A Regional Response to Commercial Sex and Sex Trafficking in Santa Clara County

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EXECUTIVE SUMMARY

A regional response to commercial sex and sex trafficking in Santa Clara County requires understanding the population of individuals who engage in commercial sex and those who are trafficked, what trends exist in the county, and the strategies being used to address both sex trafficking and commercial sex. Understanding the who, the what and how can help expose gaps, challenges and lead to recommendations and comprehensive solutions.

Regulation of Commercial Sex and Sex Trafficking

There is currently a movement looking at the impact prohibition has had on individuals engaging in commercial sex. Historically, persons selling sex have been criminalized for the act of selling sex, while sex buyers have had limited liability. Advocates in the trafficking movement encourage an approach that minimizes the risk of criminalization of trafficking victims. While County jurisdictions are bound legislatively to prohibition, law enforcement has discretion to promote policies that prioritize identification and a reduction of harm to potential trafficking survivors.

Recommendation: Santa Clara County should explore approaches embedded within varying models, such as the “Nordic model,” to institutionalize survivor centered, trauma informed policies in relation to human trafficking survivors.

Who is Engaging in Commercial Sex and Who is Being Trafficked in Commercial Sex?

Identification of Survivors

There are a number of intersections and vulnerabilities that relate to persons engaging in commercial sex. Of primary importance is the intersection between human trafficking and commercial sex. The difficulty in determining whether a person engaging in commercial sex is in fact being trafficked means any policies directed towards persons selling sex will inevitably impact trafficking survivors who have not yet been identified, or who are reluctant to disclose exploitation. There is significant grey area in determining whether someone is being trafficked, is being exploited by a buyer based on a power dynamic that relates to the seller’s level of financial desperation, or is supplementing income through sex work. Research suggests there are a minority of individuals selling sex with free will, while a substantial percentage sell sex due to circumstantial pressures, and a larger percentage are coerced or
trafficked into the sex trade. Often, this is a continuum where an individual exploited, may opt into the sex trade at other points in time.

**Recommendation:** Prioritize policies that create the most opportunity for survivors of trafficking to disclose exploitation and for sellers of sex to leave the sex trade.

**Health Related Risks**

Research does not generally distinguish between sex workers and trafficking survivors, instead focusing on persons selling sex generally. Therefore, in identifying intersections, few distinctions are made between the two populations. All individuals engaging in selling sex are vulnerable to violence and health risks. These risks are heightened depending on the degree of choice a sex worker has in terms of choosing buyers, where to sell sex, and how much money must be earned. There are physical, sexual, and psychological risks that have long term impacts on sellers of sex, dependent upon their ability to access services in a timely manner. Risks also shift depending on whether sex is being sold in the indoor or outdoor market.

**Recommendation:** Prioritize offering services to sex sellers that reduce harm and health vulnerabilities. Outreach strategies must be varied in order to be culturally responsive and adaptive to indoor and outdoor markets.

**Demographics and Disproportionate Representation**

There is disproportionate representation in commercial sex with regards to terms of race, gender, and gender identity. Much of research and arrest numbers focus on street level commercial sex, which means some groups in sex trade operating in indoor markets are not being represented in data. With this in mind, there is a disproportionate number of African Ancestry women, transitional age youth, and members of the transgender community among individuals selling sex. Native Americans are nationally over represented, yet the numbers identified by arrests in Santa Clara County is small, which may mean they are not being identified despite exploitation.

**Recommendation:** Ensure an intersectional intervention approach that acknowledges marginalization that relates to housing, employment opportunities, access to healthcare, and culturally responsive services. Develop an outreach plan that targets these populations, with an eye towards identifying Native persons.
Access to Services
There is a gap in services for adults engaging in sex work who do not readily identify as a victim of trafficking, domestic violence or sexual assault. This despite information suggesting individuals may shift between trafficking, “survival sex” and sex work multiple times during their life. This gap is amplified when considering adults who may qualify for services may sometimes lose access to services, if they choose to re-enter the sex trade.

Recommendation: Explore what services would be most beneficial for sex workers who do not identify as victims. This should include focusing on root causes and creating space for individuals who would like to leave sex work.

Intersections to Explore
There are intersections between commercial sex, trafficking and substance abuse. There is little focus on substance use in part because some services are limited in this regard, such as housing. Outreach strategies could benefit from a public health approach that looks at substance use primarily and exploitation secondarily.

Recommendation: This relationship should be explored further and an assessment should be done to explore the impact this relationship has on access to services and re-engagement in the commercial sex trade.

What does Commercial Sex and Sex Trafficking Look Like in Santa Clara County?

Out of County Connections
A number of individuals arrested for selling sex in Santa Clara County are coming from neighboring counties, with a substantial number from the counties of Alameda, Sacramento, Contra Costa, and San Joaquin. Those prosecuted in Santa Clara County have difficulties participating into diversion programs because of their residency.

Recommendation: Explore programs that can be utilized by neighboring counties.
Changes in Online Approaches

Since changes in legislation have opened up third party liability on the internet, the online sex market has shifted. While sites like Backpage.com are still operating and selling sex, the market is spliced and requires more law enforcement investigation time. Hobby boards are increasingly being used and rely on user reviews to access information, which limits law enforcement investigations. Pornography has links to trafficking that should be explored locally.

Recommendation: Consult and receive training on emerging online trends in the underground commercial sex economy, and adapt investigation techniques to increase recovery of victims of trafficking and expose potential trafficking networks.

Intersections to Other Crimes

There are indications that gangs are increasingly involved in sex trafficking in Santa Clara County but not being identified by law enforcement agencies. Organized crime appears to be happening, especially with regards to illicit massage businesses and residential brothels.

Recommendation: Ensure agencies are cross trained within gang units to better identify intersections with trafficking. Advocate for a regional workgroup to begin sharing information on targeted industries, such as massage establishments and residential brothels.

How is Santa Clara County Combatting Sex Trafficking and Commercial Sex?

Inconsistent Approaches Within Agencies

There are some units within police agencies that focus on prostitution abatement, while other units prioritize identifying victims. Inconsistency within law enforcement agencies with regards to approach and philosophy may contribute to under-identification and further marginalization of trafficking victims. Inconsistencies in identification criteria within government agencies, such as child welfare, may contribute to under-identification of potential victims.

Recommendation: Ensure agencies have consistent approaches that prioritize identification of trafficking survivors.
Inconsistent Approaches May Limit Identification of Survivors

Traditional law enforcement approaches, to commercial sex, such as prostitution abatement, have not been shown to have long-term impact and confuse human trafficking related efforts.

**Recommendation**: Harm reduction efforts should be prioritized across agencies and funding should allow for this approach.

Law Enforcement Priority Areas

Arrest numbers reflect an overwhelming focus on sellers of sex with regards to commercial sex. While some agencies are focusing on sex buyers, there are punitive limitations due to legislation and prosecutorial discretion.

**Recommendation**: There should be equitable focus on buyers of sex, especially with regards to the impact on trafficking survivors. Demand focused efforts should not be at the expense of potential victims, and do not need to operate in isolation from other strategies, i.e. harm reduction.

Youth At-Risk but Not Suspected of CSEC May Be Falling Through Gaps in the Child Welfare System

While the child welfare system is becoming equipped and responsive to suspected or confirmed cases of CSEC, there are concerns at-risk youth are not being provided with services that could prevent exploitation or identify harms that are occurring.

**Recommendation**: Ensure agencies are equipped to respond to youth at-risk of CSEC. This may be through outreach or prevention tools, or early intervention services.

Prevention Efforts

Prevention efforts are secondary and minimal due to lack of funding opportunities at the federal, state and local levels. Current work on AB1227 mandates human trafficking education in schools, but does not extend to families.

**Recommendation**: Bolster advocacy statewide and encourage local support of prevention efforts that are intersectional in approach and target not only youth, but their families, and the community at large.

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*At-risk is defined by the State of California. Suspected or Confirmed CSEC is determined by DFCS. Explained in full on page XX.*
I. Scope

This draft report is a white paper summary that explores the ways law enforcement, government agencies and service providers have been approaching commercial sex and human trafficking in the county of Santa Clara, while considering the impact of neighboring counties. The intention behind the paper is to summarize local efforts that target commercial sex and sex trafficking, examine how these strategies impact potential survivors of trafficking, and provide a picture of the overall effect on accountability on traffickers and buyers.

The paper is organized in four parts in order to answer the following questions: 1) Who is engaging in commercial sex and what vulnerabilities to or intersections with commercial sex exist, 2) What does commercial sex and sex trafficking look like in Santa Clara County in terms of trends, patterns and demographics, 3) How are law enforcement agencies and service providers addressing commercial sex and sex trafficking in terms of recovering survivors, addressing buyers and traffickers, and addressing community harm, and 4) What challenges exist and what recommendations will ensure Santa Clara County is taking a comprehensive approach to sex trafficking? All sections will bring in relevant research and data, juxtaposed with information provided by local practitioners to provide scope about and context to overarching strategies to combat trafficking. This is intended to be a working document, subject to edits and additions as more information becomes available.

II. Methodology

For purposes of this summary, information was obtained primarily from publicly available reports and research. In addition, interviews with law enforcement, government agencies, and service providers were conducted; these were one on one or agency-specific conversations that seek out specific, nuanced information. Questions were generated to be specific to the respective agency and interviews include open-ended questions intended to generate a narrative, or open discussion. Interviews typically lasted one to two hours, with follow up conversations with law enforcement agencies that provided more specific data. Agencies were asked for quantifiable data when available.
A note about language- trends are reported using the language an interviewee utilizes. One exception is the use of the noun *prostitute*, which is increasingly discouraged because of perceived stigma; it reflects historic criminalization of a population that is now recognized to include trafficking victims, or individuals who have been trafficked into “the life.”

For this summary, when speaking about the crime of prostitution, the term will be used interchangeably with commercial sex or the sex trade. Individuals engaging in commercial sex will be referred to as sex workers. A person engaging in commercial sex with agency or free will, meaning the informed freedom to choose to engage in commercial sex, versus someone who meets the definition of a trafficking victim is often difficult to distinguish. Therefore, reference to persons engaging in commercial sex is assumed to be broad and cover both populations. When speaking about human trafficking survivors specifically, differentiation will be noted. Similarly, references will be made to sexual exploitation in cases where there is potentially sex trafficking, but it may not meet the state’s definition under the Penal Code or if there is no money exchanged for adults.

III. Overarching Frameworks to Combatting Street Level Commercial Sex and Trafficking

Prostitution or commercial sex may be addressed by prohibition, partial or full decriminalization, or legalization. Laws regulating commercial sex may differ in criminalization of sellers, buyers, traffickers/”pimps”, and locations where sex is sold (i.e., brothels, street level, online, advertisements). Researchers, advocates, and agencies working to combat trafficking lack consensus on what method is most effective in identifying and serving trafficking victims. A brief overview of the various frameworks will be considered for the purpose of understanding limitations and identifying opportunities to develop effective strategies for addressing commercial sex and human trafficking in a victim centered, trauma informed way. This includes a look at state and local regulations that impact survivors of human trafficking.

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b “The life” is a slang term for engaging in commercial sex and the associated lifestyle. See, [https://sharedhope.org/the-problem/trafficking-terms/](https://sharedhope.org/the-problem/trafficking-terms/)

A number of studies link prostitution to sex trafficking, whether it occurs domestically or internationally.\(^1\) Buyers of sex are generally not aware if the person they are buying sex from is a sex worker with agency, or a trafficking victim. This intersection means that efforts directed towards prostitution will inevitably impact victims of sex trafficking and vice versa.

### A. Prohibition

In the U.S., prohibition has been the primary means of addressing commercial sex and includes the criminalization of sexual services for payment, with the exception of Nevada where it is allowed in licensed brothels in specific counties. “Prostitution is currently classified as an offense against the public where selling sex is considered to be offensive to accepted social and sexual norms.”\(^2\) Prohibition is intended to suppress prostitution through criminalization of commercial sex. Often, locations where sex acts take place such as brothels, “curb crawling and soliciting,” or street level selling is prohibited.\(^3\) This institutionalized approach has disproportionately focused criminalization on the seller of sex, which historically has included trafficking victims.

With Federal and State laws codifying trafficking, commercial sex is considered to either be prostitution or human trafficking, often creating a definitive split in law enforcement approaches. Advocates argue this method is black and white and does not acknowledge grey area relating to commercial sex and exploitation. Discussed in-depth below, individuals engaging in commercial sex have layered experiences and histories that may include trafficking at some point in time, active sex work at other points in time, and exploitation in the way of survival sex\(^4\), which brings into question whether law enforcement is punishing someone who is or has been a victim of trafficking depending upon when they make contact with the person selling sex.\(^4\)

\(^4\) Survival sex is a term used when persons engaging in commercial sex are doing so in order to meet basic needs such as food and shelter. Or in the case of transgender persons monies are used for hormones, injections and other necessary medications. In some cases sex is exchanged for drugs due to addiction.
B. Decriminalization

Decriminalization “involves the removal of all or some of the laws relating to prostitution without creating systems of regulation. This model claims to support occupational health and safety, and workplace issues through existing legal and workplace mechanisms.”\(^5\) Currently, New York and D.C. are exploring full decriminalization of commercial sex.\(^6\) New Zealand enacted decriminalization in 2003 with the Prostitution Reform Act.\(^7\) This is in contrast to full legalization, which actually promotes prostitution as an occupation and begins to regulate it as such. “Decriminalization implies that no particular laws other than regular employment laws address commercial sex.”\(^8\)

C. Nordic Model and Partial Decriminalization

The ‘Nordic model’ or the ‘Equality Model’, was first enacted in Sweden in 1999. It is a hybrid form of prohibition and decriminalization, in that it criminalizes those purchasing sexual services, decriminalizes sellers and is rooted in gender-based equity.\(^9\) Often, there are laws that affect where commercial sex can occur, not allowing brothels to operate in certain areas or advertisements to be displayed in public places. It takes the position that commercial sex is harmful to sellers and that providing opportunities to leave is more impactful than criminalizing sellers. This approach is often called partial decriminalization. It garners support from advocates in the human trafficking field because it arguably provides the most opportunity for a victim-centered approach to identifying and serving survivors of trafficking. Proponents of sex work argue partial decriminalization deters buyers away from commercial sex, thereby impacting sex workers’ ability to choose among buyers, which heightens safety risks.

D. Legalization

Legalization of prostitution takes decriminalization one step further by ensuring that the State is in charge of regulating the industry of commercial sex. Often this means a sex worker will register with their local municipality and be treated as an independent business. Amsterdam and Germany have legalized and regulate commercial sex. While this approach is intended to allow the state to regulate commercial sex, research does not reflect a decline in human trafficking, in fact there is support of an increase in trafficking.\(^10\) Studies on Amsterdam are somewhat controversial because they lack adequate
comparison studies, but a notable trend in sex work relates to the demographics of sex workers. “A 2009 TAMPEP study indicates Amsterdam is home to 8–11,000 sex workers, approximately 60% of which are non-Dutch. Janssen estimates that two-thirds of trafficked women in the Netherlands are also non-Dutch.”\textsuperscript{11} Bringing in sex workers from other, less developed countries reflects an inability to provide supply sufficient to meet demand in Amsterdam. It also reflects a reliance on inequities in developing countries where individuals are vulnerable due to economic instability.

### E. Research Regarding Best System Framework to Combat Trafficking

Research is mixed with regards to the best system framework to combat trafficking. Advocates for full decriminalization argue it provides a means for sex workers to assert their rights, is safer, removes stigma associated with criminalization of prostitution, and promotes dignity for those engaging in commercial sex by normalizing the behavior as a commercial transaction.\textsuperscript{12} Proponents of sex work also prefer decriminalization to legalization because regulation by the State will impact prices, create registration requirements, potential licensing and associated taxes. Unfortunately, these benefits are limited. ““[S]ubstantial empirical evidence finds sex trafficking and prostitution to be damaging, and that deregulation and legalization do not ameliorate those harms for more than a small portion of providers of commercial sex.”\textsuperscript{13} Many advocates in the human trafficking movement advocate for a partial decriminalization model, or Nordic model, which focuses on accountability of buyers and providing opportunities for sex workers to leave commercial sex.

In the U.S., Rhode Island had a unique situation where indoor commercial sex was temporarily decriminalized by case precedent in 2003. It was subsequently prohibited again through legislation in 2009. Research conducted during the period of time of decriminalized examined the impact on the sex trade and associated health risks.\textsuperscript{14} The researchers found that with decriminalization there was a drop in sexually transmitted diseases, which was attributable to the sex worker’s ability to employ more active harm reduction techniques.\textsuperscript{15} There was also a notable increase in the size of the indoor commercial sex market, meaning an increase in buyers which prompts a demand for more sellers. This research, however, was not able to distinguish the impact of Rhode Island’s decriminalization on survivors of trafficking, who arguably have less choice when it comes to choosing buyers or employing harm
reduction techniques. Research was also limited to indoor markets, which as discussed on page 23, have reduced risks as compared to street level commercial sex.

An analysis by Cho, Dreher and Neumayer, looked more comprehensively at the impact of legalization on trafficking in their paper, “Does Legalized Prostitution Increase Human Trafficking?”16 In looking at multiple countries and their sex trade policies the researchers conclude legalization leads to a larger market of individuals buying sex. It is not clear how the supply is filled to meet this increase in market demand. “Legalizing prostitution will therefore almost invariably increase demand for prostitution.”17 A higher demand for commercial sex poses higher risk to marginalized populations, who are already disproportionately represented in the sex trade.

Additional research indicates that decriminalization and legalization allow for a safer work environment for sex workers, but these studies do not look specifically at trafficking victims.18 Some proponents argue decriminalization or legalization provide a safety net for sex workers to report crimes committed against them, i.e. assault, rape. It is not confirmed that countries who have legalized commercial sex have an increase of reports regarding violence in the sex trade. Research is also complicated because of the lack of data on the prevalence of trafficking.

Additional criticisms of full decriminalization and legalization focus on limits placed on law enforcement with regards to investigation. When commercial sex is criminalized, law enforcement can do a preliminary investigation once there is reasonable suspicion of commercial sex, which may help identify flags for trafficking. Decriminalization or legalization of commercial sex means law enforcement requires reasonable suspicion of trafficking or some other form of violence to investigate. There is great difficulty in identifying coercive factors of trafficking, which are often not physical but psychological and likely not easily presented in brief encounters between law enforcement and sex workers. This means legalization will make human trafficking investigations harder to identify. In speaking to advocates in rural Nevada, they report law enforcement is not willing to explore grooming or trafficking in the context of legal brothels, citing an example of a thirteen year-old girl handing out advertisements for the local brothel and police unwilling to investigate.19 This may indicate a priority shift in law enforcement’s entire approach to commercial sex, including trafficking.
F. Federal, State and Local Legislation

Human Trafficking Specific Legislation

There are a number of federal laws that prohibit commercial sex in some manner. A comprehensive overview is available in Appendix A. Federally, with the passage of the Trafficking Victim Protection Act (TVPA), and subsequent reauthorizations, behaviors and acts that were previously categorized as prostitution are now being recognized as sex trafficking. Under federal and international law, human trafficking is defined as the use of force, fraud or coercion to exploit a person for commercial sex or for the purpose of subjecting a victim to involuntary servitude, debt bondage, or forced labor. The use of force or coercion can be direct and violent, or psychological.

In 2005, California Trafficking of Victims and Protection Act codified human trafficking. In 2009, Californians passed Prop 35, which enhanced penalties and fines. Penal Code §236.1 criminalizes and defines trafficking as:

\[
\text{anyone who deprives or violates the personal liberty of another with the intent to obtain forced labor or services, procure or sell the individual for commercial sex, or exploit the individual in an obscene matter, is guilty of human trafficking. Depriving or violating a person’s liberty includes ‘substantial and sustained restriction of another’s liberty accomplished through fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.’}
\]

Human trafficking under the California Penal Code differs from the Federal definition, which is significant in terms of criminal investigations and prosecution. Namely, the state definition includes the element of “deprivation of liberty,” which has been interpreted to require a showing that a victim cannot leave a situation of exploitation (noting this element does not apply to commercial sexual exploitation of minors). In addition, the Federal definition includes individuals who obtain a trafficking victim, which has been interpreted to include buyers as traffickers, but this language is absent on the state level, so buyers exploiting trafficking victims are regulated under general Penal Code violations.
There have been a number of laws enacted to protect and provide remedies to trafficking victims, including:

- AB 629 authorizes the California Victim Compensation Board to provide a human trafficking victim with compensation for income lost because of the crime and to rely on evidence other than official employment documentation.\(^{20}\)
- AB 1276, which permits Closed-Circuit T.V. testimony for human trafficking victims 15 years old or younger.\(^{21}\)
- AB 1761 creates an affirmative defense against criminal offenses and charges that a human trafficking survivor was coerced to commit, as a direct result of being a trafficking victim.\(^{22}\)
- AB 2201 creates an exemption from publication of name change for human trafficking survivors.\(^{23}\)
- AB 2498, which created greater privacy protections and increased penalties for human traffickers.\(^{24}\)
- SB 597 provides victims of human trafficking the opportunity to apply to have their address withheld from public records.\(^{25}\)
- SB 823 provides survivors of trafficking a means to vacate arrests for crimes that occurred in the context of their exploitation.

