received compensation in exchange for a sexual act, one applicable to the person who paid, or agreed to pay compensation, one applicable to the person who paid, or agreed to pay compensation to a minor; 2) to impose a mandatory minimum sentenced term of 72 hours in jail and a set fine of \$1,000 for persons convicted of purchasing commercial sex; 3) to provide that if the defendant knew or should have known that the other party was a minor, or the defendant intended to purchase sex from a minor, the \$1,000 fine is the minimum fine, with a maximum of \$10,000; 4) to direct that the fine proceeds be deposited with the county to fund services for human trafficking victims; 5) to require any person convicted of providing compensation, or agreeing to provide compensation for a sexual act to serve at least a continuous 24 hours in jail before being eligible for release on any basis – 48 hours if the defendant intended to engage in prostitution with a minor, or knew or should have known the other party was a minor; 6) to require defendants granted probation to serve a continuous 24 or 48 hours in jail as a condition of probation; and, 7) to impose a one-year sentence enhancement for human trafficking or abduction of a minor for prostitution, if the crime occurred on or within 1,000 feet of a school.

¹⁹ Raymond J.G. & Hughes, D.M. (2001). *Sex Trafficking of Women in the United States: International and Domestic Trends Report 15*. Available at: <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=187774>

²⁰ Hughes D.M. (2004). *Best Practices to Address the Demand Side of Trafficking*. Available at: <http://www.prostitutionetsociete.fr/IMG/pdf/2004huguesbestpracticestoaddressdemandside.pdf>

excludes the District Attorney's Office as part of the statewide system. San Diego's model has included the District Attorney's Office as an integral part of a combined and collaborative force.

AB 1760²¹ requires a peace officer to determine whether a suspect is a minor who engaged in a commercial sex act or is a minor who is a trafficking victim, who engaged in a nonviolent crime due to being trafficked. The bill would prohibit the arrest of a minor meeting specified criteria and would establish immunity from prosecution. Several stakeholder communities expressed concern with immunity. Acknowledging that these are very tough cases, some individuals believed that there should be *some* penalty, even if the minor is a trafficking victim. This concern relates back to human trafficking being codified as a nonviolent crime under the current penal code; in reality, physical assaults, kidnapping, verbal and sexual abuse are all tools of the trade for traffickers and for victims who are being used to victimize others (called "bottoms"). A related concern is that if traffickers and pimps know that minors are immune, they will accelerate their use of minors in these roles because they are immune from prosecution.

An additional concern is with training. AB 1760 currently requires training for group homes and foster parents, but service providers would like to see mandatory training for **parents** – foster, relative, or biological parent – who are receiving a child back home. Described by one victim service provider,

"I have talked with many parents that think that their kids are just bad, that they're doing this of their own volition, and they don't realize that if you won't talk to them about this stuff, somebody else will in a different manner. And if the child is estranged from their family because they did this, or they think that they did this – and many cultures are like this too, cultures who lose face, honor the family...If they don't have a family unit to go back into to heal, it's extremely hard."

Conclusions

California lawmakers are contending with a large number of pending bills. The controversies described reflect the complexity and multifaceted nature of anti-trafficking work, and the difficulty involved in drafting legislation that promotes synergy between different stakeholder groups. The following section explores two new pieces of demand-side legislation that were developed with this complexity in mind and which aim to appeal to a broad array of concerns.

²¹ This bill would also prohibit the arrest punishment of a minor who has engaged or attempted to engage in sex acts in the terms above or other consideration for who has loitered in a public place with the intent to exchange sex acts in return for money and other consideration. Therefore, the bill would require a peace officer to report sexual abuse or neglect to the county child welfare agency in the above severities and with would expand from CSEC to all minored human trafficking victims.

III. POTENTIAL ANTI-TRAFFICKING LEGISLATION

The demand for commercial sex drives the \$810 million dollar a year underground sex economy in San Diego. This section proposes two new legislative measures aimed at reducing the demand for commercial sexual services. The first would empower the Attorney General (AG), District Attorneys (DAs), and the city attorneys of large cities the authority to bring civil prosecutions against “johns” for restitution and civil penalties. The second would create a third track within the juvenile/dependency structure for minor victims of commercial sexual exploitation.

