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Document Title: Safe Harbor Laws: Changing the Legal Response to Minors Involved in Commercial Sex, Phase 2. The Quantitative Analysis

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Document Number: 253225

Date Received: September 2019

Award Number: 2014-JF-FX-0002

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Safe Harbor Laws: Changing the Legal Response to Minors Involved in Commercial Sex

Phase 2. The Quantitative Analysis

Report
December 2018

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This project was supported by Grant No. 2014-JF-FX-0002, awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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1. Introduction

The Institute of Medicine (IOM) and the National Research Council (NRC) in 2013 called for a paradigm shift within the justice system, toward treating minors involved in commercial sex as victims instead of criminals (Clayton, Krugman, and Simon, 2013; IOM and NRC, 2013). Their call ultimately led to a proliferation at the state level of safe harbor laws—laws designed to remove the punitive sanctions for young victims of commercial sexual exploitation.

In 2014, the U.S. Department of Justice’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) awarded Development Services Group, Inc. (DSG), a grant to evaluate safe harbor laws and their impact on the commercial sexual exploitation of children (CSEC). DSG’s evaluation, among the first to systematically evaluate safe harbor laws, was conducted in three phases. Phase 1, a legal review, concentrates on the evolution of safe harbor laws in the United States. It presents an overview of CSEC, details the philosophy and conceptualization of safe harbor laws, and presents findings regarding state-level efforts to adopt safe harbor laws. This phase was completed in March 2018 (see Gies, Bobnis, and Malamud, 2018).

Phase 2, the foundation for this report, uses elements of the legal review to conduct a quantitative assessment of safe harbor laws employing a quasi-experimental, longitudinal design to compare counties that have and have not implemented safe harbor laws over an 11-year period (2005–15).

Phase 3 will make an in-depth assessment of two states: one that implemented safe harbor laws with positive findings, and one that implemented safe harbor laws with no positive results.

2. Background

SCOPE OF COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN THE UNITED STATES

As atrocious and concerning as the sexual abuse of children and adolescents for economic gain is (Albanese, 2007; Barnitz, 2001), little is known about CSEC in the United States—estimated to be the world’s second-largest market for sex trafficking (Clayton, Krugman, and Simon, 2013; Mizus et al., 2003).

For example, no one knows for certain the extent to which CSEC occurs, who are the perpetrators involved, and how many children are victims (Barnert et al., 2017; Moynihan et al., 2018). No one knows whether programs to address the needs of child victims of commercial sexual exploitation benefit or harm them (Dell et al., 2017; Gerassi, 2017; Goldberg and Moore, 2018). And there is scant evidence on whether established interventions to prevent and combat CSEC, including safe harbor laws, work to reduce victimization (Barnert et al., 2017; Coleman, 2016; Davy, 2016; Felner and DuBois, 2017; van der Laan et al., 2011).

Challenges to Understanding Commercial Sexual Exploitation

What is the problem? There is considerable confusion regarding the distinction between CSEC and the sex trafficking of minors. Consider, for example, the OJJDP (n.d.) definition of CSEC:

A range of crimes and activities involving the sexual abuse or exploitation of a child for the financial benefit of any person or in exchange for anything of value (including monetary and nonmonetary benefits) given or received by any person. Examples of crimes and acts that constitute CSEC include child sex trafficking/the prostitution of children; child sex tourism involving commercial sexual activity; the commercial production of child pornography; and the online transmission of live video of a child engaged in sexual activity in exchange for anything of value. CSEC also includes situations where a child, whether or not at the direction of any other person, engages in sexual activity in exchange for

anything of value, which includes nonmonetary things such as food, shelter, drugs, or protection from any person. Depending on the specific circumstances, CSEC may also occur in the context of Internet-based marriage brokering, early marriage, and children performing in sexual venues.

Note that the OJJDP definition lists sex trafficking as a form of CSEC. Others consider CSEC a form of sex trafficking (Hampton and Lieggi, 2017). The two terms, in fact, are often used interchangeably in the scientific literature (Gozdziak and Collett, 2005). While these definitional issues should not detract from the broader point that the commercial sexual abuse of children is a crime, they can be problematic for measuring crime, prosecuting perpetrators, ensuring victims' access to services, and other reasons (Clayton, Krugman, and Simon, 2013).

Who is involved? Another major challenge to understanding CSEC is that “the populations relevant to the study of human trafficking, such as prostitutes, traffickers, victims/survivors, or illegal immigrants constitute so-called hidden populations” (Tyldum and Brunovskis, 2005:18). For example, traffickers employ a variety of tactics to evade law enforcement, including the frequent relocation of youth, online marketing, use of false identification, and making youth appear older (Hampton and Lieggi, 2017). At the same time, victims of commercial sexual exploitation may be reluctant to seek help from law enforcement or service providers out of fear of incarceration, retribution, or humiliation. Or they may not even consider themselves victims (Barnert et al., 2017).

Yet another misconception is that CSEC is primarily a problem among girls (Friedman, 2013). Moynihan and colleagues (2018) said the research shows that boys and girls experience similar rates of sexual exploitation. Nevertheless, the research has been blind to the unique effects of the sexual exploitation of boys.

The Trafficking Victims Protection Act of 2000 established that the crime of human trafficking must have three basic elements: an act, a means, and a purpose.

Finally, at what age does CSEC end? The line is often drawn at age 18 to make the distinction between youth and adult. But, as Moynihan and colleagues (2018:441) acknowledged, “sexual exploitation may also affect youth who are over 18 and living in vulnerable and exploitative circumstances.” Thus, some researchers have extended the age range for CSEC to include older youth. For example, Murphy, Bennett, and Kottke (2016) operationalized CSEC to include adolescents up to 19.

Who is criminally liable? Researchers have also noted that the choice of terminology can make a significant impact on the criminal liability of child victims of commercial sexual exploitation (Mitchell, Finkelhor, and Wolak, 2010; Mitchell et al., 2011). For example, “U.S. child victims may be referred to as ‘prostitutes’ and foreign national child victims may be referred to as ‘sex trafficking victims’” (Adams, Owens, and Small, 2010:4). While the difference in these characterizations may seem inconsequential at a superficial level, the ramifications of such labels pose an egregious paradox. The latter characterization (*sex trafficking victims*) views the youth involved as virtuous victims entitled to support, compassion, and compensation, whereas the former (*prostitutes*) depicts the same youth as prurient criminals who merit only the sanctions offered by the criminal justice system.

Research demonstrates that characterizing these youth as criminals affects how they are treated by law enforcement (Adams, Owens, and Small, 2010; Adelson, 2008), leading to a host of negative outcomes, including not receiving necessary services, adjudication as delinquents or criminals, and

even incarceration (Smith, Vardaman, and Snow, 2009). Finally, as Bounds, Julion, and Delaney (2015:5) observed, such mischaracterizations can also “contribute to lack of cooperation among the multiple agencies and disciplines involved” in servicing young victims of commercial sexual exploitation.

Prevalence of the Problem

Because of the aforementioned challenges, it has been difficult to quantify the incidence and prevalence of CSEC. As Clayton, Krugman, and Simon (2013:48) said, “Definitions drive measurement.” Swaner and colleagues (2016) estimated that anywhere from 4,457 to 20,994 youth under age 18 in the United States are engaged in the sex trade annually. The National Center for Missing and Exploited Children estimated that at least 100,000 children each year are the victims of commercial sexual exploitation in the United States (U.S. Congress, 2010). In their heavily cited report, Estes and Weiner (2002) estimated the annual number of children at risk of commercial sexual exploitation to be between 244,181 and 325,575. Others have said that the number may be as high as 3 million children (Mitchell et al., 2011; Stransky and Finkelhor, 2008). Global estimates vary just as widely (Davy, 2016; Willis and Levy, 2002).

Though estimates of the incidence and prevalence of CSEC continue to be elusive, researchers can conjecture the seriousness of the problem based on the exponential increase in the number of traffickers and solicitors arrested and prosecuted on suspicion of CSEC. According to Adams and Flynn (2017), 2,972 persons in 2004 were arrested and referred to U.S. attorneys on suspicion of CSEC.* That number grew to 4,579 in 2013. Similarly, the number of defendants prosecuted for CSEC offenses went from 1,405 in 2004 to 2,776 in 2013. A tipping point at the federal level seemed to come in 2003, “when efforts converged (i.e., legislation, creation of task forces) to bring greater awareness to CSEC and to prosecute its perpetrators by using a collaborative, victim-centered approach” (Adams, Owens, and Small, 2010:5).

Risk Factors for Commercial Sexual Exploitation

Children typically first fall victim to commercial sexual exploitation from age 12 to 14 (Adams, Owens, and Small, 2010; Estes and Weiner, 2002). Many risk factors—individual, relational, communal, and societal—increase youth’s vulnerability to commercial sexual exploitation (Barnert et al., 2017). However, little is known about the relative predictability of these factors, and researchers have not established causality (Miller-Perrin and Wurtele, 2017). And, as Greenbaum, Dodd, and McCracken (2018) cautioned, what is known about the risk factors is largely based on qualitative and anecdotal data for all victims, young and old. What is clear is that victims of commercial sexual exploitation do differ from victims of sexual assault or abuse on several demographic, behavioral, physical, and historical factors (Greenbaum, Dodd, and McCracken, 2018; Shaw et al., 2017).

Individual-level risk factors include a history of sexual or physical abuse or maltreatment; running away or being homeless; being system-involved (such as with the juvenile justice, foster care, and child welfare systems); being lesbian, gay, bisexual, or transgender; having a history of substance use; earlier pubertal maturation; psychogenic factors; cognitive impairment or other disability; lack of education; lack of knowledge about legal rights; and adverse childhood experiences (Clayton, Krugman, and Simon, 2013; Bounds, Julion, and Delaney, 2015).

*Federal CSEC offenses include child sex trafficking and the production, trafficking, distribution, and possession of child pornography.

Relationship-level risk factors include exposure to domestic violence and other types of dysfunction, disruption (such as divorce or death of a parent), peer pressure, gang involvement, and lack of parental involvement (Clayton, Krugman, and Simon, 2013).

Community-level risk factors include poverty; social isolation; adverse social norms; underresourced schools; high-crime neighborhoods; and proximity to international borders, adult markets of prostitution, sporting events, and presence of transient men (Clayton, Krugman, and Simon, 2013).

