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Commercial Sexual Exploitation of Children:
Policy Considerations for the Child Welfare System

An Informational Hearing of the Senate Human Services Committee

Senator Leland Yee, Chair

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State Capitol Room 3191

Executive Summary

Commercial Sexual Exploitation (CSE) of children is a growing form of domestic human trafficking in which California's most vulnerable children are sold to perform sexual acts. The Federal Bureau of Investigation reports that as many as 100,000 children are commercially sexually exploited each year nationally, and that three regions in California are hot spots for exploitation: Los Angeles, the Bay Area and San Diego. On average, early adolescence between ages 11-14 is the most common time for children to fall victim to commercial sexual exploitation. Due to extreme levels of abuse and negative impacts on health, the average life expectancy for a child who remains in exploitative circumstances is 7 years.

Studies show that virtually all exploited children have suffered extensive sexual, physical or emotional abuse and that the majority are involved with, or have been involved with, California's county based child welfare system. The circumstances of abuse and neglect that led to a child's involvement with CWS later leave these youth particularly vulnerable to manipulative and abusive exploiters. California's child welfare system, charged with protecting children and ameliorating the harmful impacts of abuse and neglect, provides an essential point o

f intervention with children who have been, or are at risk of being commercially sexually exploited.

Additionally, many other local agencies, departments and community based organizations such as law enforcement, probation, courts, education, mental health, medical care, non-profit organizations and public health have important points of engagement with these youth and their families and can provide essential services necessary to address their needs. A recent report published by California's Child Welfare Council, a multi-agency advisory body that includes representatives from state and local agencies, departments and non-profits serving children and youth in California's child welfare and foster care systems underscored the critical need for on-going multi-agency collaboration, at both the state and local level, in addressing this issue.

Finally, one important theme found in the variety of policy recommendations put forth by the report was the overall need for the agencies to tailor services and delivery models to the unique emotional, health and legal needs of this population. Although the services provided to exploited youth may not be exclusively provided by county CWS agencies, the report noted that, "because many CSEC are involved with child protective services and foster care, the child welfare system is uniquely positioned to implement prevention and early intervention services."

Commercial Sexual Exploitation of Children

Commercial Sexual Exploitation (CSE) of children is a form of human trafficking in which a person under the age of 18 is caused, induced, or persuaded to engage in a sexual act for financial or other economic reasons¹. Under common definitions, an economic exchange may be either monetary or non-monetary for such things as food, shelter, or drugs - often referred to as "survival sex."

Federal law defines sex trafficking of minors as the "recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act" and defines "domestic minor sex trafficking" as sex trafficking of a child who is a U.S. citizen or lawful permanent resident.² Importantly, federal law does not require a minor victim of sexual exploitation to be physically relocated in order to be a victim of sex trafficking, and proof of

¹ Kate Walker, California Child Welfare Council, Ending The Commercial Sexual Exploitation Of Children: A Call For Multi-System Collaboration In California (2013)

http://www.youthlaw.org/fileadmin/ncyl/youthlaw/publications/Ending-CSEC-A-Call-for-Multi-System_Collaboration-in-CA.pdf

² Smith et al. "The National Report on Domestic Minor Sex Trafficking: America's Prostituted Youth." Shared Hope Int'l, 2009. http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf

fraud, force, or coercion is not required in the case of minor victims as minors have not reached the age of consent for sexual engagement.

Characteristics of victims of CSE

Nationally, the Federal Bureau of Investigation (FBI) estimates the number of youth who are victims of CSE to be as high as 100,000 while studies estimate that more than 300,000 children may be at risk of becoming victims based on a variety of risk factors which are discussed later in this paper.³

On average, early adolescence is the most common age for children to fall victim to commercial sexual exploitation - between ages 12 to 14 for girls and 11 to 13 for boys. Clinical providers report that the age of victimization is decreasing, with girls as young as 9 years old being identified. The average life expectancy for a child who remains in these exploitative circumstances is 7 years.

