



SAFE HARBOR FOR ALL

RESULTS FROM A STATEWIDE
STRATEGIC PLANNING PROCESS IN MINNESOTA

OCTOBER 2018

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Table of Contents

Executive Summary	4
Methods and Stakeholder Participation.....	4
Findings.....	5
Overview of Recommendations.....	6
Executive Summary Conclusion	8
Introduction	9
Legislation and Mandate	9
Language and Perspectives.....	10
Overview of Legal Models	13
Description of the Report	14
Section One: Methods.....	16
Process Advisory Group.....	17
Data Collection Methods	18
Description of Who Participated.....	20
Analysis Methods	24
Limitations	25
Section Two: Findings.....	28
Stigma, Harms, and Oppression.....	28
Harms of Criminalization to People who Trade/Sell Sex	39
Policy Alternatives Related to Criminal Liability	45
Criminal Liability for Sex buyers.....	69
Modifications to Current Statutes	75
Considerations for Implementation	79
Findings Conclusions	111
Section Three: Recommendations	114
Overview of Recommendations.....	115
Approach and Philosophy	117
Relevant Criminal Issues	118
Availability and Access to Prevention/Intervention Services	125
Tribal Nations and Indigenous Communities.....	130
Training, Reform, and Evaluation.....	132
Report Conclusion	135
Appendices	137

Executive Summary

Minnesota has increasingly recognized the significant harms of sex trafficking and commercial sexual exploitation of youth. But what about adults?

In 2011 Minnesota enacted Safe Harbor for Youth, which decriminalized youth who are trafficked or victims of commercial sexual exploitation. A statewide system of regional navigators with expanded and enhanced housing, services and supports called No Wrong Door went into full effect in 2014. State funding now provides over \$13 million dollars biannually to the No Wrong Door system. In 2016 the Legislature extended the age eligibility for supportive services up to age 24. People ages 18 and older remain subject to criminal penalties for selling sex.

Sex trafficking and exploitation in transactional sex (selling or trading sex) violates basic human rights to safety, self-determination, health, and dignity. This happens to adults in Minnesota. It causes numerous harms including violence, threats of violence, abuse, loss of children, instability, physical and mental health problems, and much more. **All adults who are trafficked for sex or involved in transactional sex in Minnesota experience collateral harms due to stigma and criminalization of prostitution, including lack of housing, discrimination, and lack of police protection.** All people in Minnesota have a right to health, safety, dignity, and justice. The Minnesota Legislature and many others in our community want to know whether Minnesota should extend Safe Harbor to include adults of all ages. And if so, how should this happen?

This report describes the process, findings, and recommendations from Safe Harbor for All, a statewide strategic planning process funded by the Minnesota State Legislature. The Legislature sought opinions and recommendations on extending Minnesota's Safe Harbor system to include all adult victims and survivors of sex trafficking and exploitation, as well as the consequences of such an expansion (intended and unintended). Through a competitive grant process, the Minnesota Department of Health (MDH) awarded the project to a partnership of three agencies led by the University of Minnesota's Urban Research and Outreach-Engagement Center (UROC) with The Advocates for Human Rights and Rainbow Research, referred to in this report as the strategic planning team.

METHODS AND STAKEHOLDER PARTICIPATION

The three agencies developed and executed a participatory community engagement process to gather information from over 290 stakeholders across the state. The strategic planning process used purposeful sampling methods to invite a wide range of opinions and perspectives from knowledgeable stakeholders from rural, urban, and suburban Minnesota. This was not a representative sample or public opinion polling.

We engaged people from all the stakeholder groups mandated by the Legislature for inclusion. Transactional sex can take many forms, including sex trafficking, commercial sexual exploitation, independent selling or trading sex, and sex work. The process centered the voices of diverse people engaged in transactional sex and also sought perspectives from advocates, service providers, police, prosecutors, people with tribal affiliation, people from Greater Minnesota and the Metropolitan area; and communities most impacted by sex trafficking in Minnesota. These include people of color, indigenous people, immigrants and refugees, LGBTQ communities, and others across the state. Methods are described in Section One of the full report.

A Process Advisory Group guided the strategic planning process to assure practices and methods were open, transparent, inclusive and respectful. The 35-member group reflected the key stakeholders we sought to engage in strategic planning. Sixty percent of the members self-identified as having personal lived experience in transactional sex and included victims and survivors of trafficking and exploitation, independent sellers/traders of sex, and sex workers. In the report we refer to this as "lived experience." Group members with lived experience were offered \$125 stipend per meeting.

We developed a nimble strategic planning process with multiple ways of gathering information from stakeholders. Our team travelled across the state conducting in-person interviews one-on-one, in small groups, or in world café style convenings. We conducted phone interviews and launched an online survey. We used a semi-structured interview guide. The interview guide was modelled on the MDH request for proposals, the legislative mandate, and substantial revision and input from the Process Advisory Group. Our methods were designed to protect confidentiality, and where appropriate gather information anonymously.

FINDINGS

Complete findings are described in Section Two of the full report. We cover the breadth and depth of stakeholders' opinions, experiences, perceptions and values around Minnesota's response to adults with lived experience. The strategic planning process revealed widespread agreement among stakeholder groups across Minnesota that prostitution arrests negatively affect all people with lived experience, their children and their families. Given these well-documented harms, there is broad enthusiasm for changing the legal approach in Minnesota and expanding Safe Harbor services and supports for all adults with lived experience. We also uncovered many caveats, concerns, nuances, warnings, potential unintended consequences, and opportunities to consider.

The process identified many opinions, and some deep disagreements, on *exactly what* Minnesota as a state should do to better support adult victims and survivors of sex trafficking and sexual exploitation, as well as others who experience harms from criminalization of prostitution. Some stakeholders believe that consent is possible in transactional sex, whereas most expressed the opinion that payment for sex and economic coercion abrogates consent. This is a fundamental point of disagreement in Minnesota, shaping preferred policy options. Our process did not "solve" or attempt to resolve this disagreement.

Topline Conclusions

Systems and responses require leadership by people with lived experience. This leadership must reflect the diverse communities which experience trafficking and exploitation. People with lived experience must be engaged both in the professional leadership *and* in other meaningful ways throughout the design, decision-making, implementation, and evaluation of Minnesota's response.

Without exception, stakeholders identified significant harms to people with lived experience under the current (full criminalization) system. Many identified harms resulting from criminalization, stigma, judgment and discrimination against people with lived experience. Others described serious harms at the hands of sex buyers or traffickers. Some described transactional sex itself as a form of exploitation. These harms undermine an individual's rights to health, safety, dignity and justice. The State should take steps to prevent, mitigate and remedy these harms.

Most stakeholders identified partial decriminalization (decriminalization of selling sex) as the most promising approach to preventing and mitigating the harms experienced by people with lived experience. Stakeholders raised concerns about potential negative impacts of partial decriminalization on people with lived experience and investigations, specifically of trafficking and other crimes. For this reason, the State should continue to work with multi-jurisdictional stakeholders, including people with lived experience, to identify strategies to mitigate this impact.

Partial decriminalization should be implemented in tandem with expansion and enhancement of robust services. Stakeholders were very clear that focus on the legal framework alone is not enough to promote safety, health, dignity and justice. Intervention and prevention services including outreach, housing, economic stability supports, healthcare, mental healthcare, chemical dependency treatment, and family stability are essential to helping people avoid and exit trafficking and exploitation. Participants advocated developing an approach that is appropriate for adults based on autonomy and respect that does not increase

State control over adults with lived experience. Statewide access to services and supports will be critical in reducing harms and turning away from the current criminal justice system approach.

Tribal nations and indigenous communities must be engaged in planning and implementation. American Indian people are disproportionately impacted by sex trafficking and exploitation and there are unique strengths for cultural and community healing. The State should continue to address potential jurisdictional challenges, connect with tribal and community leaders, and fund indigenous people with lived experience to lead planning and implementation of any response.

Stakeholders identified immediate ways to limit harms resulting from criminalization. Improved access to diversion and expungements, increased attention to investigating and prosecuting crimes against people with lived experience, dedicated efforts to make child protective services more trauma-informed, an end to out-of-home placement of children based solely on involvement in transactional sex, among other things can increase health, safety, and justice for those with lived experience. Amending Minnesota statute to eliminate stigmatizing language can help ensure people are treated with respect and dignity.

With some exceptions, stakeholders supported continued criminal liability for buying sex. Some people with lived experience and others believed that it would be safer and more equitable to stop arresting sex buyers. However, this was not endorsed by most stakeholders. Many called for increased penalties for people who buy sex from minors or trafficking victims. In particular, certain Indigenous and African American stakeholders viewed transactional sex as a continuation of the harms of colonialism, settlement and enslavement and rejected the idea of eliminating criminal liability for sex buyers.

There was strong opposition among the majority of stakeholders to formal legalization of transactional sex which would entail state regulation of the commercial sex market. For many this was rooted in their belief that transactional sex is inherently harmful. Some expressed concern that legalization would disproportionately harm marginalized communities, such as undocumented persons or people of color, who would be relegated to the more dangerous, unregulated marketplace.

Minnesota has real opportunities to invest in preventing sex trafficking and exploitation. Stakeholders consistently cited poverty, housing instability, and other economic instability as push factors into transactional sex. Stakeholders also spoke of the need to invest in traditional prevention modalities such as youth education. Many stakeholders identified connections between transactional sex, violence, exploitation, and cultural norms about men, women, and masculinity. They also identified the need to deal with racism, including the continuing effects of slavery and colonization, in attempts to prevent trafficking and exploitation. Prevention of trafficking and exploitation requires concrete investment and action.

OVERVIEW OF RECOMMENDATIONS

The strategic planning team transformed findings into recommendations using the lens of promoting safety, health, dignity and justice for people with lived experience in combination with the framework set out in the legislative mandate. We identified 19 specific recommendations. The recommendations are complex and nuanced. Readers should also refer to the description of recommendations in the full report, Section Three: Recommendations.

Recommendations call for changes to Minnesota's criminal and civil statutes as well as focused planning and more State funding to expand and enhance services and supports. We also recommend specific steps to recognize tribal sovereignty and fund tribal nations and indigenous communities to engage in planning and implementation within their communities. Change will require paradigm shifts and commitment, including deliberate efforts to reduce stigma and discrimination against people with lived experience.

Recommendations address these issues. Leadership of people with lived experience is critical to developing a respectful and effective statewide approach to Safe Harbor for All.

The recommendations reflect the need to change culture and practices in policing and criminal justice and providing social services. Some current practices were described by stakeholders as harmful to people with lived experience, including victims of trafficking and exploitation, independent providers, and sex workers. Change requires accountability. Thus, recommendations related to reform of practices call for the creation of accountability mechanisms. We also encourage multijurisdictional collaboration across local, state, tribal and federal government. Finally stakeholders recommend funding for community-based evaluation.

APPROACH & PHILOSOPHY

- **Recommendation #1:** *Fund* and include people with lived experience to lead creation and implementation of Minnesota's response.
- **Recommendation #2:** No longer refer to people as "prostitutes" in statute.

RELEVANT CRIMINAL ISSUES

Criminal Liability for persons who agree or are hired to provide sex or sexual activity

- **Recommendation #3:** Reduce burden of criminal liability on people with lived experience via other remedies (i.e. expungement, vacatur, diversion, and crime victims' rights).
- **Recommendation #4:** Review all Minnesota statutes that mention prostitution to identify needed revisions to decriminalize the sale of sex as per Recommendation #5.
- **Recommendation #5:** Decriminalize the sale of sex as described in Minn. Stat. § 609.324, subdivisions 6 and 7 after completion of planning, preparation, and initial steps outlined in recommendation section of the full report.

Criminal Liability for Purchasing Sex

- **Recommendation #6:** Maintain criminal liability for purchasing sex. Increase penalties and accountability for buyers of sex with trafficking victims and minors; focus law enforcement efforts on these sex buyers.
- **Recommendation #7:** Investigate and prosecute perpetrators of crimes against people with lived experience.

Criminal Liability for Sex Trafficking

- **Recommendation #8:** Retain criminal liability and penalties for sex trafficking.
- **Recommendation #9:** Amend Minnesota sex trafficking statutes to reduce criminal liability for victims of sex trafficking and practices people with lived experience use to increase safety.

AVAILABILITY AND ACCESS TO PREVENTION / INTERVENTION SERVICES

- **Recommendation #10:** *Fund* a planning process to develop a service and support model that is appropriate for adults; include people with lived experience in leadership.
- **Recommendation #11:** Implement the model by removing age limits *and fund* expanded Safe Harbor housing, services and support to all adults with lived experience.

- **Recommendation #12:** Develop a statewide prevention plan that provides housing, economic stability, and systems reforms; including professional, public and school-based education, and culture change to reduce stigma.

TRIBAL NATIONS AND INDIGENOUS COMMUNITIES

- **Recommendation #13:** Affirm tribal sovereignty in implementation.
- **Recommendation #14:** **Fund** indigenous people and tribes to lead implementation in their communities.
- **Recommendation #15:** Reform longstanding harmful multi-systemic practices that disproportionately impact indigenous people that are linked to violence and transactional sex.

TRAINING, REFORMS AND EVALUATION

- **Recommendation #16:** **Fund** and extend statewide training across systems.
- **Recommendation #17:** Review and reform harmful policies & practices in state agencies that work with adults with lived experience.
- **Recommendation #18:** Develop and **fund** accountability measures for law enforcement.
- **Recommendation #19:** **Fund** independent evaluation of Safe Harbor expansion to identify impacts, outcomes, and course-corrections that includes people with lived experience and is participatory and community-based.

EXECUTIVE SUMMARY CONCLUSION

The strategic planning team identified common ground while also highlighting disagreements within the wide range of opinions and perspectives among stakeholders in Minnesota. We are deeply grateful for the participation, wisdom and support from so many stakeholders, particularly those with lived experience. This is an exciting moment for Minnesota. Our strategic planning team is honored and humbled by the opportunity to learn from so many people across the state. We hope the findings and recommendations offered here contribute to safety, health, dignity, and justice for survivors of sex trafficking, those who experience violence and exploitation, and all people involved in transactional sex.

Introduction

Minnesota has increasingly recognized the significant harms of sex trafficking and commercial sexual exploitation of youth. But what about adults?

LEGISLATION AND MANDATE

The State of Minnesota has increasingly recognized the significant harms of sex trafficking and commercial sexual exploitation. In 2005 Minnesota recognized human trafficking as a crime.¹ In 2011 Minnesota enacted Safe Harbor for Sexually Exploited Youth,² which decriminalized youth who are trafficked or victims of commercial sexual exploitation and created a statewide system of regional navigators with expanded and enhanced housing, services and supports called No Wrong Door.³ State funding of the No Wrong Door system now provides over \$13 million biannually to state agencies and nonprofit service providers, and serves young people through age 24.

Sex trafficking and exploitation in transactional sex (selling or trading sex) violate basic human rights to safety, self-determination, health, and dignity. This happens to adults in Minnesota. It causes numerous harms including violence, threats of violence, abuse, loss of children, instability, health and mental health challenges, and much more.⁴ All adults involved in transactional sex in Minnesota experience collateral harms due to stigma and criminalization of prostitution, including lack of housing, discrimination, and lack of police protection. All people in Minnesota have a right to dignity, safety, health, and justice.

The Minnesota Legislature and many others want to know whether Minnesota should extend the Safe Harbor legal and social service model to include all adults. And if so, how should this happen?

On May 30, 2017, the Minnesota Legislature mandated a strategic planning process to explore the potential expansion of Minnesota's Safe Harbor system to include adult victims of sex trafficking and commercial sexual exploitation.⁵ As part of the legislation, the Legislature funded a strategic planning process with funds managed by the Minnesota Department of Health (MDH). The request for proposals (hereafter referred to as MDH RFP) sought "recommendations on the expansion of Minnesota's Safe Harbor law to adult victims of sex trafficking and exploitation."⁶

¹ Laws of Minnesota 2005, chapter 136, article 17, sections 15-25. In 2009, Minnesota's human trafficking laws were amended, including increased penalties for sex trafficking. See Laws of Minnesota 2008, chapter 137.

² Laws of Minnesota 2011, 1st Spec. Sess., chapter 1, article 4.

³ Minnesota's 2011 Safe Harbor for Sexually Exploited Youth Act removed youth under age 16 who violate Minn. Stat. 609.324, subd. 6 or subd. 7 from the definition of a delinquency offense, with an effective date of August 1, 2014. The Safe Harbor for Sexually Exploited Youth Act also directed the Minnesota Commissioner of Public Safety, together with the Commissioners of Health and of Human Services, to engage in a process to identify a victim-centered, trauma-informed response to sexually exploited youth and those at risk of commercial sexual exploitation. That process resulted in *No Wrong Door: A Comprehensive Response to Minnesota's Sexually Exploited Youth*, which was presented to the Minnesota Legislature in 2013. That year the Minnesota Legislature began appropriating funding for the Safe Harbor No Wrong Door model. The Legislature also amended the 2011 Safe Harbor law to remove all youth under age 18 from the delinquency definition. Effective July 1, 2016, Safe Harbor services were made available to individuals age 24 and younger.

⁴ See for example Rekart, M. (2005); and Nichols, A. (2016).

⁵ Laws of Minnesota 2017, 1st Spec. Sess., chapter 6, article 10, section 145.

⁶ See MDH, Safe Harbor Request for Proposals: Safe Harbor for All Strategic Plan, page 4 (Hereafter referred to as MDH RFP).

Through a competitive grant process, MDH awarded the project to a partnership of three agencies led by the University of Minnesota's Urban Research and Outreach-Engagement Center (UROC) with The Advocates for Human Rights (AHR) and Rainbow Research (RR), referred to in this report as the strategic planning team.

UROC is a University of Minnesota research center located in north Minneapolis. UROC's Sex Trading, Trafficking and Community Well-being Initiative is an academic-based initiative tackling problems related to sex trading and sex trafficking through collaborative research designed to impact practice and spur action. Since 1974, Rainbow Research has worked in partnership with individuals and organizations from communities that have experienced trauma and health disparities, using participatory methods and an equity lens. The Advocates for Human Rights uses fact-finding, documentation, and legal analysis to develop human rights-based public policy approaches to human trafficking, immigration, and violence against women.

As directed by the MDH RFP and the Legislative mandate, the three agencies developed and executed a participatory community engagement process through which we gathered information from over 290 stakeholders across the state. The legislation mandated that the strategic planning process encompass the entire state of Minnesota, and a wide range of communities and "priority stakeholders." We achieved this goal with the help of a 35-member Process Advisory Group and purposeful sampling methods to invite a variety of opinions and perspectives from rural, urban, and suburban Minnesota.

We gathered information from a wide range of stakeholders, described in the methods section below.

Stakeholders included:

- People with lived experience providing transactional sex,⁷ across the diversity of experiences including self-identified victims and survivors of trafficking and exploitation, independent providers and sex workers;
- Service providers, advocates, police, prosecutors, public defenders, judges, people with tribal affiliation, members of crime victims' coalitions, members of relevant task forces, public health professionals, and researchers;
- People from Greater Minnesota and the Twin Cities metropolitan area;
- Communities most impacted by sex trafficking in Minnesota, including people of color, indigenous people, immigrants and refugees, LGBTQ communities, and others across the state.⁸

LANGUAGE AND PERSPECTIVES

The project scope as defined by MDH states that "the desired outcome of [the] community engagement process is to receive input on how Minnesota should respond to adult victims of sex trafficking and exploitation."⁹ Based on extensive community engagement and strong guidance for the Process Advisory Group, it was determined that it was not advisable to focus strategic planning solely on individuals who self-identify or can be proven to be victims of sex trafficking and exploitation. In this section we explain why and clarify the language and approach used in the strategic planning process and in this report.

The marketplace for commercial and transactional sex is complex, with many different market segments and experiences. In Minnesota there is a wide economic stratification ranging from high-priced escort services to people trading sex to meet very basic needs such as food and housing, and everything in between. Research and practice has identified multiple modes of selling sex including online, street-based, brothel, and word of

⁷ The strategic planning process did not seek to include sex buyers as stakeholders.

⁸ MDH RFP, p. 6 provides a list of "priority stakeholders" to include in planning. The strategic planning process met this target.

⁹ MDH RFP, p. 4.

mouth.¹⁰ Markets for trading or selling sex exist across Minnesota in all types of communities – rural, suburban, and urban. But they may be different depending on the context.¹¹

For adults involved in the provision of transactional sex, Minnesota’s legal framework distinguishes between sex trafficking (Minn. Stat. § 609.322) and prostitution (Minn. Stat. § 609.324). For the same act of being hired or agreeing to be hired to engage in prostitution, a person could be treated as both a victim of sex trafficking and a criminal perpetrator of prostitution.¹² The MDH RFP required exploration of the role of criminal justice in response to all “individuals engaging in prostitution.”¹³

It is not always possible to draw clear lines between victims of trafficking or exploitation and people who may not identify as victims. Involvement in transactional sex through trafficking, exploitation, limited socioeconomic options, constrained choices, and as one’s job (or work) are overlapping and not mutually exclusive. The same person can have multiple or changing experiences and perspectives in transactional sex depending on their circumstances and this can change over time. Further, the term “exploitation” is broad and can mean different things to different people. More importantly, stakeholders shared that attempts to draw these lines too starkly in statute and practice can marginalize some experiences of exploitation, lead to paternalism, or dehumanize people deemed not “real” victims. Research has demonstrated that the marketplace for sex is deeply intertwined with intersecting oppressions related to race, class, gender, sexuality, and disability,¹⁴ further complicating the lines between trafficking, exploitation, choice and force.

The strategic planning process acknowledged head-on that there is a rift in perspectives on transactional sex. Some believe the commodification and purchase of sex is, in itself, a form of exploitation rooted in gender inequality, racism, sexism, structural inequality, and male entitlement or dominance. In this view all transactional sex is violence, thus all people who trade or sell sex are victims.¹⁵ Others believe transactional sex is a form of labor that is shaped by structures of racism and sexism, but not wholly reducible to them.¹⁶ Additionally, there are many perspectives and experiences in-between. For the strategic planning process we needed to hear from all perspectives of lived experience in transactional sex to understand the myriad potential effects of expanding Safe Harbor to all adults.

Deeply entrenched advocacy positions further complicate the analysis, enhancing the need to hear directly and prioritize input from people with lived experience.

The strategic planning team took the position that the seemingly irreconcilable difference of perspectives on transactional sex is authentically rooted in differences of experience, viewpoint, and perception. But this is not easy. It does cause deep pain, division, and strife. Survivors of trafficking and exploitation feel viscerally that transactional sex is wrong based on their experiences. Force, manipulation, violence, coercion, stigma, trauma, poverty and lack of options pose significant barriers to escaping trafficking or exiting transactional sex – making the framework of “choice” feel cruel. For indigenous and African American communities, racialized patterns, practices, and degradations in the purchase of sex are a direct extension of colonization and enslavement practices.¹⁷ Independent providers and sex workers are stigmatized, judged, and criminalized for trying to earn a living. Sex work, when experienced as chosen work, can offer flexibility, self-

¹⁰ See for example Martin, L. & Pierce, A., et al. (2014); and Nichols, A. (2016).

¹¹ See for example Martin, L. & Melander, C., et al. (2017). Additionally, recent research conducted by the Advocates for Human Rights has highlighted intersections with labor trafficking.

¹² MDH RFP, p. 4.

¹³ MDH RFP, p. 4.

¹⁴ See for example Martin, L. & Pierce, A., et al. (2014); Martin, L., & Melander, C. et al., (2017); Smith, A. (2005) South End Press; Butler, C. (2015).; and Nuttbrock, L. (2018).

¹⁵ Nichols, A. (2016).; Dempsey, M. (2010).

¹⁶ See for example Showden, C. and Majic, S. (2014), pp. xiii-xl; Doezeema, J. (2005).

¹⁷ See for example Pierce, A. (2009); and Butler, C. (2015).

determination, and much higher pay compared to other low wage options. For some sex workers, sex work can be experienced as affirming of their identity.¹⁸ **Many people with lived experience in transactional sex feel all of these perspectives and do not know where they fit.** The process did not attempt to resolve these differences and disagreements. Rather, the strategic planning team tried to hold space for all opinions and experiences around this issue, and allowed people to determine their own language and framing.

For these reasons the strategic planning team deliberately sought to include and center a wide range of voices and perspectives of people involved in transactional sex, including people who self-identified as victims of sex trafficking and exploitation, independent providers and sex workers. All of these individuals are referred to in statute as “prostitutes” and subject to criminal penalties according to Minnesota Statute Section 609.324.

In this report, we do not use the term “prostitute” because it is widely viewed as derogatory and for victims of sex trafficking and exploitation it imputes blame to them for their own victimization. This report uses **the phrase “lived experience”** to encompass the wide range of lived experiences of people who provide sex, sexual activity, or sexual services to a person who purchases sex or provides something of value in exchange for sex or sexual activity. When relevant and appropriate, we try to highlight different perspectives and experiences throughout this report.

We refer to people who purchase sex as “sex buyers.” They are referred to as “patrons” in the Minnesota statute. We refer to third-parties who facilitate the involvement of another person in transactional sex as “traffickers.” This encompasses the colloquial term “pimp” as well as Minnesota criminal statutes related to the promotion of prostitution. Minnesota criminal code on trafficking does not require the *proof* of force, fraud or coercion in a court of law. Nonetheless, manipulation, force, fraud, and coercion are often present. However, some people with lived experience made distinctions between third-parties that provide some level of help (i.e. posting ads, taking pictures, safety measures, etc.) versus third-part involvement that is coercive.¹⁹ Again the distinction is not straightforward.

People with lived experience are not the only stakeholders in Minnesota’s response to adult victims of sex trafficking and commercial sexual exploitation. The process engaged justice system professionals, including law enforcement, prosecutors, judges, probation officers, and attorneys; health professionals, including public health officials, nurses, and therapists; advocates; outreach workers; social workers; and people from the academic, hospitality, faith, and philanthropic sectors.

The process identified many areas of agreement across perspectives of lived experience and other stakeholders. There was near unanimous acknowledgement of the extreme harms caused by trafficking, exploitation of youth, and economic exploitation. Stakeholders also highlighted the role of poverty, racism, sexism, and heteronormativity in pushing involvement in transactional sex and vulnerabilities to trafficking. There was widespread agreement that arrest and stigma harms all people who trade or sell sex, including victims, survivors, and sex workers.

Participants broadly affirmed that people with lived experience have a fundamental right to safety, health, dignity and justice. Likewise, there was a near unanimous call for more and better housing, economic independence, support and services based on self-determination, as foundational to prevention and healing. At the same time, many with lived experience strongly cautioned against implementing services that call forth greater state control of adults with lived experience.

¹⁸ Showden, C., & Majic, S. (2014).

¹⁹ See for example, Marcus, A & Horning, A., et al. (2014).

OVERVIEW OF LEGAL MODELS

There are four basic legal models for criminal liability related to prostitution.²⁰

1. **CRIMINALIZATION** of all aspects is the current statutory framework in Minnesota.
2. **PARTIAL DECRIMINALIZATION** of parts of the prostitution statutes. This strategic planning process considered decriminalization of being hired or agreeing to be hired for sexual contact. Purchasing sex and sex trafficking would still be subject to criminal liability.
3. **FULL DECRIMINALIZATION**, in which buying and selling sex is no longer subject to criminal penalties. Trafficking, purchasing sex from a minor, and aspects of prostitution (such as location or type of exchange) may still be subject to regulation or criminal penalties, but the exchange of sex in itself is not illegal.
4. **LEGALIZATION** would mean that prostitution would be fully legal and regulated by the government, creating space for “unregulated” and therefore not legal corners of the market.

In accordance with the legislative mandate and the RFP from the MDH, the strategic planning process engaged stakeholders in discussion about **partial decriminalization** of prostitution, meaning decriminalization of engaging “in prostitution by being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual contact.”²¹

Opinions about potential new legal approaches are rooted in people’s values, beliefs and experiences within Minnesota’s current legal approach to prostitution, which can be categorized as **full criminalization**. In Minnesota both buying and selling sex is illegal. So it is difficult for stakeholders to know what impact **partial decriminalization** in Minnesota might have without also exploring opinions, values and beliefs about a wide-range of possible legal frameworks. Thus, we also asked stakeholders to reflect on **full criminalization**, **full decriminalization** and **legalization** to better understand stakeholder input. Values, aspirations, and ultimate goals are important animating foundations for decision-making within policymaking and thus, are a critical area for us to explore.

The project was designed to engage stakeholders around legal frameworks and access to prevention as well as state sponsored prevention and intervention services and supports. One member of the Process Advisory Group summarized an emerging sense of commonality among people with lived experience:

“I wish we were a group [the Process Advisory Group] that had been convened to discuss and formulate policy responses to problems in the sex trades that did not begin and end with who to criminalize or punish and why, BUT INSTEAD had been focused around addressing the economies of violence (racial capitalism) that produce misery for so many, in and out of the sex industry.”

This sentiment was echoed by many participants during the strategic planning process. Participants were clear that legal frameworks and social service delivery models cannot be explored in isolation from larger intersectional oppressions and structural barriers faced by people with lived experience. This is why the

²⁰ See for example Outshoorn, J. (2004).; and Nichols, A. (2016).

²¹ MDH, RFP, Page 4 – quoted from the Minnesota Statue, section 609.324 subdivisions 8.

report includes and considers many additional themes and reflections beyond what was specified in the RFP and legislation.

DESCRIPTION OF THE REPORT

The report has three major sections followed by an appendix. The **first** section describes the participatory and community-based methods used for gathering information and who participated in the process. Data collection protocols are fully documented in Appendix A. In Appendix B we describe additional resources that the strategic planning team brought to the process to supplement funding from MDH.

