



Publication Date:

12/10/2018

Agency:

Department of State

Dates:

Submissions must be received by 5 p.m. on January 15, 2019.

Document Type:

Notice

Document Citation:

83 FR 63553

Page:

63553-63557 (5 pages)

Agency/Docket Number:

Public Notice: 10630

Document Number:

2018-26617

Dear JTIP:

The National Survivor Network as always praises the work and effort your office places into the movement and survivor support. We appreciate all the efforts you take towards the issue of human trafficking both domestically and internationally. As our first official attempt to add input into the TIP Report process for the coming year we have placed some efforts into addressing the responses to human trafficking and areas that we see that could use some more input, attention, and awareness to strengthen the work already placed into the monumental task of compiling the annual report. As always, we welcome follow up conversations to any questions these may raise.

Prevention:

The pervasive complicity in the U.S. to gear Human Trafficking related awareness posters solely to Sex Trafficked Women and prioritize response to those individuals exclusively as the disparity in shelter beds points to perpetuates the myth that sex trafficking of domestic women is the largest problem; while one could argue if you only serve, priorities and offer services for only one type of victim—all data collected will always support that narrative as the data collection in the U.S. is self-reporting by programs. There is no methodologically sound research into comprehensive prevalence studies, there is no comprehensive research into the intersections of power dynamics, there is no meaningful research into beneficial interventions/strategies to address the multi-faceted complexities of Human Trafficking. We are starting into our 19th year of the Trafficking Victims Protection Act and there are still pervasive and fundamental gaps in our response, awareness pushes, and services provided. Is simply meeting the minimum standards and of only 4-16 cases of labor trafficking a year, no services for men and boys, disparities in arresting victims of color, and continuation of policies that directly impact marginalized populations really an adequate response to Human Trafficking in the United States?

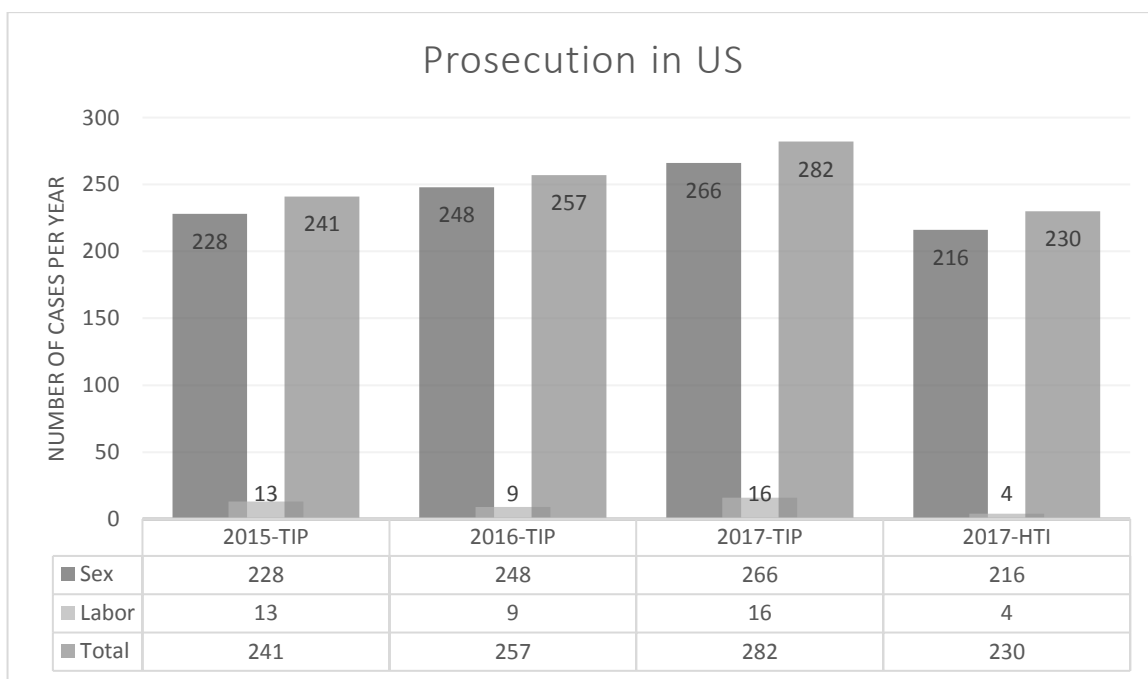


Legislation in the U.S. has a slant towards Sex Trafficking as the read of the original Trafficking Victim’s Protection Act and other early legislation clearly promoted the myth that sex trafficked domestic cases are the predominant cases in the U.S.; this can be seen when you look at the 757 Congressional records that pull up for legislation. To narrow the search down I used only legislation that has become law. 21 specific Human Trafficking Laws in the U.S.. Of those, 13 are specific to Sex Trafficking only, one is to women and girls only. The three pieces of legislation that only address labor trafficking are all sanctions legislation for goods coming into the U.S. and not specifically addressing the U.S. human trafficking issue. Of those laws specific to sex trafficking: HR440, HR6069, HR 6964, S3354, S534, S2152, HR1854 all of 2017; HR4980, HR3092 of 2013; HR6063 2011; S1738 2007; HR 4472 2005; S151 2003. S802 of 2015 has no reference to men or boys.