Virtually all children who are exploited have been exposed to numerous forms of physical, emotional and sexual abuse and are associated with other risk factors including poverty, homelessness, parental drug addiction and parental loss. Studies show that more than 80% of exploited youth were sexually abused as children, an equal number were physically abused and as many as 98% were subjected to emotional abuse.⁴ Youth fleeing abusive situations at home or who run away from a child welfare placement, with no alternative safe place to stay, are quickly approached by exploiters on the streets. One study found that youth were approached for recruitment within 48 hours of becoming homeless.

Experts report that exploiters often manipulate a child's emotional vulnerabilities and absence of a sense of belonging and feeling loved, which leads to a pattern of abuse that has many similarities to domestic violence. Initially, an exploiter may pose as a boyfriend or parental figure, offering to provide the youth with clothes, cell phones, food and shelter, and then later request the youth engage in commercial sexual acts. After an emotional bond has been established with the child, the abuse frequently descends into physical, emotional and sexual violence. Experts report that these children are often marketed through online advertising services, such as Craig's List, trafficked by gangs and marketed in more traditional sex trade routes.

³ Estes and Weiner. "The Commercial Sexual Exploitation of Children In the U. S., Canada and Mexico." Univ. of PA, 2002. http://www.sp2.upenn.edu/restes/CSEC_Files/Exec_Sum_020220.pdf

⁴ Shively et al. "Developing a National Action Plan for Eliminating Sex Trafficking", August 2010.

CSE and Child Welfare

These and other risk factors generally mean that most exploited youth have been involved with the child welfare system prior to their exploitation; studies indicate that in some regions as many as 90% of victims are or were involved in the child welfare system. Most experts believe that the circumstances of abuse and neglect that led to a child's involvement with CWS later leave these youth particularly vulnerable to later becoming commercially sexually exploited. This abuse and neglect combined with unstable placements in foster care and an absence of positive and loving adult relationships create a host of emotional vulnerabilities that are easily exploited. As a result, county child welfare service agencies charged with protecting children and ameliorating the harmful impacts of abuse and neglect provide an essential point of engagement with children who have been, or are at risk of being commercially sexually exploited.

Trauma Bonding and Post Traumatic Stress Disorder

Victims of commercial sexual exploitation often live in a state of fear of severe violence. Their experiences have been likened to the experiences of “hostages, prisoners of war, or concentration camp inmates.” Studies show that, like many victims of rape, sexual abuse and domestic violence, the majority of victims of CSE exhibit clinical symptoms of severe Post Traumatic Stress Disorder, which is associated with feelings of helplessness, powerlessness, inability to regulate emotions, sexualized behaviors, self-blame and an inability to trust others.⁵

Clinical research further documents that many victims of CSE cope with the severe trauma by forming powerful emotional bonds with the abuser.⁶ Known as “trauma bonding” or Stockholm Syndrome, this coping mechanism results in a victim experiencing positive emotions toward the abuser and negative emotions towards those seeking to help. Faced with the constant threat of physical and emotional abuse, a victim may feel extremely grateful for small acts of kindness from the abuser (or a temporary break in the violence) from the abuser and may disassociate or deny the abuse as a coping mechanism. As a result, many youth do not consider themselves exploited or abused, and often reject attempts to be “rescued” and immediately return to their exploiter once released from a juvenile detention facility or after running away from a child welfare placement.

Clinical practitioners report that culture may play an important role in how a victim processes their trauma. In terms of CSE, cultural or legal responses to a youth's exploitation may influence whether a youth self-identifies as a victim of exploitation or alternatively as a prostitute and/or

⁵ Herman, Judith. “Trauma and Recovery: The Aftermath of Violence--from Domestic Abuse to Political Terror”. 1992. Bessel A. van der Kolk et al., “DSM IV Field Trial” 1996.

⁶ D. Leidhdt. “Prostitution and Trafficking in Women: An Intimate Relationship” 1994.

criminal. Advocates report that helping a youth identify as a victim of exploitation, rather than as a criminal, is a critical development for healing, for supporting the victim in leaving their exploiter and ultimately identifying themselves as a survivor of CSE.