III.A. CREATING A PUBLIC CIVIL REMEDY OPTION

There is support among advocates for providing a clear civil cause of action to ensure that CSEC victims can sue their johns (purchasers). This could be done by specifically incorporating the appropriate federal statute’s definition by reference and/or by specifically creating a right for victims to sue any party involved in trafficking.²² However, most stakeholders consulted over the course of this research did not view the “right for victims to sue” as feasible. The major objections/concerns that were raised included:

1. The burden of proof that sex was forcible, not consensual. As the law currently stands, the act of receiving money in exchange for sex acts makes it consensual (excluding minors). Without proof of forcible sex (the physical injury), it would be difficult to prove emotional distress.
2. Even if the court could prove that the victim had been forced by a pimp, the defense would argue that buyer didn’t know.
3. Juries are not likely to view johns as culpable.
4. Length of lawsuits (re-traumatization of the victim).
5. The difficulty of tracing what is actually cumulative damage to one buyer or incident.²³

Additionally, there is a practical issue, which is acknowledged by AB 1684, which passed and was signed into law on July 22, 2016. Victims, especially child victims, of trafficking do not have the knowledge, sophistication, or resources to file a civil action. AB 1684 attempts to rectify this issue by authorizing the Department of Fair Employment and Housing to bring a civil action on behalf of the victim. The bill, as originally drafted, would have authorized the AG, a

²² Including but not limited to individuals involved in the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

²³ Large judgments have been obtained in similar child molestation and sexual abuse cases because one offender is the sole cause of the damage, thus it *is* possible to quantify the physical and emotional trauma and relate it to one offender.

DA, or a city attorney to file a civil action as well; however, the bill was amended to remove these officials.

Thus, while a civil cause of action may have merit and warrant support, it is unlikely to create actual disincentives or to create reliable sanctions given the reality facing these victims. Nor does a remedy lying with an agency with other and unrelated functions (such as a Housing or other authority) promise serious attention. Therefore, this approach required further consideration and review.

Criminal Versus Civil Remedy

After further review of current law, as well as existing proposed bills, a major area of potential promise is absent. The *criminal remedy* is usually based on a "sting" of an alleged prostitute with the undercover officer taping a conversation to establish the illicit contract of sex for money. The john is not a target since an undercover officer is playing the role of the john. The major outcome then is the arrest of the alleged prostitute, followed by criminal prosecution – even if the alleged prostitute is a minor. The approach is intended to apply pressure for witness "roll over" against a pimp by the threatened defendant. But it does not often work. It does not involve the third track removal from the pimp and the provision of alternative support. It does not lead to common prosecutions of pimps (at least not sufficiently common), nor does it discourage johns.

Related to this problem is the burden on the prosecution in a criminal case to prove beyond a reasonable doubt the guilt of the john including, perhaps, the knowledge of underage status of the prostitute. Although efforts are being made to lighten this load, it suffers from the high bar that understandably applies for a criminal conviction.

An alternative that fills the current vacuum could expedite and increase prosecutions of johns, and pimps as well, is the use of *civil prosecutions* in equity for restitution and civil penalties. This is an alternative to the idea of a civil remedy through victim suit, which has the practical obstacles raised by stakeholders and discussed above.

One approach that would address the current shortcoming would be to specifically authorize the California AG, DAs, and the City Attorneys of large cities to pursue civil remedies, including civil penalties against offenders. Currently, these law enforcement entities only have the power to pursue these cases criminally, with a much higher burden of proof. There is already a model for this type of civil prosecution that has worked successfully for decades under the Unfair Competition Law (Business and Professions Code section 17200, et seq.). Applying this kind of civil remedy in sex for hire with an underage person would offer the following advantages:

1. The prosecution would be in the hands of experienced attorneys with likely professional background in the offense.
2. Prosecutors would only have to prove it is "more likely than not" that the offender violated the law, instead of the much more difficult burden in criminal cases, which require proof "beyond a reasonable doubt."
3. The action is "in equity" which means that there is no right to a jury trial, and the proceedings can happen more quickly.
4. The standard of knowledge of underage status would be easier to manage, and a "presumption" could be written into the law, which would shift the burden of proof to the defendant in cases where the victim's actual age is below 18.
5. The AG or DA would have the power to grant the defendant immunity from criminal prosecution if he testifies, which is a powerful tool.
6. The proceedings would be in public and subject to transparency, and a final judgment would have real deterring consequences. A sexual offender list could even be triggered by such judgments with specified consequences.
7. The civil penalties and other money recovered in these matters would go back to the county, and could provide revenue to fund the "third track" options discussed above.
8. The statute could provide for "cost and fee recovery" for prosecutors. This is permitted in civil matters but not criminal matters. The law could even be drafted in such a way that a certain percentage of civil penalties recovered would be specifically dedicated to reimbursing the law enforcement agency for the costs incurred in bringing the case.

This option would provide prosecutors with a potent weapon to use which would not reduce their budgets.²⁴

²⁴ Support for this effort could be sought from some of the same organizations that supported AB 1684, and AB22 (2005, which originally created the civil cause of action) given the similarities in the legislation and intent: the Consumer Advocacy Attorneys of California, Asian Americans for Civil Rights and Equality, California Catholic Conference, California Commission on the Status of Women, California National Organization for Women, and the Peace Officers Research Association of California. Further support would likely come from organizations that routinely work on issues related to CSEC such as: Shared Hope, CAST, and the Junior League of California. Opposition may come from the Public Defenders (the California Public Defenders Association opposed AB 22 in 2005).