Societal-level risk factors include the societal sexualization of children, gender biases and discrimination, the limitation in resources dedicated to serving vulnerable youth populations, and a lack of awareness of safe harbor laws and sex trafficking of minors (Clayton, Krugman, and Simon, 2013).

Consequences of Commercial Sexual Exploitation

As with the risk factors, there are multiple physical and mental health consequences for victims of commercial sexual exploitation (Ijadi-Maghsoodi et al., 2018). Physical health problems include violence-related injuries, unwanted pregnancies, sexually transmitted infections, malnourishment, and poor dental care. Mental health problems include substance use disorders, posttraumatic stress disorder, depression, suicidality, anxiety, eating disorders, psychosomatic illness, and trauma bonding (Barnert et al., 2017; Goldberg and Moore, 2018). Victims can also be retraumatized through arrest, prosecution, and detention (Geist, 2012) and face social hardships, including homelessness and social isolation (Clayton, Krugman, and Simon, 2013).

COMBATING COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN WITH SAFE HARBOR LAWS

The U.S. government's effort into combating CSEC began with the passage of the Trafficking Victims Protection Act of 2000 (TVPA), the first comprehensive federal law to address trafficking in persons. Since the TVPA was enacted, Congress has reauthorized it five times (in 2003, 2005, 2008, 2013, and 2017). While the initial Act concentrated primarily on international trafficking and foreign victims who end up in the United States,* the language of the original TVPA was broad enough to extend its protective blanket to foreign-born and legal permanent residents and to United States-born trafficking victims (Adelson, 2008).

Similarly, although the TVPA was not specifically enacted to prevent the prostitution of minors, its expansive language marked the beginning of changing the way people in this country think of prostituted youth. Specifically, the TVPA defined sex trafficking as

The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act, in which the 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. [22 U.S.C. § 7102]

Framing the law thusly, the TVPA established that the crime of human trafficking must have three basic elements: an act, a means, and a purpose. Clayton, Krugman, and Simon (2013:403) elaborated: "The *act* includes such steps as recruiting, enticing, harboring, transporting, providing, obtaining, or maintaining an individual. The *means* must be by force, fraud, or coercion. And the *purpose* must be for some form of exploitation, including forced labor, commercial sexual exploitation, or other forms of exploitation."

*The 2005 reauthorization of the TVPA fully recognized and addressed U.S. victims of trafficking.

Further, when the victim is a minor, the means (i.e., force, fraud, or coercion) does not need to be established. Therefore, committing the act (i.e., recruiting, enticing, harboring, transporting, providing, obtaining, or maintaining) with a youth for the purpose of commercial sexual exploitation is synonymous with sex trafficking of a minor. If one of these acts does not occur but the youth is prostituted, it is considered CSEC but not sex trafficking of a minor as the act's required element of trafficking is missing. If, by contrast, one of the acts does occur for purpose of prostituting a child, the crime can be considered both CSEC and sex trafficking of a minor (Clayton, Krugman, and Simon, 2013).

In essence, this language characterized prostituted children—regardless of countries of origin or whether they were coerced or otherwise manipulated—as victims of sex trafficking as long as the recruitment element is established. In short, under the TVPA, if a child engages in a commercial sex act at the behest of another, this situation is legally considered trafficking (Adelson, 2008).

Another decisive step in reframing the legal status of prostituted and trafficked minors occurred in 2013 with the release of the IOM/NRC report, *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States*. The report, requested by the U.S. Department of Justice, was prepared by a committee of independent experts who reviewed the relevant research and practice-based literatures to inform policy and practices with regard to the commercial sexual exploitation and sex trafficking of children who are citizens or lawful permanent residents of the United States.

Building on the foundation put in place by the TVPA, the IOM/NRC report called for “a paradigm shift from treating victims and survivors of commercial sexual exploitation and sex trafficking of minors as criminals to understanding and recognizing commercial sexual exploitation and sex trafficking of minors as forms of child abuse” (Clayton, Krugman, and Simon, 2013:373).

The report concluded with many salient recommendations, including a focus on strengthening the law's response to minors who are victims of commercial sexual exploitation and sex trafficking. Part of this recommendation emphasized developing legislation to redirect the young victims away from formal processing in the juvenile justice system to state agencies that could provide supportive services (IOM and NRC, 2013). Specifically, the recommendation stated that

All national, state, local, tribal, and territorial jurisdictions should develop laws and policies that redirect young victims and survivors of commercial sexual exploitation and sex trafficking from arrest and prosecution as criminals or adjudication as delinquents to systems, agencies, and services that are equipped to meet their needs. Such laws should apply to all children and adolescents under age 18. [Clayton, Krugman, and Simon, 2013:8]

This type of legislation was referred to as a “safe harbor law” to recognize the fact that minors involved in prostitution were not in violation of any rule or regulation but rather were victims of abuse—an approach that is consistent with child protection principles and goals of federal and state laws regulating treatment of minors (Clayton, Krugman, and Simon, 2013).

EFFECTIVENESS OF SAFE HARBOR LAWS

Researchers are only beginning to systematically assess the effects of safe harbor laws, and these studies have in general been limited in design and scope. For example, in a legislatively mandated evaluation of the Minnesota Safe Harbor Law, researchers found that charges and convictions against sex traffickers increased since enactment of the safe harbor law (Minnesota Statistical Analysis Center, 2014). In addition, using data from an online survey of service providers ($N=99$) and law enforcement officers ($N=187$) across the state, the researchers also noted that the 74 percent of

service providers have served at least one victim of human trafficking; and 21 percent of law enforcement respondents indicated their agency has had a sex trafficking arrest or investigation (Minnesota Statistical Analysis Center, 2014). In a more recent assessment of the Minnesota law, researchers found that both the awareness of sexual exploitation and the number of services for exploited youth have increased, and the recipients are overall satisfied with the services (Schauben et al., 2017).

However, there were several limitations to these studies. First, the research does not assess the main point of the safe harbor law—that is, whether youth were redirected out of the justice system. In addition, the studies essentially utilize a pretest-posttest design with no comparison group, a methodological limitation that makes it difficult to assess whether the increase in charges and convictions was the result of the enactment of the safe harbor law or due to another, unidentified source. Second, the survey data is based on yearly surveys that represent a cross-section of service providers and law enforcement officers, which makes yearly comparisons problematic. Moreover, with few exceptions, most respondents were asked to simply think over the past year and estimate whether they have served a client who meets the legal definition of human trafficking victim. Thus, the veracity of the “data” is equivocal.

In a more expansive study, McMahon–Howard (2017) conducted exploratory research to examine whether there has been a change in the way law enforcement handles prostituted youth since the adoption of the 2000 TVPA. Data were collected from in-depth life-history interviews with former prostituted youth to compare the experiences of individuals who were involved in prostitution as minors prior to the adoption of the 2000 TVPA with the experiences of individuals who were involved in prostitution as minors after adoption. The findings indicated that changes in the law and other efforts to recast prostituted youth as victims of commercial sexual exploitation have had little effect on victims’ own interactions with law enforcement and service providers.

However, the author noted that these findings should be viewed with caution as the study relied on a small, convenience sample of individuals who were living in one metropolitan area in the southeast region of the United States. Therefore, the sample is not representative. Moreover, the participants were those who were involved in prostitution prior to the age of 18 and received interventions from the criminal justice system. Thus, those who received services from child welfare systems were less likely to be included in the sample. Finally, this study focused on the passage of the TVPA and not the safe harbor laws of individual states.

Mehlman–Orozco’s (2015) study of four states—Connecticut, New York, Texas, and Washington—came to a similar conclusion as McMahon–Howard. Using yearly count data from the FBI Uniform Crime Report data, Mehlman–Orozco assessed the rate of commercial sexually exploited juveniles arrested for prostitution pre- and post-safe harbor law implementation. She found that the number of juveniles arrested for prostitution increased after passage of safe harbor laws in all but Washington State.

Similarly, Santos (2016), examined whether the passage of safe harbor laws in 18 states led to a decrease in the arrest of child victims of CSE. Again, using yearly count data from the FBI Uniform Crime Report data, she hypothesized that arrests would be inversely related to the number of provisions safeguarding children’s rights. She also found “no credible evidence that safe harbor laws, in whatever format, are associated with lower average numbers of annual arrests of CSEC” (Santos, 2016:46). However, she noted that the inverse of that statement was also true, and later asserted that it was too early to gauge the effects of safe harbor laws; 8 of the 18 states examined had enacted their safe harbor laws in 2013.

These studies too suffer from some methodological limitations. The Mehlman–Orozco (2015) study is limited by a small sample, a lack of appropriate control measures, and a mostly descriptive analytic strategy. In addition, while Santos (2016) provided statistical pre-post comparisons using ordinary least squares (OLS) regression, OLS is inappropriate for count data as the distribution is discrete rather than continuous in that it is limited to nonnegative values. Moreover, this study also includes only states that have adopted safe harbor laws, and thus does not include a comparison condition.

Offering a stronger design compared with previous research, Bouche, Farrell, and Witmer (2016), included a comparison condition by classifying all state human trafficking laws enacted between 2003 and 2012 into three broad categories: state investment, criminalization, and civil remedies (which included safe harbor laws). To measure human trafficking arrest and prosecution outcomes, they constructed a database of 3,225 human trafficking suspects who were identified in open source information across all states from 2003 to 2012. Using cross-sectional time-series multivariate regression analyses to assess the effectiveness of these various legislative provisions, the authors found that safe harbor laws were strongly predictive of arrests and prosecutions of people suspected of sex trafficking. But again, while the authors recognized safe harbor laws as statutes that either 1) grant sexually exploited children under age 18 immunity from prosecution, or 2) divert these children out of the criminal justice system, they did not assess the effectiveness of the laws in contributing to these outcomes.

3. Status of Safe Harbor Laws Across the United States

The goal of all safe harbor laws is to repeal the punitive approach to minors who are victims of commercial sexual exploitation and sex trafficking (that is, prostituted minors). As such, all safe harbor laws must redirect youth away from the justice system through immunity, diversion, mandatory referral, or a combination of these elements (see Table 3.1). Moreover, in doing so, safe harbor laws may include a variety of other elements (see Table 3.2) designed to protect minors who are victims of commercial sexual exploitation and sex trafficking, but the composition of elements varies widely from state to state (Gies, Bobnis, and Malamud, 2018).