Criminal Prosecution of Victims of CSE

Federal law, under the Trafficking Victims Protection Act, clearly designates minors who have engaged in commercial sexual acts as victims of commercial sexual exploitation and sex trafficking. In contrast, California Penal Code and Welfare and Institutions Code permit minors to be charged with disorderly conduct, a misdemeanor, or other criminal charges, and placed in juvenile detention facilities as wards of the juvenile court. Given the changing nature of the crime due to increased use of online solicitation, it's reported to be increasingly difficult for law enforcement to locate and detain youth who are being exploited.

A 2009 report was published by Shared Hope International and funded under a U.S. Department of Justice (DOJ) grant, published research conducted in partnership with the DOJ-funded human trafficking task forces to assess domestic minor sex trafficking in the United States. The report found the “misidentification of the victims to be the primary barrier to the rescue and response to domestic minor sex trafficking victims.”

The report discussed the phenomenon of “criminalization of the victim through misidentification” stating:

“Those victims who are identified as minors are frequently charged with a delinquent act either for prostitution related activities or for a related offense. These children are found in detention facilities across the country, as well as in juvenile justice rehabilitative programs. Due to the unique trauma bonding that occurs between a victim and her trafficker, these children often go from juvenile facilities right back to the person that exploited them.”

The report further found that law enforcement reports they are often compelled to use what was described as a “stop-gap measure” of charging a victim with a delinquency offense in order to detain the victim in a locked facility to keep her safe from the trafficker and the trauma-driven response of flight.

The debate surrounding decriminalization of children engaged in commercial sexual acts centers around the question of how best to protect the safety and well-being of the child. This question is particularly challenging to answer due to the unique circumstances of exploited youth. For example, given the frequency with which an exploited child may return to the trafficker, some stakeholders believe that secure facilities, which are only permitted in connection with a criminal

charge or a clinically diagnosed mental illness, are needed to protect the safety of the child. Additionally, exploited youth who agree to testify against their exploiters who may be affiliated with organized gangs face grave concerns for their safety.

Specialized programs and resources that exist have been largely developed under the delinquency jurisdiction, rather than through the child welfare system, and can currently only be accessed under that jurisdiction. Some law enforcement agencies, district attorneys and probation officers believe that absent a criminal charge law enforcement would have no ability to detain an exploited minor. Law enforcement has also noted that child victims of CSE often are detained for violations such as drug possession, shoplifting, or violating a court order rather than prostitution.

Many service providers and advocates state that the practice of criminalizing activities which are the direct result of severe abuse and neglect further traumatizes victims and delays the stages of healing that support a youth in recognizing their victimization and ultimately leaving their exploiter.

The complex legal, emotional and physical needs of victims of CSE underscores the need for solutions to be developed collaboratively among the many agencies, community based organizations, youth and survivors who are affected.

Juvenile Court

The Juvenile Court of a county consists of multiple types of proceedings including dependency, delinquency, and status offense proceedings which make important determinations regarding the safety, wellbeing and placement of children found to be under court jurisdiction.

Juvenile Dependency proceedings, governed by Welfare and Institutions Code (WIC) Section 300, relate to the protection of children who have been, or are at risk of being, abused, neglected, or abandoned by parents or family members. This section of law guides court determinations about the unfitness of the parent or home and whether a minor has suffered, or is at risk of suffering, harm. It permits the court to adjudge a child to be a dependent child of the court, thus enabling a court to take certain actions to protect the child.

Juvenile Delinquency proceedings, governed by WIC 602, involve children under the age of 18 alleged to have committed a delinquent act which would be a crime if committed by an adult including robbery, murder, drug offenses and prostitution. Under WIC 602, the court may find a minor to be a ward of the court and place a child under the responsibility of the county probation department.

Status Offender proceedings, governed by WIC 601, involve minors who persistently or habitually refuse to obey the reasonable and proper orders or directions of their parents, guardian, or custodian, or who are beyond the control of that person. Under WIC 601, the court may find a minor to be a ward of the court. Typical status offenses are curfew violations and truancy from school, though in practice such status violations alone rarely result in a court petition. Other types of status offenses include violating court orders or running away from placements. Under this section of law, parental custody may be removed for portions of the day (to require attendance at various day programs), and youth may not be placed in locked facilities housing WIC 602 youth. This area of jurisdiction is sporadically and inconsistently enforced, in part due to county financial constraints.

