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Combating Human Trafficking: Assessing Justice Systems Response

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Combating Human Trafficking: Assessing Justice Systems Response

By

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ABSTRACT

The purpose of this thesis was to examine and assess justice system efforts in combating human trafficking; more specifically sex trafficking. The goal was to understand how efforts of combating human trafficking started, how they progressed, and to explore where efforts remain at this time. Additionally, the goal was to identify and understand what is working in law enforcement, human trafficking courts, and policy. This included identifying issues such as disparity in law enforcement reporting, lack of recognition of sex trafficking, and outdated policies. To assess these issues, this project utilized human trafficking data available through the FBI Uniform Crime Report (UCR), including human trafficking arrests and clearance rates, as well as reported tip data from the National Human Trafficking Hotline (NHTH) between the years of 2015-2018. Additionally, this analysis incorporated Polaris Project's report card scores on the quality of criminal record relief laws addressing adult sex trafficking survivors. The four years of data were analyzed to identify relationships between law enforcement arrests and NHTH reporting, as well as to assess whether or not there was a relationship in clearance rates and the quality of criminal record relief laws. An important finding included identifying that there is a positive moderate to strong relationship between NHTH reporting and law enforcement arrests, indicating that there is a likelihood that law enforcement recognition and awareness is improving. Another important finding includes a considerable issue in lack of data reported within human trafficking courts where there is an inability to assess the effect they may have on clearance rates. Criminal record relief laws appear to have no relationship with clearance rates, leaving open questions regarding how many survivors are left with a criminal record from sex trafficking victimization. This tells us that there is much more work needed to be done to improve justice system responses in figuring out strategically where resources need to be

allocated to improve coverage as well as identifying ways to improve a more centralized form of

reporting for human trafficking data.

Chapter 1

What is Human Trafficking

Introduction

Human trafficking today is not only a growing domestic problem, but also an international problem. Human trafficking has been found to be to be the third-most profitable criminal activity, with an estimated $9.5 billion generated each year (Holman, 2008). This is just under drugs and weapons trafficking and is estimated to surpass the two within 10 years (Holman, 2008). However, it is estimated that human trafficking only takes second to drug trafficking (Forensic Magazine, 2019). Louise Shelly, the founder and director of the Terrorism, Transnational Crime and Corruption Center in Washington, D.C., stated "the United States is the only advanced democracy in the world where the majority of human trafficking victims are its own citizens" (Drasin, 2012, pp. 429-493). Why is this such a huge growing domestic and international issue? The broad field of what human trafficking consists of will be approached in this paper, to include the problem it has caused and why it is a problem, the efforts to combat human trafficking taking place, and an outlook of human trafficking in New York State. To summarize the atrocity of the crime, Chief Judge Jonathan Lippman of New York State said, "human trafficking is a crime that inflicts terrible harm on the most vulnerable members of society: victims of abuse, the poor, children, runaways, immigrants. It is in every sense a form of modern-day slavery" (Rashbaum, 2013, p. A22).

What Occurs from Human Trafficking?

Countries all around the world are starting to take action to fight against human trafficking. Human trafficking has been seen as the modern or contemporary version of slavery.

Human trafficking is something that is a great and terrible exploitation of human rights all around the world. While human trafficking is addressed by the United Nations with treaties and protocols, several nations are putting in an effort to combat human trafficking by creating their own domestic legislation to fight against the issue. The United States started its effort with the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) (Holman, 2008, p. 101). The VTVPA defined sex trafficking as "the recruitment, harboring, provision, or obtaining of a person for the purpose of a commercial sex act" (p.101). As a result of the United States Congress passing the Trafficking Victims Protection Act of 2000, human trafficking began to be recognized by federal and state governments (Interagency Task Force Implementation of the 2007 Law, 2008).

 The United States' Department of State is responsible for submitting a report every year to the U.S. Congress on the efforts of foreign government to eliminate trafficking, known as the Trafficking in Persons report (TIP) (US Department of State, 2007). However, with the creation of the Trafficking Victims Protection Act of 2000 (TVPA) the TVPA allows for proper methods to be taken in the US and covers multiple criteria known as the 'Three P's' required to be established. These criteria include **prosecution** of those involved in trafficking of victims, **prevention**, and aiding and **protecting** victims of trafficking. TVPA defines "severe forms of trafficking" as:

"1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or 2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery." (US Department of State, 2007)

The TVPA was the first to start national effort in confronting the issue of human trafficking and adjusted how the law handles human trafficking cases by creating special service programs to aid victims and provided for enhanced punishments for crimes of human trafficking (Interagency Task Force Implementation of the 2007 Law, 2008).

Human trafficking can happen anywhere in the world. Holman stated that this is a problem in every region of the world, not just in the poor and undeveloped areas (p.101). Around the time that the TVPA had been passed by Congress, the U.S. Department of State had estimated that around 800,000 people were trafficked for sex and labor purposes across international borders every year. However, this number is much higher than it really is due to leaving out victims that had experiences that did not match up with the federal definition of human trafficking, or those who were trafficked within their own country (Interagency Task Force Implementation of the 2007 Law, 2008, p. 4). Other reasons may include psychological aspects such as the fear of being reported to law enforcement due to threats of deportation and concerns of lack of recognition of being victim (or the lack of recognition that oneself is a victim). Of the 800,000 trafficked victims, the U.S. Department of State found that around 560,000 women and children are trafficked and forced into commercial sex trade amongst international borders (Holman, 2008). Eighty percent of the 600,000 to 800,000 trafficking victims are women and girls (Drasin, 2012, p. 497). Like the Interagency Task Force, Holman believes that these numbers are just a conservative estimate. Holman says that the numbers are actually put into the millions range by non-governmental organizations (NGOs). To put things in perspective, the Polaris Project reports for the year 2018, that 23,078 victims were identified within the United States alone (Polaris Project, 2020)

What happens

What exactly occurs when people are forced into human trafficking? One form of human trafficking is forced labor. This occurs when workers appear to be vulnerable, typically those that are involved in crime, corruption, unemployment, poverty, political conflict, or the cultural acceptance of the practice. Forced labor can either be trafficking people to other countries for work, or within their own countries. Victims of forced labor are stuck in a position of involuntary servitude; threatened with abuse or abused; provided with misconceptions of the legal process or forced into labor believing that there was harm to be done against him or her or against someone they knew. Females are coerced into forced labor portion through sexual and physical abuse (Global Freedom Center, 2010).

Those who are citizens of the United States, more specifically, women and children, find themselves more likely forced into the sex trafficking through street-based prostitution, escort services (to include online based escort advertisement websites and online classified, i.e. Craigslist), strip clubs and brothels (Drasin, 2012, p. 492). Several of those who are trafficked across international borders in sex trade often find themselves to be sold into brothels. While there are a lot of brothels internationally found to be illegal, there are still several brothels where it is perfectly legal to operate. Brothels primarily work in the concept of supply and demand. Demands for trafficked women are often in countries with legal sex industries, and the supply comes from those where it is easy to recruit the people, more specifically in economically depressed countries (Holman, 2008, p. 102). Holman later goes on to say that these victims were typically tricked into the sex trade industry, by thinking that they were going to a new country for better employment opportunities, jobs such as being a model or a nanny. Once the victim is tricked and captured, the traffickers will make threats of sexual abuse, starvation, torture,

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physical abuse, and imprisonment in order to keep their victim from leaving (Drasin, 2012, p. 492).

While addressing the threat of human trafficking is vitally important, it is equally as important in addressing the proper care of victims, which is highlighted by the TVPA. Victims of human trafficking face several health concerns as a result of being labor or sex trafficked. Because human trafficking consists of force, fraud, or coercion, it entails physical and psychological abuse (p. 33, 2012). Sex trafficking consists of violence and abuse, and in a 2006 study (as cited by the U.S. Department of State, 2007, p. 33), it was found that 95 percent of the women trafficked for prostitution in the European Union were either forced into or violently assaulted into a sexual act. Of the 95 percent, over 60 percent of these women were reported to have gynecological infections, back pain, neurological symptoms, gastrointestinal problems, and/or fatigue, and this does not even begin to cover the psychological consequences. The psychological consequences that come of this are anxiety, depression, and dissociate and personality disorders. In addition to physical and psychological impacts, human trafficking also has a huge impact on the spreading of the worldwide epidemic, HIV/AIDS (p. 35, 2007).

The Three Tiers

The Department of State, in their Trafficking in Person (TIP) report, analyzes anti-trafficking efforts worldwide. The TIP use two steps. The first step is finding the number of victims, and the second step is a tier placement. Following the guidelines of the TVPA, there are three tiers in which the Department analyzes whether or not the government of the nation they are assessing complies with the TVPA's minimum standards in eliminating human trafficking (p. 12).

The TVPA three tiers are:

"Tier 1, countries whose government fully comply with the Trafficking Victims Protection Act's minimum standards. Tier 2, countries whose government do not fully comply with the TVPA's minimum standards but are making significant efforts to bring themselves in to compliance with those standards. Tier 3, countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so" (p. 27).

Any country that is on the second tier is placed on what is called a Tier 2 watch list with expectations to revise and change laws to correctly address the threat of human trafficking as well as establishing appropriate victim centered services.

New York State

Before the enactment of the Human Trafficking Law, New York had one of the worst problems in human trafficking (Interagency Task Force Implementation of the 2007 Law, 2008). New York adopted their first criminal statute against human trafficking in 2007 (Polaris Project, 2014) . However, to address why New York is one of the worst in the nation can be attributed to its major ports, diverse population, and long international border, which makes it easy to traffic. The only other states that compete with New York and are actually higher in numbers are California, Florida, and Texas. Before the Human Trafficking Law had been established, victims of sex trafficking were treated as criminals, and victims of labor trafficking were deported if they were illegal immigrants. The Human Trafficking Law was passed unanimously and is seen as a landmark legislation in 2007. What this law contains are three things as cited by the Interagency Task force of NYS,

"1) Establishing new crimes that specify the methods of inducement and control used by traffickers to exploit their victims;

2) Providing services to human trafficking victims who are unable to obtain assistance elsewhere due to their immigration status; and

3) Creating an interagency task force to coordinate the implementation of the new law and the State's efforts to combat human trafficking (p.7)."

To stay in accordance with the Human Trafficking law, amendments and repeals were to be made on Section 230.03 regarding patronizing a prostitute in the fourth degree in addition to adding sections reflecting sex trafficking. According to Penal Law §230.34, it is considered as a class B nonviolent felony if a person is found guilty of sex trafficking and can get a maximum sentence of 25 years in prison. The changes in Section 230 reflects the recognizance of the relationship between prostitution and sex trafficking, in that those initially recognized as sex workers and/or prostitutes in law enforcement eyes, should be assessed as possible victims. The requirements of the Human Trafficking law allow for protecting and providing services to victims by recognizing elements of force, fraud or coercion in the act (pp.7-8, 2008).

In addition to fighting sex trafficking, the Human Trafficking Law also focuses on labor trafficking or forced labor, as Penal Law §135.35 states that,

"A person is guilty of labor trafficking, a class D nonviolent felony carrying a maximum sentence of seven years imprisonment, if he/she compels or induces a person to engage in labor, or recruits, entices, harbors, or transports a person to engage in labor, by intentionally using one of the means specified (p.10, 2008)."

Victims of either sex trafficking or labor trafficking are not required to be U.S. citizens in order for the Human Trafficking Law to qualify. This law will protect anyone who has been trafficked within the states or to the states (p.10).

The Human Trafficking Law is not the only law that addresses the issues of human trafficking in New York State, there are three other laws that had been passed by the New York Legislature in the recent years and they are the Anti-Human Trafficking Act, 2008 (criminalizes sex and labor trafficking), the Safe Harbor for Exploited Children Act, 2008 (anyone under age 18 that gets arrested with prostitution charges will then be treated as a "sexually exploited child"), and lastly a law that allows victims of trafficking to have their prostitution convictions wiped (Rashbaum, 2013). The last law mentioned is known to be an amendment to New York State Criminal Procedure Law section 440.10 that allows for the wiping clean of records of those who were victims in commercial sex trafficking. Creating a criminal relief law directed towards victims of sex trafficking in New York is the first of its kind throughout the United States (Drasin, 2012, p. 489). This will be assessed further later on in the data and analysis section.

New York State is approaching the issue of human trafficking head on through developing a new type of court. Chief Judge Lippman of the State of New York was quoted on the following, "cities across the countries have special trafficking courts, Baltimore, Columbus, Phoenix, and West Palm Beach, Fl. However, New York State's new courts represent the first statewide system to deal with human trafficking" (Rashbaum, 2013). There are courts in each of the five boroughs of New York City, and six others developed ranging from Long Island to Buffalo (one of which is located in Rochester, NY) that were all up and running by the end of October 2013.

Victim Centered Approach

While putting in efforts domestically and internationally in the battle against human trafficking, victim care has become more and more important. New York State is one of the first states to develop a law that allows for victims of human trafficking to wipe their records clean of prostitution charges. When the TVPA of 2000 was passed, it emphasized that a victim-centered approach is necessary. Taking on a victim centered approach increased the government's activity in three things. The first, prosecution, which consisted of four new criminal offenses added to the United States Criminal code (Drasin, 2012).

1) Forced labor;

2) Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor;

3) Sex trafficking of children by force, fraud, or coercion; and

4) Unlawful conduct with respect to documents in furtherance of trafficking. (p. 495)

The second, protection, providing any victims of trafficking with benefits and services from any federal or state program, some of which may include a temporary visa, and allowing family members of the victim with a temporary visa to stay with the victim. The third is prevention, in which an Interagency Task Force (ITF) was formed with the purpose of monitoring and combatting human trafficking (p. 495).

Derived from the Trafficking Victims Protection Reauthorization Act of 2005, (TVPRA of 2005), Congress created the Pilot Program for Residential Rehabilitative Facilities for Victims of Trafficking. This program provides services and benefits for its victims along with providing counseling services for any psychological issues, classes to help develop independent living skills, and providing shelter (p. 497). Congress has also set up a grant program, which aids in

developing non-profit organizations that specializes in victim services, and organizations by state and local governments.

The *Trafficking in Persons* report emphasized the importance of putting the focus of the victims' needs first and the assurance of their protection. What occurs from this is that victims are more likely to come forward about their story, and what they were forced to go through, and this allows them to be an asset as a powerful witness in court (US Department of State, 2007, p. 37). By the victims becoming great witnesses, not only are they gaining justice for their own personal needs but helping out with the state itself that is currently attempting to eliminate the acts of human trafficking. It is a matter of restoring that balance, to give the victim a voice again.

Conclusion

Human trafficking is not just a wide scale organized criminal activity, it also consists of the ability to inflict damage to nations, families, and the individual themselves. It is currently a continuous international issue in which New York, the United States, and the rest of the world will continue to monitor and combat every day. As the world continues to do so, lives of these victims have been lost (dead or alive). It is important to bring life back into those who survived human trafficking whether it was sex trafficking or forced labor. It is essential to bring a voice back to these victims, as it is important in combating human trafficking. The stronger the voice of the victim, the less those guilty of trafficking can fight back with in court. This allows for giving the surviving victims a chance at living again.

