

Information Packet for Law Enforcement Regarding Youth who are Victims of Sexual Exploitation Prepared by Jo Arlow, WASPC (10/2010)

Purpose

Law enforcement may come into contact with sexually exploited youth during investigations not only of commercial sexual abuse of a minor (juvenile prostitution) or trafficking, but also investigations of luring, child pornography, missing children, and large vice or gambling operations. When a law enforcement officer contacts a juvenile and the officer believes the juvenile may have a history of or be a current victim of sexual exploitation, law enforcement should be familiar with the laws regarding responding to sexually exploited youth and victims of commercial sexual abuse of a minor (formerly patronizing juvenile prostitutes). It is also worthwhile to explore his or her possible need for community-based or state services and programs.

This information packet is intended to provide background on the sexual exploitation of juveniles and an update on current laws to aide law enforcement who may interact with victims. The information focuses primarily on the changes contained in ESSB 6476 (Chapter 289, Laws of 2010) including changes to services and victim's compensation available to victimized youth, adding exploited youth to the definition of a "child in need of services," increasing penalties for crimes related to commercial sexual abuse of a minor, and requiring mandatory impound of vehicles used to perpetrate commercial sexual abuse of a minor. Accompanying this document are important research and materials that examine the larger issue of sexual exploitation of children.

The information is intended to help improve public safety and outcomes for at-risk and victimized juveniles by increasing law enforcement and community knowledge about youth who are subjects of sexual exploitation and the community programs and resources available to assist these juveniles. It is intended that the dissemination of these documents will assist law enforcement in understanding recent changes in Washington law and the broader issues of sexual exploitation of juveniles.

What is Commercial Sexual Abuse of a Minor?

- Commercial Sexual Abuse of a Minor, a Class B felony, RCW 9.68A.100, formerly "patronizing a juvenile prostitute." The name of the crime was changed in 2007 to reflect the seriousness, and that it is sexual exploitation of a minor and differs from patronizing an adult who is a prostitute.
(1) A person is guilty of commercial sexual abuse of a minor if: (a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her; (b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or (c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee.
- Promoting commercial sexual abuse of a minor, RCW 9.68A.101.
(1) A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse of a minor or profits from a minor engaged in sexual conduct.
(2) Promoting commercial sexual abuse of a minor is a class A felony.
(3) For the purposes of this section: (a) A person "advances commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in

commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

(b) A person "profits from commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

- Promoting travel for commercial sexual abuse of a minor, RCW 9.68A.102.
 - (1) A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.
 - (2) Promoting travel for commercial sexual abuse of a minor is a class C felony.
 - (3) For purposes of this section, "travel services" has the same meaning as defined in RCW 19.138.021.
- Permitting commercial sexual abuse of a minor, RCW 9.68A.103
 - (1) A person is guilty of permitting commercial sexual abuse of a minor if, having possession or control of premises which he or she knows are being used for the purpose of commercial sexual abuse of a minor, he or she fails without lawful excuse to make reasonable effort to halt or abate such use and to make a reasonable effort to notify law enforcement of such use.
 - (2) Permitting commercial sexual abuse of a minor is a gross misdemeanor.

What are the Effects of the 2010 Legislation? ESSB 6476 (Chapter 289, Laws of 2010)

ESSB 6476 was enacted during the 2010 legislative session and made various changes to the criminal justice system's treatment of youth who may be sexually exploited and/or engaged in prostitution. In addition to the addition of "sexually exploited child" to the CHINS statute, these changes include increased penalties for offenders, mandatory vehicle impound, provisions related to services for youth, and prosecutorial options for youth engaged in prostitution.

What is a Child in Need of Services?

Under RCW 13.32A, a child in need of services (CHINS) is a juvenile under the age of 18 years old who may present behaviors that indicate they are at risk of harm to themselves or others. While these factors connote at-risk situations, they are not necessarily criminal behaviors nor does the youth necessarily meet civil commitment standards. The purpose of the law is to provide parents, a juvenile and/or the court with the means to intervene and obtain help and services for a juvenile in need.

The statute defines a CHINS juvenile as one who: (1) is beyond the control of his or her parents such that the child's behavior endangers the health, safety, or welfare of the child or other person; (2) has been reported to the police as absent without consent for at least 24 hours on two or more occasions from the home of either parent, a crisis residential center, an out-of-home placement, or a court-ordered placement; (3) has exhibited a serious substance abuse problem; (4) has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or (5) is in need of necessary services including food, shelter, health care, clothing, or education or services designed to maintain or reunify the family; or (6) a juvenile who is a "sexually exploited child" (RCW 13.32A.030).

“Sexually exploited child” was added to RCW 13.32A.030 in 2010. **Please note that the provisions related to CHINS take effect July 1, 2011.** Agency policies regarding at-risk, runaway youth or CHINS should incorporate this additional category of youth into existing policies at that time.

