



FREQUENTLY ASKED QUESTIONS ABOUT PREVENTING THE CRIMINALIZATION OF MINOR VICTIMS OF TRAFFICKING



How are victims of sex trafficking entering the juvenile justice system?

There are many avenues through which minor victims of trafficking enter the juvenile justice system. Due to the power and control exercised by their traffickers, victims are often forced or coerced to commit crimes they otherwise would not commit.^I Many victims of trafficking enter the criminal justice system for offenses committed as a direct result of their trafficking.^{II} Some of these crimes will be status offenses such as truancy, curfew violations, and running away, which are all warning signs of potential trafficking. Others may be more serious crimes, such as theft, drug possession, and assault. Once involved in the juvenile justice system, young people can be cyclically trapped in the system through a slow process of cases and probation violations. As such, it is particularly important to screen youth who are entering the system under status offenses, because this step may help identify victims of sex trafficking earlier.

What are typical charges for minor victims of trafficking?

Some states, although not many, still charge minor victims of trafficking with prostitution or commercialized vice. Even in states that have non-criminalization measures such as safe harbor laws, which recognize that minors are unable to consent to sell sexual services and should not be held criminally responsible for harms committed against them,^{III} victims of trafficking continue to enter the juvenile justice system under other charges. Many young people will enter the system from charges related to crimes they committed under coercion such as theft or robbery. There have been high-profile cases in which minor victims of trafficking are arrested for the murder of their trafficker or the buyer who paid to have sex with them.^{IV V}

What are masking crimes?

Law enforcement officers might charge minors with crimes that mask their victimization in order to remove them from dangerous situations. Commons masking crimes include status offenses and other crimes such as trespassing, disorderly conduct, loitering, obstructing highways and other public passages, presenting false identification to law enforcement, simple possession of a controlled substance, and probation violations. In states

where safe harbor laws are in place, minor victims are often arrested for masking crimes.

What are the immediate collateral consequences of criminalizing minor victims of trafficking?

Being arrested is a tremendously traumatic experience that reinforces the narrative that traffickers use to manipulate a young person's perception of their situation and themselves. The immediate harms include psychological distress and loss of trust in the justice system. Minor victims of trafficking who fall further into the system are also deprived of opportunities to be connected to appropriate community-based services, as well as time that could have been dedicated to healing.

What are the long-term collateral consequences of criminalizing minor victims of trafficking?

Convictions are a lifelong barrier to young people exiting sex trafficking. A criminal record can block access to housing, employment, and education, which are the basic needs identified as essential resources to exiting sex trafficking. Having a record, even when sealed, can bar a person from serving in the military, or becoming a law enforcement professional, and it restricts obtainment of state licensing required for some professional occupations. Furthermore, young people with convictions can face deportation.^{vi vii} The long-term collateral consequences of criminalizing minor victims of sex trafficking may result in further victimization and limit their chances for successful reentry into society.



What if placing a young person in detention is the only way to keep them safe?

Detention centers are inherently places of punishment. Being in detention is a fundamentally traumatic experience because detention centers recreate the control and power dynamics that victims navigate with their traffickers. Being placed in detention can reaffirm what a trafficker may have said to a victim about negative outcomes of going to the police or asking for help. Staff and other detained youth in juvenile detention centers may not be trauma-informed and can use inappropriate language or may make comments that further emotional distress. The trauma can be exacerbated when traffickers recruit within the facility and when staff abuse youth.^{viii} For these reasons, detention centers are not safe places for victims.

What if a young person causes real harm in the community?

Sometimes young people who are being trafficked are perpetrators of violence in our communities. There are many violent crimes that young people are charged with, including possession of a firearm, assault, and homicide. It is important to always consider the duality of the young person as both a victim and a perpetrator of violence in addition to the facts of the case. Court professionals must be able to see how the harm and trauma of the victimization, paired with the system's lack of effective responses to keep victims safe, can be core drivers of a youth's violent behavior. Ending the criminalization of minor victims of trafficking does not mean that we do not hold youth accountable. Family-focused multi-dimensional therapy and restorative justice practices connecting youth with paired cognitive behavioral therapy and peer mentors have been found to be effective alternatives to youth incarceration. These options hold youth accountable for their actions, reduce recidivism, and begin the process to repair the harm caused by minor sex trafficking.^{ix}

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To learn more about proven strategies to prevent youth violence, you can also see the Centers for Disease Control and Prevention's Comprehensive Technical Package for the Prevention of Youth Violence and Associated Risk Behaviors.



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