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From “Whores” to “Victims”: The Rise and Status of Sex Trafficking Courts

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ABSTRACT

Views of people involved in the commercial sex trade have shifted. Once seen as prostitutes or “whores,” they are increasingly perceived as exploited “victims.” The behavior associated with commercial sex has been redefined from voluntary and disreputable to coerced and deserving of rescue. This new framework is part of a broader anti-trafficking movement in society to recognize and save vulnerable individuals who are exploited for sex. In this context, the model of problem-solving or specialty courts has been extended to sex trafficking cases. The goal first is to identify trafficking victims—also known as “victim-defendants”—and then to address their risk factors with services. The current review examines the prevalence and the effectiveness of sex trafficking courts. Although some promising evaluations have been conducted, it remains unclear whether such courts are addressing the unique needs of victim-defendants. Investigating this question is essential, given that trafficking courts are likely to grow in popularity and in number.

KEYWORDS

Sex trafficking; problem-solving courts; victim-defendants; commercial sex

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I had been in and out of jails, mental health hospitals, emergency rooms, and drug treatment programs since the age of twelve. No one ever asked me about my life, about prostitution, about being raped, or about being kidnapped. No one asked me about the metal plate and the screws in my head from the beatings, about my suicide attempts, or about my desperation. No one asked me if I hurt, or why I hurt. No one ever treated me like a person. I was just a whore, a drug addict, and a criminal. (Hotelling, Miller, & Trudeau, 2006, pp. 180–181)

Sex trafficking has been identified as a social problem that requires a multidisciplinary approach to manage (Chisolm-Straker & Stoklosa, 2017; Goździak & Bump, 2008). It has not always been the case, however, that individuals who peddled sex were viewed as potential trafficking victims. Historically, women and girls who engaged in commercial sex were seen as “whores” or “sluts” who voluntarily sold themselves for something of value (e.g., Kandel, 1992; Sherman et al., 2015). These behaviors were defined as immoral and degrading—something engaged in only by society’s degenerates. Thus, the criminal justice reaction was to enforce some level of punishment when prostitutes were identified. The ultimate goal of these classifications and corresponding punishments was to correct “bad” behavior and to save the wayward. Importantly, how the females *felt* about their own behavior (e.g., if they did not want to sell sex) was of little consequence when their actions were being considered. It is only recently that perspectives have shifted and prostitution has been recognized as a form of trafficking. The changing narrative has also reoriented the response to these crimes and emphasized the need to identify victims so that they do not continue to go undetected.

In this context, criminal justice actors have become increasingly important in identifying victims. Trafficking victims often engage in criminal behavior such as prostitution or drug use, which can bring them into contact with legal officials (Williams & Frederick, 2009). As a result, the justice system offers a potential point of intervention where victims can be diverted to services and support. Problem-solving trafficking courts have been created and applied to these cases as one of the tools to further this initiative.

In this way, the evolving social construction of who sex trafficking victims are has serious implications for everyday protocols within the justice system.

As a prelude to the current study, the following sections will provide an overview of three areas that have contributed to the anti-trafficking movement. First, the social contexts that have influenced how we previously and currently classify these behaviors are reviewed. Second, the historical issues with how trafficking victims have been treated by the justice system are discussed. Finally, the development of problem-solving trafficking courts is examined. Thus, the purpose of this study is to examine the existence and implementation of current trafficking courts, including any corresponding evaluations.

The social construction of sex trafficking

Sex trafficking is a complex offense that requires the repeated manipulation and exploitation of a person to be successfully carried out. Although trafficking is now recognized as a growing concern, it is a relatively new term to describe behaviors that have existed for centuries. Importantly, the very term “sex trafficking” signifies the destructive nature of the behaviors that this crime encompasses. By using this language, an image is often generated of young girls being chained or bound by offenders who force them into commercial sex acts without pay. Of course, this phrase and the subsequent response to rescue victims was not a chance event. Similar to child abuse (Pfohl, 1977), campus crime (Sloan & Fisher, 2011), white-collar crime (Katz, 1980), prisoner reentry (Jonson & Cullen, 2015), and other objective harms, trafficking first had to be recognized as a social problem worthy of an intervention (Spector & Kitsuse, 1977).

Historically, slavery has gone through phases of acceptance and rejection by civilizations (Davis, 2006; Miers, 2003). Depending on the context, slavery has been labeled using different words as a way to elevate certain victims over others. For example, the term “white slavery” has been used by White laborers to describe their low wages and poor working conditions—the word “White” being added to distinguish themselves from the Black chattel-slave experience (Doezema, 2000; Keire, 2001; Roediger, 1991). Over time, the meaning of this phrase evolved to describe the forced

prostitution of White women and girls (Keire, 2001; Weiner, 2008). The belief that females were being compelled to engage in sex ultimately led to the passage of the White Slave Traffic Act in 1910—otherwise known as the Mann Act (Doezema, 2000; Weiner, 2008). As the Act's title suggests, the law elevated and emphasized the protection of White victims who were thought to be victimized in droves (Kittling, 2006). In practice, the Mann Act was originally created to criminalize the transportation of women and girls across state lines “for the purpose of prostitution or debauchery, or for any other immoral purpose” (Sec. 2). Although this Act was the first federal legislation related to trafficking, it has been argued that it was developed and used to control public morality regarding prostitution (e.g., Conant, 1996).

The epidemic of forced prostitution continued to be promoted in part due to media reports that recounted the exploitation of women and children across the globe (e.g., Jacobson, 1992; Schnedler, 1988; Spinks, 1987; Stetson, 2004). The variety of stories also expanded the view of “white slavery” to include a range of vulnerable females from different racial and ethnic backgrounds. Coupled with increasing concerns about sexually transmitted diseases (e.g., Erlanger, 1989; Higgins, 1992; Stevenson, 1990), these reports resulted in a public outcry that something needed to be done to protect innocent females from the pimps who would exploit them (Stetson, 2004). Legislators took note of the increasing interest in addressing these crimes and the role that Americans had in facilitating or supporting commercial sex (Collie, 1997; Donegan, 1993; Stetson, 2004). The accumulation of these efforts resulted in the first federal legislation to criminalize human trafficking specifically. The Victims of Trafficking and Violence Protection Act of 2000 (i.e., Trafficking Victims Protection Act [TVPA]) was signed into law by President Clinton on October 28, 2000.

