

Testimony to Kansas House Committee on Corrections and Juvenile Justice  
Human Trafficking Regarding Juveniles:  
The State of Anti-Trafficking Efforts and a Call for No Wrong Door  
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Dear Chairman and Members of the Committee,

As many of you may know, January has been identified as National Human Trafficking Awareness Month by Presidential Proclamation for the last 8 years. Thus, as a group of concerned multidisciplinary professionals obtaining more than 120 years of combined professional expertise serving children, youth, and families in Kansas<sup>1,2,3,4,5,6,7,8</sup>, we have asked for this hearing today to 1) promote critical analysis and dialogue regarding our State's response to human trafficking and 2) propose methods of more intentionally responding to the needs of individuals who have been victimized by and/or who have survived this form of abuse and exploitation.

A recent press release, dated November 15<sup>th</sup>, 2017, claimed that Shared Hope, a national political organization, has recognized Kansas for our improvement "to an "A" grade in combating human trafficking<sup>9</sup>." While I am proud to be a part of the progress we have made in Kansas over the last twenty-two years<sup>2,3,4</sup>, the danger of embracing this misleading "legislative grade" is frightening<sup>1,7,10</sup>. After all, in the shadow of this "grade card," is the far too quickly forgotten news from October that more than 70 children, mostly young adolescents who assumingly are runaways, are missing from our Kansas foster care system<sup>11</sup>. Despite progress on paper, the reality is that harm to individuals at-risk of and/or subjected to human trafficking is not only continuing, but perhaps worsening<sup>8,12,13,14,15,16,17</sup>.

At a time when we see a drive to decrease criminalization of minor boys across Kansas<sup>18</sup>, and while more "victims" appear to be "rescued" from human trafficking, the reality is that more girls are being detained for sexually-related "offenses"<sup>8,12,13,14,15,16</sup>. Worse yet, while the intention of removing the terms "prostitution" or "prostitute" from legislation in reference to trafficked minors was to decrease ill-treatment<sup>3,4</sup>, it has actually further harmed those victimized. After all, rather than being held in correction facilities due to "prostitution" charges, we now see an increase in minors, who as misunderstood "surviving victims," are being charged with human trafficking<sup>8,12,13,14,15,16,17</sup>.

- a. Since the implementation of our current anti-trafficking legislation in 2012, we have seen significant growth in the number of minor females who, despite being trafficking victims themselves and acting under the duress of a trafficker, are being detained by judges for status offenses, minor offenses, and very serious charges of human trafficking. Specifically, between July 2013 and October 2017 Sedgwick County Juvenile Detention Facility (JDF) "admitted/housed" 79 unique juveniles in 155 admission events<sup>8,12,13</sup>. Of these survivors, it is important to note that all but one were minor females, 75% were 16 and 17 years of age, and they spent an average of 33 days housed at the juvenile jail. Their history of victimization and vulnerability, not to mention our community's responsibility to serve and protect them, is clearly demonstrated in that 77% were already in state custody at

admission, 46% in the custody of our Department of Children and Families (DCF), and 31% in the custody of Kansas Department of Corrections (KDOC).

- b. One of these youths was a young woman who was trafficked between the ages of 13-17. Rather than offering her support and trauma-informed services that were victim-centered/survivor-led; and despite the state's settled plea with her trafficker which included his admittance that he (Tyler Brown) trafficked her<sup>12,13</sup>, legal entities have caused her further trauma and social roadblocks by dragging out her case for more than two years (including making motions to charge her as adult through a motion for adult prosecution/map hearing for the exploitation that occurred while she was a minor). At one time our State's "star human trafficking survivor," whose story<sup>19</sup> was utilized to garner popularity amongst representatives and raised thousands in the name of "helping fight trafficking," this young person quickly became the target of human trafficking charges when she chose to no longer participate in investigations<sup>19,12,13</sup>.
- c. Drawing negative national attention to Kansas, is the news of Hope Zerferjohn<sup>14,15,16</sup>. A young woman who, while trafficked as a minor out of our Kansas foster care system, has now—through the urging of attorneys inexperienced in trafficking cases—accepted a plea deal and has been sentenced to nearly six years in prison for supposedly chatting via Facebook with another "victim" who was never actually trafficked. Representative of the majority of survivors I have walked alongside over the last twenty-two years in the anti-trafficking movement, Hope is a young lady whose vulnerabilities in life were preyed upon and exploited<sup>20,21,22,23</sup>. A minor victim of human trafficking herself, Hope remained under the control of a perpetrator who, as typical in trafficking situations, utilized her social media account to attempt contact with one of her peers. Thus, while the attempt was unsuccessful, and the perpetrator never made direct contact with nor exploited Hope's peer, such interaction is deemed as "recruitment" under the action element of the crime of human trafficking. For this, there is an opportunity to prosecute Hope for human trafficking. For this, Hope—our daughter, our sister—who she herself was abused and exploited while in our state's system of "care" and "justice" is charged. As Hope did not behave as the "perfect victim," but rather acted in a manner resulting from the trauma-bond formed with her perpetrator (typical for the great majority of human trafficking survivors) and without the proposal of alternatives, she was pushed to accept a plea. With such charge, she will not receive treatment nor recovery for her years of trauma. Rather, she will remain detained in an adult Kansas jail where she will be exposed to others who have been sentenced for drug abuse, battery, fraud, and murder. (Note: In the name of confidentiality and ethical practice, I cannot share in-depth details that have not already been released to the media. While such discretion is unfortunate as it causes our community to rarely hear 1) the context in which such events occurred, 2) the depth of exploitation facilitated not only by the perpetrating trafficker but also the "up-standing" community men who keep pimps in business, nor 3) the re-exploitation disseminated by our very systems of "care" and "justice," it is necessary.)
- d. Last, but surely not least is the devastating case of 16-year old Kansan, N.W. A child who, without adequate family support due to the death of her mother and failed protection of our system of care, was also abused and exploited while in our States custody. Yet, amongst a national outcry to release Cyntoia Brown, as a minor, N.W.'s story remains hidden and largely unknown by the common citizen. Because of this, while she herself was victimized, N.W. will spend the next three years of her life detained after being frightened into accepting a plea for charges of aggravated human trafficking.