Chapter 2

Integrated Theoretical Approach in Explaining Sex Trafficking

Theoretical Introduction

The sex trade has existed throughout history. Prostitution (commercial sex), sex work, and sex trafficking are currently a multibillion-dollar industry worldwide in which countless women, men and children are victimized worldwide (Edlund & Korn, 2001, p. 3). In order to develop a theory that would enlighten the knowledge base concerning the various aspects of the sex trade, it is necessary to extract concepts from several theories including Strain, General Strain (Agnew, 1992; Agnew, 2006), and Labeling. Due to the sensitivity of the sex trade, there are very limited theories that specifically explain commercial sex and human trafficking, however there are several theories that can be integrated to explain why commercial sex and human trafficking as a whole exist. The sex trade includes prostitution and sex trafficking under its umbrella, so we must assume some aspects of theories that explain causes of prostitution will apply to sex trafficking, from the victim perspective, as well as obtaining concepts from alternative theories to explain the exploitative factor (traffickers). In order to elaborate further about the sex trade, portions of different theories will be extracted in order to create an integrated theory. The integrated theory will incorporate and blend key points from the Strain and General Strain theories, the Demand theory (Hughes, 2004), variations originating from the Labeling theory, variations of Motivation theories (Hughes, 2004), and the Theory of Prostitution (Edlund & Korn, 2001). Using these theories, I will develop a more encompassing perspective on the exploitative relationship between trafficker and victim as well as whether or not demand controls the exploitation. First, this paper will discuss strains that can cause criminal behaviors.

General Strain Theory

Strain theory (Merton, 1938) focuses on the strain and frustration that are caused by the gap between universal success goals and the available legitimate means to accomplish those goals. When specific goals are unable to be achieved by individuals of different class, illegitimate ways are used to achieve these goals (Belknap, 2007, p. 37). This concept takes a look at social class in which an upper-class individual is more likely to achieve these goals due to their class status while an individual of a lower class is less likely to achieve these goals. When there is strain to achieve a certain goal is blocked, this causes frustration. It is possible that a means for a path for illegal behaviors to achieve these goals may appear tempting, and as a result this could be a motivator to engage in illegal activities. The theory focuses on economic deprivation and poverty as a cause of strain leading to criminal acts. However, Agnew (1992) takes an updated approach to this theory in his General Strain Theory.

The General Strain Theory (GST) is a socio-psychological theory and places attention on what drives an individual to commit acts of crime and/or delinquency, enhancing upon Strain Theory by indicating that economic strain is no longer the primary source or motivating factor of strain and expands upon other causal factors (Agnew, 1992). Agnew argues is the GST expands further into other sources of strains, and that the GST identifies that there are different forms of coping strategies (cognitive, behavioral, and emotional) (p. 69). In addition to how different types of strain impacts an individual's driving force into criminality or illicit acts, the chosen coping mechanism will have a significant impact in the result. For example, the GST identifies that that strain caused by hardships such as victimization is theorized to cause dysfunctional coping as a result from interacting with negative emotions, for example, accepting responsibility for adversity by believing or convincing one's self the victimizing act was deserved,

inadvertently minimizing the victimizing act (p.69). Cognitive coping strategies typically include statements such as "it's not that bad; it's not important; I deserve it", as a way to minimize and ignore the experience (p. 67). Because traffickers are considered to be charming and manipulative, it makes this form of strain likely exploited for recruitment.

Agnew argues that the early forms of the strain theories by Merton only placed focus on one type of negative relationship, a relationship that prevents the individual from achieving positively valued goals (p. 50). Agnew expands upon the theory and states that in addition to economic deprivation leading to the failure of achieving the positively valued goal, strain will also likely come from the inability to leave a painful situation through legal means. The GST is divided into three parts based on different types of negative relationships (p. 50).

1) Keeping someone from achieving positively valued goals.

2) Remove and/or threaten to remove that positively valued incentives the individual owns.

3) Present and/or threaten the individual with harm or a form of incentive with negative connotation.

Agnew later predicts that there is a path from childhood abuse to victimization later in life, and that because of the childhood abuse, the individual is adversely conditioned by this strain (Agnew, 2006). Essentially, experiencing childhood strain causes the individual to be more susceptible to victimization later in life. In addition to childhood strain, there are additional strains that females are likely to experience over their male counterparts. In experiencing strain, the drive in which the criminal path is taken depending on the individual's gender likely differs. Cohen's (1955) argument in his *Delinquent Boys*, which consists of four total pages that looks at female delinquents, is that girls are only capable of displaying delinquent acts through the act of sexual promiscuity (Faith, 2011). Promiscuity is rarely, if ever, attributed as a factor contributing

to male delinquent acts. Like Robert Merton, Cohen believed that the type of strain females experienced were within the family. Young women were looking for a man to marry and to care for them, whereas the type of strains males feel is more focused on success through the means of a good job and an income. Belknap makes an argument from the concept, as cited in (Naffine, 1987), that females are confined to the family and experience no pressure to achieve success in society.

Although, when considering familial strain in females, a lack of positive family relationships can create a path for a juvenile to engage in early and unsafe sexual activity (Wilson & Widom, 2010). This kind of familial strain is important to identify in that juveniles do not necessarily have the toolbox to encounter sexual situations, leading to the possibility of fear of rejection and abandonment, as well as strong emotions without the skillset in knowing how to navigate the emotions. However, shifting to child maltreatment as a form of strain, Reid (2011) conducted a study and found that there was an association between the strain of maltreatment and running away. Minors were more likely to run from their homes or placement if they were neglected or abused, as well at being higher risk for early sexual initiation, crime, school issues, and running away (Reid, 2011; Wilson & Widom, 2010). Additional findings also confirmed what previous studies have found, in that there is a correlation with early use of substances as a result from maltreatment (Reid J. A., 2011). It is already known, that minors with abuse history that are runaways are typically targeted for recruitment, as well as an easy opportunity for further exploitation when an individual may have a substance dependency. In fact, Wilson and Widom (2010) found that early on initiation of sexual behavior, as a result of maltreatment at an early age, was the single strongest predictor of a victim's entry into prostitution.

A test of GST administered by Broidy (2001) found that both sexes did experience anger from strain. Nevertheless, females were more likely to not only feel anger, but other emotions including insecurity, fear, disappointment, worthlessness, guilt, worry, and depression (p. 31). These negative emotions are most likely caused by the more enduring pressure these females experience through the restrictions placed upon their lives and their choices. Women are also more likely to experience abuse whether it is physical, sexual, or emotional (p. 31). This is something to take into consideration when looking at prostitution, and how some, not all, choose to take this path as a means of survival. To reiterate, while different forms of strain can be used as an explanation behind the driving force of why someone would resort to commercial sex as a form of survival, the very same vulnerability opens up opportunities for traffickers to disguise themselves as a rescuer, resulting in exploitation of the individual and their vulnerability. As discussed in the section of this paper defining human trafficking, we learn that a good number of human trafficking victims come from the vulnerable population groups and experiencing abuse and negative emotions enhances the vulnerability factor. For example, runaway juveniles are highly vulnerable to exploitation when they have no source of income in order to provide for basic needs such as food, shelter, transportation.

Additional strains that an individual, more specifically transgender female youth, will encounter are family rejections, unstable housing experiences and economic instability (as a result from family rejection), as well as at school harassment and discrimination leading to school dropouts (Grossman & D'Augelli, 2006). Wilson et al. (2009) found that in a study sample of 151 transgender female youth, 67% had engaged in sex work at one point, ranging from ages 15-24 years old. Of the sample group, Wilson et al. found the higher reporting economic and interpersonal adversity to be: " 70% an income less than $1000 a month, 43% had

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a history of homelessness, 52% reported having been in the correctional system, and 49% reported experiencing problems finding employment due to their gender identity or gender presentation" as well as facing strain of potentially having HIV (p. 905). Eighty-seven percent of the sample group admitted to having been tested for HIV at least once, and within the 87%, 19% self-reported to being HIV positive. Within these percentages listed, there are increased odds of transgender female youth engaging in sex work if they had dropped out of school, as well as a higher percentage of those with history of sex work to test positive for HIV (23%) in comparison to those who had never engaged in sex work (6%). The strains transgender female youth experience may likely open opportunities for targeted exploitation.

This strain they struggle from, creates an easy opportunity for traffickers to come in, likely those classified as 'Romeo' pimps to play the role of a caring boyfriend/girlfriend with false promises of love and safety (Reid J. A., 2011). In fact, in a study Reid (2016) conducted evaluates variables that contribute to trafficker entrapment schemes, in other words, forms of strains traffickers are likely to exploit. Reid (2016) identified common strains to be those experiencing homelessness, lack of luxuries or attention growing up, drug dependency, or lack of access to money. An example of a trafficker exploiting the strain of homelessness or rather of a foster child unhappy with their placement, the study discussed a foster child reporting that "she was forced to have sex for her pimp because she needed him to take her places and needed a place to live" (p. 499). In another example, when experiencing the strain of being a teen mother, the individual stated that her trafficker is her "best friend" (trafficker tactic) and that "she is in the life because she wants to provide clothes and personal items for herself and her son" (p. 499). Traffickers will continue to exploit vulnerabilities to entrap and enmesh and will continue to profit from such as long as demand remains.

Demand Theory

The Demand Theory can be used to address the concept of supply and demand in the human trafficking world. The demand from purchasers to buy commercial sex must be provided by a facilitator, in this case a trafficker. The crime of human trafficking is money-driven, and the economic factor will be highlighted under economic theory in this paper. Without available demand, the trafficker will not profit from their exploitative crimes. Hughes (2004) describes demand as three separate components when applied to commercial sex acts. The first component comprises of the purchasers, also known as clients or 'johns' whether male or female who seek to purchase commercial sex from an individual whether they are adult or juvenile males or females (p. 2). Hughes describes the first component as essential to the crime, that without the purchasers, the crime would not exist. The second component comprises of the individual or organization that supply the demand and profits from the demand (traffickers, pimps, madams) (p.2). The last component consists of the culture in which creates the demand through the normalization of prostitution, providing an image that prostitution is a victimless crime (p. 2-3). The important factor to the third component is that this is an indirect cause to demand. Lederer (2006) argues similarly of the demand theory, in its application to commercialized sex and/or sex trafficking by creating a model of the sex trafficking market, described to be a triangle of activity or exploitation, see figure 1. The triangle shows a system of balance, in that the three components depicted in the figure below, cannot exist without one another. While focusing on 'supply', it may not have a significant impact on the driving factor of human trafficking activities, as Lederer (2006) suggests that demand has to be targeted to reduce human trafficking activities through stronger enforcement upon the purchasers (p. 299).

Figure 1

Distribution ← Traffickers

Providers of commercial sex (victims of sex trafficking)

Supply

Purchasers (customers or 'Johns')

Demand

Enablers
Business (legitimate) that facilitate trafficking activities, i.e. advertisers, hotels, taxi drivers.

Lederer, 2006
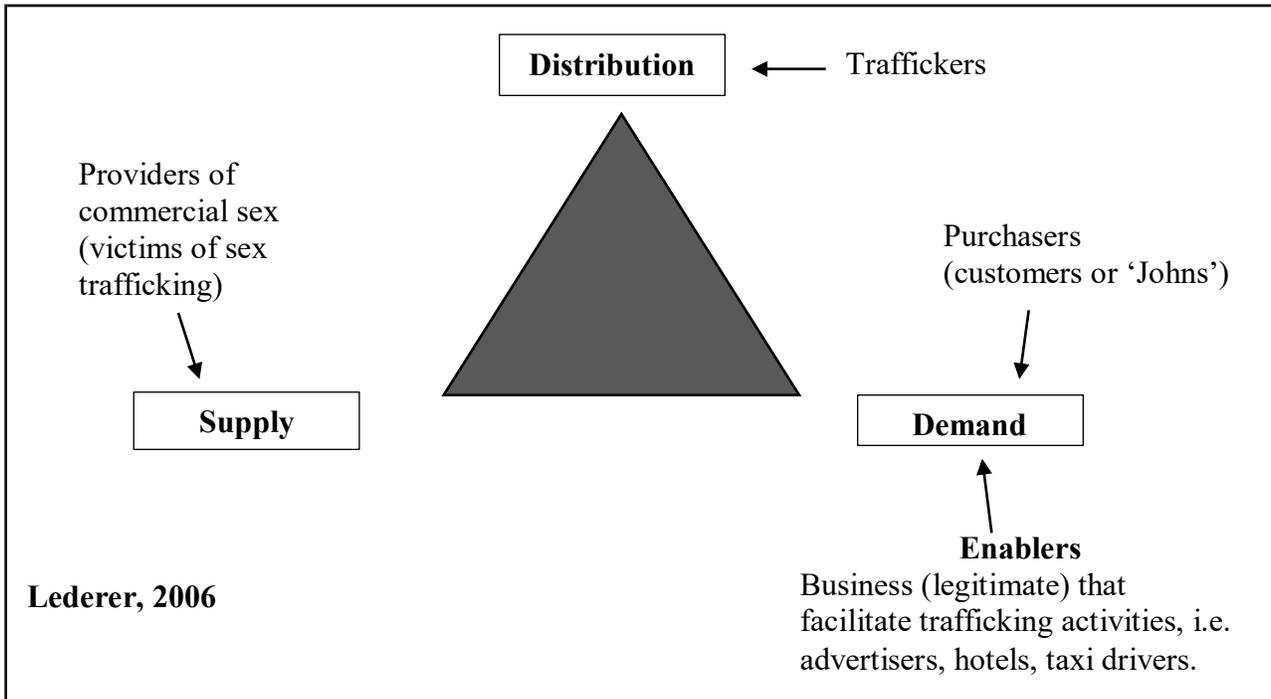
The three components are supported and enabled by society's ingrained cultural approach of women and children as second-class status in society (Hughes, 2004). Lanier (2012) also identifies that demand does not distinguish the difference between prostitution and sex trafficking, in other words identifying the difference between a voluntary sex worker and that of victim of trafficking (p. 559).

Economic Theory and Social Exchange Theory

In addition to addressing demand, there is an economic drive for traffickers when focusing on the exploitation factor of human trafficking whether it is labor or sex. Traffickers are profiteers of trafficking activities. Witt and Witte (2006) argue that the economic theory explains the drive of criminal activity stems from the individual's mindset that a higher economic gain will come from illicit acts than that of legitimate work as cited in (Lanier, 2012). This creates the

concept of a low risk, high profit model in that the individual accepts the low possibility of criminal charges and prosecution as being outweighed by the benefit of profit that comes from the criminal act being conducted (p. 562). Additionally, what can be expected is that when this concept is applied to traffickers, the victimization of those they are trafficking is outweighed by the large amounts of money they earn weekly as a result of the sexual exploitation conducted.

Emerson (1976) argues that while the Social Exchange Theory (SET) has similar or borrowed concepts from the economic theory, its differences lie in that SET forms its foundation around imperfect social structures whereas the economic theory loses its power by not considering the social structures (p. 351). An economic relationship functions under a distribution rule of equality whereas SET utilizes bargaining power (or social power) as a way to influence the other individual to do what they want (p. 354). Preble (2020) states that the SET is based on interpersonal exchanges from interdependent relationships between two individuals and is controlled by a give and receive foundation. Essentially, SET explains that in a relationship, there is an established power in which it can provide a reward or be coercive (p. 7). In other words, someone who has an established power, can use one form of power to provide and gift one another, a positive reinforcement and through another form of power, provide punishment or negative reinforcement. When considering the shift and balances of power between a trafficker-victim dynamic, the SET is important to consider as to why a trafficker may utilize different elements of trafficking to recruit a victim, whether one victim can be recruited through false promises of love, gifts or shelter, whereas another victim may be more prone to recruitment through coercive methods of threats.