**Safe Harbor Laws – Protections for Commercially Sexually Exploited Children (CSEC)**

Safe Harbor laws are intended to ensure that minors are not criminalized for commercial sex acts because of inherent exploitation. As of 2015, 25 of states have enacted some type of Safe Harbor law.\(^{26}\) California passed a version of this in 2016 with Senate Bill 1322. SB 1322 eliminates the application of prostitution and loitering for prostitution charges to minors. It also authorizes law enforcement officers to take temporary custody of CSEC under specific circumstances pursuant to Welfare and Institutions Code section §305(a).\(^{27}\)

**Legislation Focused on Commercial Sex**

In addition to Section §236.1, there are a number of laws prohibiting and criminalizing acts relating to commercial sex, including:

- Penal Code §647(b) – prohibits buying or selling sex.
- Penal Code §653.22 – prohibits loitering for/with intent to commit prostitution.

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\(^{20}\) W&I Code Section 305(a) When the officer has reasonable cause for believing that the minor is a person described in Section 300, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of physical or sexual abuse, or the physical environment or the fact that the child is left unattended poses an immediate threat to the child’s health or safety. In cases in which the child is left unattended, the peace officer shall first attempt to contact the child’s parent or guardian to determine if the parent or guardian is able to assume custody of the child. If the parent or guardian cannot be contacted, the peace officer shall notify a social worker in the county welfare department to assume custody of the child.
- Penal Code §266h - financially benefitting from the prostitution of a person, commonly known as pimping.
- Penal Code §266i – a person engaging in an act that helps facilitate prostitution is pandering.

Recently, there has been interest in reducing harm for sex workers. Specifically, AB 2243 limits evidence of prostitution related activities in order to encourage reporting of violent crimes. This amends Evidence Code §1162, such that the admissibility of evidence that a victim of, or a witness to, extortion, stalking, or a violent felony, has engaged in an act of prostitution at or around the time he or she was the victim of or witness to the crime in order to prove the victim’s or witness’s criminal liability in a separate prosecution for the act of prostitution is now prohibited.  

Similarly, SB 233 prohibits the arrest of a person for a misdemeanor violation of sex work related crimes, if that person is reporting sexual assault, human trafficking, stalking, robbery, assault, kidnapping, threats, blackmail, extortion, burglary, or another violent crime. Furthermore, possession of condoms in any amount is not probable cause for arrest for sex work related crimes and cannot be introduced as evidence for a prostitution-related offense.

IV. Intersections and Vulnerabilities Associated with Commercial Sex and Sex Trafficking

There are intersections between commercial sex and human trafficking that impact the ability to identify and serve victims. There are vulnerabilities associated with commercial sex and human trafficking that may occur prior to, concurrent to, or following engagement in commercial sex. These intersections and vulnerabilities contribute to some of “grey area” and difficulty in determining whether an individual is a survivor of trafficking or engaging in commercial sex with agency or free will. This section is intended to provide perspective on who engages in commercial sex and who is trafficked.

A. Commercial Sex Intersections with Human Trafficking

Sex trafficking often appears as someone willingly engaging in commercial sex with full agency; a trafficker or exploiter may not be visible, signs of coercion not apparent, and the sex worker does not
identify as a victim. For minors, confirmation the minor engaged in commercial sex occurred is all that is needed for a designation of commercial sexual exploitation of a child (CSEC). Adults require an additional showing of deprivation of liberty through force, fraud, coercion or duress.

Criminal cases heavily rely upon disclosures by minors or adults to confirm sexual exploitation. In speaking with survivors and advocates, a client’s experience of exploitation may not be confirmed by the client for at least a year and some clients never disclose the extent of their exploitation. This hesitation to disclose can be due to many factors including mistrust of authority figures or service providers, complex trauma, trauma bonds with an exploiter, and fear of retaliation by their exploiter or by the system itself. To overcome this, providers and law enforcement rely upon red flags or screening tools, such as the Commercial Sexual Exploitation –Identification Tool (CSE-IT) or an Victim Needs Screening Tool (VNST) spearheaded by Community Solutions for adults to determine if an individual is suspected of being trafficked and therefore eligible for respective services and not subject to criminalization for engaging in commercial sex.°

Further complicating identification, trafficking and voluntarily engaging in sex do not happen in isolation, but often on a continuum. Meaning, survivors of trafficking may return to their situation of exploitation, or engage in commercial sex with free will. Various “push” and “pull” factors contribute to this, including: trauma bonds with the trafficker, socioeconomic instability, and housing insecurity. This cycle of returning to the sex trade may happen multiple times before a person leaves for good; this process is often explained by the stages of change, which includes the steps of: precontemplation, contemplation, preparation, action, maintenance. Relapse can occur at any point after precontemplation.°° (See Appendix B). An Urban Institute Study evaluating services and issues impacting clients with prostitution related criminal records found, “[t]hirty-five percent of EIP clients reported having been trafficked into sex work at least once, including 20 percent who reported that they were currently being trafficked.”

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° From the Office of Victims of Crime: Victims often develop traumatic bonding and identification with their trafficker. Trauma bonding with an abuser is a survival strategy for victims of abuse and intimidation. For example, a victim who was abducted and raped may, years later, describe the captor as a “great person” with whom he/she formed an emotional bond, thus showing characteristics of a victim suffering from a trauma bond. Trauma bonding also does not have to be romantic in nature; it is essentially a false sense of relationship to another. [https://www.ovcttac.gov/taskforceguide/eguide/4-supporting-victims/44-comprehensive-victim-services/mental-health-needs/](https://www.ovcttac.gov/taskforceguide/eguide/4-supporting-victims/44-comprehensive-victim-services/mental-health-needs/)
There are some researchers who dissect the commercial sex market of sellers, finding the vast majority are being trafficked, a large percentage fall into a grey area of exploitation, and a small percentage sell sex with free will or agency.

The pyramid above has been adapted from Melissa Farley’s “Prostitution Hierarchy of Coercion”. The original published version can be found in Appendix C. A description of Farley’s pyramid of prostitution is as follows:

There is a pyramid-like hierarchy in prostitution. At the top are a very few women - only about 2% of all those in prostitution - who service a few men for a lot of money in a short period of time in their lives - and then they get out, or are bought by one man who supports them. In the middle section of the pyramid are women who need the money, who have had the option of sexual exploitation as a survival mechanism made very real to them by a history of incest or childhood sexual abuse, and who may face an emergency situation such as escaping a violent partner, losing a job, or having children with special needs. These are about 38% of all those in prostitution. The farther you descend in the hierarchy, the greater the numbers of women in prostitution, and the less meaningful any discussion of choice is for them. At the bottom of the hierarchy are the largest number of women in prostitution, about 60%. These are the poorest people in prostitution. They have enormously restricted life choices. Many of these women have been physically coerced into prostitution.33

According to this research, the vast majority of persons selling sex are doing so with compromised agency, meaning they are in a position vulnerable to exploitation or actively being exploited.
B. Vulnerability to Violence and Health Risks

Individuals engaging in commercial sex and survivors of trafficking are vulnerable to violence and health risks. Rates of violence against those selling sex are high, ranging from 40% to 90%. Sellers of sex can be exposed to violence by buyers, traffickers, law enforcement, other sex workers, or may suffer environmental violence. There are three areas or factors that can impact violence against a sex worker: geographical and social isolation, misunderstanding about what payment for sex entitles the purchaser to, and anti-sex work sentiment and resulting initiatives in the community. “The homicide rate among women actively engaged in prostitution was seventeen times greater than the rate for age-matched females in the general population.” One study shows mortality rates are almost 200 times greater for sex workers than those found among women with similar demographics.

Given the illegality of commercial sex, sex work generally takes place in a clandestine manner, creating vulnerabilities. Violence by buyers can occur in part because buyers do not believe a sex worker will report acts of violence to law enforcement. The disproportionate criminalization of sex workers as compared to sex buyers may also impact whether a sex worker will report violence due to fear they will be prosecuted. There is often a power dynamic where buyers feel they have the upper hand in the transaction, part of this relates to objectification and ownership, while criminalization also plays a role in creating a perception that sex workers somehow deserve violence. “Violence is a manifestation of the stigma and discrimination experienced by sex workers.” One study showed sex workers had higher rates of rape and sexual assault outside of engaging in sex work likely due to stigma that sex workers forfeit any right to autonomy with regards to their body and sex acts.

Most research on violence against sex workers, does not differentiate between sex workers with agency and trafficking victims. Researchers admit research is less likely to include “those who are most harmed or the most vulnerable,” which includes trafficking victims. It can be inferred survivors of trafficking are exposed to at least the same level of violence as sex workers. “One study found that the vast majority of women and girls trafficked internationally are physically (95%) and sexually (59%) abused while being trafficked.” Additionally, violence perpetuated by buyers and traffickers is inherent to trafficking.
Victims have little to no choice in terms of sex buyers, without choice or active consent commercial sex is an act of rape.\textsuperscript{6} For victims of trafficking who may have some ability to choose buyers, traffickers may provide quotas, and they often control the number of buyers a victim must service, where they sell sex, and monies earned. The power dynamics between the trafficker and victim reduce the ability to control against health and violence factors in the same way a sex worker with agency would be able to.

In addition to violence, there are a number of health risks associated with sex trafficking that can be physical, psychological or sexual.

Mental health concerns relate to trauma suffered in the context of commercial sex, exploitation, and prior histories of abuse, often resulting in PTSD, depression, anxiety, and hostility.\textsuperscript{45} Sexual health concerns “are the most commonly reported health problems among individuals who are sexually abused or exploited.”\textsuperscript{46} Specific sexual health concerns relate to higher rates of tuberculosis, HIV, STDs, anemia, and hepatitis.\textsuperscript{47} Discussed more below, use of drugs and substance use while in the sex trade present their own respective health risks and vulnerabilities.

\textsuperscript{6} Active consent as defined by sexual assault agencies “Active consent means \textit{affirmative, honest, conscious, voluntary, sober and ongoing} agreement to participate in sexual activity. Each person involved is responsible for ensuring that there is active consent to engage in \textit{each} sexual act.” Retrieved October 26, 2019. https://nmcsap.org/prevention/what-is-active-consent/
1. Indoor versus Outdoor Markets

Violence and health risks differ in terms of indoor and outdoor sex markets. Indoor markets include: online advertising for escorts, residential brothels, illicit massage establishments, pornography, domestic situations of exploitation, and strip clubs. Outdoor market relates to street level commercial sex. Street level commercial sex occupies “the lowest rung on the commercial sex ladder,” meaning individuals selling sex on the street tend to earn less money, have higher rates of drug addiction, and are subjected to violence at higher rates.\textsuperscript{48} Servicing clients in cars “is a significant source of danger.”\textsuperscript{49} Sex worker advocacy groups have argued that indoor markets provide a higher level of safety because sex workers are able to employ more strategies to vet buyers, presumably avoiding violent or high-risk buyers with regards to health risk and those buyers not likely to pay.\textsuperscript{50} While indoor commercial sex markets reflect lower levels of physical violence, research shows levels of psychological trauma comparable to outdoor commercial sex.\textsuperscript{51}

Research often does not determine whether indoor markets are safer for trafficking victims, since they are less likely to be available for an interview. The ability of trafficking victims to choose their customers is limited by exploitation, compromising their ability to maintain safety in indoor or outdoor markets. In addition, when sex workers identify a potentially violent buyer and refuse them services, there is nothing to indicate that it acts as a deterrent to the buyer. It is possible that a potentially violent buyer will continue to seek out sexual services from someone with less ability to choose, namely a trafficking victim who is being forced or coerced to provide such services.

2. Criminalization

Violence and health risks are also impacted by criminalization, stigma and criminal records. Persons selling sex have historically been criminalized by the justice system and society. The relatively recent recognition under law that many individuals engaging in commercial sex are in fact being exploited and are considered trafficking victims has required a cultural shift not only on the part of law enforcement but society generally. This stigma is disproportionately applied to sellers of sex, while buyers of sex are
historically ignored. A buyer’s participation in commercial sex acts is considered as a lower priority and afforded justifications or mitigating factors. One justification provided compares commercial sex to narcotics in that enforcement is more efficient if police focus on supply (the seller of sex) versus the consumer (buyer).

Some research suggests that the legal status of sex work, whether it is criminalized or regulated, can impact patterns of violence against sex workers. This in part depends upon whether law enforcement actively investigates violence against sex workers as an offense. Some suggest sex workers’ reports of violence to law enforcement are not investigated because their engagement in illicit activity invites such consequences, and there are cultural notions that someone selling sex cannot be raped or assaulted. There is research that indicates criminalization of sex workers can exacerbate violence, in one study in Britain, “[s]ex workers who had ever been arrested or imprisoned were more likely to have experienced physical violence by clients in Britain.”

In Santa Clara County, advocates report survivors feel law enforcement criminalizes to a lesser extent as compared to neighboring counties. That said, there is still a higher stigma attached to sellers of sex as compared to buyers of sex. It is not clear what level of violence sex workers in the County are exposed to, because they rarely report to law enforcement. The only reports law enforcement recall receiving from sex workers relate to burglary or disputes over payment for sex. Advocates report survivors of trafficking rarely disclose violence by buyers, at times they disclose violence by traffickers. Survivors of trafficking report “bad buyers” are assumed in the commercial sex market. In addition to violence, these buyers may pay for one service and take another service without consent or may “stealth” a seller by removing a condom without consent – these types of acts are not necessarily covered under sexual assault laws, but are considered violent acts by sexual assault advocates and survivors.
C. Vulnerabilities and Intersections Associated with Histories of Abuse, Domestic Violence, Sexual Assault or Neglect

Research suggests that many individuals selling sex have histories of abuse and neglect. Percentages vary, but studies show over 50% of prostituted women reported histories of physical abuse, and an even higher percentage sexual abuse. Individuals selling sex have high rates of prior sexual violence, including rape. In a study of sex workers in the Exploitation Intervention Project (EIP), “70 percent of EIP clients said they had experienced a prior physical (57 percent) or sexual (47 percent) assault; 53 percent of these clients reported being victimized multiple times.” “Exposure to domestic violence, parental substance abuse, and prostitution in the community are also common” in many studies about trafficked youth.

In Santa Clara County, service providers interviewed observe intersections with domestic violence for the survivors of trafficking they are working with. Often, it is reflected in the relationship the survivor has with their trafficker, who is identified by the survivor as a romantic partner, a “boyfriend.” The power dynamics embedded in domestic violence relationships closely mirror those seen in cases of sex trafficking. The “Power & Control Wheel” has been adapted to sex trafficking and can be found in the Appendix D.

Community Solutions spearheaded a Victim Needs Screening Tool (VNST) in collaboration with other victim service providers that helps identify domestic violence, sexual assault and human trafficking. While not yet validated, initial results from piloting the tool provide indications of on respective intersectionality. Twelve percent of individuals seeking non-domestic violence services were identified as potential domestic violence survivors and connected to a DV advocate; 9% of individuals seeking non-sexual assault services were identified as potential sexual assault survivors and connected to a sexual assault advocate, and 5% of individuals seeking non-human trafficking services were identified as potential human trafficking survivors and connected to a human trafficking advocate.

Many of the intersections discussed result in trauma, and trauma itself becomes a risk factor for exploitation. The vulnerabilities that may have contributed to exploitation, such as being a foster youth,
often remain after a survivor is recovered – they are still foster youth; without engagement to address the underlying vulnerability it can still be a risk. Severe trauma can also impact brain development and can impact behavior, “past experiences of abuse increase future risk behaviors.” Unfortunately, there is often the perception that if a person is trafficked they have an awareness such that if they are re-exploited, they should have known better. This gap in empathy and understanding of vulnerabilities impacts the ability to properly identify and serve survivors. The risk of re-exploitation supports the need for secondary and tertiary prevention efforts.

D. Vulnerability Associated with Age and Child Welfare Involvement

There are significant vulnerabilities associated with age, specifically with minors, transitional age youth, and youth in the foster care system.

1. Minors

Developmental vulnerabilities specific to minors makes them particularly vulnerable to manipulation and coercive techniques used by traffickers. The human brain develops up until the age of 25; specifically, decision-making occurs in the amygdala, whereas adult decision-making and long-term planning occurs in the prefrontal cortex of the brain. The amygdala deals with emotional responses and lends itself to more emotional input in decisions. “Developmental vulnerabilities, including those associated with young age, limit a person’s ability to defend against coercion and manipulation used to recruit youth into exploitation.” In a study by West Coast Children’s Clinic, “75% of clients did not recognize that they were being exploited and therefore did not seek help.” Further, “[m]ost youth view their trafficker(s) as operating with their best interest in mind.”

For youth who have histories of trauma, there are additional vulnerabilities that arise. Service providers report a vast majority of CSEC clients have histories of abuse, specifically sexual abuse. One service provider noted that of all the CSEC clients she’s worked with, only one did not disclose sexual abuse of some kind, but even that client had red flags that indicated a history of sexual abuse.
West Coast Children’s Clinic report identified risky behavioral responses to trauma that are associated with CSEC include: hypervigilance, school attendance, substance use, running away from home, and developmentally inappropriate sexualized behaviors. Many of these behaviors have been and may be criminalized by various systems such as schools or child welfare and by society in general, yet service providers report they are prevalent behaviors seen among CSEC clients.

Youth who have been exploited are thereafter more vulnerable to further exploitation. “[I]t has been suggested that young persons are more vulnerable to re-trafficking, especially within the two years following a trafficking experience.” “As youth do not recognize that they are being trafficked and if they do recognize it they are often ashamed and do not want to discuss the situation with their social worker. Prevention and education is critical to this work to prevent and break the cycle of sexual exploitation.”

2. Transitional Aged Youth (TAY)

Transitional age youth (TAY) aged 18-25, are considered vulnerable to commercial sex and exploitation. Once 18 years of age, a person is considered liable for engaging in commercial sex, and loses access to various social services that are only for minors (community based and government based). Foster youth may be eligible for extended support after the age of 18 dependent upon some factors in AB 12. For youth with weak support systems, they may lose housing and financial support at the age of 18.

TAY have been found to exchange sex in order to obtain basic necessities, or pay for other needs (i.e. hormones, medicine, drugs). This is often called “survival sex,” which is misleading term in that it obscures the inherent exploitation by the sex buyer. Under SB 855 trafficking is defined to include exchanging sex for other items such as shelter, food, clothing; in other words, there money need not be exchanged for it to qualify as CSEC. This does not extend to TAY, which means sex for survival is only considered trafficking when money is involved. In a study on homelessness, survival sex and trafficking, 48% of participants reported a lack of a place to stay was an inducing factor to engaging in commercial sex. Furthermore, “the lines between survival sex and sex trafficking are somewhat fluid, as survival sex can lead to trafficking victimization.”
Bill Wilson Center (BWC) serves young adults in Santa Clara County by providing a number of resources including: housing (transitional and emergency), mental health services, substance abuse assistance, employment, and family reunification. In Fiscal Year 2018 - 2019, of the over 3,000 youth served in one of BWC’s programs, 383 human trafficking screenings were conducted (unduplicated). In order for the screening to take place, a case manager will note red flags for trafficking and administer the screening. It should be noted that human trafficking related statistics that are provided should be considered an underestimate, additional training of staff is required to ensure that youth are being routinely screened for red flags of trafficking.

In looking at the clients BWC served, 40% were TAY, 27% were 26 years of age or older, and 32% under 18 years of age. In terms of gender, 56% of clients identified as female, not including 12 individuals who identified as transgender female (less than one percent); 43% of clients identified as male, not including 17 individuals identified as transgender male, and there were 7 individuals who identified as gender non-conforming. Some youth may not feel comfortable identifying their sexuality or gender identity. Almost all clients are Santa Clara County residents (99%).

BWC staff report that TAY are reluctant to discuss exploitation, but may speak about the sex trade more generally. Some youth are exploiting other youth for survival by assisting with commercial sex, i.e., helping with posting ads, or finding customers. Youth selling sex for survival are doing so for basic needs, as well as to feed drug usage – specifically, heroin, meth, marijuana and alcohol are the most popularly reported substances by clients.

3. Foster Youth

Foster youth are disproportionately represented among CSEC, and experience with the child welfare system is seen as a vulnerability to commercial sexual exploitation. This vulnerability intersects with vulnerabilities of being under the age of 25, as discussed above. “High numbers of youth experiencing exploitation- with estimates as high as 85% in some studies-are involved in the child welfare system.” As aforementioned, past trauma related to violence is in itself a vulnerability to exploitation. Foster
youth often have histories of neglect, leaving youth longing for affection, which traffickers can manipulate and use to coerce exploitation. In addition, foster care is often criticized for its lack of oversight, and weak support systems leaving youth vulnerable.