There have been several things within the administration that have been positive. Such as the engagement with survivors on the creation of the updated Wilberforce Video, the Social Security Listening Session, continued engagement with programs like NHTTTAC, OVCTTAC, and an effort to engage survivors as experts; however, none of these engagements are mandated or universal.

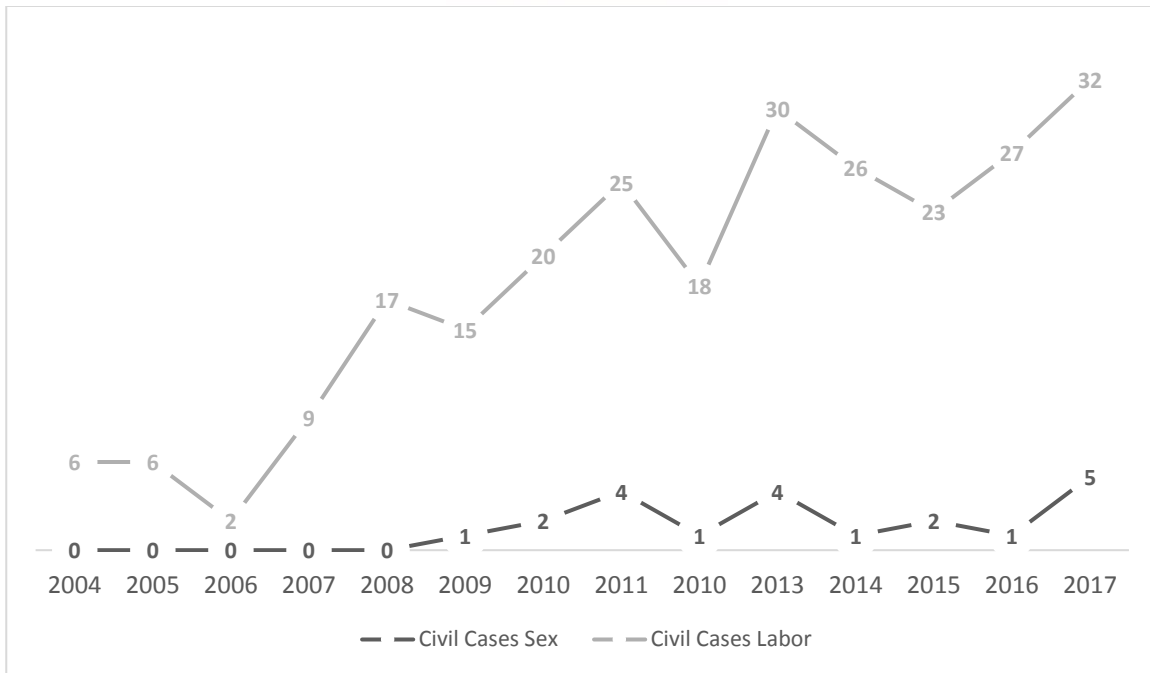
Prosecution:

Cases of HT at DOJ, the number of cases of labor trafficking in the US have yet to exceed 20 cases per year whilst large sums of resources are going specifically to sex trafficking cases only. There is a systemic issue of negligence with prosecution in the US for labor trafficking specific cases 9 cases in 2015, 13 cases in 2016, and 4 or 16 cases in 2017 depending on source. While the civil cases of Labor Trafficking have progressively increased through Pro-Bono legal teams.



¹ Trafficking In Persons Reports, 2016, 2017, 2018, Department of State

² Feehs, K.E.; Richmond, J.C.; Human Trafficking Institute, Federal Human Trafficking Report 2017



We are negligent in providing high ratings to the United States on human trafficking legislation when this country fails to provide victim status and protection to the populations most impacted by human trafficking, primarily women and girls of color with particular implication for those in the foster care system. In recent cases, we can look to the cases of Sara Krusan, who sat in prison for years after killing her pimp; Latesha Clay, who was prosecuted for robbery while the two pedophiles who attempted to purchase sex with a minor faced no consequences; Alexis Martin, who is currently sitting in prison because the persons who were trafficking her committed a murder; and Cyntoia Brown, who has been in jail and prison for more than fourteen years after killing the 43 pedophile who picked her up for sex.