A comparative analysis of the data found that by the end of 2017, 35 states (70 percent) had enacted safe harbor statutes to remove the punitive sanctions for young victims of CSE. The remaining 15 states do not have a safe harbor law (13 continue to treat these victims as criminals, and 2 states allow for an affirmative defense). Thus, 30 percent of states still allow the arrest and prosecution of minors who are victims of commercial sexual exploitation and sex trafficking.

On average, about four states each year since 2009 have enacted safe harbor laws, with 80 percent of states enacting safe harbor laws from 2013 through 2017. This suggests a fundamental change in treatment of prostituted minors on a national level.

The most popular method of implementing a safe harbor law is through immunity *with* mandatory referral (16 states), followed by diversion (12 states), mandatory referral only (4 states), and immunity only (3 states) [See Figure 3.1].

Table 3.1. Basic Elements of a Safe Harbor Law

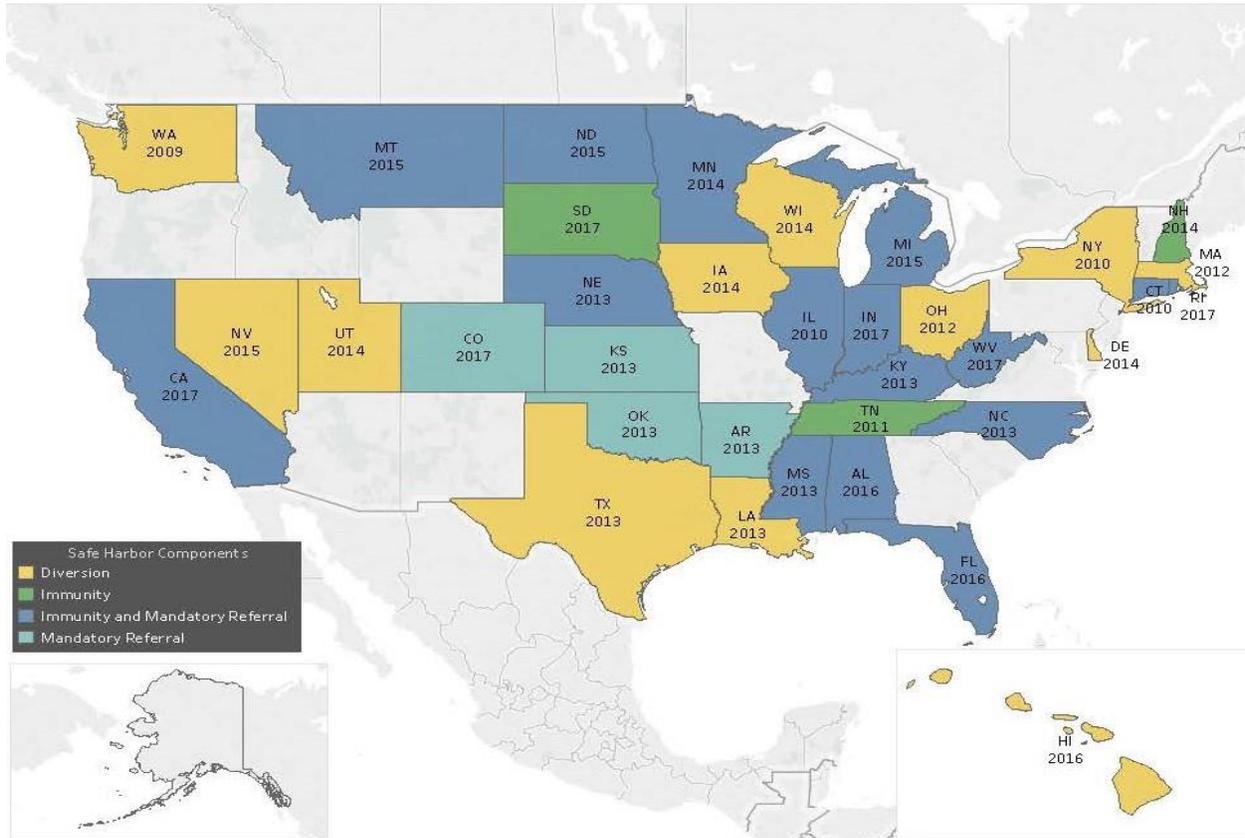
Element	Description
Immunity	<p>States can provide prostituted minors with immunity from arrest and prosecution. These laws make it a criminal offense for an adult to engage in sex with a minor, with the assumption that minors cannot consent to sex. The aim is “to protect minors from sexual intercourse” and “to protect minors below a certain age from predatory, exploitative sexual relationships” (Adelson, 2008:107). Proponents of immunity believe it is “logically inconsistent that minors of a certain age are incapable of consenting to sex, but that they simultaneously can be punished for prostitution. The only difference between the two scenarios is that when money exchanges hands, these same children turn from victim to offender” (Adelson, 2008:108). Proponents also maintain that finding prostituted youth criminally liable for engaging in prostitution further victimizes them and serves as an obstacle to restoration by burdening the victim with a criminal record (Dysart, 2014). Moreover, arresting, prosecuting, and detaining victims of commercial sexual exploitation and trafficking hinder law enforcement efforts to go after the real criminals—pimps and johns—and misses an important opportunity to rescue minors from a system ill-equipped to help them (Geist, 2012).</p>
Diversion	<p>Through diversion, a prostituted minor is charged with a crime but redirected away from formal processing in the justice system and prosecution is deferred, pending completion of therapeutic treatment. Unlike immunity, diverted youth remain under the authority of the court, but they are treated as children in need of services, not as criminals or delinquents. The court has the power to coerce reluctant youth into treatment services or temporary custody to prevent their return to the street. In general, if a minor cooperates, the prostitution charge is dropped. Proponents often include prosecutors and juvenile court judges, who argue that this approach is necessary to keep victims from returning to prostitution and their pimps or traffickers, and to ensure that victims receive the services they need (Dysart, 2014). This sentiment is not unwarranted. Victims of commercial sexual exploitation frequently display elements of Stockholm Syndrome (Jülich, 2005), a condition often associated with kidnapped people who, over time, can develop an attachment to those who victimize and exploit them. Similarly, commercially sexually exploited youth, who are often vulnerable to start with, often view their pimps or traffickers more as boyfriends or father figures than as abusers, making it highly likely they will willingly return if not detained by the state.</p>
Mandatory Referral	<p>Like diversion, prostituted youth under mandatory referral are treated as children in need of services; however, mandatory referral does not come with the threat of formal processing in the justice system that is typical in diversion. This hybrid approach bridges immunity and diversion by completely removing the victims from the justice system and places them in a youth-serving agency. It is often, but not always, implemented in conjunction with immunity.</p>

Table 3.2. Other Legislative Elements

Element	Description
Penalties for Perpetrators of Commercial Sexual Exploitation and Trafficking	
Demand-Side Penalties	Makes penalties for the buyers of commercial sex acts (i.e., johns) with minors as high as federal penalties. The aim is to curb demand by strengthening the response against individuals who attempt to buy commercial sex acts (Clayton, Krugman, and Simon, 2013). If convicted under the TVPA and associated federal laws, ^a the buyer must serve a mandatory minimum sentence that depends on the victim’s age: 10 years if the victim is between ages 14 and 18; 15 years if the victim is under age 14.
Trafficker-Focused Penalties	Makes penalties for the trafficking of minors as high as federal penalties. The aim is to disrupt the supply of minors into the commercial sex trade by strengthening the response to perpetrators of commercial sexual exploitation and sex trafficking (Clayton, Krugman, and Simon, 2013). If convicted under the TVPA and associated federal laws, the trafficker must serve a mandatory minimum sentence that depends on the victim’s age: 10 years if the victim is between ages 14 and 17; 15 years if the victim is under 14.
Criminal Justice Responses to Commercial Sexual Exploitation and Trafficking	
Investigation	Authorizes wiretapping to investigate CSEC and sex trafficking to facilitate prosecution through corroborating evidence (e.g., recorded phone conversations or text messages between a victim and buyer or trafficker)[Clayton, Krugman, and Simon, 2013]. Wiretapping use should lead to an increase in arrests and better prosecutions, and should help alleviate reliance on the testimony of child victims (Shared Hope International, 2015a).
Training	Mandates specialized training for first responders. The aim is to provide them with the awareness, skills, and tools necessary to effectively detect a trafficking situation and work with victims to avoid re-exploitation. Commercial sexual exploitation and sex trafficking victims are often vulnerable to exploitation (e.g., children and adolescents who are, or have been, neglected or abused; in foster care or juvenile detention; or homeless, runaways, or so-called thrown-away children) and difficult for professionals to identify (Clayton, Krugman, and Simon, 2013).
Task Force	Mandates the creation of a task force, commission, or advisory committee to address trafficking. Human trafficking task forces are multidisciplinary teams (e.g., local law enforcement agencies; victim service providers; and federal and state investigative, enforcement, and regulatory agencies) that serve three core functions: identify human trafficking; serve victims; and investigate and build cases against traffickers. Task forces often engage in other activities—such as training, technical assistance, and community awareness/education—that contribute to the three core functions (OVC, 2017).
Assistance for Victims of Commercial Sexual Exploitation and Trafficking	
Specialized Services	Provides victims with specialized services (support/advocacy, emergency financial assistance, legal advocacy, group treatment, information and referral, supervised visitation, therapy, transportation, and victim compensation). The aim is to increase service availability to help assuage the negative impact of victimization and provide victims with material, psychological, and social support that aid in recovery (Shared Hope International, 2015b). The stigma associated with commercial sexual exploitation and sex trafficking significantly impedes victims’ ability to obtain needed services, increasing the likelihood that they will continue to be exploited and go untreated (Clayton, Krugman, and Simon, 2013).
Civil Action	Allows victims to seek civil damages. The aim is to empower victims to vindicate themselves and hold perpetrators accountable (Clayton, Krugman, and Simon, 2013). Restitution should include payment for medical and psychological treatment, lost income, attorney’s fees and costs, and other damages (Shared Hope International, 2015c).
Vacating Convictions	Permits victims to vacate delinquency adjudications and criminal convictions for offenses arising from commercial sexual exploitation or sex trafficking. The aim is to mitigate the multifaceted, lasting impact of adjudications and convictions. Consequences can include expulsion from school; an inability to secure academic scholarships, join the military, obtain a driver’s license or professional license, and access benefits (such as public housing and crime victims’ compensation); and ineligibility for certain jobs (including work with children)—each of which results in further victimization and hinders survivors’ ability to rebuild their lives (Shared Hope International, 2015d).