The passage of the TVPA shifted the way these behaviors were viewed by specifying that the inducement of commercial sex by force, fraud, or coercion was an offense for anyone affected— not just females or White individuals. Additionally, calling these behaviors “trafficking” suggested that a crime is occurring where there is a victim, a perpetrator, and a need to intervene. Unlike a term such as “juvenile prostitute,” which suggests that the victim is somewhat responsible for his or her own behavior, the term “trafficking” suggests that the victim has been taken

advantage of by an offender (Fernandez, 2013). The update in terminology is especially important because it affects the way society views these offenses and their level of support for intervention and prevention (Stolz, 2007). This approach focuses on rescuing victims rather than punishing them for things that they were forced to do while being trafficked. For example, if individuals are coerced to sell sex, then there is no need to sanction their criminal behavior (e.g., prostitution) while they were being exploited. Legal actors can instead focus their punishments on traffickers.

Not everyone agrees, however, that commercial sex should be viewed through a victim-centered lens (e.g., Almodovar, 1993; Bass, 2015; Doezema, 2010; Pheterson, 1989; Showden & Majic, 2014). There are two distinct perspectives on the topic: (1) neo-abolitionists and (2) sex positivists (Gerassi, 2015). The neo-abolitionist group generally believes that commercial sex is oppressive against women, is never entirely consensual, and should be prohibited. The sex positivists believe that sex work is a legitimate form of employment that women have the autonomy to choose. It is likely that both perspectives can be empirically accurate, to an extent, depending on the individual who is engaging in sex work. Some individuals are trafficking victims who are deceived and exploited (e.g., Kapitan, 2012), whereas others are voluntarily engaging in commercial sex acts (e.g., Almodovar, 1993). It is also possible that some voluntary sex workers can be trafficked (e.g., Bockmann, 2013) or that other vulnerabilities (e.g., trauma, substance use, running away, family dysfunction) can elevate an individual's risk of victimization (e.g., Witherspoon, 2016). Although these camps are likely to remain divided, the societal response has tended to favor the neo-abolitionist perspective.

Depending on the context, individuals—most often females—who engage in commercial sex have been given various labels: harlot, prostitute, streetwalker, whore, “white slave,” sex worker, and trafficking victim. Today, there is a growing recognition that trafficking can simultaneously occur while victims are engaged in behaviors that violate the law (e.g., prostitution, substance use). Continued activism in the form of anti-trafficking legislation, state-level task forces, media attention, and scholarly research has aided the social construction that trafficking is a crime and a threat. In this way, the collective anti-trafficking movement continues to reshape how we respond to

these offenses and the victims who are harmed (Spector & Kitsuse, 1977): Individuals who once were considered immoral criminals (“whores”) are now vulnerable souls who need saving (“victims”). The recent shift to be more inclusive regarding who is being trafficked signifies a social agenda focused on providing services to victims, punishing traffickers, and preventing future crimes.

Sex trafficking victims as criminals

Although trafficking has received increasing levels of attention, the ability to identify victims and investigate cases within the criminal justice system has remained elusive, for three main reasons. First, victims do not always come forward or seek assistance for being exploited due to the oftentimes violent and manipulative nature of trafficking offenses (Newton, Mulcahy, & Martin, 2008). For example, trafficking victims are exposed to numerous negative experiences while they are being exploited including isolation, starvation, torture, manipulation, coercion, and physical and sexual abuse (e.g., Lederer & Wetzel, 2014; Sukach, Gonzalez, & Pickens, 2018). Thus, even when victims are interacting with first responders, they are often hesitant to divulge their experiences.

Second, identifying victims is further complicated when law enforcement officials and other first responders are not sufficiently trained to identify potential trafficking victims in the field (Farrell, McDevitt, & Fahy, 2010; Farrell & Pfeffer, 2014). Of course, those who perpetrate trafficking are subjected to arrest and prosecution in a traditional criminal court if they are caught. However, victims of trafficking are themselves often engaged in what would normally be defined as a criminal offense, such as prostitution. In the past, these victims—who were originally classified as offenders (also known as “victim-defendants”)—have been treated as criminals and punished. Police officers who are not able to recognize possible indicators of trafficking or who are not interested in shifting their perspective can end up misclassifying these events. An interview with a law enforcement officer exemplifies this struggle:

Yeah. I mean, yeah, and I think there is a lot of people out there: prosecutors, law enforcement, period, that they just don't really believe a lot of these

people are victims. I mean, they're just never going to believe it...they saw these girls and all they saw were stripper whores. (Farrell et al., 2012, p. 124) Furthermore, negative interactions with law enforcement agents can foster mistrust and subsequently reduce the likelihood that victims will self-identify as such (Curtis, Terry, Dank, Dombrowski, & Khan, 2008).

Third, discrepancies in legislation across jurisdictions for minors result in inconsistent legal practices (e.g., Zabresky, 2013). More specifically, federal legislation specifies that minors who are induced to engage in commercial sex should be classified as trafficking victims (Victims of Trafficking and Violence Protection Act of 2000). However, states can have varying criteria for minors who engage in commercial sex to be categorized as victims (Polaris Project, 2014). These inconsistencies across jurisdictions lead to discrepancies when considering whether to rescue a minor as a victim or arrest a minor as an offender. Similar issues arise when identifying adult females who are involved in commercial sex as trafficking victims—where some level of force, fraud, or coercion generally needs to be proven (Rieger, 2007).