Although the Black population in the United States is approximately 13.2 percent...61.9 percent of those arrested for prostitution under the age of eighteen were Black. Black girls are hyper vulnerable to arrest for prostitution offenses, yet their stories and faces are seldom heard or seen. The images used by antitrafficking advocates are not designed to reflect the girls most affected but are instead designed to solicit a sense of empathy and connection from the viewer. Consequently, advocates use images of young white girls, which elicit a sense of concern and urgency. While “white children and women are considered victims of prostitution, . . . [B]lacks are considered perpetrators of prostitution.” The characterization of Black women and girls as offenders limits the resources available to them.⁴

We cannot leave out the systemic issue of racism within prosecution and a lack of recognizing a victim that isn't Caucasian as a victim. A breakdown of Juvenile Justice System by racial makeup done by Justice

³ Levy, A.F.; Federal Human Trafficking Civil Litigation:15 Years of the Private Right of Action, The Human Trafficking Legal Center (December 2018)

⁴ Phillips, J.; Black Girls and the (Im)Possibilities of a Victim Trope: The Intersectional Failures of Legal and Advocacy Interventions in the Commercial Sexual Exploitation of Minors in the United States; UCLA Law Review



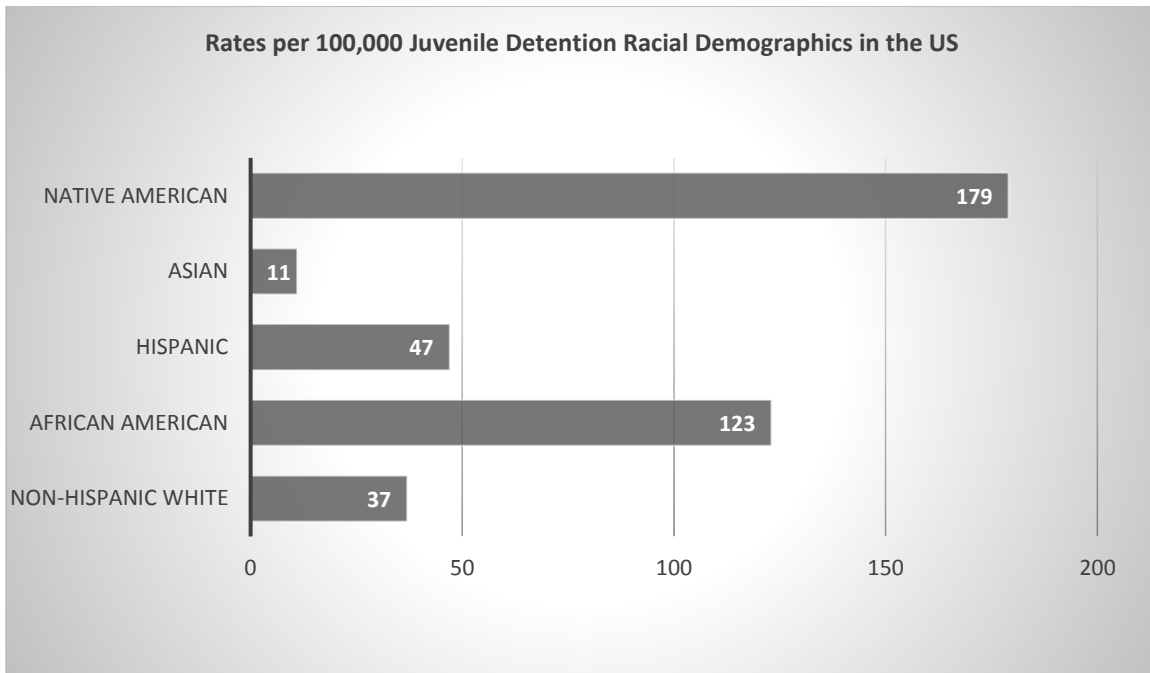
for Girls shows a clear prevalence to incarceration based upon racial markers. When there is a prevalence for racial disparity within prison systems—how many of those individuals are not identified as a victim simply derived of preconceived racial biases? For clarification on the fact of misidentified victims only 10% of prostitution in the U.S. is street-based prostitution. While 90% of those prostitution arrests come from street-based prostitution. Of those on the streets 40% are Women of Color. Making up 55% of the street-based prostitution arrests at larger disproportionate impacts.⁵