The **second** section contains main findings from the strategic planning process. The findings begin with a discussion of what participants had to say about foundational issues related to stigma, discrimination, and intersectional oppressions – race, gender, class, gender identity, geography – in transactional sex. These were deemed root causes of much harm and injustice and were a significant topic from stakeholders. Then, we describe stakeholder information about the harms of criminalization to people with lived experience. This was also an extensive topic of concern for many stakeholders. Next, we summarize stakeholders' reactions to potential changes to Minnesota's prostitution laws and other interrelated criminal issues, including consequences for people who purchase sex, expungement and vacatur, and other existing laws. Finally, we describe what stakeholders said about considerations for implementation, including ideas about the philosophy and approach for expansion of Safe Harbor, critical need for housing, economic stability, reform of child protection and foster care, necessary services and supports, the potential role of police, and prevention opportunities.

In addition to describing findings from the strategic planning process as outlined above, the findings section also references secondary literature, state and Federal statute, and other policies where appropriate. Around the world, there are many different statutory approaches to prostitution and sex trafficking and some research on impacts and outcomes. Unfortunately many of these models may not be directly relevant to the legal and social context within the United States, and specifically Minnesota. We include peer reviewed studies and evaluation reports that use standard academic methods to provide additional perspective on community engagement findings where appropriate. We provide citations in the footnotes with a full bibliography of sources referenced in the report is provided in Appendix D.

Recommendations for the strategic plan are provided in section **three**. The strategic planning team transformed findings into recommendations using the lens of promoting safety, health, dignity and justice for people with lived experience in combination with the framework set out in the legislative mandate. We identified 19 specific recommendations. In the discussion of each recommendation, we do our best to identify common ground while also highlighting disagreements and the wide range of opinions and perspectives. Additional technical details are provided in Appendix D.

This is an exciting moment for Minnesota. Our team is honored and humbled by the opportunity to learn from so many individuals across the state. We hope the findings and recommendations offered here contribute to safety, health, dignity and justice for survivors of sex trafficking, those who experience violence and exploitation, and all people involved in transactional sex.

Section One:

METHODS



SAFE HARBOR FOR ALL

Section One: Methods

The MDH RFP stated that the strategic planning process “should be designed and implemented using a community based and/or community engagement process involving stakeholders statewide, including those populations most impacted by sexual exploitation and trafficking.” The RFP also stipulated inclusion of the following priority stakeholders in diverse communities from across the state:

- Victims and survivors of trafficking and exploitation,
- Social service providers who work with victims and survivors,
- People with tribal affiliation,
- Staff and participants of crime victim coalitions,
- Participants in human trafficking task forces,
- Prosecutors and public defenders,
- Police and probation officers,
- Staff from organizations that address intersecting issues, and
- Researchers in the field.²²

All data collection methods and protocols used by the strategic planning team were designed to engage this wide and diverse range of stakeholders. The findings and recommendations in this report were derived from data collection with these stakeholders.

The strategic planning team started work in November 2017, completed data collection in July 2018, and finished the report in October 2018. The information gathering process was designed using participatory, action-oriented and community-based methods, as well as a Health Impact Assessment lens.²³ We used purposeful sampling methods to invite a wide range of opinions and perspectives from knowledgeable stakeholders from rural, urban, and suburban Minnesota. This was not a representative sample or public opinion polling. The project timeline and activities are provided below in Chart 1.

We gathered input from deep within many communities with 294 stakeholders across the state. Information was gathered from people in all groups and stakeholder experiences described as “priority stakeholders” in the MDH RFP.²⁴ The strategic planning process deliberately sought voices of diverse people engaged in transactional sex, and also included advocates, service providers, police, prosecutors, tribally affiliated people, people from Greater Minnesota and the Metropolitan area. We gathered input from communities most impacted by sex trafficking in Minnesota, including people of color, indigenous people, immigrants and refugees, LGBTQ communities, and others across the state.

This section describes data collection methods, the people who participated in the process, analysis methods, and study limitations.

²² MDH RFP, p. 6.

²³ See for example, Stringer, E. T. (2014).; Allen, M. L., & Culhane-Pera, K. A., et al. (2011).; Bradbury, H. (Ed.) (2015).

²⁴ MDH RFP, p. 6.

CHART 1. TIMELINE OF ACTIVITIES

SEPTEMBER 2017	NOVEMBER 2017	DECEMBER 2017	JANUARY 2018	MARCH 2018	
Notification of award	MDH Grant Agreement executed and signed by all parties	UMN IRB determination, not human subjects' research Call for PAG* self-nominations	Convene 35 Member PAG	<u>LAUNCH</u> (after revisions from PAG input and pilot testing)	
MAY 2018	JUNE 2018	JULY 2018	AUGUST 2018	SEPTEMBER 2018	OCTOBER 2018
Begin data analysis (continued information gathering)	Second PAG meeting	Close interviews (continue online survey)	Third PAG meeting; Iterative report drafting; Closed survey	First draft for review by MDH	Final draft submitted to MDH

PAG stands for Process Advisory Group

PROCESS ADVISORY GROUP

Engaging stakeholders in project design is a core principle of community-based research. It is typical to pay special attention to including people most likely to be impacted by the research.²⁵ Therefore, before designing data collection plans and protocols, we convened the Process Advisory Group to assure practices, protocols, process and methods were open, transparent, inclusive and respectful. The strategic planning team worked with this group to finalize research questions, develop data collection protocols and recruitment plans, and review of the final report from multiple perspectives.

The 35-member Process Advisory Group reflected **all of the MDH-identified priority stakeholders. Exactly 60% of members self-identified as having personal lived experience in transactional sex** including people who described themselves as victims and survivors of trafficking and exploitation, independent sellers/traders of sex, and sex workers.

The Process Advisory Group was formed through a self-nomination process launched in December 2017. The invitation to self-nominate was circulated widely across the state through email lists, personal contacts, sex trafficking task forces, and personal contacts with key organizations and leaders across the state. The strategic planning team conducted extensive outreach and networking in diverse communities to invite people with lived experience with many different perspectives and from across the State.

Process Advisory Group members with lived experience were paid \$125 for each meeting and those traveling from Greater MN were offered mileage reimbursement and overnight lodging for individuals travelling more than four hours. We also provided food for the entire group for each meeting. With guidance from the

²⁵ See for example Bradbury, H. (Ed.) (2015); Stringer, E. (2014).

Process Advisory Group, we developed a nimble process with multiple ways of gathering information from stakeholders.

The Process Advisory Group was responsible for guiding the process and assuring report findings and recommendations were conveyed clearly and respectfully. The group met three times for 4 hours per meeting. The first meeting focused on group formation and project design. The semi-structured interview guide used to gather information was significantly revised and refined after extensive feedback from the Process Advisory Group. The group also assisted with a data collection pilot phase, as shown in Chart 1. Between meetings, group members helped the strategic planning team connect with potential participants. The second meeting helped us close recruitment gaps and review preliminary themes that had emerged. The final meeting was called to review an early draft of the report and bring closure to the group. Many members of the Process Advisory Group provided extensive review of initial drafts of the final report.

DATA COLLECTION METHODS

The strategic planning team travelled across the state conducting in-person interviews one-on-one, in small groups, or in a world café style convening. We conducted phone interviews and launched an anonymous online survey. In total, 294 Minnesotans shared perspectives and input into the “Safe Harbor for All” strategic planning process. This included interviews in all formats (N=253) and a brief electronic survey (N=41).²⁶ This is displayed in Chart 2. We used these multiple information gathering approaches to enhance participant choice, power, and accessibility in selecting the avenue best for them. The project was reviewed by the University of Minnesota’s Institutional Review Board.²⁷

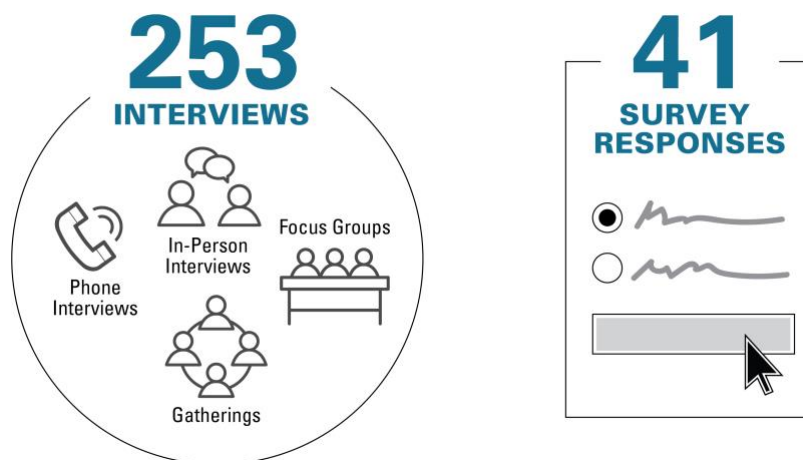
Data collection methods were designed to be comfortable and respectful, to protect confidentiality, and to gather information anonymously when appropriate. In each conversation we used the semi-structured interview guide to explore framing and individual approach to the issue, opinions about partial decriminalization and the other legal models, perspectives on services and supports, prevention ideas, and priorities for the state. For group-based conversations we developed facilitation guides that structured the conversations. All data collection protocols are provided in Appendix A, including the semi-structured interview guide, group conversation facilitation guides, demographic forms, survey questions, and Process Advisory Group meeting agendas.

Some stakeholders consented to having their conversation digitally recorded. Those individual and group interviews were transcribed. If stakeholders did not consent to digital recording, detailed notes were taken during the conversation. Whenever possible we conducted interviews in teams of two so one person could interview while the other took notes. This was not possible or comfortable for all interviewees.

²⁶ Note: 112 people started the survey, but only 41 provided substantive information. The survey was administered through Qualtrics, an online survey platform. The online survey was disseminated electronically with a link. Participants had the option of including their name and contact information. This information is confidential.

²⁷ Because the project was strategic planning and did not seek identifiable or personal information about individuals’ personal experience, the project was deemed “not human subjects’ research”. The protocol number is: STUDY00002569.

CHART 2. DATA COLLECTION METHODS



To develop a purposeful sample reflective of priority stakeholders, we used a recruitment strategy that combined network penetration and snowball sampling. We asked the Process Advisory Group to invite people from their networks to participate in the process.²⁸ Recruitment was conducted through personal networks, online groups and forums, and email lists, such as the Minnesota Sex Trafficking Prevention Network (MNSTPN). UROC developed an opt-in email list with over 350 subscribers. For some groups such as men who trade sex and others with lived experience, we developed a business card and posted flyers and notifications in relevant places and online spaces. To invite wide stakeholder participation, members of the strategic planning team presented at the Minnesota Indian Affairs Council, the Minnesota Human Trafficking Task Force, regional taskforces, and other groups across the state. Team members also reached out directly to key organizations and agencies that work with these population, the regional navigator system, coalitions, and task forces to request interviews. Finally, our team traveled to six regions in Greater Minnesota to facilitate in-person interviews.

People with lived experience have unique perspectives on expansion of Safe Harbor and any changes would directly affect them. Therefore, we deliberately connected with a diverse and broad group of people with lived experience. Participants with lived experience were paid \$40 for the interview to thank them for their time and provide compensation for their expertise.

All interviews were confidential, and special precautions were taken to maintain anonymity when requested. Interview data (including audio files and typed transcriptions) were stored on Box, a HIPAA-certified and password protected cloud storage software, as well as a password-protected server at the University of Minnesota. Hand-written or printed notes were stored in a locked cabinet at the University of Minnesota. All team members and volunteers signed confidentiality agreements prior to participating in the strategic planning process.

The online survey was advertised with the same recruitment strategies used for interviews. All responses were anonymous, unless the respondent opted-in to share contact information. Data were downloaded in an Excel document and stored in Box and UROC's server.

²⁸ The Process Advisory Group meetings did not gather content for the strategic planning process, therefore members were also invited to participate in interviews or a survey.

In addition to collecting new information from stakeholders, the strategic planning team reviewed secondary literature on different policy frameworks related to transactional sex in international contexts, specifically partial criminalization (including the Nordic Model), criminalization, full decriminalization, and legalization. We also reviewed research on the marketplace for sex in the United States to help place findings in a broader context when possible. Transactional sex is hidden, stigmatized, illegal in many places, and potentially dangerous. Thus research on this topic is difficult.

DESCRIPTION OF WHO PARTICIPATED

This section describes relevant background and demographic information from all participants in the strategic planning process. All but six participants completed the optional demographic form that was part of the data collection protocol (N=288). Standardized demographic forms often make respondents select one category, and do not reflect people’s actual identities. This can be experienced as harmful. When creating our demographic forms, our Process Advisory Group recommended a broad set of categories to describe race and ethnicity, with the option to select from many. Thus, the demographic form allowed people to select multiple responses for most items, including racial and ethnic identifiers and gender identity.

All Participants

Just over half of the participants (58%) identified solely as White or European American.²⁹ Just under half of the participants identified as indigenous or people of color (42%); some of them also identified as White or European American (9%). Thus we were able to engage with diverse communities. Table 1, below, shows the duplicated selections of participants. The percentiles add up to more than 100% because some participants selected more than one category.

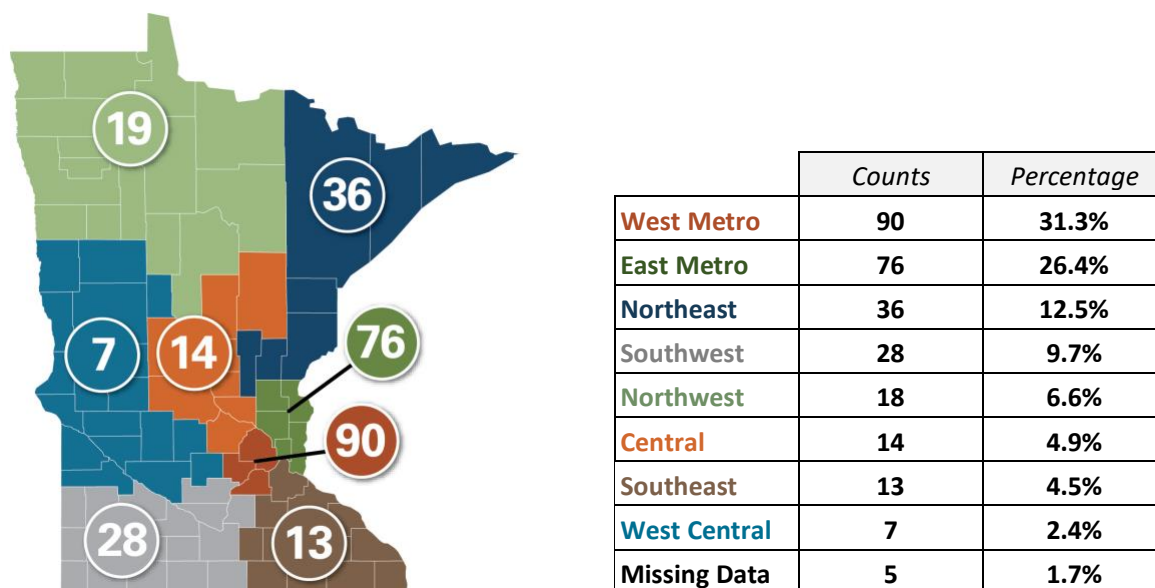
TABLE 1: ALL PARTICIPANTS RACE / ETHNICITY (N=288)

	White/ European American	African/ Black / African American	Indigenous/ Native American	Multiracial	Asian/ Asian American	Latinx
<i>Counts</i>	194	43	41	41	19	14
<i>Percentage</i>	67.4%	14.9%	14.2%	14.2%	6.6%	4.9%

Chart 3 below illustrates that the process engaged participants from all regions of the state. This was a requirement of the legislation. Five individuals chose not to provide their county of residence on the demographic form. Slightly over half of participants (58%) were from the seven county Twin Cities metro area.

²⁹ Minnesota is a predominantly white state with 85% of residents identifying as white or Caucasian (2015 US Census). Thus, the process deliberately prioritized the perspectives of people of color and indigenous people in Minnesota.

CHART 3. WHERE INTERVIEWS OCCURRED



Engaging the voices of people with lived experience was also a requirement of the legislation and request for proposals from the MDH. This is shown below in Chart 3. In total, 111 people who participated in the process self-identified as having lived experience as a survivor of sexual exploitation or trafficking, sex worker or independent provider, or other experience selling or trading sex. An additional 177 stakeholders without lived experience also participated in the process.

CHART 4. NUMBER OF PARTICIPANTS WITH LIVED EXPERIENCE



The process sought to engage people with many different perspectives, including individuals with experience as professionals who work with adults with lived experience in Minnesota. Of the 294 participants in the process, 233 participants identified with a professional role related to their knowledge about transactional sex; for some this was in addition to their lived experience. Individuals who selected a professional role included 177 individuals who did not report lived experience and 56 people with lived experience who also have a professional role. Chart 5 demonstrates the overlap.

CHART 5. PROFESSIONAL ROLES AND AFFILIATIONS OF PARTICIPANTS



The demographic form allowed stakeholders to select multiple roles and many selected more than one. Chart 6 below shows the professional roles and affiliations stakeholders selected for themselves. The majority of stakeholders identified as “advocates” (57%). This category was selected by individuals who professionally hold that title, as well as people from various sectors and those with lived experience who see themselves as advocating for community change and for the rights of people involved.

CHART 6. PARTICIPANTS BY ROLE

43 Outreach Worker	41 Social Worker	24 Police Officer	24 Detective / Investigator	20 Faith Community	17 Academia/ Research	15 Prosecutor	17 Public Health Professional
15 Attorney	9 Therapist	7 Public Defender / Defense Attorney	6 Probation Officer	6 Hotel / Hospitality	5 Nurse	4 Foundation	3 Judge

Approximately half (49%) of the participants in the strategic planning process reported connections to at least one of Minnesota’s many human trafficking task forces and 12% identified themselves as formally affiliated in some way with a tribal agency or entity.

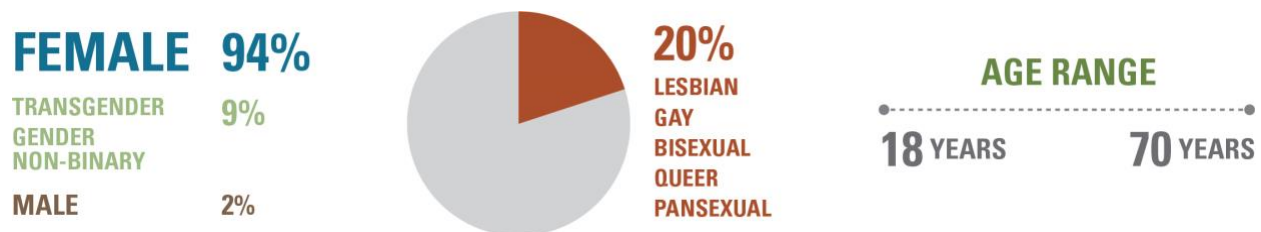
Participants with Lived Experience

We engaged a highly diverse group of participants with lived experience in the strategic planning process. The majority of people with lived experience identified as people of color and/or indigenous. Only 38% of participants with lived experience identified only as White or European American. Table 3 shows the self-selected race and ethnicity of the participants with lived experience. Participants could select more than one option.

TABLE 3. RACE/ETHNICITY FOR PARTICIPANTS WITH LIVED EXPERIENCE (N=111)

	White/ European American	Identify only as white	African/ Black / African American	Indigenous / Native American	Multi- racial	Asian/ Asian American	Latinx	Immigrant/ Foreign Born
<i>Counts</i>	55	42	35	24	23	7	6	4
<i>%</i>	49.5%	37.8%	31.5%	21.6%	20.7%	6.3%	5.4%	3.6%

CHART 7. GENDER, SEXUALITY, AND AGE OF PARTICIPANTS WITH LIVED EXPERIENCE (N=111)



Individuals with lived experience self-identified their involvement in multiple ways across a wide range of experiences. The demographic form allowed participants to select as many options as they felt best matched their perspective and experience, thus, many participants selected several options within each question. **The majority of participants (62%) reported that they experienced manipulation or coercion at some point as an adult to be or stay involved in transactional sex.** Just over half of participants (52%) reported survival sex (exchange of sex for food, a place to stay or other immediate need). While participants most commonly self-identified as survivors of trafficking (45%) or sexual exploitation (40%), participants also identified as sex workers (25%), prostitutes³⁰ (19%) and independent providers (13%).

Participants additionally reported involvement in various facets of transactional sex; most commonly reporting experience in street-based (47%) or online-facilitated (43%) transactional sex. Many also identified working in the legal sex industry with stripping and erotic dancing (39%). To a lesser extent, participants reported experience in massage parlors, BDSM/fetish, pornography, and brothels. Chart 8 below shows the types of involvement in transactional sex among people who participated in the process; participants

³⁰ Our team recognizes the term “prostitute” as being offensive and stigmatizing, and for this reason advocates for its disuse. At the same time, many individuals self-identify with the word to describe their past or current experience, and for this reason it is included in this section.

selected multiple experiences. We included this information in our demographic form because the RFP requested engaging stakeholders from a diverse range of experiences.

CHART 8. TYPE OF INVOLVEMENT IN TRANSACTIONAL SEX (N=111)

58	52	48	43	26	22	17	15
52%	47%	43%	39%	23%	20%	15%	14%
SURVIVAL SEX	STREET- BASED	ONLINE	STRIPPING / EROTIC DANCING	MASSAGE PARLOR	BDSM/ DOM/ FETISH	PORN	BROTHEL- BASED

ANALYSIS METHODS

The community engagement process yielded 148 qualitative data files from interviews, group discussions and world café style convening with feedback from 253 people. As noted above, 41 online surveys contained substantive information. Given the short time line and large quantity of data it was essential to develop a data analysis strategy that allowed us to start data analysis before data collection was complete, in way that equally weighted and incorporated all participants' input into the findings and recommendations.

The strategic planning team developed a qualitative codebook to organize, sort and discern key themes and topics from within the hundreds of data points we collected. The code book articulated 29 "codes" or categories discerned from a thorough review of transcripts combined with topics mandated by the legislation and RFP from MDH. We refined the codebook through five rounds of iterative coding and revision among three team members.³¹ This allowed us to capture opinions and perspectives on required topics while leaving room to surface novel themes that emerged through the process.

We developed and conducted a four stage analysis plan. The plan allowed for rapid and iterative coding based on standard qualitative research methods. We used a combination of inductive and deductive coding techniques combined with the principles of grounded theory and the constant comparative method.³²

1. **Foundational 49. April – June, 2018.** We identified a sample of 49 transcripts and interview notes that represented a wide range of stakeholder perspectives and regions for deep-dive analysis. This was 34% of our data. Transcripts from people with lived experience were over-sampled (65%). Since people with lived experience are often excluded or marginalized, we wanted to make sure their voices were included and centered in the data analysis process. Electronic files were uploaded to NVivo 11 Pro software for qualitative analysis by two team members who worked together to achieve inter-rater reliability. After coding, we created five outputs of data from each of the 29 codes: 1) all transcripts; 2) people with lived experience; 3) people with no lived experience; 4) Greater Minnesota; and 5) Metro area. These outputs were each analyzed by six team members for sub-themes that were described in coding summary memos. These coding summaries were used to create a preliminary draft of themes and findings.

³¹ The codebook was finalized on May 25, 2018.

³² See for example Milrod, C., & Weitzer, R. (2012): They cite Strauss and Corbin, 1998 Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory. 2nd edition, Sage.

2. **Analytic Memos. July – August 2018.** The remaining transcripts and interview notes were analyzed through a series of analytic memos. We produced 25 analytic memos that described stakeholder perspectives and opinions based on key themes and codes from the preliminary analysis. Team members identified themes that were new, confirming, or missing from the preliminary analysis for inclusion in the findings. Through this process, we were able to fine-tune report findings and identify emergent themes by stakeholder categories.
3. **Online Survey Analysis. September 2018.** The online survey was closed on August 31, 2018. Responses from the online survey were downloaded in an Excel file, cleaned, and thoroughly reviewed by a team member who produced three analytic memos: 1) all output with lived experience, 2) people who identified as American Indian, 3) all survey data together. Content from these memos was reviewed and included in the iterative report draft writing.
4. **Deeper-dive Cross-checking.** After completion of parts one through three all electronic transcripts and notes were uploaded to an NVivo file. NVivo has a word search function that allowed us to cross check and dig deeper into key themes to identify additional content, answer questions, explore the scope and breadth of the theme, and better explore potential stakeholder groupings within themes. Using key word searches, we also cross-checked wording and content of recommendations to make certain the recommendations are grounded in the qualitative data.

The recommendations were developed *after* analysis of qualitative data and several rounds of iterative drafting of findings. The RFP sought recommendations that “address relevant criminal issues, access and availability of services, [and] unintended consequences of such recommendations.”³³ We used this framework to organize the recommendations. Within this framework we explored the findings through the lens of promotion of safety, health, dignity and justice for people with lived experience as criteria for discernment of recommendations. These criteria are consistent with a public health approach. They are also human rights focused and trauma-informed. The recommendations were developed through iterative review, feedback and refinement with members of the Process Advisory Group, representatives from MDH and other key state agencies identified in the Legislative mandate. We obtain additional technical review as needed. We received detailed critique and input from 37 people representing all MDH-identified priority stakeholder groups, as well as all six members of the strategic planning team.

We received extensive community input on the framing and structure of the report. We did NOT allow any reviewers to change findings or add additional content. Rather, their role was to help us streamline the report, flag areas of confusion, and make sure we appropriately frame and describe findings. This was a staggered process with feedback and input continually rolling in during the report writing stage.

To be clear, project findings are grounded solely in information gathered as part of the strategic planning process from priority stakeholders. Recommendations are grounded in the findings. The legislation mandated review of the report by the MDH, DPS and DHS. We provided drafts for review at all stages of writing. Again we did not change the content of findings based on this review. The mandated review helped us ensure our findings and recommendations responded to the RFP and legislative mandate while also sharing the breadth and depth of findings, some of which may not have been envisioned in the original RFP.

LIMITATIONS

Like all research, there are limitations to the findings and recommendations of this report. About half of the participants are connected to human trafficking task forces in Minnesota, many of whom have been exploring partial decriminalization for some years or who currently use practices to avoid arresting people

³³ MDH RFP, p. 6.

with lived experience. This could be seen as a bias. To minimize this limitation we also deliberately sought opinions from people who have not participated in task forces, people from a wide range of perspectives, and we developed the semi-structured interview guide to avoid leading questions. We were clear that there is no right or wrong answer. Our interview guide also prompted interviewers to ask probing questions.

We engaged knowledgeable stakeholders with the goal of including people from all priority stakeholders. This was a purposeful sample designed to identify the potential range of opinion and multiple perspectives. This was not a representative sample or a public opinion study. Based on our methods we cannot quantify what proportion of people in general or within any stakeholder group expressed any specific opinion or perspective. Furthermore, many stakeholders described pros and cons across various approaches and did not provide one clear answer.

Research methods used for this project were not designed to quantify stakeholder opinions. For example, we can say that some police expressed support for specific legal models. But we do not know the proportion of all police who express support for partial decriminalization or how support for partial decriminalization among police officers might compare to support among another group, such as social service providers or people with lived experience. It was not that kind of study.

The process was not designed to present findings based on specific stakeholder group or to present the “official” stance of organizations or agencies. The process was structured as fact-finding and an exploration of opinion and perspective from individuals who are in the position to have inside and expert knowledge and experience. For example, we cannot and do not make claims such as “Police think this or do not think that.” Our remit was to explore the wide diversity of opinion across a long list of priority stakeholders and accurately reflect that in the report. Where possible and appropriate we try to characterize stakeholder group perspectives among those we interviewed, acknowledging diversity of opinion within stakeholder groups and across groups.

We are careful in the report to avoid making claims beyond where our data lead. So unfortunately there are still many questions this report is not able to answer.

Findings related to potential legal changes are opinions and speculation of what stakeholders believe *could or might happen*. No one can actually know what will happen if Minnesota makes changes to laws, service provision, or approach related to transactional sex among adults. However, stakeholder discussion of the current system, laws and approach is based on experience. For example, the experiences of harm described by people with lived experience within our current system of criminalization are real not speculative. In the report, we try to be very clear when we are reporting on stakeholder opinion compared to stakeholder experience.

Finally, the report has benefited greatly from input, review, critique, and editing of many stakeholders. We believe that engaging many voices and perspectives in the iterative drafting of this report has made it stronger and clearer. Any inaccuracies or errors in this report are solely the responsibility of the report authors.

Section Two:

FINDINGS



SAFE HARBOR FOR ALL

Section Two: Findings

This section shares the heart of our work, providing context, background, depth, and content that supports recommendations provided in Section Three.

The MDH request for proposals required four key elements to include in the strategic planning process: (1) criminal liability related to prostitution; (2) access to prevention and intervention services; (3) unintended consequences; and (4) intersections with other forms of oppression.³⁴ The findings cover all four elements as well as additional topics that were discussed by stakeholders.

Stakeholders shared many opinions, ideas and perceptions about how they think Minnesota should respond to adult victims and survivors of sexual exploitation and trafficking, including legal and conceptual frameworks related to transactional sex. As in any sound research study, our findings were not necessarily what was expected. It is critical to present the depth and breadth of findings – even and especially uncomfortable or unexpected information – to make sure policy, practice, funding, paradigms and legislative agendas are deeply grounded in and informed by stakeholders on the ground.

This section begins by exploring findings related to intersections between transactional sex, stigma, and other forms of oppression as requested in the MDH RFP.³⁵ Many participants, particularly those with lived experience, believe that the State’s response should be grounded in an understanding of the complex ways harms and experiences in transactional sex are shaped by broader intersectional oppressions such as racism, slavery, genocide, sexism, gender discrimination, heterosexism, poverty, and anti-immigration sentiments.