Service providers report that when working with foster youth, as well as TAY, measuring the number of consistent contacts in the youth’s life is important. Simply put, many youth do not have someone they can talk to about their day. Being able to generate and committed and consistent contacts for a minor is a protective factor. Traffickers are aware of this vulnerability and seek out youth who lack consistent contacts.

**E. Vulnerability Associated with Homelessness**

Housing is a major factor of vulnerability and provided as a major reason why individuals engage in commercial sex or are vulnerable to exploitation. The County report on homelessness shows a high percentage of individuals who are homeless are vulnerable and victim to violence. There are some estimates regarding the number of homeless individuals in the county.

Of particular concern are homeless youth, who are especially vulnerable to exploitation. “Studies of street-based young people find that those who have ever traded sex are more likely to report histories of homelessness.”73 “[S]treet life puts youth in close proximity to potential abusers. For example, youth are propositioned to trade sex in exchange for meeting basic needs such as food and shelter.”74

Service providers note that many individuals who are homeless opt to not stay in shelters for a variety of reasons. For some, shelters don’t feel safer than being on the street. Some housing options for youth have a number of restrictions and rules associated with the placement. For some youth who feel they have been taking care of themselves for years without adequate support systems, the sudden imposition of rules is not considered reasonable. “They have been taking care of themselves and surviving, and now we are telling them they need rules to be safe.”75
Many school districts include a social worker as the Homeless and Foster Youth Liaison. This individual works with families that are designated homeless, as well as foster youth. The designation of homeless encompasses a number of categories. Doubling up refers to multiple individuals living beyond the capacity of a dwelling. In one example provided by the Liaison in Milpitas Unified School District, a mother of a student is renting a couch from an unrelated man and his son in a one-bedroom apartment - where the mother sleeps in her car, while her daughter sleeps on the couch. These types of housing situations pose a risk for minors. According to the social worker, the numbers of youth designated as homeless has been steadily increasing. Families are also hesitant to reveal to schools that they are living in such conditions out of fear they will no longer be allowed to enroll their child in that school.

F. Vulnerability Associated with Poverty and Limited Employment Opportunities

Poverty in general is correlated to trafficking, in essence poverty puts individuals in more vulnerable positions that traffickers and exploiters take advantage of; traffickers often target these individuals and use the promise of a better life as means of coercion. Many providers and survivors report a lack of employment opportunities and financial insecurities that contributed to involvement in commercial sex. Law enforcement report that in speaking with sex workers in San Jose they report they are selling sex in order to supplement their income. Some go as far to say they need to earn more money to be able to pay rent, that their “day job” is not enough to afford rent. Therefore, it is not simply a matter of finding a job, but a job with a living wage that suffices to pay for basic necessities.

While sex workers may use monies earned to stay out of poverty, trafficking victims often must turn over money to their trafficker. Poverty is not always easily recognized among sex workers or trafficking victims because appearance is important in order to be more attractive to customers. Attractiveness includes provocative outfits, having one’s hair or nails done, nice handbags, which give the impression that the person is financially secure and not being exploited.

Poverty is exacerbated when a person is criminalized. A study by the Urban Institute found criminalizing sex workers created more obstacles to leaving commercial sex, “clients believed that their past convictions would prevent them from being hired or being offered help to get back on their feet.” They
reported that finding legal employment as their largest hurdle.\textsuperscript{78} Fines associated and a criminal record create more obstacles for individuals to leave commercial sex.

\textbf{G. Intersections with Substance Use}

There are intersections between substance use and commercial sex. Sometimes individuals begin in sex work already using substances, other times substance use comes with the sex trade as a means of coping, or for trafficking victims substances may be used a means of control by traffickers. Substance use in the sex trade is extremely common, especially when including the use of alcohol. One study that interviewed women in the sex trade in Chicago found that no women in the sex trade never used drugs or alcohol while in the sex trade, while another study found 95\% of sex workers interviewed in the Midwest reported routine drug use.\textsuperscript{79}

All of the service providers interviewed noted that substance use and abuse is prevalent among their clients. Direct service providers interviewed estimated 80\% of their client caseload includes substance use issues. For minors the most common substances reported were: alcohol, marijuana, and meth. There is a noted trend by some providers of heroin addiction among youth.

\textbf{H. Intersections with Race, Nationality, Gender, Gender Identity and Sexuality}

1. Race and Nationality

Individuals engaging in street level commercial sex or exploited in sex trafficking are disproportionately of African Ancestry. “They are disproportionately (90\%) represented among female victims of prostitution-related homicide (Goktepe et. al, 2002), and more likely (60\%) to be controlled by a pimp (Giobbe, 1993; Norton-Hawk, 2004). Prostituted African American women are more likely to be arrested, have higher fines levied, receive more jail time, and have their children removed by the child welfare system. (Nelson, 1993).”\textsuperscript{80} Cultural and historically rooted myths and biases can play a role in this disproportion, such as the hypersexualization of Black women.\textsuperscript{81} Research also indicates Native women are disproportionately trafficked, but they are underrepresented as reported by local service providers, they are not reflected in local arrest numbers discussed on Page 40.\textsuperscript{82}
Local law enforcement and service provider numbers reflect a disproportionate number of African Ancestry women are arrested for selling sex in Santa Clara County (over 50% of commercial sex related arrests), despite a population of less than 3%, see Page 41. Many of these women are residents from other counties, including Alameda. There are indications that women of African Ancestry are not as readily identified as trafficking victims, despite disproportionately being arrested for involvement in the sex trade. It is also important to note that traffickers who are arrested and prosecuted are also disproportionately African American males.

Information provided by services providers reflects a large percentage of sex trafficking clients are domestically born women. This differs somewhat depending on where trafficking or commercial sex is occurring. Street level and online commercial sex tends to include a majority of domestically born sellers. Illicit massage establishments and residential brothels include primarily foreign born sellers of sex, typically Chinese. Situations of domestic servitude or domestic violence where there an intersection with trafficking also tend to be foreign born survivors from a variety of countries.

2. Gender, Gender Identity and Sexuality

Commercial sex and sex trafficking disproportionately affect individuals identifying as female. This trend is worldwide and reflects market demand by cisgender men. There are indications that law enforcement and providers are not adequately identifying male survivors or sex workers, but even in studies that include men self-reporting, they are a minority among sex workers. There were only two males referenced by service providers, both were underage and did not report having traffickers, but still qualify as CSEC.

The LGBTQ+ community continues to be marginalized by the community and systems. LGBTQ+ youth can face vulnerabilities related to rejection by families leading to homelessness and exploitation. In a study by West Coast Children’s Clinic, one in four LGB, and one in four transgender youth showed signs of exploitation in contrast to one in ten heterosexual and cis-gendered youth.83
The transgender community is especially over represented in the sex trade, specifically transgender females. In the 2015 U.S. Transgender Survey “[p]articipation in the sex trade is often higher among those who have faced family rejection, poverty, or unequal opportunities in employment, housing, and education.”84 “One in eight (12%) respondents have participated in sex work for income.”85 Advocates in the trans community report within a subculture of the community, commercial sex becomes a right of passage in owning one’s identity. History of the transgender movement in the U.S. includes leaders who engaged in commercial sex, so it is normalized to some extent in the community. The perceived stigma of sex work is considered of little consequence given the stigma and criminalization by general society for simply being transgender.

An important consideration is gender identity affirmation. Commercial sex is considered a way to earn money that affirms an individual’s gender identity and sexuality. Given the extent of discrimination in the workplace, persons in the trans community feel unable to live authentically and safely in many jobs; they often face discrimination and harassment. Sex work provides an opportunity to live authentically and receive attention from men. This desire for affirmation also relates to accepting negative behavior, meaning being victimized by acts of domestic violence and sexual assault may in fact validate gender identity or are perceived as less important to being in a relationship which affirms gender identity.

Often, transgender individuals are engaging in survival sex due to discrimination (housing, employment, societal) and the sex trade provides a means to pay for much needed medicines, injections and hormones. They rarely identify as survivors of trafficking, and only one identified transgender female was provided trafficking related services in the past year.

Transgender women of color are more likely to participate in the underground economy and face discrimination and harassment in legal employment.86 Community members refer to “walking while trans” referring to criminalization by law enforcement and the assumption that a transgender female walking down the street is selling sex without any other evidence. They are also disproportionately victims of violence and murder.87 In the USTS survey, “[n]early half (47%) of respondents have been
sexually assaulted at some point in their lifetime” and more than half (54%) have experienced some form of intimate partner violence.88

I. Intersections and Vulnerabilities Associated with Buyers of Sex

While there has been a number of research studies on person selling sex, there is limited research on buyers of sex. In terms of prevalence, research varies in finding that between 10 to 20 percent of men admit to having purchased sex at some point in their lives.89 Some research is emerging that is starting to show intersections and vulnerabilities to sex buying. Buyers of sex are a diverse group in terms of economics, race, and age. The one exception to this diversity is of gender. Nearly all buyers of sex identify as male as reflected in interviews with agencies, law enforcement and existing research.

The higher rates of violence in commercial sex in part reflect a higher degree of exposure to sociopaths and abusers who are sex buyers.90 There is some evidence to suggest there is a connection with sex buying and gender based violence. Some research shows an association of sexual abuse during childhood and sexual aggression and participation in sex buying.91 Studies that look at reasons why men purchase sex have a wide range of results, as outlined in the National Overview of Demand Reduction Efforts:

- “To engage in sex acts that few other women are willing to engage in.
- To experience sex with women with a variety of physical traits.
- To satisfy a desire for sex and/or intimacy that they are unable to meet in other ways.
- To satisfy a need for emotional support that they are not receiving from others.
- To provide them with sex that requires little or no emotional involvement.
- Because they are attracted to the excitement of the illicit nature of prostitution.
- Because they have difficulty meeting women conventionally ...
- Because they feel that most women find them unattractive.
- Because they do not have the time nor desire the responsibility of a conventional relationship.
- Because it provides a less risky means of mimicking extreme or illegal fantasies, such as incest or rape.
- Because they desire being “in control” or dominating women when having sex.”92

In working with sex buyers through the 10-week sex buyer accountability program through the Organization of Prostitution Survivors, the program director noted that many participants reveal histories of trauma. The program focuses on dismantling negative impacts of cultural perceptions of masculinity, commonly referred to as “toxic masculinity.” The perceptions and beliefs that create
unrealistic expectations for men impact sex, relationships, and how women selling sex are viewed and treated.

More research needs to be done to explore the potential link to past trauma with sex buyers. In exploring other intersections and vulnerabilities, buyers are also vulnerable to violence due to the clandestine nature of commercial sex. They are also subject to some of the same health risks associated with commercial sex, such as sexually transmitted infections. Unlike sellers of sex, buyers do not have vulnerabilities associated with their age, race, gender, nationality, gender identity, or economics.

V. Commercial Sex and Trafficking Trends in Santa Clara County

In general, trends on commercial sex differ depending on where the act is occurring in terms of indoor or outdoor markets. Meaning demographics related to commercial sex vary with street level commercial sex, online selling of sex, residential brothels, illicit massage establishments, interfamilial trafficking and gang related exploitation. Data is weighted in that outdoor markets are more easily identifiable, more typically reported and lead to arrests of sex workers and identification of trafficking victims in the outdoor market.

A. Prevalence and Arrests

The prevalence of street level commercial sex is difficult to estimate, but can provide perspective with regards to effective identifications. This estimate can include arrest numbers as well as the number of reports to the national hotline and survivors provided with services. California had 1,656 human trafficking cases reported to the National Human Trafficking Hotline in 2018, up from 1,336 in 2017, 1,351 in 2016. Of these, 1,226 related to sex trafficking, and an additional 110 sex and labor trafficking, representing over 80% of trafficking reports in the state. This likely indicates members of the public are learning the flags for sex trafficking and reporting potential cases. There were also 1,315 calls from survivors or victims to the National Hotline in 2018, up from 1,057 calls in 2017, 905 in 2016. The increase in survivors reporting support efforts to advertise the hotline to potential survivors.
On the one hand service providers have seen a consistent increase in the number of survivors of trafficking being served, which can being attributed to an increase in the ability to identify exploitation (versus increasing prevalence). Coalition direct service providers provided services to 50 survivors of trafficking in FY 2017-2018 and 88 survivors in FY 2018-2019; services were also provided to at risk CSEC 74 in FY 2017-2018 and 157 in FY 2018-2019. These cases are most often referred by law enforcement, probation and child welfare. On the other hand, service providers note that there has been a decrease in reports of domestic violence from non-English speaking victims. There are indications that immigrant communities, particularly situations where an individual may not have documentation, are afraid of repercussions for seeking out help. This decrease in reporting means there are trafficking cases that intersect or present as domestic violence that are likely not being identified by agencies.

Numbers of arrests vary drastically around the county and reflect the respective law enforcement agency’s focus on commercial sex, as well as relative prevalence of commercial sex that is visible, reported or investigated.

Source: FBI Uniform Crime Reports

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\(^h\) FBI Uniform Crime Reports are intended to provide a general overview for comparison. They may differ from local arrest numbers because agencies are submitting based on FBI’s definitions of crimes which may not mirror state laws in entirety.
The chart above compares arrest numbers by gender for prostitution and commercialized vice as reported to the FBI’s Uniform Crime Reports. San Jose was omitted from the table above and instead included in the following chart in comparison to other larger municipalities in the region.

![FBI Uniform Crime Reports
Arrests for Prostitution and Commercialized Vice 2014-2017](chart.jpg)

San Jose and Oakland are comparatively similar in terms of the numbers of arrests of women for prostitution and commercialized vice. There is a larger discrepancy with regards to the number of male arrests, in fact San Jose has the lowest number of arrests of males. San Francisco is the only city that seems to focus on arrests of males and females more equitably, with numbers that are substantially lower than Oakland or San Jose.

San Jose Police Department provided arrest data for analysis from 2015 through September 2019. San Jose has had a marked decline in the number of prostitution arrests since 2014, with a significant uptick in 2018. Oakland has increasing arrest numbers with a slight dip in 2017.

Changes in the numbers of arrests for prostitution is not necessarily indicative of a decrease in individuals engaging in commercial sex, but may reflect different strategies and resources being employed or devoted to combat illicit commercial sex. Law enforcement in San Jose report there has been an increase in visibility of street level commercial sex in the past few years and a lack of agency focus on street level commercial sex until a few years ago. Community in the area near Washington Elementary School, or
the Monterey Corridor have been increasingly vocal about having law enforcement respond to street level prostitution in their neighborhood. This community pressure has led to an increase of police presence in that area.

In speaking to law enforcement, there has been a shift in focus to prostitution abatement (discussed on Page 57). These efforts hit a peak in 2018, and since then law enforcement report seeing a decrease in activity in key areas where street level commercial sex is occurring. Notably, it is estimated street level activity in the Monterey Corridor has decreased by over 80% during the weekdays, and by 50% on the weekends.

| 236.1PC ARRESTS FROM JANUARY 01, 2015 - SEPTEMBER 30, 2019 |
|-----------------|-----|-----|-----|-----|-----|-----|
|                | 2015| 2016| 2017| 2018| 2019**| TOTAL |
| Arrest/Cite    | 7   | 1   | 1   | 6   | 8     | 23    |
| JUV-Arr/Cit    | 3   |     |     | 2   |       | 5     |
| TOTAL          | 10  | 1   | 1   | 6   | 10    | 28    |

**NOTE: 2019 measures January 01 - September 30 ONLY**

There were a total of 122 236.1PC cases from January 01, 2015 to September 30, 2019

Totals reflect 236.1PC pulled as a Primary Offense sourced from the San Jose Police Department's Records Management System. They are not used to report to the FBI's Uniform Crime reporting (UCR) Program and therefore should not be compared to the UCR submitted statistics. This report is run by the dates the crimes are reported and statistics may be subject to change due to the reclassification or unfounding of crimes.

Source: San Jose Police Department
In contrast, the number of arrests in San Jose for human trafficking under Penal Code Section 236.1 are much lower. These cases are much harder to investigate, with more elements to prove and requiring more cooperation from individuals involved, as will be discussed in section on law enforcement strategies. This is further emphasized in that there were 122 cases that were investigated under Section 236.1, but only 28 lead to arrests.

**B. Demographics of Individuals Arrested for Commercial Sex Acts**

In terms of commercial sex trends, much of the data relates to street level commercial sex. In San Jose, there are a few known locations for street level commercial sex, commonly known as the “track” or “blade.” In the map below, these areas are noted.

![Map of San Jose showing commercial sex areas](source.png)

A main area of focus for street level commercial sex has been 1st street, noted on the map as “Washington Elementary School.” In taking a closer look at data provided by San Jose Police Department, trends in gender and race are explored. There is vast disproportion in the number of females arrested

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1 The map provided is based upon information provided by sex workers and trafficking survivors and has been validated by the San Jose Police Department as accurate based on current law enforcement information. The intention behind its creation was to ensure appropriate harm reduction efforts are provided and accessible sex workers, “not to increase those who are criminalized and imprisoned.” (Tatyana Foltz, LCSW)
for prostitution and loitering offenses in San Jose. Over 80% of arrests for prostitution and loitering are female and nearly half of arrests for pimping and pandering are females. Given the majority of buyers are cisgender males, arrests for prostitution and loitering are clearly focused on sellers of sex.

Police reports do not reflect gender identity in being able to capture the number of contacts with members of the transgender community. Reports from the community indicate transgender persons are often contacted by law enforcement in the context of commercial sex. Residential brothels and illicit massage establishments tend to be an older demographic of foreign-born women of primarily Chinese or Korean descent, who also rarely access services for exploitation.

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1 With regards to members of the transgender community, there is currently no delineation for tracking specific trends in this community with regards to law enforcement statistics. It is up to the reporting officer with regards to marking gender or race. It is best practice to ask persons to self-identify.
Individuals arrested in San Jose for selling sex are predominantly African American, followed by LatinX, then White and API. There are a minority of Pacific Islanders. It is believed the majority are not foreign born because they appear to be native English speakers, but this cannot be confirmed because law enforcement does not enquire about immigration status.
In terms of demographics, in Oakland, the age range of persons selling sex vary, sometimes by block. For instance, on the lower numbers of International Boulevard CSEC and TAY are being prostituted on the street, while on the higher number blocks of International Boulevard women over the age of 40 are seen selling sex, many addicted to drugs. San Jose does not have this dynamic with regards to age, but has a track that is predominantly transgender.

1. Buyers

As reflected in the local data provided, it can be surmised that there are relatively few arrests of sex buyers because buyers are overwhelmingly male yet there are low numbers of arrest of male. In fact, there are no reports of female buyers from law enforcement, advocates or survivors in Santa Clara County and only two cases reported in Alameda County. Buyers are as prevalent as sellers; existing research and information provided by sex workers indicate that they have multiple customers in one night, which results in more buyers than sellers in the commercial sex market.

![Commercial Sex Related Arrests of Males in San Jose 2015-2019](source: San Jose Police Department)

Demographic trends related to males and commercial sex are limited due to low arrest numbers. From conversations with law enforcement, buyers in Santa Clara County are residents of the county and reflect the general population within the county. This aligns with existing research on sex buyers.95 On the
Monterey Corridor specifically, buyers are described as: white - higher income, not from the respective neighborhood, and Latino – working class or migrant, some from the respective neighborhood, and sometimes buyers are South Asian – middle class, and foreign born. In the County generally, sex buyers are quite diverse and all ethnic groups, socio-economics, and professions are represented.

In contrast, Alameda County reports a majority of sex buyers come from outside their county. Alameda County reports a large number of sex buyers purchasing in Oakland come from surrounding counties, including San Francisco County, which they learned from an online anonymous survey done in partnership with Demand Abolition. Buyers may also be from outside the region visiting the area for work, conferences or other events. The difference between Oakland and Santa Clara County’s sex buyers may in part be due to the visibility provided to Oakland’s track. Some advocates and officials avoid naming International Boulevard in the press so as not to advertise where individuals can purchase sex. Oakland is nationally known for sex trafficking and prostitution and this increase in visibility may in fact increase the number of buyers traveling to the area for that purpose.

Interviews with advocates and law enforcement did not inform trends regarding sex buyer violence. Most advocates note that their clients do not speak in-depth about experiences in sex work. There have been some reports of robberies of sex workers by buyers, or disputes relating to payment that result in violence.