Black girls also disproportionately experience criminalization in contexts where the violence they experience at the hands of family members, intimate partners, and authorities is a contributing factor. Perceptions of Black girls rooted in oppressive characterizations of Black femininity play a role in fueling this phenomenon: Black girls' behaviors are generally read as more adult-like, are sexualized, and/or perceived as aggressive in ways that render them vulnerable to contact with the criminal or juvenile legal systems. Researchers also note that Black girls' resistance to discrimination, harassment and violence are often read through a lens that leads to criminalization and punishment rather than protection and support. As a result, Black girls are particularly and disproportionately vulnerable to arrest and incarceration or detention in the context of domestic disputes, because they are perceived as the aggressor in cases where they are survivors of violence. This reality is exacerbated by policies mandating arrest in domestic violence cases, including altercations between children and parents. In fact, Black girls who engage in physical confrontations with a parent or guardian are often responding to violence or a lack of protection from physical, sexual or emotional harm. Such arrests increase the likelihood that Black girls will have repeated and more severe contact with the criminal and juvenile legal systems, further calling into question notions of "safety" in the context of responding to sexual or domestic violence.⁶

I would be remiss if I didn't note the lack of data on men and boys and trans-men in the U.S. as girls and women are the prevalence of the study sourcing with a slight increase in Gender Non-Conforming and Transgender Females indicated, while there is no data even collected on intersex individuals. Other fundamental gaps in research are prevalence to labor trafficking, types of trafficking, and experiences common in the U.S. for labor trafficking. Medical documentation and data collection are heavily biased toward intervention with CSEC youth—you can find thousands of data sets on prevalence of CSEC Youth in the U.S..

⁵ Berkeley Journal of Gender, Law & Justice V-10 Issue 1. Sept 1995 Race, Class, Gender, and Deviancy: The Criminalization of Prostitution

⁶ Ritchie, A.J., Morris, M.W. Ed.D; National Black Women's Justice Institute, Sept. 2017, Centering, Black Women, Girls, Gender Nonconforming People and Fem(me)s: In Campaigns for Expanded Sanctuary and Freedom Cities

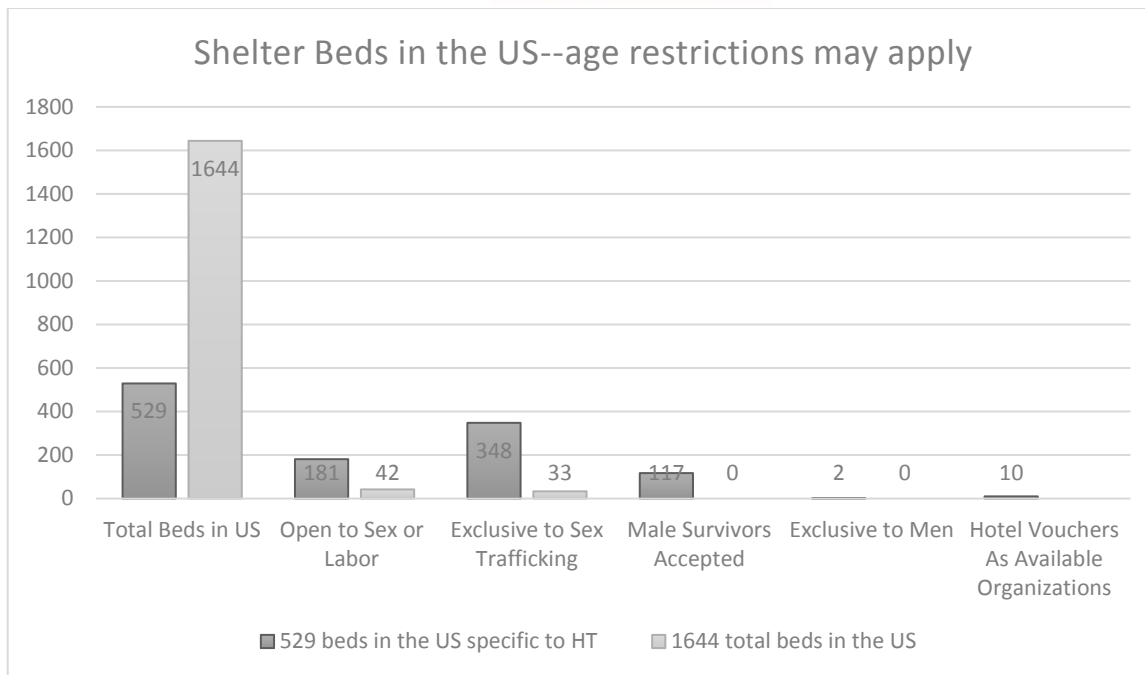


Regulation changes like the [NTA notice change](#), the [funding for vacatur change](#), the [public charge changes](#) are steps in the wrong direction. I fear it is too soon to know direct impact on these intersections beyond small anecdotal evidence. We will be continuing to try and find data to support our concerns on this critical intersection.