For these reasons, trafficking victims have historically been overlooked or misclassified by first responders and the criminal justice system. Thus, victims of trafficking can go completely unnoticed or they can initially be identified and treated as offenders due to the activities that they are engaging in at the time of arrest—often as a direct result of being trafficked (Love, Hussemann, Yu, McCoy, & Owens, 2018; Williamson & Prior, 2009; Wilson & Dalton, 2008). In the latter case, the growing recognition that trafficking victims are being detained by the criminal justice system has prompted an additional layer of complexity for the agents who work in these fields. In many cases, the realization that victims are being classified as offenders has resulted in frustration among agencies and key stakeholders on how to address these events because they are generally limited in their responses. For example, one juvenile court practitioner verbalized displeasure with treating a juvenile female as a delinquent instead of identifying her as a victim:

She's going to be placed as a delinquent, not as a victim. This, to me, is magnified huge because you don't often staff a case where a girl admits excitedly that she's had sex with 150 men in 30 days. But looking at the fact

that she's similar to the girls we have placed—inability to self-control to stay home, high risk behavior, and just magnified. On this issue alone she's going to be placed as a delinquent. (Anderson, England, & Davidson, 2017, p. 671)

Charging and incarcerating victims who are identified as offenders also means that these individuals are subjected to criminal records that can limit living arrangements and make finding gainful employment difficult (Smith, Vardaman, & Snow, 2009). Furthermore, many victims of trafficking suffer from a variety of issues that make them vulnerable to potential revictimization (e.g., homelessness, substance abuse, lack of supportive relationships, post-traumatic stress disorder, suicidal ideation, financial instability) (Busch-Armendariz, Nsonwu, Heffron, Hernandez, & Garza, 2009; Edinburgh, Pape- Blabolil, Harpin, & Saewyc, 2015; Reid, 2010). Whereas previously this distinction was not taken into account, today there is a recognition that the misclassification of victim- defendants can result in continued vulnerability and exploitation (Shigekane, 2007).

The purpose of problem-solving courts

As part of the anti-trafficking response in the United States, there have been updates to legislation (U.S. Department of State, n.d.), efforts to train first responders on these crimes (Renzetti, Bush, Castellanos, & Hunt, 2015; Rollins, Gribble, Barrett, & Powell, 2017), and funding to provide a wider array of services for victims (U.S. Department of Justice, 2017). However, a high priority has been to increase the ability to identify trafficking events as such to ensure that these crimes do not continue to go undetected (Clawson & Dutch, 2008). Thus, some jurisdictions have implemented trafficking “problem-solving” courts to account for the unique needs of these victim-defendants. These are intended to use treatment-oriented protocols to address the offenses committed by the individual and the trauma experienced from their exploitation (Office for Victims of Crime, n.d.). The goal of these efforts is to (1) identify and divert potential trafficking victims out of the traditional justice system, (2) deliver appropriate trauma-informed responses, and (3) address the underlying root causes of vulnerability to prevent future victimization (Liles, Blacker, Landini, & Urquiza, 2016; Office for Victims of Crime, n.d.). In short,

the intent is not to punish the crime but to solve the problems experienced by victims of sex trafficking, whether legal, emotional, or behavioral.

It should be noted that these problem-solving courts—also known as “specialty” courts— have been introduced as a way of handling the unique needs of a variety of offenders. There are now courts designed to process those who are addicted to drugs, drink and drive due to alcohol addiction, have engaged in domestic violence, or are military veterans (e.g., Marlowe, Hardin, & Fox, 2016; see also articles in this special issue). By extending the problem-solving court model to trafficking victims, there is a consensus that trafficking victim-defendants are unique and deserve special treatment. Importantly, in courts specializing in sex trafficking, judges, prosecutors, and law enforcement officials are allocated expanded discretion to address victims’ needs without focusing on punishment. Because these courts also seek to reduce the likelihood of subsequent exploitation, cases can involve known and potential victims who are at risk for trafficking—that is, individuals who have a number of risk factors associated with trafficking but who have not been trafficked (e.g., history of abuse, chronic runaways) (Liles et al., 2016). Although sex and labor trafficking cases can be filtered into problem-solving courts, courts today mainly focus on addressing sex trafficking victim-defendants (Office for Victims of Crime, n.d.).

Depending on the jurisdiction, trafficking-related procedures can be created in a separate trafficking court, incorporated into existing problem-solving or community courts, or added on as a specialized docket. Accordingly, there is no single, universally applicable framework that can be implemented across jurisdictions (Center for Court Innovation, 2015). To help facilitate the creation of these courts, the Office for Victims of Crime (n.d.) recommends the integration of six characteristics: (1) specify who will be responsible for the identification and assessment of potential victims; (2) use trauma-informed courtroom protocols; (3) establish referrals to community-based services (e.g., counseling, housing, legal, substance use); (4) monitor judicial compliance to ensure regular updates; (5) collaborate with local task forces and service providers; and (6) evaluate the court, create performance indicators to monitor, and assess goal achievement of the court. By creating a systematic

response to these cases through courts, it is expected that jurisdictions can better understand trafficking in the region and determine the most effective way to respond to the unique needs of each victim-defendant.

Assessing the status of trafficking courts

The push to identify potential trafficking victims in a criminal setting is further evidence of a shift in how victims are being treated and classified. As noted, the goal of these efforts is to divert victims from the justice system—individuals who would have previously been punished as criminals—and ensure that they receive the appropriate services. The role of problem-solving courts is then to act as another failsafe or, in some cases, the primary mechanism of identification. However, little is known about the overall operation or effectiveness of these courts. Although there have been efforts to highlight these initiatives (e.g., Blythe, 2013; “Courts Take a Kinder Look,” 2014) or review various adult prostitution diversion programs (see Amara Legal Center, 2018), there has not been a review of all trafficking courts to date. Thus, the current project has two objectives: (1) to conduct a review of existing human trafficking problem-solving courts and dockets in the United States and (2) to examine any corresponding evaluations conducted on these courts and dockets to determine their effectiveness.

This review of existing problem-solving courts was conducted by searching Google and LexisNexis using various combinations of the following words and phrases between October 2018 and January 2019: “trafficking,” “prostitution,” “exploitation,” “docket,” “court,” “problem-solving,” “specialty,” and each state’s name. Furthermore, the court website for each state was identified and the terms noted above were searched in internal website systems. Additional searches in Google and Google Scholar were completed to identify supplemental evaluations that had been completed on identified courts.

To be as comprehensive as possible, prostitution courts and reviews on prostitution diversion programs were examined due to the potential overlap between prostitution-related offenses and sex trafficking (e.g., Amara Legal Center, 2018). Because the purpose of the current review is to examine the existence of trafficking

courts in particular, prostitution only courts were excluded. Courts that served prostitution offenders *and* trafficking victims were included due to the trafficking component. Once all of the courts were identified, relevant details were coded for each trafficking court or docket: (1) court name, (2) location, (3) year court was created, (4) population served (i.e., juveniles, adults), (5) type of crime addressed in court (i.e., prostitution, trafficking), (6) how trafficking court operates, and (7) evaluations of the court's effectiveness (for a more comprehensive overview of courts, see Kulig & Butler, 2019).

