

Sex Trafficking in Minnesota: Is the Paradigm Shifting?

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In September 2008, The Advocates for Human Rights published a report entitled “*Sex Trafficking Needs Assessment for the State of Minnesota.*” In that report, we concluded that “effectively combating sex trafficking in Minnesota will require a paradigm shift in the way the criminal justice system currently handles sex trafficking and prostitution cases. The paradigm must shift from an approach that technically criminalizes the activity, but in practice tolerates sexual exploitation, to one that aggressively prosecutes those who exploit women, girls, boys, and other vulnerable populations.”¹ Now, a year later, the question we ask: “Is the paradigm shifting?”

Early evidence to support the conclusion that our response to sex trafficking in Minnesota is shifting includes:

- Recent amendments to strengthen the Minnesota criminal law on sex trafficking;
- Media reports on the “Minnesota Nice Guys,” which uncovered the fact that traffickers and “johns” do not behave like clean-cut, trustworthy, and blameless men;²
- Law enforcement efforts that hold the traffickers and “johns” accountable rather than punishing the victims of the crime of sex trafficking;
- A more coordinated and strengthened community response involving a number of non-profit organizations and coalitions as well as government agencies; and
- The expansion of the Gerald D. Vick Human Trafficking Task Force to the Duluth area.

While cautiously optimistic given such positive evidence, we await additional indications that the paradigm has permanently shifted, including evidence of:

- Aggressive prosecution of the “Minnesota Nice Guys” and other pending sex trafficking cases;
- Protecting victims by offering assistance and refraining from charging them with a prostitution offense when it was the consequence of being trafficked;
- Amended Minnesota Sentencing Guidelines that address the disparities between sentences for those who engage in the sex trafficking of juveniles vs. those who engage in criminal sexual conduct with juveniles;
- Training for law enforcement, prosecutors, and judges that incorporates both the federal and Minnesota sex trafficking legal definitions and frameworks; and

- Dedicated and permanent government funding for supportive services and benefits for trafficking victims.

Strengthened State Sex Trafficking Law

In May 2009, the Minnesota Senate (67-0) and the Minnesota House (134-0) unanimously passed the “Bill for an Act to Combat Trafficking in Minnesota”. The governor signed the bill into law on May 21, 2009 backed by this strong bipartisan message that Minnesota will not tolerate the sale of human beings for sex.

The amendments to Minnesota’s sex trafficking law, which took effect on August 1, 2009, will enable law enforcement and prosecutors to better hold the perpetrators of sex trafficking accountable.³ Specifically, the amendments to the law:

- Provide law enforcement and prosecutors with the ability to arrest and charge sex traffickers with higher penalties when an offender repeatedly trafficks individuals into prostitution, where bodily harm is inflicted, where an individual is held more than 180 days, or where more than one victim is involved;
- Increase the fines for those who sell human beings for sex;
- Criminalize the actions of those individuals who receive profit from sex trafficking;
- Categorize sex trafficking with other “crimes of violence” to ensure that those who sell others for sex are prohibited from possessing firearms; and
- Add sex trafficking victims to those victims of “violent crime” who are protected from employer retaliation if they participate in criminal proceedings against their traffickers.

While the amendments represent a step toward a paradigm shift, we must monitor the implementation of the law to ensure that prosecutors use it effectively to hold sex traffickers accountable for their grave human rights violations. In addition, we must monitor the Minnesota Sentencing Guidelines to ensure that they reflect the appropriate penalties given the statutory changes and also address the disparities in sentencing when juveniles are involved.

A Coordinated and Strengthened Community Response

In addition to the efforts of the coalition of organizations on the Statewide Human Trafficking Task Force that lobbied for and passed the amendments to Minnesota’s sex trafficking law, the U.S. Attorney’s Office for the District of Minnesota, the Sergeant Gerald D. Vick Trafficking Task Force, and several key members of the coalition have teamed up to make presentations around the state to attorneys, advocates, and the community. A number of organizations in the coalition have communicated about plans to better serve trafficked persons and promote prosecution and prevention, resulting in less duplication of efforts.