^a18 U.S.C. § 1591 (sex trafficking of children or by force, fraud, or coercion), § 2251A (selling or buying of children), § 2251 (sexual exploitation of children), § 2423(a) [transportation of a minor with intent for minor to engage in criminal sexual activity], and § 2422 (coercion and enticement).

Figure 3.1. Safe Harbor Components Across the United States



The map shows the 16 U.S. states that have implemented safe harbor laws through immunity *with* mandatory referral (along with the year each state began implementation), the 12 states that have implemented such laws by diversion, the 4 that have done it through referral only, and the 3 that have done it through immunity only.

4. Methods

Safe harbor laws are designed primarily to steer young victims of commercial sexual exploitation and sex trafficking away from system involvement by prohibiting their arrest and prosecution as criminals. Instead, these youth should be directed toward systems, agencies, and programs that are equipped to provide supportive services.

A nonrandomized quasi-experimental design was used to compare prostitution-related crime trends and sexual abuse maltreatment trends at the county level in states that have implemented safe harbor laws with prostitution-related arrest and sexual abuse maltreatment trends in a control group of counties in states that have not implemented safe harbor laws (Shadish, Cook, and Campbell, 2002; Rossi, Lipsey, and Freeman, 2006). It is hypothesized that prostitution-related crime incidents (i.e., offenses known to law enforcement) will remain unchanged, but prostitution-related arrests will decline in counties that have implemented safe harbor laws relative to counties that have not implemented such laws. Conversely, since safe harbor laws not only prohibit the arrest of these youth but also often redirect them to agencies that can provide specialized services, it is expected that sexual abuse maltreatment cases will increase in counties that have implemented safe harbor laws relative to counties that have not implemented such laws.

This section describes the development of the data and units of analysis in our quasi-experiment, the identification of comparison counties, and the specification of appropriate statistical models to estimate the effect of safe harbor laws on prostitution-related crime and sexual abuse maltreatment trends at treated units relative to prostitution-related crime and sexual abuse maltreatment trends at comparison units.

UNIT OF ANALYSIS AND DATA

The unit of analysis is *county*. To create a county-level dataset suitable for executing a longitudinal analysis, we first created a base dataset to account for each county in the United States monthly, over the 11-year study period (2005–15). Next, we added a variable to identify treatment units by indicating the monthly safe harbor status of each county. Then we merged the yearly sociodemographic estimates from the American Community Survey (ACS) to this dataset to create the core safe harbor dataset. Finally, we integrated two sets of outcome data, separately, with the core safe harbor dataset to create two independent datasets that each shared common elements from the core safe harbor dataset. The first dataset merged monthly crime data from the Uniform Crime Reports (UCR) with the core safe harbor dataset. The second integrated monthly maltreatment cases from the National Child Abuse and Neglect Data System (NCANDS).

The following sections describe the development of these datasets in more detail.

Safe Harbor Data

Using the findings derived from Phase 1 of the report, we identified the treatment counties by adding a simple binary variable to the county-level dataset to indicate the monthly safe harbor status (0=no safe harbor law; 1=safe harbor law in effect) of each county throughout the entire 11-year study period (2005–15). An additional binary variable was added to indicate whether the county had *ever* enacted a safe harbor law regardless of the period.

Next, this base dataset was combined with yearly sociodemographic estimates from the ACS. The ACS is an ongoing survey by the U.S. Census Bureau. Unlike the decennial census, the ACS is conducted every year to provide up-to-date information about sociodemographics in the United States. The current data releases include 1- and 5-year estimates. In this study, we used the 1-year estimates, which are available for areas with a population of at least 65,000 people.

Specifically, the ACS data were used to create two important control variables: population and an index that measured concentrated social disadvantage. County population will be used to control for the variation in the size of each county. Similarly, the concentrated disadvantage index is used to control for the various economic and social factors across the counties included in the analysis.

Historically, many county- and neighborhood-level analyses of urban violence reveal a strong relationship between the percentage of residents who are African American and the concentration of violence in the neighborhood (see Sampson and Wilson, 1995). More recent research, however, reveals that the degree of concentrated social disadvantage in a neighborhood often explains the observed relationships between race and the concentration of violent crime in these areas (Morenoff, Sampson, and Raudenbush, 2001; Peterson and Krivo, 2005).

As such, in lieu of race and other demographic variables, we introduced a measure of concentrated social disadvantage. The concentrated social disadvantage index is a standardized index composed of the percentage of residents who are black, the percentage of residents receiving public assistance, the percentage of families living below the poverty line, the percentage of female-headed households

with children under age 18, and the percentage of unemployed residents (as measured by the percentage of men age 16 and older who did not work in the previous year; see Morenoff, Sampson, and Raudenbush, 2001; Sampson, Raudenbush, and Earls, 1997).

Prostitution-Related Crime Trend Data

Uniform Crime Reports. The UCR data provide information on the number of incidents known to law enforcement and the number of arrests reported each year by police agencies in the United States. While incidents and arrests are both measures of local crime, they offer different perspectives on the outcome. For example, an incident is a crime that is known to law enforcement. An arrest occurs when a person is charged, cited, or summoned for an incident. Moreover, a single incident may result in a single arrest, multiple arrests (if the incident involves more than one perpetrator), or no arrests (if an investigation into the incident yields no credible evidence to arrest a suspect). Thus, incidents represent the number of known events while arrests represent the number of known suspects.

UCR reports contain the monthly counts of incidents and arrests aggregated to the county level. The primary offense of interest in this study is “prostitution and commercialized vice.” We also included four other offenses—*disorderly conduct, curfew and loitering, vagrancy, and runaways*—to create a “prostitution-related offense” outcome. The reason for examining crime trends for these other offenses is that, often, minors who engage in commercial sex acts may be arrested and charged with these lesser offenses. Additionally, in some state statutes, offenses such as “common night walking” and “common street walking” can be recorded as “disorderly conduct,” and offenses such as “loitering with intent to participate in prostitution” can be recorded as “loitering.” It should be noted that we also examined juvenile and adult arrest combined for each offense type because juveniles can sometimes be arrested as adults, particularly if they do not have proper identification.

The UCR data were used to create the following 16 outcome measures for the crime analyses:

1. Total number of juvenile prostitution-related arrests.*
2. Total number of prostitution-related arrests.
3. Total number of prostitution-related incidents.
4. Total number of juvenile prostitution arrests.
5. Total number of prostitution arrests.
6. Total number of prostitution incidents.
7. Total number of juvenile disorderly conduct arrests.
8. Total number of disorderly conduct arrests.
9. Total number of disorderly conduct incidents.
10. Total number of juvenile vagrancy arrests.
11. Total number of vagrancy arrests.
12. Total number of vagrancy incidents.
13. Total number of curfew violation arrests (includes only persons under age 18).
14. Total number of curfew violation incidents.
15. Total number of runaway arrests (includes only persons under age 18).
16. Total number of runaway incidents.

Sample. We pooled UCR data over an 11-year study period (2005–15) into a single crime trend file. The crime trend data were then linked to the safe harbor dataset using a Federal Information

*Prostitution-related arrests include arrests for prostitution, disorderly conduct, curfew and loitering, vagrancy, and runaway.

Processing Standards (FIPS) code, five digits that uniquely identify counties and county equivalents in the United States, certain U.S. possessions, and certain freely associated states. FIPS currently identifies 3,236 unique jurisdictions in the United States. Because the Census does not produce yearly estimates for smaller entities, the sample was restricted to counties and county equivalents with a population of 65,000 or more, reducing the number of eligible entities to 819 jurisdictions.

Alaska and Florida, however, did not report any prostitution-related crimes during the specified timespan. Moreover, prostitution-related crimes in Alabama and Minnesota spiked unusually high annually each December, suggesting a reporting anomaly. Similarly, Illinois spiked in June and December of every year. Consequently, each of these five states was removed from the sample, further reducing the number of eligible entities to 718.

The resulting dataset yielded 94,776 (718 jurisdictions x 12 months x 11 years) unique observations. Of the 718 eligible jurisdictions, the treatment group (counties that had enacted safe harbor legislation by December 2015) consisted of 393 jurisdictions within 24 states; this represents 54.7 percent of jurisdictions, and 48 percent of states. In short, the treatment sample includes roughly half of all U. S. jurisdictions.

Sexual Abuse Trend Data

National Child Abuse and Neglect Data System. The NCANDS Child File datasets provide “case-level data on all children who have received a disposition of an investigation or assessment of allegations of maltreatment during the reporting year” (NDACAN, 2016). Annual datasets are compiled from all maltreatment cases that receive a disposition within that reporting year. The data are collected through the voluntary participation of states, whose data are mapped from state systems to the Child File structure assisted by the NCANDS technical team. The data submitted to the Children’s Bureau are reviewed and validated, with feedback provided to the states.

The unit of observation in the Child File is the report–child identifier (i.e., a case). This is necessary because an individual child may appear in multiple reports, and a single report may contain multiple children. The report–child combination, however, is unique to each case in the Child File and does not repeat (NDACAN, 2016). Data elements gathered from state administrative records associated with each case include the demographics of children and their perpetrators, types of maltreatment, investigation or assessment dispositions, risk factors, and services provided as a result of the investigation or assessment (such as housing services or legal services).

These data were used to produce the following outcome measures for the maltreatment analyses:

- Number of sexual abuse maltreatment reports.
- Number of sexual abuse maltreatment reports from legal, law enforcement, or criminal justice sources.
- Number of reports disposed as substantiated.
- Number of reports disposed as indicated/reason to suspect.

The NCANDS Glossary (ACF 2017) describes a “substantiated” disposition as the highest level of finding, denoting a conclusion that the alleged maltreatment or risk of maltreatment was supported or founded by State law or State policy. An “indicated or reason to suspect” disposition is a conclusion (in some States) indicating that while maltreatment is not substantiated under State law or policy, there is reason to suspect child maltreatment or a risk of maltreatment.

Sample. Eleven years of annual NCANDS datasets (2005–15) were combined, using the report date (rather than disposition date). The primary reports of interest in this study are those indicating sexual abuse. Thus, we selected reports only when one of the forms of maltreatment was reported as sexual abuse. These individual reports were then aggregated by report month and FIPS code. Like the crime trend data, the safe harbor and NCANDS trend datasets were linked using the FIPS code.