There were two instances where trafficking-related programs were identified but not included. First, initiatives that focused on pre-charge diversions were excluded due to their emphasis on preventing formal charges through the justice system (see Global Health Justice Partnership, 2018a). For example, Project Reaching Out to the Sexually Exploited (ROSE), which was started in 2011 and subsequently ended in 2015, had police officers pick up sex workers in stings and bring them to a church where they were offered services (e.g., health care, shelter, substance abuse counseling) (Amara Legal Center, 2018; Cassidy, 2014). The sex workers were then allowed to choose between potential criminal charges or participation in the rehabilitation program—they were not arrested if they accepted the program. Second, courts that could not be independently verified as addressing trafficking or commercial sexual exploitation were not included in the current review. For example, some existing reviews on prostitution diversion programs labeled certain courts as addressing prostitution and commercial sexual exploitation/trafficking (e.g., ESTEEM Prostitution Prevention Court Program; Amara Legal Center, 2018). Unless the court specified “trafficking” in the name or corroborating evidence was gathered to specify that trafficking victims were included, these courts were excluded.

Because courts are being developed across the country, it is possible that there are additional courts or evaluations not identified in this review. We made an effort to identify as many courts and evaluations as possible to provide a representative overview of these programs. However, it is likely that some problem-solving courts are labeled as prostitution diversion programs, which may or may not

also address trafficking. Again, only courts that specifically discussed or identified trafficking victims as part of their initiative were included. The findings from this review are discussed in the following section.

Overview of trafficking courts

The current review identified 34 trafficking-related courts across 10 states including California, Delaware, Florida, Illinois, Michigan, New York, Ohio, Pennsylvania, Tennessee, Texas, and in the District of Columbia. Table 1 provides an overview of each of the courts identified (alphabetized by location), including the name of the court, the court's location, the date the court was created, the population the court serves (i.e., juveniles, adults), and the type of court (i.e., prostitution, trafficking). However, because New York State's Human Trafficking Intervention Courts (HTIC) are located in multiple counties ($n = 11$), Table 1 only shows 24 separate court names. In total, there were 19 prostitution and sex trafficking courts, nine sex trafficking courts, and six human trafficking courts.

The information on the courts came from a broad range of sources, including news- paper articles, press releases, court webpages, evaluation reports, government publications, brochures, journal articles, videos, and personal communications with court actors. A list of references for the courts is available upon request.

Trafficking court model

A review of problem-solving trafficking courts illuminated the diversity in how these programs operate. Although each court has unique qualities, similarities do exist. Due to the number of courts, it is not possible to review all aspects of each operation. Thus, the following section will provide an overview of overlapping and divergent trends to illustrate how these types of reforms function.

Trafficking courts are often created due to some interest by a judge who agrees to preside over the cases (e.g., Sampedro-Iglesia, 2018). As previously noted, these courts generally seek to identify known victims and at-risk individuals with the goal of rehabilitation (e.g., California Courts, 2014; Santa Barbara County

Department of Behavioral Wellness, n.d.). Given the intersection with the justice system, it is not surprising that many courts rely on legal actors (e.g., Appleton, 2017) or trafficking-related charges (e.g., prostitution; California Courts, 2014) to identify victim-defendants. Some courts allow participants to apply for court diversion rather than automatically enroll them (e.g., “Specialty Programs,” n.d.), whereas others use trafficking risk assessment tools to screen for potential participants (e.g., Eleventh Judicial Circuit of Florida, 2017; Liles et al., 2016). Depending on the court, having serious felony convictions or violent histories could disqualify victim-defendants from participating (e.g., Read, 2016).

Once eligible victim-defendants are identified, they often have to meet certain stipulations for court enrollment. For example, victim-defendants may have to consent to participate in the program (e.g., Luminais & Lovell, 2018), plead guilty to their original charges (e.g., Parker & Pizzio, 2017), cooperate with law enforcement in the prosecution of their traffickers (e.g., California Courts, 2014), or agree to attend frequent court appearances (e.g., Liles et al., 2016). Should victim-defendants meet all stipulations, they are then offered some level of services to address their vulnerabilities and risk factors for trafficking.

Services are generally determined by multidisciplinary teams and are frequently specific to each victim-defendant (e.g., Bruchmiller, 2018; H.E.A.T. Watch, n.d.). The courts offer or facilitate services to address body image issues, mental health, housing, medical care, job placement, parenting skills, substance abuse, resiliency, mentoring, or prosocial relationships (e.g., Appleton, 2017; Bell, 2016; Brown, 2014; Galindo, 2015; Human Trafficking Interagency Coordinating Council, 2018; Miner-Romanoff, 2017; Santa Barbara County Department of Behavioral Wellness, n.d.; Specialty programs, n.d.). A number of programs also emphasize the use of gender-responsive or trauma-informed care as core components of services (e.g., H.E.A.T. Watch, n.d.; Liles et al., 2016; Sampedro-Iglesia, 2018). How those trauma-and gender-responsive services are actually carried out for each victim-defendant, however, is less clear.

Table 1. Trafficking problem-solving courts in the United States (N = 34).

