This Update is Part I of a two-part series. Part I provides an overview of New York’s legislative approach addressing youth involved in prostitution and identifies the criteria of Part II, which discusses an alternative response implemented in Boston, Massachusetts, that resembles a juvenile abuse model. Part II will examine the effectiveness of these models and provide suggestions as to how we may improve our response to youth involved in prostitution.

New York Safe Harbor for Exploited Youth Act

A society we must do everything in our power to prevent sexual exploitation, but when it does occur we must be prepared to assist our youth with appropriate outreach services. For too long we have been discarding young children who are the victims of brutal sexual exploitation instead of providing them with the necessary services to reintegrate them into society to ensure they receive appropriate intervention.

New York Governor David S. Paterson issued the above statement upon signing into law the Safe Harbor for Exploited Children Act (“Safe Harbor Act”) on September 25, 2008. Prior to passage of the Safe Harbor Act, prostituted youth were arrested, charged, and treated as offenders rather than as victims of sexual exploitation. The Safe Harbor Act, effective April 1, 2010, amends the New York Family Court Act to allow for child victims of prostitution to defer criminal prosecution and instead petition for consideration as a person in need of supervision. In addition, the Safe Harbor Act amends the New York Social Services Law by enhancing child protection services in providing critical support and social services to these child victims of prostitution. Thus, instead of being re-victimized by the criminal justice system, child victims of sexual exploitation will now be able to gain access to emergency shelters and receive medical, therapeutic, and educational services and care necessary to successfully transition back into the community.

Persons in Need of Supervision (“PINS”)

A child victim of prostitution addressed as a “person in need of supervision” (“PINS”) is defined by the Family Court Act as a person less than 18 years of age who does not attend school in accordance with education law or who is incorrigible, unmanageable, or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child’s care. As amended by the Safe Harbor Act, the definition of PINS now also includes those below 18 years of age who are arrested for crimes involving prostitution. Furthermore, the provision controlling persons who may file as a respondent in a PINS petition was also amended to include victims of sexual exploitation.

Under the Family Court Act, at the conclusion of a dispositional hearing, the court may substitute a finding that a juvenile is a PINS for a finding that the juvenile is delinquent. The Safe Harbor Act redefines the presumption that juveniles arrested for prostitution meet the criteria for certification as a victim of a “severe form of trafficking,” as defined by the Federal Trafficking Victims Protection Act of 2000. A juvenile arrested for prostitution may motion to substitute a PINS petition for the delinquency proceedings. The court must ordinarily grant the juvenile’s motion. However, the court may proceed with delinquency proceedings if the juvenile: (i) is not a victim of a severe form of trafficking according to the federal definition, (ii) has been previously found to have committed a prostitution offense, (iii) was previously adjudicated and placed with a commissioner of social services as a PINS, or (iv) expresses an unwillingness to cooperate with specialized services for sexually exploited youth. If the court decides to continue with the delinquency proceedings, it must make written findings of fact to support that decision and make them part of the court record. If once the court orders a PINS petition the juvenile is not in compliance with conditions imposed, the court may re-substitute the delinquency proceedings.

Social Services for Child Victims of Sexual Exploitation

The Safe Harbor Act also enhances New York Social Services Laws by requiring every local social services district to address the child welfare services needs of sexually exploited children and, to the extent that funds are available, ensure that preventative services including safe housing and community-based programs are available. These services must be readily available to sexually exploited children whether they seek them voluntarily or as a result of a court ordered condition of PINS. The local social services must also recognize that sexually exploited youth have individual needs according to gender and, to the extent funding is available, make appropriate programming available.

Under the Social Services Laws, the Office of Children and Family Services must contract with a non-profit experienced in working with sexually exploited children to operate at least one safe house in an area not readily accessible by the perpetrators of sexual exploitation. Safe houses or short-term safe houses can be residential facilities or part of an existing approved runaway and homeless youth program as long as staff has received appropriate training regarding sexually exploited children. The safe houses must direct services to other agencies providing necessary services for sexually exploited children including housing, treatment, family counseling, education, medical and mental health and substance and alcohol abuse. Safe houses may also provide counseling and therapeutic services, educational services including life skills services and planning services aimed at successfully supporting medically exploited children back into the community.

Community service programs may include street outreach, voluntary drop-in services, peer counselor, individual counseling, family therapy and referrals for services such as educational and vocational training and health care. In order to determine the extent of community-based programs needed to serve sexually exploited children, the local commissioner must annually consult with law enforcement, runaway and homeless youth program providers, probation departments, public defenders and district attorneys’ offices and child advocates who work with sexually exploited youth and include this information in an integrated county plan. Lastly, to the

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Concerns with New York’s Legislative Approach
The Safe Harbor Act represents one recent and proactive attempt to protect rather than prose- cutive juvenile victims of prostitution. It is predi-
cated on available funding which can be problematic in this economic climate. In addi-
tion, the Safe Harbor Act is predicated on an ar-
rest of the juvenile involved in prostitution prior to the PINS diversion review. These juveniles are still sent a message that they are offenders deserv-
ing of punishment rather than victims in need of services. Furthermore, the PINS provision ex-
cludes juveniles who have prior arrests for pros-
titution crimes. This exclusion fail to appreciate the cycle of violence that sexually exploited teens experience. Similar to many victims in do-
cumented violence situations, juvenile victims of prostitution often do not identify as victims in need of services. They may still be under the control or fear of pimps and return to them only to re-offend.