Some counties have established “dual jurisdiction” proceedings, governed by WIC 241.1, which permit the development of joint written protocols to determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments are presented to the Juvenile Court with the petition that is filed on behalf of the minor, and the court determines which status is appropriate for the minor.

The Juvenile Court has authority in juvenile delinquency and dependency cases to take a broad range of actions including removing children from their homes and establishing a placement order for children to reside with relatives or in foster care or group homes; terminating parental rights; or requiring various agencies such as county child welfare or probation departments to provide a range of possible services such as family reunification services, counseling and others. In delinquency cases, where the minor has committed a crime, the Court may additionally order children to be confined in locked facilities, such as juvenile detention halls, camps, and the Division of Juvenile Justice (formerly known as California Youth Authority). Generally, a court may not involuntarily confine a youth in a locked facility through dependency or status offense judicial proceedings.

Child Welfare System

California’s system of Child Welfare Services (CWS) provides a continuum of services to children identified as victims of, or at risk of becoming victims of “child abuse, neglect or exploitation”⁷ and to the families of such children to support the preservation of the family, if possible.

Specifically, CWS is charged with responding to and investigating the more than 481,000 annual reports of child abuse and neglect in California. If a report is determined to be substantiated and a child is in immediate danger of harm, CWS is responsible to ensure the safety of the child by

⁷ Welfare and Institutions Code, Section 16501 (a).

placing the child under protective custody and referring the case to the dependency court. Upon a court determination that a child is a dependent of the court under WIC 300, a social worker is responsible to establish a case plan for the child, and to provide case management and a continuum of services designed to achieve the objectives of the case plan. Through the establishment of individual case plans developed by a county social worker, the CWS provides or arranges a continuum of services including emergency response, family preservation, family maintenance, family reunification, and permanent placement services. When an out-of-home placement is determined to be necessary, placements are required to be least restrictive and most family like as possible.

Additionally, if family reunification is not possible, CWS is charged with locating alternative permanent placements, such as guardianship or adoptive homes, and ensuring adequate care for children placed out of their homes. DSS reports that last year there were 55,000 children living in foster care, 19,000 of whom were residing in the homes of relatives, and 5,500 of whom were living in group homes.

Youth who are commercially sexually exploited by someone other than a family member do not clearly fall under WIC 300, which largely addresses issues of familial abuse and neglect. As a result, reports to CPS made on behalf of exploited youth may not elicit a response from county child welfare. Consequently, until a youth is arrested, there may be no formal response to known instances of severe exploitation and abuse even when the abuse has been identified by mandated reporters or other community members.

Juvenile Probation System

Children who are commercially sexually exploited may be arrested for disorderly conduct for “engaging in or agreeing to engage in any act of prostitution” and be charged with a misdemeanor.⁸ Law enforcement reports that more commonly, youth are arrested for violating a court order (a status offense), loitering, drug possession, shoplifting, or other misdemeanor offenses. Probation officers and judges report limited authority to detain youth arrested for such charges for significant lengths of time, and youth who have not committed a violent crime are often returned home or otherwise released in a matter of days or weeks without ongoing services. In other instances, youth may remain in detention for months, or be sent to out of state facilities.

When arresting a minor, local law enforcement has significant discretion over whether to order the youth to juvenile hall and refer the case to the county probation department or whether to release the minor and return her home. If law enforcement brings a youth to a juvenile hall, probation officials have discretion over how to process the case. A probation officer may decide

⁸ Penal Code, Section 647 (b).

to close or transfer the case, the officer may place the youth on informal probation or in a diversion program, or the officer may file a petition for a court hearing. About one-half of the cases referred to probation result in the filing of a petition with the juvenile court for a hearing.⁹

Based on information provided by the probation officer, the juvenile court makes a determination regarding whether to make the juvenile a ward of the court and determines the appropriate placement and treatment for the juvenile. Nearly 60 percent of juvenile delinquency court hearings result in the juvenile being made a ward of the court and the majority of those are placed in home supervision under the probation department. Most of the remaining youth are placed in a county facility, such as juvenile hall or camp or are placed in foster care or a group home. In 2012, DSS reports there were 4,621 probation-supervised foster youth, with more than 1,200 of them residing in Los Angeles County. For these youth, probation officers serve as the youth's case manager in lieu of a county social worker.