Then the next five sub-sections describe findings related to stakeholder experiences and opinions about criminal liability for prostitution. This includes the harms of criminalization to people with lived experience, opinions about policy alternatives related to criminal liabilities, criminal liabilities for purchasing sex and sex trafficking, and suggested modifications to current practices related to criminal liability.

Finally, the section concludes with detailed exploration of considerations for implementing prevention and intervention services and supports. Participants provided detailed information about approach and philosophy, necessary services and supports, the potential role of police, and prevention opportunities.

STIGMA, HARMS, AND OPPRESSION

Many stakeholders expressed concern that the State’s approach to Safe Harbor for All may not do enough to address the underlying oppression and inequity that drive exploitation within the transactional sex market. Particularly participants with lived experience expressed the opinion that the State’s approach should address transactional sex itself, broadly conceived. Participants described stigma and many harms associated with transactional sex as well as the complex ways that experiences in transactional sex are interwoven with different systemic oppressions, discrimination, poverty, and marginalization. These were strong themes among people with lived experience, as well as some service providers and criminal justice personnel.

³⁴The legislation and MDH RFP required that the strategic plan provide recommendations to specifically address 4 areas: (1) Relevant criminal issues, including (1a) criminal liability for individuals engaging in prostitution; and (1b) criminal liability for individuals purchasing commercial sex. (2) Availability and access to prevention and intervention services for adult victims of sexual exploitation and trafficking. (3) Thorough analysis of unintended consequences of any policy or legislative recommendation. (4) Intersections with oppressions related to race, class, sex, sexual orientation, gender, immigration status, and more. Additional themes included in this report were initiated by stakeholder concern/interest.

³⁵ MDH RFP, p. 5.

Stigma and Negative Stereotypes

Social stigma against people with lived experience causes many harms related to safety, health, dignity and justice. Stigma drives discrimination, negative stereotypes, harmful assumptions, lack of support, active hostility, and violence.³⁶ Stakeholders with lived experience described widespread stigma and discrimination related their involvement in transactional sex. This was true for victims and survivors of trafficking and commercial sexual exploitation as well as independent providers and sex workers. Stigma impacts the quality and delivery of social services, law enforcement responses, and societal concern and investment in the issue. Many stakeholders believe that stigma, while reinforced by criminalization, should be considered as a separate issue to be addressed within the State's response.

We will discuss stigmatization of people with lived experience and its impacts in numerous sections throughout this report. However, it was such a strong theme among participants that it warranted a separate section. People with lived experience described being treated badly or denied services because of their involvement in transactional sex. This includes housing, employment, medical and mental health services among other things.

"It's humiliating. People look down, as soon as you see prostitution, people look down on you. If you're an employer and somebody's trying to get a job as a waitress, and you have a criminal charge, and it says prostitution on there, you don't want to hire me. Even though they're not supposed to take those types of things into account unless it's work related, like theft, that still puts a mark in their brain. There goes a prostitute. I hate the word prostitute... it is so degrading." – Participant 33, lived experience, Metro area

"Socially speaking, just being known as somebody who's a whore or a "ho" or who sells sex or is a bad mother, is literally losing social capital. Being judged by the police differently, judged by landlords or anybody differently." - Participant 73, advocate, Metro area

Stigma was identified as a significant barrier to accessing appropriate prevention and intervention services across Minnesota and especially in small town and rural areas.

"Another thing that's tough to get beyond in our small towns, even if you have a clean record, is reputation. People still won't hire you or let you live there because people just know, even if you don't have a record. And because there's only four or five landlords that own all the rental houses, they talk. So that's a thing that larger towns might not necessarily deal with." – Participants 144 and 145, advocates, lived experience, Southwest MN

Stakeholders also described how the general public's negative stereotypes of people with lived experience shapes a hostile and dehumanizing social context. This leads to people with lived experience to fear being "outed" and thereafter shamed or shunned by family, friends, and others.

"I have a big fear of being outted in my day job. I am part of [a] queer art community. Stigma against sex workers is deeply entrenched and affects every part of how I move through the world

³⁶ See for example Lerum, K., & Saunders, P., et al. (2011); Deering, K. N. & Amin, A. et al. (2014); Lyons, T. & Krüsi, A., et al. (2017); Weitzer, R. (2018).

from dating to housing, job, if I can work with children.” – Participant 9, lived experience, Metro area

“To try to explain your lifestyle to someone who’s never been in the lifestyle, you’re looked at as dirty, as someone not worth it.” - Participant 115, lived experience, Metro area

“[...] but it is the societal perception of these women. [...] They are not safe, they are targeted, abused and even if they go through all the programming in the world, people are still going to call them a whore and I don’t know how to change that, I really don’t. It is part of the shame cycle that they are in is perpetuated by everything they see in their life and how they are treated by everybody.” - Participant 60, prosecutor, Metro area

Stigma and judgement were described as driving people with lived experience further into the shadows or underground, thus curtailing help-seeking for fear of judgment and repercussions.

“If she wants an order of protection for domestic violence, she doesn’t want it on her court record that she said yes to that question [involved in prostitution]. [...] That makes victims less likely to come forward.” – Participants 134 and 135, advocates, Northeast MN

Stakeholders also noted that people who provide sex are subjected to far more social stigma than people who purchase sex.

“I think, in society that we were raised with is if men purchased prostitution, oh maybe it’s kind of funny. Maybe it’s kind of dirty. But, you know, whatever it’s just a guy doing that. For a woman to be a prostitute, it’s extremely horrible. She’s gonna get arrested. She’s horrible, she’s dirty, she’s diseased.” – Participant 68, judge, Metro area

Some participants viewed widespread social stigma against people with lived experience as a direct cause of violence committed by sex buyers. Since society often judges people with lived experience as “bad” or immoral, some sex buyers commit violence, acting out of hate and judgement. Societal hierarchies based on skin color, gender identity, class, and belonging to an immigrant community can impact how sex buyers treat the person providing sex.³⁷ This is especially pronounced in violence against trans people of color with lived experience.³⁸ Further, stigma shapes our societal response to violence against people with lived experience through the creation of policies and practices, and how they are implemented (or not).³⁹ As discussed throughout this report, crimes committed against people with lived experience are often not taken seriously or addressed, thus denying access to safety and justice.

“Clients know they can turn on sex workers due to the stigma.” - Focus group 8, lived experience and advocates, Northeast MN

³⁷ See for example Deering, K. N., & Amin, A., et al. (2014).; Anderson, B. & O’Connell Davidson, J. (2003).; and Martin, L., & Melander, C. et al. (2017).

³⁸ See for example Nemoto, T., Bödeker, B., & Iwamoto, M. (2011).

³⁹ See for example Scoular, J., & Sanders, T. (2010).; Munro, V., & Della Giusta, M. (2008).; and Bergquist, K. J. S. (2015).

“You can’t report when things go down because you worried about the stigma of other people finding it out. The court might not take you seriously [...] you asked for it.” – Participant 41, lived experience, Metro area

Harms Associated with Transactional Sex

Stakeholders from across Minnesota described harms associated with involvement in transactional sex, particularly sex trafficking and commercial sexual exploitation. Harms described by stakeholder included violence, threats of violence, manipulation, coercion, sexual assault, infertility, long-term health consequences, forced abortions, losing custody of children, mental health challenges, drug addictions, kidnapping, loss of freedom, murder and attempted murder, and so much more.⁴⁰ Harm is caused by sex buyers⁴¹ and sex traffickers,⁴² although it is unclear how many people involved in transactional sex are manipulated or coerced by a trafficker.⁴³

“Even if there’s no man present at that time you’ve had an abusive person in your life, often before you were even 18. Hurting you, telling you you’re worthless. You start to believe it. There’s people, well you know my best friend, her dad was a pimp and her mom was a sex worker and now she’s struggled with doing sex work her whole life. She’ll go periods where she doesn’t but then she gets back into it and she’s kind of resigned herself to that. I think that self-esteem is a huge problem. Self-love, self care. Substance abuse, I didn’t start using drugs until I was doing sex work because I needed something to be able to perform. Because it’s just you don’t want people, I do agree with [non-profit] that it feels like paid rape. Even if you say, “Okay I’m going to go do this to get money.” The body reacts. The body doesn’t consent, even if you need the money.” – Participant 163, public health professional, lived experience, Metro area

“Takes an emotional toll being out there, one point and time I was just a piece of meat with no voice and something for you to use up. They think they can just have your way with you. Now to respect myself is to stay out of that life and stay clean.” - Participant 5, lived experience, Metro area

Some segments of the market have been found consistently to be more violent and dangerous to people with lived experience, such as street-based transactional sex and survival sex, whereas “indoor prostitution” may involve less violence.⁴⁴ Research suggests that sex buyers’ behaviors and participation in these market segments are intertwined with their perceptions of the “value” of the person in those markets.⁴⁵ Thus, xenophobia, transphobia, racism, and prejudice impact the harms within transactional sex. In addition, these structural oppressions impact *who* can be in these market segments in the first place. For example, stakeholders discussed how racism keeps women of color in street-based transactional sex and prevents them from accessing potentially safer market segments.

⁴⁰ See for example Williamson, C. & Cluse-Tolar, T. (2002).; and Decker, M. R., & Pearson, E., et al. (2013); Karandikar, S. & Prospero, M. (2012); Wilson, B. & Butler, L. D. (2014); Martin, L., & Lotspeich, R. (2014).; Miller, J. & Schwartz, M. D. (1995).; and Martin, L., Hearst, O., & Widome, R., (2010).

⁴¹ See for example Brewer, D., & Dudek, J., et al. (2006); Potterat, J., & Brewer, D., et al. (2004); and Krüsi, A., Chettiar, J., et al. (2012).

⁴² See for example Williamson, C., & Cluse-Tolar, T. (2002); Wilson, B. & Butler, L. D. (2014); and Raphael, J. & Ashley, J. (2008).

⁴³ See for example Dank, M., & Khan, B. (2014); Dubrawski, A. & Miller, K., et al. (2015).

⁴⁴ See for example Dalla, R., Xia, Y., & Kennedy, H. (2003).; Raphael, J., & Shapiro, D. (2004).; Milrod, C., & Weitzer, R. (2012).; Weitzer, R. (2009).; Church, S., & Henderson, M., et al. (2001).

⁴⁵ See for example Shively, M., & Kliorys, K., et al. (2012).

“But I think a white girl has a better – I’ve worked with white girls before, and white girls – like, it’s terrible to say, but they sell everywhere. You know what I’m saying? A white girl, she can sell herself anywhere. Like, it wouldn’t matter where you put her. You know what I’m saying? Because that’s just the way it is. A black girl or a mixed girl can’t sell herself everywhere the same that a white girl will.” – Participant 24, lived experience, Metro area

“No matter what [policy approach], particularly bad for people that are working on the street, or already have multiple barriers against them, younger, trans, POC, undocumented people. If you are a white cis person that works indoors you are more protected.” – Participant 11, lived experience, Metro area

Power, Poverty, and Homelessness

Stakeholders from every part of Minnesota nearly unanimously identified poverty and homelessness as push factors for involvement in transactional sex and as drivers of exploitation, violence and abuse. This was recognized by people with lived experience, police and other criminal justice personnel, and advocates and service providers. Stakeholders in rural areas of Minnesota linked involvement in transactional sex with an acute dearth of affordable housing options and resources. Stakeholder findings on housing needs are discussed below [see HOUSING]. Shelter and housing are also understood to be critical in preventing exploitation before it begins [see PREVENTION].

“Economically – housing, job training, equal pay, are essential. At the core, a lot of trafficking is economically driven from the victim’s side. Oppression is also such a massive piece of this. [...] So the philosophical stuff is harder – how do we decolonize and de-misogynize the world. We can work on it and it will take a long time. Things we can work on more immediately – give people ways of earning money that don’t involve selling sex, give them help so they don’t have to engage in survival sex. Access to job training. Those can be tackled now.” – Participant 74, advocate, Metro area

People living in poverty, precariously housed, or who are homeless face very limited options for survival, and may engage in transactional sex simply to survive, meet basic needs, and provide for their families. Survival-based sex trading is, by definition, exploitation. Many stakeholders echoed the sentiment that transactional sex is a last resort for people living in poverty. Research in other locales supports these findings about survival sex.⁴⁶

“Time and time again we see people [involved in transactional sex] who are basically at the margin, who are marginalized or who are disenfranchised. [...] So we are not really talking about some of those bigger issues but rather saying again rather opting for a more easier convenient solution for all of us, especially men and people who are really powerful and who have money to exploit the already exploited.” – Participant 149, advocate, Northeast MN.

“People will say, ‘Yeah I’ll drive you here but you have to do this.’ [...] I mean they know and they don’t have any money, it’s expensive to drive places and we’re a high poverty area, even the people with the cars don’t have a lot of resources often so it’s gonna be some kind of money and if you don’t have money it’s gonna be something else.” – Participant 160, social worker, Northwest MN

⁴⁶ See for example Dank, M., & Yahner, J., et al. (2015).

Some stakeholders with lived experience suggested that involvement in transactional sex should be seen in the context of low wage labor, gender and race-based pay gaps, lack of meaningful living-wage work, and choices and trade-offs related to flexibility and ability to get fast money.

"[Economic opportunity] is the easiest way to get people to stop engaging in this not the buyers, because you will not have a supply if you give people opportunity to make a decent living. Minnesota has huge racial disparities but even a white middle class graduate cannot afford to rent an apartment now. Our cost of living versus how much people are getting paid is bad for everyone. I know a lot of people in non-profit who have part-time jobs or engage in sex work. There are professionals doing this because they cannot earn a living another way. Young people are at risk. If you give someone an opportunity to earn a living in a different way and you make it accessible to them, there will always be someone who makes the choice anyway, but there will be people who would rather be doing something else." – Participant 79, program administrator, Metro area

Poverty and its connection to homelessness and precarious housing were identified as critical drivers of lived experience, particularly for young people aging out of the foster care system, LGBTQ youth and other young adults who are forced to engage in survival sex to meet basic needs. For many, engaging in commercial sex for survival can be circumstantial and occasional, not a regular activity.

"So specifically at risk are under resourced population, people of color, undocumented survivors, trans community, as we develop policies that we are inclusive of those groups. And to make sure our programs are accessible and low barriers. More shelters are getting on board for asking questions differently for example recognizing that survival sex is a power and control thing and recognizing that it's dangerous." – Participant 106, advocate, Southwest MN

Native American stakeholders, and many others, identified housing insecurity for women with children as particularly perilous.

"[Housing and homelessness is] such a big issue, and I think it's probably a big root of sexual abuse and exploitation. We see that when there's that many people living under one roof or resorting to survival sex or selling their teenagers or their kids just for a place to stay. I think that's a significant issue both on the reservation and off." – Participant 153, tribal social services, Greater MN

Race, Gender, and Gender Identity

Many stakeholders, particularly people with lived experience and advocates, described transactional sex as related to male entitlement, ownership, and objectification of women, indigenous people and people of color.

"If we lived in a different world, we didn't have rampant world history of misogyny, horrific abuse of humans, racism, classism, owning other humans, it would be much more of the "it's my body, I have the ability to use it in whatever way I want, including profit" but I don't think we're there as a society given our history and reality. I would say talk to me after we haven't had all these genocides. I would like to think in a different world maybe we could have buyers not stigmatized or subject to penalty. At this point, don't try to buy other human beings or little kids, or have some kind of different power differential in our society." – Participant 133, attorney, Northeast MN

Stakeholders described large power and privilege imbalances between sex buyers and people with lived experience that shape the ways sex buyers are involved in transactional sex. Those imbalances give sex buyers the power to take advantage of people with lived experience and to commit acts of sexual and physical violence, often with little risk to themselves. Stakeholders believe that many sex buyers are fully cognizant and aware that they are exploiting the many vulnerabilities of people with lived experience. This was described as especially prevalent for black, brown and indigenous women and also for trans women of color.

“Queer POC [people of color] selling sex are always at lower power than clients—even more marginalized. Our bodies are fetishized, seen as disposable. I would have to do more to get someone to take the risk. Just doubly or triply so for someone queer POC.” - Participant 9, lived experience, Metro area

“What I am hearing from my clients, is the amount of violence has been increasing just within the 4 years I have been doing this and I think it does have a little bit to do with the fact that these are people of color. They don't look like the buyer's daughter. Because of that, they can ask for or demand things from this young girl but not women. They can ask for things or demand things that they can't get from home.” – Participant 89, advocate, Metro area

Research and practice shows that black, brown and indigenous women in Minnesota are over-represented with lived experience in transactional sex and trafficking, while white men make up majority of people buying sex in Minnesota.⁴⁷ Many stakeholders named transactional sex itself as a form of systemic exploitation inherently based on race and gender.

“Time again and again we see the majority of the buyers are men, the majority of the buyers come from middle income bracket. Many of them white men, so it's again a very deeper issue that we tend to, not to dig. Again because it becomes very overwhelming because then we have to start talking about racism, entitlement, men's entitlement, discrimination, all of these things. These are some of the things we don't want to discuss as openly as we should.” - Participant 149, advocate, Northeast MN

“Oppression is also such a massive piece of this. Gender oppression is the biggest way we see this, with people who don't fit into the gender paradigm like transgender folks really experience oppression even more. People of color, Native American folks especially. We know johns are sometimes looking for certain races and people of color are sought out as ‘exotic.’” - Participant 74, advocate, Metro area

“I don't know what it is to be a white woman and an escort, and how that connects with her roots, but for me, to be an indigenous women, there are so many missing murdered and native and indigenous women, the rates are higher, it's higher for native women.” – Participants 168 and 169, lived experience, Metro area

Black, brown, and indigenous survivors additionally described widespread normalization of abuse, disposability, sexual commodification, and intergenerational prostitution as drivers of exploitation in transactional sex that need to be addressed and healed. This should be seen in the broader context of many structural factors related to generational poverty.

⁴⁷ See for example Martin, L., & Melander, C. et al. (2017).; Schauben, L., & Atella, J., et al. (2017).; and Farley, M., & Matthews, N., et al. (2011).

"I don't know a time when I've not known about the issue, it wasn't like a, it ebbs into my life and my personal experience, the first stories of my family have to do with sex trafficking and those kinds of things, there's never been a time I've not been aware of it." - Participants 137, 138 & 139, tribal social services, lived experience, Greater MN

"I'm a woman, I'm African American, I'm from the hood. I wasn't born in suburbia. The idea that everybody's experiences is different -- It's universal for a black woman coming from where I came from—this experience is basically universal, nothing is always, but a lot of us have the same experience, it's just rough. A lot of white girls had it easier than I had it even though we were doing the same thing, that's just the way it was." – Participant 20, lived experience, Central MN

"Some of them it's generational. It's how their mom made a living. We had one woman who it's all she knew. She said, 'My mom did it, my aunts did it.' It's very normalized in our community, and we see it in many different aspects. What scares me is within our community members with some Native women, I see women posting on social media that they're proud of this, and how much money they're making." - Participant 153, tribal social services, Greater MN

"What they [the general public] see is survivors of human trafficking are white women, are wealthier women, and so so much of Native women when they do roundups are never seen as people who need help, they're just seen as rezzie, dirty criminals." - Participants 137, 138 & 139, tribal social services, lived experience, Greater MN

Several stakeholders talked at length about specific barriers faced by transgender people, and especially for trans people of color. **The transgender community faces high levels of violence and discrimination from police, sex buyers, and society at large.**⁴⁸ These barriers can lead people to trade or sell sex because of discrimination, homelessness, and poverty.

"You see women of color and trans folks and LGBTQ that are having to do this at higher rates. Whether they think they're doing it because 'I want to do it' or because something is forced on them but it's really a choiceless choice. We're like, hey, you can be anything you want in the world and there may be a couple people who are like, 'I want to suck dicks all the time,' but most people would choose something else in my opinion." - Participant 74, advocate, Metro area

Colonization and Enslavement Legacies

Historical and ongoing trauma, in addition to poverty and racism, were described as drivers for the disproportionately large percentage of people of color and indigenous people involved in transactional sex. Stakeholders with ties to communities of color and indigenous communities named genocide of indigenous peoples and historical chattel slavery of African Americans and continuing practices of colonization and commodification of Black and Indigenous people (specifically women and two-spirit) as roots of the current manifestation of the transactional sex market.

"There's also historical reality of how buying and selling Native women has been a thing since colonization started, it's been a tool to get control of the people in the lands so the fact that it's still happening today is just a continuation of something that has been happening in this community for

⁴⁸ See for example Grant, J. M., & Mottet, L., et al. (2011).; Nuttbrock, L. (2018).; and Nemoto, T., Bödeker, B., & Iwamoto, M. (2011).

two or three hundred years. In some ways it's normalized to the point that people are wouldn't call it maybe trafficking or prostitution. It's just this thing that happens." - Participant 117, tribal criminal justice personnel, Greater MN

"[...] people of color and American-Indian people have long histories of being viewed as an item and not a person when you look at slavery, when you look at mass genocide of American-Indian people and I don't see how you can't see that when you're talking about this if you are looking at it through that lens." – Participant 101, public health professional, Metro area

Stakeholders, particularly those with lived experience, described how sex buyers' mistreatment, violence and degradation of black, brown and indigenous people with lived experience in the marketplace is an extension of rape, and violence committed as part of enslavement and colonization.⁴⁹

"The use of rape and violence during slavery and colonization is central to today's trafficking epidemic. People of color and indigenous people get paid less for sex work, which makes them devalued in most things through disparities in Minnesota even in sex work." – Participant 46, social worker, Metro area

"All the stereotypes about savage Indians and Indian girls, won't go away because of the model. If they are not arrested for that, they might end up in the system for drugs and other things. Some of these things have gone on for generations in families." - Participants 118 and 119, tribal social services, Greater MN

"And it's intergenerational [transactional sex], their grandma and mom. That might be the reality of the racist system in the community. It's really hard to get a job here if you're Native, to pay you enough to get a decent apartment and put food on the table and those kinds of things." - Participants 137, 138 & 139, tribal social services, lived experience, Greater MN

Indigenous stakeholders identified connections between transactional sex, sex trafficking and high rates of unsolved cases of missing and murdered indigenous women.

"I would like to bring up a really prominent case with a woman who went missing from the reservation. They found that she had bled to death in a bathtub, and it turned out that the trucker who was, she was selling her services to him, had gotten really rough with her and she started to bleed a little bit, and he was like, oh, that's unfortunate, and knew that she died and left. And he was not tried with the murder of that woman." – Participant 36, lived experience, Metro area

Native women were described as both victimized at higher rates and simultaneously ignored by law enforcement.

Immigrant and Refugee Communities

Stakeholders reported complex dynamics facing immigrant and refugee communities with lived experience. Lack of immigration status and employment authorization, fear of detention and deportation, language and

⁴⁹ See also Pierce, A. (2009); Farley, M., & Matthews, N., et al. (2011).; Smith, A. (2005).; Butler, C. (2015).; Farley, M., Lynne, J., & Cotton, A. (2005, June 1).; and Nelson, V. (1993); Carter, V. & Giobbe, E. (1999); and Ocen, P. (2015).

cultural barriers, and fear for safety of family members back home all impede help-seeking from victims of trafficking and other people with lived experience. These dynamics affect undocumented people, documented immigrants and refugees, and U.S. citizens who are part of immigrant or refugee cultural communities.

“So from like an immigrant standpoint, if I came here as a refugee or an immigrant and English is my second-language or I didn't even know English that well, it's easy for the perpetrator to manipulate that situation. To say your status in this country is going to be jeopardized. If law enforcement is coming to help, they could interpret inaccurate information.” - Participant 84, public health professional, Metro area

Stakeholders identified barriers to living-wage employment for immigrant communities. Work options for people who are undocumented are limited and often under-the-table, creating conditions ripe for labor exploitation and sexual exploitation. Lack of English language proficiency can also create barriers to employment. Stakeholders described these factors as structural barriers that can push people into trafficking and transactional sex, especially for those who struggle to provide income for their families in the United States or in their home countries.

“These women had come here voluntarily. There's a market here to earn US dollars, which is very valuable. They want to provide for their family and want to provide a better life for their children.” - Participant 167, advocate, Metro area

United States Federal laws have provisions for a temporary visa for trafficking victims to participate in legal proceedings against a trafficker (known as the T Visa).⁵⁰ But stakeholders identified many challenges to using this Visa, making it not widely used. For example, the T Visa does not allay fears of deportation and harm to family members. In international trafficking cases, victims often fear for their family members' safety back in their home country and worry that much needed income will be lost or additional financial hardships will be placed on family members.

“That they won't speak up because they don't want to get deported. Or they bring them here and tell them, we're just going to call immigration.” - Participant 15, lived experience, Metro area

“Those are tough cases and those women are so vulnerable and I think that almost every one we've had they've had children back in China, so their families are being threatened too.” - Participant 110, advocate, Southeast MN

All people with lived experience who are not United States citizens, including trafficking victims, face immigration consequences even if they are legally present in the United States as a permanent resident, refugee, visitor or other temporary status. Under federal immigration law, anyone who “is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, admission, or adjustment of status” is “inadmissible” to

⁵⁰ 8 U.S.C. § 1101(a)(15)(T) (2018). According to the U.S. Citizenship and Immigration Service, “T nonimmigrant status is a temporary immigration benefit that enables certain victims of a severe form of human trafficking to remain in the United States for up to 4 years if they have assisted law enforcement in an investigation or prosecution of human trafficking. T nonimmigrant status is also available for certain qualifying family members of trafficking victims. T nonimmigrants are eligible for employment authorization and certain federal and state benefits and services. T nonimmigrants who qualify may also be able to adjust their status and become lawful permanent residents (obtain a Greed Card).”

the United States⁵¹ and is defined as lacking “good moral character.”⁵² A criminal conviction is not required to trigger these consequences.⁵³ For those convicted⁵⁴ of a prostitution crime, the offense remains a “conviction” for immigration purposes even if expunged.⁵⁵

“Immigration status is used against people and has been used and abused by those in power. If the criminal consequence isn’t there, there are still the immigration issues, and there is removal based on prostitution conduct, so even without conviction. And that’s a federal issue and Minnesota can’t really fix that.” - Participant 43, attorney, Metro area

For people who enter the United States on tourist visas, any employment violates the conditions of their immigration status, which can be used to arrest and detain the victims even if no criminal charges are filed.

“Then we’re dealing with DHS [Department of Homeland Security], and their approach with foreign nationals is to arrest the girls because it violates their employment status, and the visa they received when they entered the U.S. Then they have latitude to take the girls back and keep the traffickers from just moving them around continually.” - Focus group 10, law enforcement, Metro area

Stakeholders noted that, for undocumented persons, any contact with the criminal justice system is likely to bring them into contact with federal immigration authorities and result in deportation, even if there is no charge or conviction.

“Most immigrant women are concerned that they will be flagged at immigration if there has been an arrest. If instead of arresting them or even if they do, send them to a victim’s advocate or have one with you, especially if they don’t speak the language! If you are not thinking of them as criminals, why are you sending them to jail?” - Participant 39, social worker, lived experience, Metro area

“If there’s a conviction now, even low level offenses can be the basis for deportation depending on the nature of the offense, and it wouldn’t surprise me if prostitution were one of those. [...] Also, just coming into the jail if you’re undocumented, ICE [Immigration and Customs Enforcement] is more likely to find out that you’re undocumented.” - Participant 69, judge, Metro area

Several stakeholders reported recent upticks in numbers of Asian women being trafficked into Minnesota. Stakeholders noted these situations were complicated by debt bondage, isolation, transience and threats against family members in the home country.

⁵¹ 8 U.S.C. § 1182(a)(2)(D) (2018).

⁵² 8 U.S.C. § 1101(f)(3) (2018) and 8 U.S.C. § 1182(a)(2)(D) (2018). The Board of Immigration Appeals (BIA) has held that to “engage in” prostitution, one must have engaged in a regular pattern of behavior or conduct. *See Matter of T*, 6 I&N Dec. 474 (BIA 1955).

⁵³ *See* 8 U.S.C. § 1182(a)(2)(D) (2018) and 8 C.F.R. § 316.10(b)(vii) (2017).

⁵⁴ *See* INA 101(a)(48)(A). A “conviction” for immigration purposes means a formal judgment of guilt entered by the court. A conviction for immigration purposes also exists in cases where the adjudication of guilt is withheld if the following conditions are met: A judge or jury has found the alien guilty or the alien entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt; and the judge has ordered some form of punishment, penalty, or imposed a restraint on the alien’s liberty.

⁵⁵ *See also In re Roldan-Santoyo*, 22 I&N Dec. 512 (BIA 1999) (holding that a state court action to “expunge, dismiss, cancel, vacate, discharge, or otherwise remove a guilty plea or other record of guilt or conviction by operation of a state rehabilitative statute” has no effect on removing the underlying conviction for immigration purposes).

“The debt bondage is so significant, they are not able to work with us. They are petrified of the consequences of their traffickers that are outside the state. They will not cooperate, and they just want to get out of there and go to wherever.” - Focus group 10, law enforcement, Metro area

“What really worried me about the massage parlors – because those women are like kind of the ‘classic’ worst case scenario of trafficking victims that we’ve seen. They get brought over here for a promise of a job or something and then they just immediately get funneled into these massage parlors.” - Participant 110, advocate, Southeast MN

Some stakeholders also noted that members of refugee and immigrant communities may face barriers to protection or services unrelated to their immigration status. Stakeholders cited racial disparities in arrests, language barriers, lack of transportation, and insufficient implementation of community-based approaches to working with refugees and immigrants engaged in transactional sex.