Court Name	Location	Created	Population	Type ^a
1. Girls' Court	Alameda County, CA	2011	Juveniles	ST
2. Friday Court	Fresno County, CA	2014	Juveniles	ST
3. Succeeding Through Achievement and Resilience (STAR) Court	Los Angeles County, CA	2012	Juveniles	P; ST
4. Commercial Sexually Exploited Children (CSEC) Court	Sacramento County, CA	2014	Juveniles	ST
5. REducing Sexually Exploited and Trafficked (RESET) Court	Sacramento County, CA	2015	Adults	P; ST
6. Resiliency Interventions for Sexual Exploitation (RISE) Court	Santa Barbara County, CA	2015	Juv./Adults	ST
7. Trauma-Informed Probation Court (also known as Human Trafficking Court)	New Castle County, DE	2012	Adults	P; ST
8. Growth Renewed through Acceptance, Change, and Empowerment (GRACE) Court	Miami-Dade County, FL	2016	Juveniles	HT
9. Chicago Prostitution and Trafficking Intervention Court	Cook County, IL	2015	Adults	P; ST
10. Human Trafficking Court	Washtenaw County, MI	2014	Adults	ST
11. Human Trafficking Intervention Courts (HTIC)	Multiple counties, NY ^b	2013	Juv./Adults	P; ST
12. Human Trafficking Specialized Docket	Cuyahoga County, OH	2014	Adults	HT
13. Safe Harbor Docket	Cuyahoga County, OH	2015	Juveniles	HT
14. Changing Actions to Change Habits (CATCH) Court	Franklin County, OH	2009	Adults	P; ST
15. Empowerment Program	Franklin County, OH	2012	Juveniles	HT
16. Changing Habits And setting New Goals is Empowering (CHANGE) Court	Hamilton County, OH	2014	Adults	P; ST
17. Restore Court	Summit County, OH	2015	Juveniles	HT
18. Working to Restore Adolescents Power (WRAP) Court	Philadelphia County, PA	2015	Juveniles	ST
19. Cherished Healing Enslaved and Repressed Trafficking Survivors (H.E.A.R.T.S.) Specialty Docket	Davidson County, TN	2016	Adults	HT
20. Restore Court	Bexar County, TX	2013	Juveniles	ST
21. Growing Independence and Restoring Lives (GIRLS) Court (renamed Creating Advocacy, Recovery, and Empowerment [CARE] Court in 2017)	Harris County, TX	2011	Juveniles	ST
22. Reaching Independence through Self Empowerment (RISE) Program	Tarrant County, TX	2013	Adults	P; ST
23. Phoenix Court	Travis County, TX	2015	Juv./Adults	P; ST
24. Here Opportunities Prepare you for Excellence (HOPE) Court	District of Columbia	2018	Juveniles	ST

Notes: HT = Human Trafficking; ST = Sex Trafficking (includes descriptions of commercially sexually exploited individuals); P = Prostitution.

Type of court based on descriptions from sources. ^bBronx County (Bronx Criminal Court); Erie County (Buffalo City Court); Kings County (Brooklyn Criminal Court); Monroe County (Rochester City Court); Nassau County (Nassau District Court); New York County (Midtown Community Court); Onondaga County (Syracuse City Court); Queens County (Queens County Criminal Court); Richmond County (Richmond County Criminal Court); Suffolk County (Suffolk District Court); Westchester County (Yonkers City Court).

Victim-defendants who complete all requirements of the court and successfully receive services are usually considered “graduates” and have their charges dismissed or expunged (e.g., Alvarez, Evans, & Campanelli, n.d.; Luminais & Lovell, 2018; Superior Court of California, 2018). As another perk, individuals who complete the required curriculum might have their court costs or fines forgiven (e.g., Fishman, 2018). By contrast, victim-defendants who do not successfully complete programs could be placed on probation (Read, 2016), returned to traditional court (e.g., Luminais & Lovell, 2018), or given an alternative sentence if they had originally pleaded guilty (Hosseini, 2015). In this way, victim-defendants are only treated as “victims” as long as they conformed to court expectations; failure to do so could, in certain courts, result in potential or known victims being treated as offenders only.

Location

Although implemented across multiple jurisdictions, some states developed more courts than others (see Table 1). New York had the greatest number of trafficking courts when the HTIC were implemented in 11 counties in 2013 (New York State Unified Court Systems, 2014). These efforts were followed by California and Ohio with six courts and dockets and then Texas with four programs. Thus, even though there are 34 total courts, four states accounted for approximately 79% ($n = 27$) of these initiatives. Based on the concentration of courts across these four states, it is evident that specialty courts are adopted in some areas more so than others.

Year created

The earliest court in Table 1 is the Changing Actions to Change Habits (CATCH) Court in Franklin County, Ohio, which was created in 2009 (Miner-Romanoff, 2015). However, an earlier trafficking pilot court was developed in Queens, New York in 2004 (Etehad, 2015; Lancman, 2015). The program was noted as being a success—in addition to other pilot programs in midtown Manhattan and Nassau County—and was used to support the statewide HTIC initiative that was

developed in 2013 (Center for Court Innovation, 2013; Lancman, 2015). Because the HTIC were created as a more formal response to trafficking in New York, all HTIC programs are listed in Table 1 as starting in 2013. Other courts were created in 2011 ($n = 2$), 2012 ($n = 3$), 2013 ($n = 13$; includes all HTIC programs), 2014 ($n = 5$), 2015 ($n = 7$), 2016 ($n = 2$), and 2018 ($n = 1$). Although there have been few identified courts created in the last several years, the trend seems to indicate a steady increase of specialized courts over the past decade.

Population served

The breakdown of court populations is outlined in Table 1. There were 12 courts that served juveniles only, nine that served adults only, and 13 that served a combination of adults and juveniles (includes all HTIC programs). Given the broader push to specifically address minors who are trafficked for sex (e.g., Swaner, Labriola, Rempel, Walker, & Spadafore, 2016; Wasch, Wolfe, Levitan, & Finck, 2016), it is informative that a number of courts also specified their role to identify and serve adult victims.

Type of trafficking addressed

Based on descriptions from court sources, each program was labeled as addressing sex trafficking *and* prostitution ($n = 19$; includes all HTIC programs), sex trafficking ($n = 9$), or human trafficking ($n = 6$). “Sex trafficking” type combines courts that were described as addressing “commercial sexual exploitation” in addition to courts that specifically noted serving sex trafficking victims.

Given the emphasis on sex trafficking programs in this review, it is important to highlight that some of the courts emphasized “human trafficking” in the type or in the name. Nevertheless, courts that were described as addressing “human trafficking” tended to focus on identifying and diverting sex trafficking victims. For example, the Washtenaw County Human Trafficking Court uses “human trafficking” in the title but only focuses on sex trafficking cases as described by Campbell (2015, p. 103, footnote 23):

Although the Court is not intended to address severe forms of trafficking in

persons outside of the commercial sex context, otherwise known as labor trafficking, the planning team agreed that any training on behalf of the Court should address all forms of severe trafficking in persons.

In another example, the Ohio Safe Harbor Docket uses the language of assisting victims of “human trafficking” while emphasizing the definitions and actions of youth involved in the sex trade (Luminais & Lovell, 2018). Additionally, Restore Court in Ohio is noted as serving victims of “human trafficking.” Although there are instances of identified youth being trafficked for labor (e.g., to sell drugs), most youth are identified as sex trafficking victims (personal communication with Restore Court Coordinator, April 27, 2018). So, even though trafficking problem-solving courts *can* serve sex and labor trafficking victims, the existing courts primarily diverted victims who were trafficked for sex.