Vermont did not report to NCANDS using FIPS codes that uniquely identified a county, instead using a statewide code, and thus was excluded. In addition, a unique feature of the NCANDS data is that cases are anonymized if they come from a FIPS with fewer than 1,000 NCANDS reports in that reporting year, to protect the anonymity of those involved. These cases are given a FIPS of –1; additionally, sometimes the FIPS is missing or (as in the case of Vermont) the FIPS code is a general statewide code. These anonymized cases were not included in the analysis. Consequently, the final number of eligible entities contributing data to the analysis was 688.

The resulting dataset yielded 79,800 unique observations in the 688 jurisdictions over the 11 years in 49 states. Notably, however, not all of these provided the full timespan of data, and some contained missing years of data, possibly because of the NCANDS anonymization procedures. Of the 688 eligible jurisdictions, the treatment group (counties that had enacted safe harbor legislation by December 2015) consisted of 372 jurisdictions within 26 states; this represents 54.1 percent of jurisdictions, and 52.0 percent of States. The data comprise a total of 1,347,749 reports of sexual abuse and 1,246,762 children*.

ANALYTIC APPROACH

We used a multilevel Poisson regression model[†] to analyze the change in prostitution-related crime and sexual abuse maltreatment trends in treatment and comparison counties over an 11-year observation period (2005–15). More specifically, we developed individual growth curve models[‡] to estimate county-level changes in prostitution-related crimes and sexual abuse maltreatment cases over the observation period. To do so, we used a longitudinal Poisson model where we predicted within-county variation at Level 1 and between-county variation at Level 2 using Level 1 intercepts and slopes as outcomes. In nontechnical terms, we assessed the overall prostitution-related crime and sexual abuse maltreatment case trends of each of the counties during the observation period. Each county was also allowed to have its own slope and intercept to model different starting levels of the dependent variable and different rates of change.

The monthly counts of the prostitution-related incidents and arrests[§] and the sexual abuse maltreatment cases^{**} in each county over the 11-year study period were our primary outcome measures. In terms of prostitution-related arrests (PRA_all_sm), the model is as follows:

$$\text{PRA_all_sm} = \text{SH_period} + \text{SH_ever} + \text{PRA_all_sm_lag} + \text{Year} + \text{ConDis}$$

*This is the number of unique identifiers assigned by States for NCANDS reporting services. The same child may appear twice should they be the subject of reports in two States. NCANDS data Glossaries do not mention if children keep their identifier across multiple reporting years.

[†]Poisson is a commonly applied statistical model for count data (Cameron and Trivedi, 2013). Common examples of count data are the number of deaths, drinks consumed, and arrests in a given period.

[‡]Longitudinal data analyses that examine between-person differences in within-person change are broadly organized under the term *growth curve models* (Curran et al., 2010).

[§]Each specific crime measure was also analyzed independently.

^{**}The number of sexual abuse reports from a criminal justice agency, the number of sexual abuse reports disposed as substantiated, and the number of sexual abuse reports disposed as reason to suspect were also analyzed independently.

Specifically, to estimate the effect of safe harbor laws, we created dichotomous dummy variables that indicate whether the measurement period was pre- (0) or postintervention (1; SHperiod) and whether a county was in the treatment group (1) or in the comparison group (0; SHever). Consistent with prior criminological research, which tends to show that past levels of crime in specific areas are significant predictors of current levels of crime in specific areas (e.g., Sampson, Raudenbush, and Earls, 1997), we also included a covariate (PRA_all_sm_lag) for the lagged (t-1) number of prostitution-related crimes for each county. Moreover, to account for linear yearly trends in the dependent variable, we included a year variable measured as the simple linear additive progression for each year over the course of the observation period (Year). Finally, as noted above, we included a measure of concentrated social disadvantage (ConDis)* as a covariate to control for sociodemographic differences between the units assigned to treatment and control groups and the variation across time.

The XTPOISSON command in Stata 15.0 statistical software was used to calculate the maximum likelihood estimate of the parameters for the SHperiod indicator and to compute the associated probability values. XTPOISSON fits random-effects, conditional fixed-effects, and population-averaged Poisson models. In this case, we used the random-effects model. This provided estimates of the impact of safe harbor laws in the treatment counties, as compared with the comparison counties. The parameter estimates were expressed as incidence rate ratios (IRRs; i.e., exponentiated coefficients). IRRs are interpreted as the rate at which things occur; for example, an IRR of 0.85 would suggest that, controlling for other independent variables, a one-unit increase in the selected independent variable was associated with a 15-percent decrease in the rate at which the dependent variable occurs. Following social science convention, the two-tailed 0.05 level of significance was selected as the benchmark to reject the null hypothesis of “no difference.”

Other Considerations

Seasonality. The seasonality of crime data is a longstanding topic in both the popular and scholarly literature on crime. Seasonal patterns exist when similar fluctuations in crime occurrences recur each year during the same season. For instance, environmental factors, such as weather patterns and hours of daylight, might be associated with crime throughout the year. Or social factors, such as school schedules and seasonal employment, might also have impacts on crime. This repeating cycle or periodic component may obscure the treatment effect that researchers want to estimate.

Seasonal adjustment or “deseasonalizing” is the process of removing the nuisance periodic component. The deseasonalized data can then be explored for the trend and any remaining irregular component. While there are several options to deseasonalize data, we used the tssmooth ma command[†] in Stata 15 to create a new series in which each observation is an average of nearby observations in the original series. Specifically, we separated the data into two components: signal and noise. To eliminate the noise, we applied a symmetric moving average with a span of 5. This means that we averaged the first two lagged values, the current value, and the next two forward terms of the series, with each term in the average receiving a weight of 1.

Clustering. Since each county is located within a state, the crime and mistreatment data are clustered. A consequence of counties clustering within higher-level units (e.g., states) is that counties from the same states may have outcomes that are more similar than counties from different states.

*In each year from 2006 to 2008, before the enactment of a safe harbor law in any state, the treatment jurisdictions significantly differed on the percentage of the population under age 18, the percentage of the population unemployed, and the percentage of the population living below poverty.

†Tssmooth ma gives any missing observations a coefficient of zero in both the uniformly weighted and weighted moving-average filters. This simply means that missing values are excluded from the moving average.

For example, in the present analysis, it is possible that the crime counts from counties within the same state are correlated because individual criminal behavior and policing practices are influenced by larger state-level social, political, and environmental factors.

In dealing with clustered data, it is usually important to allow for the dependence among the responses observed for units belonging to the same cluster (Rabe-Hesketh and Skrondal, 2008). As such, random-effects models provide a useful approach for simultaneously estimating the parameters of the regression model and the variance components that account for the data clustering.

More specifically, for a random-effects overdispersion model, as is the case here, the `vce (clustvar)` option specifies that the standard errors allow for intragroup correlation, relaxing the usual requirement that the observations be independent. In other words, the observations are independent across groups (clusters), but not necessarily within groups. The `clustvar`, in this case the state, specifies the group to which each observation belongs (StataCorp, 2017). Notably, `vce (cluster state)` affects the standard errors and variance-covariance matrix of the estimators but not the estimated coefficient.

Population. As noted earlier, the crime and maltreatment outcomes are count data, and each unit (i.e., county) has the same length of observation time (i.e., month). However, each county varies in population size, creating more opportunities for the occurrence of each event. Thus, it is expected that larger counties will generate more prostitution-related crime incidents and maltreatment cases, while smaller counties will produce fewer cases in each event. Thus, it is necessary to adjust the dependent variable for the size of the population. While one could do this by constructing a rate or including population as a control variable, in such cases Stata recommends specifying an exposure variable to model the rate of occurrence of discrete events such as the number of events per something (StataCorp, 2017). For example, in airline safety studies, one might use *number of air incidents* as the dependent variable and *miles flown* as the exposure variable to estimate rates of incidents per mile. In this case, we used the total numbers of incidents, arrests, and maltreatment cases as dependent variables, and specified the population of the county as the exposure variable.

5. Results

PROSTITUTION-RELATED CRIME TREND DATA

Overall, most jurisdictions across the United States experienced a large decrease in prostitution-related crime from 2005 through 2015. According to data from the Federal Bureau of Investigation’s Uniform Crime Reports, the total (adults and juveniles) number of prostitution-related arrests decreased by nearly 54 percent from 348 arrests per 100,000 persons in 2005 to 161 arrests per 100,000 persons in 2015. Moreover, as Figure 5.1 graphically illustrates, the yearly number of total prostitution-related arrests remained nearly identical and relatively stable (albeit on a downward slope) for both safe harbor jurisdictions and non-safe harbor jurisdictions from 2005 through 2008, with a mean of 337 arrests per 100,000 persons per year in safe harbor states and 335 arrests per 100,000 persons per year in non-safe harbor states. Total prostitution-related arrests then decreased by 7 percent in 2009 for both safe harbor and non-safe harbor states and continued to drop sharply throughout the study period.

Following introduction of the nation’s first safe harbor law in 2009 (in Washington State), the total number of prostitution-related arrests dropped in both safe harbor and non-safe harbor states from 2009 through 2015. But the decline was sharper in safe harbor jurisdictions.