With a love for our great State, and with pride for the advancements we have made<sup>3,4</sup>, it is with a conviction to pursue progress that I say, Kansas is behind the curve. We must assess the research and look to best practices in order to improve the way in which we prevent and/or intervene in situations of human trafficking. As an Anti-Trafficking Subject Matter Expert (SME) who spends much of my time providing training and technical assistance (TTA) to other states on use of our WSU CCHT *Lotus Anti-*

*Trafficking Model*<sup>TM</sup> (one of the only research-based prevention, intervention, and prosperity promoting models for use with those at-risk of and/or subjected to human trafficking), I have the unique opportunity to work alongside others across the country in developing effective policies, protocols, procedures, and practices. In doing so, many SME's have identified that Minnesota offers the most ground breaking Safe Harbor and No Wrong Door Response Model<sup>23</sup>.

Although exact components vary across states, Safe Harbor legislation is generally described as providing protections for juvenile victims of commercial sexual exploitation to ensure they are not prosecuted for crimes but instead, have access to rehabilitative services. Currently, 34 states have some version of Safe Harbor, including referrals and diversions to specialized services, decriminalization of minors for prostitution and related charges, or a combination of services and decriminalization<sup>24,25</sup>. Research has shown that Safe Harbor is most effective when decriminalization is combined with specialized services<sup>24</sup>. Minnesota offers such services through No Wrong Door—an approach that has been regarded as a model for effective anti-trafficking responses. As evidenced through an evaluative report, offering services through a non-punitive system increased participation and consequently, effectiveness<sup>24</sup>.

Minnesota's Safe Harbor law represents a paradigm shift in how their state views youth who have been sexually exploited—not as juvenile delinquents, but as victims and survivors. Since August, 1<sup>st</sup>, 2014, youth involved in selling or trading sex cannot be arrested for or charged with the crime of prostitution (as of December 2017, this can still occur in Kansas). Rather, exploiters—both traffickers and those who purchase sex—face increased penalties for their crimes. Such fines fund a statewide holistic response to preventing and/or intervening in situations of trafficking. But these important legislative changes were only the first step to ensuring that perpetrators are held accountable and that victim/survivors of sexual exploitation are set on a path to recovery and healing. Minnesota's Safe Harbor also directs the Commissioner of Public Safety to work with stakeholders to create a victim-centered, statewide response for sexually exploited youth. Through a statewide multidisciplinary collaborative process, Minnesota developed one of the most comprehensive response models in the nation for responding to commercial sexual exploitation.

The No Wrong Door Response Model creates a statewide infrastructure for service delivery, specialized housing and shelter, training for systems professionals, and the development of community-specific protocols across the state. It was founded upon a set of values and an overarching philosophy that recognize the impact of trauma on the lives and recovery of sexually exploited youth and the need for specific service models and training for all system professionals who serve youth. Most importantly, No Wrong Door affirms that youth are capable of making decisions about their own recovery. The needs of youth cannot be effectively met without their own lived experience directly informing Safe Harbor training, service delivery, and protocol development.

As one can see, from the paradigm of supporting victim-centered/survivor-led services, to the allocation of funding to support a statewide infrastructure, Minnesota's Safe Harbor is cutting edge compared to the modified Safe Harbor approach we have here in Kansas.

This in mind, Kansas is unique and thus, specific provisions regarding service delivery will need to be individualized. However, Minnesota (as well as other states) can serve as a guidepost for more effective responses to those at-risk of and/or subjected to human trafficking.

Like any other social need, abuse and exploitation in the form of human trafficking cannot be addressed by one individual or organization alone. Rather, with intentional, transparent collaboration, Kansas must leverage and utilize the expertise that already exists within this state to develop a more efficient and effective holistic response to all children, youth and families. Thus, we recommend the following:

- 1) Ensure that funding allocations support the mandates set forth in anti-trafficking legislation. This includes, but is not limited to, awareness and best-practice response training facilitated by qualified experts, **prevention education, shelter/housing for survivors, mental/emotional health treatment, holistic care** that promotes sustainable prosperity of survivors, etc.;
- 2) Ensure the coordination of a state-wide multidisciplinary team to collaboratively facilitate the design and materials to launch a comprehensive planning process to create a victim-centered response, with appropriate safe housing and supportive services available to young people who are at-risk for and/or who have been victimized by commercial sexual exploitation;
- 3) To support, through funding, intentionally directed multidisciplinary community or regional-response teams across the State to coordinate victim-centered/survivor-led responses to youth who are at-risk for (e.g. runaways) and/or who are victims/survivors of human trafficking;
- 4) To **ensure increased legal protections** for juvenile crime victims of commercial sexual exploitation including exceptions from criminal liability for offenses and trafficking charges while a victim and under age 18; including use of affirmative defense and vacature laws for past convictions while a victim;
- 5) To direct DCF to take and report actions to better protect children from commercial sexual exploitation by increasing capacity to meet demand for runaways at Secure Care Centers (not juvenile detention); increase necessary duration of stays and demand-driven capacity at Staff Secure Facilities; and use safe and less restrictive alternative living arrangements (not juvenile detention) with services appropriate for juvenile victims (e.g. therapeutic foster homes).

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