Existing law, under WIC 1700, stresses the intended rehabilitative (as opposed to retributive) purpose of the state's juvenile justice system in ensuring the protection of society from criminal activity of juveniles, however a juvenile hall is generally analogous to county jails and advocates maintain that rehabilitative treatments and educational opportunities are highly variable across county jurisdictions.

Unlike the CWS, which is county-run but governed by an extensive state and federal regulatory and quality assurance structure under the Department of Social Services and the federal Administration for Children and Families, county probation systems effectively have no analogous statewide oversight and quality assurance mechanism for the programmatic components of the system. The Corrections Standards Authority (CSA) enforces minimum regulatory standards for both adult and juvenile detention facilities pursuant to the California Code of Regulations, Title 15 however the programmatic elements of probation departments are highly varied in scope and quality.

Some county probation systems, such as those in Los Angeles and Alameda counties, have created specialized programs directed toward exploited youth to provide more treatment-centered responses to exploitation and to divert exploited youth from traditional delinquency facilities. Such programs, while promising, have been limited in scale relative to the prevalence of exploitation among delinquency youth and limited in scope relative to the intensive long term treatment needs of exploited youth.

⁹ <http://oag.ca.gov/sites/all/files/pdfs/cjsc/publications/misc/jj09/preface.pdf>

Placement Types

Juvenile Hall

Existing law requires each county to provide and maintain a juvenile hall, at county expense, to detain youth suspected of committing a crime prior to the adjudication of their case or when the court has ordered the placement following adjudication.¹⁰ Juvenile hall facilities are managed and controlled by the county probation officer and are subject to inspection by CSA.

The local board of education is required to provide public education to youth residing in a juvenile hall and some counties provide additional services, such as mental health counseling or drug treatment. However, the availability of services, including educational access, and overall conditions vary across counties and a lack of adequate services, violence, overcrowding and other quality issues have been the focus of multiple lawsuits over the last decade.

Juvenile camps or ranches

Existing law, under WIC 880, permits a county to establish camps, ranches and 24-hour schools, as an alternative to juvenile hall placement. Such facilities are frequently non-locked and youth may be required to perform certain work activities such as fire prevention activities or care of public lands. The quality concerns at issue with juvenile hall facilities have also been identified and litigated in juvenile camps.

Group Homes

Group homes are 24-hour residential facilities licensed by the DSS to provide board and care to foster youth from both the dependency and delinquency jurisdictions. Group home facilities are organized under a system of rate classification levels (RCLs) ranging from 1-14 that are based on levels of staff training and ratios. In practice, the majority of group homes are RCL 10 and above with nearly 50% of groups homes at RCL 12. There is wide variation in group home size from as few as 6 children to group homes that house more than 100 children.

Existing law requires that children removed from their homes and made dependents of the court be placed in the most family-like and “least restrictive” setting. Group home placements are the most restrictive form of out-of-home care available for dependent youth and are a less restrictive (unlocked) placement option for delinquent youth. Additionally, existing law requires counties to seek timely permanent placements, such as guardianship or adoption, for youth that are removed from their homes. Group homes, which provide an institutional type of care as opposed to a family like setting, are not intended to be long term placements, however in practice many

¹⁰ Welfare and Institutions Code 850

children placed in group homes remain in that setting for the duration of their time in foster care, and many age out of the system while residing in group home placements.

Group homes face many unique challenges to effectively care for youth who have been commercially sexually exploited. Large institutional group homes may be ill-equipped to meet the complex social and emotional needs of many exploited youth. Such youth frequently run away from placements and return to their exploiters. Additionally, exploited youth placed in a group home sometimes recruit other youth on behalf of the exploiter. Some group home facilities have experimented with creating specialized placement models for exploited youth and hiring survivors of exploitation as staff to achieve higher rates of placement stability in an unlocked setting. It has been reported that some facilities face difficulties hiring survivors due to rigorous background check requirements.