C. Regional Connections and Jurisdictional Trends

In Santa Clara County law enforcement and service providers both report a nexus to many surrounding counties in terms of common traffickers, victims, and networks. Based on residency of individuals arrested, 25% are from Santa Clara County. Arrested individuals residing in Alameda, Contra Costa, Fresno, Sacramento, and San Joaquin Counties account for 50.7% of arrests by SJPD. Service providers confirm they see human trafficking clients coming from the same aforementioned counties. In Alameda County, many of the women contacted by law enforcement and recovered CSEC are from the counties of Alameda, Contra Costa, and Sacramento.
There may be some variation in these trends depending on where sex is being sold. For instance, while most of the arrests for prostitution arise from street level commercial sex, in the past year illicit massage establishments (IMEs) have been a priority for San Jose Police Department. IME related arrests and referrals include many connections to Los Angeles and arrests are of predominantly Asian (specifically Chinese and Vietnamese) women. Trafficking cases that intersect with domestic violence tend to be residents of Santa Clara County. More research is needed to explore jurisdictional trends related to trafficking with intersections to gangs and online identification of survivors.

In general, trafficking is considered a transient crime so movement between neighboring counties is to be expected. Alameda County has a visible track that is nationally recognized so the county’s overrepresentation of sex trafficking victims is expected. Service providers and law enforcement report that Santa Clara County has a reputation for being a safer place to sell sex. In part, this may be because the “track” is not necessarily controlled by pimps/traffickers, which is the case in Oakland. There are also reports by service providers that law enforcement in San Jose are “nicer,” that buyers pay more and there are fewer overall safety risks, such as street crimes – i.e. robberies, drug related violence, gang related violence – which appear to be more prevalent in Oakland.
There are indications that violence is increasing in the area surrounding the track in Oakland. There are also reports that sex workers are becoming aggressive with the surrounding community with regards to solicitation as reflected in the increase in, and nature of, community complaints to law enforcement in Oakland. These trends are not reflected in San Jose per conversations with law enforcement.

Research and testimonials from local survivors indicate that some rape and violence is actually perpetuated by law enforcement. The recent Oakland case involving transitional age youth, Celeste Guape, exposed multiple law enforcement officers from various agencies engaging in exploitive sex with Guape in exchange for tips to avoid arrest. There are indications Guape was being exploited as a minor, despite her currently identifying as a sex worker. A recent case in New York highlighted a legislative and policy gap that did not prohibit law enforcement from engaging in sex while on duty. A potential policy should recognize the power dynamic inherent to law enforcement’s role that would complicate notions of consent when engaging in sex with an on-duty officer.

D. CSEC Specific Trends

Santa Clara County Department of Family and Children Services (DFCS) has opted into the State of California’s SB 855 funding, which provides funding to support services and system response to CSEC. DFCS is the lead with regards to this state funding, they connect and subcontract to service providers to ensure survivors are being provided with comprehensive case management and direct services. Community Solutions (CS) and the YWCA Silicon Valley have been providing CSEC services.

<table>
<thead>
<tr>
<th>Period</th>
<th>Total Served Ages 12-24*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1/16- 6/30/16</td>
<td>29</td>
</tr>
<tr>
<td>7/1/16-6/30/17</td>
<td>93</td>
</tr>
<tr>
<td>7/1/17-6/30/18</td>
<td>110</td>
</tr>
<tr>
<td>7/1/18-6/30/19*</td>
<td>103</td>
</tr>
</tbody>
</table>

Source: Community Solutions

*FY 18/19 Does not include youth aged 18-24 years old
There has been a steady increase of CSEC and transitional age youth (TAY) receiving services since 2016. Youth receiving services are considered at-risk or confirmed CSEC. Often, youth will not disclose CSEC, so screening tools such as the CSE-IT tool are used to determine the level of risk. A reduction in funding during the fiscal year 2018-2019, resulted in services being limited to CSEC, accounting for the slight decrease in numbers.

Within DFCS, the Transformation Team is specialized in providing hands on support for youth who are suspected or confirmed CSEC. “The following chart shows verbal or written consultations between the CSEC Transformation Team and the Social Worker/Partner who may have concerns related to a youth who may be "at risk" for exploitation, suspected CSEC or confirmed CSEC… A NEW consultation is the first time the youth has crossed paths with the CSEC Transformation Team. An ongoing consultation is every time thereafter that a verbal or written consultation occurs on behalf of an already identified youth.”

<table>
<thead>
<tr>
<th>DFCS Consultations in FY 18-19</th>
<th>Completed</th>
<th>Q1-4 Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultations (phone/email w/ DFCS and/or Partners)</td>
<td></td>
<td>137</td>
</tr>
<tr>
<td>Number of NEW Consultations</td>
<td>60</td>
<td></td>
</tr>
<tr>
<td>Number of Ongoing Consultations</td>
<td>77</td>
<td></td>
</tr>
<tr>
<td>Totals</td>
<td>137</td>
<td></td>
</tr>
</tbody>
</table>

Source: Department of Family and Children Services Transformation Team

It is significant that there are nearly the same number of new consultations as there are ongoing consultations. This shows that once a youth is identified “at risk” of CSEC the risk factors are long standing and the social worker will continue to consult with the transformation team, so DFCS must continue to build capacity to meet this need.
System Involvement of Youth Provided with Trafficking Advocacy Services
By Community Solutions and the YWCA

<table>
<thead>
<tr>
<th>System</th>
<th>1/1/16-6/30/16</th>
<th>7/1/16-6/30/17</th>
<th>7/1/17-6/30/18</th>
<th>7/1/18-6/30/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>DFCS</td>
<td>8</td>
<td>44</td>
<td>57</td>
<td>44</td>
</tr>
<tr>
<td>Probation</td>
<td>11</td>
<td>34</td>
<td>16</td>
<td>26</td>
</tr>
<tr>
<td>Dually Involved</td>
<td>0</td>
<td>9</td>
<td>8</td>
<td>7</td>
</tr>
<tr>
<td>None</td>
<td>10</td>
<td>6</td>
<td>29</td>
<td>26</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>29</strong></td>
<td><strong>93</strong></td>
<td><strong>110</strong></td>
<td><strong>103</strong></td>
</tr>
</tbody>
</table>

*Source: Community Solutions*

Since 2016, the majority of youth provided with services for exploitation and trafficking have some kind of system involvement. In line with research, foster youth are overrepresented - in fiscal years 16/17, 17/18 they are over 50% of youth served, in fiscal year 18/19 they are close to 50% (Note: In the last year TAY youth are included in statistics).

**Arrests for Loitering For Prostitution**
By Age Group in San Jose
2015-2019

*Source: San Jose Police Department*

In looking at arrest numbers provided by San Jose Police Department from 2015-2019, nearly half of arrests for Loitering for Purpose of Prostitution are of transitional aged youth. These individuals did not disclose trafficking to law enforcement, therefore an arrest for loitering was processed. It was not known
by law enforcement if the individuals arrested were engaging in sex for survival, or have histories of engaging in commercial sex, which in the case of many TAY would indicate they were CSEC.

E. Community Harm

Law enforcement report a variety of crimes present in neighborhoods with street level commercial sex. In San Jose, the area surrounding Washington Elementary School has visible street level commercial sex. Community members have been vocal, advocating to City Council regarding associated harms. Community members report harassment from sex sellers and potential traffickers, paraphernalia related to sex and drug use found publicly in places where children are present, and violence has been reported. The neighborhood has an elementary school, youth center and library in close proximity to street level commercial sex. Children in that area are regularly exposed to commercial sex, drug use and associated paraphernalia, violence and harassment. Residents report sex workers lack access to bathrooms and leave sanitary items in their yards. This parallels reports by surrounding hotels and motels that affirm they refuse to rent out rooms to sex workers.

There is community harm with other forms of commercial sex. With IMEs, community members commonly report these establishments as appearing to be engaging in illicit behaviors. Residential brothels take place in apartments complexes and homes posing a risk to neighbors. A recent case in San Jose included a robbery and murder that occurred in a residential brothel.

F. Online Commercial Sex, Pornography and Child Exploited Imagery (CEI)

1. Underground Commercial Sex Economy (UCSE)

The website www.Backpage.com was the largest website for online advertisements selling sex and exploiting trafficking victims in the United States. On April 6, 2018 Backpage.com was seized by the Department of Justice, following passage of FOSTA/SESTA. Following Backpage, there were a number of other USCE advertising websites that shut down. In addition, a number of websites that host online communities of sex buyers also shut down. A report by ChildSafe.ai explores trends following the takedown of Backpage. In measuring advertising volume on UCSE websites, there was a drop of 87% in
May 2018, the month following the shutdown. There has since been an increase in scam advertising, which has impacted the buyers as reflected on buyer community boards and ads are now not as reliable of a method to measure impact on the UCSE market. With its shutdown, the online market has splintered without one site emerging as leader. Payment processing is a noted challenge that smaller sites are struggling with and may impact regrowth of the online market. This challenge is also linked to banks becoming more transparent and active in identifying trafficking with initiatives like Banks Alliance Against Trafficking. Some suspect cryptocurrency may become more prevalent, but so far payments online seem to have shifted to relying on gift cards that are provided through sites like Paygarden. There is less indication the market is shifting to the dark web in the way that narcotics trafficking has.

Childsafe.ai’s report also shows a trend of hobby sites seeing an increase in users. Some of these sites are restricting access to US based IP-addresses, while some are moving operations out of the U.S. to avoid being subject to FOSTA/SESTA. Childsafe.ai’s work capturing information from buyers on these sites reflects sex buyers on hobby boards “appear to purchase with higher frequency and at higher price points than buyers from advertising websites,” such as Backpage or CityXguide. These sites operate with buyers providing reviews of sex acts provided by sex sellers, making it harder for law enforcement to intelligence gather because they would need to provide reviews for legitimacy.

The third category of sites that Childsafe.ai’s report explores are dating sites, such as SecretBenefits.com or Seeking.com. These sites are not appearing to be growing significantly in the absence of Backpage. Buyers online are complaining of high prices on dating sites, as well as on hobby boards.

Law enforcement has noted there are challenges adapting investigations after the takedown of Backpage. Primarily, more time and resources are required to do online investigations to identify potential trafficking victims, as well as challenges in targeting buyers with reverse stings. There are more sites to navigate, and with a number of sites moving operations overseas, subpoenas are easily ignored. Still some officers note that some overseas sites are cooperating with law enforcement in helping to identify trafficking victims and removing their ads. Law enforcement agencies know hobby boards provide insight, but are easily detectable on these sites. Rubmaps.com is being used by law enforcement
to investigate illicit massage establishments, but there are increasing concerns regarding reliability and that some businesses are becoming more covert.

One predicted result from the takedown of Backpage.com was an increase in street level commercial sex. Since that time, law enforcement report seeing an increase in persons engaging in street level commercial sex on the Monterey Corridor. Similarly, law enforcement in Oakland report seeing an increase in street level commercial sex, and a noted increase in CSEC on the street. The latter trend may also be impacted by SB 1322, which prohibits arresting a minor for prostitution.

2. Pornography

Pornography has a nexus online to trafficking and there is increasing support linking it to violence against women and children. A comprehensive study in 2010 looked at scenes in top 50 most rented and downloaded pornographic films and found the vast majority included physical and verbal aggression towards the female performers, noting that 90% of scenes contained at least one aggressive act (physical or verbal). Researchers also speak to the level of degradation in pornography, a term with varying definitions, but degrading depictions in pornography are “typically defined as those that (a) encompass unusual or non-normative sexual practices (with the assumption that participation in these acts intrinsically is degrading to a character), and (b) imply differences in status between or among characters.” The prevalence of aggression and degradation in pornography appears to parallel experiences of trafficking victims in commercial sex. The normalization of these elements arguably means sex buyers, who consume pornography, are unlikely to see power dynamics (differences in status) with the individuals they are purchasing, and may feel empowered to act out what they see in pornography, including with aggression.

Research also indicates there is a growing trend for teen porn, or pseudo child exploited imagery (CEI), where the fantasy created is that of having sex with a minor, while the individual in the film is not actually a child. Most recently, the NY Times explored the increase in identification of actual online pornography exploiting children, with tech companies reporting 45 million images of CEI, more than
double the previous year.\textsuperscript{110} With tech companies focusing on privacy, the identification of CEI will be more challenging.

Most CEI, however, does not typically include the exchange of money. This is a clear distinction from trafficking in that there is not a financial incentive as much as a community of perversion. Individuals share CEI with each other; on sites that provide a space for this exchange, those who do not share are deemed “leeches” and are considered outcasts or identified as law enforcement. Locally, law enforcement report CEI has moved away from sites that allow peer to peer sharing, such as websites edonkey.com or limewire.com. There is increasing use of social media communication tools with Facebook’s Messenger seen as most popular.

The National Center for Missing and Exploited Children (NCMEC) is the clearinghouse for all ISP companies to report potential CEI. NCMEC will then notify respective agencies of tips related to their jurisdiction. San Jose’s Internet Crimes Against Children’s Unit (ICAC) has seen a huge increase in cyber tips, with 455 tips received in October 2019. On average, this unit would receive around 255 per month. It is worth noting, of all the tips provided to NCMEC, around 85-90% of those tips are international, meaning the child being exploited is not in the United States. They note an increase in violence in CEI and victims are increasingly young, including infants. Of the tips received, not all are active tips in that many related to minors themselves sharing pictures with their significant others or friends. Of the active tips, ICAC notes a trend with regards to exploiters grooming children by posing as juveniles on social media or in the “gaming” community (interactive online video games). Exploiters will groom and coerce the child into providing a picture of themselves (i.e. in just underwear) and then threaten to send the picture to the child’s family and friends if they do not comply with more requests. It becomes a vicious cycle and the child is too afraid to tell anyone.

**G. Street Level Commercial Sex**

In Santa Clara County, there are a few reported areas where street level commercial sex is occurring including San Jose as discussed on Page 39. Milpitas has an area where commercial sex is regularly sold, on a street with multiple hotels where the sex acts occur, but often the dates are not made on the street
so it arguably is not a “track.” In Alameda County International Blvd. is the most notorious track. Oakland’s track has national visibility, which may impact the number and geographic diversity of buyers.

1. San Jose Specific Trends

In San Jose, the majority of persons selling sex on the street identify as women. This includes transgender females, who tend to be from Santa Clara County and are transitional age youth. Overall, the average age is 20-23 years old and 90% are from outside of Santa Clara County. While data analysis is pending, a Community Prosecutor in the area notes the women arrested generally fall into one of three main categories based upon post-arrest interviews:

- **New Locals.** Young women from the region (surrounding Bay Area counties) without prior law enforcement contacts. They tend to travel around by public transportation or ride share. They appear to be experimenting, and don’t exhibit many red flags of trafficking. They find out about joining the life from friends, as opposed to mentioning being recruited.

- **Established Locals.** Sex workers from the region with established patterns of movement based on their prior law enforcement contacts or convictions. Some may have traffickers (aka pimps), many identify as solo sex workers. This group may also travel to Sacramento or San Joaquin counties.

- **Individuals being moved around the State.** These individuals present red flags of trafficking based on the extent of movement and a lack of a home base. They have prior law enforcement contacts or convictions. They travel to Southern California and are contacted in the following cities: Hollywood, Van Nuys, Pomona, Fresno and sometimes San Diego.

In addition to the three groups discussed, there are also sex workers who come from Vegas and ad hoc groups that come from out of the state, but they form a small number of women identified.
H. Residential Brothels and Illicit Massage Establishments

All law enforcement contacted report a growing concern regarding residential brothels. Often, they are more hidden from the public view, blending into middle to upper class neighborhoods. Some operate out of homes, but in Santa Clara County they are often in apartment complexes. Given the large size of many apartment complexes, it is difficult for neighbors to notice an unusual number of visitors coming and going into a particular apartment. Because these apartments are also mid to high-end, residents assume anyone living there has stable and secure income, which is not associated with criminal activity or commercial sex. These brothels can operate without a trafficker present, they can earn more money than other means of selling sex and there is less risk of violence as compared to street level commercial sex. Similar to illicit massage establishments, residential brothels generally involve adult females from Asian countries, primarily China, Korea and in some cases Japan.

Unlike massage establishments, these brothels tend to remain hidden from public view and are harder for law enforcement to investigate because they are not subject to business ordinances like massage establishments are. Law enforcement is starting some outreach to property managers, who are the most likely identifiers of red flags at these apartment complexes. A few CBO’s have also focused efforts on outreach to property managers.

Neighboring counties of Alameda and San Mateo have concurrently hosted law enforcement operations with Santa Clara County reflecting a nexus between brothel operators across county lines. Most recently Ventura County conducted an operation in the region because of links to a network in southern California.

I. Intersections with Gang Activity and Organized Crime

There is increasing support that gangs are becoming involved with sex and labor trafficking. Nationwide, there have been more than 200 cases prosecuting gang members where prostitution or human trafficking are mentioned. Cases have been identified in Oceanside, CA, Brooklyn, N.Y., Washington

k Trends related to illicit massage establishments (IME’s) can be found in a previous report looking exclusively as IME’s.
DC, Seattle, WA, Minnesota, and Tennessee. While gangs have typically been associated with drugs and weapons trafficking, there is increasing concern human trafficking will become the dominant means of generating income because it is harder to identify and victims rarely disclose exploitation – particularly when forced or coerced. “The National Gang Threat Assessment” in 2009 saw an increase in students reporting gang activity at school, increasing 20% from 2001 to 2005. From 2004 to 2008 law enforcement reported an increase in drug trafficking. Gangs also generate income with robberies, car theft, fraud, home invasions, and identity theft.

A study in San Diego identified three ways gangs are profiting from sex trafficking: “The level of centralization and organization of sex trafficking activity in the gang varies significantly from cliques and sets that 1) loosely associated with the gang for protection while they act independently, and 2) those that have centrally organized units with a centralized taxation system to 3) those with linkages to transnational crime networks.” The same study interviews facilitators within gangs and finds that grooming and the “Romeo” exploiter method is most common recruiting method as opposed to kidnapping or trafficking through sheer force. That said, there is often violence associated during the period of trafficking and exploitation.

While San Jose’s Monterey Corridor has had significant gang activity in the past, there have been few indications of current intersections with sex trafficking in the same location. It also appears that gang activity has decreased since SJPD has been heavily focusing on prostitution abatement with increased law enforcement visibility in this specific area.

Service providers and child welfare notice a number of clients/youth who are confirmed trafficking victims have gang involvement. Based on conversations with clients, the way it presents tends to include females who commit various crimes for the purpose of the gang, such as robbery or car jackings, and are also sexually exploited either within the gang for the benefit of the gang. It does not appear that women are being trafficked by the gang in the way of transportation or the selling of persons, which occurs with cross-border trafficking by gangs.
In speaking to New Hope for Children, an organization that specifically focuses on gang intervention, they see indications of trafficking among the populations they work with. Trafficking is seen with “money crews,” which are less organized local groups that focus on criminal acts only to generate income – so issues of territory and loyalty are less important. These “money crews” include credit card scams, home invasions, car break-ins. Women/girls may be exploited in the way of luring in men so the gang can rob them. At times, ads are placed in Mexican newspapers to recruit victims to rob. Some youth are recruited by other youth in the money crew and engage in survival sex, or in order to earn spending money. The advocate noted a case of a 12 year-old boy engaging in survival sex and normalization of commercial sex among youth.

More formally identified gangs may “jump in” or “sex in” a female who will then be exploited, potentially passed around to different gang members, or commercially trafficked. Gangs also focus on recruiting minors because of the decreased liability against minors for committing crimes. Gangs still appear to be branding trafficked females, and have been recruiting at the schools themselves.

1. Organized Crime

While law enforcement believe there are connections to organized crime, there is little publicly available research and few cases to substantiate this. Organized crime networks are highly suspected in the context of illicit massage establishments and residential brothels because of the number of individuals involved in the operation of the establishment, i.e. cooks, managers, drivers. In addition, many of the women are moved routinely to different locations and if an IME is closed by law enforcement, often a similar business with a different business owner will replace it soon after.

One study in Atlanta examined 24 federal human trafficking cases, finding only one linked to an organized crime syndicate, eight involved organized crime, and the remaining 16 did not have any organized crime involvement. These results indicate that organized crime may not appear in

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1 An organized crime syndicate includes a hierarchy of power, typically a single leader, a clear division of labor such as seen with the Bloods, Triads, and Nuestra Familia. In contrast, organized criminal networks are smaller, often without clear leaders, horizontal authority, without the long term relationships or loyalty expected in syndicates.
trafficking cases with as much frequency as many believe, with a caveat that there are likely organized crime syndicates and involvement that have not yet been identified with identified trafficking cases.

Law enforcement in Santa Clara County believe there is likely organized crime of trafficking occurring, but did not identify specific cases. They believe it is more likely in the context of illicit massage establishments and residential brothels where one business appears to have a nexus to other criminal businesses.

VI. Methods to Combatting Commercial Sex and Sex Trafficking

Despite the overarching framework of prohibition of commercial sex in California, coupled with laws prohibiting human trafficking, local jurisdictions have discretion regarding strategies employed to combat commercial sex and can take a variety of approaches. Strategies differ with indoor versus outdoor commercial sex markets. Additionally, the intersections and vulnerabilities with commercial sex and trafficking previously discussed warrant different approaches and reflect more nuanced trends that will be explored below.