III.B. CREATING A THIRD TRACK IN THE JUVENILE JUSTICE SYSTEM TO ADDRESS CSEC VICTIMS

Commercial Sexual Exploitation of Children (CSEC) involves a unique population of children and youth since they are not criminals, but instead are victims. Therefore, they should not be placed in a juvenile detention facility or otherwise treated as criminals. Unfortunately, the other option in California's juvenile justice system is the dependency system and the dependency system in California is not currently equipped to deal appropriately with CSEC. First, trafficking victims will often run from unsecured placements and return to their traffickers because they have an attachment to the traffickers or because they have been threatened in some way and they are scared. Second, traffickers use victims to recruit other victims, which results in some victims taking part in the trafficking of others. In addition, there are a myriad of other challenges that victims face, socially, physically, and psychologically, with which the dependency system is not currently equipped to deal.

CSEC are, however, victims. As such, the juvenile justice system is not the appropriate setting in which to address CSEC either. There are several issues that distinguish CSEC and create challenges for California's juvenile justice system with regard to how best to approach these children and youth. First, some victims of CSEC commit crimes that are not trafficking crimes, but are committed as a result of their status as a trafficking victim. Second, when trafficking victims encounter authorities, it is not always obvious that they are trafficking victims. Third, trafficking victims have unique mental health (and often physical health) needs resulting from the sexual exploitation and abuse to which they were subject.

Consequently, there should be a third track that provides the necessary resources for victims, while ensuring a secure environment from which victims cannot run back to their traffickers. **A third track could also address many of the concerns voiced by opponents of bills like SB 1322 (decriminalizing prostitution for minors) because it would provide a way to address the myriad of unique issues that face victims of trafficking, such as separating them from their traffickers, addressing non-trafficking-related crimes committed by victims in the course of their victimization, and providing a more security and protection for victims.**

A major concern about the third track expressed by law enforcement officials is that decriminalizing prostitution for minors or enacting policies that would make prosecution of trafficking offenses committed by minors more difficult will remove an important tool currently available to law enforcement in apprehending and prosecuting traffickers and bringing them to justice so that they cannot continue to victimize others. It is true that the third track effectively removes this mechanism for investigation, however, it creates an alternative and arguably more effective one. The current mechanism – leveraging prostitution charges to motivate a child victim of trafficking to testify against his or her pimp – is problematic because it sends the

message that somehow the victim is responsible for the crimes and violence committed against them.²⁵

The alternative approach does not rely upon leveraging charges, but rather with relationship building. This is a victim-centered approach, which recent research suggests may produce better results in getting victims to testify against their trafficker. For example, a study conducted in Arizona found that when prosecutors used a victim-centered approach and allowed victims of trafficking time to access services and become more stable, the prosecutors were able to establish a better rapport with the victims and the victims were better, more stable, more credible witnesses. This approach has aided in the prosecution of traffickers rather than to hinder it.²⁶

Finally, trafficking victims are often charged with non-trafficking-related crimes. The third track would allow for victims who are charged with other crimes to be granted immunity for those crimes in exchange for assisting in the prosecution of their traffickers. This would provide law enforcement with tools while removing victims from their pimps and giving them time and access to the services and supports they need to stabilize and be more effective witnesses. There are not any bills pending that would create a third track within the juvenile/dependency structure for minor victims of commercial sexual exploitation. There are several bills that recognize the challenges that the juvenile justice system faces in addressing CSEC. AB 1760 and SB 1064, for example, both recognize that children are victims of trafficking and both take steps to ensure that the systems that come into contact with these children are providing services and treating the children as victims and not criminals. There are other bills as well that specify children are victims and should be exempt from charges related to their victimization, such as prostitution and loitering (see SB 1322). However, there are no bills that specify a third track approach.

Current Federal and California Law

The Trafficking Victims Protection Act (the TVPA or the TVPRA – the Trafficking Victims Reauthorization Act) is the major federal legislation that addresses trafficking. The TVPA originally passed in 2000 and has been amended several times (2003, 2008, 2013 and 2015). As discussed above, the TVPA has a much broader definition of trafficking than California does. Recently, new federal legislation passed (Preventing Sex Trafficking and Strengthening Families

²⁵ Shared Hope International. *Non-Criminalization of Juvenile Sex Trafficking Victims*. JUST Response Policy Paper. p. 2 (2015) Available online at: <http://sharedhope.org/wp-content/uploads/2014/04/JUSTRESPONSE-POLICY-PAPER-NON-CRIMINALIZATION-OF-JUVENILE-SEX-TRAFFICKING-VICTIMS.pdf>

²⁶ Shared Hope International (2015). *Demanding Justice Arizona: A Field Assessment of Demand Deterrence and Enforcement and Justice for Victims*. p. 49. Available online at: http://sharedhope.org/wp-content/uploads/2015/06/DJP_Arizona-Field-Assessment_optimized.pdf

Act), which will impose reporting requirements on states to determine prevalence and, ideally, begin tracking outcomes for children.