When a juvenile meets the CHINS definition, a CHINS petition can be filed with the court seeking services and assistance from the Department of Social and Health Services (DSHS). The petition is one filed in juvenile court by a parent, child, or DSHS. (RCW 13.32A.030).

What is a Sexually Exploited Child?

RCW 13.32A.030(17) now provides that a "sexually exploited child" means any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100 (formerly patronizing a juvenile prostitute), promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102. Essentially, a juvenile who is engaged in prostitution may meet the definition of a “sexually exploited child.”

The Washington Office of Crime Victims Advocacy (OCVA) Indicators of Sexually Exploited Children

The commercial sexual exploitation of children (CSEC) comprises sexual abuse and remuneration in money, goods or services – or the promise of money, goods, or services – to the child or a third person or persons for the sexual use of a child. The child is treated as a commercial sexual object. CSEC is violence against children. CSEC can occur through a variety of mediums including street prostitution, pornography, stripping, erotic/nude massage, escort services, phone sex lines, private parties, truck stops, gang-based prostitution, interfamilial pimping, and forms of Internet-based exploitation. What differentiates CSEC from other forms of sexual exploitation is an element of organization and/or intent, and/or the context of the commercial sex industry.

OCVA provides the following as potential indicators of a youth suffering from sexual exploitation:

- Visible signs of abuse such as unexplained bruises, black eyes, cuts or marks
- Behaviors including fear, anxiety, depression, submission, tension and/or nervousness
- Behaviors such as “hyper-vigilance”
- Sexually exploited children/youth often express interest in or are in relationships with older men or adults
- Evidence of controlling or dominating relationships
- Unexplained shopping trips or possession of expensive clothing, jewelry, or a cell phone
- Secrecy about whereabouts
- Indicators that child/youth is lying about their age or name
- Frequent or multiple sexually transmitted diseases (STDs) or pregnancies
- Family dysfunction (violence, substance abuse)

Prosecution of Youth who Engage in Prostitution

Under RCW 13.40 et seq., when a prosecutor receives a complaint that a juvenile has committed a crime, but there is insufficient evidence that the juvenile committed the offense, the prosecutor may either file an information in juvenile court or divert the case, depending on the type and level of crime alleged to have been committed.

Under the new 2010 law, effective July 1, 2010, if a juvenile is alleged to have committed the offense of prostitution or prostitution loitering and this is the juvenile's first offense, the prosecutor must divert the case (RCW 13.40.070). For subsequent allegations that the same minor has committed prostitution or prostitution loitering, s prosecutor may still offer a diversion if the county in which the offense is alleged to have been committed has a comprehensive program that provides wrap around services. The statute lists those services necessary as: (a) Safe and stable housing; (b) Comprehensive on-site case management; (c) Integrated mental health and chemical dependency services, including specialized trauma recovery services; (d) Education and employment training delivered on-site; and (e) Referrals to off-site specialized services, as appropriate (RCW 13.40.213).

Additionally, in 2010, a new provision was added to the At-risk-youth/CHINS statute in RCW 13.32A and to the juvenile justice chapter RCW 13.40 regarding diversion and providing minors with services. The new law provides that, "Within available funding, when a youth who has been diverted under RCW 13.40.070 for an alleged offense of prostitution or prostitution loitering is referred to the department, the department shall connect that child with the services and treatment specified in RCW 74.14B.060 and 74.14B.070." Thus DSHS is directed to intervene with potential services for the youth even in the criminal prosecution.

Services for Victims of CSAOM and Trafficking

When a juvenile is arrested for prostitution or prostitution loitering, there is to be a presumption that he or she meets the criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code, and that he or she is also a victim of commercial sex abuse of a minor (RCW 13.40.219). The appropriate law enforcement officer(s) of an agency should thus be familiar with the definitions of the federal law and what services or processes may be open to or necessary for a victim.

The Washington Office of Crime Victims Advocacy (OCVA) maintains a list of service resources (see attached). Services are available to victims of commercial sexual exploitation by contacting the Crime Victim Service Center or Community Sexual Assault Program in your area. Services include:

- Access to a victim advocate 24 hours per day, 7 days per week,
- Information and referrals to community resources and assistance in accessing those services,
- Support and assistance aimed at assisting victims in their healing and recovery,
- Assistance with safety planning,
- Assistance and support with accessing medical care related to CSEC,
- Help understanding the legal system, as well as other government agencies and services.

Other victims' benefits the juvenile may be eligible for include benefits through the Washington state crime victims' compensation program overseen by the Department of Labor and Industry. Generally, crime victims are not entitled to crime victim compensation benefits when the injury for which benefits are sought was (1) the result of consent, provocation or incitement by the victim, unless the injury resulting from a criminal act caused the victim's death; (2) sustained while the crime victim was engaged in the attempt to commit or in the commission of a felony; or (3) sustained while the victim was confined in a jail or correctional facility operated by DSHS. Thus, prior to the new law, a juvenile who appeared to be willingly engaged in prostitution would not qualify for any services or benefits under the program.