In general, strategies to address commercial sex may be categorized among the following four focus areas: 1) the seller - includes trafficker, 2) CSEC and sex trafficking victims, 3) the buyer, and/or 4) the community.

Despite the amount of research relating to prostitution, evidence-based practices related to decreasing illicit commercial sex and sex trafficking are lacking. The Office for Victims of Crime identifies a victim-centered trauma-informed approach as an evidence-based practice with regards to all forms of trafficking. This is recommended in the context of a multi-disciplinary approach.

A. Focused on the Sex Worker or Survivor of Trafficking

There are a number of strategies used that focus on sex workers and survivors of trafficking. These include law enforcement’s historical approach of prostitution abatement, newer approaches aimed at
identification of victims, harm reduction, diversion programs and courts for trafficking survivors. In addition, service providers have approaches of harm reduction, sex workers have tools for harm reduction, and there are strategies for reintegration out of commercial sex or trafficking.

1. Prostitution Abatement

Law enforcement methods to address commercial sex have been fairly consistent until recent changes to law that recognize trafficking victims. Prostitution abatement has been the primary method of enforcement, which focuses on deterring and enforcing against commercial sex, generally in the outdoor market (street level commercial sex). The focus has been mostly on the sex worker, as opposed to the buyer. Farrell and Cronin take a historical look at law enforcement efforts related to prostitution and now in the context of trafficking, finding that despite focusing on arrests and abatement, there was little effect on the numbers of people engaging in commercial sex.\textsuperscript{118}

Prostitution abatement continues to remain a primary strategy in San Jose, where street level commercial sex is prevalent. A punitive intervention with a Penal Code Section 647 charge generally results in a plea deal for a misdemeanor, resulting fines and a Stay Away Order is also attached. The Office of the District Attorney in Santa Clara County also offers a diversion option for first time offenders (discussed below). This targeted approach to prostitution abatement in specific communities with street level commercial sex has lead to an increased number of arrests as discussed on Page 38 and most recently a decline in arrests which is attributed to a reduction in prevalence of street level commercial sex.

2. Harm Reduction by Law Enforcement

Law enforcement efforts have shifted with the passage of trafficking related legislation, to focus on identifying and prosecuting traffickers and recovering victims. Recovery of a victim may include strategies that primarily focus on reducing harm to individuals engaging in commercial sex that do not readily identify as trafficking survivors. For survivors of trafficking, law enforcement will make contact and offer to connect victims to an advocate for direct services. When there are planned operations,
many law enforcement agencies in the County will engage with advocates to request they are present to offer services at the time of the operation. Direct service providers who respond provide human trafficking, sexual assault, and domestic violence services, thereby providing intersectional screening to potential victims.

The San Jose Police Department is working with the service providers to initiate screening at all family violence responses that includes screening for sexual assault and human trafficking in addition to the current domestic violence screening. Other than domestic violence and sexual assault, current law enforcement methods of harm reduction in Santa Clara County look at trafficking in isolation to other intersectional issues, such as homelessness and substance use. There are separate diversion programs that focus primarily on substance abuse, i.e. Drug Court. It is not clear, however, that Drug Court is being used or prioritized for those arrested for prostitution related offenses.

**LEAD - Law Enforcement Assisted Diversion**

A unique approach to commercial sex in the context of drug offenses is in King County, Washington. The LEAD - Law Enforcement Assisted Diversion (LEAD) program diverts low-level drug and prostitution offenders into community-based treatment and support services – including housing, healthcare, job training, treatment and mental health support -- instead of processing them through traditional criminal justice system avenues.

LEAD is a pre-booking diversion program that allows officers to redirect low-level offenders engaged in drugs or commercial sex to community-based services instead of jail. Participants begin working immediately with case managers to access services. It also focuses heavily on risks associated with homelessness. Services follow harm reduction principles. LEAD’s goals are to reduce the harm a drug offender causes him or herself, as well as the harm that the individual is causing the surrounding community. This public safety program has the potential to reduce recidivism rates for low-level offenders and preserve expensive criminal justice system resources for more serious or violent

\[m\] LEAD Website Retrieved Oct 1
offenders. A recent study by the University of Washington indicated “[n]early half of all participants reported little to no further contact with law enforcement following LEAD involvement.”

“LEAD participants had 60% lower odds of arrest during the six months subsequent to evaluation entry; and both a 58% lower odds of arrest and 39% lower odds of being charged with a felony over the longer term. These statistically significant differences in arrests and felony charges for LEAD versus control participants indicated positive effects of the LEAD program on recidivism.”

3. Diversion Programs for Potential Survivors and Human Trafficking Courts

Individuals who don’t readily identify as trafficking victims while engaging in commercial sex, may be arrested for prostitution related crimes. Prosecution offices may offer a diversion program or as a condition of sentence if trafficking is subsequently identified. Diversion programs often are rehabilitative and may be offered for drug related arrests, individuals with mental health issues, and more recently human trafficking.

Santa Clara County currently has a diversion option available to first time offenders who are arrested on a prostitution charge. Available to first time offenders, the VALOR program is a 6-week program for women arrested under PC 647(b). Operated through the YWCA Silicon Valley, the program requires the individual to travel to Santa Clara County to attend. The time and travel commitment may be a financial disincentive to participation. Statistics regarding the number of individuals eligible and opting into the VALOR program are pending. Thus far, of individuals arrested and charged with a PC 647 misdemeanor, there have been no trials. Defendants either take a plea deal or opt into the VALOR program.

The have been three separate groups operating for the past two years, based on language spoken. The English speaking group has had the highest number of participants in 2018 (45 graduates), but saw a decrease in 2019 with 30 graduates. While there were only 7 Chinese speaking participants in 2018, that number more than doubled in 2019, which is explained by law enforcement target illicit massage establishments.
Participants were residents of the following cities: San Jose, Los Banos, Willowbrook-Illinois, Reno- Nevada, Nashville-Tennessee, San Francisco, Concord, Livermore, Vacaville, Sacramento, Fresno, Yuba City, Oakland, Berkeley, Brentwood, Stockton, Antioch, Modesto, Manteca, Richmond, Vallejo, Tracy, Madera, Hayward. The age range is 19 years old to 60 years old. Ethnicity: Latina, Asian, African American, Native American, White, Native Hawaiian, Pacific Islander.

Some jurisdictions have taken this a step further with human trafficking courts. New York has a Human Trafficking Intervention Court. The Queens court mandates 5-10 counseling sessions, this may include group counseling, safety planning and case management. In N.Y. a vacatur law provides an opportunity for survivors to vacate charges that are a result of trafficking and is offered at the completion of court process, survivors may also be ordered to remove tattoos. In Columbus, Ohio the CATCH court relates to persons with substance use related charges that intersect with commercial sex. Participants in the court are mandated to participate in a two-year rehabilitative program. The programs pursue a trauma informed approach, acknowledging that some individuals may not want to disclose trafficking, the court may order clinical assessments (i.e., Adverse Childhood Experiences test). In Columbus, the court works closely with reintegration and employment non-profits in assisting survivors transition to gainful employment. The court invites previous graduates to attend the court to interact with individuals newly
assigned to the court. The program reports 80% of graduates have not been re-arrested in eight years. While only 1 in 4 make it to graduation, participation in the program for any length of time has resulted in a recidivism rate of 40%, while the nationwide recidivism rate for prostitution is 80%.

The negative perspective for diversion programs and human trafficking courts is that victims are getting arrested and criminalized. On the other hand, when victims are arrested for intersectional issues, such as drugs, these programs aim to assist them in connecting the individual to resources that assist them in leaving commercial sex.

4. Harm Reduction Through Service Providers and Social Services

There is increasing focus and advocacy on harm reduction approaches that are not punitive. Harm reduction was first coined in the 1980s to address substance use with the goal of reducing associated harms, as opposed to an abstinence approach. Offered in a health context, harm reduction efforts have included providing healthcare services to sex sellers that promote sexual health. One example is St. James Infirmary in San Francisco, which offers services exclusively to persons in the sex trade, which include a health clinic, street outreach, harm reduction tools- including for substance use, mental health support, and transgender hormone therapy.

In the context of trafficking, harm reduction is in line with a survivor or victim-centered approach because it puts decision-making and authority in the hands of the client or survivor. There are suggestions it can have long-term benefits, because it moves away from a rescue mentality by encouraging individuals to seek help and developing trusting relationships. Recently, the California Department of Social Services published a report through the Child Trafficking Response Unit that advocates for a harm reduction approach in child welfare. For case managers, this would mean providing tools for safety planning if the individual chooses to engage in commercial sex or engage in behaviors that make them vulnerable to exploitation. In part, harm reduction acknowledges that trafficking survivors may continue to engage in risk-taking behaviors while accessing services and an abstinence only approach to services. Santa Clara County DFCS employs a harm reduction approach in the Transformation Team.
Harm reduction also provides space to look at the underlying reasons behind some of the risk-taking behavior, which may include family dysfunction, system failure, poverty, oppression or racism, etc. The intent of harm reduction is “not to immediately eliminate risky behaviors entirely, but rather to reduce them over time.”

Service providers in the County and region generally apply a harm reduction approach, as it parallels a victim-centered approach. Case managers focus primarily on creating space for the client they are working with to ask for support, provide options for clients without making decisions for them, work with a client to strategize mitigating potential harms, and keep the door to services open if the client leaves.

5. Strategies for Reintegration into the Community

Reintegration strategies include legal tools such as expungement, criminal defense and vacatur, as well as employment opportunity programs. Given the historical criminalization of trafficking victims, having a criminal record becomes a vulnerability for survivors because of the challenge in finding gainful employment. The ability to clear criminal records for trafficking survivors is a tool for empowerment and reducing recidivism. New York was one of the first states enacting a law that expunges or vacates criminal charges related to trafficking.

California has adopted a comprehensive vacatur law, SB 823, that allows survivors to vacate crimes that result from trafficking as long as the connection can be shown. Meaning, the crime did not have to happen contemporaneously to the situation of trafficking. While a few agencies have offer these services to survivors, only a few cases have so far been pursued in Santa Clara County. Expungement laws are applicable to sex workers depending upon passage of time and circumstances. The San Jose State Record Clearance Project provides such services and report working with clients who were sex workers and trafficking victims, but funding has been cut so are offering reduced services in 2018.
There are few employment opportunity programs that focus on survivors of trafficking or sex workers generally. Annie Canons in Oakland focuses on teaching coding skills to survivors of trafficking; participants must have stable housing for at least six months to participate. Graduates can continue to work for Annie Canons and are paid to fulfill contracts through the company. Advocates report many survivors would like to pursue cosmetology degrees and are able to support such pursuits to a limited extent depending on ad hoc funding. Other survivors focus on pursuing education, but criminal records can impact the ability to apply for federal loans. There are not many reintegration opportunities that address some of the challenges faced by foreign born or older survivors who may not be able to participate in Annie Canons due to a lack in technology literacy, or in other programs due to challenges with English fluency.

6. Harm Reduction Tools Through Sex Workers

There is increasing support for information sharing and harm reduction prevention efforts that come from the sex worker community itself. In San Francisco, St. James Infirmary provides services to sex workers and helped initiate a website that provides sex workers an opportunity to report bad buyers with a “Bad Date List”. This includes sex buyers who are violent, as well as those who steal or have health issues. While this site is not affiliated with law enforcement it is a tool for harm reduction for sex buyers that may help expose violent buyers. In addition, the Infirmary provides health related services to sex workers including a needle exchange. This has been used in other countries as well, including Australia and in Britain where there is collaboration in providing this information anonymously to law enforcement. There are no equivalent services in Santa Clara County. In places where sex is decriminalized, sex workers are able to take preventative steps with regards to environment, even designing brothels in a way that allows for the most amount of safety, such as solid security doors and peepholes.
B. Focused on CSEC and Human Trafficking

There are specific efforts that focus on commercially sexually exploited children (CSEC) and their recovery. These efforts often intersect with adult trafficking victims and sex workers. It is difficult to isolate efforts to only focus on one of these populations. Still, some agencies have prioritized CSEC in terms of operational strategy and this section explores those efforts.

1. Child Welfare Approaches

“The Department of Family and Children’s Services (DFCS) was designated the lead agency to receive funds from California’s Department of Social Services, with a directive that a Steering Committee and an Implementation meeting be in place with stakeholders. Santa Clara County used grant funds in conjunction with County funds to create dedicated positions. It also created a Transformation Team to address the needs of children involved with the DFCS and Juvenile Probation.”¹³³ The Steering Committee and Implementation Team include a number of government and non-governmental partners. The Transformation Team includes a DFCS coordinator and social worker, a probation supervisor, a coordinator from Juvenile Probation, two Behavioral Health Specialists and a supervisor, and a public health nurse.

Referrals for CSEC are required to go through the Child Abuse and Neglect Center (CANC) where is response is initiated depending on the level of danger. The County’s CSEC Protocol requires a “Joint Response” for situations of high danger, where law enforcement and a DFCS social worker must respond to where the youth is located. An “immediate/Crisis Response (ICR) MDT, which involves both a rapid response within two (2) hours of the referral as well as intensive, ongoing support through the first 72 hours after identification.”¹³⁴ “An Immediate Crisis Response MDT is when the investigating Emergency Response social worker responds to the scene through a Joint Response with Law Enforcement (LE) due to a CSE incident. To support the youth, an Advocate is dispatched to the scene. The Immediate Crisis Response is separate from the DFCS and LE investigations and is a collaborative response with DFCS, the Advocate and youth, to develop a safety plan that will address the immediate and basic needs of the youth.”
For situations not requiring immediate response an Initial MDT is required. The “[i]Initial MDT, which includes convening at and within 10 days of the referral to address the youth’s needs where immediate safety risks may not be present.”\textsuperscript{135} For all suspected or confirmed CSEC, there are ongoing MDTs, which includes ongoing case planning and coordination. This occurs on an individualized basis for each identified commercially sexually exploited child.”\textsuperscript{136} The Initial and Ongoing MDT includes the social worker, the youth, their family (if appropriate), and any supports and the Transformation Team.

Once a youth is identified as potentially CSEC by either DFCS or juvenile probation, as assessment will be made using the CSE-IT tool. “The Commercially Sexually Exploited-Identification Tool (CSE-IT) is a validated identification tool used to identify and help determine the risk of a child/youth for CSE. The CSE-IT utilizes eight key indicators to help identify and within these key indicators are supporting statements to score the youth’s level of risk as No Concern, Possible Concern, or Clear Concern. It is important to note that a child or youth may score “Clear Concern” on the CSE-IT, but that does not confirm that a child or youth is CSE, but rather numerous indicators are present that suggest a high level of risk for CSE.”\textsuperscript{137} The State of California defines “at risk” for CSEC as exhibiting, at a minimum, one of the following indicators:

| One of the following indicators:   | • Child/youth exhibits behaviors or otherwise indicates that she/he is being controlled or groomed by another person  
| • Child/youth spends time with people known to be involved in commercial sex  
| • Child/youth’s use of internet, cell phone, or social media involves social or sexual behavior that is atypical for his/her age |  
| Or exhibiting, at a minimum, 2 of the following indicators: | • Child/youth has a history of running away, unstable housing, including multiple foster care placements, or periods of homelessness including couch surfing  
| • Child/youth has had prior involvement with law enforcement or the juvenile justice system,  
| • Child/youth is frequently truant  
| • Child/youth ‘s relationships are concerning, placing him/her at risk or in danger of exploitation  
| • Child/youth has a history of substance abuse, specifically narcotics, opiates, crack/cocaine and amphetamines |  

Source: DFCS citing California Department of Social Services All County Letter (ACL) 16-49
“Children who are reported to CANC as being “at risk”, suspected or confirmed CSEC youth, often receive Voluntary Services or Informal Supervision service to address the CSEC concerns if the parents are cooperative and reliable and are willing to work with the DFCS. These children can become Dependent Children of the Court in certain situations (e.g. such as a parent not utilizing services for themselves and their child) using the California Welfare and Institutions Code, which is very rare in Santa Clara County.”

2. Law Enforcement Approaches to Identify CSEC

All law enforcement agencies contacted employ strategies to identify and recover CSEC. Some agencies use tools such as Spotlight or Traffic Jam, which help sort through online advertisements to flag potential CSEC. Information gathered through online intelligence are used operationally to recover CSEC. With street level operations, law enforcement is looking for someone selling sex who appears to be a minor. Law enforcement also respond to calls reporting potential CSEC; these calls come from the National Human Trafficking Hotline, child welfare and the CANC, and service providers.

Oakland Police Department (OPD) does not focus on prostitution abatement, but has a primary focus on recovery of CSEC. Strategies are executed through the VICE/Child Exploitation Unit. Patrol does not usually focus on prostitution abatement unless there are additional safety concerns (outside of the solicitation). Part of the reason for this approach is logistics. The physical location of the female jail is in Dublin and it is a significant distance from Oakland. Arresting females for any offense requires a significant amount of time in terms of transport. This is also another reason why when operations are focused on recovering CSEC in Oakland and there is a likelihood of female arrests, OPD will have a bus or van available to transport multiple women to Dublin. The logistics of where the female jail is impacts their strategies on commercial sex.

This approach has been criticized because in an effort to identify CSEC through operations, there are ancillary arrests of individuals who do not identify as trafficking victims; often these are arrests of young women under the age of 25. In the month of September 2018, OPD conducted a series of operations, 10 in total, culminating in the arrest of 90 female sex workers and the recovery of 14 CSEC. One of the reasons provided for the ancillary arrests is because it is an operation focused on identifying multiple
CSEC, if non-identifying victims or sex workers are not detained and removed from the premises they threaten to expose the operation early on.

C. Focused on the Buyer of Sex

A number of strategies focus exclusively on sex buyers and are commonly referred to as demand reduction efforts. “The National Overview of Demand Reduction Efforts” identified ten different types of demand reduction tactics used by law enforcement across the U.S.139 In general, criminal approaches include: reverse stings, shaming, auto seizure, driver’s license suspension, geographic restraining orders, community service, and sex buyer accountability programs. Non-criminal approaches by law enforcement include: surveillance cameras in active areas of commercial sex, public education/awareness campaigns, and neighborhood action targeting sex buyers.

There is renewed community interest in focusing on demand for commercial sex, particularly with the creation of the CEASE (Cities Empowered Against Sexual Exploitation) Network in 2014, which was funded by Demand Abolition until 2018. Alameda County served as a CEASE “city,” organizing a workgroup that explored and encouraged demand focused efforts around the region; these efforts extended into Santa Clara County. Community support demand efforts to combat sex trafficking, with growing belief that efforts are not effective if sex buyers are not being addressed. In addition to focusing on identification of survivors and prosecution of traffickers, efforts must be made to address sex buyers and the demand they create.140

1. Deterrence and Prevention

Santa Clara County focused on a number of demand focused initiatives that were rooted in prevention, or deterrence. Prevention and deterrence are under one heading because a deterrent effect prevents a criminal act from occurring. It can be argued that all prevention efforts are deterrent in nature in that they are trying to avoid harmful behavior or harmful impact on the individual. One challenge with prevention and deterrent efforts is to measure true impact. Generally, it takes time before prevention efforts can be realized. In the case of commercial sex, prevention efforts may be measured by a reduction
in demand - the number of sex buyers, or a reduction in the number of individuals selling sex. Given that prevalence data of either of these populations is limited, it will be difficult to measure changes in prevalence at the present time.

Most of the prevention and deterrence projects in Santa Clara County were funded through DFCS, then developed and implemented by community-based organizations, including Community Solutions, the YWCA, and the South Bay Coalition to End Human Trafficking and are described below.

a. **Family Toolkit**

Community Solutions created a number of projects that focused on prevention include a family toolkit and a parenting booklet. The family toolkit includes a few learning documents for families, as well as for advocates, intended to guide discussions with children on speaking about healthy relationships and exploitation. This includes tips on speaking to children younger than five, about appropriate touch and boundaries, as well as more direct conversations with adolescents about healthy relationships (domestic violence, sexual assault, trafficking). The booklet was developed in partnership with Savannah Sanders an advocate with lived and professional experience. Focus groups were done with community members in areas known for street level commercial sex. In fact, the booklet was created in response to this community that expressed concern that they are unable to explain to their children what they see happening on the street.

The parenting booklet was created for guardians who have youth in their care who are at high risk of exploitation, including those youth already involved with probation, child welfare, or who have other vulnerabilities such as living in an area with commercial sex. The booklet again helps parents have difficult conversations with youth and includes components for understanding the impact of trauma, not just on the youth, but trauma the guardians themselves have suffered and the impact of generational trauma.