California has been moving toward more services and supports for victims of human trafficking and CSEC ever since Prop. 35 passed in 2012, but there is still a long way to go. Notably SB 855 (passed in 2014) clarified that trafficked children are victims and, as such, are properly served by child welfare.²⁷ SB 855 made an effort to provide resources for CSEC, particularly those served in the dependency system by creating the Commercially Sexually Exploited Children Program²⁸ which provides funds to counties that elect to present for prevention activities, intervention activities, and services to children who are victims, or at risk of becoming victims, of commercial sexual exploitation.²⁹ Several bills pending in the 2015-2016 session of the California legislature also would make further attempts to assist CSEC, though most are not specific to dependency.³⁰

The problems with current California law as it relates to CSEC are that the laws that are in place are generally county opt-in or pilot projects. For example, the Commercially Sexually Exploited Children Program is available for counties if they would like to participate.³¹ In another example, Los Angeles county and Alameda County have well-established pilot projects to serve CSEC (e.g., Succeed Through Achievement and Resilience [STAR] Court), but those projects have not been expanded to other counties. Current law allows the dependency court to take jurisdiction over a CSEC,³² but nowhere does California law state that CSEC cannot be arrested for prostitution or trafficking crimes, and several counties still arrest minors for prostitution.

Conclusion and Suggested Solutions

California should build on the progress it has made and pass more robust Safe Harbor Laws. This would ensure that CSEC victims across the state receive the services that they need, and it would put in place further preventative measures. Specifically:

²⁷ Cal. Welf. & Inst. Code § 300(b)(2)

²⁸ Cal. Welf. & Inst. Code § 16524.7

²⁹ It also provides specialized training for county workers to identify victims of trafficking and intervene, and it provides funding for training foster caregivers to identify and prevent trafficking. Funds are provided to train foster youth how to avoid becoming victims, and funds provide a supplemental foster care rate for foster caregivers caring for victims of sexual exploitation.

³⁰ As described above in Current Legislation, these bills would increase victim services, make it easier for victims, especially child victims, to testify against their traffickers, provide more education to public employees who may come into contact with CSEC, impose strict penalties on parents or guardians who participate in trafficking their children (no reunification services), and increase resources to prosecutors. Bills currently pending in California that specifically address CSEC and the dependency system are: AB 1702, AB 1760, and SB 1322 and SB1064.

³¹ Cal. Welf. & Inst. Code § 16524.7

³² Cal. Welf. & Inst. Code § 300(b)(2)

- The bill would decriminalize prostitution for minors. This would be necessary only if SB 1322 does not pass. SB 1322 would enact non-criminalization provisions, to prevent criminal or delinquency adjudications of minors for prostitution related offenses so that commercially sexually exploited children would not be blamed and punished for their own exploitation.
- The bill would reclassify minors as victims or sexually exploited children (thus, creating a third track) and would divert these victims to specialized supportive services.
- The bill would outline a victim-centered approach to investigation and prosecution
- The bill would *require* creation of specialized supportive services for CSEC (currently, as noted above, there are resources to create services, but counties are not required to participate).
- The bill would amend Cal. Penal Code §647(m) (Disorderly conduct; restrictions on probation) to expressly classify and punish the crime as a felony when sex is purchased with a minor under the age of 18 and to raise the penalty to reflect the seriousness of this offense regardless of knowledge or intention of age/minor status.
- Amend Cal. Penal Code §236.1(a) (Human trafficking defined; punishment) to include assisting, enabling, or financially benefiting from child sex trafficking as prohibited conduct under the human trafficking statute; and, as noted above, amend Cal. Penal Code §236.1(a)-(c) (Human trafficking defined; punishment) to make the statute applicable to the actions of buyers of commercial sex with minors.

California should look to the Safe Harbor Laws other states that have them for guidance on approaches that would best suit California, particularly Washington and Minnesota.³³

Safe Harbor Laws are relatively new, the oldest one is New York's, which is nine years old, but they encompass the goals that advocates have identified to prevent human trafficking, especially trafficking of children, and to protect and assist victims.

Safe Harbor Laws generally serve four functions: 1) They decriminalize prostitution for minors; 2) They divert victims from delinquency to supportive services; 3) They provide specialized services for CSEC; and, 4) They reclassify minors as victims or sexually exploited children.

³³ There are eight states that have had Safe Harbor Laws enacted for some time: New York (AB 5258-C, Leg., 231st Sess. 2007); Washington (SB 6476, 61st Leg., Reg. Sess. 2010); Connecticut (SB 153, Feb. Sess. 2010); Illinois (HB 6462, 96th Gen. Assembly, Spring Sess. 2010); Tennessee (SB 0064, 107th Leg. Sess. 2011); Vermont (SB 272, Gen. Assemb. Sess. 2009-2010); Minnesota (SF 1, 87th Leg., 1st Spec. Sess. 2011); and, Massachusetts (Mass. Acts Ch. 178, 187th Leg. Sess. 2011).