Multidisciplinary Child Abuse Model Response to Youth Involved in Prostitution
While New York is the only state to go so far as to implement legislation recognizing child vic-
tims of prostitution, many local agencies have im-
plemented similar diversion programs as well. For example, county-level agencies within Boston have proactively sought to combat the growing problem of teenage prostitution. These agencies have initiated programs aimed at identifying ju-
venile victims of prostitution and linking them with necessary treatment and services that help
them safely escape the cycle of exploitation and re-integrate into communities.

Suffolk County Teen Prostitution Prevention Project
There’s no doubt that it’s easier to prosecute someone arrested for prostitution than it is to investigate, indict, and convict the pimp who exploited her to do so, how-
ever, would only allow the phenomenon to stay hidden in the shadows where it will consume more girls and young women. Ethically and morally, we have to take a different source.96 District Attorney Daniel F Conley In 2007 when a 16-year-old neurologi-
cally-disabled girl was arrested for prostitution a year earlier, the incident triggered a multi-agency response. She was arrested as a street person, and sent her pimp to state prison for the maxi-
um allowed under law.97 This multi-agency re-
sponse is known as the Teen Prostitution Prevention Project ("TPPP").98 In 2004, District Attorney Conley launched an initiative that changed the way teenage prostitutes were viewed by the criminal justice system. The TPPP was created as a response to the increasing number of girls and young women being lured into pro-
titution.99 It was one of the top 50 initiatives se-
lected by the Ash Institute for Democratic Go-
vernance and Innovation and was recognized for its novelty, creativity, effectiveness at address-
ing significant issues, and its potential to be repli-
cated by other jurisdictions.100 The TPPP is coor-
dinated by the Children’s Advocacy Center and operates out of the Family Justice Center of Boston, which Conley co-chairs. Similar to child abuse and domestic violence response models, the TPPP draws upon a multidisciplinary ap-
proach, combining the efforts of over 40 agencies including various law enforcement offices, youth social service providers, medical providers, proba-
tion departments, victim-witness advocates, and other community youth health and welfare or-
ganizations.101 In fostering interagency communi-
cation, TPPP strives to prevent teenage prostitution and to facilitate prosecution of the ad-
ult offenders that exploit.

District Attorney Conley remarked on the TPPP at the National Conference on Child Abuse and Neglect in 2005, identifying the Suf-
folk County District Attorney’s Office as a lead partner in this new initiative that seeks to under-
stand why teenagers fall into lives of prostitution, and how to best help them escape that life and get into safer and healthier environments.102 Con-
ley further stated that “one major focus of this ef-
fort is to view teenage prostitutes as victims rather than defenders.”103 Moreover, although prostitution by a child remains a crime in Massa-
chusetts,104 Conley publicly announced that when a case of child prostitution is referred to the Suf-
folk County District Attorney’s Office “rather than prosecute her, we and our partners make sure that she has safe and suitable housing, that she is enrolled in some sort of educational pro-
gram, that any mental or physical health issues she may have are being addressed”105 Pursuant to Massachusetts General Laws, Ch. 119, §51A, mandated reporters are required to report all suspected child abuse, including in-
stances of suspected prostitution of children.106 Thus rather than arresting juveniles for crimes involving prostitution, law enforcement is re-
quired to file a 51A child abuse report within 48 hours with the Department of Youth Services.107 The Department of Youth Services may also re-
ceive independent referrals and is mandated to immediately report cases of suspected child sex-
ual exploitation to the district attorney and local law enforcement authorities.108 The child is treated as a victim/witness rather than a defen-
dant and is referred to the TPPP conveniently lo-
cated at the Family Justice Center, to address immediate needs such as safe housing. If the vic-
tim is willing to cooperate, prosecutors will begin to build a case against the pimps and Johns that may have exploited the child victim.

In late 2008 Conley explained that when the pilot program for TPPP was first launched, it re-
ceived more than five referrals for child victims when perceived changes to begin and informa-
tion was shared across agencies, referrals skyrocket-
ed—"not because more children were being exploited but because we were paying attention to a phenomenon that had been there all along."109 In its first year of operation, the TPPP identified almost ten times as many exploited youth than had been identified in the prior year by the relatively small number of agencies then aware of the problem.110 The New York Safe Harbor Act and Boston’s TPPP are two examples of efforts to recognize juveniles involved in prostitution as victims. These attempts demonstrate a shift in our

spontibility to protect these children from further sexual exploitation. As a society, it is imperative that we give these children an alternative to a fu-
ture “in the life.”

1. Meiner is a former Staff Attorney with the National Center for Prosecution of Child Abuse.111


3. See supra note 34.

4. See supra note 19.

5. See supra note 15 and 16.


7. See supra note 9.

8. See supra note 20.

9. See supra note 19.

10. See supra note 11.


12. See supra note 16.

13. See supra note 18.


15. See supra note 22.

16. See supra note 23.

17. See supra note 30.

18. See supra note 32.

19. See supra note 33.

20. See supra note 34.

21. See supra note 37.

22. See supra note 40.

23. See supra note 41.

24. See supra note 42.

25. See supra note 43.

26. See supra note 44.

27. See supra note 45.

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33. See supra note 51.

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38. See supra note 56.

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92. See supra note 110.

93. See supra note 111.

94. See supra note 112.

95. See supra note 113.

96. See supra note 114.

97. See supra note 115.

98. See supra note 116.

99. See supra note 117.

100. See supra note 118.

101. See supra note 119.

102. See supra note 120.

103. See supra note 121.

104. See supra note 122.

105. See supra note 123.

106. See supra note 124.

107. See supra note 125.

108. See supra note 126.

109. See supra note 127.

110. See supra note 128.

111. See supra note 129.