Another project involved presentations to young men in juvenile hall provided by a survivor advocacy group. Presenters include two survivors of sex trafficking (male and female), a former exploiter, and
young men from the community who are doing intervention work. Presentations included discussion on trafficking, and also spoke to risks associated with exploitation and sex buying.

b. **Buyer Specific Engagement**

A citizen patrol group, ABOG (A Bunch of Guys), part of the EPIK Project out of Portland, Oregon, does specific engagement with sex buyers. By posting ads that appear to be selling sex and providing a phone number, ABOG responds to sex buyers calling to set up a “date.” ABOG participants, all male, have one on one conversations with these buyers to speak about the impacts of sex buying and the realities of sex trafficking. One unintended benefit of this project is due to the sheer volume of calls (particularly when Backpage was still operational) ABOG created a data system to log phone numbers of all incoming calls, even those they are unable to answer. By capturing these phone numbers, at the end of the year they are able to isolate repeat callers who are likely high frequency buyers. This information may be valuable to law enforcement who would like to target buyer approaches with regards to high frequency and low frequency buyers. In addition to speaking over the phone, EPIK also started sending texts to potential buyers. Using a comic book format, buyers would receive one page of a comic each day over the course of five days, speaking to the connection between sex buying and sex trafficking.

The Sheriff’s Department utilized EPIK’s text response during 2016 in the project “Johnny Be Good.” Law enforcement would set up ads on Backpage and once contacted by a buyer, they would send text messages to the potential buyer about consequences of sex buying and exploitation.

San Jose Police Department briefly initiated a pilot program which included placing patrol cars on the “track” where street level commercial sex is known to occur. This approach shows potential buyers the physical presence of law enforcement, which should have a deterrent effect to purchasing sex. The challenge is determining where to place the vehicle and one weakness is that sex workers can migrate to another area.
Reverse stings refer to operations that focus on sex buyers and are the most common demand reduction approach by law enforcement. Shively, et. al reports over 800 U.S. cities or counties identified have conducted reverse stings with street operations, and over 280 conducted reverse stings that are web-based. Usually operations include officers who pose as sex workers with street operations, or posting decoy ads in order to set up “dates” with buyers with web-based operations. These dates usually end up meeting in a hotel/motel.

Law enforcement report there are risks associated with reverse stings, especially when using an officer as a decoy. Risks associated with street level reverse stings include violence from potential buyers, traffickers or other sex workers. Given the operation occurs in a public space, it is harder to control the surroundings and law enforcement is at a distance from the location of the decoy in order to be covert. With web-based operations that are in a hotel, law enforcement is usually in a room next door, in close proximity but there is a risk of violence in having the decoy in the room with the buyer. Depending on the jurisdiction, law enforcement may attempt to have the buyer make a deal in the room with the decoy, or make another act in furtherance of solicitation. In San Francisco, as an example, the threshold is lower and the online communication alongside a buyer entering the hotel room for a “date” is sufficient for citation. In that case, the buyer is arrested and diverted to paying fines and the sex buyer accountability program.

Given the amount of risks involved, reverse stings require a number of personnel and are costly. The minority of female police officers also impacts that ability to conduct reverse stings. For some web-based reverse sting operations, female police officers are not needed and “dates” are set up via text message.

The Sheriff’s Department has focused on reverse stings periodically in the past few year, depending upon resources. When there are multiple investigations of traffickers occurring it is more difficult to dedicate resources to focus on buyers. Currently, both the Sheriff’s Department and San Jose Police Department report interest and a focus on buyers with anticipated buyer operations in the future.
Oakland Police Department reports that while they would like to conduct more buyer operations, street level operations are too risky given the escalating violence they have observed in street level commercial sex, and web-based is no longer impactful since the take down of Backpage.com. While other online sites have replaced Backpage.com in some sense, they are not seeing the volume that Backpage.com did, similarly they are not seeing the same amount of traffic (with regards to buyers). This means that web-based operations have fewer buyer interactions and subsequently are not seen as cost-effective for the agency.

d. **Sex Buyer Accountability programs**

Colloquially known as “John schools,” sex buyer accountability programs are generally for first-time offenders. They can be offered as a diversion program or a condition of sentence. In California, presumably because buying sex is a misdemeanor, sex buyer accountability programs tend to be a diversion option. In 2015 and 2016 Community Solutions contracted with the National Council on Crime and Delinquency (NCCD) to conduct a Literature Review on sex buyer accountability programs, and a subsequent Comparative Overview of three program to give context to the utility and potential of such programs. In general, sex buyer accountability programs are a day long in duration. Data and research regarding the impact and effectiveness of these programs is limited in part because there is so little enforcement against sex buyers. In other words, low recidivism rates may also reflect the low-level of risk associated with being arrested for buying sex.

There are two programs available in the region, one in Santa Clara County and one in San Francisco County. An in-depth overview of these programs is included in two reports by the National Council on Crime Delinquency. The Literature Review found very little research exists on effectiveness of sex buyer accountability programs. In speaking with professionals who run these programs and service providers who work on the issue of gender based violence, the sex buyer accountability programs that are only one day in duration cannot effectuate behavior change. The buyer program in Seattle, run by the Organization of Prostitution Survivors (OPS) is ten weeks long and has the most opportunity to begin the process of behavior change.

Related to “Dear John” letters ReportJohn.org is a community website that allows for anonymous reporting of sex buyers by way of license plates. Available in five language, this information gets sent anonymously to the local police department who can determine if enough information has been provided to prompt a letter sent to the registered car owner. Currently, San Jose and Oakland have the ability to use ReportJohn.org. In Oakland, the program had been operating manually through EBAYC a non-profit, and law enforcement reported it was useful in putting buyers on notice as well as noting trends regarding street level activity. Operating as a secondary means of communication with law enforcement, the website is especially useful in communities that prefer not to call law enforcement directly, or in cases where the community has found law enforcement does not respond immediately to call outs regarding solicitation. Oakland Police Department reported 100 tips were provided through the site from January – July 2017.

f. Vehicle seizure and License Suspension

Some jurisdictions have enacted ordinances that allow for vehicle seizures of sex buyers, in states that allow for such under criminal codes. There have been 100 communities that have seized automobiles for individuals soliciting prostitution as a misdemeanor or ordinance violation. In 2018 AB 1206 allowed for a two-year pilot program for vehicle seizures in Oakland, Los Angeles and Sacramento. Despite approval as a pilot project, the City of Oakland reports the costs associated with the vehicle seizure program are too high and they are no longer pursuing this approach. The City of Stockton attempted this approach and in 2007 it was overturned by the California State Supreme Court. Other jurisdictions using this approach have had legal challenges that claim it is excessive punishment exceeding misdemeanor penalty standards for prostitution charges.

License suspension is even less frequently used by jurisdictions. Nineteen communities have used this approach, including Richmond, California. Objections to this approach are similar to those of shaming
and vehicle seizure, that it constitutes excessive punishment and there are potential unintended consequences, for example license suspension can impact the individual’s family or children.

D. Focused on the Community

1. Community Harm Reduction

Street level prostitution may correlate to a number of different property and violent crimes in the area surrounding prostitution. These may include assaults, property damage, sex related paraphernalia, and dangerous drug related trash posing a risk to children. Law enforcement note the community harms associated with commercial sex lend weight to the “Broken Windows Theory” as justification for criminalization of sellers of sex. “By the 1960s and 1970s public concern in urban areas about prostitution shifted away from the protection of women from exploitation or the harms associated with prostitution and instead focused on reducing the visible signs of disorder that street prostitution caused in neighborhoods... The New York City Police Department’s order-maintenance policing effort in Times Square is one of the most dramatic examples of this approach. Combined with enforcement of zoning regulations that discouraged businesses associated with commercial sex such as strip clubs and hotels from operating in the area, increased enforcement drove prostitution to other less visible areas.”

The key setback of a broken windows approach to prostitution is that it does not address underlying intersections or vulnerabilities related to those engaging in commercial sex, thereby simply pushing the issue to another neighborhood, or forcing commercial sex to be more clandestine.

Community harm reduction efforts have cross over with prevention and deterrence approaches. The family toolkit, parenting booklet and billboard campaigns discussed on Page 68 help address community harms when those tools are implemented in communities where commercial sex is prevalent. ReportJohn.org, discussed above, is intended to impact community harm by providing community members with an online tool to report sex buyers anonymously to law enforcement.
2. Public Outreach

In terms of public awareness billboard campaigns were developed to prompt discussion and bring visibility to the impact sex buying has on sex trafficking (See Appendix E). The billboard campaigns were informed by a variety of focus groups including communities in areas with street level commercial sex, survivors, and anti-trafficking advocates. The second billboard campaign was produced in two languages – English and Spanish.

In 2017, Community Solutions partnered with the Coalition and journalist Celina Rodriguez, to launch a month-long campaign that was aired on Spanish radio. This included a series of interviews on KZSF 1370 AM La Kaliente, “BUENAS TARDES CON CELINA,” KXZM Radio Lazer 93.7 FM and commercials or PSA’s. Interviews focused on sex trafficking:

- Prostitution and associated crimes
- Intersections of domestic violence
- Sexual assault and human trafficking
- Healthy masculinity and cultural norms
- Law enforcement response to these issues
- Community perceptions about these issues
- Tools to combat the issue, like ReportJohn.org.

Interviewees included: community members, advocates, a survivor of sex trafficking, and prosecutors.

VI. Challenges and Recommendations to Identifying and Combatting Commercial Sex and Sex Trafficking

A. Identifying Trafficking Survivors

There are significant challenges in Identifying trafficking victims. Individuals who are trafficked have historically been criminalized by the justice system and society generally and are less likely to disclose to law enforcement based on negative interactions with and perceptions of law enforcement. While identifying CSEC does not require admission of exploitation, because knowing the youth is engaging in commercial sex is sufficient for services, identification of adult survivors heavily relies on self-disclosure. This is especially relevant in showing coercive factors required for criminal justice cases.
As discussed, there is significant grey area in determining if someone is a trafficking victim or a sex worker with agency. There are individuals who may be engaging in “survival sex,” addicted to drugs, homeless or transient, suffering mental illness, or experimenting. There are expectations regarding how a victim should behave. While less documented, hostility is a commonly reported as a reaction by sex workers, especially during the process of identification of trafficking by law enforcement or providers, despite this being a response to trauma.\textsuperscript{147}

Another challenge is how agencies treat trafficking victims who have a higher-level position with their trafficker in comparison the trafficker’s other victims. This person is commonly known as the “bottom bitch,” (hereinafter “bottom”) she/he often assists the trafficker in the way of exploitation, which may include grooming, recruiting, molding, training, supervising or regulating victims.\textsuperscript{148} The bottom is often a victim of the trafficker as well and while there are indications of a higher status than other victims in terms of having different “privileges” the other victims do not have, the bottom may also receive a higher level of discipline and violence from the trafficker.\textsuperscript{149} The bottom may also be a person more accessible for prosecution because victims feel safer naming and testifying against the bottom versus the trafficker. There are concerns about prosecuting BB’s as traffickers, when often many of their actions are a direct result of trafficking.

There are indications that some agencies “often arrest potential victims in an effort to take victims off the street and keep them safe until police can gather sufficient evidence against potential traffickers. Police report arresting victims and attempting to “flip them” by promising to drop or reduce prostitution charges in exchange for victims providing information and agreeing to testify against traffickers.”\textsuperscript{150} While there were no reports of law enforcement doing this in Santa Clara County, the sheer number of arrests, in San Jose, for commercial sex related crimes is of concern. This is especially concerning given over 40% of arrests in the past four years are of particularly vulnerable transitional age youth.
B. CSEC Specific Focus

1. System Response

While various systems have adopted specific policies that focus on trafficking, the majority focus on CSEC only. For example, SB 855 provides funding to ensure agencies are identifying and providing targeted services to CSEC. There are no state mandates that otherwise require coordinated response to trafficking, including adult sex trafficking and labor trafficking. Therefore, it is jurisdictional discretion in terms of approach to sex trafficking of adults and labor trafficking. Santa Clara County has a Law Enforcement protocol that is in the process of being updated that includes responses to adult sex trafficking and labor trafficking cases. There is also a law enforcement CSEC protocol for the County that involves other partners, which is also in the process of being updated. The protocol reportedly needs to provide more guidance to officers not specialized in trafficking to ensure they know what steps to take in potential cases of trafficking and CSEC.

Some note that law enforcement efforts that are funded and focused on sex trafficking often result in criminalization of sex workers that do not readily identify as trafficking survivors. Operations that are strictly focused on recovery of CSEC have lead to the arrest of sex workers. Law enforcement notes that during an operation if they speak to an individual they believe may be a victim, but do not identify, they are not able to release the individual in the area where the operation is continuing to happen in order to maintain some confidentiality about law enforcement activities. This unintended consequence extends to harming many TAY who are engaging in survival sex and are considered culpable adults by the criminal justice system, even if service providers are able to provide appropriate domestic violence, sexual assault or human trafficking services.

These types of efforts have an additional consequence of generating pushback from sex worker groups, and increasingly media responses focus on law enforcement’s impact on the safety of those engaging in the commercial sex industry with a particular focus on street level commercial sex. Common perception is that law enforcement is using the issue of trafficking to police prostitution in general. Data regarding prostitution related arrests lends weight to this perception.
2. Services

Services for survivors of trafficking are funded based on age and identification of trafficking. There are services for CSEC, adult victims of trafficking and funding that intersectionally applies including services for domestic violence or sexual assault. There are gaps in intersectionality, for example there are limited housing options for survivors with substance abuse issues, specifically with regards to Class A drugs such as heroin, meth, or cocaine, which require medical assistance for withdrawal. This also applies to survivors with severe PTSD symptoms, because many housing options available are shared living spaces, which may aggravate such symptoms.

With regards to other intersections identified, there are no reported services specifically for sex workers in the County who do not identify as a victim of some form of violence. There are services for the LGBTQ+ community, but there are a number of gaps in commercial sex harm reduction and human trafficking prevention services or outreach to this community. There are no programs that are specifically addressing the disproportionate representation of women of African Ancestry in commercial sex or sex trafficking. These gaps are further complicated given many of the sex workers in the County are coming from outside of Santa Clara County, so services offered may not be convenient to participants, or they may not be eligible due to residency requirements.

3. At-Risk

Another issue related to identifying and serving CSEC is the threshold for providing intensive services in child welfare is too high and the result is that youth that would benefit from services are being missed. Often youth will present a number of red flags or score high on a risk assessment (i.e. CSE-IT) but are not confirmed CSEC, or not quite suspected of being CSEC. Agencies, such as DFCS, provide specialized services to youth who are suspected or confirmed CSEC. Youth who are at-risk are not provided specialized services related to trafficking, and there are some indications DFCS is missing early intervention and prevention opportunities with some youth.
Juvenile probation had an issue in that most of the youth they see score high on the CSE-IT assessment tool and score as high risk for trafficking, which results in these youth receiving services who were not truly at high risk of being trafficked and the interventions were not beneficial. In order to remedy this, probation implemented a second round of assessments for those youth scoring high on the CSE-IT tool to determine if they should be referred for CSEC specific services. This approach may be fruitful for other agencies to better gauge the extent of services needed.

Other populations carry inherent risk for exploitation, such as homeless populations. Given the rates of gender-based violence in the population of homeless women, more needs to be done to minimize vulnerabilities. Currently Valley Healthcare Homeless Program is developing a protocol that will institutionalize screening for red flags of trafficking. With increased tools for screening, an increase in referrals is to be expected with the high level of risk embedded in this population, prompting immediate housing needs and potential intersections with substance use and mental health support.

C. Services Predicated on Identification of Gender Based Violence

Federal and state level funding is available for human trafficking, sexual assault, and domestic violence survivors. Funding streams at the local level is increasingly intersectional, in that agencies providing sexual assault and domestic violence services often serve trafficking survivors and funding is accommodating these intersections. Yet, there is a gap in funding for adults who do not identify as a survivor of trafficking, domestic violence, or sexual assault. These gaps impact transitional age youth and the LGBTQ+ community who do not identify as trafficking, but may be engaging in sex for survival. There is also a gap in services for adults who are engaging in commercial sex but do not identify as victims of trafficking, domestic violence or sexual assault.

Closely related, funding for harm reduction is limited with regards to human trafficking. Specifically, most funding necessitates abstaining from sex work, or abstaining from substance use while receiving services. Service providers recommend an approach that keeps options available for a client. As long as a client is taking active steps to reduce harm, agencies should be able to provide the comprehensive services to
encourage more ways to reduce harm. When services are refused to a client because they have returned to “the life”, or relapsed it can seriously impact the rapport building and trust the client has for the service provider, thereby impacting their continued engagement with services in the long term.

The Office for Victims of Crime provides funding to Coalitions through the Collaborative Model Grant, and most recently with direct and legal service providers only. OVC has emphasized that funds going to law enforcement efforts are to be directed towards identification of victims, not abatement or deterrent strategies (i.e. buyer ops).

There are a number of foundations focused on sex trafficking. Few of these foundations focus on commercial sex as a whole. Often funding is predicated upon the survivor abstaining from commercial sex, similar to federal and state funding. Demand Abolition was funded by the Hunt Foundation with the underlying premise that sex work is inherently harmful. This discouraged projects that allowed for harm reduction efforts, and created a presumption that everyone in sex work is a victim, which hampered outreach approaches to sex workers. This narrative is inherently problematic in terms of engaging sex workers who may not identify as a victim and resist the label.

1. Reintegration and Employment Development

There are few options for reintegration for survivors of human trafficking. Poverty and underemployment are a vulnerability to commercial sex and trafficking, and tied to other vulnerabilities, i.e. homelessness, yet there is little attention paid to addressing poverty. Few programs have financial success components, in part because service providers focus attention on crisis and stabilization. There are no specific employment options available for sex workers who do not identify as a victim of gender-based violence. Service providers note the difficulty in clients being able to transition into another job. When clients are young, the potential of pursuing education or a vocational degree is more feasible. For persons who are older than TAY, the prospect of doing so is slim. For transgender persons, the level of discrimination and harassment in the job market is still severe. Clients with a criminal record find it even harder to transition and find another position, and are not eligible for federal loans if they do decide to pursue education.
Some service providers note that while counseling has been made available to many survivors, many survivors do not see its benefit until they have reached a position of stability. One therapist noted that many of her clients have been out of commercial sex for years before they decide to pursue therapy and work through trauma. Any therapy utilized prior to this stabilization is to assist with coping strategies for symptoms associated with trauma, or to assist with case management. A behavioral health therapist reflected that they have difficulty building rapport with survivors because they are not focused on pursuing therapy and more interested in trying to live their life, finding a job, or stable housing. Part of the survivor’s stabilization comes from economic independence and being able to support a survivor in finding economic independence is becoming higher priority for many providers.

D. System Inconsistencies in Approach and/or Philosophy

1. Departmental Inconsistencies in Approach

There are a number of system inconsistencies that exist across various agencies, with results that impact potential survivors. In child welfare, the structure of the agency is such that the receiving center and staff trained to deal with CSEC are not under the same umbrella as the transformation team staff.

The Structured Decision Making Tool used by the Child Abuse and Neglect Center (CANC) does not have a specific CSEC protocol\(^n\). There are reported gaps when CANC receives calls related to CSEC in that high risk cases do not trigger an immediate response by DFCS. The determinations made by CANC do not match with the CSEC Transformation Team’s criteria, decision-making and response. The challenges with CANC is exacerbated with the current County’s CSEC protocol and mandatory state requirements, which require reporting CSEC as potential child abuse to child welfare. These gaps will continue to escalate with the increase in awareness across various systems. Currently, the County Office of Education is beginning work on a system wide protocol for trafficking. When teachers and school staffed are trained to identify CSEC, the system should be equipped to adequately respond. When CANC fails to respond adequately

\(^n\) The Structured Decision Making Tool is a state tool provided by California Department of Social Services. [https://www.cdss.ca.gov/inforesources/Child-Welfare-Protection/Structured-Decision-Making](https://www.cdss.ca.gov/inforesources/Child-Welfare-Protection/Structured-Decision-Making)
to these calls, not only is that reported youth potentially suffering additional harm, but the reporting party is discouraged from providing subsequent reports.

Law enforcement also has inconsistencies in approach to trafficking, that often relate to differences in philosophy and overall strategy. One department has four potential units have responded to commercial sex incidents: human trafficking, VICE, patrol and metro. Each unit has differing levels of training on trafficking and different respective approaches to commercial sex, which are often contradictory. For example, the human trafficking unit focuses on a victim centered approach, where they do not arrest a potential victim of trafficking, while patrol or metro may have a prostitution abatement focus and identification of victims is secondary and not actively pursued. This contradiction may in fact make it harder to identify victims because of the lack of consistency. An individual who may have been cited by patrol for prostitution will have difficulty believing the human trafficking detective when they state they will not be arresting them for prostitution and instead encourage them to accept services or disclose exploitation – the interaction will seem disingenuous. The inconsistency therefore impacts the credibility of those focused on identifying victims.