Likely support for this proposal may come from organizations that have been active in this area, such as the California Catholic Conference, California Commission on the Status of Women, California National Organization for Women, Shared Hope, CAST, West Coast Children's Clinic, MISSEY, Californians Against Slavery, National Council of Jewish Women, H.E.A.T. Watch, and the Junior League of California. Opposition may come from the Public Defenders and other law enforcement officials, particularly if it decriminalizes prostitution for minors *without developing a new mechanism for investigation and separation of victims from traffickers*. Opposition may also come as a result of the potential cost of this bill. Introducing the bill in pieces may help to get some of the less costly and less controversial provisions passed more quickly.

IV. EDUCATIONAL PROJECTS

Combatting demand requires intentional work to change cultural norms and values that devalue women. Demand-centered legislation is one important mechanism, and the previous sections described the state of current anti-trafficking legislation in California and the conflicting opinions about particular bills. Education is the twin pillar to tougher legislation: both are required to shift the general acceptance and acquiescence that characterizes public attitudes towards "prostitution." According to Yen (2008):

The billion-dollar sex trafficking industry is based on one unspoken assumption: purchasing commercial sex acts...should be tolerated, accepted and legitimized as a necessary evil...Societal notions about masculinity and strong peer pressure result in the acceptance of purchasing sex acts as normal male behavior...Johns confuse the need for sexual intimacy with the need to purchase commercial sexual acts, and they rationalize buying sexual services as a natural activity...The combination of cultural socialization and personal rationalization thus engenders an environment where sex trafficking and prostitution becomes acceptable even deemed inevitable (pp. 668-669).³⁴

In the following sections, we explore the state of current educational projects prominent in the anti-trafficking movement that aim to decrease demand. They are grouped into three categories: 1) School Curriculum and Prevention Training; 2) Educational Programs for Buyers of Commercial Sex; and, 3) Public Anti-Trafficking Campaigns.

³⁴ Yen, I. (2008). Of vice and men: A new approach to eradicating sex trafficking by reducing male demand through educational Programs and abolitionist education. *Journal of Criminal Law and Criminology*, 98 (2), 653-686.

IV.A. SCHOOL CURRICULUM AND PREVENTION TRAINING

The largest achievement to date was the passage of SB 1165 which amended the California Education Code to add sexual abuse and sex trafficking prevention to the sexual health education. According to California Against Slavery, it was hoped that the bill would:

- Recommend sexual abuse and sex trafficking prevention education to the sexual health education for junior high and high school students.
- *Require* sexual abuse and sex trafficking prevention education in subsequent revisions of the Health Framework for California Public Schools

The hoped for language was intended to mirror the existing California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act, which “*Requires* school districts to ensure that all students in grades 7-12 receive HIV/AIDS prevention education, as specified, from instructors trained in the appropriate courses.” Instead, the bill passed with the following language: “A school district *may* provide sexual abuse and sex trafficking prevention education.”³⁵

Legislative analysis shows that one of the concerns was financial: CDE noted the lack of existing program, strategies or research on sex trafficking as an educational topic and cautioned that the time frame for modifying the framework could take several years.³⁶

Specific to San Diego, Susan Davis introduced H.R. 5061 *Empowering Educators to Prevent Trafficking Act* in April 2016. H.R. 5061 would “award grants to local educational agencies to establish, expand, and support programs to train school staff to recognize and respond to signs of labor trafficking and sex trafficking.”³⁷

Sex Trafficking Prevention Education in San Diego

There are currently three projects in San Diego. The most comprehensive is a state-level initiative that provides anti-trafficking education: Project PROTECT (Prevention Organized to Educate Children on Trafficking). Project PROTECT program provides education curriculum for students, educators and professionals, and provides reporting protocols and procedures to ensure victimized children receive needed services. Project PROTECT is a coalition of three non-profit organizations – 3Strands Global, Frederick Douglass Family Initiatives, and Love Never Fails – in partnership with the Office of the Attorney General for the State of California and the CDE.

³⁵ Cal. Educ. Code § 51950. Chapter 5.8. Sexual Abuse and Sex Trafficking Prevention Education.

³⁶ California Department of Education (CDE) presented a concern about “Ongoing General Fund/Proposition 98 (1988) cost pressures, in the millions of dollars, for school districts that choose to provide sexual abuse and sex trafficking prevention education and associated in-service training” (SB 1165, pg. 4).

³⁷ California, 114th Congress, H.R.5061 Empowering Educators to Prevent Trafficking Act.