Theory of Prostitution

A supply and demand model is merely only an aspect of a driving force behind sex trafficking or prostitution. Additional factors are to be considered as to why the sex trade exist, and in one argument, the cause is placed upon patriarchal views regarding traditional roles of men and women. However, despite prostitution being considered one of the world's oldest profession, there are arguments made indicating prostitution may pose a threat to the patriarchal ideals. Edlund and Korn (2001) argued, "…female capacity of opportunistic promiscuity threatens the very premise of the patriarchal family, and the sex worker is a constant reminder of this ability" (p. 22). In other words, the more a female engages in sex with men other than her husband, the less she can be trusted as a wife. Edlund and Korn (2001) believed prostitution to be considered as a necessary compromise, because sex workers are able to serve men in a way that would be viewed as unacceptable or scandalous if done by his wife (p. 22).

Additionally, Edlund and Korn (2001) argues that as an alternative to marriage, prostitution offers itself as a high paid and low skill occupation for females. However, Weitzer (2005) argues there are theoretical issues when approaching theory of prostitution in that the theory itself utilizes radical feminism. The radical feminism approach to theory of prostitution essentially sees prostitution as a way for men to establish dominance over women, much like what Edlund and Korn argues. Weitzer (2005) argues that when including radical feminism into the theory of prostitution, problematic terms such as 'prostituted women', 'sex slaves' or 'survivors' indicate that prostitution is not done by choice. This can be problematic in that it will blur the lines between sex trafficking and prostitution. The concept entirely negates that women do voluntarily engage in sex work, allowing themselves to have control over their own sexual interactions (p. 213). Another problematic approach includes the lack of conversation about men

and transgender individuals. Most theories on prostitution and sex trafficking focuses majorly on females, as sex workers or victims (p. 220). While there is still a risk of exploitation, differences of males engaging in prostitution from females include defining their sexual orientation, less likely to have childhood abuse, less likely to have a pimp or coerced into prostitution, will have greater control over working conditions, and less likely to engage in prostitution as a means to survive (Aggleton, 1999; Boyer, 1989; Valera et Al., 2001; Weinberg, 1985; Weinberg et al.,1999; West, 1993, as cited in Weitzer, 2005).At this time, there remains to be limited research explaining why transgender women engage in sex work (Weitzer, 2005; Wilson et al., 2009). Simon et al (2000) conducted a Los Angeles based study and found that of the sample group of transgender women (n=244), 50% of the group reported sex work as a primary source of recent income (as cited in Wilson et al., 2009). While it is widely discussed in that women engage in sex work to maintain substance dependency, economic support or rather control over sexual experiences, transgender females face difficulty in obtaining jobs facing discrimination, more so, individuals who have difficulty "passing" as a biological female (p. 903).

Economic needs or money is a strong driving factor in which an individual is willing to engage in sex work that otherwise would not be as easily earned in a '9 to 5' job, or to make up for lack of income due to difficulty in obtaining a job. To show an example of how profitable commercial sex can be, a 1998 newspaper report in Sweden had reported that sex workers could earn as high as high as SEK 14,000 (USD 17,500) per day (p. 3). Not only does this amount of money present possible motivation in a higher earning potential than working a nine to five job, but rather it can be used as an enticing factor that traffickers may utilize during recruitment. This brings the question of whether or not going into prostitution is by force or is voluntary. Several believe it to be that bondage or slavery is what brings women into prostitution, an actual sex

trade (p. 23). There is a substantial fraction of prostitution in which these women went into it voluntarily because the income is attractive, however this does not consider those who were tricked into prostitution. There is a difference between women who work as a sex worker because they like the money and do not mind the work, from those who are desperate for any way to get money or a form of commodity and are targeted for their vulnerability and are recruited.

Examples of engaging in prostitution as a result of a dependency on a commodity includes that of a substance dependency. In one study, early use of crack cocaine and consistent use of crack cocaine has a driving relationship with as well as the ability to predict involvement in commercial sexual exploitation (Golder & Logan, 2007). A sex worker's psychological well-being can aid in identifying a level of 'success', in assessing what level of control do they have over working conditions, what level of access to resources do they have to protection, what kind of client base they may have based on which level of hierarchy of prostitution they reside in (Weitzer, New Directions in research on prostitution, 2005). The level of hierarchy ranges from the top, escorts and call girls, varying to the lower end, street walking. Street walking poses a higher level of risk and vulnerability, making the individual more susceptible to victimization, as well as lower self-esteem or lower job satisfaction than their call girl counter parts (p. 216-218). Additionally, addressing alternative drives as to how substance abuse correlates with prostitution and sex trafficking a 2013 study conducted by Saewyc, Drozda, Rivers, Mackay and Peled found that in their sample of 762 commercial sex exploitation (CSE)/prostituted and homeless youth, the majority of them were exploited after their first substance use. "1 in 10 having it happen within the same year, making it almost impossible to determine which came first" (p. 154). This

highlights the concern of exploitation upon the vulnerability of performing commercial sex acts as a means to survive.

Deception is a method used to exploit and entrap vulnerable individuals into sex trafficking, while allowing the victimized individual to believe they are involved in sex work within their means of control. For example, a trafficker helps out a juvenile runaway that ran from home due to a bad home life. The trafficker brings the juvenile in to their home, provides them food, and takes the juvenile shopping for clothing because all the juvenile had was the clothes on their back. After trust is built, the juvenile unaware of the grooming that is happening, is being told they must repay that debt from the care that was provided and inadvertently forced into sex work to pay off the debt. However, in some instances, there is an issue of how to explain why some women choose to stay in prostitution. Thai sex workers in Japan who "worked" to pay off their debt to the trafficker, chose to stay once the debt was paid off instead of returning home (Edlund & Korn, 2001). One thought about why a woman chooses to stay after her debt has been paid off is the stigma attached to her. She has accepted the label placed upon her.

Labeling Theory

The key concept of the labeling theory is the process of which deviant labels are applied and received, of how a person are labeled as a specific title and how this label has an effect on that person's future behavior (Belknap, 1996). According to Belknap, there are two parts to the labeling theory;

1) "It proposes that some people are more likely to be labeled criminal because of their race, sex and class.

2) It posits that when someone is labeled criminal, he/she may accept or resigned

him/herself to this label and continue on in crime as a result of labeling" (p.44).

This does not necessarily explain why females are involved in prostitution or some form of sex trade, but it does indeed help further explain why the previously mentioned Thai sex workers decided to remain in Japan where they did their sex work instead of leaving after their debt had been paid off. Perhaps by the end of their debt, they had resigned themselves to this label. Additionally, because traffickers are master manipulators, as discussed in the what is human trafficking section, part of the force / fraud / coercion elements create a mindset within survivors of trafficking that their families do not want them back, that they are unwanted and are criminals. The victimization period has skewed what the individual may think of themselves. An example of this is Reid's (2016) approach to what is considered enmeshment in sex trafficking. In the study, Reid states several youths admitted their traffickers through a form of blackmail posted sexually explicit photos online without their consent, as well as having concerns of family coming across these photos. The trafficker's intent is to instill fear within their victims, not knowing what their family members may think of the images as well as their arrests for prostitution, as well as instilling shame by convincing them no one else will have them now (p. 501-502).

Labeling Theory also provides insight into gender differences. Males and females are not necessarily labeled the same way for similar acts of crime. Morris's (1987) debate centers on how the label of mentally ill is assigned to women more so than men, whereas men are more likely to be assigned with the label of criminal. Morris also noted that while males are more likely to just be labeled as criminal, females are more likely to be stuck with the label of deviant. Because of the society we live in, females are just as likely to be called bitches, nags and

described as promiscuous and hysterical (Belknap, 1996). Additionally, Weitzer (2017) argues that derogatory names need to be removed in order to help remove stigmatization, such as replacing terminology of hooker, whore, harlot, and johns with worker, provider, and client. This is with the notion that sometimes females do not do anything at all and yet are still being stuck with these derogatory labels. Even their physical appearance alone with 'being' a woman leads to a form of stigmatization (p. 46). Belknap (1996) also states that historically, if an individual does not conform to their society's idea of what is "appropriate" to their gender, is a means for punishment. While removing the stigmatizing terminology, Weitzer (2017) argues those who engage in sex work should be free to call themselves by the stigmatizing terms as they please.

When engaging in sex work, it is important to note the external factors in which may impact a sex worker's label. In one instance, the difference between individuals who remain local from those who are migrant sex workers. Local or domestic sex workers are more likely to face stigma, a daily threat of detection from people they know and may push forth in more effort to disguise themselves whereas migrant sex workers are protected by the distance between them and their home country (Scambler, 2007, as cited in Weitzer, 2017). Another example is labeling through negativity bias imposed upon by mass media through its highlights of using sex work (prostitution) and sex trafficking interchangeably, as well as lack of positive imagery of sex work. Through misrepresentation, solely focusing on exploitation, victimization through the use of emotive imagery (for instance, an individual tied up or locked away) (p. 721), creates a negative connotation of commercial sex work in that when an individual is victimized from sex trafficking, they may fear the negative labeling of 'hooker, whore, or harlot'. Labeling as well as discrimination and violence are seen as normal, everyday conditions according to sex workers (Sallmann, 2010). In Sallmann's (2010) study, it was found that numerous women in the study

said their engagement in commercial sex work as well as substance dependency had permanently altered their perception of themselves.

Motivation

When focusing on driving factors of prostitution, Flowers (1998) believes that all theories and motivation factors related to prostitution can be placed within eight different categories, biological, psychological, sociological, economic, drug-related, physical and sexual abuse, sexual adventure and promiscuity, and lastly mental illness (p. 23). Focusing on just a few of the motivational factors as to how it may apply to sex trafficking, one to consider is the economic motivation considering money posing as a significant incentive to commit the criminal act. There are five aspects of the social-economic structure which grasp the attention of women and direct them towards prostitution. The summarized version of the five aspects is,

1) With the amount of money prostitution pays women, there are no other jobs with the same pay amount out there made available for women who possess little to no skills for such a position.

2) Most jobs do not have the ideal independence or screams adventure to those involved in prostitution, so to these women, why bother leaving their prostitution lifestyle.

3) Working in prostitution does not fit with the traditional role of women, in which they do not fit their society's definition of a female sex role.

4) Due to being in a lower socioeconomic class, there is lack of access or affordability in which being driven to prostitution allows the individual to experience wealth and obtaining material items that they otherwise would be unable to do so.

5) Women who are sexually active, doing things that are considered to be out of the norm within the ranges of what is acceptable in their typical sex role expectations are immediately identified as deviant, and this is due to the concept of the Madonna-whore and sexuality (p.26)

When we take in consideration the five aspects listed above, these are qualities in which traffickers can use as incentives and/or focus exploitative motives upon. With that, money is one thing that can drive individuals to do things they would not normally do. Take for instance, as mentioned earlier, the Thai sex workers who had to pay off their debt and could not do it in any other way than to do sex work. Sex work generates a lot of work, and according to the National Task Force on Prostitution, the full-time gross is around $15,000 to $25,000 a week, these include the earnings of solicitors on the street, sauna workers, brothel hostesses, and call girls who work at escort services or independently. Those who are involved in the high-class call girl aspect of it all collect up to if not more than a million dollars a year (p. 27). That is quite the incentive. Not all sex workers have the ability to earn this much money though, and traffickers use this motivation as a way to offer to the sex worker (when recruiting sex workers as victims) that they can help them make more money than what the sex worker makes independently.

The other aspect that provides quite the incentive is prostitution that is tied in with drugs. The head of Defense for Children International USA believes that with the issues of drugs and deterioration of cities is encouraging the phenomenon of women supporting their drug-habits by engaging in sex work to earn money to pay for drugs or engage in sex in exchange for drugs (p. 27). This creates another exploitative factor, driving motivation of traffickers to create a forced drug dependency upon their victims as well as exploiting individuals that already have drug dependencies. Not only that, but it has no limit on age, going as young as teens in the lower

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class, because they need to survive, prostitution provides these teens food, shelter, drugs, and perhaps status at times.

To expand further on the vulnerability factor a substance dependency may create, Brawn and Roe-Sepowitz (2008) assessed that substance use is a contributing factor to the drive for engaging in commercial sex. In Brawn and Roe-Sepowitz's study, they found within their study group, a common age of substance abuse occurred one year younger than the age disclosed for first engagement in commercial sex. The study group consisted of assessing 128 female juveniles charged for prostitution between 2001-2005 within an unnamed large southern state in the United States. The qualitative data was obtained through a statewide database including the Massachusetts Youth Screening Instrument-2, the Supervision Risk Classification Instrument, Pre-Disposition Reports, and recommendations to the state attorney (p. 1397). Through these instruments, allowed Brawn and Roe-Sepowitz access the data broken down to evaluate living situation, parental control, school adjustment, peer relationships, mental health and criminal history. In addition to a common time frame for development of substance abuse, Brawn and Roe-Sepowitz (2008) argue of those in the study group who reported prior substance abuse were more likely to have come from unstable home life to include disorganized families. A relationship between lack of parental supervision with drug and alcohol use was identified, and a combination of the two raises the risk factor for victimization as well as involvement in prostitution. While this study was published in 2008, referring to female juveniles and causes behind their engagement in prostitution, it is important to note that a more modern reference to this is considered as 'survival sex'.

Looking at motivation from the sexual perspective, there are two ways to look at it. There is sexual abuse that may also include physical abuse, and those who want a sexual experience

and/or are promiscuous. A high number of sex workers went into sex work already as victims of previous trauma, while there are some that became victims during their work, a lot of these women came from unstable and unhappy homes (Flowers, 1998). There is a strong presence of a cause and effect relationship between physical and/or sexual abuse and prostitution, and Flowers (1998) stated that these victims may end up on the street and turn to prostitution and drugs due to being thrown out or leaving their abusive homes (p. 28). On the other side of the sexual perspective realm, with society changing, some women see a lot of excitement that comes out of sexual activities.

According to Flowers, the strongest enticements were excitement, adventure, money and sex. Once these women were already in the business, some women had stated that they think sex is just for enjoyment and that it no longer followed the ideals of love and procreation (p. 28). Perhaps, these are enticement factors traffickers use to recruit those who come from the vulnerable population group, to a life seemingly better than the life they live at the moment, creating a motivational factor in getting out of their old life, while unaware of potential victimization. However, positive enticement factors are not always the case, sex workers are also motivated by their dependency of substance abuse, as well as their experience of living with stigma. Sallmann's (2010) found that of the participants involved with at one point or another in substance abuse, the problem occurred throughout their duration of experience with sex work. The same participants also stated that there is a normalized belief in that those who engage in prostitution and have substance abuse history deserves to be harmed whether it is rape or an alternative form of abuse (p. 154). So, while continued substance use is a motivation factor for continued sex work, the individuals who are in this position also accepts it as the norm.