2. Out of County Connections

Many of the individuals engaging in commercial sex in Santa Clara County are residents of neighboring counties. Even if these individuals are interested in services, there will be difficulty in accessing them if they are not residents. Many programs are only eligible to residents, and for those that are open to out of county residents, it is difficult commuting for purpose of receiving services. The Valor program staff note this is a significant challenge for persons opting into the diversion program. The financial cost to participate in services or such diversion programs is higher with out of county residents when traffic times and transportation costs are factored in.
E. Legislative Limitations

1. Criminal Justice Focus on Sellers of Sex

Currently it is a misdemeanor to purchase sex, unless someone has been arrested multiple times for solicitation. No law enforcement agencies reported instances of arresting a sex buyer multiple times or charging them with a felony. With limited punishment related to sex buying, law enforcement and district attorneys are limited in their bargaining power. While there is a sex buyer accountability diversion program in the County, it is only one day long, which will not impact behavioral change. A longer program, such as the one hosted by the Organization of Prostitution Survivors in Seattle, Washington is ten weeks long and is a condition of sentence. Such a program is not currently feasible locally in California because there is little opportunity for prosecution to encourage participation. The potential punishment is minimal under current law, so a defendant would likely risk trial versus opting to take a two-month long program.

2. Traditional Approaches to Enforcement

Law enforcement reports the inability to detain CSEC poses a challenge to ensuring the safety and protection of a victim. Prior to 2016 law enforcement could detain a minor for solicitation and they report this approach at the very least ensured the youth was safe while in custody, as opposed to remaining vulnerable to their trafficker and exploiters. Now, without the option to detain youth, law enforcement is relying on other system partners to engage the youth and keep them safe and away from their trafficker or exploitation. Unfortunately, many jurisdictions report that youth are aware of law enforcement’s inability to detain them and know they can leave a child welfare drop in or receiving center soon after arrival. Often the drop in or receiving centers do not have staff specialized in working with CSEC and are unable to engage youth or encourage them to stay long enough to participate in services. Multiple officer reports that youth identified as CSEC will ask the officer how long they will be in the parking lot of the receiving center, promising to leave after law enforcement has left. This reality creates fatigue among law enforcement in that these youth are returning to situations of exploitation soon after law enforcement has intervened. Some law enforcement use associated crimes to hold youth in some cases to circumvent this challenge.
While some survivors report being arrested prompted change in their behavior and life approach, detention and criminalization of victims is not a sound policy approach, but a stop gap that should be replaced with services that engage and encourage participation. This approach is more in line with a victim centered, empowerment-based approach, similar to policies for serving domestic violence or sexual assault survivors.

F. Recommendations

1. Santa Clara County should explore philosophies embedded within varying models, such as the “Nordic model,” to institutionalize survivor centered, trauma informed policies in relation to human trafficking survivors.
2. Prioritize policies that create the most opportunity for survivors of trafficking to disclose exploitation and for sellers of sex to leave the sex trade.
3. Prioritize offering services to sex sellers that reduce harm and health vulnerabilities. Outreach strategies must be varied in order to be culturally responsive and adaptive to indoor and outdoor markets.
4. Ensure an intersectional intervention approach that acknowledges marginalization that relates to housing, employment opportunities, access to healthcare, and culturally responsive services. Develop an outreach plan that targets these populations, with an eye towards identifying Native persons.
5. This relationship should be explored further and an assessment should be done to explore the impact this relationship has on access to services and re-engagement in the commercial sex trade.
6. Explore programs that can be utilized by neighboring counties.
7. Consult and receive training on emerging online trends in the underground commercial sex economy, and adapt investigation techniques to increase recovery of victims of trafficking and expose potential trafficking networks. Ensure units investigating pornography are cross trained and working with human trafficking units to recover victims and identify networks.
8. Ensure agencies are cross trained within gang units to better identify intersections with trafficking. Advocate for a regional workgroup to begin sharing information on targeted industries, such as massage establishments and residential brothels.

9. Ensure agencies have consistent approaches that prioritize identification of trafficking survivors.

10. Harm reduction efforts should be prioritized across agencies and funding should allow for this approach.

11. There should be equitable focus on buyers of sex, especially with regards to the impact on trafficking survivors. Demand focused efforts should not be at the expense of potential victims, and do not need to operate in isolation from other strategies, i.e. harm reduction.

12. Ensure agencies are equipped to respond to youth at-risk of CSEC. This may be through outreach or prevention tools, or early intervention services.

13. Bolster advocacy statewide and encourage local support of prevention efforts that are intersectional in approach and target not only youth, but their families, and the larger community.
Appendix A

Appendix A: Federal & California State Human Trafficking Policy & Legislation

Human trafficking is illegal under international, federal, and California State law. Under federal and international law, human trafficking is defined as the use of force, fraud or coercion to exploit a person for commercial sex or for the purpose of subjecting a victim to involuntary servitude, debt bondage, or forced labor. The use of force or coercion can be direct and violent, or psychological.

As codified in the California Penal Code, anyone who deprives or violates the personal liberty of another with the intent to obtain forced labor or services, procure or sell the individual for commercial sex, or exploit the individual in obscene matter, is guilty of human trafficking.

Depriving or violating a person’s liberty includes ‘substantial and sustained restriction of another’s liberty accomplished through fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.’

However, sex trafficking of juveniles is separately defined as causing, inducing, persuading, or attempting to cause, induce or persuade a minor to engage in a commercial sex act.

Forced labor or services include ‘labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, or coercion, or equivalent conduct that would reasonably overbear the will of a person.’

Legislative Topics Key

- Funding Services
- Victim Rights
- Criminal Justice
- Commercially Sexually Exploited Children (CSEC)
- System Response
- Civil Litigation
- Public Awareness
- Labor Trafficking
AB 189 Autism Service Personnel as Mandated Reporters
This bill adds qualified autism service providers, qualified autism service professionals, and qualified autism service paraprofessionals to the list of mandated reporters required to report known or reasonably suspected child abuse or neglect.156

AB 218 Statute of Limitations for Damages Related to Childhood Sexual Assault
The statute of limitations to recover damages suffered as a result of childhood sexual abuse was raised to 22 years (up from 8 years) from the date the plaintiff turns 18 years or within 5 years (up from 3 years) from when the plaintiff discovers that the psychological injury or illness was caused by sexual abuse. The bill also expands the definition of “childhood sexual abuse,” updates the term to “childhood sexual assault,” provides for the recovery of treble damages against certain defendants, revives some time-lapsed claims, and prohibits confidentiality provisions within a settlement agreement arising from a claim of childhood sexual abuse.157

AB 303 Continuances for Mental Health Evaluations for Sexually Violent Predators
The Department of Corrections and Rehabilitation must refer a prisoner for evaluation by the Department of State Hospitals when the person may be a sexually violent predator, and the judicial process for the civil commitment of the predator includes the right to a jury trial. This bill establishes procedures for requesting and granting continuances in these trials.158

AB 538 Database for Sexual Assault Medical Evidentiary Examinations and Reporting Forms
AB 538 authorizes the Office of Emergency Services to use a paper or electronic version of the sexual assault examination form with a database to generate aggregate data for professional education and training.159

AB 602 Deceptive Recordings
This bill prohibits the creation of and intent to distribute a deceptive recording of a person engaging in a private, personal, or familial activity, such as intimate images of an identifiable person that was taken under circumstances in which the persons agreed or understood that the images were to remain private.160

AB 629 Compensation for Lost Income for Human Trafficking Victims
This bill authorizes the California Victim Compensation Board to provide a human trafficking victim with compensation for income lost because of the crime and to rely on evidence other than official employment documentation.161

AB 640 Sex Crimes Investigation and Prosecution
This bill adds sexual abuse cases involving victims with developmental disabilities to the Office of Emergency Services’ training course for district attorneys in the investigation and prosecution of sexual assault cases, child sexual exploitation cases, and child sexual abuse cases.162
**AB 662 Crimes against Minors**
This bill applies gender-neutral language, deletes “chaste character,” and makes other updates to the law against enticing an unmarried chaste female minor for the purpose of prostitution or illicit carnal connection with a man.163

**AB 865 Resource Families CSEC Training**
This bill adds information on the care of commercially sexually exploited children to the mandatory training for potential resource families. Resource families that care for children who are 10 years or older will attend an additional training on how to care for commercially sexually exploited children.164

**AB 917 Reduced Timeline for Processing U Visa & T Visa Law Enforcement Certification Requests**
This bill reduces the time state and local law enforcement agencies have to process U and T visa certification requests for whether a victim cooperated with the investigation or prosecution of a qualifying crime to within 30 days (previously 90 days) or 7 days (previously 14 days) if the person is in removal proceedings.165

**AB 1296 Tax Recovery in the Underground Economy Criminal Enforcement Program**
This bill establishes the Tax Recovery in the Underground Economy Criminal Enforcement Program in the Department of Justice to combat underground economic activities through a multiagency collaboration to pool resources, collaborate and share data, prosecute violations, and recover state revenue lost to the underground economy. Investigative teams will be located in Sacramento, Los Angeles, San Diego, the San Francisco Bay area, and Fresno. The bill authorizes the exchange of confidential information.166

**AB 1735 Human Trafficking Caseworker-Victim Privilege**
This bill allows a human trafficking victim’s caseworker to claim privilege, expands caseworker training, and requires caseworkers to have a year of experience working with victims or take 40 hours of training.167

**SB 17 Sanctions for Misuse of the Discovery Process**
This bill expresses the intent of the Legislature to enact legislation to require sanctions against a party who misuses the discovery process in a civil action, sets a 45-day window for turning over discoverable information, and requires sanctions for not responding to a document request within 7 days.168

**SB 22 Rapid Testing of Rape Kits**
SB 22 requires law enforcement to either submit sexual assault forensic evidence to a crime lab or ensure that a rapid turnaround DNA program is in place and require a crime
lab to either process the evidence or transmit the evidence to another crime lab for processing.\textsuperscript{169}

\textbf{SB 73 $10 Million in Continuing State Funding for Human Trafficking Services}

California’s 2019–20 fiscal year budget made appropriations for the support of state government, including $10 million in continuing funding for services for human trafficking survivors. Previous budgets included one-time appropriations, not ongoing.\textsuperscript{170}

\textbf{SB 136 Removal of Additional Sentencing for Previous Sentences for Non-Violent Felonies}

Previously, the law imposed an additional one-year term for each prior term for non-violent felonies. This bill deleted the provision that requires an additional one-year term.\textsuperscript{171}

\textbf{SB 141 Parole Board Required to Consider Risk Assessment of Sexually Violent Offenders}

This bill requires the Board of Parole Hearings to consider the results of a comprehensive risk assessment for sex offenders in considering parole, if an inmate has a prior conviction for a sexually violent offense.\textsuperscript{172}

\textbf{SB 233 Immunity from Arrest for Misdemeanor When Reporting Violent Crimes}

The bill prohibits the arrest of a person for a misdemeanor violation of sex work crimes, if that person is reporting sexual assault, human trafficking, stalking, robbery, assault, kidnapping, threats, blackmail, extortion, burglary, or another violent crime. Furthermore, possession of condoms in any amount is not probable cause for arrest for sex work crimes and cannot be introduced as evidence for a prostitution-related offense.\textsuperscript{173}

\textbf{SB 630 Local Ordinances to Enforce Human Trafficking Notice Posting Requirement}

This bill enables local jurisdictions to enact ordinances to ensure that mandated businesses are complying with the human trafficking notice posting requirements.\textsuperscript{174}

\textbf{HR 7 and SR 11 Human Trafficking Awareness Month}

These bills proclaimed January 2019 as Human Trafficking Awareness Month in California.\textsuperscript{175}

\textbf{2018}

\textbf{AB 998 Multidisciplinary Teams: Human Trafficking and Domestic Violence}

This bill authorizes nonprofit organizations to establish domestic violence and human trafficking multidisciplinary teams, and authorizes members to share confidential information with one another.\textsuperscript{176}

\textbf{AB 1735 10-Year Protective Orders for Human Trafficking and Pimping and Pandering}
This act added human trafficking with the intent to obtain forced labor or services and pimping and pandering without regard to whether the victim is a minor to the list of crimes that courts must consider issuing a restraining order for up to 10 years.  

**AB 1736 Recorded Hearsay as Evidence of Prior Inconsistent Statements**  
AB 1736 permits audio-recorded hearsay to be admissible in court if certain conditions are met.  

**AB 1746 Sexual Battery and Unlawful Sexual Intercourse in Multiple Jurisdictions**  
AB 1746 adds sexual battery and unlawful sexual intercourse to the list of offenses that if violations occur in multiple jurisdictions by the same defendant against the same victim, any of those jurisdictions may have jurisdiction for all the violations.  

**AB 1861 Use of Social Media and Mobile Device Applications Added to Human Trafficking Curriculum in Grades 7-12**  
The Education Code requires school districts to ensure that students in grades 7 to 12 receive information about human trafficking as part of sexual health education. AB 1861 requires that the information include how social media and mobile devices are used for human trafficking.  

**AB 1868 Optional Instruction on Sexually Suggestive and Explicit Materials**  
AB 1868 authorizes a school district to provide optional instruction, as part of sexual health education, regarding the risks of sharing explicit materials social media, mobile devices, or other digital media.  

**AB 2034 Human Trafficking Training for Transportation Employees**  
This bill requires public transportation agencies to train their employees on how to recognize and report human trafficking.  

**AB 2105 Punitive Damages for Commercial Sexual Exploitation of Minors**  
This bill permits fines or penalties, payable to the victim, of up to 3 times greater than authorized by statute in certain civil actions brought by minor or dependent victims of commercial sexual exploitation. A court, if no civil penalty is authorized by statute, may award $10,000 - $50,000 for each act of commercial sexual exploitation.  

**AB 2201 Exemption from Publication of Name Change for Human Trafficking Survivors**  
AB 2201 establishes that if a petitioner seeks a name change to avoid human trafficking and participates in the state’s address confidentiality program, the petition is exempt from the name-change publication requirement. The bill further exempts a petition filed on behalf of a minor from court filing fees.  

**AB 2243 Inadmissibility of Evidence of Prostitution in Cases of Violent Felonies**  
AB 2243 prohibits the admission of evidence that a victim or witness to extortion, stalking, or a violent felony has engaged in prostitution around the time of the crime in order to later prosecute for prostitution.
AB 2792 Termination of the Parent and Child Relationship in Cases of Severe Sexual Abuse
A minor may be declared free from parental custody if there is abandonment, neglect, or cruel treatment by a parent. Under AB 2792, a parent committing severe sexual abuse against the child establishes neglect or cruel treatment, thereby terminating the parent-child relationship. 186

AB 2992 Peace Officer Training on Commercial Sexual Exploitation of Children (CSEC)
AB 2992 requires the Commission on Peace Officer Standards and Training to develop a course on CSEC and human trafficking. This course includes recognizing CSEC indicators, interviewing techniques, resources, and issues of stigma. 187

ACR 140 Human Trafficking Awareness Month
ACR 140 established January 2018 as Human Trafficking Awareness Month in California. 188

SB 820 Non-Disclosure Provisions Prohibited in Certain Settlement Agreements
This bill prohibits non-disclosure provisions in settlement agreements for sexual assault, sexual harassment, or harassment or sex discrimination. 189

SB 970 Human Trafficking Awareness Training for Employees
SB 970 requires specified employers to provide at least 20 minutes of human trafficking training to employees who are likely to interact with victims. 190

SB 1104 Informing Parents of Human Trafficking Prevention Resources
SB 1104 requires schools to inform parents of human trafficking prevention resources. 191

SB 1194 Guest Privacy at Hotels and Other
This bill prohibits hotels from disclosing, producing, providing, releasing, transferring, disseminating, or otherwise communicating all or any part of a guest record to a third party, other than a California peace officer, without a court-issued subpoena, warrant, or order. 192

SB 1232 Filing Deadline for Application for Crime Victim Compensation
SB 1232 changes the law to require victims to file an application for compensation within 3 years after the victim turns 21 years old, rather than 18 years old. 193

SR 76 Human Trafficking Awareness Month
SR 76 established January 2018 as Human Trafficking Awareness Month in California. 194

California Allocated $5 Million for Services
The $5 million state budget allocation ensures that all victims of modern slavery in California receive the comprehensive services and support they need. The $5 million secured ensures continuing funding for the 11 programs funded in 2015 through 2018.195

🌟 ☑️ 🔴 The Federal Fight Online Sex Trafficking Act / Stop Enabling Sex Traffickers Act
These acts amended the Federal Communications Act to clarify that criminal and civil laws related to sexual exploitation of children or sex trafficking can be enforced against websites that promote and facilitate prostitution and sex trafficking.

▽ AB 260 Human Trafficking Notices in Hotels
This bill requires hotels, motels, and bed and breakfast inns to post the notice relating to slavery and human trafficking, including information related to service organizations.196

🔴 AB 1206 Vehicles: Impoundment Pilot Program
This bill authorized the cities of Los Angeles, Oakland, and Sacramento to conduct a 24-month pilot program in which law enforcement officers may remove a vehicle used in the commission, or attempted commission, of pimping, pandering, or solicitation of prostitution. These cities must offer a diversion program to sex workers cited or arrested in the course of the pilot program.197

▽ ☑️ AB 1227 Human Trafficking Prevention Education and Training Act
This bill requires middle schools and high schools to teach include information about sexual abuse and to include information about human trafficking (instead of just sex trafficking) as part of sexual health education.198

🔴 ☑️ AB 1384 Victims of Violent Crimes: Trauma Recovery Center
The California Victim Compensation Board administers a program to award grants to trauma recovery centers. This bill recognizes the Trauma Recovery Center at San Francisco General Hospital as the State Pilot Trauma Recovery Center (State Pilot TRC). The bill would require the board to use the evidence-informed Integrated Trauma Recovery Services model developed by the State Pilot TRC when it provides grants to trauma recovery centers.199

▽ SB 225 Posting Human Trafficking Notices
Specified businesses are required to post a notice that contains information relating to slavery and human trafficking. This bill requires the notice to include a number to text for services and support.200

🔴 SB 230 Evidence: Commercial Sexual Offenses
Evidence of a defendant’s character is inadmissible when proving conduct on a specified occasion, except when the defendant is accused of a sexual offense and there is evidence of another sexual offense. This bill adds human trafficking sexual offenses to the definition of “sexual offense.” 201
SB 597 Human Trafficking: Victim Confidentiality
Victims of domestic violence, sexual assault, or stalking may be apply to have their address withheld from public records. This bill makes the program available to victims of human trafficking and their household members, excluding the perpetrator. 202

California AB 1761 Human Trafficking Victims Affirmative Defense
AB 1761 puts in place an additional protection for victims to ensure they are not convicted of crimes their traffickers force them to commit. It also strengthens the ability of the judicial system to describe the complexity of this crime more fully through expert testimony.203

California Allocated $10 Million for Services and Training
The $10 million state budget allocation ensures that all victims of modern slavery in California receive the comprehensive services and support they need. This request will also ensure that appropriate training and technical assistance is provided to first responders and service providers, and that California can better understand the prevalence of human trafficking in our state and how to create effective programs to support victims.204

California AB 2498 Greater Privacy Protections & Increased Penalties for Human Trafficking
This bill provides greater privacy protections for victims as well as added criminal penalties for human traffickers.205 The protections include withholding the names and images of a victim of human trafficking and that victim’s immediate family from disclosure, prohibiting law enforcement from disclosing the names, addresses, and images of victims of human trafficking and their immediate family, and requiring law enforcement to inform victims of human trafficking of these rights.