“I don’t want to insult the law enforcement, I’ve seen a change in how they’re doing things, more awareness of different ethnicities, more compassion, but at the same time...I’m always after the raid, I’ve never seen it happen, but even for women who want a trafficking visa, identifying as trafficked, law enforcement needs to get involved. They need a continued presence filing. During that time, this woman is being interrogated by mainstream policemen, a tiny Chinese woman 4’ 11” interviewed by 6’ 2” men asking intimate details, it’s bad, she won’t say anything, she’s afraid. They’re trained that you don’t talk about these things in front of men, I had to stop that interview.” - Participant 39, social worker, lived experience, Metro area

“Because when we talk about police behavior it varies drastically, and rural to urban as well. But an ideal situation is that everyone is trained on this cultural piece and approach, with the presence of interpreting services. Even when the foreign national speaks adequate English, there should still be interpreting service. One word missing can be crucial. There needs to be more funding for interpreting services. There are strategic languages that authorities use, but talking with police can feel intimidating and people need to use the language that they’re most comfortable with. And training with interpreting services and cultural communication. Interpreter should be able to communicate about cultural communication.” – Participant 167, advocate, Metro area

HARMS OF CRIMINALIZATION TO PEOPLE WHO TRADE/SELL SEX

There was near unanimity of opinion among all stakeholder groups across Minnesota that **arresting people with lived experience actually decreases safety, harms health, strips people of dignity, and stymies justice** for victims of trafficking and exploitation.⁵⁶

Criminalizing prostitution harms victims and survivors of sexual exploitation and trafficking as well as independent providers and sex workers through long-term negative consequences of criminal records and decreases safety in the transactional sex marketplace. In addition to the harms of criminalization of prostitution in particular, people with lived experience face criminalization through other inter-related charges. Some stakeholders also described harmful interactions with law enforcement. People involved in transactional sex are unlikely to report crime victimization or participate in criminal investigations and proceedings due to fear of arrest or being arrested.

⁵⁶ See for example Dewey, S., & Zheng, T., et al. (2016).; Krüsi, A., & Kerr, T., et al. (2016).; and Lutnick, A., (2016).

Findings from this section helped to inform many of the recommendations in Section Three including Recommendations #3-#5, #7, and #16-#18.

Prostitution Arrest Precipitates Harm

Nearly all stakeholders described significant, long-lasting and damaging harms of criminalization to all people with lived experience. **Prostitution charges are stigmatizing and can cause negative, long-term, discriminatory effects on people with lived experience.** An arrest and charge for prostitution is deeply shameful and stigmatizing [see STIGMA].

“I have a hard time with housing and employment because of my record, my prostitution charge. Especially the charge it is, it’s embarrassing I went to court and had to deal with this. It was embarrassing and I felt a lot of shame hearing about things in the courtroom.” - Participant 5, lived experience, Metro area

Many people with lived experience described an arrest as feeling like a societal “moral judgement” that is particularly damaging when the person is a victim of trafficking and exploitation.

“I think the police are a punitive presence. If you get the police into a place where somebody is both a victim but also a perpetrator of something that they perceive as a crime, they’re going to lean towards pressing charges on this person rather than extending compassion to this person. I would really like to see services offered to sex workers not be provided in any way by police.” – Person with lived experience, Metro

According to many with lived experience, the arrest procedures themselves are often humiliating and embarrassing, making people feel like a criminal even when they are in fact a victim of trafficking [see ROLE OF POLICE]. The negative impact of a criminal arrest, charge, or conviction for selling sex is long-lasting, even after people have made changes in their lives. Stakeholders described Minnesota’s expungement process as difficult to navigate. They also noted that post-conviction relief to vacate convictions is extremely narrow, resulting in criminal records remaining with individuals indefinitely [see EXPUNGEMENT AND VACATUR].

A criminal record for prostitution **bars people from housing and employment.** Again this was a nearly unanimous consensus across stakeholder groups. Many landlords, public housing, and transitional housing will not rent or provide housing to people with a prostitution record. Many jobs that could be skill appropriate, with living wage hourly pay and benefits are not available to people with a criminal record, specifically prostitution, such as childcare, healthcare, social work, criminal justice, hotels and hospitality, and some retail positions. The criminal record blocks recovery and exit from transactional sex and sex trafficking, locking people in a cycle of involvement and exploitation. It also **opens the door to discrimination, harassment and abuse from landlords and employers** who can use the charge to solicit sex or commit labor exploitation [see HOUSING and EMPLOYMENT].

“When they’re arrested for something that wasn’t their choice, and even if it was their choice, it affects them seriously. It goes on their record so they can’t be hired, they can’t work with children, even in our programs we can’t hire them because when we background check them, their record comes up, so that’s really negatively impactful.” – Participant 65, social worker, Central MN

Additionally, many women **lose custody of their children** or have open child protection cases as a result of prostitution charges [see CHILD PROTECTION].

“Some of us have lost jobs because we got caught in sting. Some of us can’t get jobs because we got caught in a sting 20 years ago and some of us lose our children.” - Participant 3, lived experience, Metro area

Stakeholders were clear they believe the harms of criminalization impact all people with lived experience, but have a greater impact on communities that are subject to higher levels of criminalization overall, such as indigenous people, African American communities, new immigrants, the LGBTQ community (specifically trans people), and people living in poverty [see RACE, GENDER, AND GENDER IDENTITY]. Individuals from these communities bear a disproportional impact of criminalization of prostitution because they are over-represented in involvement in transactional sex and trafficking due to intersectional oppressions and poverty, and disproportional and disparate involvement of law enforcement in their communities in general.⁵⁷

Criminalization via Other Related Laws

Stakeholders from across Minnesota reported that the negative effects of criminalization are not limited to the law prohibiting the sale of sex.⁵⁸ In some cases involvement in these crimes may be directly related to the person’s victimization.

People involved in transactional sex are criminalized beyond the specific prohibition on sale of sex. Stakeholders identified many laws associated with prostitution, including loitering with intent, geographic restrictions, and enhancements (such as near a school or park).⁵⁹ Some stakeholders with lived experience in street-based prostitution perceived that they were subject to broad “probable cause” stops: once they had been arrested in an area, they were often stopped and searched whenever they were walking in that neighborhood. It leads to stigmatizing and targeting individuals in ways that leave them open for additional arrests.

People engaged in transactional sex are often arrested for poverty-related crimes such as loitering, petty theft (shoplifting, pick pocketing, etc.), or disorderly behavior in public.⁶⁰ Inability to pay fines can result in outstanding arrest warrants and contribute to a cycle of poverty.⁶¹ People with lived experience may also be involved in other aspects of the underground economy due to lack of jobs or force or coercion, such as drug dealing, mail theft, and check fraud.⁶² Stakeholders also described other charges, such as assault charges for self-defensive action, theft for robbing a sex buyer, and driving without a license.

Stakeholders described significant co-occurring drug use among people with lived experience sometimes leading to arrest for possession of drug paraphernalia and/or drugs, drug distribution, and driving under the influence [see SERVICES AND SUPPORTS].

“But I’m more concerned about arrests [of people with lived experience] for theft and drugs. Because often, it goes right with the lifestyle. And they’re addicted, or they’ve been – they’ve been made to be addicted because they’ve been fed drugs by somebody – a trafficker. And they’ve been

⁵⁷ See for example Alexander, M. (2010).; Musto, J. (2013).

⁵⁸ Minn. Stat. § 609.324, subdivisions 6 and 7 (2017).

⁵⁹ In addition to Minn. Stat. § 609.324, subdivisions 6 and 7, which prohibit engaging in prostitution “while acting as a prostitute,” Minnesota law prohibits the following: Minn. Stat. § 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); Minn. Stat. § 609.3243 (loitering with intent to participate in prostitution); § 609.33 (operating a disorderly house); and Minn. Stat. § 609.34 (fornication, defined as sexual intercourse between any man and single woman).

⁶⁰ Minneapolis and Saint Paul city ordinances prohibit loitering, indecent conduct, and operating disorderly houses. Minneapolis Code of Ordinances, Chap. 385; Saint Paul Code of Ordinances, Chapters 271, 272.

⁶¹ See for example U.S. Commission on Civil Rights (2017).

⁶² See Minn. Stat. 609.52 et seq; and Minn. Stat. § 152.01 et seq.

forced to boost clothes – steal clothing, and they’ve been forced to do these things by their controllers.” - Participant 16, lived experience, Metro area

“But, I guess going back to the other point that I made about how, you know sometimes the justification of charging the seller is that it helps them in the long run. There’s plenty of other things that they can be charged with if that’s the intent. I mean, they can be charged with possession of hypodermic needles. They could be charged with possessions of drugs. So, I don’t think we’re gonna have all these uncharged people, not to mention the fact that they would just be going into jail for a short while and then back out anyway.” – Participant 68, judge, Metro area

For some, drug use is a way to cope with transactional sex; for others transactional sex is a way to obtain drugs. Participants described many instances of how people involved in street-based prostitution were used by police as informants related to street-based drug trading. Participants, particularly those with lived experience, believe this can lead to police entrapment and arrest on drug charges. Felony level drug-related charges carry stiffer penalties and prison time compared to misdemeanor and gross misdemeanor prostitution-related offenses. These crimes typically carry long-term collateral consequences.⁶³

“I got my GED in prison. Now I have my Bachelor’s and Masters’ but that doesn’t help me. I’m a 5 time convicted felon, and no one wants to hire me. I’m now an advocate at a shelter. I couldn’t get a job except for the laundry mat, the Subway, and the gas station.” - Participant 151, lived experience, Central MN

According to stakeholders, people with lived experience (both trafficking victims and independent workers) can be subjected to criminalization under statutes related to sex trafficking for providing help to friends, family members and other engaging in transactional sex – even if this help is meant to be supportive (i.e. helping post ads, sharing clients, providing rides, offering protection, and other forms of cooperation meant to increase safety).⁶⁴ Trafficking victims are often compelled by their trafficker to perform these tasks. The so-called “bottom bitch” as well as peer recruiters were highlighted as particularly vulnerable to trafficking prosecution. Some have to register as sex offenders.

“The feds kicked down our door and we were both charged. They didn’t know how to handle the situation. I wasn’t a victim, I was a perpetrator. They took my kids and I had to fight to get them back. I was charged with promotion of prostitution of a minor because of my site. My felony dropped to a misdemeanor. I had to be registered as a sexual offender, but I was able to get it taken mostly off of my record. I was only on it for four years, but it felt like a really long time.” -Participant 140, lived experience, Northeast MN

“Coercion is still being fleshed out as a concept, but most people in prostitution are paying a dollar to someone else so there is coercion. The criminal justice system sometimes uses criminalization as a way to get people to testify as witnesses so some may want to keep that to encourage witnesses. And we need to figure out who is a victim and who is an accomplice because there are girls who are in charge of other girls. There’s a hierarchy, but where do we draw the line are they complicit or also victims? Where is the line? And there is a point where you cross a line and hurt people and that

⁶³ See, e.g. Minn. Stat. § 256D.024 and Minn. Stat. § 609B.425 (rendering persons convicted of a drug offense ineligible for general assistance or Supplemental Security Income for five years after the discharge of their sentence).

⁶⁴ See for example Bruckert, C., & Law, T. (2013).

is a situation that needs to be sorted out and look at their history in deciding.” – Participant 43, attorney, Metro area

Many trafficking victims engage in illegal activities so that they can pay a quota to their trafficker, yet avoid participation in transactional sex or escape violence from a trafficker. Trafficking victims can be forced to engage in other illegal activity as part of the trafficking operation. If they can raise money in ways other than transactional sex, they will not have to trade sex or be beaten. This was described by some as a form of self-preservation.

“There’s a whole heap of other charges, check forgeries, fraud, stealing, so many other things you have to do to survive when you’re in the life.” - Participant 20, lived experience, Central MN

“When somebody is forced to bring back money to their trafficker, if they can go out and steal it so they don’t have to do that sex act, they would much rather do that, so the amount of theft and check forgery and fraud and credit card, we’re seeing that a lot.” - Focus group 4, law enforcement, Central MN

“Living in that life, your actions governed by a trafficker, it’s not just sex. They find out that a prostitute is smart, and they force them into check fraud, theft from the buyers, and everything and anything to fulfill their quotas. If we’re trying to decriminalize prostitution offenses, then we’d be missing all of the other issues that come with that life. Poverty is the big part of the issue.” - Participant 151, lived experience, Central MN

Minnesota law imposes penalties aside from fines, imprisonment, or restitution on persons convicted of certain crimes, referred to as collateral consequences or sanctions. These may include disqualification for certain jobs or professions, deprivation of certain civil rights, and ineligibility from receiving public assistance.⁶⁵ While misdemeanor prostitution convictions under § 609.324, subdivisions 6 and 7, carry few collateral sanctions, convictions for other crimes, particularly drug offenses, may create significant barriers to economic stability.⁶⁶ Changes in prostitution laws may not fully address the problems of housing and employment that come with a criminal record, since many people involved in prostitution also have co-occurring issues related to drug use, poverty, and violence.

Criminalization Decreases Safety in Sex Industry

According to stakeholders and scholarly research, criminalization of prostitution creates significant safety concerns and risks for people with lived experience.⁶⁷ Criminalization makes it **nearly impossible for people to report abuses** within transactional sex from traffickers and sex buyers without fear of arrest. Further, fear of arrest exacerbates the already high levels of distrust of police reported by people with lived experience.

Stakeholders described that people with lived experience **are inherently in a more vulnerable position with sex buyers and traffickers due to criminalization**. Sex buyers and traffickers know that most people with

⁶⁵ See Minn. Stat. § 609B (detailing collateral sanctions regarding employment and licensing, teaching, nursing and other health care licenses, transportation, elections, carriers, liquor, gambling, fiduciary service and public office vacancies, local government, metropolitan area officers and peace officers, driving and motor vehicles, prison program eligibility, offender registration, services and benefits, property rights, civil rights and remedies, recreational activities, game and fish laws, and miscellaneous licensing provisions).

⁶⁶ See, e.g. Minn. Stat. § 256D.024 and Minn. Stat. § 609B.425 (rendering persons convicted of a drug offense ineligible for general assistance or Supplemental Security Income for five years after the discharge of their sentence).

⁶⁷ See for example Dewey, S., & Zheng, T., et al. (2016).; Krüsi, A., & Kerr, T., et al. (2016).; and Lutnick, A., (2016).

lived experience will not report abuses to the police, so they can and do commit violence crimes with impunity.

“It makes people paranoid, I’ve thought about: is this a set up? Am I about to get in trouble? What could be a safe practice and could not hurt anyone, instead has this sense of danger to it that makes people paranoid. People say they’ll be discrete, but that might not always be the case. So that criminalization casts a shadow on the community. It shouldn’t harm anyone, but it’s against the law so it does.” – Participant 42, lived experience, Metro area

“If the men who are assaulting and raping them, know that the women are gonna go to jail if they do anything to protect themselves, then they have that much more control over them and the women are less likely to do anything to report the abuse that happens because they’ll just go to jail.” – Participant 117, tribal criminal justice personnel, Greater MN

Stakeholders with lived experience said that as a direct result of criminalization and stigma discussed above, people with lived experience are **vulnerable to blackmail, extortion, rape, assault, robbery, and other abuses from sex buyers, traffickers and others (e.g. landlords or employers)**. Therefore, when prostitution is illegal, people with lived experience are not able to report crimes to the police without fear of arrest or lack of credibility with the police.

“Yeah, so right now just working for myself if I’m in a situation where maybe I’ve been out with a client a few times and I’m not really feeling it, don’t want to meet with him anymore and he might end up stalking me, harassing me, whatever I can go to the police and tell them he’s stalking and harassing me, a lot of the time you’ll get asked how did you guys meet and then you have to say, “Oh yeah I was selling sex services to him and then he started harassing me. [...] Yeah, because you have to tell them you’re being stalked and then make up some story and then it’s their word against yours and you get caught up in making up stories.” – Participant 37, lived experience, Metro area

Stakeholders with lived experience also described ways that criminalization shapes the marketplace itself in ways that make it less safe. Criminalizing prostitution keeps it underground, making it more dangerous. Fear of arrest leads people, including trafficking victims, to work in more dangerous and underground parts of the marketplace to avoid police detection. This makes it harder for people to screen potential sex buyers for fear of discovery and arrest by the police.

“You need to screen people. You need to find the best space and leveraging, you can figure out who they are, you can go to their place or a hotel, or meet up at a location than risking yourself on the streets or talking with people in public which is more dangerous. The presence of where you sell sex and how you navigate it makes a big difference. [...] So when you criminalize those online spaces you make it harder for people to be aware and putting themselves at risk for police arrest, being attacked.” – Participant 41, lived experience, Metro area

It also puts them in closer proximity to potentially more violent sex buyers and trafficking operations. In an underground network, traffickers and others are often violent and involved in other criminal conspiracies such as drug trafficking and money laundering. Stakeholders reported violence, threats of violence, and murder of people with lived experience for exposing elements of the network and its profit-seeking strategies.

“Of the aftermath of the industry. It’s almost like a spider web. Like, this thing is not going to – that’s not going to be the only thing. It’s literally, like, there’s other categories that branch out from it. And I feel like it can really cause trouble in all of those areas [...] Like, people are really willing to – I mean, I’ve been around it. Like, people are really willing to go missing – like, make people go missing over these kinds of things.” – Participant 15, lived experience, Metro area

Some stakeholders with lived experience who identified as independent providers or sex workers said that criminalization creates pressures for them to align with a third party for protection.

“It [criminalization] definitely, in my experience, it’s definitely encouraged workers to work through people and create these networks to basically make our own pimps because there is such a risk when you’re selling so if you can take yourself out of the selling equation and just be the product basically, that does take some of the risk out of it. If you’re saying that these people who are doing it involuntarily are protected [by pimps] but those who are doing it of their own volition aren’t protected then you kind of want to put yourself in the situation where you have more legal protections so you can point the finger at somebody else instead of being able to control every other part of yourself.” – Participant 37, lived experience, Metro area

POLICY ALTERNATIVES RELATED TO CRIMINAL LIABILITY

Opinions about criminal liability and legal models related to transactional sex and prostitution are shaped by values and beliefs, as well as lived and historical experiences. These views also change and evolve over time. Here we present the wide range of views and perspectives shared by stakeholders about potential policy alternatives related to criminal liability for involvement in transactional sex. The findings in this section informed numerous recommendations related to criminal liability, specifically Recommendations #3-#9.

Stakeholder Values and Beliefs

A dominant value among many stakeholders – particularly people who identify as survivors, as well as service providers and criminal justice personnel involved in the anti-trafficking movement – is that any involvement in commercial or transactional sex is inherently harmful for people with lived experience. In this view transactional sex is seen as a lack of choice, violence against women, and/or as a direct outgrowth of sexism, racism, and classism. Further, transactional sex is seen as harmful whether or not the person with lived experience identifies as a victim of trafficking or exploitation. In this frame, people with lived experience are seen as crime victims and survivors of violence. Normalization of transactional sex or commodification of sex is viewed as problematic for society. From this perspective, the preferred course of action is for the state to take steps to prevent or dissuade all involvement in transactional sex, stop punishing victims, and use policy levers to reduce the size and scope of the marketplace for transactional sex.

Some, particularly people who identify as sex workers, see transactional sex as a legitimate form of labor, with harms caused by social inequality, criminalization and social stigma. From this perspective, preferred policy options would promote labor rights, social equity and decriminalization.

Other stakeholders view transactional sex as a negative, immoral, or unsavory activity that is inevitable, but nonetheless requires action to keep in check. This stakeholder perspective was expressed by a cross-section of participants including police, service providers and people with lived experience. They often presented their opinions as “realistic” and explored what they viewed as practical and pragmatic approaches. For them, the best policy options would ensure some level of accountability for involvement in transactional sex to make sure it is not normalized or promoted, while at the same time taking steps to help victims of exploitation, trafficking and other forms of violence in transactional sex.

Some stakeholders were concerned about the potential impact of transactional sex on broader society (e.g., the impact of street-based prostitution on some neighborhood residents and business, or escort work on hotels and bars). Others pondered how commodification of sex might impact gender norms and women's equality. While most stakeholders did not extensively discuss these topics, most suggested that these larger societal issues are important considerations in policy decision-making.

Finally, we identified a latent tension between policymaking that focuses on individual victims of exploitation, trafficking and violence and efforts to address the public interest in a broader sense. For example, it is arguably in the public interest to identify and prosecute a person who commits violence against a person with lived experience, both for justice and for prevention of further violence. But it may not be in the best interest of the victim to participate in the prosecution. Victim healing and public interest are two equally important values that undergird safety, health, dignity and justice, that may lead to different policy implementation and outcomes.

In this section we explore the opinions, values, caveats and concerns of stakeholders about policy alternatives related to criminal liability regarding transactional sex. We highlight wide-ranging concerns and potentially negative unintended consequences for each. As appropriate we reference the secondary research literature from other countries and contexts to help guide thinking in Minnesota.

It is important to remember that in a Minnesota context opinions about legal models other than full criminalization are speculative. Safe Harbor implementation to date could provide some insight into the partial decriminalization model, but stakeholders do not actually know what will happen in the Minnesota context if Safe Harbor is extended to all adults. Many stakeholders expressed that it was difficult to know what actually would or could happen. This statement echoes sentiments among all stakeholders groups and across Minnesota.

"This is all hypothetical and we don't really know what will happen. But decriminalizing selling sex is at least where we have to start." - Participant 49, policymaker, Metro area

Background on Legal Models

Interest in expansion of Safe Harbor in Minnesota is linked to some stakeholders' desire to replicate the "Nordic model," which was first implemented in Sweden in 1999 and subsequently adopted to various degrees throughout the Nordic countries. This model is also sometimes referred to as the "Swedish Model." This framework is grounded on a presumption that transactional sex is antithetical to gender equality and a form of violence against women and that policy and social services should be leveraged to reduce or "abolish" the marketplace itself. It does this by seeking to reduce demand for transactional sex and supporting exit from the sex trades.⁶⁸ Today, Sweden, Norway, Iceland, Northern Ireland, Canada, France, and Ireland have adopted partial criminalization frameworks. Implementation in other countries is best described as *partial criminalization*, because it created new penalties for sex buyers in what previously had been a decriminalized marketplace for sex.

We do not generally use the term "Nordic Model" throughout this report. For some stakeholders in Minnesota, the term "Nordic Model" implies a white colonial framework to which they object or with which they do not identify. Other stakeholders cautioned against use of the term because the "Nordic Model" is predicated on robust social supports found in Nordic countries that are not available to most people in the United States. For example, Sweden offers its citizens universal health coverage, free child care, and

⁶⁸ See for example Ekberg, G. (2004).; Ekberg, G. & Werkman, K. (2017).; Florin, O. (2012).; Tankard Reist, M. (2016, June 26).; and Månsson, S.A. (2017).

accessible housing. It would be challenging to replicate that level of social support in the U.S. context. Finally, the “Nordic Model” has become a term of art that is closely tied with the abolitionist approach to transactional sex which does not necessarily reflect all stakeholders’ views.

Some scholars describe legal approaches to prostitution based on their end goals. The “Nordic Model” is an “abolition” framework because its goal is to abolish transactional sex markets. Minnesota’s current framework of full criminalization is a “prohibition” model because it seeks to prohibit the sale or purchase of sex. Other goals within legal frameworks involve regulation of transactional sex related to law and order, based on morals (e.g. the view that prostitution is a sin or a vice), and concerns about public health and sexually transmitted infections.⁶⁹

There is a great deal of research and evaluation from the international context on the motivations, inner workings, goals and outcomes of different legal approaches to transactional sex. It was beyond the scope of this project to conduct a comprehensive literature review and evaluate the veracity of existing studies on the impacts and outcomes of different legal models.

In general, we caution against the idea that legal models implemented in other countries should be seen as immediately or obviously applicable to a Minnesota context. Different countries have varying socio-economic contexts and supports available to people with lived experience as well as very different legal systems and potential starting points for legislative and legal reforms.

For example, when Sweden created the “Nordic Model” new legal sanctions were enacted to criminalize the purchase of sex, thereby increasing the role criminal justice through arrest and prosecution of sex buyers.⁷⁰ This had the potential to shift some segments of the marketplace into less visible spaces, although it is unclear to what extent this was due to the law shifting versus the introduction of the internet and online spheres to sell and purchase sex.⁷¹ In Minnesota all parties are already criminalized and the transactional sex trade is already underground. Partial decriminalization could reduce the role of criminal sanctions, arrest and prosecutions in the overall marketplace for sex, and could make some aspects less underground and potentially less risky. Consequence in other countries from legal changes may not happen in Minnesota or may happen differently.

The research literature is not straightforward for a variety of reasons. Studies present contradictory or seemingly contradictory findings depending on underlying assumptions, data collection methods, and analysis techniques. There is a lack of broad scholarly consensus on some basic issues. For example, a recent, influential study claimed to provide a definitive conclusion that full decriminalization of transactional sex significantly reduces transmission of HIV/AIDS among people with lived experience, as well as many other impacts on health and safety.⁷² This study has since been a basis for recent international policy efforts.⁷³ However, other scholars have challenged the validity of the statistical modeling behind these conclusions.⁷⁴ In this context, it is difficult to know which studies can be relied upon.

Some research studies, particularly in Europe, assume a narrow definition of trafficking crimes in relation to migration and undocumented immigrants, and do not take into account third-party coercive control of citizens or residents.⁷⁵ This may be due to specific contexts in different regions and may not be entirely

⁶⁹ See Outshoorn, J. (2004), p. 8; *see also*, Crowhurst, J., Outshoorn, J., & Skilbrei, M. (2012).

⁷⁰ See Ekberg, G. (2004).

⁷¹ Holmstrom, C. & Skilbrei, M.-L. (2017) and Månsson, S.A. (2017).

⁷² *See for example* Shannon, K., & Goldenberg, S., et al. (2015, January 3).

⁷³ *See for example* Amnesty International (n. d.); and Open Society Foundations. (2017).

⁷⁴ *See for example* Bishop, M. (2018, March 30). Bishop discusses Michael Shively’s view on science and sex work policy.

⁷⁵ Mai, N. (2016).

applicable to Minnesota's context. Further, scholars have noted substantial disagreements on the relation between prostitution and sex trafficking and also therefore on potential policy interventions to improve conditions for people with lived experience.⁷⁶

Yet there are some areas of emerging scholarly consensus related to the impact of different social and legal models on safety, health, dignity and justice for people with lived experience. For example, ample research shows that fully criminalized contexts harm people with lived experience, especially victims of trafficking and exploitation, by further marginalizing them, making the marketplace underground and less safe, and creating conditions to support trafficking.⁷⁷ Legalization with state regulation has not been shown to ameliorate these harms, and it creates spaces of illegality where the most marginalized in society are subjected the greatest harms.⁷⁸ Stigma and discrimination against people with lived experience, including victims of trafficking and exploitation are co-occurring leading to harm.

Full decriminalization may allow the marketplace to operate more in the open, reducing some of the harms of criminalization. But it might not reduce trafficking crimes or stigma. This model has only been implemented to date in New Zealand, a small country of Pacific Islands that may not be applicable to Minnesota's context. As yet, there are no cross-country comparative studies. Studies in New Zealand have shown that there is increased trust between law enforcement and those selling sex since implementation of decriminalization. Full decriminalization may not address the social structural factors that lead to disproportionate impact of transactional sex on those subjected to other oppressions (race, gender identity, poverty, etc.) since indigenous people are still over-represented in transactional sex.⁷⁹

Partial criminalization (or partial decriminalization) in countries that provide social support to citizens and documented residents (e.g. housing, healthcare, childcare, free education, basic universal income, etc.) has been shown to decrease involvement in transactional sex by providing other options for those who do not want to be in the marketplace, and reduce trafficking.⁸⁰ However, trafficking of immigrants, migrants and others continues, and some experience this approach as paternalistic.⁸¹ Countries that move to partial criminalization by adding sex buying to their criminal code have noted an overall decrease in purchasing sex and a shift in social narratives that views purchasing sex more negatively. While the marketplace may be smaller, there are remaining concerns that it may be less safe and more underground for those marginalized individuals still involved.⁸²

What the literature shows us is that no single legal model or approach alone "solves" the problem of sex trafficking and commercial sexual exploitation in society. There is no "silver bullet." The root causes of harms in transactional sex are complex, involving social structures, oppression, culture, marginalization, and disparate distribution of social goods, as well as deeply held normative beliefs and behaviors.

⁷⁶ Limoncelli, S., (2009).

⁷⁷ See for example Rekart, M. (2005).

⁷⁸ See for example Cho, S. Y., Dreher, A., & Neumayer, E. (2013); Schulze, E. (2014).; Outshoorn, J. (2012).; Tankard Reist, M. (2016, June 26).; and Mathieson, A. (2016).

⁷⁹ New Zealand Government. (2008).; Crichton, F. (2015, August 21).; Abel, G., & Bien-Aime, T. (2015, August 26).; Abel, G., Fitzgerald, L., & Brunton, C. (2007).; Chung, H., & Hynes, M. (2015, April 1).; Deering, K.N., & Amin, A., et al. (2014).; Farley, M. (2010, October 19).; National Center on Sexual Exploitation (2017, October 2), discussion with Julie Bindel on why fully decriminalized prostitution hurts women.

⁸⁰ Crowhurst, I., Outshoorn, J., & Skilbrei, M., (2012).; and Evaluation of Norwegian Legislation Criminalising the Buying of Sexual Services (Summary). (2014).

⁸¹ See for example Crichton, F. (2015).; Le Bail, H. Giametto, C. & Rassow, N. (2018, April).; Benoit, C., & Jansson, M., et al. (2017, May).; and Neves, P. (2017, July 10).; Levy, J. & Jakobsson, P., (2014).