Integrated Theory

Blending the theories will need to take in consideration important aspects seen in human trafficking activities. These aspects include the consideration of recruitment, exploitation, and motivation. In the recruitment state of human trafficking, it is important to note the power difference as defined by the SET. The SET can support why victims are recruited by traffickers who take on the Romeo approach. Preble (2020) argues within the power balance of trafficker to victim, victims initially see a more equal ground of power between themselves and the perceived caretaker (trafficker), not realizing that they are being groomed and recruited for trafficking. In other words, when a trafficker takes in a possible victim, give them money for food and clothes and cares for them, presenting the idea that these benefits do not come at a cost, the possible victim perceives them to be in an equal place. The realization of victimization does not occur until after grooming is complete and they face forced prostitution. While the trafficker is conscious of the unequal power they hold over victims, the possible victims do not likely do not face the force element of human trafficking in that they do not perceive danger from possible retaliation of trafficker, fear, or risk of loss (p. 17).

Traffickers are profiteers of trafficking activities in that they thrive off of earning money regardless of the victimization that occurred to earn that profit. Not only can economic theories be integrated from the perception of traffickers, it can also explain the one of the driving factors behind traffickers' manipulation of victims, with enticement of lavish items, money, food, or shelter. The economic drive in which the individual (victim / potential victim) is currently struggling from lack of financial opportunities creates vulnerability that traffickers target for recruitment (Asbill, 2017).

Motivation is a driving factor in how a trafficker decides to engage in trafficking activities or why an individual may be more susceptible to victimization over another. The theory of prostitution explains of those who need the money, this leaves room for a lot of vulnerability. There is room for vulnerability in being coerced into commercial sex exploitation, or in other words the sex trade. This manipulation tactic is a form of victimization, but because the individual needed the money, she accepts the position as a sex worker to take herself out of the financial bind or accepts the care the trafficker provides without knowledge of a debt racking up. Raphael and Myers-Powell (2010) gives a great example of this scenario, which also touches on a blending of recruitment, motivation and exploitation. In their study, they looked at who Chicago pimps are and how they work the Chicago sex trade; they surveyed five ex-pimps. Here is the summarized list of ways these pimps would lure in new workers (p. 5):

1) Looked for girls from broken homes that were willing to do whatever it took to escape.

2) Girls that have looks of desperation.

3) Girls that wanted to travel.

4) Some pimps lied and pretended to be an agent, worked with well-known people, or even faked being a clothing designer.

5) Showered girls with love and attention to bind needy girls to them, and to ensure this need continues, these girls were brought in from out of state. This ensures that the girls are in complete isolation of support from anyone they know.

At this point, when a female becomes a prostitute or sex worker, as explained by the theory of prostitution, her "ability as a wife" has lessened. The labeling theory comes in to play at this point, showing that the female, not necessarily accepts the label, but has adapted to it, and now

only sees herself as a prostitute. This in a sense takes away the label of a "good" woman, wife material, and turns it in to a label of a sex object. The labeling of a sex object is also a motivational factor here as the female can no longer fit the mold of a "traditional" role of a woman; what is the point of even quitting then, the viewpoint is already tainted, might as well stay with this occupation and continue to make money. Money is a powerful motivator in the fact that regardless of having a negative label, of being coerced into prostitution, a lot of money is made doing sex work regardless of the exploitation the individual had to endure. Looking at it from a perspective of a young female, perhaps 16-17 years old, looking for a way out of her home, has little to no skills, sex work would bring in a lot more money for this young female than she would working a part time job with minimum wage. The money outweighs the risk of victimization and exploitation in the end, leading to concerns of negative labeling and stigmatization.

The concept of labeling severely impacts a sex worker's perception in that when being labeled by others in society, they felt it depersonalized them. For example, one individual was quoted, "They go to jail, [and] those deputies, they treat 'em like shit, too. They're just whores. You know, like they're uh, dispensable." (p.150). The treatment that sex workers receive, in that they are viewed as dispensable, removing any value to themselves as a human being supports Weitzer's (2010) argument of the importance of replacing stigmatizing terminology. To expand upon the integration of labeling and prostitution theories, in an example an individual share "Escorting I don't have a problem with it. I don't feel bad about it. I will do it as long as my body permits me to. Um, or until I get hurt." (p. 152), Yet in other stories, another individual is told by a police officer she was deserving of her rape, and a third individual is blamed by the court for her own assault (p. 152). The negative context in which is associated with sex work

normalizes violence against sex workers. Additionally, because sex workers assume the violence and stigma "just comes with the work", it does not stop them from continuing to engage in sex work.

However, to apply the concept of labeling theory, the power that comes with negative labeling provides traffickers with an advantage when using entrapment and enmeshment tactics. Survivors of sex trafficking often fear their families will not accept them back post-victimization because of the negative labels they have assigned upon themselves as a result of a trafficker identifying them as such. The stigma that remains with sex work and/or prostitution crosses over with survivors of trafficking victims, in that when survivors are misidentified as criminals, voluntary engaging in prostitution, may face negative labeling from the very organizations meant to help (i.e. courts, law enforcement).

Conclusion

In conclusion, there are not a lot of theories that focuses on just the sex trade (prostitution and sex trafficking); however, it is evident here that there are several different theories where there is an opportunity to pull out parts and put together in order to explain why an individual would go into prostitution, or how they could easily be recruited as well as any vulnerabilities opening doors for targeted exploitation. However, just these few theories have only begun to scratch the surface on what is known to be one of the oldest professions in the game. The problem does not lie within the worker / victim themselves and the strains they experience (bad financial situation, a runaway, or by force), but rather external factors that may stigmatize sex work, as well as exploitation of strains. Theories that attempt to explain prostitution has also ventured out into the economic side, the other individuals that are involved in running prostitution as a business or operating a sex trafficking ring (i.e. those who run a brothel or a

pimp). As the years go by, no matter how many more theories that may develop, the sex trade will most likely continue to be an international phenomenon, as long as demand for commercialized sex remains. Current laws, as well as current practices in law enforcement and legal systems, will need to be modified to become more modern in addressing individuals who engage in sex work or are victimized by sex trafficking. Removal of stigmatizing verbiage, as well as a change in perspective whether that is legitimizing sex work and increased education in strains that increase victimization, may help differentiate those who enjoy sex work from those who engage in sex work as a means of survival (whether economic or substance dependency) and those victimized by a trafficker.

Chapter 3

Transitioning from Problem Solving Court to Human Trafficking Court

Introduction

As recognition and awareness of human trafficking continue to increase, resources for victims need to continue to be developed as well as more effort placed in modifying law enforcement and court systems methods in addressing human trafficking. These changes are essential to stay in line with the Trafficking Victims Protection Act's (TVPA) victim centered approach. One approach the court system has taken in addressing human trafficking is adopting the style of a problem-solving court into a human trafficking court. A problem-solving court veers from the traditional courtroom proceedings, placing more focus on identifying the special need on an individualistic basis while providing resources. In this section, we will highlight the function and purpose of problem-solving courts and how it differs from the traditional court room's proceedings, as well as how this method translates to operations of a human trafficking court utilizing a victim-centered approach.

What is a Problem-Solving Court?

When an individual offender's level of recidivism continues to increase, it requires an innovative approach within the courtroom to approach the individual offender, in order to identify what the problems are and why criminal activity continues to occur. According to Thielo, et al. (2019), the style of problem-solving courts, also known as "specialty" courts can be attributed to a drug court out of Miami-Dade County, Florida in 1989 and has since then grown nationwide, diversifying into a variety of focuses to include gambling, gun, homeless, veterans, domestic violence and human trafficking courts (Thielo, et al; 2019). The focus of a problem-

solving court addressing the variety of issues is to adjust the traditional approach towards a victim-defendant to an approach based on individual cases. Taking a more individualistic approach is necessary in the decision process of what steps need to be taken to provide victim-defendant extra help and resources that they specifically need or can benefit from. The extra help and additional resources provided may include but not limited to the following: mental health treatment, drug treatment, or career guidance. This is how problem-solving courts can come in and fill in the gaps where the traditional court cannot cover to its best extent.

The purpose of a problem-solving court, breaking away from the styles of a traditional courtroom, next to processing cases, is to improve the situation for victim-defendants, and society (Wolf, 2008, p. 77). How problem-solving courts break away from the traditions are through five core principles. Theilo et al. (2019) states the five principles are, starting with the first principle of diversion from imprisonment, meaning that taking the alternative of addressing the specific needs of a victim-defendant is productive whereas incarceration is counterproductive in nature (Thielo et al, 2019). The second, principle of problem solving, defined as recognizing the problem by risk level. This includes identifying that the individual that comes in front of a judge are identified as having a special need and addressing them, and examples include but not limited to; the individual has been victimized, have mental health issues, substance addition, or the behavior is a result from their service in the military. The third, the principle of individualized treatment, recognizes that while a victim-defendant have commuted similar crimes, the factors that led this individual to the point of criminal activity could be unique and therefore intervention must be individualized. The fourth principle, accountability, holds the individual in court accountable for their progress in completing the steps of their individualized assignments and should this fail, the individual will return to the traditional court room setting.

The last principle, effectiveness, highlights that the problem-solving courts are believed to work in that recidivism is reduced, it saves lives and money (Thielo, et al, 2019).

Problem-solving courts are designed to have defendants or possible victims to question and assess their actions by questioning how and why they got themselves here, and what factors were involved that brought them in to a problem-solving courtroom. Problem-solving courts are able to differentiate from traditional courtrooms when the responsibility and accountability lies with the defendant/subject, as well as pushing them through a monitored process that is subject to review from start to end as defined by one of the five principles discussed above. Through this method, Wolf argues the application of these principles speeds up the process of decision-making (Wolf, 2008, p. 86). This style could prove to be beneficial in a human trafficking court in which individuals are allowed to share their stories of how they have come to where they are at now and why they were found to be engaging in prostitution. Whereas, if these individuals were to go through a traditional court, there will be a struggle in understanding the backstory of the individual if not all of the important information is collected from the beginning, but this could vary from jurisdiction to jurisdiction and on their court proceedings requirements.

How the Role of the Judge has Changed

The five principles, as previously mentioned under the 'what is a problem-solving court' section, pose a lot of difficulties and challenges. For example, shifting to a problem-solving method will adjust the responsibilities a judge holds. This is seen through increased interaction with the defendant/subject where the responsibilities in a traditional setting is to decide the case, not to interact with the offender, or to solve the problems of the offender. When the traditional setting is applied to a defendant who is possibly a victim, it sets the individual up to fall through

the cracks and not obtain the resources they may need, whereas increased interaction from the judge may allow for a clearer and better picture of who the individual is.

While problem-solving courts is breaking new ground, this style requires adjustment and changes, to include training. Training is necessary when there are judges that feel "discouraged from attempting to practice it by their lack of experience in a specialized court that would teach them the necessary skills," (Wolf, 2008, p. 79). Part of the training process includes that judges who become involved in a problem-solving court are trained to listen as well as encouraged to have a connection to the defendant/subject by engaging in a conversation with him/her instead of lecturing (Mirchandani, 2008, p. 870). The whole idea of problem-solving court is that it is a much more open setting than what a person would find in a traditional courtroom. This method allows for the defendant/subject to put a word in, a chance to tell their story and their background, allowing for an explanation and clarity on why they are in the position they are in now (Mirchandani, 2008).

In a human trafficking court, using the problem-solving format, there is an opportunity for the 'defendants' to disclose their stories, in which numerous factors could explain why they engaged in prostitution. Judges may learn of individuals trafficked as juveniles, and this is what they know, and they have continued with prostitution as adults without a trafficker. Or individuals are unaware they are in a trafficking situation because they believe their 'pimp' to be a boyfriend/girlfriend when in fact they are a trafficker. This structure falls in line with the victim-centered approach. The allowance for hearing more information from the victim-defendant fall in line with the ideals of the first principle; a proactive, problem-solving orientation of the judge.

In a traditional courtroom, the prosecutor and the defense attorney present information that they think that the judge needs to hear or be aware of, negating the opportunity for the victim-defendant to talk. The role of the judge in a problem-solving court differs from this concept. However, the role of the judge in a problem-solving court room is to hear information that would not be heard in a traditional courtroom and judges are also encouraged to ask questions from the individuals that come in the courtroom (Arkfeld, 2007, p. 317). There are concerns regarding impartiality when judges are being encouraged to be more open and involved with those in the courtroom (p.317). In other words, how can a judge determine what is best for the individual that comes in front of the judge in the courtroom if they are no longer in a position of neutrality?

To address this concern of impartiality, the new *Model Code of Judicial Conduct* (February 2007) was proposed and presented to the American Bar Association (ABA) House of Delegates to address concerns of judges that may run into violating ethical considerations as well as erring from traditional restrictions (p.318). The new model code was created in order to help address these concerns problem solving courts specifically faced under the traditional format. Arkfeld stated that the new code would help reassure the public and judges when concerns of violating the traditional guidelines of ex parte communications arises. In the new model code, there are three rules that cover the area of a judge acting with "impartiality.

"Rule 1.2 states, a judge must act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and avoid impropriety and the appearance of impropriety.

Rule 2.2 states, a judge shall uphold and apply the law and shall perform all duties of judicial office fairly and impartially" (Arkfeld, 2007, p. 319).

The two rules allow the judge to have an idea of where their boundaries lie. However in a problem-solving courtroom, it is still expected of the judge to ask questions, to become familiar with the offender's current situation, the people the offender surround themselves with, the kind of family the offender has, and anything else that may help the judge understand the defendant. To remain within compliance of these rules, the third rule addressing impartiality establishes that on the grounds that a judge feels their impartiality is wavering, that they are to disqualify and remove them from that case's proceedings.

"Rule 2.11 states, A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances: (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding" (Arkfeld, 2007, p. 319).

As long as a judge within a human trafficking court is able to maintain impartiality, they can continue to apply the principles of a problem-solving court while learning of the victim-defendant and their story. This method would be an example of a victim-centered approach. Whether or not this works will be discussed under the human trafficking court section.

Role of Prosecution and Defense Attorney

Due to problem-solving courts differing in several ways from the traditional court, this too affects the relationships with the prosecutor and defense attorney. In this setting, the traditional ideals of a prosecutor and a defense attorney working against each other is removed and modified to develop a relationship to work together in the best interest of their defendant (Mirchandani, 2008, p. 871). When applying this concept in a human trafficking court, this

allows for the shift of defendant to victim-defendant to consider the needs to prevent furthering

of exploitation. Modifying the relationship in a court room allows regular court proceedings to

comply with a victim-centered approach. Defense attorneys are used to focusing on legal defense

and are used to having the mentality of deciphering whether a case should be pleaded out or

taken to trial, which makes it difficult for some to step outside those boundaries (Wolf, 2008, p.

80). This method would not blend well within a human trafficking court, in that the defendant

that has been identified as a human trafficking victim would then need to be addressed

differently. The Survivor Reentry Project (2016) has identified the importance of utilizing a

survivor-centered and trauma-informed approach when representing survivors in vacatur cases.

When working on obtaining criminal record relief for survivors, the Survivor Reentry Project

suggests power and control to exist with the client, while addressing the multidisciplinary needs.

This includes collaboration with service providers to address mental health and legal

practitioners with experience and expertise in working with trafficking survivors. Other

recommendations include creating safe spaces for the client, as well as considering travel and

transportation needs (limiting amount of times client is required to appear in court, travel plans),

and work around what your client can handle in each meeting avoiding revictimization.