Project PROTECT will be piloted in San Diego County in Fall 2016 in one high school and one middle school. The curriculum has been developed and piloted in five California rural counties, with over 18,000 students already trained. Lesson modules are delivered via CISCO's Collaborative Knowledge platform, and include a mobile app for real-time anonymous tip reporting.

Project PROTECT partnered with the Institute for Social Research at Sacramento State University to evaluate the impact of its curriculum on a range of outcomes, and has reportable data (not collected as part of this project) on short term changes in attitudes and knowledge, medium-term changes in behaviors, and long-term changes on the status of the problem.

A second initiative in San Diego involves the Education Sub-Committee of the County Human Trafficking and CSEC Advisory Council³⁸, along with Point Loma Nazarene University's Center for Justice and Reconciliation. PLNU is piloting a peer-to-peer curriculum in five area high schools in Fall 2016. The "drama-based, interactive curriculum" pairs college students with high school students, and was developed in concert with survivors. The curriculum has been pre- and post-tested in focus groups prior to its roll-out this fall. The first practice run of this new curriculum took place on Monday, August 22, 2016. At time of writing, it is unclear whether and how this initiative is related to Project PROTECT. The Education Sub-Committee confirmed that they too are working with the California Department of Education.

The Education Sub-Committee has long supported legislation and systems to add education on human trafficking and exploitation to educational curriculum. Since recommending the development and implementation of human trafficking awareness training (including handouts and resource materials) for all school staff, parents and students in 2014,³⁹ trainings have been made available to all educators (not students) across the county. The San Diego County Office of Education (SDCOE) has coordinated a number of county wide trainings for administrators and educators, and has created a webpage for training resources which will launch in mid-September 2016. Members of the Education Sub-Committee have advocated for, and provided trainings for educators at individual school districts and school sites; in fact, multidisciplinary trainings have been ongoing for past three years involving partners in law enforcement, Child Welfare Services, and community based providers alongside educators.

³⁸ The Advisory Council was created to complement the work of existing agencies and collaborative groups; to form a network of networks that would "serve as a catalyst toward comprehensive, systemic change addressing human trafficking and CSEC at a county-wide, interdisciplinary level" (Action Statement, 2011). The Advisory Council is comprised of eight sub-committees, representing the various sectors that work with survivors of trafficking. The current subcommittees are Community, Education, Law Enforcement, Prosecution, Research, Victim Services, Child Welfare, and Survivor Voices. Sub-Committees meet monthly; all Sub-Committee chairs meet monthly for a coordinating meeting overseen by the Executive Committee. The Executive Committee reports directly to the County Board of Supervisors, the District Attorney, and the Sheriff.

³⁹ The full list of recommendations can be found at <http://www.abolishhumantrafficking.com/wp-content/uploads/2014/10/Human-Trafficking-Advisory-and-CSEC-Council-Report-Final-Submission-10-21-14.pdf>

IV.B. EDUCATIONAL PROGRAMS FOR PURCHASERS OF COMMERCIAL SEX

The Coalition for Trafficking in Women produced preliminary findings that “educational programs that raise men’s awareness of the tragic plight of sex slaves and the johns’ role in perpetuating human rights abuses can be an effective way to deter men from patronizing the commercial sex industry” (Yen, 2008).⁴⁰ The following programs are designed to intervene directly with buyers of commercial sex with the aim of making johns aware of the costs, risks, stigmas, and other negative ramifications of their decision to engage in the commercial sex economy.

- The San Diego City Attorney’s Office has developed the *Prostitution Impact Panel (PIP)* also known as the “John School.” Since its implementation in 2002, this program is designed to educate those that have been arrested for buying sex. These individuals are often in violation of California’s Penal Code 647b. Participation in this program is often used as a bargaining chip to obtain a lower sentence and reduced charge for financial penalties. The “John School” offers six classes per year (two per month) to help intervene in the lives of those who have been caught purchasing sex and/or loitering for prostitution. Topics covered in the presentations include how purchasing sex can impact the surrounding community, survivors, linkages to crime, drugs, and alcohol, and finally how involvement in sexual exploitation can affect the johns themselves.⁴¹
- *Breaking Free*, a non-profit social justice organization, created a John School Offenders Prostitution program as a way to address demand through education and awareness. This program primarily uses technique of restorative justice to understand one’s motivations to engage in activities of or relating to human trafficking. This program is an opportunity for demand seekers to take responsibility for their actions while learning to understand themselves as drivers within a cycle and the effect it takes on those who are victims of human trafficking. This program also offers resources not only to men but also to women and children who were victims of prostitution and human trafficking. The John School manages to address both victims and perpetrators in a way that is non-threatening, educational, and raises awareness and accountability for all moving parts within the cycle of trafficking.⁴²
- *New Friends New Life* in Texas is an advocacy group that works to restore and empower the lives of victims of sex trafficking. New Friends New Life has promoted two demand-

⁴⁰ Yen, I. (2008). Of vice and men: A new approach to eradicating sex trafficking by reducing male demand through educational Programs and abolitionist education. *Journal of Criminal Law and Criminology*, 98 (2), 653-686.