Awaiting Other Signs of a Paradigm Shift

Attorneys should carefully monitor the implementation of both the federal law and the Minnesota law. The federal Trafficking Victims Protection Act has a number of new standards, which may make proving “force, fraud or coercion” easier, however, only the prosecution of such cases will reveal whether this is true.⁴ Attorneys should also analyze whether the Minnesota law will protect those victims who fall through the gaps of the federal law and will hold traffickers accountable.

What Can Lawyers Do to Assist Victims and Hold Traffickers Accountable?

Lawyers called upon to represent trafficking victims should consult the American Bar Association handbook entitled “Meeting the Legal Needs of Human Trafficking Victims: An Introduction for Domestic Violence Attorneys and Advocates.”⁵ The handbook provides resources and practice pointers related to identifying trafficked persons, civil legal remedies, and comprehensive client care. The handbook does not specifically address the Minnesota law, however, it serves as a good starting point for attorneys representing trafficked persons.

Minnesota attorneys may also assist victims and hold traffickers accountable by helping to monitor changes in Minnesota’s law, participating in coalitions working to combat sex trafficking, seeking out training, and creating policies and procedures. In fact, the *Sex Trafficking Needs Assessment* recommended that attorneys:

1. Participate in training relevant to effective prosecution of sex trafficking, and to identifying and assisting trafficked persons as defined by federal and state law.
2. Ensure that legal and other types of assistance are provided to trafficked persons for the duration of any criminal, civil or other actions against suspected traffickers. These services should be provided equally and confidentially to U.S. citizens and foreign nationals and be sensitive to age, culture, language, sexual orientation and gender identity.
3. Institute policies and procedures that ensure that trafficked persons, including those defined as victims under Minnesota law, are not detained, charged, or prosecuted for their involvement in unlawful activities to the extent that such involvement is a consequence of having been trafficked.
4. Expand the use of task forces such as the Sergeant Gerald D. Vick Human Trafficking Task Force to include other communities in Minnesota, or create similarly organized, regionally-based task forces. The goal should be to create a network of professionals able to respond immediately to sex trafficking cases; communicate regularly about cases, good practices and obstacles; develop systems for data collection and sharing; and develop common prosecution methodologies, policies, and procedures for joint or multi-

jurisdictional investigations among federal, state, tribal, and local agencies.

Working together, Minnesota's legal profession can uphold Minnesota's legacy of protecting women and children from violence. Sex trafficking is the second largest – and fastest growing – criminal industry in the world. In 2008, traffickers made \$31 billion buying and selling humans.⁶ As attorneys, we have both the education and the tools to shift the paradigm and put an end to this grave human rights violation. Please help send the message that “Buying Sex Stops Here.”⁷

¹ Sex Trafficking Needs Assessment for the State of Minnesota, The Advocates for Human Right (September 2008), http://www.theadvocatesforhumanrights.org/sites/608a3887-dd53-4796-8904-997a0131ca54/uploads/REPORT_FINAL.10.13.08_2.pdf.

² David Chanen, Minneapolis Cops Bust ‘Nice Guys’ Sex Ring, Minneapolis Star Tribune (June 7, 2009), <http://www.startribune.com/local/47128727.html?elr=KArksUUUoDEy3LGDio7aiU>.

³ Minnesota Session Laws, Chapter 137 – H.F. 1505 (2009), <https://www.revisor.leg.state.mn.us/laws/?id=137&doctype=Chapter&year=2009&type=0>.

⁴ The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008: 50 Key Provisions, Salvation Army (December 2008), <http://www.sapromise.org/pdfs/WilberforceTVPRA2008.pdf>.

⁵ Jean Bruggeman & Elizabeth Keyes, Meeting the Needs of Human Trafficking Victims: An Introduction for Domestic Violence Attorneys and Advocates, American Bar Association (2009), http://www.abanet.org/domviol/pdfs/DV_Trafficking.pdf.

⁶ United Nations Inter-Agency Project on Human Trafficking (2009), <http://www.no-trafficking.org>; Polaris Project, Human Trafficking Statistics (2009), <http://nhtrc.polarisproject.org/materials/Human-Trafficking-Statistics.pdf>.

⁷ Action Network to End Sexual Exploitation in Minnesota, <http://www.mcbw.org/ANESEM>.