However, the new 2010 law provides that a person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030 (RCW 7.68.070).

The new law also requires DSHS to ensure that there are staff at or associated with secure or semi-secure crisis residential centers or HOPE centers are trained to work with the needs of sexually exploited children (RCW 74.15.255). The appropriate law enforcement officers should enquire about the availability of such staff if he or she takes a potentially sexually exploited youth to a HOPE or crisis residential center.

Penalties for Offenders Engaged in CSAOM

ESSB 6476 made several enhancements to the punishment of offenders engaged in commercial sexual abuse of a minor:

- Upon an arrest for a suspected violation of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, **the arresting law enforcement officer shall impound** the person's vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465. (RCW 9A.88.140). **Please note that the impound provisions for adult prostitution offenses remain discretionary.**
- Existing impoundment fines are raised from \$500 to \$2500 for redemption of a vehicle used in those offenses (RCW 9A.88.140).
- CSOAM(RCW 9.68A.100) is now a class B rather than C felony.
- Promoting CSOAM (RCW 9.68A.101) is now a class A rather than B felony
- Mandatory criminal fines for those crimes are increased from \$500 to \$5000.
- It is no longer a defense to CSOAM that the offender did not know the person's age (RCW 9.68A.110).

Responding to youth victims of sexual exploitation

- For an important and concise resource on youth victims of sexual exploitation, please see the attached document published by the State Office of Crime Victims Advocacy, "Identifying and Responding to Victims of Commercial Sexual Exploitation of Children," Information Sheet.
- For more information on responding to youth who are victims of sexual exploitation, see the resource section suggestions below.
- Website resources are included with this information packet below

Additional Resources

The following resources accompany this document in electronic format. They will also be made available at the Washington Association of Sheriffs and Police Chiefs website at www.waspc.org

- Williams, Linda M., "Harm and Resilience among Prostituted Teens: Broadening Our Understanding of Victimisation and Survival," Social Policy and Society (9:2, 243-254) (2010)
 - A research and policy study based on interviews with youth victims and their characteristics and survival strategies.
- U.S. Department of Justice, "National Strategy for Child Exploitation Prevention and Interdiction," Report to Congress (August 2010)

- A comprehensive review of child exploitation threats including pornography, the internet, domestic prostitution, child sex tourism etc. and the national efforts and programs to combat the problem)
- Website resources are included with this information packet below:

WEB RESOURCES ON SEXUAL EXPLOITATION OF MINORS

WARN – Washington Anti-Trafficking Response Network

<http://www.warn-trafficking.org/>

National Center for Missing and Exploited Children

http://www.missingkids.com/missingkids/servlet/PublicHomeServlet?LanguageCountry=en_US

Stop It Now

<http://www.stopitnow.com/warnings>

SAGE – Standing Against Global Exploitation, San Francisco, CA

<http://www.sagesf.org/index.htm>

Paul and Lisa

<http://www.paulandlisa.org/>

GEMS – Girls Empowerment and Mentoring Services, New York, NY

<http://www.gems-girls.org/>

ECPAT – End Child Prostitution Child Pornography and Trafficking of Children

<http://www.espat.net/EI/index.asp>

A Future Not a Past, Angela’s House, Atlanta, GA

<http://afuturenotapast.org/>

National Center for Missing and Exploited Children

http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=3282

Stop Sex with Kids

<http://www.stopsexwithkids.ca/app/en/>

(8 minute video on right hand side named “video flash”)

ACF- National Human Trafficking Resource Center

<http://www.acf.hhs.gov/trafficking/about/nhtrc.htm>

Coalition Against Trafficking of Women

<http://www.catinternational.org/>

Children of the Night, Los Angeles, CA

<http://www.childrenofthenight.org/>

Polaris Project

<http://www.polarisproject.org/>

Publications:

http://www.childwelfare.gov/pubs/f_abused/f_abused.pdf

http://www.ncfy.com/publications/exchange/0707_sop.htm (Newsletter-see pages 11-13)

<http://www.uml.edu/RESEARCH/qualitative/docs/Williams%20ojdp%20pathways%20QRN%20talk%2010-22-07%201.pdf> Information on a research project

Legislation

<http://www.sharedhope.org/what/Washingtonstatelegislation2010.asp>

http://en.wikipedia.org/wiki/Shared_Hope_International

The National Child Traumatic Stress Network:

www.NCTSN.org

<http://www.youtube.com/watch?v=X8rzRLYNFvQ>

(80 minute video on Trauma Training for Child Welfare)