Of particular interest, however, is that 2009 marked the introduction of the first safe harbor law in Washington State. While the total number of prostitution-related arrests dropped in both safe harbor and non-safe harbor states from 2009 through 2015, the decline was sharper for the 393 safe harbor jurisdictions, compared with the 325 non-safe harbor jurisdictions (50 percent compared with 42

Figure 5.1 Prostitution-Related Arrests (Adults and Juveniles), Rate per 100,000 Persons by Year (and Number of Safe Harbor States)

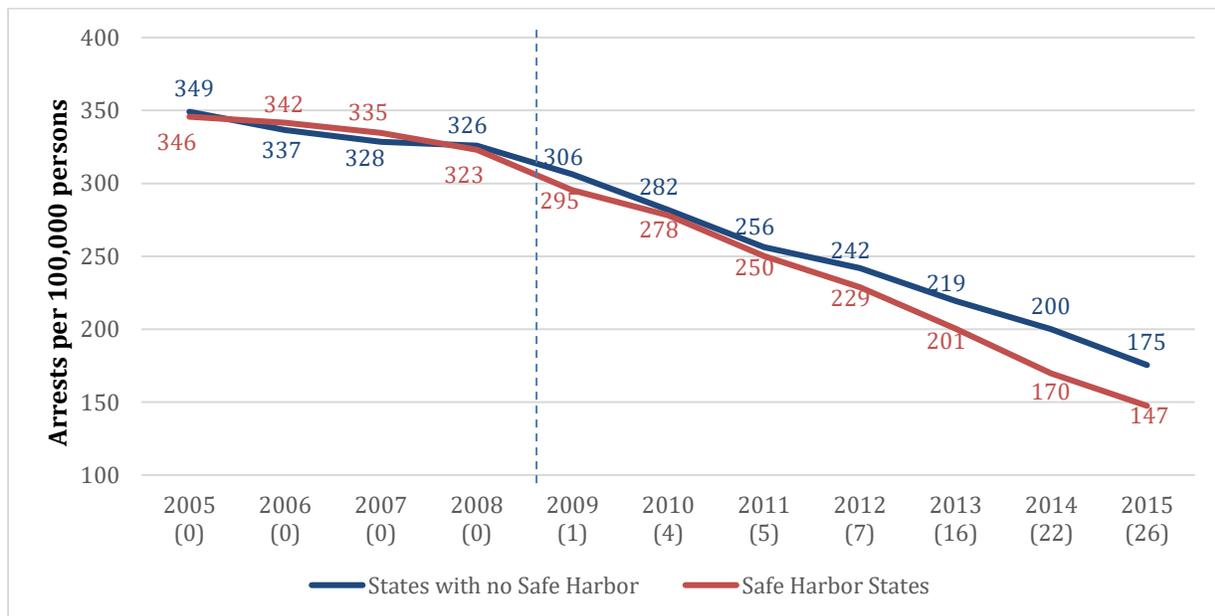


Figure 5.2 Prostitution-Related Arrests (Juveniles Only), Rate per 100,000 Juveniles by Year (and Number of Safe Harbor States)

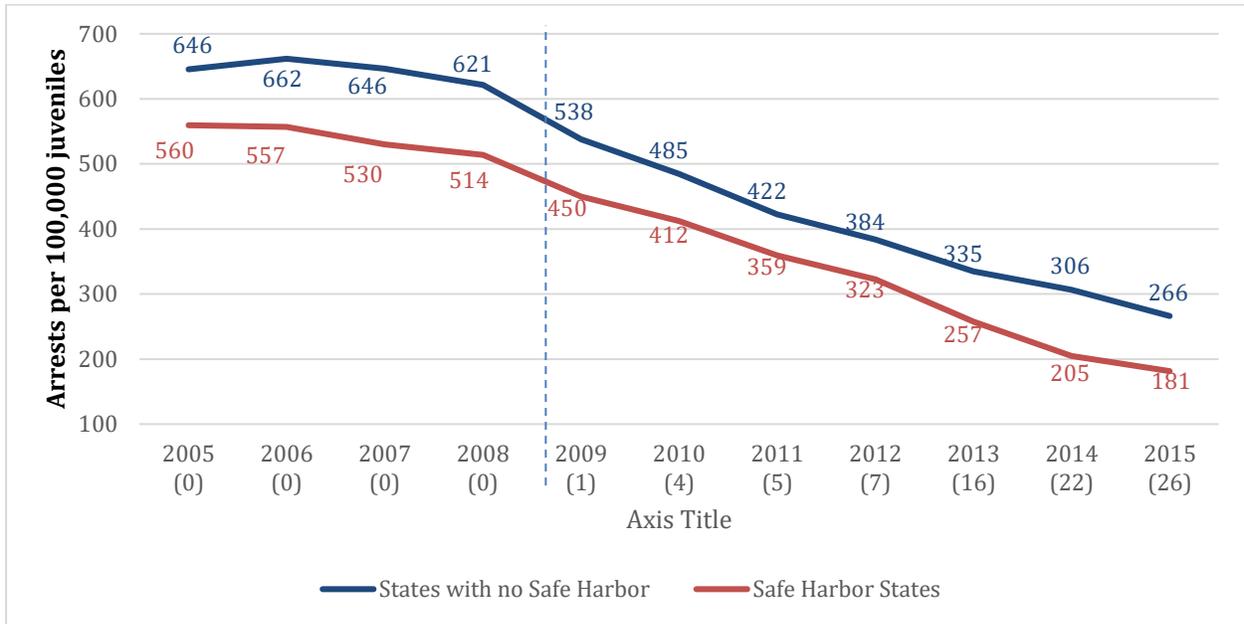
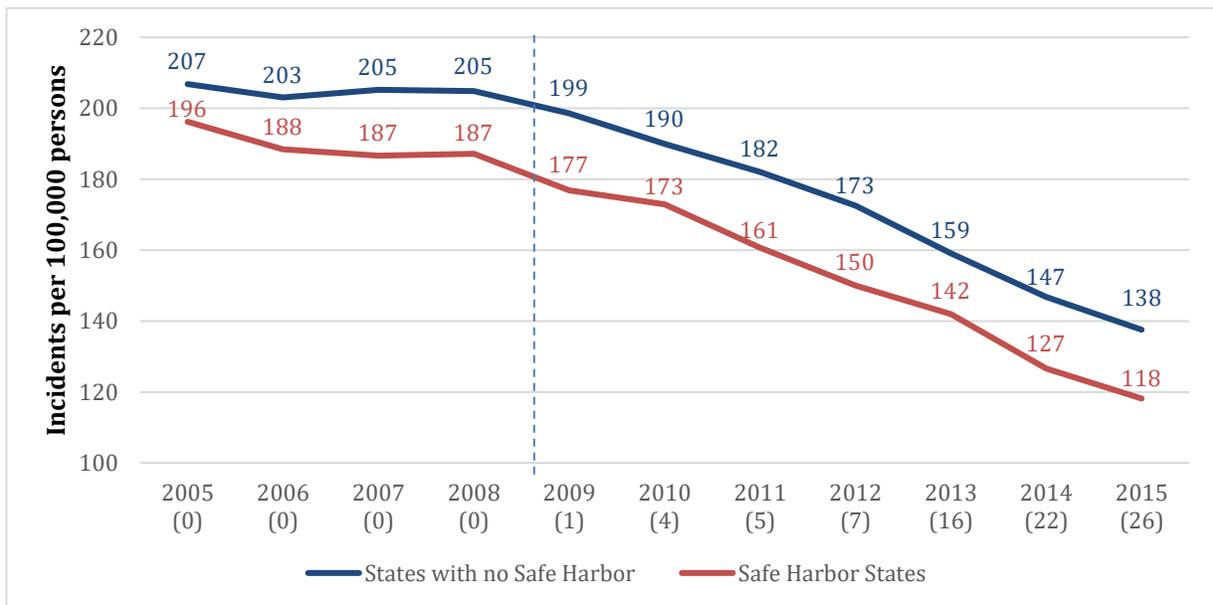


Figure 5.3 Prostitution-Related Incidents, Rate per 100,000 Persons by Year (and Number of Safe Harbor States)



percent). Moreover, the gap between safe harbor and non-safe harbor states widened in terms of the number of prostitution-related arrests per 100,000 persons (from 11 in 2009 to 28 in 2015), as more and more states enacted safe harbor legislation (from 1 in 2009 to 26 in 2015).

As shown in Figure 5.2, the figures for the juveniles only data are similar. The yearly number of juvenile prostitution-related arrests are higher for non-safe harbor jurisdictions compared to safe harbor jurisdictions, but still relatively stable from 2005 through 2008, with a mean of 540 arrests per 100,000 juveniles per year in safe harbor states and 643 arrests per 100,000 juveniles per year in non-safe harbor states. Juvenile prostitution-related arrests then decreased by roughly 13 percent in 2009 for both safe harbor and non-safe harbor states and continued to drop sharply throughout the study period.

Again, as with the combined data, the number of juvenile prostitution-related arrests dropped in both safe harbor and non-safe harbor jurisdictions after the introduction safe harbor laws in 2009, but the decline was sharper for safe harbor jurisdictions. From 2009 through 2015, the number of juvenile prostitution-related arrests dropped 60 percent in safe harbor jurisdictions compared to 51 percent in non-safe harbor jurisdictions.

Finally, Figure 5.3 shows the yearly number of prostitution-related incidents. While the yearly number of incidents per 100,000 persons methodically declined over the course of the study period, which is similar to the arrest data in both safe harbor and non-safe harbor jurisdictions, safe harbor jurisdictions are not demarcated in 2009 with the sharp decline that is evident with prostitution-related arrests.

Tables 5.1, 5.2, and 5.3 present the results of the growth curve regression models. Table 5.1 presents both juvenile and adult arrests combined, Table 5.2 presents juvenile arrests only, and Table 5.3 presents the incidents of crime. The incidence-rate ratio for safe harbor laws is 0.85 (see Table 5.1), implying a statistically significant 15.5 percent reduction in the number of prostitution-related arrests per month ($p < .01$), controlling for all other variables. Similarly, the estimated effect of safe harbor laws is to significantly reduce the number of juveniles arrested for prostitution-related crimes in a given period by 26.4 percent ($p < .02$), controlling for all other variables (Table 5.2). Further, relative to the comparison counties and controlling for the other covariates, the enactment of safe harbor laws resulted in nonsignificant decreases in the number of prostitution arrests, the number of disorderly conduct arrests, the number of curfew violation arrests, the number of runaway arrests, and the number of vagrancy arrests. Finally, the enactment of safe harbor legislation had no effect on the number of any prostitution-related crime incidents.

We also ran the same growth curve regression models for each type of safe harbor law (diversion, immunity, and mandatory referral [not shown]). Controlling for the other covariates, diversion laws were associated with a statistically significant 29.1-percent reduction ($p < .036$) in the number of juveniles arrested for prostitution-related crimes and a statistically significant 16.0-percent reduction ($p < .05$) in the total number of prostitution-related arrests. Similarly, mandatory-referral laws were associated with a statistically significant 65.9-percent reduction ($p < .006$) in the number of juveniles arrested for curfew violations.* Immunity laws were not significantly associated with any of the outcome variables.

SEXUAL ABUSE TREND DATA

*Curfew violation does not apply to adults.