Protection:

There is a fundamental gap in services for Human Trafficking Survivors the largest being access to safe housing during recovery. Polaris Project did an analysis of available shelter beds in the U.S. showing the disparity of available safe beds for survivors. Beyond disparities in beds for victims the types of beds are further reduced with limitations on type of trafficking, age specifications, and lack of options available for families; disparities further complicated by lack of affordable housing, convictions from the trafficking experience being a barrier to housing, and other complicated nuances for inability to maintain housing while trying to recover.

⁷ Saar, M.S; Epstein, R.; Rosenthal, L; Vafa, Y; The Sexual Abuse to Prison Pipeline: The Girls' Story, Georgetown Law Center on Poverty and Inequality Ms. Foundation for Women



⁸ Note this is

not an updated analysis.

The U.S. approach to arresting the problem of Human Trafficking away without a comprehensive public health stance to address the core vulnerabilities to trafficking has created a frustrating quagmire of “interventions”. With regulatory changes like the NTA notice, T and U Visa oversight, [crackdown in asylum and refugee acceptance](#), [Muslim bans](#), [anti-LGBTQIA2+ legislation](#), and other clear pieces of contempt towards vulnerable populaces there is a significant reduction in protections from the Federal Government at the intersections of marginalization.

Two surveys conducted with immigration programs have noted a slight decrease in cases going to court or survivors pulling out of cases for fear of deportation. In the legal services survey there is a note of 62% increase in survivors asking questions of concern around safety and status and 43% of legal teams had at least one client decline court involvement.⁹ In a judicial survey of courts there was a noted 54% of courts noted increased hesitation in clients wishing to continue the process for fear and that a significant increase in use of immigration status as a threat in court increased.¹⁰

Recommended areas of focus:

Female Sex Tourism—specifically from the US and Europe to Africa:

- <https://www.w24.co.za/Love/Sex/sex-tourism-in-africa-european-women-who-pay-for-sex-with-locals-20160715>
- <http://www.maravipost.com/how-female-sex-tourists-are-exploiting-african-men/>

⁸ Polaris Project; Shelter Beds for Human Trafficking Survivors in the U.S.; June 2012

⁹ <https://www.tahirih.org/wp-content/uploads/2017/05/2017-Advocate-and-Legal-Service-Survey-Key-Findings.pdf>

¹⁰ <http://library.niwap.org/wp-content/uploads/Immigrant-Access-to-Justice-National-Report.pdf>



- <http://blog.swaliafrica.com/sex-tourism-africas-male-prostitutes/>
- <https://www.ckm-fier.nl/The-Female-Demand-Investigation-of-Female-Sex-Tourism.ashx>
- <http://boomerwomentravelers.com/confessions-of-a-female-sex-tourist/>
- <https://www.independent.co.uk/news/uk/home-news/women-who-travel-for-sex-sun-sea-and-gigolos-5329678.html>
- <https://www.dailymail.co.uk/femail/article-2401788/Sex-tourism-Meet-middle-aged-middle-class-women-Britains-female-sex-tourists.html>
- <https://inews.co.uk/inews-lifestyle/women/the-women-who-pay-for-sex/>
- <https://research.qut.edu.au/aboutmaleescorting/2016/04/13/women-who-buy-sex/>
- <https://www.independent.co.uk/life-style/love-sex/women-are-buying-more-sex-than-ever-before-new-research-claims-10272103.html>

Baby Farming—for adoption market:

- <https://www.aljazeera.com/programmes/africainvestigates/2015/12/nigeria-baby-farmers-151202123224095.html>
- <https://www.bbc.com/news/world-africa-13622679>
- <https://www.pulse.com.gh/bi/lifestyle/wizkid-tiwa-savage-and-african-creatives-who-left-a-mark-in-2018/egp8lvz>
- <https://www.tandfonline.com/doi/abs/10.1080/10246029.2014.941886?mobileUi=0&journalCode=rar20>
- <https://www.smh.com.au/world/thousands-of-babies-sold-on-indonesian-black-market-20130511-2jeaj.html>

Again, thank you for the efforts you place into the TIP Report annually. We appreciate all the effort that is placed into this process.

Nat Paul

Policy Chair, National Survivor Network