Evaluation studies

Evaluations on trafficking problem-solving courts and the effectiveness of these initiatives were sparse, with only 10 court systems having some level of evaluation completed. The term “evaluation” is broadly defined here to capture the various ways in which courts are reviewed—including overviews of programs that are relatively new without empirical data. The types of evaluations identified can be divided into three categories: (1) quantitative ($n = 4$); (2) qualitative ($n = 4$); and (3) mixed-methods ($n = 2$). Even with only 10 court types represented, it is not possible to review each evaluation in detail. Thus, Table 2 and the following section provide an overview of evaluations, including some highlights.

Quantitative evaluations

There were four courts that had some level of quantitative analysis on outcomes of the victim- defendants served (see Table 2). The information on each of these courts is discussed below. Note that only limited details were available. Reports that only provided estimates of the number of individuals served by the court were not included.

First, between 2012 and 2014, the Succeeding Through Achievement and

Resilience (STAR) Court had 222 youths participate in Los Angeles County, California—113 girls completed the program and 109 were still active (Baldwin & Haberman, 2014). As specified in an American Public Health Association meeting presentation on STAR Court outcomes, time spent in detention decreased from an average of 35 days to 25 days, 73% of participants had not been re-arrested since starting the program, and of the girls with closed cases, 25% still communicated with someone from the STAR Court team (Baldwin & Haberman, 2014).

Second, the effect of the REducing Sexually Exploited and Trafficked (RESET) Court (Sacramento County, California) on participants' knowledge and attitudes regarding prostitution was evaluated using a pre-and post-test survey. Thirty-six court participants who were part of the program between June 2016 and January 2017 were included in the study (Parker & Pizzio, 2017). RESET participants who were White or Black, who graduated high school, who were not homeless, who had four or fewer arrests for prostitution, and who were 29 years old or younger had significant improvements at the post-test survey.

Third, as of 2015, the Reaching Independence through Self Empowerment (RISE) Court in Tarrant County, Texas program had served 35 women, with four being terminated and 13 withdrawing from the program (Global Health Justice Partnership, 2018a, p. 23). No other publicly available data were identified to elaborate on why some women did not complete the program.

Fourth, the Phoenix Court in Travis County, Texas was noted as successfully graduating three women (Amara Legal Center, 2018, p. 93). A more detailed account of these estimates, however, could not be located.

Qualitative evaluations

An additional four courts were examined using qualitative methods that relied heavily on interviews with court actors (see Table 2). Courts with qualitative evaluations were included as part of a broader understanding of how the courts operate and the strengths and limitations of these initiatives.

First, the Commercially Sexually Exploited Children (CSEC) Court in Sacramento County, California was evaluated using interviews with staff and advocates (Liles et

al., 2016). The participants in the study reported that the program had improved the collaboration and strengthened the relationships between court actors and the children who were served. This improved trust was attributed to the consistent assignment of the same “judge, public defender, and district attorney” to the court (Liles et al., 2016, p. 242). Additionally, respondents reported that the multidisciplinary, victim-centered approach was working well, and so too were the practices of identifying youth and the diversion options available. However, the respondents also noted the need to establish more placement options aside from detention and for more inpatient drug programs.

Second, the Chicago Prostitution and Trafficking Intervention Court was created in Cook County, Illinois. This reform was described as a shorter program that can create challenges when incentivizing participation and having a significant impact on outcomes (Global Health Justice Partnership, 2018a, p. 36). However, this program also seeks to use harm reduction methods for sex work and drug use through education (Global Health Justice Partnership, 2018a, p. 38). In this way, the court attempts to address some underlying risk factors associated with trafficking and prostitution.

Third, the Human Trafficking Court in Washtenaw County, Michigan was noted as having “concrete success” as indicated by “self-sufficiency of participants, high compliance rates, few absconders or re-arrests, and significant cost savings” to the county (Amara Legal Center, 2018, p. 57). Even though the court is relatively new, the preliminary evidence suggests that it may be effectively assisting trafficking victims. Based on the experiences of the stakeholders involved in this initiative, several factors were highlighted as important when developing a court—including gaining support of service providers and attorneys, securing consistent funding, and realizing that courts are likely not “catching” all victims before they are convicted (Campbell, 2015).

Fourth, the Safe Harbor Docket in Cuyahoga County, Ohio was reviewed using qualitative methods. Luminais and Lovell (2018) provided a rich overview of the program and identified key findings from the initiative. For example, in addition to known trafficking victims, the docket also keeps a list of at-risk victims based on

Table 2. Trafficking problem-solving court evaluations.

Court Name	Evaluation	Highlights
1. Succeeding Through Achievement and Resilience (STAR) Court	Quantitative	<ul style="list-style-type: none"> • Time spent in detention decreased from an average of 35 to 25 days^a • 73% of participants have not been re-arrested since starting the program^a • Among girls with closed cases, 25% voluntarily communicated with STAR Court team members^a
2. Commercial Sexually Exploited Children (CSEC) Court	Qualitative	<ul style="list-style-type: none"> • Increased trust between children and professionals^b • Respondents believed the multidisciplinary, victim-centered approach was working well, as was the identification of youth and the diversion options^b • Challenges identified included more safe, stable, and positive placement options that are not detention; more funding for a full-time case manager; and better access to inpatient drug treatment^b
3. REducing Sexually Exploited and Trafficked (RESET) Court	Quantitative	<ul style="list-style-type: none"> • Significant improvement in post-test survey on knowledge and attitudes about prostitution for individuals who were White or Black, who graduated high school, who were not homeless, who had four or fewer arrests for prostitution, and who were 29 years old or younger^c
4. Chicago Prostitution and Trafficking Intervention Court	Qualitative	<ul style="list-style-type: none"> • Shorter program, which can create challenges when incentivizing participation and having a significant impact on outcomes^d • Focuses on sex work and drug abuse education as harm reduction strategies^d
5. Human Trafficking Court	Qualitative	<ul style="list-style-type: none"> • Increased self-sufficiency, high compliance rates, few absconders or re-arrests, and cost savings^e • Recommendations for new courts based on experience: gain support of service providers and attorneys, secure consistent funding, and realize that courts are likely not “catching” all victims before they are convicted^f
6. Human Trafficking Intervention Courts (HTIC)	Mixed	<ul style="list-style-type: none"> • Criticisms include no state-wide data collection efforts, dehumanizing language by court actors, large volume of cases, disagreement over definition of consent, and implementation of trafficking protocols^{g, h} • Strengths include ongoing trainings, successful collaborations, proportionality in mandate-length, and voluntary cooperation in prosecutions^h
7. Safe Harbor Docket	Qualitative	<ul style="list-style-type: none"> • Issues included the role of assessments in identification, inconsistencies in defining success, court rewards versus punishments, disruption of services, and facility restrictions for placementsⁱ • Strengths include consistently using a trauma-informed approach, offering trainings to staff, and facilitating support systems for participantsⁱ
8. Changing Actions to Change Habits (CATCH) Court	Mixed	<ul style="list-style-type: none"> • Between 2009 and 2013, participants who successfully discharged spent fewer days in jail, had fewer arrests, and had lower recidivism rates than those with other discharge types^j • Participants enjoyed the program and credited the staff and structure of court for successes^j
9. Reaching Independence through Self Empowerment (RISE) Program	Quantitative	<ul style="list-style-type: none"> • As of 2015, of 35 women participants, four were terminated and 13 withdrew from the program^k
10. Phoenix Court	Quantitative	<ul style="list-style-type: none"> • Three women have graduated the program^l