In pre-plea processing, prosecutors and defense attorneys will work together in that they

will need to work with community-based service providers in order to provide appropriate aid to

the victims to include mental health and substance abuse treatment, job training, education,

immigration services, and housing (Kendis, 2019). Additionally, when looking at a defendant or

a victim case by case, it is important to note that Wolf makes a similar argument about defense

attorneys that Mirchandani has about judges regarding the importance taking the time to have

conversations with the offenders; Wolf (2008) said;

"But if a defender or even a judge really sits down and listens to the stories of clients - listens to how an arrest affects their grandmother's right to live in public housing or affects their ability to remain in this country – then they would have no choice but to opt for resolutions that are outside the traditional" (p. 80-81).

A team based, non-adversarial approach requires the participation of the prosecutor, judge, and the defense attorney, as well as community-based service providers. In other words, participation of multiple parties can also be referred to as a "new synergistic relationship"; Goldkamp and Iron-Guynn referred to this term for mental health court (Mirchandani, 2008, p. 872). Discussions have revolved around the importance of shifting roles of prosecutors, judges and defense attorneys, but why is it important to emphasize that these roles are not the only pivotal role in a defendant or victim's success regardless of what kind of problem-solving court they are being processed through?

External Factors

When utilizing a victim-centered approach, problem-solving courts work at being able to include non-judicial roles. In one example, a Serial Inebriate Program utilizes a police officer brought in by a prosecutor to divulge information about the program with the intention to educate those in the courtroom of its purpose (Wolf, 2008). By bringing an external representative to enhance the understanding of a resource proves to be beneficial as it adds more context and credentials to the case at hand (p.84). Additional representatives that can be brought into the courtroom are social workers. Wolf (2008) found that defense attorneys would bring in social workers because they will provide background information on the offender and said:

"The social workers not only supply background information on individual cases but, over time, educate judges, prosecutors and defense attorneys about social services, drug addiction, mental health, domestic violence and a host of issues that can have an impact on alternative sentencing" (p.84)

With external actors brought in to educate judges, prosecutors, and defense attorneys about drug addiction, mental health, and domestic violence, it allows for a better understanding of the offender's background and their current situation. Drug addictions may bring in experts on pharmacology, mental health would bring in psychiatrists, and domestic violence could bring in advocates and others that are involved in the subject matters. Through understanding the offender's situation, and acknowledging that no case is the same, the court can devise a better-suited plan to aid the victim-defendant in turning their life around. These are all factors that are extremely essential in a development of a human trafficking court, because a victim is likely to have checked off a box on any of the previous categories mentioned. Utilizing individuals that can explain the purpose and benefit of resources available as well as utilizing social workers to enhance the understanding of the case at hand will shift a traditional court entirely. If we can apply this concept in a human trafficking court by bringing in human trafficking, this could prove to be a contributing factor to the victim's rehabilitation as well as success. A suggested model to follow is Midtown Community Court's comprehensive psychosocial assessment that takes on a trauma-informed approach (Crank, 2014). The format follows in accordance with a victim-centered approach in building a rapport and trust with the victim-defendant as well as identifying signs of trauma that may indicate possible revictimization. Midtown Community Court created a mandate in that victim-defendants are enrolled in a psychoeducational program that provides educational resources in life skills (financial education, employment, housing) as

well as therapeutic resources (individual or in group setting, identification of trauma reactions, relationships, healthy coping). The approach provides a well-rounded education and rehabilitation to the victim-defendant.

Another external factor that plays a huge role in developing a plan to deal with offenders is the community. Community-based organizations have proven to be helpful in problem-solving courts regardless of how judges feel about their involvement; and in fact, Judge Ann O'Regan Keary who is the presiding judge at Washington DC's East of the River Community Court believes that nothing is more effective than the judges to learn directly from the community (Wolf, 2008, p. 85). From these organizations, prosecutors like to bring in stakeholders, and these stakeholders speak for their community and state their feelings on how the offender has affected their community (p.85). A great example of what problem-solving court looks like is this: Libby Milliken, a deputy prosecutor in Indianapolis has said the following, stakeholders are looking for effective sentences, not harsh sentences. Stakeholders are looking for options other than jail, for a solution that stops the offender's behavior and turn their life around (p.86). Essentially what Milliken is referring to are solutions for recidivism, taking in consideration what can be done so this individual is tasked with something that can assist them in turning their life around. Stakeholders want a solution to stop an offender's behavior that places them back in court, and this can be done through providing resources to help the individual grow and heal. This concept is essential as well as compliant with the victim centered approach

Applying Problem-Solving Principles to Human Trafficking Courts

In the development of a human trafficking court, assessments must be made on the selection of characteristics from problem-solving courts. The assessments should include

determining which factors translates well into a human-trafficking court. At this time, there is not an established universal framework to be implemented nationwide (Kulig & Butler, 2019). Some problem-solving courts are initially designed for an offender, in that before they can receive treatment and resources, they have to confess their guilt (Thielo, Cullen, Burton, Moon, & Burton, 2019). When a victim-defendent confesses their guilt, they now must abide by the guidelines placed upon them in order to navigate the program successfully and should they fail, they will be placed back in the traditional courtroom setting where they face the original criminal charges they plead guilty to and traditional sentencing (p. 272). This mechanism likely will not translate well to a human trafficking court where an individual who is arrested on prostitution charges and a discovery is made that the individual is a possible sex trafficking victim. While there are criminal record relief laws that work towards removing criminal charges from a trafficking victim's record, Kulig, et al (2019) discussed that there are jurisdictions nationwide that have already adopted an approach by working on solving the problems experienced by sex trafficking victims and avoid punishing the crime altogether. Taking this approach avoids the process in which a victim-defendant has their criminal charges held as they progress through program, ultimately dropping the charge if successful or facing conviction if not. Another concern with this method is the chance of revictimizing the individual, in which goes against the concept of the victim-centered approach.

Much of the research based on human trafficking and prostitution courts relies on assessing the effectiveness through comparison of recidivism of individuals who go through a program. An important step to take is to apply the victim-centered approach in human trafficking courts to shift focus on to identifying survivors of human trafficking and remove criminality and traditional adjudication from their models. Not all those who are arrested for prostitution are

victims, but of those who are victims must be considered as victims and not criminals. This is a point Kendis argues regarding Human Trafficking and Prostitution Courts (HTPC) (Kendis, 2019). Kendis argues that not all HTPC uses human trafficking terminology nor emphasize victimization status (p.818). There must be a defined difference between human trafficking and prostitution in a human trafficking court as this can affect who is eligible to come through. In some HTPCs those who have trafficking history may be excluded because the focus is on the criminal aspect, diverting victims to referrals for special services, whereas other HTPCs specifically seek out trafficking victims (p. 820). This brings the question of what and how many courts do we have available currently in the US, and by what category do they fall under (prostitution-human trafficking / human trafficking / sex trafficking courts).

Kulig and Butler (2019) identified that there are 34 trafficking related courts across 10 states, 10 of which are courts in New York state alone. The other nine states include California, Delaware, Florida, Illinios, Michigan, Ohio, Pennsylvania, Tennessee, Texas and Washington D.C.. Of the 34 courts, not all are strictly sex trafficking or human trafficking courts and is broken down by, 19 prostitution and sex trafficking courts, nine sex trafficking courts, and six human trafficking courts. What Kulig and Butler (2019) were able to identify in the 34 courts are three things.

1) Difficulty of identifying those involved in commercial sex acts as victims. This poses concern of missing the identification of possible victims as well as concerns of revictimization with victims being treated as offenders.

2) Minimal reporting of trafficking related court outcome. There is lack of data stemming from these courts, leaving little room for appropriate analysis.

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3) Evaluations revealed the need in better evaluation of victim-defendant outcomes, and by improving this, we can expect to see increased opportunities to collect data as well as performing further qualitative research by conducting in-depth interviews with court staff and participants (Kulig & Butler, 2019).

Promoting for Change

Problem-solving courts are still very new in our criminal justice system today, so a lot of adjustments are to be had. As the judicial system shifts to include more problem-solving courts, there needs to be continued assessments of their effectiveness. Before exploring the effectiveness of problem-solving courts, an acknowledgement of the importance of promoting change is required. The United States faces recidivism as an issue in which an offender who has gone through the system, re-offends and is put back through the system whether it is through probation or being jailed. It is important to have members of the community and for stakeholders to speak up and courage a shift in the court room in the handling of a victim-defendant. In order to promote for change in support of developing a problem-solving court, and to advocate change, a problem (recidivism causing jail overcrowding) is to be identified. To follow up on this point, in a human trafficking court, we understand the problem to be identified as individuals going through the system to be identified as victims and ensuring they do not fall through the cracks of the legal system. This aligns with Wolf's argument that a crisis or a large-scale issue can incite innovation, and in one instance acknowledging jail overcrowding and how innovation is needed to help prevent this (Wolf, 2008).

Seeking sentences that fit offender's situations is a surefire way of getting them to stop their current behaviors, change their life around, and reduce the risk of recidivism. To develop a

human trafficking court, it likely will prove to be successful if there is a differentiation in the program from human trafficking and prostitution. In reiterating Kendis' point, Kendis identifies a common argument critics use against HTPC's format where the approach is to regulate and shift women who engage in prostitution into "responsible citizens" (Kendis, 2019). Critics are correct in their concerns with this approach in that human trafficking court should recognize that as there are several reasons as why an individual may get involved in the sex trade. The court's approach should take on treating trauma as well as mental health issues and substance abuse, all caused by victimization (pg. 819). Proper screening tools should be utilized to assist in identifying victims, so they are not to be forced to go through a proceeding seen in a prostitution court, requiring a confession of guilt. Screening can allow for identification of indicators that would align with that of victimization, as well as identifying any indicators of forced criminality as a result of trafficking victimization. This is essential, and as highlighted under the data and analysis section of this paper, criminal record relief laws addressing trafficking victims yet to consider crimes that were forced to be committed. According to the United States Department of State, trafficked individuals are commonly mistaken for criminals when they are forced to commit a crime other than commercial sex (Office to Monitor and Combat Trafficking in Persons, 2014).

To address these concerns and promote change within the development of human trafficking court, some features can be addressed to be more inclusive of the victim-defendant (those with forced criminality). The Office for Victims of Crime (an Office of Justice program), specialized human trafficking courts promotes criteria that may alleviate the issue with the following six features (OVC, n.d.):

1) Case identification and assessment

a. There is room to screen case by case, to look beyond a victim-defendant who may have a prostitution charge drawing in more attention to possible indicators of sex trafficking. The principle allows for recognition of trafficking victims from charges of petty crime such as drugs, truancy, or theft. If the court screens for labor trafficking, the same principle would also apply for screening of additional arrest charges. Additionally, the principle gives judges more discretion when assessing the victim-defendant's current situation that may provide any indication of trafficking.

2) Trauma-informed courtroom protocols

a. Using a victim-centered approach in recognizing the needs of victim-defendants by reduction of criminal convictions and sentencing as well as promoting safety of the victim-defendants. The principle also emphasizes on a single judge working all the cases to have continued communication and working relationships with defense attorneys and prosecutors.

3) Linking victim-defendants to services

a. Identifying other necessities the victim-defendant may need to include legal services, drug treatment, counseling, assistance in obtaining housing if needed as well as adjusting court mandates. Mandates that typically would be serving time to be replaced by being "sentenced" to attend counseling over the course of the number of assigned days.

4) Judicial compliance monitoring

a. Victim-defendants are to frequently appear in court on a regular basis in front of a trauma and human trafficking trained judge. The principle allows for

frequent updates on each case as well as allowing for room for failure by enacting graduated interventions. If a victim-defendant commits a criminal act during their case monitoring, they will face intervention.

5) Collaboration and capacity building

   a. The principle requires a victim-centered approach's principle of collaboration. This ensures increased communication between task forces and the court, as well as strengthening relationships. Often times, it is recommended for law enforcement to loop in the court early on in their investigations.

6) Evaluation and performance indicators

   a. The victim-defendant will be monitored through their ability to reach established goals and realistic performance measures. This allows for identifying areas in which the victim-defendant may need help improving upon. Examples include assistance in preventing recidivism, improving education levels, obtaining a job and maintaining a job, as well as other life-skill resources (OVC, n.d.).

As long as human trafficking courts follow the listed criteria, this may allow for a more well-rounded approach than what a general problem-solving court criterion can cover. The hope being that more victims are identified in the process as well as working towards removing criminality.

Conclusion

A lot of work goes into developing a problem-solving courtroom, regardless if it is drug court, mental health court, domestic violence court, or human trafficking court. The benefits can pay off in the end if done correctly, as much of the focus goes into looking at offenders or

possible victim as human beings rather than a product and advocating for change by taking the time to know the individual's background and finding what fits best with this individual. Having the precursor to identify the individual as offender, victim, victim-defendant after hearing from prosecutors, defense attorneys and the individual themselves may pave the path to rehabilitation instead of taking a brief glance at their case resulting in possible sentencing. Problem-solving courts is an adjustment from working in a traditional court setting, but it produces positive change, a change in the offender's life. The adjustment allows for a change in how those who work in a courtroom thinks and approaches a victim-defendant and their case, allowing room for discretion. This method is not present in a traditional court room for a judge to converse with the offender, to take the time to get to know why they are in the position that they are in, the background factors that caused them to be in this place, and to be able to make their own judgment from there on out on how to sentence this offender.

It can be hoped that with a human trafficking court, that it has the same positive influences on the offenders as other problem-solving courts have tried to do thus far. By putting more focus on problem-solving courts such as human trafficking courts, it shows that we as a society are putting more interest in the real life consequences of the individual's decision and the effect it has on their life, and the effect that it has on the community (Mirchandani, 2008, p. 873). The more focus that we put on problem-solving courts, the less the courtroom looks at the offender as just another case, and the more they are looked at as a unique case, and what can be done to help this person realize the changes they need to make to better their lives as well as what tools can be given to heal them. This is a victim-centered approach.

Chapter 4

Analysis of Relationships in Reported Sex Trafficking Activities

Identifying Where Human Trafficking Data Can Be Found

Several states are working on revisions of current laws and methods in utilizing a victim-centered approach. Because not all states have completed this process, that may have an impact on human trafficking data. It is important to ascertain if the numbers in law enforcement reporting are accurately reflecting the overall number of sex trafficking incidences. The gaps in reporting must identified in order to start addressing where issues lie within our country's efforts to combat sex trafficking and human trafficking as a whole. More importantly, how do these numbers reflect in the court system, and have we identified whether or not those who may have been seen as an offender may actually be a sex trafficking victim?

The first thing to address is knowing what kind of data is available to assess the issue of human trafficking as a whole. Readily available data can be obtained in a few different ways, to include law enforcement reporting such as the Federal Bureau of Investigations' (FBI) Uniformed Crime Reporting (UCR) program and Non-Governmental Organizations (NGOs) reporting such as the Polaris Project's data collected from the National Human Trafficking Hotline. The method will be to assess the quality of data available

Data Sources

According to the Federal Bureau of Investigation's (FBI), Uniformed Crime Reporting (UCR) Program began collecting human trafficking data in January 2013 (FBI). However, according to a report conducted by the National Institute of Justice, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) made modifications upon

the original TVPA act of 2000 by allowing the FBI to collect offense and arrest data about human trafficking (Farrell, et al., 2019). The UCR program currently administers two data collections: the Summary Reporting System (SRS) and the National Incident-Based Reporting System (NIBRS). NIBRS is much more exhaustive in data collection in that NIBRS places its focus specific incident-level details regarding the different types of crimes and offenders. The specific details are collected through incident-reporting. A more detailed data collection will allow for a greater and more comprehensive oversight of crime in the United States allowing for more flexibility for data and analysis (FBI, 2019). The flexibility in data and analysis will allow for an improved insight on details of each single human trafficking incident to include relationships between victim and offender, victimology, and arrestees. SRS lacks in detail where NIBRS' has the ability to include in depth details collected through an incident-based reporting system. The details include demographics of the victim and offender (i.e. race, sex, age, and ethnicity), circumstance of the criminal incident, if there is involvement of weapons and/or drugs, and date / time / location (FBI, 2019). For instance, the NIBRS data available on human trafficking offers a few different data sets to include the following: breakdown of human trafficking (commercial sex acts and involuntary servitude) arrests by race and juvenile/adult; offenses and clearance rate by state (FBI: UCR, 2019).