County Licensed Foster Homes and Foster Family Agencies

County-licensed foster homes and private foster family agencies provide residential care to foster children in a more family like setting, although foster homes may serve as many as six children, which may pose challenges to meeting the emotional needs of youth who have been exploited. Counties additionally report that it is challenging to find foster homes willing or able to serve exploited youth.

With proper specialized training and the availability of supportive non-residential services (discussed later), it may be possible to develop successful foster care placement options for exploited youth outside of a group home and in a less restrictive setting.

California Child Welfare Council

The California Child Welfare Council was created in statute to serve as a multi-agency advisory body responsible for improving collaboration among the broad range of agencies that serve children and youth in the child welfare and foster care systems. The Council is co-chaired by the Secretary of Health and Human Services and the designee of the Chief Justice of California, and works to examine and make recommendations intended to improve services for children and families. The Council is required to report at least annually to the Governor, the Legislature, the Judicial Council and the public.

The Council convened a workgroup dedicated to the issue of CSEC, comprised of public and private agency representatives from social services, mental health, probation, law enforcement, courts and child advocacy groups. In March 2013, following more than 18 months of collaboration, the workgroup released a report entitled “Ending the Commercial Sexual Exploitation of Children: A Call for Multi-System Collaboration in California,” which concludes that “California must develop a comprehensive and collaborative response to ensure CSE victims

are identified and receive the services they need to overcome trauma and live healthy, productive lives.”

The report makes a range of specific policy recommendations intended to improve service delivery for exploited youth beginning with the creation of a multi-agency CSEC Action Committee charged with implementing recommendations including:¹¹

- Establish mechanisms to collect and integrate data across systems serving exploited youth through data sharing agreements, capturing needed information through the state’s Child Welfare Services/Case Management System, and improving staff training.
- Initiate cross-system identification of exploited youth and children at risk of becoming victims through the use of screening and assessment tools that can be used across many systems and agencies, and through coordinated training for child welfare, probation, judges, attorneys, mental health clinicians, teachers, school administrators, and foster parents.
- Create CSEC subspecialties within existing services such as Wraparound, and develop group home placement policies and options that address the unique needs of CSEC victims.
- Explore the creation of specialized courts, explore “no eject no reject” policies that will ensure the availability of safe placements for exploited youth, and improve training efforts for physicians and mental health clinicians.
- Expand prevention efforts through the development of policies and training for CWS placement workers and group home staff, to identify and prioritize communities that have a high need for prevention efforts, and create youth-friendly materials for distribution to youth who come into contact with CWS.
- Determine steps that may be taken to decriminalize children who have been exploited, in consultation with the Attorney General and the California District Attorneys Association and conduct an analysis of the adequacy of current legal codes pertaining to child abuse reporting.

This workgroup concluded that “Because many CSEC are involved with child protective services and foster care, the child welfare system is uniquely positioned to implement prevention and early intervention services.” The report additionally lists ongoing efforts to be undertaken by the

¹¹ Policy recommendations are found on page 55 of the report.

CSEC Action Committee, a creation of the CSEC workgroup that is recommended by the report to be an ongoing committee.

Other States

The state of New York was the first to pass a “Safe Harbor law” which created a presumption that a minor arrested for prostitution is a victim of trafficking as provided under federal law. New York’s law mandates that first-time victims be treated as status offenders rather than delinquents, and thus provides that victims receive services through the Department of Social Services rather than be detained. Washington State followed suit, passing a substantially similar law. Second-time offenders may be prosecuted under the juvenile court. The outcomes for this program are mixed, and experts note that negative outcomes may be the result of the lack of additional funding and specialized services for victims of commercial sexual exploitation under child welfare jurisdiction.

Illinois has passed a Safe Harbor law that prohibits the prosecution of minors for prostitution and requires the victim to be placed in protective custody. The law provides that law enforcement may take a minor into temporary custody if there is a reasonable belief that the youth is a victim of sex trafficking, and such custody may involve placement in secure facilities. Additionally, Minnesota has passed a law providing that as of August of 2014, a youth under the age of 16 who has no previous adjudication for prostitution shall not be prosecuted for prostitution or related charges. Further, the states of Connecticut, Florida, Illinois and Oregon have passed laws to include sexual exploitation or sex trafficking as a reportable form of maltreatment under the mandated reporting guidelines which enables child welfare agencies to engage.