^aBaldwin and Haberman (2014); ^bLiles et al. (2016, pp. 242–243); ^cParker & Pizzio (2017, pp. 71, 80); ^dGlobal Health Justice Partnership (2018a, pp. 36, 38); ^eAmara Legal Center (2018, p. 57); ^fCampbell (2015); ^gGlobal Health Justice Partnership (2018b); ^hWhite et al. (2017); ⁱLuminais & Lovell (2018); ^jMiner-Romanoff (2017); ^kGlobal Health Justice Partnership (2018a, p. 23); ^lAmara Legal Center (2018, p. 93).

assessments. The youth who are at-risk for trafficking do not participate in the docket, which could indicate the need to expand the court's population. When examining success, the authors noted that different stakeholders used different definitions to measure outcomes—ranging from graduation rates only to the frequency and duration of running away. Additional issues included the types of rewards and punishments promoted by the court (e.g., records expunged if time-intensive program completed successfully), disruption in services due to funding or supervision days being maxed out, and restrictions on placements by facilities. Alternatively, the docket was noted as offering trainings on trafficking, having staff who consistently used a trauma-informed approach, and facilitating support systems for participants.

Mixed-method evaluations

The most detailed reviews tended to employ mixed-methods techniques. Two courts had evaluations that relied on this type of procedure (see Table 2).

First, New York's Human Trafficking Intervention Courts (HTIC) had a number of reports examining the implementation of these efforts (e.g., Amara Legal Center, 2018; Dank, Yahner, Yu, Mogulescu, & White, 2017; Global Health Justice Partnership, 2018a, 2018b; Gruber, Cohen, & Mogulescu, 2016; Ray & Catherine, 2014; White et al., 2017). Because the reports discuss HTIC as an overall initiative, these courts are viewed as one court system (as opposed to 11 separate courts). Importantly, even though there were some reported data on populations often served by HTIC (e.g., White et al., 2017), there has not been a coordinated state-wide data collection effort to evaluate (Global Health Justice Partnership, 2018b, p. 51). The information that is presented, however, tends to illuminate some issues with the initiative. For example, one evaluation noted that "dehumanizing language or conduct on the part of judges or court staff frequently undermine the broader mission of the HTICs" such as one court officer's disclosure that "other court officers...would refer to HTIC court dates as 'hoe day'" (Global Health Justice Partnership, 2018b, p. 48). Other criticisms of the court included the volume of cases, disagreement on the definition of consent, and whether there should be

trafficking identification protocols, to name a few (White et al., 2017). Conversely, the court was commended for having ongoing trainings, successful collaborations, proportionality in ensuring that the participant's responsibility to the court did not outweigh alternative sanctions, and making victim cooperation with prosecution voluntary instead of a condition of non-criminal dispositions (White et al., 2017).

The other court using a mixed-methods approach was the Changing Actions to Change Habits (CATCH) Court in Franklin County, Ohio. Miner-Romanoff (2015, 2017) analyzed five years of retrospective quantitative data (2009–2013; $N = 130$) from the court and conducted interviews with current and former participants in a focus group. Participants who successfully discharged the program spent fewer days in jail, had fewer arrests, and had lower recidivism rates than those with an unsuccessful or neutral discharge (Miner-Romanoff, 2017). Of the individuals who successfully discharged the program ($n = 22$), a majority had successfully gained employment, volunteered, or enrolled in an educational or vocational training program. The qualitative interviews also provided insights into helpful components of CATCH Court. Participants credited caring, supportive, and non-judgmental CATCH staff members as central factors to their success. The respondents also noted that the court contributed to their self-esteem, assisted with physical and emotional needs, improved family relationships, and gave them the ability to make lasting changes in their lives. Overall, the evaluation findings indicated that CATCH court was valuable to participants (see also Begun & Hammond, 2012).

Summary

Although the evaluations were assessed using different methods and types of data, there were three key takeaway points gleaned from these efforts. First, court actors—and sometimes court participants—struggled at times to identify and label individuals engaging in commercial sex as victims (Global Health Justice Partnership, 2018b; Miner-Romanoff, 2017). Depending on the definitions that were used, this inconsistency could result in potential victims being “missed” by the court and treated as offenders or in victims being dehumanized. It is also possible that individuals who do not consider themselves to be victims are classified as such regardless of their

perspective (e.g., Ray & Caterine, 2014). Second, very little is known about the outcomes of these courts, even for the evaluations that were reviewed. It is unclear if court actors do not collect data on outcomes, if data are not made available for analysis, or some combination of factors. Third and relatedly, evaluations of problem-solving trafficking courts consistently noted the need to better evaluate victim-defendant outcomes. This improvement should include developing clearly stated outcomes and goals, collecting data on a broader range of outcomes that reflect “any positive change,” and conducting in-depth interviews with participants and court staff to gain a better understanding of court processes and victims’ needs (Luminais & Lovell, 2018, p. 11; see also Miner-Romanoff, 2017). As more court evaluations are completed, more details can be uncovered on how best to respond to trafficking victims who are identified by the justice system.