Controlling for the other covariates, safe harbor laws were not associated with any statistically significant findings (not shown) in the number of sexual abuse reports filed, in the number of sexual abuse reports from a criminal justice agency, in the number of sexual abuse reports disposed as substantiated, or in the number of sexual abuse reports disposed as a reason to suspect. Had there been an increase in reports we would have expected to see an increase in services, which did not happen. In other words, it was not possible to establish an effect of the enacting of safe harbor laws on these variables controlling for the covariates in our models. A further examination of the different types of safe harbor regimes (immunity, diversion, mandatory referral) also did not produce any statistically significant findings for the enacting of safe harbor legislation.

Table 5.1. Adults and Juveniles Combined

	Prostitution Related Arrests	Prostitution	Disorderly Conduct	Curfew Violation	Runaway	Vagrancy
Safe Harbor (Period)	0.845 (0.050)**	0.888 (0.129)	0.875 (0.159)	N/A	N/A	0.725 (0.209)
Safe Harbor (Ever)	0.982 (0.102)	1.034 (0.070)	1.06 (0.288)	N/A	N/A	0.693 (0.208)
Lagged Outcome	1.001 (0.001)	1.005 (0.027)	1.002 (0.010)	N/A	N/A	1.001 (0.005)
Year	0.952 (0.021)*	0.963 (0.147)	0.964 (0.080)	N/A	N/A	0.994 (0.042)
Concentrated Disadvantage	0.950 (0.680)	1.028 (2.648)	0.987 (1.848)	N/A	N/A	1.139 (4.433)
Log Pseudolikelihood	-448,115.98	-127,599.61	-373,586.21	N/A	N/A	-104,335.95
Wald X2	3.66e+06	113.81	153.37	N/A	N/A	233,320.46
Wald df	5	5	5	N/A	N/A	5
Observations	89,596	89,596	89,596	N/A	N/A	89,596
Number of Groups	704	704	704	N/A	N/A	704
Number of Clusters	45	45	45	N/A	N/A	45

Note: Coefficients expressed as incidence rate ratios. Standard errors adjusted for 45 clusters in parentheses.

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

Table 5.2. Juveniles Only

	Prostitution Related Offenses	Prostitution	Disorderly Conduct	Curfew Violation	Runaway	Vagrancy
Safe Harbor (Period)	0.736 (0.089)*	0.965 (0.203)	0.770 (0.217)	0.602 (0.161)	0.878 (0.238)	0.550 (0.750)
Safe Harbor (Ever)	0.926 (0.498)	0.742 (0.052) ^c	1.164 (0.267)	0.377 (0.072)***	0.617 (0.119)*	0.992 (3.796)
Lagged Outcome	1.001 (0.002)	1.128 (0.375)	1.004 (0.0131)	1.001 (0.001)	1.010 (0.027)	1.010 (0.461)
Year	0.917 (0.074)	0.941 (0.077)	0.926 (0.055)	0.889 (0.025)***	0.947 (0.056)	0.906 (0.191)
Concentrated Disadvantage	0.852 (2.826)	1.226 (4.054)	0.976 (1.386)	1.203 (1.042)	0.964 (1.419)	1.248 (16.208)
Log Pseudolikelihood	-319,635.32	-12,128.204	-224,805.45	-57,977.143	-166,134.7	-21,340.422
Wald X2	2.04e+06	2.41e+06	4.34e+06	388,165.66	1.05e+06	293.96
Wald df	5	5	5	5	5	5
Observations	89,596	89,596	89,596	89,596	89,596	89,596
Number of Groups	704	704	704	704	704	704
Number of Clusters	45	45	45	45	45	45

Note: Coefficients expressed as incidence rate ratios. Standard errors adjusted for 45 clusters in parentheses.

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

Table 5.3. Occurrences/Incidents

	Prostitution Related Arrests	Prostitution	Disorderly Conduct	Curfew Violation	Runaway	Vagrancy
Safe Harbor (Period)	0.902 (0.156)	0.886 (0.805)	0.906 (0.368)	0.616 (0.314)	0.841 (0.104)	0.913 (0.862)
Safe Harbor (Ever)	0.971 (0.403)	1.085 (0.810)	1.023 (0.569)	0.419 (0.069)***	0.755 (0.241)	0.646 (0.093)**
Lagged Outcome	1.005 (0.059)	1.026 (0.358)	1.006 (0.109)	1.030 (0.123)	1.058 (0.193)	1.064 (0.311)
Year	0.976 (0.193)	0.986 (0.291)	0.980 (0.209)	0.936 (0.132)	0.963 (0.100)	0.983 (0.036)
Concentrated Disadvantage	0.992 (0.990)	0.999 (1.675)	0.998 (1.0275)	1.0778 (1.427)	0.991 (1.048)	0.995 (0.870)
Log Pseudolikelihood	-299,388.58	-110,562.28	-273,358.59	-40,381.67	-131,969.57	-74,686.465
Wald X2	275.23	53.54	151.33	743,379.32	2.18e+06	1.01e+06
Wald df	5	5	5	5	5	5
Observations	89,596	89,596	89,596	89,596	89,596	89,596
Number of Groups	704	704	704	704	704	704
Number of Clusters	45	45	45	45	45	45

Note: Coefficients expressed as incidence rate ratios. Standard errors adjusted for 45 clusters in parentheses.

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

6. Conclusion

The results of this study contribute to the small but growing body of evidence on the effectiveness of safe harbor laws and, more broadly, on efforts to combat the commercial sexual exploitation and sex trafficking of children in the United States. Similar to the early evidence on safe harbor laws (Mehlman–Orozco, 2015; Coleman, 2016; Santos, 2016; McMahon–Howard, 2017) that generally found little effect on the behavior of law enforcement and service providers, this study found that the enactment of safe harbor laws made little impact on the number of prostitution-related crime incidences or on the number of sexual abuse maltreatment cases. However, contrary to this previous research, our findings indicate that the passage of safe harbor laws was associated with a statistically significant decline in the number of prostitution-related arrests (both juvenile-only and juvenile and adults combined) in counties that have enacted safe harbor legislation relative to those that have not.

Paradoxically, the most popular type of safe harbor laws, immunity with mandatory referral, appears to have the least impact on prostitution-related arrests (Gies, Bobnis, and Malamud, 2018).^{*} Conversely, while current trends data show that states are moving away from the diversion models,[†] this approach appears to be more effective in reducing the number of prostitution-related arrests.

Overall, these findings provide a striking perspective into the current U.S. landscape of dealing with the commercial sexual exploitation and sex trafficking of juveniles. That is, the enactment of safe harbor laws did little to prevent these deplorable incidents from happening in various towns, cities, and neighborhoods across the United States. But nor should they, really. There is nothing about a safe harbor law that prevents these crimes from occurring—the intent of the law is to recognize that when these incidents do occur, the youth involved should be treated as the victims they are rather than as the criminals they have been portrayed as.

To that end, the decline in the number of total and juvenile-only arrests across all prostitution-related offenses suggests that states that enacted safe harbor laws did supplant the more traditional punitive approach to minors who are victims of these crimes with a more victim-oriented approach by redirecting the youth away from the justice system. More specifically, jurisdictions that adhere to the diversion model appear to have better success than their counterparts in reducing the number of prostitution-related arrests. But the systematic provision of treatment services envisioned to go to these young victims as described in the IOM/NRC report (Clayton, Krugman, and Simon, 2013) has, to date, not become a reality.

Contrary to this previous research, our findings indicate that the passage of safe harbor laws was associated with a statistically significant decline in the number of prostitution-related arrests in counties that have enacted safe harbor legislation relative to those that have not.

^{*}Immunity laws are a more recent trend and thus not as well represented in the data.

[†]Since 2014, 13 states have enacted safe harbor laws. Of those 13 states, 10 (77 percent) have used immunity (nine combined with mandatory referral). Two states (15 percent) have used diversion, and one state (8 percent) has used mandatory referral only (Gies, Bobnis, and Malamud, 2018).

Further, these findings offer policymakers with a foundation of evidence that can be used to engage intelligently and knowledgeably with regard to the current state of U.S. policy toward young victims of commercial sexual exploitation and sex trafficking.

The first, and perhaps most important, point to emerge for policymakers is that, while safe harbor laws may be effective in redirecting youth coerced into the sex trade away from arrest, they do not, in and of themselves, prevent or affect the number of incidents nor the number of victims. The central reason for this limited impact is that the global network of both legal and illegal markets constructed to meet the demand for these services generates vigorous profits for all involved. For example, a study analyzing the size and structure of the underground commercial sex economies of eight major cities (Atlanta, GA; Dallas, TX; Denver, CO; Kansas City, MO; Miami, FL; San Diego, CA; Seattle, WA; and Washington, DC) estimated that in 2007 the cash-based economies in these cities ranged from \$39.9 to \$290 million—\$975.3 million total (excluding Kansas City*) [Dank, 2014]. The sex traffickers interviewed took in \$5,000 (Kansas City) to \$33,000 (Atlanta) per week. The pricing per individual sex act ranged from as low as \$5 for street-based prostitution to \$150–300 per hour for Internet-facilitated prostitution to as much as \$1,000 for escort prostitution.

Safe harbor laws may inadvertently increase profits for traffickers by decreasing the supply of sexual services and thus raising the sale price of the service to meet a growing demand. As such, policymakers should consider a more multidimensional policy to address the problem on a variety of fronts.

So, while morally appropriate and fundamentally effective in their basic objective, safe harbor laws do little to disturb these networks or diminish the profits gained from them, thus doing little to dissuade sex trafficking from being an attractive option for ardent criminal entrepreneurs. In fact, the laws may, as demonstrated below, inadvertently increase profits for traffickers by decreasing the supply of sexual services and thus raising the sale price of the service to meet a growing demand. As such, policymakers should consider a more multidimensional policy to address the problem on a variety of fronts.

One way for policymakers to develop a comprehensive understanding and thus address the commercial sexual exploitation and sex trafficking of minors more methodically is through the classic but sometimes complex study of microeconomics because, at its most basic level, sex trafficking is a market (Aronowitz and Kong, 2018) and like any other market, it is influenced by both supply and demand.