However, the US will be transitioned fully into a NIBRS-only data collection by 2021, to replace SRS (FBI). Looking at human trafficking data reported to UCR, there is still a clear evident gap in reporting to include not all states have transferred over to fully report. This is where NGO data will come in and take place to fill in gaps. This works in accordance with the victim-centered approach, in that one of the key approaches is collaboration. When it comes to readily available human trafficking data, collaboration will be key as law enforcement reporting

has minimal information. There are many questions that revolve around why there is minimal information provided due to lack of systematic updates within record management systems, lack of victim admission, lack of initial human trafficking incident reporting prior to being a human trafficking investigation. So not only are NGOs good for providing victim focused services and resources, NGOs also have a more realistic oversight in reporting of human trafficking related activities based upon victim admission, hotline tips, and referrals in order to answer these gaps.

The Polaris Project, a non-profit anti-human trafficking organization, actively combats human trafficking in North America through data-driven research and contains one of the largest data sets available on human trafficking. The Polaris Project oversees and operates the U.S. National Human Trafficking Hotline (NHTH) and produces annual reports based upon information gathered (Polaris Project, n.d.). The NHTH, since 2007, has handled 51,919 cases in which has created one of the largest publicly available human trafficking data sets in the US (Polaris Project, 2019). Cases are defined by Polaris project as 'situations of human trafficking' which may include more than one survivor (victim). This indicates that more than one 'contact'[1] may occur regarding different survivors for the same reported incident of suspected human trafficking. However, in Polaris Project's case, they have the ability to expand this information even further.

Using data provided and collected from the NHTH is a great tool in filling in information gaps we may face due to the lack of reporting and documentation from law enforcement and proves to be more detailed than NIBRS data. Each year, Polaris Project produces an annual statistics report based on NHTH data to track indicators and trends as a result of 'contacts' made to the NHTH. The annual statistics reports provide value in identifying the top types of

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[1] "Contacts" are the forms of communication utilized to contact the NHTH to include email, webforms, phone calls, texts and web chats.

trafficking cases for that year to include demographics of survivors by age / gender / top five reported race & ethnicity, recruitment tactics, risk factors and methods of force, fraud & coercion (Polaris Project, 2019).

Not only does Polaris Project report data collected from the NHTH, but they also provide data based on "State Report Cards", a grading system on US states and their criminal record relief laws for survivors of Human Trafficking. Polaris Project developed a grading system that ranks each state based on a scoring system of point values and a rubric to define the scoring, as outlined in Table 1 (Marsh, Anthony, Emerson, & Mogulescu, 2019). The purpose of the grading system is to assess and compare current applicable state statutes against an ideal statute, one that serves as a blueprint for advocates and policymakers to use in drafting or amending state laws (p.4). The eleven categories seen below are based on a scoring system to portray the comparative importance of each category. When assessing a state's statutes on criminal record relief, the scoring system is designed to show how clear and complete the statute is in comparison to the ideal statute (p. 13). For instance, Polaris Project provides an example in which a state that has developed strong confidentiality language in a different statute may or may not be reflected at the same strength in a criminal record relief statute addressing human trafficking victims (p.13).

To grade a state utilizing the scoresheet in Table 1, each state has the opportunity to earn up to a maximum of 100 points based on a grading scale defined by the following: A 90-100; B 80-89; C 70-79; D 60-69; F 1-59 (p. 13). At this time, any state that does not have a criminal record relief law established do not receive letter grades. The categories from Table 1 are defined in Table 2.

Table 1: Point Value Rubric: State Report Cards

PROPOSED CATEGORIES	MAXIMUM POINT VALUE
RANGE OF RELIEF	**10**
	0: STATUTE NOT SPECIFIC TO HUMAN TRAFFICKING VICTIMS OR NO STATUTE EXISTS **4:** PARTIAL RELIEF GRANTED **8:** OPTION OF VACATUR OF CONVICTION AVAILABLE **10:** VACATUR OF CONVICTION AVAILABLE BASED ON MERITS OR A SIGNIFICANT DEFECT
ARREST AND ADJUDICATION RELIEF	**10**
	0: STATUTE NOT SPECIFIC TO HUMAN TRAFFICKING VICTIMS OR NO STATUTE EXISTS **5:** APPLICABLE TO ONLY CONVICTIONS AND NOT ARREST/ADJUDICATION **10:** INCLUDES RELIEF ON ARRESTS, ADJUDICATION, OTHER RECORDS AND NON-PROSECUTED CASES NOT ONLY TIED TO CONVICTIONS
OFFENSES COVERED	**30**
	ELIGIBLE FOR RELIEF BASED ON: **5:** PROSTITUTION OR SEX RELATED CRIMES **8:** PROSTITUTION AND IDENTIFIED MISDEMEANORS (LIMITED LIST) **12:** ALL MISDEMEANOR OFFENSES **17:** ALL MISDEMEANOR AND NONVIOLENT FELONY OFFENSES **23:** ALL MISDEMEANOR, NONVIOLENT FELONY, AND LISTED VIOLENT FELONY OFFENSES **30:** ALL OFFENSES
JUDICIAL DISCRETION	**10**
	0: NO JUDICIAL DISCRETION **5**: COURT ALLOWED TO GRANT RELIEF DESPITE THE PROSECUTOR'S OBJECTION WHEN THE PROSECUTOR HAS RECEIVED REQUEST FOR RELIEF **10**: COURT IS ALLOWED TO GRANT RELIEF DESPITE THE PROSECUTOR'S OBJECTION WHEN THE PROSECUTOR HAS RECEIVED REQUEST FOR RELIEF AND HAS BEEN ABLE TO CONDUCT ADDITIONAL TASKS
NEXUS TO TRAFFICKING	10
	VICTIMS MUST PROVE OFFENSES WERE COMMITTED: **2:** UNDER DURESS **4:** DIRECT RESULT OF TRAFFICKING **6:** DURING VICTIMIZATION OF TRAFFICKING **8:** OFFENSES WERE CAUSED BY TRAFFICKING **10:** AS A RESULT OF TRAFFICKING
	8

TIME LIMITS AND WAIT TIMES	**0:** REQUIRES VICTIMS TO WAIT LARGE AMOUNT OF TIME SINCE LAST CONVICTION TO APPLY FOR RELIEF AS WELL AS EXPLICIT STATUTE OF LIMITATION **4:** LENIENCY ON TIME LIMITS **8:** NO REQUIRED TIME LIMIT, WAIT TIME OR RESTRICTION
HEARING REQUIREMENT	5
	HEARING REQUIRED: **0**: REQUIREMENT OF VICTIM TO APPEAR **1:** ATTENDANCE REQUIRED; ALLOWED ALTERNATIVE METHODS OF APPEARANCES **2:** APPEARANCE REQUIRED IF OPPOSITION AND VICTIM MUST SHOW UP **3:** VICTIM CAN USE ALTERNATIVE METHOD OF APPEARANCE AND OPPOSITION IN PERSON **4:** OPPOSITION TO APPEAR; VICTIM CAN WAIVE RIGHT TO BE PRESENT **5:** NO HEARING REQUIRED
BURDEN OF PROOF	5
	0: NO STANDARD OF PROOF **2:** CLEAR STRONG EVIDENCE **5:** PREPONDERANCE OF EVIDENCE ("MORE LIKELY THAN NOT" A VICTIM CONCEPT)
OFFICIAL DOCUMENTATION	5
	0: NO PRESUMPTION OF ELIGIBILITY **5:** PRESUMPTION OF ELIGIBILITY
CONFIDENTIALITY	5
	0: LACK OF WORDING IN STATUTE TO ENSURE CONFIDENTIALITY OR SEALING OF DOCUMENTS **5:** WORDING TO ENSURE CONFIDENTIALITY AND OPPORTUNITY TO SEAL DOCUMENTS
ADDITIONAL RESTRICTIVE CONDITIONS ON RELIEF	2
	0: RESTRICTIVE CONDITIONS EXISTS PROVIDING DIFFICULTY FOR VICTIMS TO APPLY FOR RELIEF **2:** NO ADDITIONAL RESTRICTIVE CONDITIONS

Table 2: State Report Card Categories Descriptions (p. 14-19)

PROPOSED CATEGORIES	DESCRIPTION
RANGE OF RELIEF	BASED ON THE TYPE OF CRIMINAL RECORD RELIEF STATUTES AVAILABLE. THIS VARIES FROM WHETHER A STATE HAS OPTIONS OF SEALING OR EXPUNGEMENT VS. VACATUR; IF THERE IS A TRAFFICKING SPECIFIC RECORD RELIEF STATUTE INSTEAD OF UTILIZING AN OVERALL CRIMINAL RECORD RELIEF.
ARREST AND ADJUDICATION RELIEF	DOES THE STATUTE INCLUDE RELIEF FOR ARREST AND ADJUDICATION? CRIMINAL RECORD RELIEF STATUTES GENERALLY ONLY APPLY TO RELIEF OF CONVICTIONS AT THIS TIME.
OFFENSES COVERED	ARE ADDITIONAL OFFENSES THAT VICTIMS ARE FORCED TO COMMIT INCLUDED IN CRIMINAL RECORD RELIEF? CRIMINAL RECORD RELIEF STATUTES TYPICALLY FOCUS ON PROSTITUTION AND OR SEX-RELATED CRIMES.
JUDICIAL DISCRETION	PROVIDES THE COURT TO GRANT RELIEF WHEN IDENTIFYING ELEMENTS OF THE STATUTE AS WELL AS ACTING ON IDENTIFIED ISSUES THAT ARE NOT COVERED IN THE STATUTE. VICTIMS MAY BE PROVIDED JUDICIAL DISCRETION IN STATES WHERE CRIMINAL RECORD RELIEF STATUTES DO NOT PROVIDE RELIEF ON ADDITIONAL OFFENSES.
NEXUS TO TRAFFICKING	RELYING ON THE BURDEN OF PROOF OF FORCE, FRAUD OR COERCION, HAVING A REQUIREMENT OF NEXUS TO TRAFFICKING CREATES RESTRICTIVE GUIDELINES WHERE VICTIMS MUST PROVE OFFENSES WERE COMMITTED UNDER "DURESS" AND WERE DIRECT RESULTS AND/OR CAUSED BY THE TRAFFICKING.
TIME LIMITS AND WAIT TIMES	APPLIES A RESTRICTION ON HOW LONG A VICTIM HAS TO APPLY FOR CRIMINAL RECORD RELIEF, FOLLOWING THE CONCEPT OF STATUTE OF LIMITATIONS. SOME STATES INDICATE VICTIMS HAVE UP TO SIX YEARS AFTER THE END OF TRAFFICKING TO REQUEST FOR CRIMINAL RECORD RELIEF WHEREAS OTHERS REQUIRES A WAIT TIME BEFORE RELIEF CAN BE MADE AVAILABLE. THE IDEAL CONDITION IS A REASONABLE TIME LIMIT AND/OR NO TIME LIMIT FOR ALL VICTIMS.
HEARING REQUIREMENT	HEARING REQUIREMENT DEPEND ON WHETHER OR NOT A VICTIM IS REQUIRED TO APPEAR IN PERSON, POSING POSSIBLE ISSUES TO INCLUDE FINANCIAL BURDENS OR SAFETY CONCERNS FOR THE VICTIM. DOES THE STATUTE ALLOW FOR VICTIMS TO WAIVE THEIR RIGHT TO APPEAR IN COURT OR ALLOW FOR ALTERNATIVE METHODS OF APPEARANCES?
BURDEN OF PROOF	AN ESTABLISHED STANDARD IN WHICH THE VICTIM HAS A LEVEL OF PROOF THEY MUST PROVIDE IN ORDER TO SHOW THEY WERE A VICTIM OF TIME WHEN THE CRIMINAL OFFENSE OCCURRED.
OFFICIAL DOCUMENTATION	DOES THE VICTIM HAVE THE ABILITY TO PROVIDE OFFICIAL DOCUMENTATION OF THEIR TRAFFICKING EXPERIENCE TO ACCOUNT FOR THE CRIMINAL ACT COMMITTED DURING THE TRAFFICKING TIME FRAME?

	DOES THE OFFICIAL DOCUMENTATION CREATE A PRESUMPTION OF ELIGIBILITY OR DOES IT NOT?
CONFIDENTIALITY	WHAT PROVISIONS ARE ESTABLISHED TO PROTECT CONFIDENTIALITY OF THE VICTIM THROUGH THE WHOLE PROCESS? THIS TAKES IN CONSIDERATION THE SAFETY OF THE VICTIM.
ADDITIONAL RESTRICTIVE CONDITIONS ON RELIEF	ARE THERE ADDITIONAL CONDITIONS THAT MAY PREVENT A VICTIM WITH PENDING CHARGES FROM THE ABILITY TO RECEIVE CRIMINAL RECORD RELIEF? THIS TAKES IN CONSIDERATION A VICTIM MAY HAVE CONVICTIONS IN NUMEROUS JURISDICTIONS ACROSS THE COUNTRY, POSING A CHALLENGE TO RECEIVE CRIMINAL RECORD RELIEF ACROSS THE BOARD.

Research questions

After identifying the data readily available to identify the overall caliber of the issue of human trafficking, the focus is placed on improving understanding there is disparity in human trafficking reporting in UCR data in comparison to NGO data. While the number of sex trafficking cases reported to the NHTH are not confirmed cases as we would see reported to UCR, there is still a significant difference in reported numbers. Comparing NHTH data to UCR, in states that are known to have significant human trafficking incidences, there is a much higher reporting to the NHTH than to law enforcement/UCR. For instance, if we look at the states with top five states[2] with the highest average number of annual cases from 2015-2018; UCR reports the top five states to be Texas, Minnesota, Nevada, Florida and Louisiana[3]. NHTH reports the top five states with the highest average calculated average of reported 'cases' from 2015-2018 to be Texas, Florida, Ohio, Michigan and Georgia[4]. There appears to be a likely disparity in reporting via law enforcement reporting in comparison to the hotline, as well as the calculated

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[2] States that do not report to UCR were excluded from NHTH data when assessing the top five states in order to compare the data.

[3] Calculated UCR annual (2015-2018) averages are Texas (170), Minnesota (162.5), Nevada (142.75), Florida (74.75), Louisiana (63.25).

[4] Calculated NHTH annual (2015-2018) averages are Texas (530.5), Florida (417), Ohio (292), Michigan (213), Georgia (201.5).

averages identify that even the top five states appear to differ with the exception of two states. See Appendix C for a full overview of UCR and NHTH ranking of averages from 2015-2018.