⁴¹ <http://www.demandforum.net/wp-content/uploads/2012/01/san-diego-john-school-summary-national-assessment.pdf>

⁴² <http://www.breakingfree.net/>

centered campaigns. The first is the Men’s Advocacy Group. This group mobilizes men through volunteering and advocacy opportunities. Men join together to take action in productive ways as change makers in the world of human trafficking. Second is the No Harm Network and Pledge. This campaign targets local businesses and asks them to pledge to maintain policies and practices that do not focus on exploitation or harm of women and girls. For example, this pledge would enforce companies to have outings away from establishments that encourage prostitution, sexual exploitation, and potential violence against women. This is an active pact that can allow for healthy business endeavors and practices to promote healthy relationships.⁴³

- *Organization for Prostitution Survivors (OPS)* in Seattle is an organization that primarily focuses on survivor services, education, and accountability of men. OPS created a program for men titled “Stopping Sexual Exploitation.” This program uses restorative justice tactics to help men understand their behavior and influences in the realm of human trafficking and prostitution. This program promotes understanding and attempts to have a no naming and shaming policy for a judgment free community. Overall the program addresses factors that prevent men from sustaining healthy relationships and lives. This program allows for healing and education with a community that wants to restore the lives of perpetrators as well to reduce demand for human trafficking.⁴⁴

IV.C. PUBLIC ANTI-TRAFFICKING CAMPAIGNS

Public communication campaigns use the media, messaging, and an organized set of communication activities to generate specific outcomes in a large number of individuals and in a specified period of time. They are an attempt to shape behavior toward desirable social outcomes.⁴⁵ **The research of highest priority was to document campaigns that addressed the demand side of human trafficking.** Monitoring and evaluation was generally lacking, thus we documented the *intention* of the campaign versus its actual *effect*. The campaigns highlighted below are those that ranked high in their potential impact, using the six impact indicators in Box 1 below.

⁴³ <http://www.newfriendsnewlife.org/>

⁴⁴ <http://seattleops.org/buyer-beware/>

⁴⁵ Campaigns differ in their Theory of Change – their expectation about how and why a desired change is expected to happen. *Individual Behavior Change* campaigns try to change in individuals the behaviors that lead to social problems, or promote behaviors that lead to improved individual or social wellbeing. *Public Will Campaigns* are oriented towards groups (not individuals) and attempt to mobilize public action for policy change. Public Will campaigns are less understood, but are increasing rapidly in number. See Coffman, J. (2002). *Public communication campaign evaluation: An environmental scan of challenges, criticisms, practice, and opportunities*. Harvard Family Research Project accessed May 31, 2016.

National Overview

Evaluation of all 50 states allowed for analysis of 216 campaigns including one international example. All states had at least one campaign to analyze while some states had more than 10 examples. The majority of campaigns focused on awareness and prevention to address human trafficking within the state. These campaigns typically focused resources in one of two directions: education or action. Educational campaigns were most common and provided materials in the form of pamphlets, web resources, billboards, and public events about human trafficking and preventative strategies to prompt reporting and general awareness. An example is San Diego’s own The Ugly Truth campaign.

Action centered campaigns typically focused on how community members could take action within the community. Common examples include taking a pledge or signing a petition; participating in athletic events (e.g., bike rides, runs); resource provision (i.e., giving soap to hotels imprinted with a human trafficking hotline number); and fundraising events.⁴⁶ To maximize their chances of success, campaigns usually coordinated media efforts with a mix of other interpersonal and community-based communication channels.

Only sixteen out of fifty states had public campaigns dealing with the demand side of trafficking. Below are three programs out of the sixteen selected for their strengths, and to illustrate the wide variance in how campaigns are designed.

- *Shared Hope International* (Shared Hope) in Washington State provided an example of one of the strongest public awareness campaigns during our search. Shared Hope created the Ambassadors and Defenders Program. The organization recognizes all types of victims (male, female, children) and reaches out to everyone to become an Ambassador in fighting human trafficking. Ambassadors go through multiple in-depth trainings to understand all facets of trafficking and become individuals that are ready to advocate and educate others on the dangers of human trafficking within their community. The guiding perspective is that

⁴⁶ Creating or wearing jewelry or scarves made by survivors or organizations that support the cause to help spread the word and provide funding for organizations.