California AB 1276 Closed-Circuit T.V. Testimony for Young Human Trafficking Victims
Authorizes a minor, 15 years of age or younger, to testify at trial out of the presence of the defendant and jury by way of closed-circuit television in human trafficking cases.206

California SB 1322 Precludes Minors from Being Arrested or Charged with Prostitution
SB 1322 precludes minors from being arrested and charged for prostitution or solicitation. This bill recognizes the harmful effects of arresting victims for their perpetrators’ crime, including further traumatization, disconnection from the community and school, and vulnerability to violence.207

California SB 1064 CSEC Program Extension and CSEC Definition Expansion
This bill indefinitely extends a pilot program for Commercially Sexually Exploited Children (CSEC), and expands the legal definition of “commercially sexually exploited minor” to account for minors who have been arrested for engaging in prostitution because they have been proven to be commercially exploited.208
AB 2027 Affirmative Defense for Human Trafficking Victims
AB 1761 creates an affirmative defense based on the crime being directly related to the trafficking for all non-violent, non-serious, non-trafficking offenses. It also creates a standard to ensure that expert testimony is admissible in trafficking cases.\(^{209}\)

SB 823 Human Trafficking Victims Can Vacate Nonviolent Convictions from Time of Trafficking
SB 823 allows a survivor of human trafficking to confidentially erase nonviolent arrests and convictions that came on their record during the time of the trafficking.\(^{210}\)

AB 1684 Department of Fair Employment and Housing to Investigate Human Trafficking Claims
AB 1648 adds human trafficking claims under the umbrella of claims that the Department of Fair Employment and Housing has power to investigate.\(^{211}\)

AB 2221 County Victim Witness Assistance Center for Minor Human Trafficking Victims
AB 2221 requires that minor victims of human trafficking be given support from the county’s Victim Witness Assistance Center if they are involved in a case that has a human trafficking charge. However, only eligible minors who want to receive assistance will receive it from the Center.\(^{212}\)

AB 1678 Provision of Free Incident Reports to Victims
Victims of domestic violence were previously entitled to a free copy of an incident report of domestic violence when they request one. Victims of sexual assault, stalking, human trafficking, and elder abuse may also get a free incident report under AB 1678 if they are over 12 years old, and if they make the request within two years of the crime.\(^{213}\)

AB 1702 Reunification Services for Parents of CSEC
When children were taken from their parents in dependency hearings, the law previously required that reunification services be given to parents. Under AB 1702, however, parents who knowingly participate in or permit sexual exploitation of their child are not necessarily entitled to reunification services. If a court does not order reunification services for that reason, the court must decide what the most appropriate plan for the child is at another hearing.\(^{214}\)

SB 1129 Removal of Minimum Sentence for Multiple Prostitution Convictions
SB 1129 removes the minimum required jail times for individuals convicted of prostitution multiple times.\(^{215}\)

SB 420 Distinguishing Among Prostitution-Related Crimes
The law previously did not distinguish between sex buyers and sex sellers or between purchasing sex from a minor and purchasing sex from an adult. SB 420 makes a distinction between individuals who purchase sex with adults, purchase sex with minors, or sell sex to provide better data.\(^{216}\)
2015

- **Federal Survivors of Human Trafficking Empowerment Act**
  The Survivors of Human Trafficking Empowerment Act established the U.S. Advisory Council on Human Trafficking. The Council consists of 8-14 survivors of human trafficking from diverse backgrounds and experiences, in order to provide recommendations to the U.S. Government to strengthen U.S. federal policy and programming efforts that reflect the best practices in the field.²¹⁷

- **California SB 84 Allocated $10 Million for Services and Training**
  The $10 million state budget allocation ensures that all victims of modern slavery in California receive the comprehensive services and support they need. This request will also ensure appropriate training and technical assistance is provided to first responders and service providers, and that California can better understand the prevalence of human trafficking in our state and how to create effective programs to support victims.²¹⁸

- **California AB 15 Civil Action for Human Trafficking**
  This bill requires a civil action for human trafficking to be commenced within 7 years of the victim attaining freedom or within 10 years after the plaintiff turns 18 if the victim was a minor.²¹⁹

- **California SB 794 Protocols for CSEC, Runaway, and Missing Foster Youth**
  In 2015, California passed Senate Bill (SB) 794 which enacted key provisions of the federal Preventing Sex Trafficking and Strengthening Families Act of 2014 (HR 4980). Importantly, SB 794 requires counties develop two sets of protocols for CSEC and for youth who runaway or go missing from foster care. To comply with the CSEC provisions, county child welfare and probation departments must have implemented CSEC policies and procedures by September 29, 2016. Under these policies and procedures, social workers and probation officers must: Identify children who are receiving child welfare services who are, or are at risk of becoming, victims of commercial sexual exploitation; Document these children in the Child Welfare Services/Case Management System (CWS/ CMS) and any other agency record as determined by the county; Determine appropriate services for these children; and Receive relevant training in the identification, documentation, and determination of appropriate services for these children. In addition to these policies and procedures, counties also must comply with new reporting requirements for CSEC and missing children.²²⁰

2014

- **California SB 477 Foreign Labor Contracts Registration**
  SB477 seeks to prevent human trafficking and forced labor of foreign workers resulting from the exploitative and abusive practices of foreign labor contractors by requiring registration of foreign labor contractors and the use of registered contractors by employers seeking to hire foreign workers. In addition, the bill requires full and fair disclosure of working conditions to foreign workers.²²¹
California SB 855 Expands the Definition of Commercially Sexually Exploited Child
Senate Bill 855 stated if an individual suspects a youth is being sexually trafficked or the youth receives food or shelter in exchange for, or who is paid to perform, sexual acts and whose parent or guardian failed to, or was unable to, protect the child falls within the 300 WI provision and is defined as Commercially Sexually Exploited Child (CSEC). It clarifies that a child who is sexually trafficked is a victim of child abuse, and mandated reporters are now obligated to report any suspicions of sexual exploitation to Child Protective Services. This bill also created a new funding stream allowing counties to op-into if they County creates a CSEC program to serve and identify youth through a multiple-disciplinary approach and providers funding to train staff, develop interagency protocols, and provide services. Counties that elect to participate in the CSEC Program are required to develop an interagency protocol that utilizes a multidisciplinary response for identifying and serving CSEC and at-risk children. The California Child Welfare Council’s CSEC Action Team has produced a number of resources to help counties implement the program and meet other related requirements including SB 794.

Federal Trafficking Victims Protection Reauthorization Act of 2013
The Trafficking Victims Protection Reauthorization Act of 2013 (TVPRA 2013), which was passed as an amendment to the Violence Against Women Act, establishes and strengthens programs to ensure that U.S. citizens do not purchase products made by victims of human trafficking, and to prevent child marriage. It also puts into place emergency response provisions within the State Department to respond quickly to disaster areas and crises where people are particularly susceptible to being trafficked. The reauthorization also strengthens collaboration with state and local law enforcement to ease charging and prosecuting traffickers. The TVPRA directly funds the majority of the victim service programs in the United States through the Department of Justice and the Department of Health and Human Services.

Federal PROTECT Act - Sex Tourism, Amber Alert, and Housing
The Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act of 2003, established enhanced penalties for individuals engaging in sex tourism with children, both within the United States and in other countries; The Amber Alert System and other methods of alerting the public to missing, exploited, and abducted children; and grants for transitional housing for child victims of sexual assault.

Sections 1701-1708 of the National Defense Authorization Act seeks to limit human trafficking associated with government contractors. These sections give governmental agencies the ability to terminate, without penalty, any contract or grant with any organization or individual that engages in human trafficking. It also requires that all grants and contracts worth more than $500,000 have a written certification that no party in the transaction will engage in or support human trafficking practices. It also establishes
methods of reporting and investigating possible instances of human trafficking associated with government contracts and grants.\(^{230}\)

### California SB 1193 Human Trafficking Public Posting Requirements

SB 1193 requires the public posting of the phone numbers of the National Human Trafficking Hotline and the Coalition to Abolish Slavery & Trafficking’s Hotline in mass transit hubs, emergency rooms, bars and other establishments.\(^{231}\)

### California SB 657 Transparency in Supply Chains Act

SB 657 is a crucial step in reducing the demand for slave made products by providing a tool for consumers, including businesses, to know how products are made. By providing a mechanism for concerned consumers to be able to compare company efforts on forced labor and human trafficking in their “supply chains,” people can make more informed decisions to spend their hard-earned dollars with the more responsible company.\(^{232}\)

### California Proposition 35: Californians against Sexual Exploitation Act

This initiative increases criminal penalties for human trafficking to 15-years-to-life and fines of up to $1,500,000, requires persons convicted of trafficking to register as sex offenders, prohibits evidence that victim engaged in sexual conduct from being used against victim in court proceedings, and requires human trafficking training for police officers. The fines collected are to be used for victim services and law enforcement.\(^{233}\)

### Federal Customs and Facilitations and Trade Enforcement Act Banned Imports Made with Slave Labor

The Customs, Facilitations, and Trade Enforcement Act\(^{234}\) amended the prohibition on importing goods made with slave or indentured labor to include goods made through the use of coercion or goods made by victims of human trafficking.\(^{235}\)

### Federal Trafficking Victims Protection Reauthorization Act Added Human Trafficking Prevention and Expanded Protections

The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008)\(^{236}\) included several new prevention strategies, including requirements that the government provide information about workers’ rights to all people applying for work and education-based visas. It also put in place new systems to gather and report human trafficking data. In addition to the prevention strategies, the 2008 reauthorization expanded the protections available with the T visa, and required that all unaccompanied alien children be screened as potential victims of human trafficking. This reauthorization also enhanced criminal sanctions against traffickers, and expanded definitions of various types of trafficking to make prosecution easier.\(^{237}\)

### California AB 22 Trafficking Victims Protection Act Made Human Trafficking Illegal in California

AB 22 was California’s first anti-trafficking law. This law made human trafficking for forced labor or services a felony crime punishable by a sentence of 3, 4, or 5 years in state prison.
and 4, 6, or 8 years in prison for trafficking a minor. The CTVPA only addresses criminal prosecution, victim protection, and prevention efforts.\textsuperscript{238}

\textbf{Federal Trafficking Victims Protection Reauthorization Act of 2005}

The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA of 2005)\textsuperscript{239} included a pilot program for sheltering minors who are survivors of human trafficking, and grant programs to assist state and local law enforcement combat trafficking. It also expanded measures to combat trafficking internationally, including provisions to fight sex tourism, a $5 million pilot program for treatment of trafficking victims abroad, and a strengthening of the regulation over government contracts to ensure they are not made with individuals or organizations that promote or engage in human trafficking.\textsuperscript{240}

\textbf{Federal Trafficking Victims Protection Reauthorization Act of 2003}

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA of 2003)\textsuperscript{241} established a federal, civil right of action for trafficking victims to sue their traffickers. It also added human trafficking to the list of crimes that can be charged under the Racketeering Influenced Corrupt Organizations (RICO) statute. It also included additional provisions for protection of victims and their families from deportation, and a requirement that the Attorney General report to Congress annually on the activities of the U.S. government in the fight against trafficking.\textsuperscript{242}

\textbf{Federal Trafficking Victims Protection Act Made Human Trafficking a Federal Crime}

The Trafficking Victims Protection Act (TVPA) of 2000\textsuperscript{243} is the cornerstone of Federal human trafficking legislation, and established several methods of prosecuting traffickers, preventing human trafficking, and protecting victims and survivors of trafficking. The act establishes human trafficking and related offenses as federal crimes, and attaches severe penalties to them. It also mandates restitution be paid to victims of human trafficking. It further works to prevent trafficking by establishing the Office to Monitor and Combat Trafficking in Persons, which is required to publish a Trafficking In Persons (TIP) report each year. The TIP report describes and ranks the efforts of countries to combat human trafficking. The act also established the Interagency Task Force to Monitor and Combat Trafficking, which assists in the implementation of the TVPA. The TVPA protects victims and survivors of human trafficking by establishing the T visa, which allows victims of human trafficking, and their families to become temporary U.S. residents and eligible to become permanent residents after three years.\textsuperscript{244}

\textbf{1970 Federal Racketeering Influenced Corrupt Organizations Act (RICO)}

RICO\textsuperscript{245} was created to be a tool for the federal government to prosecute members of organized crime for racketeering offenses. Federal human trafficking offenses are included as racketeering offenses, thus giving law enforcement a powerful tool when prosecuting traffickers.\textsuperscript{246}

\textbf{1930 Federal Tariff Act Banned Imports from Forced Labor}
The Tariff Act of 1930 prohibits importing goods made with forced or indentured labor.

**1910 Federal Mann Act Criminalized the Transport of Minors and Coerced Adults across State Lines for the Purpose of Engaging in Commercial Sex**

The Mann Act of 1910, as amended in 1978 and again in 1986, criminalizes the transportation of minors, and the coercion of adults to travel across state lines or to foreign countries, for the purposes of engaging commercial sex. Both crimes are punishable with up to twenty years in prison, with enhanced punishment options for the transportation of a minor.

**1865 13th Amendment of the US Constitution**

“Modern prohibitions of human trafficking in the United States have their roots in the 13th Amendment to the U.S. Constitution, which barred slavery and involuntary servitude in 1865.”

Section I of the Thirteenth Amendment reads: “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”
Appendix B

Appendix B: Stages of Change

© http://batonrougecounseling.net/stages-change/
Appendix C

Appendix C: Prostitution’s Hierarchy of Coercion

There is a pyramid-like hierarchy in prostitution. At the top are a very few women - only about 2% of all those in prostitution - who service a few men for a lot of money in a short period of time in their lives- and then they get out, or are bought by one man who supports them.

In the middle section of the pyramid are women who need the money, who have had the option of sexual exploitation as a survival mechanism made very real to them by a history of incest or childhood sexual abuse, and who may face an emergency situation such as escaping a violent partner, losing a job, or having children with special needs. These are about 38% of all those in prostitution.

The farther you descend in the hierarchy, the greater the numbers of women in prostitution, and the less meaningful any discussion of choice is for them. At the bottom of the hierarchy are the largest number of women in prostitution, about 60%. These are the poorest people in prostitution. They have enormously restricted life choices. Many of these women have been physically coerced into prostitution.

Sources are from a large number of peer-reviewed scientific studies, from agencies who offer direct services to those in prostitution and to those who seek to escape it, and from policy experts.

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Appendix D

Appendix D: Human Trafficking Power and Control Wheel

Note: this wheel was adapted from the Domestic Abuse Intervention Project’s Duluth Model Power and Control Wheel, available at www.theduluthmodel.org

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Appendix E: Billboard Campaign 2018

- **Pimps Exploit Human Beings.** Sex buyers support pimps.
  
  Learn more: SouthBayEndTrafficking.org

- **Sex Buyers Create the Demand.** Human beings are the supply.
  
  Learn more: SouthBayEndTrafficking.org

- **Buying Sex Is a Crime.** Being bought is a tragedy.
  
  Learn more: SouthBayEndTrafficking.org

- **Comprar Sexo es un Crimen.** El ser comprado es una tragedia.
  
  Learn more: SouthBayEndTrafficking.org

- **Los Padrones Explotan a Seres Humanos.** Quienes compran sexo mantienen a los padrones.
  
  Aprende más: SouthBayEndTrafficking.org

- **Quienes Compran Sexo Crean la Demanda.** Los seres humanos la suplen.
  
  Aprende más: SouthBayEndTrafficking.org
EndNotes

2. (Farrell A. C., 2015) Pg 214
3. Shifting the Burden, UK, pg. 14
5. (All-Party Parliamentary Group on Prostitution and the Global Sex Trade, March 2014) Pg. 15
9. (All-Party Parliamentary Group on Prostitution and the Global Sex Trade, March 2014) Pg. 15
10. (Cho, 2013)
15. Id. at Page 3.
16. (Cho, 2013)
17. Id. at page 8.
21. H.E.A.T. Watch
24. H.E.A.T. Watch
27. http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=305&lawCode=WIC
28. CAST LA Legislative Conference Calls, Retrieved Oct. 5, 2018
30. https://www.westcoastcc.org/cse-it/
31. (Walker, 2013) Appendix B.
32. (Dank, April 2017) Pg. 10
35. “Environmental violence, as defined here, includes: (a) the violence between people(s) over natural resources; (b) environmental policies that can be violent against people; (c) the secondary violence from the natural world as a result of human degradation of the earth; and (d) direct damage to the environment by humans that threatens their own survival.” https://www.sciencedirect.com/science/article/pii/S1359178916300945?via%3Dihub
36. (Quadara, 2008) Pg. 11
41. (Quadara, 2008) Pg. 5
Commercial Sex in New York City


https://youthlaw.org/wp

known as commercially sexually exploited children.”

acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, prote

as describe

https://www.urmc.rochester.edu/encyc

“Almost 40% of IPA survivors report being sexually assaulted by their current/former intimate partner.” (Community Solutions, 2019) Pg. 7.


Urban Institute Page 11 Consequences of Policing Prostitution: An Analysis of Individuals Arrested and Prosecuted for Commercial Sex in New York City


(Rafael, February 2017)

Urban Institute Page 12, see also

SB 855 amends W&I Code Section 300(b)(2) to read: “The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.”


https://www.cdss.ca.gov/inforesources/Foster-Care/Extended-Foster-Care-AB-12 Retrieved Nov. 11, 2019

From DFCS report 2018

https://www.cdss.ca.gov/inforesources/Foster-Care/Extended-Foster-Care-AB-12 Retrieved Nov. 11, 2019

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(Covenant House, May 2013) Pg. 4-5.

Id.

(Id.

(NCAI Policy Research Center, 2016)
Physically abusive acts include: pushing/shoving, biting, pinching, hair pulling, spanking, open hand slapping, gagging, choking, threatening with a weapon, kicking, closed fist punching, bondage/confining, using weapons, torturing/mutilating, other. Verbal aggression includes: insulting, threatening, and using coercive language.

Owens, (2012)

(Dhanoa, 2018)

(Lederer) Pg. 8.
(Lederer) Pg. 2.
(Lederer) Pg. 4-5.
(Carpenter, April 2016) Pg. 111.
Id. at page 114.
(Tripp, 2016)
(Farrell A. C., 2015) Pg 213.
http://leadingcounty.org
https://www.courtinnovation.org/areas-of-focus/human-trafficking
https://www.npr.org/2019/10/07/767850332/a-pioneering-columbus-courtroom-helps-trafficking-victims-find-hope
(California Department of Social Services, Child Trafficking Response Unit, 2018) Pg. 6. See also, (Hickle, December 2015)
See https://stjamesinfirmary.org/
(California Department of Social Services, Child Trafficking Response Unit, 2018) Pg. 7. See also, (Hickle, December 2015)
(Hickle, December 2015)
(California Department of Social Services, Child Trafficking Response Unit, 2018) Pg. 7.
129 (Quadara, 2008) Pg. 28.
130 https://stjamesinfirmary.org/wordpress/?page_id=3767
131 (Quadara, 2008) Pg. 28
132 (Quadara, 2008) Pg. 29.
133 Department of Family and Children Services Report, See Appendix F
138 See https://www.thorn.org/spotlight/ and https://www.marinusanalytics.com/traffic-jam
140 (Shively, M., Kliorys, K., Wheeler, K., Hunt, D. Abt Associates Inc., 2012) Pg. 4
142 (National Council on Crime and Delinquency, June 2017)
144 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1206
146 (Farrell A. C., 2015) Pg. 212
147 (Zimmerman, July 2011)
148 (Roe-Sepowitz, April 2017) Pg. 11.
149 https://truckersagainsttrafficking.org/6-24-2014-the-bottom-b/
150 (Farrell A. S., 2015)
152 United Nations Trafficking in Persons:
154 California Penal Code Section 236.1 - False Imprisonment & Human Trafficking:
   http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=236.1&lawCode=PEN
155 California Department of Justice: https://oag.ca.gov/human-trafficking/what-is
157 Ibid.
158 Ibid.
159 Ibid.
160 Ibid.
161 Ibid.
162 Ibid.
163 Ibid.
164 Ibid.
165 Ibid.
166 Ibid.
167 Ibid.
168 Ibid.
169 Ibid.
170 Ibid.
171 Ibid.
172 Ibid.
173 Ibid.
174 Ibid.
175 Ibid.
176 CAST LA 2018 Legislation:
177 Ibid.
178 Ibid.
179 Ibid.
180 Ibid.
181 Ibid.
182 Ibid.
CAST LA Policy: [http://www.castla.org/policy](http://www.castla.org/policy)


National Center for Youth Law: [http://www.youthlaw.org/](http://www.youthlaw.org/)


CAST LA Policy: [http://www.castla.org/policy](http://www.castla.org/policy)


Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today: [http://hdl.loc.gov/loc.uscongress/legislation.108s151](http://hdl.loc.gov/loc.uscongress/legislation.108s151)

According to the National Center for Youth Law, the California Child Welfare Council’s CSEC Action Team, with the support and leadership of NCYL, has produced a number of resources to help counties implement SB 794 and meet other related requirements including the CSEC Program (SB 855). [http://www.youthlaw.org/](http://www.youthlaw.org/)

CAST LA Policy: [http://www.castla.org/policy](http://www.castla.org/policy)

National Center for Youth Law: [http://www.youthlaw.org/](http://www.youthlaw.org/)


CAST LA Policy: [http://www.castla.org/policy](http://www.castla.org/policy)


Proposition 35 Summary: [http://www.smartvoter.org/2012/11/06/ca/state/prop/35/](http://www.smartvoter.org/2012/11/06/ca/state/prop/35/)
Customs and Facilitations and Trade Enforcement Act: [http://thomas.loc.gov/cgi-bin/bdquery/z?d111:s.01631:](http://thomas.loc.gov/cgi-bin/bdquery/z?d111:s.01631:)


U.S. Code Ch. 96 - Racketeer Influenced and Corrupt Organizations, [https://www.law.cornell.edu/uscode/text/18/part-I/chapter-96](https://www.law.cornell.edu/uscode/text/18/part-I/chapter-96)


U.S. Department of Justice [https://www.justice.gov/humantrafficking/key-legislation](https://www.justice.gov/humantrafficking/key-legislation)