In addition to disparity in reporting of human trafficking numbers, another question is how, with the number of cases of human trafficking reported, do states fare in addressing the needs of victims utilizing criminal record relief laws. Criminal record relief laws regarding human trafficking are intended to assist victims in providing essentially what is criminal forgiveness. A victim that has been charged with the offense of prostitution, depending on the criminal record relief laws that exist within that state, there may be guidelines which qualifies the victim for criminal record relief if the offense was identified as sex trafficking. However, not all states at this time have verbiage that extends criminal record relief outside of prostitution charges and may exclude offenses that occurred as a result of the trafficking period. This brings the question in even with a clearance rate for commercial sex acts offenses (focusing on offenders of human trafficking) reported to UCR, is there a lack of focus on providing assistance to victims. How do states' criminal record relief laws measure up to Polaris Project's ideal guidelines for what a perfect human trafficking criminal record relief law should contain. The questions are outlined in Table 3.

TABLE 3: KEY RESEARCH QUESTIONS

WHY DO WE SEE A DISPARITY IN REPORTING STATE TO STATE?
HOW DO CRIMINAL RECORD RELIEF LAWS MEASURE UP TO THE IDEAL CRIMINAL RECORD RELIEF LAW, AND HOW DOES THIS COMPARE TO CLEARANCE RATES?

Disparity

So why are we seeing varying degrees of reporting from state to state at this time when laws have been established to address human trafficking and its victims? We face two issues,

inconsistency in reporting and inconsistency in providing reprieve and forgiveness of criminal acts conducted during the victimization period. The reprieve and forgiveness of criminal acts, meaning that a trafficked individual may have drug charges from being forced to sell drugs on the side, resulting in lack of criminal relief because the charge was not directly commercial sex related. The lack of understanding victimization let alone victimization of human trafficking victims may be attributed to the fact that only in 2013 is when the FBI has added Human Trafficking/Commercial Sex Acts and Human Trafficking/Involuntary Servitude to the UCR program. After the implementation of these two offenses, law enforcement at the local and state level needed to create a mechanism in order to properly classify human trafficking investigations within their internal systems (Farrell, et al., 2019). When the offenses were initially implemented in 2013, only four states at the time took part in properly reporting human trafficking offenses, but by 2016, UCR showed that thirty-five states have since then participated (p.11). This significantly impacts the way our country can properly assess human trafficking, more specifically sex trafficking as a whole when not all states participate in properly reporting human trafficking offenses. So why are we continuing to see a disparity in states accurately reporting, especially when there is an expectation of increase in accurate reporting? We face challenges in identifying causes of fluctuation in reporting, some states stay consistent in numbers, some states are consistent in their rise, and some fluctuate where a previous year has higher reporting than the next. See Appendix A for annual state reporting data from 2014-2018.

In Appendix A[5], the data clearly depicts over time from 2014 to 2018 more states participating in reporting human trafficking offenses. The issue is within the reporting, the data

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[5] The UCR data reflects both commercial sex acts and involuntary servitude. Involuntary servitude will be left out of Appendix A as the main topic focuses on the sex trafficking portion of human trafficking. Additionally, at this time human trafficking courts and criminal record relief laws primarily focuses on criminal activity tied to sex trafficking and/or commercial sex acts and not labor trafficking / involuntary servitude activities.

does not accurately reflect the overall number in human trafficking incidences as many do not come to the attention of police nor is reported to a hotline. For instance, to pull numbers from the state with the highest reported number of commercial sex act offenses, Texas reported in 2018 259 commercial sex act offense in comparison to 2014 reporting of 78 commercial sex act offenses. The Polaris Project reports that of the 1000 human trafficking cases reported to the hotline in 2018, 719 cases were reported to be sex trafficking incidences (Polaris Project, 2019). A count for 2014 is unavailable at this time through Polaris Project, but an overall count of all human trafficking cases (labor and sex) for Texas in 2015 reports at 455. See Appendix B for a comprehensive table of reported human trafficking cases to the NHTH. From a hotline, these numbers still pose a significant difference than what is actually reported through law enforcement. While we must understand that the Hotline receives reporting from multiple sources and requires further corroboration of information, we have to recognize there is still a disparity.

The disparity that exists is the number of 'cases' reported to be human trafficking incidences to the NHTH in most states to be quite higher than reported number of commercial sex act offenses to UCR. This disparity is likely attributed to the fact that law enforcement only knows what is reported to them, and reliant on their own recognition of human trafficking indicators as well as victim outcry. Whereas the NHTH has numerous sources reporting in whether that is a community member, a victim self-reporting, a business, or a state/federal agency (non-law enforcement) that may have an established standard operating procedure (SOP) to report to NHTH. Examples of a non-law enforcement agency that may have a SOP requiring reporting includes a regulatory agency that conducts routine inspections of spas and nail salons that come across indicators of human trafficking report their findings; transportation agencies working in

collaboration with the 'Truckers Against Trafficking' initiative by training truck drivers to recognize indicators and instructing them to report to NHTH. Based on this disparity and understanding trafficker's methods of teaching their victims that law enforcement are not there to help, it appears this shows a pattern of comfort in reporting/conduct an outcry to a hotline or NGO as there is a reduced fear of negative consequences such as concern of deportation or criminal charges.

One explanation to address why there is disparity in reporting and recognition is misidentification of crime. When focusing on only sex trafficking, there is a significant impact caused by criminalization of commercial sex. Criminalization impacts individuals who work in the sex industry through distrust and an inability to rely on law enforcement for protection or enforcement of their rights (Kendis, Human Trafficking and Prostitution Courts: Problem Solving or Problematic, 2019). For instance, an individual engaging in commercial sex out of their own accord to make money experiences physical abuse or sexual abuse from a customer and may not feel comfortable going to law enforcement to report the action. This stems from concern and/or fear that law enforcement will look at this as the individual chose to engage in an illegal act rather than looking at the victimization that had occurred and face possible arrest and incarceration or criminal fees. When this is applied to a sex trafficking incident in which a trafficking victim is encountered, knowing the stigmatization due to the criminalization of commercial sex, those same fears and/or concerns may still occur, resulting in lack of outcry and reporting. This is in addition to the already occurring exploitation and manipulation traffickers impose on their victims. This situation may easily be avoided when an implementation of training law enforcement to recognize these indicators of force, fraud or coercion.

According to a study conducted by Farrell, et al, (2019) lack of training became a consistent answer. This answer came about through an analysis of coding law enforcement reports detailing human trafficking cases as well as obtaining qualitative data conducting interviews on three focus groups broken down by location (Northeastern, Western, Southern sites) (Farrell, et al., 2019). The three locational groups that were interviewed consisted of law enforcement officials at the local, state and federal level as well as local service and non-law enforcement stakeholders (p. 6-7). How Farrell, et al, was able to identify lack of training as an issue is that through interview criteria, the focus was placed on identifying how each organization defines human trafficking, how human trafficking is reported and to who, and what potential barriers stand in the way of reporting human trafficking activities (p. 7). The criteria were utilized to provide a clearer understanding on whether or not there was a threshold of evidence in order to determine if a suspected trafficking incident is recorded as human trafficking in record management systems or to UCR. The criteria were also used to assess how offenses are reported through various methods of identification and investigations (p. 7). Assessing the qualitative results extracted from interviews, Farrell, et al, coded the responses within pre-established themes obtained from interviews and existing literature (p.7).

Coding was conducted on human trafficking related law enforcement reporting, focusing on criteria of detail of the incident report; original versus supplemental reporting; nature of the offense, how the offense came to the attention of the police, and demographic information of the victims (p.7). In addition to this, Farrell, et al, also took into consideration assessing cases that involved human trafficking regardless of whether the originating incident report initially reported human trafficking. What was discovered in the impact lack of training has, is that within the Southern site, there appears to be a dependency on local police departments to identify sex and

labor trafficking incidences (p. 12-13). However, despite the fact that state investigative bureaus coordinate human trafficking training throughout the state (p. 13), the assumption is that local police departments have the resources in order to attend these trainings. The Western site indicates other units (units not specialized in human trafficking) within their agencies are not properly referring the case as human trafficking due to lack of training, causing misidentification, often identified as sexual assault, child abuse or domestic violence (p. 13).

This is why it is essential to be knowledgeable on indicators of human trafficking, to recognize the elements of force, fraud and coercion to recognize a possible domestic violence case is in fact a trafficker using physical force upon his/her victim because perhaps not enough money was earned that night. The Northeastern site reported similarly to the Western site, in struggling with a lack of referral to a specialized unit when human trafficking is encountered and not recognized (p. 13). Looking at this from a hypothetical scenario, this impedes in a specialized investigator's work when gathering historical information on a subject that may be a victim, discovering prior police encounters in which the subject may have been with a customer and they both were let go without further screening of the subject for human trafficking indicators. The scenario demonstrates a lack of utilizing the victim-centered approach, in recognition of human trafficking indicators, lack of referral to a specialized unit, and lack of resources in providing access to victim services.

The importance of training is emphasized when a law enforcement officer comes across a possible human trafficking incident. The scene may display (but not be limited to) indicators of domestic violence, drug use, theft, etc. The scene may also display individuals who refuse to or are unaware they are victims of human trafficking. The scene may display difficult determination factors for law enforcement officers in which they have to make the initial decision of whether or

not to arrest a likely victim that has also participated in criminal activities such as recruiting other potential victims for their pimp. These scenarios present a challenge for untrained law enforcement officers in deciding to arrest the individual as a suspect risking revictimization or initially treat and classify the individual as a victim. During an interview, a detective disclosed that even with the proper training, it is difficult to identify and locate human trafficking victims and that there is a specialty in how interviews are conducted in human investigations [in comparison to other criminal investigations] (p.14).

Impact of the Judicial System

With lack of training, the court system faces the issue of encountering individuals who are likely victims of sex trafficking but rather misidentified as an offender committing prostitution. What can the court system to in order to make reparations on occurrences caused by lack of training in law enforcement? One solution is a criminal record relief law. It took 10 years after the TVPA of 2000 went into effect before creation of legislation on criminal record relief for trafficking victims began to take place, with New York being the first state to do so (Marsh, Anthony, Emerson, & Mogulescu, 2019). The Polaris Project reports that there is no systematic data collection on the use of the criminal record relief statutes through the New York State Office of Court Administration. However, that the information could be collected from varying legal advocates and anti-trafficking organizations (Polaris project state report cards, p.9). The lack of systematic data collection poses an issue not only within New York, but nationwide. This causes a delay of providing proper care for these victims as well as the lack of set up to collect data. It takes setting up a systematic data collection to better assess the numbers of victims there

actually are once courts are able to report accurately numbers of those who received criminal record relief.

Based on Polaris Project's assessment nationwide, since New York established the first criminal record relief addressing trafficking victims, all states except for six (Alaska, Iowa, Maine, Minnesota, South Dakota, and Virginia) has established laws on offering criminal record relief for trafficking victims (Marsh, Anthony, Emerson, & Mogulescu, 2019). In addition to states not fully caught up on providing criminal record relief laws, victim also face the issue of criminal record relief lacking important coverage to include:

1) Not all criminal record relief laws are applicable to offenses other than prostitution. Some laws require proving a nexus to human trafficking through burden of proof in which a victim must be able to provide evidence to show they were 'more than likely than not' in which at the time of arrest, they were a victim (p. 18).

2) Proving trafficking experience through a legal document that states the offense was a direct result from the trafficking experience. In other words, if a victim based out New York has criminal charges that are not prostitution offenses, based on New York law, the victim must have an official documentation provided by local, state, or federal authorities confirming the victim to have been a victim in that timeframe (p.19). This may be discouraging to a victim that may have already struggled in making an outcry, in having to go through a strict process to simply change criminal history.

3) Restrictive conditions on relief excludes victims with pending charges from accessing relief, to include victims who have convictions or convictions vacated in other states. A victim's arrest / experience must be accounted for based off what is

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highlighted by the grading rubric, as seen in Table 3, in order to obtain relief (p. 19-20).

What is particularly interesting when assessing the grades assigned to each state on their criminal record relief statutes is how the grade compares to the reported number of offense/clearance rates for each state. In Table 4 (p.28), the top five graded states are Nebraska, Wyoming, Florida, Idaho and California (D.C. is removed as it does not reflect in UCR and NHTH data). When comparing the top five graded states with the UCR top five states and their number of offenses, only Florida has high reported numbers as well as high scoring in quality of criminal record relief statutes, see Appendix C for side-by-side data. California according to NHTH data, has high reporting of sex trafficking activity to the hotline and is considered in the top five highest scoring state regarding criminal record relief laws. While Texas ranks high in reported offenses per UCR data, they rank 39th out of the 41 states that received a criminal relief score from the NHTH. One notable point to make, is when looking at the top five states with the highest average of reported 'cases' of sex trafficking to NHTH, California, Florida, Ohio, and New York all rank in the top 15, while Texas ranks in the bottom five. This appears to be associated with the way Texas' criminal record relief statutes are written rather than being directly correlated with high reporting of cases. Whereas New York, currently ranked at eight, is moving to incorporate legislative updates to its 2010 criminal record relief statutes for human trafficking victims. The proposed changes include confidentiality protection, and expansion beyond prostitution/sex-related offenses, and if these changes occur it will bump New York up to a score of 93 with a grade A (Marsh, Anthony, Emerson, & Mogulescu, 2019). Based on assessing these differences, it appears there is no direct tie between high reporting of offenses with criminal record relief where states have higher scoring/grading or low scoring/grading.

Table 4: Criminal Record Relief State Report Cards

*No criminal record relief statutes in these states, no ranking assigned

Rank	State	Total Score	Grade
1	Nebraska	81	B
2	Wyoming	78	C
3	Florida	72	C
4	Idaho	69	D
5	D.C.	68	D
6	California	67	D
6	New Mexico	67	D
8	Alabama	63	D
8	Massachusetts	63	D
8	New York	63	D
11	Ohio	62	D
12	Indiana	61	D
13	Montana	60	D
14	Arkansas	59	F
14	New Jersey	59	F
16	Vermont	58	F
17	Mississippi	56	F
17	Pennsylvania	56	F
19	Utah	52	F
20	Colorado	50	F
21	Illinois	49	F
21	Nevada	49	F
21	North Carolina	49	F
21	West Virginia	49	F
25	Kentucky	47	F
26	Washington	46	F
27	Connecticut	45	F
27	Rhode Island	45	F
27	South Carolina	45	F
30	Delaware	44	F
30	New Hampshire	44	F
30	Oklahoma	44	F
30	Wisconsin	44	F
34	Michigan	41	F

35	North Dakota	37	F
36	Oregon	36	F
37	Hawaii	35	F
38	Kansas	34	F
39	Arizona	33	F
39	Texas	33	F
41	Maryland	36	F
*	Georgia	0	-
*	Louisiana	0	-
*	Missouri	0	-
*	Tennessee	0	-
*	Virginia	0	-
*	Alaska	0	-
*	South Dakota	0	-
*	Maine	0	-
*	Minnesota	0	-
*	Iowa	0	-

Results

Overall, numerous states have some catching up to do whether it is in reporting crime data to UCR, updating criminal record relief laws or developing criminal record relief laws due to having none to start off with. However, working with the data that is readily available, the Pearson correlation is calculated to see what statistical relationships exist within a calculated total from 2015-2018 for UCR arrests and NHTH data, as well as the calculated clearance rate and report card scoring. Table 5 presents the calculated correlation across all variables. One relationship that is assessed, is the relationship between UCR reporting and NHTH. Table 5 will help indicate whether or not there is an actual relationship between the limited reporting law enforcement contributes to UCR, despite the disparity, and NHTH reporting. Both UCR data and NHTH data have increased over the four years, and as they grow, does this indicate a relationship in that as NHTH receives increased reporting from the public, that it also increases law enforcement awareness and leading to an increase in human trafficking arrests? Table 5

indicates the correlation between UCR and NHTH reporting is .74, indicating a moderate to strong correlation between the two, as well as implying a statistically significant relationship ($p < .001$). While it is not much of a surprise to see the significance between UCR arrests and NHTH tips, there appears to be a stronger significance in the relationship between NHTH and clearance rate than there is with UCR and clearance rate. It is likely that as there is increased reporting of suspicion of human trafficking to the NHTH, has increased law enforcements efforts in arrests on human trafficking charges.