Demand (Arnold, 2018) in general refers to the willingness and ability of buyers to purchase different quantities of a good at different prices during a specific period or, in the case of commercial sex, the quantity of sexual services desired by buyers (i.e., johns). The law of demand states that, if all other factors remain equal, as the price of a service rises, the quantity demanded by consumers falls. Consequently, to maximize profits, traffickers and facilitators will keep the price of the service reasonable. Supply, in contrast, represents the willingness and ability of sellers to produce and sell different quantities of a good (or service) at different prices during a specific period (Arnold, 2018). But unlike demand, the relationship between supply and price is a positive. In other words, as the

*Kansas City was dropped from analysis because of insufficient data.

price of a service rises, the quantity supplied rises, and as the price falls, so does the quantity supplied. When the quantity at which the amount of the service that buyers are willing and able to buy equals the amount that sellers are willing and able to sell, and both equal the amount actually bought and sold, the market is said to be at equilibrium. Conversely, disequilibrium occurs whenever there is excess supply or excess demand.

In terms of safe harbor laws, the processing of minors involved in commercial sex as victims was found here to lead to fewer youth being arrested for prostitution-related crimes and thus has the potential to result in more youth escaping the commercial sex industry and trafficking. But all things being equal, the unintended consequence of these just laws may cause a decrease in supply, which in turn causes an increase in demand among consumers. In other words, safe harbor laws may lead to too few youth providing sexual services to satisfy the wants (demand) of the consumers (i.e., johns). Moreover, as johns compete with one another to buy the sexual services of minors at a set price, the increased demand resulting from the shortage caused by safe harbor laws will likely drive the price higher, making suppliers (traffickers) eager to pocket increased profits by flooding the market with more and more youth.

As this brief review of the supply and demand of sexual services demonstrates, simply employing supply-side strategies without assuaging the demand for the sexual services of youth from consumers does little to address the complexities of the commercial sex trade. Instead, a policy designed to effectively deal with this scourge must be comprehensive and holistic, meaning it needs to address both supply and demand. As noted above, the aim of supply-side strategies is to disrupt the number of youth coerced into the commercial sex trade (Thompson, 2017), and there are a variety of ways to do so. To date, these efforts have focused on increasing the penalties for traffickers and facilitators and improving the tools available to criminal justice agencies for investigation and prosecution.

Other supply-side possibilities focus less on penalizing the perpetrators in favor of prevention, identification, and intervention—not only to thwart the recruitment of vulnerable youth into trafficking in the first place, but also to identify those who are already victims and of intervening to help them exit the life. In general, efforts to prevent the recruitment of youth into trafficking schemes start with education. According to the U.S. Department of State (2016), increasing public awareness about the risks and signs of human trafficking is a key piece of any antitrafficking strategy and so far, has been the primary prevention measure used by governments and other stakeholders. However, as for other trafficking prevention programs to date, there is little evidence that public awareness campaigns have any impact on victims of human trafficking (Haynes, 2017). This lack of knowledge underscores the need for an evaluation component to assess their impact and improve future campaigns.

Another area of emphasis is to increase the likelihood of victim identification. A potential contact point for identification is through child psychiatrists and other mental health providers, as they are uniquely positioned to spot, treat, and advocate for at-risk youth and others involved (Goldberg and Moore, 2018). For example, studies conducted with both domestic and foreign victims of sex trafficking suggest that healthcare providers saw 28 percent to 88 percent of the youth at least once during the time they were trafficked. Specifically, Goldberg and colleagues (2017) found that more than one fourth (28 percent) of the presenting concerns during previous medical visits were related to psychiatric issues, including suicide attempts. Such findings present an opportunity for healthcare providers, including child psychiatrists, to intervene and manage patients at risk for or involved in domestic sex trafficking. Police, street outreach workers, and runaway and homeless youth shelter

staff are also more likely to have interactions with trafficked youth and be in position to refer them into needed services (Cohen, Edberg, and Gies, 2011).

Similarly, the Vera Institute (among others) has attempted to develop tools to better recognize trafficking victims. In a recently published report detailing its findings on the tool, Simich, Powell, and Mallozzi (2014) found that it could differentiate between labor and sex trafficking victims and also distinguish trafficking victims from other crime victims. Out of the 180 participants, 53 percent were identified as human trafficking victims, with 40 percent reported as sex trafficked and 60 percent as labor trafficked (Simich, Powell, and Mallozzi, 2014). However, the study had some limitations, including the fact that most interviewees were adults, and most victims were foreign born. Nevertheless, the further development of such tools may prove useful in extracting victims from their abusers.

On the other side of the equation, demand-reduction strategies can also be useful in the disruption of the market. Again, these strategies tend to focus on penalties, albeit for the buyers of sex rather than for the traffickers and facilitators. For example, one of the most commonly reported strategies being used to reduce demand is reverse sting operations (a variant on the sting operation whereby a law enforcement officer poses as a seller rather than as a buyer), both on the street and online (Demandforum.net, 2018). However other demand-reduction strategies include awareness programs*, john schools†, and shaming‡. Of these, shaming offenders by publicizing their identities remains one of the most popular (Demandforum.net, 2018).

Moreover, in terms of effectiveness, Shively and colleagues (2012) found evidence that participation in john schools, reverse sting operations (street level), and criminalizing the buyers of sex all reduced demand by varying degrees. Nevertheless, Kuzma (2013:29) noted that educating the public and buyers on the misconceptions and negative impact of commercial sex is still the “key to reducing demand.”

Another point that seems evident but needs further emphasis is that the specialized services intended for the young victims of commercial sexual exploitation and sex trafficking do not appear to have fully and/or systematically made it to the intended population. If these youth were being redirected out of the justice system and subsequently provided with the necessary and specialized services to support their sustained exit from prostitution and trafficking, we would have expected to see an increase in the number of abuse and neglect cases in states that have safe harbor laws after their laws were enacted. We did not, however, observe such an increase.

While the reasons for this are unclear, there are three likely barriers. The first is action on the part of the state. Of the states that have passed legislation to provide services to young victims of commercial sexual exploitation and sex trafficking, some only require the *development* of a plan to provide those services (McCann, 2018). Do states that do not mandate the provision of services ever truly provide the services to victims?

* Awareness efforts generally involve educating either the general public or buyers of commercial sex specifically about the problems associated with prostitution and/or sex trafficking.

† John schools are programs for men arrested for buying sex. They may cover a broad range of content and delivery modes but generally focus on education and/or therapeutic treatment.

‡ Shaming involves publicizing, typically through police websites, the identities of men arrested for soliciting commercial sex.

A second barrier to the provision of services is likely the complex collaboration and coordination among agencies, nongovernmental organizations, and service providers. While the legislation addressing services for victims of commercial sexual exploitation and trafficking varies greatly, these statutes generally require specific departments to coordinate with other agencies, nongovernmental organizations, or service providers to develop a plan for providing services to survivors (McCann, 2018). According to one report, stakeholders spoke about their confusion in working with agencies that have different or overlapping authorities and of their concern over the lengthy and complicated process of connecting victims with available services. As a next step, the stakeholders identified opportunities for enhanced victim identification through better coordination; information sharing; training; and engagement at the national, regional, state, territorial, tribal, and local levels to better identify victims and create a seamless victim service network (OVC TTAC, 2014). The next phase of this project, which presents two case studies on the state level, sheds further light on the difficulty of overcoming silos among state-level agencies (Green et al., 2018).

A final barrier to the effective provision of services is the lack of funding. Funding for victim services varies greatly across states, with some states providing none whatsoever, some setting up special funds to specifically address victims of trafficking by levying fines on sex traffickers and purchasers of commercial sex, and others providing targeted services in budget line items. In addition, several federal funding streams can be tapped to support commercial sexual exploitation and trafficking survivors (McCann, 2018). In all cases, however, it is not at all clear how many statewide and state-supported programs provide services to victims and how those funds are collected and expended (McCann, 2018).

The transformation of treatment services for young victims of commercial sexual exploitation and trafficking—from an independent amenity to an integrated element within a community-based collaborative service network—cannot be expected to occur overnight. Rather, the transformation is a process. As such, policymakers should consider enhancing legislative decrees beyond a mere service provision plan, to include 1) mandates of a timeframe within which services must be in place, and 2) mechanisms to incentivize agencies at the state, county, and city levels to effectively and efficiently coordinate the provision of services to youth trafficking victims.

Additional research can further inform our understanding of how best to improve access to, and utilization of, treatment services among youth trafficking victims. One strategy that could yield potentially useful information is to study how other similar systems (such as processes of recovery from substance use disorders or medically assisted treatment for opioid abusers) provide services to clients, particularly to those who are vulnerable and have histories of trauma. The second is to study the implementation gap between policy objectives, and specific treatment access and utilization within states with varying safe harbor policy structures. In Phase 3 of this project, DSG will start to create this research base with a study of the implementation of safe harbor-related legislation in two states.

A final point for policymakers and practitioners to consider is that evidence-based programs and practices can become an effective tool for criminal justice policymaking in general and the battle against commercial sexual exploitation and sex trafficking in particular. As the U.S. Department of State (2016) noted, reliable research is the backbone of any evidence-based policy or program, and antitrafficking stakeholders have a responsibility to ensure that sufficient attention and funding are dedicated to it. As such, there is a dire need for more high-quality evaluations of potential prevention and intervention programs.

In 2011, the Campbell Collaboration conducted a systematic review of prevention and intervention strategies that are used to reduce sexual exploitation in human trafficking. The researchers found that, out of 19,398 citations focusing on sex trafficking, only four studies presented evaluation research. Of these four, none met the requirements of Level 3 on the Maryland Scientific Methods Scale (SMS*). Accordingly, the authors concluded, “no substantive conclusion about the effectiveness can be made, resulting in neither support nor rejection of present antitrafficking initiatives” (van der Laan et al., 2011:24). Moreover, the evidence has not changed much since the time of the Campbell review. A current search of both the *Model Programs Guide* and *CrimeSolutions.gov*, the two preeminent U.S. Department of Justice repositories of evidence-based programs and practices, yields few effective or promising programs that specifically serve commercial sexual exploitation and human trafficking victims—though there are many programs that address the risk and protective factors associated with sexual abuse and trauma. There are also many programs that deal with family and individual risk factors (such as family dysfunction, aggression, and other forms of trauma and abuse) that make a juvenile vulnerable to CSE. Nevertheless, an investment on the part of policymakers and funders to conduct more high-quality evaluation research, specifically for this population, would go a long way toward the development of an evidence-based policy for the commercial sexual exploitation and trafficking of minors.

*A Level 3 on the SMS scale requires that studies use a controlled design with both pretest and posttest measures and comparable control conditions.

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