⁸² See for example Tankard Reist, M. (2016, June 26).; Evaluation of Norwegian Legislation Criminalising the Buying of Sexual Services (Summary). (2014).; Rain and Thunder Collective (2008, Winter Solstice), at 6.; and Raymond, J. G. (2010, July 19).

In the remainder of this section we describe the perspectives and opinions of stakeholders in Minnesota. Direct, comparisons across countries, regions and continents are difficult. Ultimately, the impact of changes to our legal model is speculative and unknown. Where applicable, we provide references to the international literature in footnotes.

Response to PARTIAL Decriminalization

A wide cross section of stakeholders expressed positive opinions about not arresting people with lived experience for prostitution, including people with lived experience, criminal justice personnel, service providers and advocates. The majority of stakeholders anticipated that a partial decriminalization model would reduce harms inflicted by criminalization and would increase safety and access to justice for crime victims who are engaged in transactional sex.

Despite this, most people who supported partial decriminalization also raised concerns, caveats and fears about what could happen. Stakeholders feared that partial decriminalization could lead more people into selling sex as well as more victimization in sex trafficking because they would no longer be arrested. They speculated this could have a particularly adverse effect on people in poverty and other marginalized communities. **For this reason, many stakeholders only supported partial decriminalization if enacted in conjunction with effective prevention measures including housing, economic and family stability for people living in poverty.** This was seen as essential to counteract the “push” factors of poverty by creating better options for people while also providing exit routes for people to escape trafficking and exit involvement in transactional sex.

Support for Partial Decriminalization, With Caveats

Avoiding Harms from Criminalization

Across a diversity of experiences and expressed values, the majority of stakeholders expressed the opinion that partial decriminalization would reduce the substantial harms of arrest and prosecution for people with lived experience. Many speculated that it would make it easier for people with lived experience to call police with less fear of arrest in instances of trafficking, exploitation, and violence [see HARMS OF CRIMINALIZATION].

“If we are talking about decriminalizing selling but continuing to criminalize buying, then we won’t be cutting off access to help. The police will still be able to intervene [in trafficking], but they will be treating you like a victim not a criminal.” - Participant 76, attorney, Northwest MN

Participants also suggested that partial decriminalization might foster more space for trafficking victims to participate in criminal investigation and prosecution of traffickers.⁸³ Some, particularly those with lived experience, said that Minnesota’s current statutes that criminalize trafficking victims for prostitution can actually strengthen a bond with a trafficker. The victim may view themselves and their trafficker as two people being pursued by the police.

“If this person [the trafficker] has said he cares a lot about her and will take care of her, [she may] feel defensive of that person, so if they’re both being treated like criminals that defensiveness might be more pronounced. But approaching it from the perspective that she’s been a victim in the case

⁸³ Some studies in New Zealand suggest that decriminalization of prostitution has fostered better relations between sex workers and police. See for example Crichton, F. (2015, August 21); and Abel, G., & Fitzgerald, L., et al. (Eds.). (2010).

and it's not her fault, it might leave more space to feel safe enough to disclose instead of the stance you both were in the wrong." - Participant 106, advocate, Southwest MN

Independent providers and sex workers suggested that if agreeing or being hired to provide sex or sexual activity was no longer subject to criminal liability, they could assist in identifying and supporting victims of sex trafficking and exploitation without fear of arrest and all the collateral harms associated with arrest and conviction.

"If sex work were legal, and we were able to do things for our community, like provide health insurance and provide, like, real stability in our lives, I could see us – and, like, particularly, like, groups like SWOP and people doing activism within sex work, building that infrastructure, building those networks to help people who are being abused. Because we see it first. We're going to see it long before other people do. I can see someone being pimped immediately." - Participant 12, lived experience, Metro area

Participants noted that partial decriminalization would also reduce the extensive collateral damage caused to people with lived experience by a prostitution-related criminal record on housing, employment, and child protective services [See HARMS OF CRIMINALIZATION], thereby allowing those who want to exit to find alternative ways to support themselves and their families.⁸⁴

"If we can go back to those statutes and what we'd want to see, it is important to talk about why we want Safe Harbor. Not because it's fine or cool, or should be a person's choice, but because criminalization is a barrier to access what person needs to heal, get stable, to address underlying causes of addiction that they're going through because of that trauma and to become less vulnerable to that exploitation." – Participants 134 and 135, advocates, Northeast MN

Uncertain Market Impacts

Many stakeholders expressed their belief that partial decriminalization combined with greater policing of sex buyers would decrease the demand for transactional sex by dissuading people from purchasing sex due to fear of arrest. They suggested that the decreasing demand for sex in a demand-driven marketplace would shrink the overall marketplace. If there are fewer buyers, there would be fewer sellers. A smaller market would then reduce both the number of people who sell/trade sex and the proportion of them who are trafficked and exploited. This was a powerful rationale for those stakeholders who believe that any involvement in transactional sex is inherently harmful and that the state should take steps to prevent involvement and reduce the marketplace itself.⁸⁵

"I fully support it [the Nordic Model]. It has been shown over years in many countries to reduce trafficking significantly in countries where it is decriminalized, trafficking goes through the roof but Nordic model decreases the demand for illegal activity. You don't see the rise in prostitution even in neighboring countries, but in countries with [full] decriminalization or criminalization you see that rise and it [the Nordic Model] has just been shown to be the most effective model. And it puts it in

⁸⁴ Evidence from Sweden suggests that provision and access to robust social supports helps people get out of prostitution, see Florin, O. (2012).

⁸⁵ There is some evidence from Sweden and Norway, that their partial criminalization model (which includes public awareness and social services and supports for people with lived experience), has resulted in a shift in away from social acceptance of purchasing sex and reduction in the overall size of the market. See Tankard Reist, M. (2016, June 26).; Evaluation of Norwegian Legislation Criminalising the Buying of Sexual Services (Summary). (2014).; and Ekberg, G. (2004).

the context of the social structure. It has an impact on the social structure of the exploitation of women. We need to look also at the impact of the culture and on the lives of women not in the life and how men view women over all.” – Participant 44, independent consultant, Central MN

“Buyers need to be held accountable. It shouldn’t be legal or decriminalized. The Native women are victims in this. Making it legal will just send them right onto the reservation looking for girls.” - Participants 118 and 119, tribal social services, Greater MN

“I think they [sex buyers] should be held accountable. It will make the industry grow that much more if there are no consequences. What’s gonna happen to society?” - Participant 154, tribal criminal justice personnel, Greater MN

Some participants supported decriminalizing the sale of sex but opposed a partial decriminalization model that would continue to criminalize buying sex. These stakeholders believe that partial decriminalization *could* make transactional sex more dangerous. Increased law enforcement attention to sex buyers could dissuade more respectful and less violent sex buyers from participation in the marketplace. They speculated that continued criminalization of sex buyers could drive them further underground, making it difficult to screen sex buyers to avoid violence. Finally, fewer sex buyers combined with the same number or more providers of sex could create a “buyers’ market” that could drive down prices, require people with lived experience to do more for less money, or generally make things more unsafe.⁸⁶

Opinions were divided on whether partial decriminalization would increase the overall number of people involved in transactional sex in Minnesota.⁸⁷ Some stakeholders, including police, service providers, and people with lived experience, speculated that more people would participate in transactional sex if they knew they would not be arrested. For example, one service provider thought that partial decriminalization could lead young people exiting foster care to turn to transactional sex in the absence of other options.

“And because of my experience with foster care, you know, our young 18-19 year-olds, our brains are not developed until we are 23-4-5. So the 18-20 year olds that are maybe down on their luck or away from mom and dad at college, they’re going to try this because it’s not a crime anymore.” - Participant 81, advocate, Northeast MN

Some stakeholders identified an apprehension about partial decriminalization because it may give people who are not victims of sex trafficking or exploitation the ability to continue involvement in transactional sex. But many expressed the belief that most people with lived experience are victims who need help.

“There is a little apprehension about the people functioning independently, giving them a free pass to commit the crime or to participate in commercial sex. But I think there is far more to gain in decriminalizing it, rather than the other way around. I just keep going back to the fact that no one gets into this line of work on purpose. There are circumstances that have led them down this road, and those are bad circumstances. This is not a career choice that will start popping up in the career fairs. The victims that we’ve seen over the years need help; they need a lot of help. I don’t even know how worried they are about going to jail for prostitution. Maybe that’s because we don’t

⁸⁶ Some research in France supports these concerns, *See for example* Le Bail, H. Giametto, C. & Rassow, N. (2018, April).

⁸⁷ The research evidence does not provide clear guidance here because contexts and social service and support environments vary greatly across countries.

arrest them. But I don't see much downside to protecting all involved in commercial sex." – Participant 166, law enforcement, Central MN

Others suggested that the criminal liability is not currently a true deterrent from involvement in transactional sex anyway.

"But I don't know a lot of women or girls who on the base of it are like 'Yeah I want to do that,' 'I'm not a prostitute because it's illegal.' That's not why, because ew. Because it sounds like a horrible life and that's not what we aim for, until it sounds like your only option. And when it's to the point that it's your only option, the point that it's illegal isn't the point." - Participant 117, tribal criminal justice personnel, Greater MN

The experience of Safe Harbor implementation could provide some guidance. However, stakeholders expressed mixed opinions on whether more young people engage in transactional sex as a result of decriminalization in Minnesota's Safe Harbor for Youth. Some service providers said they see more young people engaging in transactional sex; others say there is no change. In the absence of hard numbers it is not possible to verify this.

Concerns About Impact on Trafficking

Stakeholder opinion was divided on whether partial decriminalization would increase the number of people who are victims of human trafficking or not.⁸⁸ Some believed that traffickers would use partial decriminalization as opportunity to expand their operations, since the victims would not be subject to arrest.

"[With partial decriminalization] you're going to promote trafficking because the girls know that they're not going to get arrested. These guys are going to go out there and they're going to be like, 'I can make money off of this now because these girls are not going to get arrested.' 'I can run, rather than one or two girls, I can run four or five girls.'" - Participants 107 and 108, law enforcement, Southwest MN

"But in sex work, we're paranoid. We're afraid of getting caught. But traffickers fear nothing. It seems like this policy [partial decriminalization] would make them more encouraged, it helps them, because the lines between sex working and trafficking are blurred and people don't know the difference. Anything that helps sex working will also help [increase] sex trafficking." –Participant 42, lived experience, Metro area

Some stakeholders thought that sex traffickers would move more operational functions to people who provide sex in order avoid criminal liability for themselves.

"Traffickers could create separation between different operations and themselves. Break apart the operations because people can't arrest, could assist the traffickers in completing their operations. If we do partial, there is speculation that more traffickers will come up. The criminal justice approach would have to have ramped up efforts on traffickers and the buyers. Put their efforts on

⁸⁸ There is some evidence that implementation of the "Nordic Model" in Sweden and Norway did not ameliorate trafficking crimes against immigrants and migrants. See for example Sandnes, H. E. (2014, August 5).

these two anyway. It could be an unintended consequence to increase exploitation.” - Participant 152, attorney, Metro area

Many people who supported partial decriminalization, as well as some opposed to it, were concerned that victims of exploitation and trafficking could be harmed if the police could not remove a person from a trafficking situation or if society is not able to compel services. This was deemed particularly important when the victim/survivor has co-occurring mental health challenges and chemical dependency. While Minnesota law allows for law enforcement to take persons into custody and transport them to a treatment facility when mental illness, developmental disability or chemical dependency poses a danger to self or others,⁸⁹ resources are scarce. These concerns are discussed at length in later sections [see RESPONSE TO CRIMINALIZATION].

Lastly, in relation to trafficking, some stakeholders argued that partial decriminalization also needs to make the Minnesota sex trafficking statutes less broad so that people with lived experience who choose to support each other are not subject to arrest as a trafficker. This includes hiring security, working in the same house together, sharing rides, helping with advertising, creation of “bad date” lists or sharing information with each other about sex buyers who are harmful.

*“[...] a lot of sex workers work in the same space to provide safety for each other, so you are forcing these sex workers to work alone then, and then also by doing that the customers know that brothel keeping is illegal and they can get violent and if you have someone there for safety they can say well I’ll call the police on you if you call the police on me cause you’re working illegally. [...] I know right now in the current state we’re in if I were to hire security he’s gonna be charged with pimping or trafficking, even though he’s there keeping me safe. I think that’s absolutely horrifying. But yeah I think it’s definitely important for workers to be able to work together. And also sometimes they get hired together and that’s good money and let’s keep that open to being an option, I don’t know.”
– Focus group 8, lived experience and advocates, Northeast MN*

Avoid Harms to Marginalized Communities

Participants with lived experience were divided on how partial decriminalization might differentially affect people by identity. Some predicted that partial decriminalization would be universally good for everyone or might even preferentially positively impact women of color, indigenous communities and LGBTQ people, who are survivors of sexual exploitation and trafficking at disproportionate rates.

“The community that sells the most and gets caught the most is going to be affected more. African American and Native women it’s going to help the most because they are getting arrested the most.” - Participant 3, lived experience, Metro area

Others worried, that without deliberate attention, implementation would continue to have a disparate negative impact on people of color, indigenous people, LGBTQ communities, immigrants and undocumented people, and other marginalized groups.

“The disparities and racial profiling and discrimination against immigrants would continue regardless of which model we adopt unless there are intentional interventions to stop it. The less

⁸⁹ Minn. Stat. 253B.05, subd. 2 (2017).

interaction, the less crimes that are out there. I guess that's an upside." - Participant 45, attorney, Metro area

Some stakeholders with lived experience expressed deep concern that increased enforcement and stiffer penalties for sex buyers within implementation of partial decriminalization could have a disproportionate negative effect on marginalized people specifically, because it would limit their negotiating power and ability to screen sex buyers more than white, cis gender people.

Reducing the number of people seeking to purchase sex, might ultimately give the remaining sex buyers more power over people selling sex by driving the whole market further underground and forcing people with lived experience to expand their boundaries to entice sex buyers. This shift could result in more violence against people with lived experience. Stakeholders thought this would have a greater negative impact on people with marginalized identities.

"If they start arresting more people who are buying, then I'm not sure how I will continue my job. Specifically with gay men it's easier to navigate because the immediate assumption is to look for femme people as sex workers so it's harder for women and femme folk, but more masculine presenting people . . . It's nice that they won't criminalize it [selling sex] but I don't feel like queer men are being arrested now. I feel like queer men are not currently be arrested for prostitution right now. All I hear about is police arresting women and femmes, so it's nice that I won't be criminalized, but I'm worried about what happens to the people that buy it." - Participant 41, lived experience, Metro area

"Because those are people – queer people especially are people who do survival work. They're people who have – like I was saying before, might answer a call for today. Because they need the money right now. You know, and, like, in that sort of environment where you're already dealing with inherently riskier clients and customers, like, that's just going to be – it's going to expound the, like – the potential harms of that." - Participant 12, lived experience, Metro area

Many stakeholders expressed concerns that policing of sex buyers would focus on specific market segments, particularly street-based prostitution. Some were concerned that with partial decriminalization, legislators may create additional regulations for different market segments. For example, laws that ban street-based solicitation may continue to criminalize people in deep poverty who are engaged in transactional sex. Some also worried that criminalization of people with lived experience would continue under laws that ban brothels or other arrangements. Stakeholders with lived experience expressed concern that this secondary regulation of transactional sex would have disproportionate effects on more marginalized sellers within the transactional sex marketplace.

"Still criminalizing street workers potentially targets people using survival sex. Sometimes it can be decriminalized but they still make it unlawful to trade sex on streets." - Focus group 8, lived experience and advocates, Northeast MN

Some stakeholders suggested that the state should find a way to recognize victims of trafficking and exploitation and decriminalize involvement in transactional sex only for them, but retain criminal liability for people who choose prostitution. However, most agreed that these distinctions would be nearly impossible to make in practice.

"I agree with holding them responsible if they know they're committing a crime. It's obviously different if they're being trafficked, if they're not making the money, or if they're being coerced. People that are making the conscious decision to do this even though they know it's illegal is not acceptable, but if you're a victim, you know it's illegal but you're being trafficked/forced so there's nothing you can do about it." - Participant 53, law enforcement, Metro area

Accountability for Traffickers and Sex Buyers

Most people who offered opinions on the impact of partial decriminalization on trafficking operations were police, prosecutors and others who work in areas related to criminal justice, but victim advocates and people with lived experience also offered opinions. While opinions were divided on how partial decriminalization could impact trafficking investigations, some stakeholders expressed serious concerns that partial decriminalization could undermine tactics used by law enforcement and prosecutors to gather evidence and ensure witness cooperation in trafficking prosecutions.

"[Partial decriminalization] would dismantle the criminal justice system's ability to investigate sex trafficking." - Participant 54, law enforcement, Metro area

Many who expressed support for keeping our current legal framework did so because police and prosecution procedures often rely on use of prostitution laws in tandem with sex trafficking laws. Stakeholders reported that sex trafficking cases are very difficult to investigate and the primary witnesses – trafficking victims themselves – are not typically able or willing to participate. There are good reasons why victims may fear cooperation in a trafficking investigation. Stakeholders noted violence and threats of violence not only to victims themselves but also to their families and children.

Investigators worried that with partial decriminalization, they would not be able to seize vital evidence of trafficking from people with lived experience. Law enforcement reported that police practice related to prostitution and trafficking investigations uses confiscation of cell phones and computers to examine electronic communications. This is often used as evidence against traffickers or people who seek to purchase sex. If providing sex is decriminalized, then police may not be able to confiscate phones and computers of people with lived experience to use as evidence without a warrant.

"We don't charge adult victims of sex trafficking now. We may charge independents if there is evidence she was independent. When we arrest, we seize evidence, usually the phone. We used to do stings but they are labor intensive and not useful." - Participant 125, law enforcement, Northeast MN

Prosecutors described that the ability to threaten criminal prosecution on prostitution charges is a key tactic in getting victims to testify against traffickers.

"The constant struggle that I deal with as a prosecutor is, [...] is I want them [victims] to get the help that they need, but I want them to cooperate in testifying against their traffickers because those are the people that I really want to get . . . And some people see that as coercive. Some people think you shouldn't make their potential plea agreement contingent on the dismissal of their charges, contingent on whether or not they testify against their traffickers . . . I don't know that we could get them the help that they need and make them feel safe so they would be willing to testify against their traffickers." - Participant 109, prosecutor, Southeast MN

Like the prosecutor above, many of these stakeholders expressed uneasiness about threatening arrest to compel testimony, especially since trafficked individuals are crime victims, but they were at a loss for other options.

"I think a lot of times this [not arresting people with lived experience] is what law enforcement is already doing. We use arrests as a tool, but usually there's never any prosecution. Those of us who work in this field understand that they're victims. You don't punish the victim for fighting back or doing something under coercion. But, if you take that tool away it's going to be a lot harder to move forward with catching those traffickers." – Participant 155, law enforcement, Northwest MN

Some law enforcement officers thought that partial decriminalization might hurt trafficking victims, particularly in Greater Minnesota where there are less services and supports.

"A majority of those in Minnesota took [Safe Harbor] a step further, and stopped arresting all potential victims of trafficking... in doing that, we thought we were being victim-centered, but what we have learned recently is that we feel like we've enabled traffickers. We have found that by going from one extreme to the next is actually negatively impactful." – Participant 66, law enforcement, Metro area

"You're investigating what is starting off as a legal act, and then trying to determine if there's any illegal act, if they're being trafficked. It would make our jobs more difficult. Which, it would make it more difficult to locate, identify and help victims of trafficking." – Participant 52, law enforcement, Metro area

Other stakeholders offered the opposite opinion -- that partial decriminalization would reduce the amount of control a trafficker can exert because the victim could go to the police without criminal repercussions.

"[...] but on the other hand, it could make it easier because the pimp doesn't wonder if, the pimp knows that the woman can just walk into a police station and say this is happening without fear of being arrested herself or getting in trouble herself. So, I don't know. I'd have to really, I guess, to think through different scenarios." – Participant 68, judge, Metro area

Other stakeholders, including those identifying as advocates, service providers, and people with lived experience, identified fear of the trafficker as a foundational barrier to cooperating with investigations or testifying against the trafficker in court. These stakeholders suggested that creating some sort of witness protection would be more effective in securing cooperation from victims. Some stakeholders noted that existing options for ensuring safety for victims who report crimes or testify should be reviewed and, where appropriate, strengthened.⁹⁰

Other law enforcement and criminal justice personnel said that the threat of arrest breaks trust between victims and law enforcement and is fundamentally at odds with victim-centered and trauma-informed approaches.

⁹⁰ Minnesota law provides various options to protect crime victims from harm or retaliation, including Minn. Stat. 518B.01, subd. 4, orders for protection (OFPs); Minn. Stat. 609.748, harassment restraining orders (HROs); Minn. Stat. 629.75, domestic abuse no contact orders (DANCOS); and other provisions designed to ensure the safety of crime victims and witnesses. The Minnesota Department of Public Safety Office of Justice Programs serves as a central resource for crime victim assistance and information.

“There is a re-exploitation in the justice system, charges being used to facilitate further arrests. People may feel further victimized and not supported.” - Focus group 6, advocates, lived experience, Metro area

“The problem is it can be used, “if you don’t tell me what I want to know, I’m going to put you in jail,’ or then you have to think about a person who might kill you if you talk. - Participant 143, law enforcement, Northeast MN

Some stakeholders suggested that victims rarely cooperate with police now anyway, so changing criminal liability for people who provide sex would not necessarily have a negative impact on investigations. Some believed it would improve trafficking investigations by increasing the likelihood of someone testifying against a trafficker due to increased trust with law enforcement and “the system,” and because traffickers use the possibility of arrest as leverage to keep victims from seeking help (Participant 64, prosecutor, Metro area).

[Regarding partial decriminalization] “That’s kind of the stance I take, it’s easier on the victim, the person being prostituted, they’d be more likely to cooperate with law enforcement than if they were arrested.” - Participant 154, tribal criminal justice personnel, Greater MN

Other law enforcement raised more general concerns about the message partial decriminalization might send to the courts and the broader law enforcement system.

“Courts would likely think ‘if it’s legal, what’s the big deal?’ It’s already hard for people to take it seriously and if we legalize aspects, it’s going to be hard to get anyone to care that people are being forced with violence and threats and abuse, so it would be a threat to these victims.” - Participant 64, prosecutor, Metro area

Finally, according to some police and prosecutors, partial decriminalization would violate the principle of equal protection because only some parties to the act would be subject to criminal penalties. They also wondered why we would assume that a person selling sex was always a victim whereas a person buying sex was automatically assumed to be a criminal. They speculated this could lead to jury nullification in a jury trial or potential court challenges to the law itself.

“[Prosecuting one but not the other] is going to be a double-standard issue with juries that is going to really complicate and make the prosecution much more difficult, I think. I also think it makes it difficult for law enforcement. I think the traffickers are just going to be hiding behind the victims of this world. By doing it, we are kind of setting them a free reign because they are like “Hey! They can’t get in trouble. I am going to do everything in their names and they are going to have side deals going” and it is going to be harder and harder to get them.” – Participant 59, prosecutor, Metro area

“The courts aren’t going to uphold that because how can you make one person accountable for a crime, and the other person isn’t.” - Participant 54, law enforcement, Metro area

Impact on Social Narratives about Transactional sex and Sex Trafficking

Many stakeholders opined that partial decriminalization would change broader social understandings of people with lived experience and public views on purchasing sex.⁹¹ People in support of partial decriminalization thought it may help reduce stigma and help people more readily identify as victims of trafficking or exploitation, since they could not be arrested for prostitution.

"It's especially helpful with the language they are under in Safe Harbor they can identify their victim status and then be able to receive services and help because a lot of times prior to them understanding that the law will protect them, they think they themselves are perpetrators, that's societal standard, that's what they have been hearing that's what they have by at large heard from law enforcement for years, that's what they have been hearing from their exploiters, that's what they've been hearing from their community. So for them to be able to take on a more of an identity as a victim and know that there is help available for them that is advantageous for them to come forward or to get out of the life." - Participant 89, advocate, Metro area

"So it goes back to that good victim bad victim dichotomy and the imagery about these issues is problematic with the two schemes. We have these people that are real victims and then we have people who are "just prostitutes" and I think that going to a decriminalization model may fix this problem of this separate scheme. There may still be people who are complicit. And there are people who are selling themselves, but in my opinion they are few and far between and there is always more to the story." - Participant 43, attorney, Metro area

Some stakeholders worried that partial decriminalization and destigmatization might normalize the sale of sex. In this viewpoint, prostitution should not be socially condoned because it is potentially harmful to communities. Some participants thought that partial decriminalization could lead to prostitution being more visible if people are able to more openly advertise, walk the streets, and solicit sex without getting arrested.⁹²

"I see a lot of problems as far as freely, willingly being able to advertise wherever they want. Taking away the discretion of law enforcement to -- say you own the hotel, and now you got these girls openly advertising? And now what recourse does he have to kick you out?" - Participants 107 and 108, law enforcement, Southwest MN

Some stakeholders noted that partial decriminalization alone, without changed social narratives, would perpetuate negative outcomes for people involved in transactional sex.

"...it's great that we're not arresting girls anymore. But there's still a lot more sort of social consciousness that needs to change 'cause you still in the community see and hear it. Okay the girls are not getting arrested, but they're still no better than they oughta be, they're still whores and sluts. That's not helpful. That's depressing." - Participant 117, tribal criminal justice personnel, Greater MN

⁹¹ See for example Tankard Reist, M. (2016, June 26).

⁹² However, in many contexts with partial decriminalization there are still prohibitions and penalties associated with advertising, public solicitation, and other contextual regulations.

Yet other stakeholders, specifically many sex workers, welcomed this change in public narratives about transactional sex, viewing it as a step toward full decriminalization. Discussion in a focus group highlighted this viewpoint.

"I would be happier with anything other than full criminalization. A long process to get to full decriminalization. Any step would be seen as positive." - Focus group 8, lived experience and advocates, Northeast MN

Response to FULL Decriminalization

A smaller number of stakeholders identified full decriminalization as their preferred legal framework, particularly people who identified as sex workers, with a minority of other stakeholders expressing some support. Most stakeholders expressed strong opposition to full decriminalization, this included the majority of self-identified survivors and systems professionals such as police, service providers, and criminal justice personnel.

Support for Full Decriminalization

Under the full decriminalization legal model, it would not be a crime to buy or sell sex; however some aspects of transactional sex, such as location, age, or involvement of third-parties, may be subject to criminal liability or local municipal regulation. Stakeholders in favor of full decriminalization generally did not view transactional sex itself as harmful. Rather they view criminalization and stigma as the root cause of abuse, trafficking, and other harms in transactional sex. Some of these stakeholders tentatively supported partial decriminalization as better than what we have now, but viewed it as a potential stepping-stone towards full decriminalization. **All stakeholders who expressed support for full decriminalization agreed that it should be illegal to purchase sex from a minor, force or pressure someone to engage in transactional sex against their will, engage in trafficking, or commit other harms in the process of purchasing sex.**

"I am strongly for full decriminalization while still constantly hand-in-hand with trafficking being illegal and making a strong distinction between the two things and making that codified." - Participant 9, lived experience, Metro area

"I would rather have a world where we can have some sex workers and double down on trafficking than have a world where both flourish. I think we need to criminalize trafficking and get rid of that ..." - Participant 42, lived experience, Metro area

Stakeholders in support of full decriminalization believe this model brings the marketplace out of the shadow of illegality, reducing harms associated with criminalization and stigma. They believe it will make the transactional sex marketplace more equitable and safe, allowing workers to organize for labor rights and express their freedom of choice.⁹³ These stakeholders see sex work as a potentially better option than other forms of low wage labor because it offers better pay, flexible working conditions, and for some, enjoyment.

⁹³ The New Zealand Prostitution Reform Act of 2003 stated objective is to "safeguard the human rights of sex workers and protect them from exploitation; promote the welfare, occupational health and safety of sex workers; create an environment that is conducive to public health and; protect children from exploitation in relation to prostitution." See Prostitution Reform Act 2003, Public Act 2003 No. 28, date of assent June 27, 2003, Part I, Art. 3. Research in New Zealand suggests that conditions have improved for many people with lived experience, see for example New Zealand Government. (2008).; Abel, G., & Bien-Aime, T. (2015, August 26).; and Chung, H., & Hynes, M. (2015, April 1).

“[Full decriminalization] would put the ball in sex workers' court to define what's right and what's wrong. I think it would make business steadier. I think anybody moving from the sex industry into a different industry would have better freedom for that, as well as the state is pretty [...] set on taking black and indigenous children from their parents, and sex work is often a factor in that. It would keep families together. It would allow us to screen in ways that are responsible but not, don't put the demographic to which we appeal in danger. And I do think that if it were fully decriminalized, sex workers would be free to organize and find effective solutions for safety for trafficked individuals.” – Participant 36, lived experience, Metro area

Participants advocating for full decriminalization believe the additional powers afforded to people with lived experience under full decriminalization – the ability to work together, sell sex more openly, and use services to meet sex buyers – would improve safety for all people with lived experience and make it easier to identify victims of trafficking and exploitation.

““Work out like a brothel, you couldn't walk the streets. Need to be in a salon like in the olden days. You come in and rent a room, everything is safe, they pat the men down before they go into the room with the girls. Making sure the girls are safe. There are psychos out there. Less violence happens if you're in a group.” - Participant 7, lived experience, Metro area

“I think it would be really exciting for sex workers. Lots of relief to people, ability to operate in safer ways, and that has a lot to do with how the clients feel. If you aren't going to be punished for paying for a service, you're going to be more willing to give honest info about yourself, and that makes verifying and screening easier. Also, not having to worry about the police going after you or your clients. That would be amazing because it would really alleviate the stress of sex work. Decriminalizing selling is still going to make sex workers worry about their clients, are the police going to follow clients to your home?” – Participant 26, lived experience, Metro area

Some stakeholders supported full decriminalization in part because they believed it was simply the most pragmatic approach to reducing harm, believing that some level of sexual commerce is inevitable. They also pondered why paid consensual sex should be viewed differently from unpaid consensual sex. This view was expressed by sex workers, a few police officers and other stakeholders.