The second relationship assessed is the relationship between UCR clearance rates from human trafficking arrests and report card scoring (quality of states' criminal record relief laws). As clearance rates have increased over the four years, has clearances of human trafficking arrests had any impact on criminal record relief for victims. At this time, there is no statistically significant relationship, at a .072, between clearance rates and report card scorings of states' criminal record relief laws. It is important to assess this relationship, because often in human trafficking arrests, victims can be wrongfully arrested, often times attributed to lack of outcries or lack of training in victim identification. With the intention of criminal record relief laws to give victims criminal forgiveness, UCR clearance rates appear to have little to no impact on the status of criminal record relief laws at this time, leaving lack of clarity on status of arrested victims.

Table 5: Relationships Between Variables

	UCR Total Arrests (N=2774)	NHTH Total Reports (N=12120)	UCR Clearance Rate	Report Card Score
UCR Total	1			
NHTH Total	0.7422***	1		
Clearance Rate	-0.1234*	-0.0987***	1	
Report Card	-0.1593	-0.0024***	0.072058	1

* p < .05, ** p < .01, *** p < .001

Limitations

There are limitations faced when evaluating the correlation between the report card scores with either the UCR arrest data or NHTH data. The first limitation includes that UCR data are known to have issues with missing data. Arrests of human trafficking were not wholly documented and reported over the course of five years to UCR as UCR remains in a transitionary period from SRS to NIBRS, as well as the issue of misidentification of the crime. Another issue that exists is when assessing report card scores, it may be best to compare significant statistical relationships amongst prostitution clearance data, rather than human trafficking data. However, as mentioned previously, it is understood that when looking at human trafficking as a whole, there is still problem with correct documentation. For example, an incident report documented as a sexual assault or domestic violence rather than prostitution and/or human trafficking, and the case may fall through the cracks. Another example includes the following scenario. Victims of human trafficking are likely to be arrested on prostitution charges, as well as small petty crimes

such as theft or fail to id. This poses a problematic scenario when looking at the correlation and

significance in relationships, because criminal record relief laws often target those arrested with

prostitution and no other criminal charges (whether or not the other criminal charges is

misidentification or forced criminality upon the victim). With continued misidentification in

crime arrests and lack of updates in criminal record relief laws create a difficult opportunity to

assess a likely relationship between the two.

Discussion

While it appears at this time that there is an opportunity to examine relationships between

crime reporting and clearance rates, the same cannot be said in comparing criminal record relief

laws and crime rates. When considering what correlation criminal record relief could have with

reported offenses or cases of human trafficking, it appears it does not matter what the reported

number is in comparison to state report card scoring/grading. This is in addition to victims not

being qualified to receive criminal record relief if they have any priors of other arrests and/or

orders of non-disclosures. Essentially, if the individual has a criminal history, they are not

qualified for relief and the process is not victim-centered. Other states require victims to

potentially compromise their safety in order to identify their trafficker to the best of their abilities

(Idaho), victims must be able to prove they were trafficking victims at the time defense during

prosecution for prostitution (Arizona), or even pay restitution to the victim of a nonviolent crime

that they committed from their trafficking victimization period (California) (Marsh, Anthony,

Emerson, & Mogulescu, 2019). It is vital for policymakers to take this into consideration when

strengthening criminal record relief laws. While this may not have an impact on reported

offenses of human trafficking, it is likely there could be a shift in reported offenses of

prostitution because the stronger the criminal record relief laws are, the more victims may likely have an easier avenue of removing prostitution offenses.

These challenges provided by the issues of outdated criminal record relief statutes provides an insight on one likely cause behind inaccurate reporting of numbers of victims encountered. Nationwide, we will continue to see inaccurate numbers of victims and offenses until amendments are made to the original bill, in efforts to allow those who should be identified as victims may not get the opportunity to clear their records. A common factor seen between human trafficking problem-solving courts and criminal record relief laws is that they both do not address an individual's criminal actions that were a direct result from being trafficked in all states. Until reform occurs to address this, we may not see an improvement in reporting and recognition of victims.

There are similar issues faced when addressing Safe Harbor Laws, which are meant to redirect classification of child victims of commercial sexual exploitation and/or trafficking from offenders. Gies et al. found, in their study examining the effectiveness of safe harbor laws through analysis of juvenile and adult prostitution arrests, that while it aided in increasing a victim centered approach, the provisions of treatment services meant to be directed towards the child victims did not actually happen. This is much like what is seen within the issues of criminal record relief laws, intended to aid victims but more often than not, they are not receiving necessary services due to barriers like negating those with criminal histories or negating the non-prostitution arrests. Additional findings include that safe harbor laws have limited impact on the sex trafficking market overall, much like criminal record relief laws, and rather the intent is to help increase recognition of victimization in individuals portrayed as criminals (Gies, Healy, Green, & Bobnis, 2020). Gies et al. suggests that policymakers to approach human trafficking

with a multidimensional policy, to include a focus on microeconomics (p. 403). This is essential to consider, because when we consider criminological theories, we learn that human trafficking at its foundation is essentially a market that follows a supply and demand model.

Conclusion

The reality is until law enforcement agencies at the local, state and federal level nationwide can get fully trained up on recognizing indicators of human trafficking and in improving skills of identifying a victim, this will continue to impact correct reporting of data. An increase in training of interviewing skills following the requirements of the TVPA's victim centered approach method may have the ability to increase the numbers of victims, traffickers and investigations reported. An increased collaboration between NGO's and law enforcement will provide a more well-rounded approach when recovering sex trafficking victims resulting in more accurate reporting of sex trafficking numbers. The more resources and training law enforcement can obtain then this may allow for more room in an increased response to hotline tips. As well as suggested reformation of criminal record relief laws or collaboration with human trafficking courts, reporting may see more accurate reflection of number of victims as well as cases. The indication of collaboration between law enforcement, NGO's and the judicial system all stems back to the Trafficking Victims Protection Act's concept of a victim centered approach.

Appendix A: FBI UCR: Human Trafficking Offenses 2014-2018

	2014		2015		2016		2017		2018	
States	**Offense**	**Total Cleared**	**Offense**	**Total Cleared**	**Offense**	**Total Cleared**	**Offense**	**Total Cleared**	**Offense**	**Total Cleared**
Alabama*	-	-	-	-	-	-	0	0	0	0
Alaska	11	3	10	1	11	8	2	0	2	0
Arizona	15	8	5	6	19	5	92	37	57	16
Arkansas	-	-	5	2	4	4	0	0	1	1
California*	0	0	-	-	-	-	0	0	0	0
Colorado	11	0	11	5	12	3	49	14	44	14
Connecticut	-	-	0	0	1	0	8	0	10	3
Delaware	0	0	0	0	0	0	5	4	3	1
Florida	57	44	44	23	98	50	65	51	92	5
Georgia	-	-	-	-	-	-	0	0	0	0
Hawaii	0	0	3	0	2	0	2	1	4	0
Idaho*	0	0	0	0	-	-	0	0	0	0
Illinois	50	0	53	0	21	0	26	0	27	0
Indiana	0	0	0	0	4	2	2	0	6	1
Iowa	-	-	-	-	-	-	-	-	-	-
Kansas	1	1	0	0	0	0	3	2	0	0
Kentucky	-	-	-	-	-	-	8	0	34	12
Louisiana	-	-	51	41	121	92	59	47	22	13
Maine	-	-	0	0	-	-	2	0	1	0
Maryland	-	-	27	22	17	15	0	0	30	19
Massachusetts	6	4	0	0	0	0	17	5	45	12
Michigan	2	2	3	3	1	1	11	2	25	4
Minnesota	22	5	119	77	235	191	173	147	123	108
Mississippi	0	0	0	0	0	0	0	0	1	1
Missouri	5	2	13	5	16	15	25	16	24	9
Montana	1	0	0	0	1	0	2	0	2	0
Nebraska*	-	-	0	0	-	-	0	0	0	0
Nevada	0	0	214	29	140	58	5	0	212	58
New Hampshire	-	-	-	-	-	-	2	2	0	0
New Jersey	-	-	-	-	-	-	-	-	0	0
New Mexico	-	-	-	-	-	-	0	0	4	0
New York*	-	-	0	0	-	-	0	0	0	0
North Carolina*	-	-	-	-	-	-	0	0	0	0
North Dakota	-	-	-	-	4	0	10	0	4	1
Ohio	0	0	3	2	1	0	0	0	0	0
Oklahoma	10	7	38	27	42	37	25	17	22	11
Oregon	0	0	0	0	0	0	1	0	2	1
Pennsylvania	-	-	-	-	-	-	-	-	-	-
Puerto Rico	-	-	0	0	0	0	0	0	0	0

Rhode Island	-	-	0	0	5	2	12	3	14	3
South Carolina	-	-	10	5	15	9	26	2	17	9
South Dakota	0	0	0	0	0	0	3	0	1	1
Tennessee	29	0	32	10	55	26	75	11	31	8
Texas	78	22	98	30	130	51	193	82	259	63
Utah	0	0	0	0	0	0	1	0	15	8
Virginia	-	-	-	-	-	-	-	-	-	-
Vermont	-	-	-	-	2	2	0	0	5	3
Washington	2	0	1	0	13	3	29	6	35	20
West Virginia	-	-	-	-	-	-	-	-	0	0
Wisconsin	-	-	4	2	34	19	59	16	66	36
Wyoming	0	0	0	0	3	2	2	2	2	2

* As of 2017, data is submitted through the Bureau of Indian Affairs

Appendix B

National Human Trafficking Hotline's Sex Trafficking Statistics by Year				
Cases may involve multiple victims				
State	2015	2016	2017	2018
Alabama	35	31	50	64
Alaska	8	7	5	16
Arizona	101	113	119	158
Arkansas	28	39	33	63
California	817	1068	1036	1229
Colorado	52	91	82	129
Connecticut	31	45	37	37
Delaware	6	16	17	27
Florida	316	412	416	524
Georgia	160	195	196	255
Hawaii	21	23	18	35
Idaho	8	8	6	14
Illinois	99	161	159	225
Indiana	38	66	68	109
Iowa	27	63	59	76
Kansas	31	39	52	67
Kentucky	46	69	43	97
Louisiana	62	81	84	106
Maine	7	15	15	23
Maryland	96	126	93	109
Massachusetts	54	70	70	83
Michigan	125	198	244	285
Minnesota	44	53	63	91
Mississippi	29	37	35	64
Missouri	60	98	115	138
Montana	13	11	18	13
Nebraska	14	34	55	54
Nevada	124	142	187	259
New Hampshire	11	10	3	6
New Jersey	144	152	126	175
New Mexico	24	27	28	50
New York	231	254	243	358
North Carolina	87	134	154	192
North Dakota	15	12	18	9
Ohio	241	279	298	350
Oklahoma	33	72	54	91
Oregon	48	56	56	100
Pennsylvania	85	117	162	212

Rhode Island	7	7	10	13
South Carolina	40	57	82	106
South Dakota	9	13	14	13
Tennessee	57	77	90	117
Texas	355	482	563	722
Utah	16	33	19	53
Vermont	N/A	5	11	7
Virginia	108	109	112	114
Washington	107	125	114	172
West Virginia	7	16	9	28
Wisconsin	48	55	75	104
Wyoming	< 3	8	3	10

Appendix C

2015-2018 Human Trafficking Reported Averages by Rank			
Data based on Sex Trafficking Offense/Incidences			
State	**UCR**	**State**	**NHTH**
Texas	136	California	1038
Minnesota	130	Texas	531
Nevada	114	Florida	417
Florida	60	Ohio	292
Louisiana	51	New York	272
Tennessee	39	Michigan	213
Arizona	35	Georgia	202
Wisconsin	33	Nevada	178
Illinois	25	Illinois	161
Oklahoma	25	New Jersey	149
Colorado	23	Pennsylvania	144
Missouri	16	North Carolina	142
Washington	16	Washington	130
Maryland	15	Arizona	123
Kentucky	14	Virginia	111
South Carolina	14	Maryland	106
Massachusetts	12	Missouri	103
Michigan	8	Colorado	89
Rhode Island	6	Tennessee	85
Alaska	5	Louisiana	83
North Dakota	5	South Carolina	71
Connecticut	4	Wisconsin	71
Utah	3	Indiana	70
Indiana	2	Massachusetts	69
Hawaii	2	Oregon	65
Arkansas	2	Kentucky	64
Vermont	2	Minnesota	63
Delaware	2	Oklahoma	63

State Report Card Grade by Rank		
State	**Total Score**	**Grade**
Nebraska	81	B
Wyoming	78	C
Florida	72	C
Idaho	69	D
California	67	D
New Mexico	67	D
Alabama	63	D
Massachusetts	63	D
New York	63	D
Ohio	62	D
Indiana	61	D
Montana	60	D
Arkansas	59	F
New Jersey	59	F
Vermont	58	F
Mississippi	56	F
Pennsylvania	56	F
Utah	52	F
Colorado	50	F
Illinois	49	F
Nevada	49	F
North Carolina	49	F
West Virginia	49	F
Kentucky	47	F
Washington	46	F
Connecticut	45	F
Rhode Island	45	F
South Carolina	45	F

State	
Wyoming	1
New Mexico	1
Montana	1
Ohio	1
South Dakota	1
Maine	1
New Hampshire	1
Kansas	1
Oregon	1
Mississippi	0
Alabama*	0
California*	0
Georgia	0
Idaho*	0
Iowa	0
Nebraska*	0
New Jersey	0
New York*	0
North Carolina*	0
Pennsylvania	0
Virginia	0
West Virginia	0

State	
Iowa	56
Kansas	47
Alabama	45
Mississippi	41
Arkansas	41
Nebraska	39
Connecticut	38
New Mexico	32
Utah	30
Hawaii	24
Delaware	17
Maine	15
West Virginia	15
Montana	14
North Dakota	14
South Dakota	12
Rhode Island	9
Alaska	9
Idaho	9
Vermont	8
New Hampshire	8
Wyoming	7

State		
Delaware	44	F
New Hampshire	44	F
Oklahoma	44	F
Wisconsin	44	F
Michigan	41	F
North Dakota	37	F
Maryland	36	F
Oregon	36	F
Hawaii	35	F
Kansas	34	F
Arizona	33	F
Texas	33	F
Alaska	0	-
Georgia	0	-
Iowa	0	-
Louisiana	0	-
Maine	0	-
Minnesota	0	-
Missouri	0	-
South Dakota	0	-
Tennessee	0	-
Virginia	0	-

* UCR only: As of 2017, data is submitted through the Bureau of Indian Affairs

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