Box 1: Impact Indicators

Changes in awareness and knowledge

Intent or ability to change awareness and/or knowledge about human trafficking

Increase in the number of people reached

Intent to reach a large audience

Policy and legislative changes

Intent to address or change legislation or policy on human trafficking

Changes in behavior

Intent of changing the audience’s behavior

Changes in organizational capacity

Capacity of a campaign to grow, to provide new skills or components to existing organizations

Changes in the capacity of the community

Ability to strengthen community capacity

“buyers need a message of justice with mercy.” She hopes to see the climate of negativity for perpetrators transform into productive justice that allows perpetrators to get the help that they need while still addressing the issue of human trafficking.⁴⁷

- *The Cease Network* in Phoenix Arizona has collaborated with eleven different cities in the area with the common goal of cutting the demand on prostitution. One of the goals of this organization is to decrease demand by 20% by the year 2017. The campaign titled “Not Worth It” begins to address human trafficking by shifting the perspective away from the victims and onto those who perpetuate and fund the cycle of human trafficking. The campaign aims to educate all residents of Phoenix and neighboring cities of human trafficking and prostitution focusing on how individuals can be change makers in breaking the cycle of human trafficking. They hope that education of the issue will make potential buyers realize that it is “not worth it” to perpetuate the cycle of human trafficking and the exploitation of sex.⁴⁸
- Atlanta Mayor Shirley Franklin created Georgia’s “*Dear John Campaign, It’s Over*” campaign in 2005 by writing a post to “johns” on Craigslist and creating a YouTube video addressed to buyers of sex.⁴⁹ Mayor Franklin also formally called for Craigslist to ramp up its warning messages against erotic services and personal ads, and to remove postings that offer sexual or similar services for sale.

V. FINAL CONCLUSIONS AND RECOMMENDATIONS

Four broad conclusions emerge from this study. The first addresses the conditions necessary for drafting a successful statewide legislation consultative. The second addresses possible amendments to existing legislation, and the third contains ideas for new legislation that address the demand side of trafficking and ensure that Commercial Sexual Exploitation of Children (CSEC) victims across the state receive the services that they need. The fourth recommendation addresses how to assess the impact of new sex-trafficking prevention curriculum in San Diego schools.

1. Wide consultation and consensus-building

There are many factors to consider in drafting successful statewide legislation. The process is almost always cumbersome, combative and lengthy. Successful efforts reflect the drafters’ ability to engage a wide sphere of contributors to the proposed legislation.

⁴⁷ <http://sharedhope.org/>

⁴⁸ <https://www.phoenix.gov/news/district2/858>

⁴⁹ http://shirley-franklin.com/?page_id=732

These contributors should ideally represent interests both inside and outside the judicial/law enforcement system. They must include interests broader than San Diego County.

In particular efforts should be made to include the California Teachers Association, California School Boards Association, California Medical, Nurses and Hospital Associations, Association of California School Administrators, California Association of Counties, and California League of Cities. All of these entities are touched by and have a deep interest in finding solutions to this issue. They also are very powerful political players on the state level that can be quite influential in passing or defeating legislation.

2. Amendments to existing legislation

Efforts should be made to 1) bring California legislation in line with the amendments to the Trafficking Victims Protection Act (TVPA) to include labor trafficking in its various forms; 2) change Penal Code Section 1192.7 to reflect human trafficking as a serious felony offense, and a violent felony offense under certain circumstances; 3) amend AB 1731 to include the Office of the District Attorney; and, 4) amend AB 1822 to add a quality control measure that allows the already established “John School” in San Diego to continue to operate.

3. Ideas for New Legislation

Ideas for new legislation address the demand side of trafficking and ensure that CSEC victims across the state receive the services that they need. Specifically, it is recommended that California: 1) adapt the Unfair Competition Law format giving the Attorney General, District Attorneys, and the City Attorneys of large cities the clear authority to bring civil prosecutions in equity for restitution and civil penalties; and, 2) draft new legislation for a Safe Harbor Law.

4. Encourage the Adoption of Sex-Trafficking Prevention Curriculum in County Schools

The fourth recommendation is to promote the widespread adoption of sex-trafficking prevention curriculum in San Diego County Schools. It is proposed to accomplish this through three main avenues.

- (1) Support H.R. 5061 for federal grants to “establish, expand, and support programs to train school staff to recognize and respond to signs of labor trafficking and sex

trafficking”.⁵⁰ If passed, this legislation would bring much needed funding to San Diego County for curricular reform.

- (2) Support the adaptation and adoption of existing curriculum. The project with the most comprehensive potential scope is Project PROTECT, a consortium of Non-Governmental Organizations (NGOs) in partnership with the California Department of Education and the Office of the Attorney General. 3Strands Global, a member of the consortium, has partnered with the Institute for Social Research at Sacramento State University to evaluate the impact of its curriculum on a range of outcomes.
- (3) Build collaboration between existing initiatives. There appears to be a lack of coordination between Project PROTECT and other local initiatives; a closer look at whether and why this is the case would be beneficial. Building collaboration and demonstrating the impacts of human trafficking curriculum may contribute to future efforts to set aside dedicated state or federal funding to scale up sex trafficking prevention in middle and high schools in San Diego County.

⁵⁰ California, 114th Congress, H.R.5061 Empowering Educators to Prevent Trafficking Act.