“Decriminalization is the dream. It's not about protect[ing] the moral welfare of the citizenry. Apparently you can have sex for free, but if I'm selling sex forget it.” - Participant 11, lived experience, Metro area

“If you want to have sex with 50 people it's your business. But then if you say if you want to have sex with 10 people and they are each going to pay \$200, then maybe it should be their own business. If it is completely per choice, maybe it shouldn't be illegal, I guess. Consenting adults, it's like if they decide they want to have sex.” - Participant 143, law enforcement, Northeast MN

All stakeholders who supported full decriminalization believed that the most important role for police should be to focus on identification and punishment of crimes committed by sex traffickers and some sex buyers. They believe that full decriminalization would make it possible to better detect and address these harms through increasing sex worker power, decreasing stigma, and decreasing intrusive and potentially harmful police involvement.

“In my dream world, we would have a robust mechanism for talking about labor, and talking about violence and abuse on the jobs, because it’s not just in sex work. We already have laws against rape, and abuse so let’s use those laws.” - Participant 11, lived experience, Metro area

Stakeholders who advocated for full decriminalization of prostitution suggested that the best way to reduce harms in transactional sex was to arrest, investigate and charge sex buyers and traffickers who commit other crimes within the marketplace for transactional sex, such as harassment, assault, intimidation, extortion, domestic violence, rape, and other forms of violence. These behaviors are part of Minnesota’s legal code and almost all the stakeholders who participated suggested that law enforcement and criminal justice efforts should enforce these laws within the context of transactional sex. Those who supported full decriminalization believe it is the best legal model to accomplish this goal.⁹⁴

Some proponents of full decriminalization acknowledged that trafficking could potentially increase since this legal framework could foster a thriving market for transactional sex.

“Um, you know, we all need money. Um, you know I think that’s, that would, that would probably increase the number of young people, the number of LGBTQ people, the number of people of color. Um, it might become, I mean, there might be a really, even a more pronounced concentration of those populations. Not being on the buying side, but being on the sold side.” - Participants 129 and 130, social workers, Northeast MN

“The bad part is, that with the overlap between sex trafficking, there will still be people who know the difference between sex worker and trafficking so with that policy, you make it that much easier for sex trafficking to also happen and flourish. It’s a nice solution, but the world isn’t perfect. And that will strengthen the trafficking industry.” – Participant 42, lived experience, Metro area

However, as described above, many sex workers believe that in a decriminalized environment they could be mobilized to identify trafficking in the marketplace and could better partner with law enforcement without repercussions to themselves, their work and their clients.

Opposition to Full Decriminalization

Most participants were opposed to full decriminalization, including survivors of trafficking and most systems professionals. Many survivors of trafficking and exploitation described transactional sex as inherently harmful, experienced as objectification, commoditization, and violence. From that experience, it feels wrong to imply that buying sex should be something that a person can legally do. They expressed the opinion that sex buyers perpetrating harm and transactional sex is bad for society.

“The buying and selling of someone’s body is exploitative. Decriminalizing the buyers is the equivalent of the state participating in the exploitation.” – Participant 78, public health professional, Metro area

“The message that is sent with like full decriminalization or legalization is that it is okay to buy a human being for sex, that men are entitled to sex and that this is all okay and that’s a problem for all of the possible unintended consequences. Because we have to think too about ideologically what

⁹⁴ See for example Abel, G., Fitzgerald, L., & Brunton, C. (2007).; and Crichton, F. (2015, August 21).

are we are saying with the legal approach too.” - Participants 102 and 103, advocates, lived experience, Central MN

Many indigenous and African American stakeholders, in particular, opposed eliminating criminal liability for buying sex.

“Buyers need to be held accountable. It shouldn’t be legal or decriminalized. The Native women are victims in this. Making it legal will just send them right onto the reservation looking for girls.” - Participants 118 and 119, tribal social services, Greater MN

Participants advocating against full decriminalization believe that removing criminal penalties against sex buyers would cause the marketplace itself to grow and that this would in turn incentivize more “sellers” to enter the market, including an increase in the number of sex traffickers. The belief is that if the market grows, so too will exploitation and trafficking, resulting in increased harm and decreased safety for sex sellers. Some described full decriminalization as a ‘free for all’.

“It’s [transactional sex] going to spread. If it’s like that, then it’s open season. Hey, everything goes, you know...no consequences from both ends, it’s going to be an epidemic.” - Focus group 2, lived experience, Metro area

“I think it would be worse for them [people with pimps], because their, the pimp part of it, their pimp has a little more, it’s already bad enough as is, so I would say the pimp would have a strong hold, things he could get away with under the law. If a girl’s trying to get away from it.” Participant 5, lived experience, Metro area

Law enforcement and prosecutors expressed concern that they will not have the ability to effectively regulate prostitution in communities and also prosecute traffickers in a full decriminalization model.

“I think you tie the hands of law enforcement under the full decriminalization model. We wouldn’t have tools for habitual people who keep doing it and cause problems for their community and we can’t stop it and keep the environment safe [...] The decriminalization of that would tie our hands because just if the victim doesn’t cooperate, the trafficker will just keep finding victims and perpetuating the crime.” - Participant 53, law enforcement, Metro area

Finally, many stakeholders opposed full decriminalization because they believe it would normalize transactional sex and further commodification of women, people living in poverty, and other marginalized people. In this view, the legal system should send an affirmative message that buying and selling people is not acceptable.

“No, [I do not support] a free market. [It could] bring lots of stuff – disease, societal breakdown, it’s not family-friendly at all. We just can’t allow it.” – Participant 73, advocate, Metro area

“It is nothing more than State-sponsored victimization. I don’t want to live in a country that would do that to its citizens.” – Participant 77, public health professional, Metro area

Response to LEGALIZATION

A small group of stakeholders believe that legalization might be the best option. This included a cross-section of stakeholder groups. Some felt that regulation might allow the state to reduce harms by legalizing some aspects of prostitution through regulation, thereby barring other types, locations and experiences within transactional sex market.⁹⁵

Many stakeholders expressed strong negative reactions to a legalization model. For many of those who oppose legalization, their opposition was rooted in the belief that transactional sex is inherently harmful to individual or society.

“What legalization does is says that it’s okay and it’s normalizing this as an “option” for people who need that “option” and it’s putting lipstick on a pig in my opinion. Because the state is collecting taxes on it and there are Ikea sized brothels in Germany that aren’t filled with German women it’s immigrants and what is that saying about this “option.” I just can’t be convinced that this is a job like any other. It facilitates trafficking because the state has incentive to look the other way because they’re getting money profiting off of it, so does the state want to be the biggest pimp of all? And it creates this legal sector growing up with this illegal sector and you hear these stories of these legal places also conducting illegal business, like strip-clubs in the US.” – Participant 43, attorney, Metro area

“I think society has to make a choice as to whether prostitution exploits people or not before we go down that road. The competing interests are that they can do what they want with their body vs. philosophy of life—should the government be in a position to tell you what you can/can’t do with your body? I don’t think it’s good for our society. I think it’s predominantly exploitative. [The] line between what is and isn’t exploitative is hard to find. I’m never going to be completely convinced that it’s not exploitative. As long as there can be the argument that it’s exploitative, government shouldn’t be promoting it. Regulation is the closest our government can get to promoting.” – Participant 67, judge, Metro area

Some opposed to legalization of prostitution because they believe all transactional sex is coercive.

“I don’t support full legalization. I just don’t believe that anyone wants to do that. I don’t support legalization of buying or purchasing sex acts. I don’t want people to feel like they can be bought. People say that it should be somebody’s choice so they don’t get charged. As a community, if someone could make the choice between selling their body or not tell me who’s going to choose selling their body. The people I know that have done this they’re doing it because they have to. The women that say it’s their way of life, that’s because it is what they need to do.” – Participant 72, advocate, Metro area

Not all opposition to legalization, however, was based on opposition to transactional sex itself. Some stakeholders expressed concerns that a legalized, regulated market would disproportionately harm those on the margins:

⁹⁵ Evidence from Europe does not suggest that legalization and regulation of transactional sex reduces harm, *see for example*, Chung, H., & Hynes, M. (2015, April 1).; Cho, S. Y., Dreher, A., & Neumayer, E. (2013).; Mathieson, A. (2016), and Outshoon, J., (2012). Research has also shown that legalization in Netherlands increased regulatory burden, financial cost, and more on people with lived experience in ways that may increase exploitation and vulnerability to trafficking.

“And then you think about folks who are undocumented. In general, they have more barriers – documents may be withheld from them, may not understand the language, may not know where to get help – but in legalization you can’t be part of the system if you’re not documented. That would mean the undocumented sex workers would get the people who want rougher, scarier things outside the legal market. If someone wants a sex act and the system-sanctioned place won’t allow it, they’ll go somewhere else.” - Participant 74, advocate, Metro area

Finally, as with full decriminalization, many stakeholders believe that legalization would increase trafficking by creating a legal marketplace into which victims could be trafficked, while not addressing the underlying vulnerabilities of victims.⁹⁶

“Lots of people say women should be able to sell sex if they want, but there’s always going to be those traffickers and pimps in the background. If we legalize everything it’s going to be a free for all. If we allow the floodgates to open on the demand side, the supply will also increase and there will be lots of people forced into prostitution.” - Participant 64, prosecutor, Metro area

Some believe that the potential increase in trafficking and force that might come with legalization would outweigh any potential rights to sell sex.

“I worry that if we did full legalization would there be a way to make sure trafficking wasn’t happening? Or that exploitive situations weren’t happening? I just worry that people will still be exploited or trafficked or assaulted. If you can convince me that won’t happen I would be open. Me personally... Have I ever sold sex, no. But do I have the right to, yes. But how can we create conditions that protect from exploitation or harm? I just don’t think there’s a way because it creates an environment in which it is so easy to exploit and harm people.” - Participant 71, advocate, Metro area

Response to CRIMINALIZATION

While most stakeholders preferred a Minnesota system that avoids criminalization of people with lived experience, some stakeholders, including law enforcement, service providers and self-identified survivors of sex trafficking preferred to retain full criminalization or at least the option to arrest people with lived experience. Most who advocated keeping the full criminalization model see it as a way to “rescue” survivors of trafficking and exploitation, mandate services and enable trafficking investigations. A small number of stakeholders wanted to retain the current system because they believe arrest is an appropriate punishment for people with lived experience.

Many survivors and service providers identified the paradox that, right now, law enforcement contact provides the primary mode of outreach and service referral for trafficking victims and others with lived experience. These tensions between the harms of criminalization, freedom and self-direction, the potential need for law enforcement intervention for some, and perhaps mandatory services, is also discussed in depth below [see SERVICES AND SUPPORT]. We spend some time in this section exploring these ideas in two sub-sections: (1) arrest and short-term holds; and (2) diversion programs. Most people who supported full criminalization also wanted to see more robust service referrals through short-term holds and diversion programs.

⁹⁶ Evidence from Europe suggests this may be true, *see for example* Cho, S. Y., Dreher, A., & Neumayer, E. (2013).; Mathieson, A. (2016).; and Outshoorn, J., (2012).

It is worth noting that a small number of stakeholders simply advocated for full criminalization of all aspects of transactional sex, such as this systems professional who sees it as a way to create accountability and behavior change.

“I think the best idea is to keep it criminalized for everybody –whether you’re a trafficker, a buyer, or selling it. If people aren’t, make penalties harsher – if you have a prostitute whether they’re being trafficked or not, if the criminal justice system puts harsher penalties on them, eventually they’ll want to make changes in their life. Criminalization creates accountability for their actions. A better model to implement is to keep it criminalized. There’s no reason why a prostitute should have 16 prostitution charges and not spend any time in jail. That’s not helpful. What is she learning from that? At least if she’s in jail she has access to health care, education, and basic needs. Going to jail – if I’m going to spend 6 months in the workhouse, I know that I’ll spend that time recovering from my drug addiction.” - Participant 151, lived experience, Central MN

Another stakeholder suggested that full criminalization “sends a message” to the broader society that prostitution is not acceptable and that people involved in transactional sex should be punished.

“I was told that now we want to move on to this [partial decriminalization]. I’m not there yet, myself. I’m just not there. Because if we have a woman, I’ll speak in generalities. Generally, the women are the prostitutes, I know there are male (prostitutes) sometimes. We will give them a stay of adjudication. We will give them very generous disposition because we don’t want them to have a record. And with a stay of adjudication they get away from their pimp and they get out of their lifestyle, and the case is dismissed. So they can get on with their life. I don’t know if I’m there or if we’re going to help things by “legalizing” the prostitution trade. And that’s how it gets interpreted. I think we still want to discourage that as an economic option for people. I think we can discourage it by still keeping it on the books but at the same time having or showing some humane mercy or understanding when we resolve the case.” – Participant 123, prosecutor, Northeast MN

Finally, there were some sentiments that trafficking victims should not be punished for prostitution, but that people choosing to engage in prostitution should be punished; thus arguing that prostitution should continue to be illegal for all involved.

“How do you differentiate “true” victims from voluntary sellers? From my law enforcement perspective, I still see so many people saying “I’m a victim, I’m a victim” and how do you differentiate and verify that that’s really the case? Through interviews? “I’ve been arrested 6 times and walked away from prosecution because you keep claiming you’re a victim.” – Participants 146, 147 & 148, prosecutor and law enforcement, Southwest MN

Arrest and Short-term Holds

Some stakeholders expressed concern that if selling sex is decriminalized, the police would lose authority to temporarily hold a person in jail to determine trafficking status or create distance between a victim and trafficker. Many described arrest as a way to leverage service uptake, mandate chemical dependency treatment, and otherwise hold victims for their own safety.

Trafficking survivors recounted personal experiences and stories about how police intervention helped them when they would or could not help themselves. Some survivors expressed the opinion that law enforcement intervention was important and necessary.

"I think things would get completely out of control if people don't get arrested. They would be constantly doing it. I would get out for a few months, get sober and then get back into prostitution."
- Participant 5, lived experience, Metro area

Many stakeholders with lived experience, particularly those who identified as survivors, said that arrest and jail allowed them to access services and provided a safe place to obtain shelter and food. This was described as helpful for people involved in transactional sex who are homeless, precariously housed, trying to escape a trafficker, or in need of drug/alcohol detox. Survivors identified an arrest as a way for them to have a temporary separation from a trafficker or a place to access services.

"And in the end, it's hard to if you have a pimp and you're not just doing your thing, you can't just dip out and get help, and that's where the arrest helps, just take me somewhere so I can get away for a minute. It's like having a safe place, I want transition housing, housing is a big piece of people, or having a safe house, I'm not sure how dangerous it would be, but if the police pick you up, and you need to hide, if we had a safe house." - Participant 13, lived experience, Metro area

"There's one particular transgender [person] that I know very well who would get arrested on purpose.... because she knew that if she went to jail, she would get a hormone treatment. They had to give her hormone treatments." - Participant 34, lived experience, Metro area

Law enforcement and service providers also identified arrest as serving this role of separation from a trafficker, a wake-up call, or a break.

"Very often the goal is to get them away from their traffickers, get them away from their pimps—our system has been that we have been arresting these women or these girls and taking them to the jail to separate them from their traffickers or their pimps and holding them overnight." - Participant 109, prosecutor, Southeast MN

"There's still the coercion, blackmail, threats of physical violence, so it isn't just minors that can't get out of the life by themselves." – Focus group 7, advocates, Northeast MN

"Also, in some cases, if you don't put the victim in jail but you do arrest the pimp, she may face retaliation because he assumes she rolled over on him. As soon as he gets out – usually a day or two until he posts bail – he'll beat her up if he suspects she rolled over on him." – Participant 125, law enforcement, Northeast MN

Law enforcement from across the state described a practice that was referred to as "catch and release" or a "cooling off period." When law enforcement identifies a person with lived experience through a sting, many jurisdictions will bring them to jail, but not "process" the arrest.⁹⁷ Instead, they use the opportunity to "hold" someone overnight or short term and offer services and supports or other advocate connections. This was seen as a way to leverage the possibility of arrest either to provide services or investigate trafficking. Most suggested this needed to pair with presenting a strong service option as well.

⁹⁷ Although several people described this approach as a "diversion program," this approach is more accurately described as an exercise of law enforcement discretion to arrest without subsequently filing criminal charges. [See RESPONSE TO CRIMINALIZATION]

“We call it a cooling off time. It gives them, say they go to jail it's on a Monday, they'll sit until Tuesday morning. But meanwhile, victim services has been notified, county attorney has been notified, the jail is notified, and they are not going to be put in that general population and all that. Basically before arraignments the next morning, they are going to meet with, victim services goes down there and talks to them and meets with them at that point. Also they get a risk assessment done. They don't go through arraignment. And since we have been doing this I can't think of one, and maybe I'm off base, but I can't think of one that has said the next morning when they come down, if they said screw you the day before, that next morning when victim services comes down to talk to them and when probation does their risk assessment, they say thank you for coming down. We'll do this. We'll work together on this. And that is something you would have to talk to [name] or [name] with victim services but we're seeing, I can't think of any time that has not worked out. It's worked out well for us.” - Participant 90, law enforcement, Southeast MN

“Well, I'm real pleased with the police and the county attorney's office. We all share the same goal – to identify and convict the traffickers, bring down demand with the buyers, and then help women get out of the life. What they do for adults is they do make an arrest and the women will come in and normally they're high, normally they're on meth or something, and we tried – in the beginning we used to actually go directly to the hotel or the massage parlors at the time of the operation as soon as the woman was identified and frankly it didn't work that well because they were so elevated in their trauma by the arrest itself. And they might have a kid that somebody's watching; I mean they've got a lot on their mind – plus fear of the trafficker, plus being high. That was very hard to engage or go anywhere. So now typically what we do is: they are brought in, they spend the night, they get fed, they get some sleep, they come down from their high and then we go in first thing the next morning. Actually, since we've been doing that we've had a much higher success rate and women getting out of the life.” - Participant 110, advocate, Southeast MN

Often participants expressed a desire for something other than jail to fill this role, but most did not identify a better alternative. Notably, few stakeholders spoke about alternative custodial authority that already exists under Minnesota law, including 72-hour mental health or chemical dependency holds.⁹⁸

“In the moment, I would like to take them somewhere and I don't think jail is right.” - Participant 164, law enforcement, Metro area

Diversion for Individuals Selling Sex

Some stakeholders believed Minnesota needs to retain the possibility of prosecution for selling sex to hold people “accountable” for follow-through and completion of mandated services (housing, mental health, support groups, etc.) through some form of diversion model whereby people with lived experience are offered a chance to complete services to avoid a criminal charge.

Minnesota law provides for diversion from criminal prosecution (pre-trial diversion) or sentencing (pre-sentence diversion). Pretrial diversion allows for the suspension of proceedings and dismissal of charges by the court if conditions imposed upon the defendant are met.⁹⁹ Persons charged with or who have previously been convicted of crimes against a person are not eligible for pretrial diversion.¹⁰⁰ Pretrial diversion allows for resumption of proceedings against the defendant if imposed conditions are not met and for the dismissal

⁹⁸ Minn. Stat. 253B.05, subd. 2 (2017).

⁹⁹ Minn. Court Rules 27 (2017).

¹⁰⁰ Minn. Stat. 401.065 (2017).

of charges by either the prosecutor or the court at any time prior to conviction.¹⁰¹ Minnesota law also permits the discharge and dismissal of charges in certain cases where the defendant enters a guilty plea and successfully completes conditions of probation.¹⁰² If dismissed, there is no public record of conviction.

Many stakeholders expressed desire to create more diversion alternatives for individuals caught selling sex within our current legal framework.

“Get them signed up to speak with advocate and on path that does involve prosecutorial oversight, just to be held accountable or some kind of thing where if they don't follow through to come to meetings, find other jobs, I don't know how long it would be but checking in with someone is important. If they're out of the life for x amount of time, prosecutorial oversight would no longer be needed.” - Participant 164, law enforcement, Metro area

“[In partial decriminalization] We've taken away the ability to leverage getting people getting out of the bad situation because they don't see any benefit to it. There's no pressure or opportunity for them to get out and like I said the equivalent of this is you can get diversion as something that allows people a pathway to get out but doesn't necessarily take away the criminal process. You have something where they can be diverted or should be diverted but then there's oversight to try and make sure that person gets out and gets help.” – Participants 146, 147 & 148, prosecutor and law enforcement, Southwest MN

“[In partial decriminalization], what motive is there for them [individuals who sell sex] to change? What's the motivation? You don't have to if it's acceptable. Don't we run the risk of encouraging that bad choice? Again, that's my moral judgment that it's a bad choice.” – Participant 123, prosecutor, Northeast MN

Participants across stakeholder groups suggested that it would be useful to have “prostitution courts,” similar to drug court, operating throughout the state. One stakeholder spoke of the shame and stigma associated with appearing on a prostitution charge:

“Or when you go into court, I mean like, I don't know if this is, because I haven't been to court for prostitution in a long time. So when you go to court do you still have to stand in front of like [the judge and hear] “sir, you've been charged with theft, sir you've been charged with burglary, you, ma'am have been charged with prostitution.” They should have a separate, I mean like, women shouldn't have to go there...and have everybody know what you there for.” - Focus group 1, lived experience, Metro area

Other stakeholders noted that operating specialty courts around the state could help with more consistent approaches across jurisdictions. Some stakeholders described how diversion programs across the state in many jurisdictions have produced positive outcomes for people with lived experience.

“I think what is happening and what we are seeing is that they are getting this pass [of not being arrested], and they are going out. And then, they are getting caught up right away. They are not availing themselves to services because they do not have to, because there are no consequences... So, that is why I think that there has to be some kind of diversionary track for these individuals,

¹⁰¹ Minn. Court Rules 30 (2017).

¹⁰² Minn. Stat. 609.3751.

predominantly women. So that, they can have some form of accountability, and I think, by doing Safe Harbor for all, you take that away. And, that is a danger. I do not think it is working.” – Participant 59, prosecutor, Metro area

Many stakeholders struggled to come to a firm opinion about whether or not Minnesota should change our legal approach. Again, it is important to remember that people’s opinions are speculative and there is a great deal of unknown. Sometimes people prefer the system that they know, even while acknowledging its drawbacks.

“There is, I think, generally I would say that I’m not in favor of the women being charged or the seller being charged. Because, it just makes things, it’s more along the line of a crime of necessity; and it makes it more difficult for this person who is doing something out of desperation to get out of their situation. Makes housing more difficult, employment more difficult, it’s like a scarlet letter on them. So for those reasons, I think that it’s a negative. On the other hand, I have seen people do very well. For example, in GIFT Court, they wouldn’t be there if it wasn’t for the fact that they received a charge. But I hesitate to really say I agree with that, just because I have used that as a justification for criminal prosecution a lot by prosecutors and probation officers; and I don’t, I guess, in the bigger picture, I don’t believe that that’s what prosecution should be used for. So, I understand that it can have a positive impact when you’ve got the threat of jail or even more so a lot of times people sitting in jail for a long time before they actually, you know as a rock bottom, before they get help. But I don’t know that that’s really what the criminal justice system should be used for. I think that’s more of a social service function. So, yeah, I guess that’s my personal opinion.” – Participant 68, judge, Metro area

CRIMINAL LIABILITY FOR SEX BUYERS

The majority of participants believe that Minnesota should retain criminal penalties for purchasing sex. Some stakeholders supported harsher penalties for purchasing sex from a minor or a trafficking victim. Minnesota law treats buying sex from a minor as a felony, and some stakeholders suggested similar heightened penalties for buying sex from a trafficking victim. Some people who purchase sex also commit other crimes against persons who provide sex, including rape, assault, stalking, and violence. There is widespread agreement that sex buyers are not typically held accountable for these crimes and that this should change.

In this section we explore stakeholder opinions about accountability for crimes that sex buyers commit against people involved in transactional sex and the criminal consequences for purchasing sex.

Findings from this section helped to inform Recommendations #6 and #7.

Criminal Consequences for Buying Sex

Most people who participated in the strategic planning process expressed a strong desire for continued or even increased criminal liability for people for purchase sex.

“Prosecute them [sex buyers]. If you don’t have buyers, you don’t have demand. We pursue solicitation too, because that’s a felony, but stop dropping the buying charge when you get solicitation. That’s why we do john targeted stings. It’s a huge market and you need much more severe penalties. Leverage that public stigma. These buyers travel so that if they do get arrested it’s out of their community. We should make those arrests more public. Maybe then it will be stigmatized enough that they don’t participate. You’ll always have people that want to buy, and

you always probably will have people that will. But let's knock down the demand. Let's break down this idea that it's a victimless crime." – Participant 155, law enforcement, Northwest MN

No one advocated for removing criminal liability for sex buyers who purchase sex from a minor. Some suggested creating increased penalties for knowingly buying sex from a victim of trafficking. Although they also acknowledged this is not always easy to determine in practice, having this provision in law, it was suggested, would put some onus on sex buyers to determine whether the person from whom they purchase sex is a trafficking victim or a victim of exploitation.

Many stakeholders believed the vast majority of people who purchase sex are not identified by law enforcement. Further, if arrested, stakeholders see that sex buyers receive far fewer criminal and collateral consequences than people who sell sex. This is supported by recent research in Minnesota.¹⁰³ The majority of stakeholders believe this lack of accountability happens for two main reasons: (1) the laws are not “strong enough” – meaning they do not have high enough punishments and penalties; and/or (2) race, class and gender privilege of buyers means that the system goes easy on them.

“But these are men that go to churches, they're seen as upstanding citizens, they have the perfect family and children and then they have this dark side and they get away with it and they're hurting other children and other women who don't have the same resources to stay out of it.” - Participants 137, 138 & 139, tribal social services, lived experience, Greater MN

Indigenous and African American stakeholders who view transactional sex as a continuation of the harms of colonialism, settlement and slavery voiced strong support for continued criminal liability for sex buyers.

“Buyers should be held accountable. If the buyers were Indians, Black and Hispanic, there would be large outcry, but because they are white middle-class men, there is no accountability. They effectively have ‘carte blanche’ to buy the bodies of the disenfranchised.” – Participant 77, public health professional, Metro area

Many stakeholders noted that sex buyers seem to evade serious punishment and, if arrested, are often granted a stay of adjudication, meaning that there will be no charge if there are no future arrests. Some stakeholders believe this derives from different societal standards for people who purchase compared to people who sell sex. Some criminal justice system stakeholders pointed out that sentencing is usually based on prior criminal history; for a variety of reasons most sex buyers do not have prior criminal history so they receive sentences on the lower end of the statutory range. Further, many sex buyers have enough money to hire a private attorney and therefore are more likely to not be found guilty or to negotiate a plea deal.

“I know that one thing that makes it tricky is that generally the people that are charged with purchasing [sex] have no record and have a lot to lose – employment, housing, things like that. So there has always been this, I think usually what they get is a stay of adjudication on a misdemeanor; and that's a pretty light sentence in comparison to what the seller's getting.” – Participant 68, judge, Metro area

Many suggested changes to the criminal code in relation to people who purchase sex from an adult. Stakeholders presented a wide range of ideas about their preferred options for the severity of penalties and

¹⁰³ See for example Martin, L., & Pierce, A., et al., (2014); and McDaniel, E., & Cichowicz, N. (2018, April).

the specific type of sanction or punishment – including fines, jail time, public shame, and including sex buyers on the sex offender registry. Some stakeholders suggested that convictions for buying sex should be considered by professional licensing boards. Additional suggestions included “whiskey plates” for sex buyers, billboards, posting photos, and calling family members. However, some stakeholders worried about the use of shame-based strategies.

“I worry about movement to do john pages where they put everybody’s picture on the web. For mental health, I don’t know if it really works long term to flip the judgment. That will trigger additional shame and negative impact and not empower buyers to look at what’s going on. Why do I need this and what needs do I have that I want to get met? My wish is there is some opportunity for people. There needs to be an inconvenience to it, but I want to look at the drivers of purchasing, too and flip that trajectory.” – Participant 111, public health professional, Metro area

Some participants expressed the concern that an increased focus on arresting more sex buyers could disproportionately hurt men of color who purchase sex, believing these men would be more likely targeted by police compared to white men. This could exacerbate the already disproportionate rates of incarceration in communities of color.

“It would be easier for them to weaponize their whiteness against men of color, clients of color, there are a lot of opportunities for this to be systematically used to uphold especially whiteness. That is the easiest and strongest that can still prevail under these systems. Especially whiteness and money and power, which are most closely tied to whiteness anyway. So I could see how people could use these loopholes of buyers are criminalized, pushing narratives of men of color being violent.” - Participant 35, lived experience, Metro area

“I think people of color buyers will be targeted more. The ‘safe’ buyers are white, maybe Asian, based on the model minority myth in the sense they will be more safe under this policy, but men of color, will be arrested more.” - Participant 42, lived experience, Metro area

Stakeholders also wondered if Minnesota statute could create levels of criminal liability (or “degrees”) for buying sex from an adult based on the behavior, with increases in penalties for repeated arrests and purchasing sex from a minor or trafficking victim. They likened this to other crimes that have degrees associated with charging and sentencing.

Some stakeholders expressed the belief that purchasing sex should be viewed as rape and that it should be included in the sex offender registry system.