California Legislation and Proposition 35

In 2005, California passed the California Trafficking Victims Protection Act, AB 22 (Lieber) which established human trafficking as a felony and provided for victims assistance. The same year, SB 180 (Kuehl) established a statewide taskforce chaired by the Attorney General. As required, the taskforce produced a report to the Legislature and Governor in 2007, and though the statutory mandate for the taskforce was sunset in 2008, the Attorney General reconvened the taskforce and produced a new report in 2012.

The findings of that report centered on the role of law enforcement in addressing sex trafficking and made several recommendations including cross-unit law enforcement training and coordination, the development of specialized expertise, and how to effectively leverage technology to combat trafficking. Additionally, the report recommended a “victim-centered approach” which includes appropriate training for health care providers and victim services

providers, mandatory reporting law changes, and the development of long-term shelters for victims.

Last year, California voters passed Proposition 35 which increased criminal penalties for traffickers. The proposition also provides that consent by a victim of human trafficking who is a minor, or mistake of fact as to the age of the victim are not defenses to criminal prosecution for the perpetrator. Additionally, the law provides that evidence that a victim of human trafficking has engaged in any commercial sexual act as a result of being such a victim is inadmissible to prove the victim's criminal liability for that activity. Though the intent of this provision was to decriminalize the commercial sexual activities of a victim of human trafficking, in practice this provision has led to confusion among law enforcement and other service providers. Some law enforcement agencies have interpreted the statute to prevent law enforcement from detaining minors suspected to be victims of CSE, while others state it has had no effect on their authority to make such arrests.

Katie A. Settlement

Recently, the state settled the Katie A. v Bonta case, a lawsuit filed on behalf of children in California who are in foster care or at imminent risk of foster care placement, have a documented mental health need, and who need certain individualized mental health services to treat or ameliorate their illness or condition. The lawsuit centered on a finding that certain foster youth who meet the medical necessity criteria for Specialty Mental Health Services or Early Periodic Screening Diagnosis and Treatment (EPSDT) were not receiving the mental health benefits for which they were eligible.

In response, the state of California has agreed to establish three new Medi-Cal specialized mental health services aimed at meeting the needs of the youth who are covered under the settlement.¹² In fulfilling the obligations of the settlement, DHCS and CDSS have drafted a Core Practice Model (CPM) to provide practice guidance and establish a standard of care for county child welfare and mental health agencies, and other service providers that provide services to youth covered under the settlement. While the CPM applies to a broader class of youth who are eligible for EPSDT, the new Medi-Cal services are intended to apply to a narrower "subclass of youth." The departments have jointly released two documents – a "Core Practice Model Guide" and a "Medi-Cal Manual for Intensive Care Coordination (ICC), Intensive Home Based Services (IHBS) and Therapeutic Foster Care (TFC)."

¹² "Medi-Cal Manual for Intensive Care Coordination (ICC), Intensive Home Based Services (IHBS) and Therapeutic Foster Care (TFC) for Katie A. Subclass Members." DHCS and CDSS. 2013.

The EPSDT program (a Medi-Cal benefit) was included in the 2012 Realignment and the state/local match for this service will be funded through local sales tax dollars instead of the General Fund. As a result, county mental health departments which administer EPSDT mental health services have expressed concerns that increases in services provided to foster youth under Katie A. may not be adequately funded. Foster youth advocates note that EPSDT services under Medi-Cal are an entitlement benefit that foster youth had been unfairly excluded from receiving.

Community Based Resources

A wide variety of targeted community based resources exist throughout the state to provide specialized services to exploited youth. In some instances, county departments have contracted with these organizations to provide key services such as mental health counseling and treatment, identification and assessment services, medical care, and training for law enforcement, case workers and care providers. This developing network of service providers serve as an important resource for county departments responsible for the care of exploited youth.