Discussion

A remarkable transformation has occurred in the way in which those who engage in commercial sex are defined and treated. Although the behavior itself has not changed, individuals who were previously identified as “whores” have been reclassified as “victims.” Over time, the changing operationalization has had varying impacts on victims within the criminal justice system (e.g., arrest, rescue). In this way, our language has powerful implications for the way we think about behaviors, and it is instrumental in shaping the subsequent responses. Whether those responses are substantive (e.g., reduce victimization) or inconsequential (e.g., do not reduce victimization) has real-life consequences for the individuals affected. Given the emphasis on identifying trafficking victims (Clawson & Dutch, 2008), problem-solving courts have been extended to address these particular “victim-defendants.”

Problem-solving courts are reserved for only those offenders who are seen as unique populations. Generally, there must be something about these individuals that warrants (1) a special court devoted to them and (2) a perception that their “offending” is due to special circumstances. Once identified, these mitigating factors merit a legal intervention that addresses the cause of the behavior and other vulnerability factors. In the current context, these courts then further legitimize

trafficking victims' experience as something unique that requires a different type of response. It is instructive that there are no problem-solving courts for individuals who commit robberies—they have not been identified as victim-defendants who warrant special consideration. Sex trafficking victims thus are increasingly recognized as meriting special attention by the court.

The current review of this legal development has four implications. First, although fewer in number compared with other, more established problem-solving courts (e.g., Marlowe et al., 2016), trafficking courts have rapidly increased in a short amount of time. In the space of approximately a decade, more than 30 courts have been created. The continued implementation of trafficking courts implies that this particular approach to identifying victims and diverting them from the justice system is favored—at least in some states. A majority of courts are located in New York, Ohio, California, and Texas. These states also represent locations that received high marks for passing comprehensive trafficking legislation (Polaris Project, 2014). In this way, the problem-solving courts developed in these areas likely act as a supplemental response in the anti-trafficking movement.

Second, few evaluations of trafficking courts have been conducted. Evaluations could be identified for only 10 court systems (HTIC counted as one system). The evaluations undertaken to date focus very little on the outcomes of these initiatives, which makes it difficult to ascertain whether these programs are effective at identifying and addressing the unique needs of trafficking victim-defendants. The lack of evidence is typical and consistent with evaluations on specialty courts in general (Marlowe et al., 2016). However, some preliminary findings suggest that trafficking problem-solving courts can be effective at reducing criminal justice involvement and addressing other vulnerabilities (e.g., emotional issues, family attachments) (Miner-Romanoff, 2017). Without more detailed assessments on courts' progress, it will be difficult to determine how well these programs are accomplishing their goals.

Third and relatedly, it is likely that effective programming is hindered due to the lack of a clear theory of trafficking victimization. Individuals who are trafficked are vulnerable in ways that make them susceptible to exploitation and thus are not

always equipped to identify the factors that made them attractive targets in the first place. Of course, some courts and agencies use assessment tools to identify risk factors that are associated with trafficking (e.g., running away, substance use, abuse and neglect; Eleventh Judicial Circuit of Florida, 2017; Liles et al., 2016). However, these correlates do not differentiate why some individuals with these factors are victimized and others are not. In other words, it is not clear which risk factors are most important for trafficking victimization. Unlike the correctional rehabilitation framework that targets criminogenic needs of offenders (Bonta & Andrews, 2017), there is no uniform theory of what needs or risk factors should be targeted when assisting trafficking victims. The courts identified in this review tended to address the unique needs of each victim based on their circumstances, but a comprehensive theory of trafficking victimization could facilitate treatment and improve responsiveness more generally. The next stage in effectively addressing trafficking victims thus would be to identify the causes of their victimization so that the most important needs or risk factors could be targeted for intervention.

Fourth, in considering the effectiveness of these reforms, it is necessary to recognize that the victim-defendants that are identified by trafficking courts are still, to an extent, offenders. Only after these individuals complete the required curriculum mandated by the courts can they have their charges dismissed or expunged (e.g., Luminais & Lovell, 2018; Superior Court of California, 2018). Depending on the victim-defendant, it is possible that some individuals will “buy” into these types of programs more than others. For example, a victim-defendant who sees her trafficker as a caretaker or love interest might view a trafficking court differently (e.g., as being coercive to her) than someone who was physically forced to engage in commercial sex (e.g., rescuing her and offering support). It is likely that victim-defendants’ perspectives of their circumstances will affect how amenable and responsive they are to treatment.

Given the lack of empirical data, very little is known about the efficiency of existing problem-solving trafficking courts. A pressing need thus exists for scholars and agencies to examine these initiatives using comprehensive methods that are guided by theory (Luminais & Lovell, 2018). In particular, data collection efforts

should be integrated into the daily processes of courts as a built-in mechanism to determine whether they are accomplishing their stated goals. Details on definitions of concepts (e.g., recidivism, trafficking, prostitution), participant demographics, justice system interactions (e.g., arrests, recidivism), and services provided (e.g., mental health counseling, shelter, financial support) could improve our understanding of how these courts affect the lives of victim- defendants (Global Health Justice Partnership, 2018b; Luminais & Lovell, 2018; Miner- Romanoff, 2017). It is also important to examine the extent that trafficking courts could apply to other forms of trafficking (e.g., labor trafficking, domestic servitude) given that the courts discussed here predominantly focus on sex trafficking.

In sum, it is important to examine all potential avenues where trafficking victims could be identified and to implement appropriate responses that address their needs. However, we also need to make sure that we are not endorsing an ideological initiative without considering the effect. In this way, court reforms have preceded data that could be used to inform the development and implementation of these systems. Without theory-guided empirical evidence to support the efforts of these courts to address the unique needs of victim-defendants and their vulnerabilities, it is uncertain how well (or perhaps poorly) we are affecting individuals who are identified in these systems. Furthermore, given the anti-trafficking movement that has been undertaken through legislation, courts, task forces, and victim services, it is likely that reform is going to continue to grow and develop. In other words, the development of trafficking courts is not a minor blip on the radar. What this review is likely documenting then is the beginning of a national movement toward problem-solving courts for trafficking victims, not the ending of one. Thus, it is imperative that evaluations are incorporated into court programming to determine how to best implement these reforms in a way that benefits the individuals they were created to serve.

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