“I think there should be strict penalties for buyers. In my mind, it’s rape.” - Participant 153, tribal social services, Greater MN

Other stakeholders expressed concerns with the sex offender registry itself. Some of these concerns were rooted in disparate racial impact.

“I heard about a legislative agenda item around adding purchasers or Johns to the sex offender registry and that’s not a very good idea because one, the system in itself is just really screwed up and again you’re looking at potential disproportionality of who of those purchasers are white men,

I can see that impacting people of color and American-Indian males far more than white males who are perpetuating this.” – Participant 101, public health professional, Metro area

Stakeholder feedback suggests that determination of the statutory punishment for purchasing sex is based on values and priorities. There is limited research or evaluation evidence on the actual impact of these different strategies on sex buying behaviors and people who purchase sex.¹⁰⁴ The strategic planning process did not identify a consensus on the specific sanctions.

Many stakeholders, including people with lived experience, service providers and police, suggested the need for robust programming that provides education, therapy, group therapy, and treatment for additions for sex buyers. Some suggested a specialty court just for sex buyers. Many believed that there is “something wrong” with people who purchase sex and that we should develop diversion or treatment programs. Other stakeholders expressed opinions about the “John School” concept; most suggested that it should be a much longer program more commensurate with what people arrested for selling sex have to do on probation. Diversion to mandatory services for sex buyers is discussed below.

Finally, others identified technical difficulties in applying the statute related to criminal penalties for purchasing sex as it is currently written. Many police officers noted that the distinction between “agreeing to obtain” and “obtaining” sex has led to confusion in charging and difficulty in obtaining convictions. Some noted the impact of jurisdictional variation on displacement of sex buyers from locations doing enforcement to purchase sex in jurisdictions that are not doing enforcement activities. Jurisdictional variation was more of a concern for law enforcement agencies in Greater Minnesota.

Another robust topic of discussion among stakeholders related to sex buyers was the need for primary prevention efforts to change social norms around consent, masculinity, and healthy relationships [see PREVENTION].

A small number of stakeholders expressed the opinion that Minnesota should not have any criminal liability solely for purchasing sex. These stakeholders tended to be people with lived experience who identified as independent providers or sex workers, although not exclusively, as some law enforcement, self-identified survivors and others also expressed this opinion.

Other stakeholders thought that focusing on arrest of sex buyers was not a good use of limited resources. Instead, these stakeholders believed that law enforcement should focus on traffickers and sex buyers who commit other crimes under the cover of purchasing sex.

Diversion for People Who Buy Sex

Many stakeholders expressed a desire for more robust diversion programs for people who purchase sex. There were several reasons. According to some, there is a lack of parity in the sentencing and burden between people who provide sex and people who buy sex in our current system. People who provide sex have much longer-term requirements as part of their sentence, whether it be diversion, probation or jail. Some suggested it is not fair for sex buyers with money to buy their way out of jail and time invested in services or restitution.

¹⁰⁴ See for example Shively, M., & Kliorys, K., et al. (2012).

"[Criminalization of sellers] takes away the highlight of where that shame and that social stigma needs to be...But magically the male buyers don't exist in the situation." - Participants 102 and 103, advocates, lived experience, Central MN

"People who are being exploited are certainly being imprisoned more than the buyers [...]." – Focus group 7, advocates, Northeast MN

"I do think that as public perception shifts, there's more of a reward associated with doing a sting, and arresting or charging traffickers, but why isn't it happening to buyers. [There is a] mindset that you're going to ruin the buyer's life, upstanding person, don't want to send them to jail, or make it public without the acknowledgement that buyer is ruining someone else's life." – Participants 134 and 135, advocates, Northeast MN

Many stakeholders, including people with lived experience, believe that sex buyers require services and supports around mental health (e.g. sex addiction, victimization in child abuse, etc.), culture-change, racism, sexism, entitlement, and so-called "toxic masculinity"; and that these should be mandated. Some stakeholders mentioned a few programs, but most indicated that this was a significant gap in Minnesota.

"Those guys [sex buyers] should be mandated to services, not just a class. Determine what's going on with that male. Determine what is the core issue, and figure out how to address it. And then make it mandatory to seek therapy, and have their family get involved, their community knows what's going on. That would deter a lot of men if everyone knew, there are no laws to protect you and your privacy, your family and community will know. The secret of it all keeps people sick. This is how men get off and it's their secret life, having that exposed would be good." – Participant 20, lived experience, Central MN

"So it's, like – and then, for the people that are buying – I mean, and the really sick – you know, the really sick things, I just feel that jail is also a place that people can end up feeling comfortable. You know, like, I feel like the people should really be made to do some rehabilitative services because you have the victims that are going to pay for the rest of their life." – Participant 15, lived experience, Metro area

Accountability for Crimes Against People in the Transactional Sex Market

Participants with lived experience described egregious and heinous crimes committed by sex buyers within the marketplace. This includes stalking, assault, violence, rape, kidnapping, and even murder.¹⁰⁵ Some stakeholders also drew links between sex buyers and the large number of missing and murdered Native American women. These, and many more, violent crimes are subject to criminal penalty according to Minnesota statute. But people who purchase sex are rarely charged with these serious crimes when they commit these crimes in the process of paying for sex [see TRANSACTIONAL SEX, HARMS AND OPPRESSION].

“Because I’ve had a lot of – a lot of people I’ve known that have died out there from guys that killed them.” - Participant 19, lived experience, Metro area

“I mean, like, kidnapping someone is illegal. Abusing and hitting someone is already illegal. Stealing someone’s money is already illegal. Rape is already illegal. You know what I mean? So it’s, like, all these things are already laws. We just need to enforce those. And to me, that’s just seeing sex workers as people. Like, seeing that sex workers can be raped. Seeing that sex workers can be abused. Like, you didn’t inherently deserve that because this is your job. And I think that’s what needs to change with the law in order to deal with violent customers.” - Participant 12, lived experience, Metro area

Stakeholders voiced the strong opinion that, regardless of the legal model, the criminal justice system should **focus on identification, arrest and prosecution of sex buyers who commit crimes against people with lived experience**, often under the cover of purchasing sex. Many stakeholders with lived experience described instances in which sex buyers got away with committing very serious offenses against people with lived experience. With our current prostitution laws, they have no legal recourse to report crimes. And when they do report crimes, they are often not believed. This survivor of trafficking, who described prostitution as “sex work,” relayed the following:

“Okay, sex work is dangerous enough and I had experiences where I was thrown out a car naked after being anally and vaginally raped by gunpoint, and being afraid to call the police because I got in the car for a date. I’ve had police come and tell me when I was attacked by someone at knife point because I didn’t want to have sex, that if I lay down with the dogs I’m gonna get dirty. By criminalizing prostitution, you’re excluding people from reaching out to the police who can keep them safe. I think it’s really sad, you’re really alone out there in the streets and if you can’t call the police due to what you’re doing being illegal or some petty warrants you have or being a member of a marginalized community, you’re afraid to call the police because it’s really dangerous and I have a lot of ambivalence and I know that there are some people who are empowered through sex work and that’s what they do and they’re proud of it and I think that sometimes comes from a place of privilege because my experience with sex work was really the opposite, that even if you don’t have a pimp or a boyfriend you still, this is a last resort.” - Participant 163, public health professional, lived experience, Metro area

Stakeholders, such as the person quoted above, described situations in which they themselves or other people with lived experience were dismissed by police, told they “deserved it,” or were not believed. It is a

¹⁰⁵ See for example Brewer, D., & Dudek, J., et al. (2006); Potterat, J., & Brewer, D., et al. (2004); and Krüsi, A., Chettiar, J., et al. (2012).

profound injustice to people with lived experience when a sex buyer who has committed rape, or another serious crime, is charged only for purchasing sex.

Many stakeholders echoed the notion that with limited resources, law enforcement should target efforts on sex buyers who purchase sex from a minor, commit other violent crimes while purchasing, or deliberately or knowingly seek to purchase sex from a victim of trafficking.

“That’s so context dependent. Not all purchasers are the same. I would want to know the relative ages, whether there is harm involved, so many factors. Do I think it should be criminal? Yes. But how seriously should the criminal justice system punish someone who purchases, like any other criminal offense, depends on the seriousness of the conduct itself. Other than the promotion and solicitation of a child.” – Participant 69, judge, Metro area

In addition, some stakeholders said people with lived experience who are victims of crime, such as trafficking, rape, stalking, assault and other crimes, need more consistent access to the rights afforded to other crime victims. Stakeholders with lived experience reported being unable to access these services or not knowing that they have this right. For example, many trafficking victims do not know they have rights as crime victims and may be eligible for restitution and reparations. Further, stakeholders were unclear whether people with lived experience who are victims of crimes committed against them during involvement in transactional sex have victims’ rights according to Minnesota law or are able to eligible for restitution or reparation.¹⁰⁶

MODIFICATIONS TO CURRENT STATUTES

Many stakeholders recommended specific modifications to Minnesota’s current statutes concerning prostitution and sex trafficking that they believed would better serve adult victims of sex trafficking, exploitation and violence in transactional sex. These include removing the words “prostitute” and “patron” from Minnesota statutes, reviewing and revising prostitution and sex trafficking statutes for internal consistency, strengthening expungement and vacatur provisions, and identifying ways to more consistently apply laws across Minnesota jurisdictions. These are described below.

Findings from this section helped to inform Recommendations #4, #5, and #14.

Replace Terms “Prostitute” and “Patron”

Stakeholders across the state, particularly those with lived experience in transactional sex, believe the term “prostitute” is derogatory and stigmatizing. Many suggested the term should be removed from Minnesota statute and replaced with a different term. The term “prostitute” appears in many different areas of Minnesota’s legal code including criminal and civil law, definitions, child protection statutes, and elsewhere. A preliminary list is included in Appendix C.

“We come up with one different way of expressing that an individual has been involved in prostitution, so we come up with something else and remove prostitution from ALL statutes. No such thing as a prostitute. If you are a victim of exploitation or trafficking, then we want to say that,

¹⁰⁶ Minn. Stat. 611A details crime victim rights. These rights include being notified of the progress of the case against the accused, including decisions to charge and enter into plea agreements, hearing dates, appeals, and release dates. Special provisions regarding domestic assault, criminal sexual conduct, and stalking crimes exist. Minnesota’s Safe at Home law, Minn. Stat. 5B, allows people who fear for their safety to use a safe, confidential address. Minn. Stat. 611A also includes provisions on restitution and reparations. Restitution is money the convicted person is ordered by a judge to pay to the victim as part of the criminal sentence. Victims of crime can apply to the State of Minnesota for reparations.

that you won't be called a 'prostitute' in any law in MN. If we decriminalize, then we need to have another term." - Participant 45, attorney, Metro area

"Prostitute is a demoralizing word, depicts the person as property. How can law enforcement or a judge or jury view this person as a victim if they are called prostitute? [...] Name the act, not the person; use commercial sex or commercial sexual exploitation."- Participant 87, advocate, lived experience, Metro area

Likewise, many stakeholders said they believe the term "patron" is not an appropriate word to describe sex buying. Many thought it sugar-coats the behavior of purchasing sex, since the term "patron" is used to describe many types of consumers. They also commented on the lack of parity between the highly stigmatized term "prostitute" and the neutral term "patron." Many saw this as emblematic of the disparate treatment of providers and purchasers of transactional sex in Minnesota.

"We should fight to change that. Then patron, that word is something we use for all kinds of things [...] Change the name to something other than patron." – Participant 87, advocate, lived experience, Metro area

The strategic planning process did not identify a replacement term for "prostitute" that describes the behavior, would be easily recognizable to a lay audience, and that would not promote a particular perspective, ideology or agenda. Some advocated for use of the term "victim" or "sex worker" to replace the word "prostitute." Based on findings, we would suggest identifying a term that describes the behavior without being stigmatizing or derogatory, such as "seller of sex," or "person who trades sex." Determination of a new term should include voices of people with lived experience.

Likewise, we did not identify a replacement term for "patron." Possible ideas could include, "sex buyer," "purchaser of sex," or another phrase that describes a person who provides something of value in exchange for sex or sexual services.

Review and Revise Statutes for Consistency

Many stakeholders, particularly law enforcement and legal experts, identified inconsistencies within and across Minnesota's prostitution and sex trafficking statutes, as well as into civil statutes that reference or pertain to prostitution. For example, individuals defined as "victims of sex trafficking" in the sex trafficking statute block are simultaneously defined as "prostitutes" in the prostitution statute block. There are also many inconsistent statutes related to prostitution and trafficking in the child protection, adult protection, and juvenile statutes.¹⁰⁷

Other inconsistencies can be found in penalties. For example, solicitation in a public place is a gross misdemeanor, but is a misdemeanor in a private place. While this distinction originated as a way to target street-based prostitution, many law enforcement officers suggested that this distinction is out-of-step with the rise of online and electronic solicitation. Other inconsistencies in penalties, such as the relatively low penalties for electronic solicitation of children to engage in sexual conduct found at Minn. Stat. § 609.352, were noted.

Law enforcement participants also described an impediment to charging in certain buyer sting operations -- i.e., those that start with a phone call or text from a sex buyer in response to an advertisement and conclude

¹⁰⁷ See, e.g. Minn. Stat. §§ 626.556, 626.5571, and 260B, 260C, and 260D.

when the sex buyer shows up at a specific location. Difficulties proving whether the electronic communication occurred in the same jurisdiction as the arrest can impede convictions.¹⁰⁸

“They make the agreement for sex for money, they broke the statute, but we’re arguing over jurisdiction because we don’t know where they were when they called.” - Participants 107 and 108, law enforcement, Southwest MN

The strategic planning process was not designed to identify inconsistencies within and between statutes in a systematic way. The strategic planning team believes there may be many additional inconsistencies and potential problems within and among all the different statute blocks that cover aspects of transactional sex. Thus, Recommendation #4 suggests that the State convene legal experts and people with lived experience to conduct a thorough review of current State statutes and make recommendations.

Expungement and Vacatur

Many stakeholders indicated that a criminal record poses an ongoing problem for people with lived experience. A criminal record makes it difficult to find work, secure housing, access public benefits, retain custody of children, and move forward. The extensive use of background checks for many jobs, licensed professions, and rentals exacerbates this harm [see HARMS OF CRIMINALIZATION].

Minnesota law currently includes provisions for the expungement (sealing) of arrest records¹⁰⁹ and convictions¹¹⁰ and for post-conviction relief to vacate (remove) convictions from a person’s record.¹¹¹ While Minnesota law does allow crime victims to seek expungement of records which have a nexus to their victimization and allows trafficking victims to raise an affirmative defense to prostitution charges, many stakeholders noted that the laws fall short for many with lived experience. This disconnect may be the result of the failure of the law to work as intended, from lack of awareness and training, or from the focus of these provisions on protecting only people identified as crime victims.

“I think that the state should consider a vacatur for trafficking victims. Not just expungement, which puts a layer of cement over it, a band-aid, but vacatur will say, ‘No it never happened.’ It’s a policy saying you were wronged, the system hurt you and we are going to fix that which is a much stronger statement than expungement. I think vacatur would be great as a policy.” – Participant 43, attorney, Metro area

Minnesota’s expungement laws were expanded by Minnesota’s “Second Chance” law in 2014.¹¹² This hybrid provision for crime victims, including victims of human trafficking, not only seals records but restores the person “to the status the person occupied before the arrest, indictment, or information.”¹¹³ Crime victim status must be taken into consideration by the court when considering an expungement petition¹¹⁴ and, if the court finds a nexus between the criminal record and the person’s status as a crime victim, the person is

¹⁰⁸ The way Minnesota’s harassment statutes handle jurisdictional issues could potentially be adapted in this setting.

¹⁰⁹ Minn. Stat. § 299C.11 (2017).

¹¹⁰ Minn. Stat. § 609A (2017).

¹¹¹ Minn. Stat. § 590 (2017) limits post-conviction relief to situations where the conviction obtained or sentence violated the person’s rights under the Constitution or laws of the United States or of the state or where scientific evidence not available at trial establishes the petitioner’s actual innocence. With limited exceptions, petitions must be filed within 2 years of the disposition of the case. The post-conviction statute provides no specific procedure for victims of crime.

¹¹² Laws of Minnesota 2014, chapter 246, sec. 3.

¹¹³ Minn. Stat. § 609A.03, subd. 6a (2017).

¹¹⁴ Minn. Stat. § 609A.03, subd. 5 (2017).

treated under law as having never been arrested, charged, or convicted.¹¹⁵ The law specifically provides that a person whose conviction has been expunged under this provision “shall not be guilty of perjury or otherwise of giving a false statement if the person fails to acknowledge the arrest, indictment, information, or trial in response to any inquiry made for any purpose.”¹¹⁶

According to stakeholders, the process of sealing records is complicated and may be overwhelming, or even impossible, for people who have “caught cases” in multiple jurisdictions over a long period of time. People with criminal records outside of Minnesota face particular challenges. Many stakeholders voiced the opinion that we need to strengthen and simplify ways of removing a prostitution charge from someone’s record. Most agreed that the current expungement process does not work well for people with lived experience. Stakeholders described it as too cumbersome, difficult, and variable. People must list all convictions from any jurisdiction and then petition for expungement of each conviction separately. Even having one expungement denied in one jurisdiction can effectively render any other expungements moot by leaving a prostitution conviction on the record. Also, people with lived experience described having to wait too long for expungement to be an available option. Many said the \$300 fee for expungement is a barrier for those living in poverty.¹¹⁷

Some stakeholders called for laws that appear to already be on Minnesota’s books. For example, some specifically called for the authority to expunge criminal records that result from being a trafficking victim.

“The other thing is other criminal charges, and I would say that I agree with the uniform law that has been drafted on human trafficking that has been drafted by the law commission that any criminal offense that has been committed by someone related to trafficking victimization should be expungable and an affirmative defense. Doesn’t matter if felony or if victim is being charged with trafficking, so any offense for any person of any age. There should be an intervention in lieu of conviction, which other states have done for any offense related to trafficking, so they can go into diversion program instead of being convicted. The intent of all this is that prosecutors see it’s not worth it to charge someone and go through all this, and as a fail-safe in case some prosecutor does not get the mandatory training, then we have these fail-safes, but hopefully we provide training to all public defenders and the court so someone recognizes.” - Participant 45, attorney, Metro area

Stakeholders also mentioned the need for an affirmative defense based on trafficking victim status. While Minnesota law provides trafficking victims with an affirmative defense to prostitution charges under 609.324, subdivisions 6 and 7,¹¹⁸ trafficking victim status is not a defense to other crimes.

“There should be an affirmative defense, recognition and mandatory training for defense attorneys, prosecutors and courts so they can recognize them as a victim and so they have the policy directory to say you recognize someone has been trafficked.” - Participant 45, attorney, Metro area

Some suggested that instead of Minnesota’s current expungement procedures, we should provide what some stakeholders described as an “automatic expungement” after a certain length of time without a re-arrest. The range suggested was 90 days to 7 years for an automatic expungement. Stakeholders thought

¹¹⁵ Minn. Stat. § 609A.03, subd. 6a (2017).

¹¹⁶ Minn. Stat. § 609A.03, subd. 6a (2017)

¹¹⁷ While not discussed by any stakeholders, Minnesota’s *In forma pauperis* provisions may be an option for some people living in poverty to overcome the barrier presented by expungement fees. However, it is possible that people with lived experience do not know about this or may not have a low enough income to qualify.

¹¹⁸ Minn. Stat. § 609.325 (2017).

that if Minnesota does pass a partial decriminalization law, that decriminalization should be made retroactive, by automatically expunging or vacating past convictions in the state. Otherwise, stakeholders predicted that partial decriminalization will set in motion an unequal system in which people with past convictions still carry the heavy burden of criminalization. Some thought that if diversion options were offered pre-arrest, there would be less reliance on expungement or vacatur.

Finally, some advocated for a process to dismiss petty warrants for people who are trying to restart their lives and enter services.

“I think that whatever power they’re using to dismiss these warrants on the warrant resolution days should be offered to those entering care and trying to leave sex work. They can call it a fresh slate or something. You have a probation violation? Okay, we’ll reinstate you. You have this warrant for a ticket? We’ll give you community service and it’s over. Don’t just say you want to give people a fresh start, make that happen. Help someone seal their record, help someone get a place to live, help someone not be afraid of the police, help someone get their identification.” - Participant 163, public health professional, lived experience, Metro area

Inconsistencies in Application of Laws

Law enforcement personnel and service providers, particularly in Greater Minnesota, identified harms to victims of trafficking that occur because prostitution statutes are inconsistently applied in different jurisdictions. They identified all levels of the criminal justice process, from arrest practices, charging, prosecution, and sentencing. Stakeholders suggested that we need consistency so that individuals will know what to expect for penalties across the state. They noted some displacement of activity based on enforcement and prosecution levels in different communities. Also, lack of consistency in arrest, charge, and sentencing can break trust between victims and advocates, as well as victims and police. Further, lack of consistency can lead to victims “falling through the cracks” (Participants 102 and 103, advocates, lived experience, Central MN) [see PRINCIPLES AND APPROACH].

Some linked these inconsistencies to funding for law enforcement efforts across the state. This was seen as a concern among smaller jurisdictions in Greater Minnesota.

The strategic planning process was not designed to solicit recommendations for this problem, so we do not offer specific solutions. However, this was a common concern in many jurisdictions across Minnesota and we do recommend focused attention on policy levers and training to remediate lack of consistency across jurisdictions.

CONSIDERATIONS FOR IMPLEMENTATION

The majority of stakeholders from all corners of Minnesota and a diversity of perspectives expressed strong desire to extend Safe Harbor service eligibility to include people with lived experience of all ages.¹¹⁹

Currently, prostitution is decriminalized for youth under age 18. Safe Harbor services are available to young people up to age 24, but youth aged 18-24 can still be arrested for prostitution. Stakeholders with lived experience and others said that denial of services to people over age 24 feels stigmatizing to adults who are victims of trafficking and exploitation. This was described as potentially traumatizing. Further, many felt the service eligibility age-limit of 24 reinforces the distinction between “good” young victims and “undeserving”

¹¹⁹ Recent analysis of Sweden’s approach has found, “that while the ban on the purchase of sexual services is the aspect of the law that has received most attention globally, it is the social intervention to help people out of prostitution that is the backbone of the law and that is expected to be crucial in reducing prostitution in the country.” Crowhurst, I., Outshoorn, J., & Skilbrei, M. (2012), p. 189.

adults. Stakeholders said that for adults the Safe Harbor age limit can be a form of victim-blaming, sending the message that they do not matter.

Previous sections described findings related to stakeholders' views about transactional sex, understanding of root causes of harm, varying opinions, and perspectives on legal frameworks related to prostitution and sex trafficking. This section delves into findings related to stakeholders' ideas, opinions, desires, and priorities regarding *how and what* the state of Minnesota should implement in order to prevent and intervene in harms against people with lived experience. This includes principles, description of services and supports stakeholders think are needed, the potential role of police, and prevention opportunities. There may be some overlap in this section with previous sections because many causes, consequences, and experiences are intertwined and overlapping. We made an effort to sign post these connections to avoid repetition.

This process was not designed to create a comprehensive service model with estimated costs. That next step is encompassed in Recommendation #10. However, our process did identify a great deal of information that can be used to guide future expansion of Safe Harbor. Thus, work envisioned in Recommendation #10 need not start from scratch because findings in this section can provide a foundation for implementing that recommendation.

Principles and Approach

This section explores several overarching principles that stakeholders articulated to guide future decision-making about policies, funding priorities, and implementation strategies. Adults in our society are granted more responsibilities, freedom of choice, and agency than children. Thus, some aspects of the current Safe Harbor system (e.g., viewing minors who are victims of commercial sexual exploitation as children in need of protection) will not be appropriate if the model is extended to all adults. While other aspects of the current Safe Harbor system, such as a trauma-informed approach and attention to system coordination, will be relevant but may need to be applied differently. Any approach to extending Safe Harbor to adults of all ages will have to explore and find a balance between personal responsibility, self-determination, agency, protection, and support.

We identified five themes related to principles and approaches for Safe Harbor expansion, these include dignity and respect, open language about transactional sex, reducing harms, addressing poly-victimization, and systems coordination.

Dignity and Respect

Stakeholders were clear: adults with lived experience should be treated with dignity and respect by police, attorneys, courts, child protection workers, social service providers, and all systems professionals. Many stakeholders described recent and past treatment by some professionals as negative, discriminatory, based in stereotypes, and disrespectful [see STIGMA]. Poor treatment by those who are supposed to help has a profoundly negative effect on healing and help-seeking behaviors. One participant in a focus group shared this experience.

"Even when I had that rape, I got so discouraged when I came into the hospital, I got discouraged from the first triage nurse because I was really frazzled. She was like, 'So you are a prostitute, and you think you got raped?' I was like, I gotta go. And I just left. She should have said, 'Let's get you a private room, hon, and we'll talk about this later.'" - Focus group 5, lived experience, Southeast MN

Respect comes from recognition and understanding of what people have experienced. Systems professionals should be knowledgeable about the intersections of transactional sex and other forms of discrimination and oppression based on race/ethnicity, sexuality, gender identity, disability, and other marginalized identities.

For this reason, stakeholders suggested that people with lived experience from diverse communities should be hired to deliver services and contribute to their design. Many with lived experience talked about the need for non-judgmental support from people who have been through similar experiences.

“It has to be a survivor--- otherwise what do you know about this? A survivor, offering this to them, and just let them know this is the face you are going to see every time you get picked up, and when you get tired, call me. And some girls will be honest and say hurry this up, my daddy [colloquial term for “pimp”] is out there waiting for me, but being ready to respond and say okay, next time you need me, call me.” - Participant 13, lived experience, Metro area

“I truly think that you need people who can come through to survivors to really validate those experiences and to be able to understand. And I think it is very important that there are procedures set in place to vet the people who come on board. I am not trying to say this to be paternalistic to survivors who are coming into the work. Survivors who are pulled off the streets and thrown into work before they have the chance to do the serious healing is not helpful. [...] There needs to be space to heal.” – Participant 51, advocate, Metro area

Many with lived experience identified ways that service delivery models can create what they perceived as an unjustified increase in state control over recipients of services. This was deemed especially acute for people living in poverty who may not be able to afford private services paid for out of pocket. Things like restrictions on movement, mandatory services, locked service delivery facilities, curfews, behavior standards, hoops, and eligibility criteria, were described as unfair social control that people with more money or resources can avoid through paying for their own services. This is exacerbated by experience of systemic disrespect and stigma by people with lived experience in many systems. Another example is how mental health diagnoses may cause further marginalization.

We engaged only a few men with lived experience, but one male who self-identified as a sex worker described wanting a space to meet other male sex workers and to build relationships with each other. This was described both as networking and therapeutic.

“I’m not aware of any male sex worker group or projects or anything. The space to talk would be nice. Like a discussion group, a facilitated structured discussion group like we’re doing now would be good to share what’s working, and bounce ideas off each other. It’s hard to find other men, but a group would be nice.” - Participant 41, lived experience, Metro area

A critical aspect of dignity and respect is also recognition of cultural and community assets and resources that support healing. Some people with lived experience described how Minnesota’s current social service environment is not helpful or may be harmful because it is geared toward western-oriented modes of service delivery that are seen as disrespectful of traditional cultural modes of healing. Further, stakeholders emphasized the importance of grassroots and community-based supports as alternatives, because not all those with lived experience will seek support through formalized service models.

Many American Indian participants described how indigenous healing practices, cultural connections, and community are critical to healing and dignity for native peoples exploited in transactional sex and sex trafficking. They pointed to community strengths and the need for Safe Harbor expansion to recognize and fund culturally-based and community-focused services. In addition, hiring staff from diverse communities is important to building effective relationships.

“It’s cultural. We all grew up differently. Native Americans have aunts, uncles, grandmas in their household. We have pow-wows, smudging... if you’re talking to someone else, they’re not going to understand that. You’re going to feel more comfortable because they know – they probably grew up the same way. They can identify with that. It just makes you more comfortable. Just say if an African American woman sat down with me, you’re not going to understand who I am, where I come from, my identity, I’m not going to relate to you. I’m not going to disclose anything to you.”
– Participant 165, tribal social services, Greater MN

Similarly, African American and other communities also noted the importance of community and culturally-focused approaches in their healing journey.

Language About Transactional Sex

Language really matters in relation to safety, healing, and dignity. Many words related to transactional sex carry stigma or are seen to express an ideological perspective. **Inclusive language can support people in help-seeking.** Stakeholders said that service providers could use of a wide range of terms to make their services more accessible to a wider number of people. Stakeholders with lived experience suggested the following terms: “in the life,” “lifestyle,” “the game,” “sex worker,” “victim,” and “survivor.” Due to negative connotations, stakeholders articulated a strong directive to avoid the terms “prostitute” and “prostitution” because they confer shame and stigma [see MODIFICATIONS].

The specific labels and language used by systems professionals or on websites can inadvertently create barriers for people who have experienced exploitation. For example, a person with lived experience who does not identify as a victim of trafficking may not seek or be eligible for services and supports. Many people with lived experience do not feel they “fit” under any one label. From this perspective stakeholders suggested that service responses should use open and inclusive language about transactional sex and let people define their own experiences over time. Many people with lived experience echoed similar themes articulated in the quotes below.

“We don’t need one side saying, ‘We’re gonna save you from sex work,’ and the other side saying, ‘There’s nothing wrong with being a sex worker.’ It’s kind of shaming people who don’t want to be a sex worker. So I really think just meeting people where they’re at and having non-judgmental services are the most important.” - Participant 163, public health professional, lived experience, Metro area

“Some days I’m a survivor and some days I’m struggling. Sex worker, survivor, in between. Today I’m a survivor, tomorrow I might be a sex worker if something happens and I can’t make it. We don’t know. [...] What if I’m in between, I don’t always feel like a sex worker and I don’t always feel like a survivor. Can we just not even put a name on it?” - Participant 3, lived experience, Metro area

Some stakeholders contrasted society’s view of a “good victim” (someone who wants to be “rescued,” young, female or white) with how marginalized people are treated (often seen as violent, combative, or “bad victims”). This dichotomy between stereotypes and language about good versus bad victims impacts how many victims of trafficking and exploitation are treated, particularly people who are black and brown, LGBTQ, or older adults.

“Who is being criminalized and who is a victim—so a problem with the “good” victim or “bad” victim who is uncooperative. The “bad” victims are those who have disabilities, substance abuse problems, male victims, immigrant victims who don’t speak the language, victims who have a record. We have

a problem responding to them as a state now, and the problem would continue.” - Participant 45, attorney, Metro area

“It’s really hard to have policies in a context in which there is a very hyperbolic discourse about trafficking that can be misleading. The rhetoric, the obsession about thinking about commercial sex in such melodramatic terms. It’s very stigmatizing to people who are consenting to selling sex.” - Participant 11, lived experience, Metro area

Harm Reduction and Reducing Harm

Many stakeholders suggested that Safe Harbor expansion for all adults should be based on a philosophy of reducing harms and helping people overcome barriers. This is sometimes referred to as “harm reduction.” Harm reduction principles include prioritizing safety, reducing harm incrementally, allowing the space and time for people to make their own decisions, and providing support for the long-term.¹²⁰ It should be noted that not all stakeholders supported the formal harm reduction model, suggesting that these principles essentially enable someone to continue in what they believe is “bad” behavior.

The approach of reducing harm was described as particularly salient in transactional sex because there are so many challenges associated with exiting a trafficking situation, such as educational disruptions, lack of living wage jobs, criminal records, mental health, drug use and chemical dependencies, intimate partner violence, lack of childcare, disconnection from support systems, violence, homelessness and housing instability, and control by a trafficker [see TRANSACTIONAL SEX, HARMS, AND OPPRESSION].

“I want the women that are lost in the cycle, I want them to be able to have the opportunity to get information to make the choice that works for them. And sometimes when I’m talking with victims, they are not in a place yet to make those steps. They are struggling to picture what it might look like for them to step out of it.” - Participant 86, advocate, Southeast MN

Many stakeholders suggested that recovery and healing for victims of trafficking and exploitation has to be led by each person. Autonomy in decision-making is important, especially if someone does not want to make changes or does not feel ready. Thus, services and supports should be equipped to offer real-time, immediate basic needs (i.e. food, shelter, and personal safety) when the person needs it and also have longer-term supports when people are ready to exit. This aligns with research on exiting transactional sex.¹²¹

“She has to be able to choose her services, you can say we have options, there are a couple of choices, a woman will be more apt to choose something for herself than saying you have to do this. Has to be choice.” - Participant 20, lived experience, Central MN

“You know, I was up all night and sleeping all day, and it was hard to get out of that rhythm. And you want to make choices for yourself, right? And so if we push a survivor to right away be like, Okay, now you’re on day three, and we’re going to need you to get up at 6 AM, have breakfast, do this worksheet, and then -- you know, it’s like now we still don’t have choices. Now you’re telling us what to do, you’re no better than the trafficker. And then guess what? They leave, and then here we go again, somebody in the cycle again.” - Participant 29, lived experience, Metro area

¹²⁰ See for example Rekart, M. (2005, December 1).

¹²¹ See for example Baker, L. & Dalla, R. et al. (2010).

The principle of autonomy may be at odds with some stakeholders' strong opinions that some people with lived experience require mandated services and supports to escape trafficking and exploitation or change their behavior to achieve safety, health, dignity, and justice. This is a deep tension among stakeholders that is not resolved in this report [see RESPONSE TO FULL CRIMINALIZATION].

Many with lived experience described transitioning out of transactional sex as a long-term process that requires empathy, compassion, and provision of basic needs over the long haul. People with lived experience suggested that celebrating accomplishments, however small, helps build self-worth and healing while existing.

"There has to be a lot of grace and forgiveness, nobody changes overnight. The fact that someone is further today than they were yesterday needs to be acknowledged." - Participant 20, lived experience, Central MN

"It's so overwhelming. Everything you own is in your little backpack and you're gonna have a date to pay to keep your cellphone on or to have a hotel room for the night. It's just so massive to say, 'I'm going to stop doing this.' Where do you even start? You might not have identification. I mean, you're in survival mode." - Participant 163, public health professional, lived experience, Metro area

For a variety of reasons people involved in transactional sex may not be seeking to cease involvement. Trafficking may prevent exiting. Some people with lived experience may want to cease involvement but are not ready or able, while others want to be involved in transactional sex. Individuals involved in transactional sex for whatever reason deserve safety and respect. Many stakeholders with lived experience identified strategies that increase safety (e.g., "bad date lists" and partnering to screen sex buyers) while involved in transactional sex. Some of these strategies have murky legal status as they can be seen as third-party involvement and thus subject to Minnesota's sex trafficking statutes [see HARMS OF CRIMINALIZATION].

Poly-Victimization

A central principle articulated by numerous stakeholders is the need for services and supports to be better equipped at addressing poly-victimization and the diverse and intertwined factors that can create significant barriers for exit, recovery, and healing. Victims of trafficking and exploitation frequently have experienced significant traumas including childhood abuse and neglect, sexual violence, intimate partner violence, and domestic violence. According to many stakeholders, these experiences are not separate and distinct and should be addressed together.

"I think that being a survivor is a very individual situation. It's very unique what happens to us, because it's like intimate partner violence, domestic violence, sexual violence. We're also objectified all the time. There is lots of psychological, you know, torture. There is torture happening. [...] But if we could have more of a holistic, really trauma-informed program, ideally, for adults would be really amazing." - Participant 29, lived experience, Metro area

"Like poly-victimization, someone has been exploited and victimized already. Because the services have [not] been as comprehensive or long as they need to be, they get vulnerable and exploited right away again." - Participant 45, attorney, Metro area

Services and supports can be hard to identify and access for people who have experienced multiple forms of victimization because they may not disclose or present the "correct" experience to qualify for specific

services. For example, participants described difficulties faced by trafficking victims who are also victims of domestic violence. This can lead to lack of access to services and feelings of blame and shame that present barriers to healing.

“I’ve had a lot of clients be denied in shelters because they didn’t answer their questions correctly when in reality they weren’t asking the right questions. [...] those questions were not appropriate or not relevant for that person’s situation. Also, when we talk about the meaning and the differentiation of trafficking versus exploitation, when you say that as a shelter that accepts victims of sex trafficking what you’re saying is that you accept people who have been trafficked or most likely have a third person that’s involved in their exploitation so if they don’t and they’re just trying to get out of that life then they do not necessarily qualify for their services, which really what it does is alienate them. There is a large population of women who manage to get away from their trafficker or their ‘pimp’ and try to survive based on what they know how to do but are not open to receiving services from these shelters.” – Participant 88, advocate, Metro area

Experiences of trauma prior to and during involvement in transactional sex are deeply connected to drug use, mental health, self-esteem, and ability to exit transactional sex. Service and supports needs related to these issues are discussed at length below. Importantly, stakeholders suggested that when expanding Safe Harbor, we should consider these intertwined issues and build strong collaboration and trauma-informed approaches into the response. This includes in housing, chemical dependency, and more.

“The trauma part. People only know and accept part of trauma. They want the sad and shut down, and react poorly to those acting out. If we want to truly be trauma informed, we have to acknowledge all of it. People may not be ready to access all parts of services and we should provide that without all these caveats.” - Focus group 6, advocates, lived experience, Metro area

System Coordination

Stakeholders from all sectors and experiences believe that coordination among professionals is a critical principle that should undergird expansion of Safe Harbor to include all adults. This includes stronger coordination among service domains and between social services and police.

“Law enforcement needs to work together with victim advocacy groups. We’re getting much better at that. People look at law enforcement as if we’re looking to arrest everyone, but that isn’t how it works anymore. Law enforcement is here as a first responder to the victims of sexual assault and we need to convince people that the first step has to be done properly and we need correctly trained officers to do that.” – Participant 54, law enforcement, Metro area

People with lived experience often need supports from a wide variety of government and non-governmental agencies and entities because transactional sex, exploitation, and trafficking are related to complex traumas often with co-occurring chemical dependency, mental health, and poverty. Systems responses tend to segment these experiences in different silos. Some stakeholders identified harms caused to victims and survivors of exploitation and trafficking when systems fail to work together. Lack of systems coordination causes people seeking help to fall through the cracks. Stakeholders from many different perspectives, including police, social service providers, and people with lived experience, described profound systems failures due to lack of strong working relationships or other jurisdictional issues.

Seeking help and being denied, told to wait, or referred to the wrong or ineffective services can build distrust and create further marginalization from systems. This can happen between law enforcement jurisdictions when investigations or prosecutions do not work together. Sometimes systems work at cross purposes. For example, extra income can mean a person with lived experience loses access to subsidized child care, or when people move, such as from rural or tribal areas to the Twin Cities, they can lose continuity of care.

Stakeholders who have had experience working with the current Safe Harbor system offered examples of lack of coordination that they suggested should also be addressed before implementing expansion. Many of these stakeholders acknowledged great improvements for young victims of exploitation and trafficking, noting improved coordination between services, advocates, and law enforcement, yet breakdowns still occur. Continued shortfalls in services and housing, especially in rural Minnesota, make emergency and long-term coordination of services difficult. Service providers, advocates, and law enforcement continue to build relationships, but high turnover and different professional roles continue to pose challenges. Provision of services and supports to young people continue to have some tensions around involuntary holds, secure and unlocked shelter, and running away as well as around professional confidentiality and mandatory reporting laws.

Some stakeholders identified confusion or inconsistency within the Safe Harbor system because Regional Navigators throughout the state use different approaches. Some provide direct service, while others function more as network managers. Further, there is significant variation in regional navigator region size and population. Stakeholders in this process pointed out difficulties with the initial approach to tribal nations and indigenous communities. As Safe Harbor becomes increasingly system-based with State resources, stakeholders noted challenges in balancing the much-needed expansion and provision of State services and resources with funding strong community and non-profit services and supports. No one advocated for less State resources. Most stakeholders commented that the influx of funding, housing, and services through Safe Harbor has been critical to improving conditions for sexually exploited and trafficked young people.

Many expressed concerns that any policy change will reflect or potentially exacerbate existing structural oppressions in society. Specifically, stakeholders advocated for up-front and deliberate planning to avoid leaving out or harming black, brown and indigenous people as well as new immigrants, both documented and undocumented, and LGBTQ members of the community within Safe Harbor expansion.

“Any changes to criminal justice response will be subject to current disparities and biases.” - Participant 45, attorney, Metro area

“I think any system is always going to help white, cis-gender, straight, all these upper-class, even if that is not most of the people who are represented in that, they are the first people that are going to be helped. So I think that needs to be said about anything that is done.” - Participant 35, lived experience, Metro area

Further, many stakeholders said that services and supports that are available through Safe Harbor or to adult victims/survivors of exploitation and trafficking miss the mark because they are too inflexible, hard to access, inconsistent or not available at the right times and places, and deficit-based.

“It took me - to have to go sit down somewhere for a certain period of time to actually start even thinking about changing my life and wanting to change my life [...] it took me a long time to even think about wanting to get help and changing. And it took me to be placed in a treatment center far away. Well, an hour away. That was far enough for me, you know. [...] Because you maybe could

affect that one person that - at that moment, you know? [...] because it kind of is a timing thing where you got to catch them at the right time.” - Participant 28, lived experience, Metro area

Systems failure due to lack of coordination is a serious concern. The strategic planning process was not designed to conduct a systematic review of Minnesota’s service provision landscape or implementation of Safe Harbor. However, we believe this is a critical consideration for expanding Safe Harbor to include all adults. Thus, this should be included in a funded planning process that is described in Recommendations #10, #15, and #17.

Services and Support for Adult Victims

Stakeholders provided robust and detailed thoughts about the kinds and types of services and supports that are needed to promote safety, health, dignity, and justice. They also talked about deficiencies and problems with current provision of services and supports. The social service domains discussed include: outreach and access, housing (short-term, transitional, long-term and permanent), employment, chemical dependency, child protection, and finally, medical and mental health services.

Participants were nearly unanimous in the opinion that **services and supports currently available for adult victims of trafficking and exploitation are insufficient to prevent exploitation, meet basic needs, and create conditions for victims to thrive.**

“There are people who honestly seek help daily and there isn’t services and even if there is, it is not readily available.” - Participant 20, lived experience, Central MN

Outreach and Social Service Access

To address the challenges of accessing services, many expressed the opinion that additional community engagement and outreach should accompany expansion and enhancement of services. Many stakeholders said that, right now, the primary mode of outreach to and contact with adults who are victims of sex trafficking and exploitation is conducted by police, either in sex buyer stings, rescue and recovery operations, or in the course of regular police work. Stakeholders across the state believe that Minnesota does not have a strong system of outreach and service connections specifically around sex trafficking and exploitation of adults.

“Also, more outreach to people in the life. Because there isn’t as much outreach no one is getting services, no one is going to walk in there and ask, they need to be reached and they need to build a relationship because people need that “in.” We need a relationship and more services and it needs to be done by people who know what they’re doing and have had training. If we’re serious about addressing this issue we need to stop the kids that become these adults in the life. Prevention comes down to services and housing, creating that via arrest which is less ideal or doing the outreach and publicity and building those relationships to get people in. People get into sex work for rent and there have been articles and research about it so services that combat that are needed.” – Participant 43, attorney, Metro area

Stakeholders suggested that outreach should be conducted by people who would be trusted by those needing services and support. They identified the need for racial and ethnic diversity and lived experience such as survivors of exploitation and trafficking, independent providers and sex workers. Many suggested that government employees, social workers, or police may not be appropriate for outreach to many victims due to historical lack of trust and past harms.

“Having outreach, basically, is the thing to help. You know? Having women out there that have been through it or having meetings or having people - a couple people riding as neighborhood people being concerned. Concerned people. Instead of, you know, cop watchers.” - Participant 19, lived experience, Metro area

“As a companion to partial decriminalization, we need a big increase in services, training, and outreach and have protocols so that people are connecting and identifying victims and connecting them to services in a trauma-informed way.” - Participant 45, attorney, Metro area

Some stakeholders expressed concern that without law enforcement involvement, sex trafficking victims will not learn about services and supports. In this vein of thinking, many suggested mandatory diversion programming [see RESPONSE TO FULL CRIMINALIZATION]. These opinions are linked to a larger disagreement about whether services and supports (such as chemical dependency treatment and mental health services) should be mandated or forced in some way.

“It depends, in theory that makes the most sense to not criminalize someone whether it is by choice, or third party or lack of choice. But, it all depends on the system that is in its place. So the unintended consequences of having no criminal sanctions so then law enforcement stops caring and then we have no services and supports. So criminal justice doesn’t care, and other systems don’t care. Are people going to be better off? Can’t have law change without something else to take its place to help individuals where they are at now.” - Participant 152, attorney, Metro area

“So if we’re going to crack down and do partial decriminalization, we need to have a framework ready right away. I’m talking housing. I’m talking job services, I’m talking healthcare, you know, supplemental income, some kind of stipend for them to get through the time in between. If people want to go to school...” - Participant 29, lived experience, Metro area

There was widespread agreement among stakeholders that extension of Safe Harbor services for adults should include development of new outreach and engagement that is well-coordinated to meet needs at the right time and place.

Housing

Lack of housing for adults, particularly adults with children, was nearly unanimously identified as a significant problem, and thus an essential component for Safe Harbor expansion. This was described by all stakeholder groups across the whole state with acute housing shortages in Greater Minnesota. Lack of safe, secure, and affordable housing drives people into transactional sex and keeps them there either to get money to pay for housing or directly exchanging sex for a place to stay (or to a landlord in lieu of rent).

Housing is foundational to safety, health, dignity, and justice. Stakeholders identified needs for immediate separation from a trafficker, safety and stability for the individual and their children, mental health care and drug treatment, accessing services, and overall reduction in harm. Many stakeholders believe that a “housing first” approach is essential because without safe and secure housing people cannot make choices and cease involvement in transactional sex if that is their wish. While emergency shelter is certainly needed, stakeholders cautioned that real solutions and healing lies in permanent, stable and affordable housing.

Housing is more than just walls, a bed, and a roof over one’s head. Stakeholders identified many other characteristics that are needed to make housing an anchor for safety, health, and dignity. It must be restorative rather than punitive and provide for the long-term. Also, many advocated for housing that is not

regimented or rule-oriented, arguing for the need for flexibility and non-judgment. **There is a great need for housing that accepts parents and their children**, particularly because children were described as the strongest motivator for parents to heal from trafficking and exploitation. Availability of child care is a priority. Many articulated a need for women-led, cultural-specific, trauma-informed housing with staff and supports that are specific to sex trafficking since the psycho-social dynamics are unique and different than for instance domestic abuse.

A criminal record (for prostitution, drugs or theft) or being “outed” as involved in transactional sex is a significant impediment to finding and keeping housing.

“One huge, like, barrier I deal with as a sex worker all the time is housing. Like, it’s—we don’t have paychecks. We can’t prove our income. And you have to lie, and you have to figure out a way around it. Because if you tell someone you’re a stripper, they’re not going to rent to you. It will not happen.”
- Participant 12, lived experience, Metro area

Participants identified a number of access points to housing including arrest or identification through a sting operation, the emergency room or health clinic, drug treatment programs, other agency referrals, youth aging out of services for minors (i.e. turning 18), and survival sex. Participants also suggested that people should be able to access housing on their own terms.

“There should be a place for a woman to call with her kids and say, ‘I want to leave this.’ And right now shelters are very full so that’s kind of scary because there’s like homelessness so some people are staying in domestic violence shelters when they’re homeless. But there should be something more specifically for women who are trying to escape human trafficking so that they can call and not be legally punished.” - Focus group 1, lived experience, Metro area

Participants described the need for immediate access to emergency shelter for people seeking to exit transactional sex and for safe houses for victims attempting to get out of a trafficking situation. Stakeholders also said that housing should be provided for victims testifying against their trafficker.

According to many stakeholders, mainstream homeless shelters are not safe for women, especially women with children. They described theft, assault, and exploitation as rampant in those environments. Many stakeholders with lived experience said that people might rather trade sex for a place to stay than sleep in a homeless shelter.

“And honestly, going into shelter is not a safe option. So if you tell somebody, ‘Just throw your hands up and say I’m not going to do another trick,’ that means you’re going to have to go in shelter with your children where you’re at risk for being assaulted and being trafficked, right at the shelter, with drugs all around you, violence all around you, that seems very hopeless. So the choice to just stay in prostitution almost looks better than the options and the resources that are available to get out.”
- Focus group 2, lived experience, Metro area

Thus, stakeholders advocated for creation of safe and secure immediate housing that is specially designed for people with lived experience and can provide specialized supports related to exploitation and trafficking. To ensure that all victims have access to essential housing, eligibility criteria should not require people to identify themselves as being trafficked in order to receive housing. People with lived experience recommended broader, more inclusive requirements to have access to housing.

“There definitely needs to be a lot more emergency housing, because when somebody is ready to leave, they need a safe place to go. I don’t know what’s available they usually go back to their trafficker or somebody else that they’re doing something with to live there. Survival sex, maybe not doing any paid sex acts but...” - Participant 29, lived experience, Metro area

“I think a lot of them on the street because they aren’t allowed in the shelters because they have a criminal record.” - Participant 34, lived experience, Metro area

Many people with lived experience are parenting; thus stakeholders highlighted a particular need for housing that can accommodate parents and their children. Women with children need stable housing that includes access to child care, to help keep families together and avoid having children taken away. We did not learn about the needs of fathers involved in transactional sex.

“We have to think about victims who have children and even if they’re not criminalized, what we can do to support them in keeping their children with them. That services provided allow them to keep them. We need housing that allows them to live with their dependent services, and that services extend to children, too. Mental health services should also be for children. All services should be cognizant of children. Consider children in responses.” – Participant 62, program administrator, Metro area

Stakeholders also identified acute needs for medium-term housing options with specialized services and supports specifically for victims of exploitation and trafficking that include options for residential drug treatment and mental health services, as well as onsite access to education and job training. However, autonomy and self-determination were articulated by stakeholders as important principles for adults.

“Because in all reality, the women need a little bit more hand holding than just placing them in a unit at our permanent housing when they have no life skills. Let’s do more transitional living. Let’s get your ID. Let’s work on your credit. Let’s get your GED. And then somebody’s there at night saying, ‘You can do this, come on.’ And teaching them time management. Teaching them how to do their homework, you know. Women that are getting out of prostitution have melt down, you know, when they can’t feel like they fit in. Like me, if the computer’s broken and I go ‘Aaahhhh’ and I gotta have an advocate say, ‘[Name] all you need to do is...,’ because we don’t have those skills. But we can be taught. So more transitional living, because I think the women that go through that have a better chance of getting out and actually staying out.” - Focus group 2, lived experience, Metro area

“People have different needs. We had a supportive transitional housing where they had five units with shared kitchen, security, etc. Some want to be alone. With trauma, choice and control is how you heal. If you really want to address trauma, need to look at the research. Telling them what’s good for them is mimicking what they’ve just experienced.” – Participants 134 and 135, advocates, Northeast MN

Recovery, healing, and self-sufficiency will take time. Stakeholders advocated for a continuum of housing so that supports and some less intensive services can be provided for the long-term. This may include things like sober housing or onsite support groups, as well as housing models that foster caring and supportive connections between residents.

“And the only help that I can really find for housing when I complete treatment is this sober housing where I will be living with three other women in a two-bedroom apartment paying \$450...There should be more help because oftentimes, that’s what kind of drew me back to the life was because I felt like I couldn’t find anywhere to live—or...like, I’d need drugs to give somebody to stay at their house, or I would have to give somebody sex to live at their—or whatever, you know?” - Participant 28, lived experience, Metro area

“There is a lot of healing that needs to happen. And I think it should be longer than [a year] because, for instance, when I came home, I was very disassociated all the time. I had a really messed up sleep schedule. You know, I was up all night and sleeping all day, and it was to get out of that rhythm. And you want to make choices for yourself, right? And so if we push a survivor to right away be like, Okay, now you’re on day three, and we’re going to need you to get at 6 AM, have breakfast, do this worksheet, and then—you know, it’s like now we still don’t have choices. Now you’re telling us what to do, you’re no better than the trafficker. And then guess what? They leave, and then here we go again, somebody in the cycles gain.” - Participant 29, lived experience, Metro area

“So the way it was designed and how they’d modeled it offered that support, the other residents were here to support us, there was a meal every night at 6pm, always someone to talk to, if there was something they could do to help us overcome a barrier.” - Focus group 9, lived experience in Northeast MN

The ultimate goal for most stakeholders was permanent, stable, and affordable housing for people with lived experience. Housing is both an intervention and a prevention effort. Lack of quality affordable housing is a problem across Minnesota for families and communities living in poverty and is thus part of a much larger issues for Minnesota to address.

Employment

Lack of access to living wage, meaningful work for people of color, indigenous people, and poor people was described by stakeholders as a significant “push” factor for involvement in transactional sex and victimization in trafficking and exploitation. Stakeholders described that many people exploited in transactional sex and trafficking first enter transactional sex because low-wage hourly work does not meet their basic needs and/or they cannot access work due to barriers in education, training, transportation, and experience of trauma. People who are not able to meet their basic needs are also more vulnerable to trafficking and exploitation.¹²²

Further, many experience low-wage work as exploitative, demeaning, and inflexible for them to meet family obligations. Transactional sex was described as one of the few options available to many people that is flexible and allows them to pay rent, care for their families, and provide food.

“I can’t tell them to go work at McDonalds. They can’t afford an apartment that way [...] Usually with trafficking victims, when they get services, the only job that they can find is a Papa Johns and she’s making \$7-\$8 per hour when she is used to get \$125 per hour. Putting resources in place to get adequate employment so that they don’t go back to prostituting is essential.” - Participant 53, law enforcement, Metro area

“If someone wants to get me out of the life and will give me a super well-paying job, that’s the trade I would make, I want meaningful work I want to do, schedule I want, pay I want. Then yes. That is

¹²² See for example Martin, L., & Pierce, A., et al. (2014).

what I get from sex work. If that's what the state can provide for me, I appreciate that.” - Participant 9, lived experience, Metro area

For many, involvement in transactional sex makes it even harder to access and maintain legal employment that pays well and is meaningful. Violence, trauma, and mental health challenges experienced before, during, and after involvement in transactional sex can make it hard for people to show up to work on time, be there consistently, and perform their job duties. Many involved in transactional sex are used to “fast money” rather than waiting for a paycheck. Some stakeholders suggested that some people involved in transactional sex may lack basic job skills such as resume building, interviewing, and job expectations. On a practical level, after victimization in sex trafficking and exploitation or involvement in transactional sex, gaps in work history make it difficult to complete a job application or a resume. Drug-use and chemical dependency issues are co-occurring for many involved in transactional sex, further complicating employment.

“With me personally, I will say that the years after the abuse, head injuries, drug use, trauma, there’s days where I don’t- I really- not that I can go to regular work. But if my, like purpose going to work everyday isn’t for something, like, really amazing and good...if it’s not something, like with a lot of purpose, I feel like sometimes I’d just rather stay in the industry. Because I am already out there I’m already labeled.” - Participant 15, lived experience, Metro area

“When I was trying to leave the life, that’s what I thought, ‘Oh I’ll go just make a quick \$200.’ So it’s hard to exit, and you go back and forth.” - Participants 141 and 142, lived experience, Northeast MN

Prostitution charges have a significant negative impact on the ability of victims of trafficking and exploitation and others involved in transactional sex to find legal employment. As noted above, people with a prostitution charge are barred from many areas of employment such as personal care attendant, health care, child care and many more.¹²³

“Sure. Even as a social worker it can actually hold you back, it depends on how many times you’ve been arrested, and how many instances you have on your criminal record. Um you won’t be able, you’re not allowed to take the boards, you’re not allowed to get the licensing, so then you have this education, but you have to take the boards, and you’re not allowed to take the boards because of your criminal background. So then you just wasted an education, and they could possibly go in, back into a trade that they only think they’re good enough for.” - Participant 40, lived experience, Southeast MN

¹²³ Minn. Stat. 245C provides for a “Human Services Background Study” of a wide range of subjects, primarily those working in child and vulnerable adult care, residential housing programs, and hospice programs. See Minn. Stat. 245C.03. Disqualifying crimes defined at Minn. Stat. 245C.15 include 609.322 (permanent disqualification), 609.324, subd. 1 (permanent disqualification), 609.324, subd. 1a (10-year disqualification), and 609.33 (disorderly house) (10-year disqualification). Some licensed professions, such as teachers, have specific restrictions for persons with certain convictions and, more generally, exclude people based on “immoral conduct or character.” See Minn. Stat. 122A.20. The Minnesota Child Protection Background Check Act, passed in 1992, establishes a procedure for children’s services providers to request a background check of children’s service workers. The statute defines a “background check crime” to include any “prostitution-related crime.” Minn. Stat. 299C.61, subd. 2. Convictions under 609.322 and 609.324 involving a person under age 18 are defined as “child abuse crimes.” Minn. Stat. 299C.61, subd. 4(1). The Minnesota Child Protection Background Check Act does not require children’s service providers to conduct background checks.

Reliance on background checks in employment makes it difficult to move past charges or convictions. Background checks may have a disproportionate impact on communities of color. Even without a criminal record for prostitution, the stigma of involvement in transactional sex affects work prospects, regardless of whether the person was a victim of trafficking or exploitation.

“The record part makes it tough for you to get housing and employment. They see that and they are like oh no, or if they hire you and then see that, you don’t know how they are going to come at you in their office. Or they are going to look at you and they aren’t going to have respect for you, they look at you a different way. I see people now who know what I used to do, still look at me and I’ve got to tell them I’m out of that life now.” - Participant 5, lived experience, Metro area

Victims of sex trafficking face additional barriers to employment. Some stakeholders described “outing” a person with lived experience as a tactic used by some traffickers to sabotage legal employment. This included sending pornographic images to their work places and stalking at places of employment among other things.

“Like, I’ve quit jobs before because they would send pictures to my boss. And I get to work, the next thing you know, my boss is, like, oh, well, look at - we have this. So I’ve lost a job. Why am I losing jobs because this idiot won’t stop sending porn to people?” - Participant 15, lived experience, Metro area

Some stakeholders also advocated for providing employee and workplace rights within transactional sex. This would include providing ways for people involved in sex work to receive insurance and set up retirement plans.

“We need money for job displacement, specialized training, life skills, job skills. They should get the same benefits a displaced worker should get.” - Participant 87, advocate, lived experience, Metro area

Together, these factors pose significant barriers for legal employment.

Child Protective Services (CPS) and Foster Care

Stakeholders, particularly those with lived experience, described significant challenges with Child Protective Services (CPS) and foster care. The legislation that created Safe Harbor called upon the child welfare system to view youth under age 18 who are victims of sexual exploitation as children in need of protection.¹²⁴ Due to changes in state and federal law, sex trafficking is now viewed as a mandatory report of sexual abuse.¹²⁵

There are currently sweeping implementation changes underway within the Minnesota Department of Human Services as well as in county and tribal child welfare agencies (including new protocol development

¹²⁴ Prior to the 2011 Safe Harbor for Sexually Exploited Youth Act, Minn. Stat. § 260C.007, subd. 6, para. 11 defined a “child in need of protection or services” as any child who “has engaged in prostitution as defined in section 609.321, subdivision 9.” However, while children engaged in prostitution were defined as children in need of protection or services, they were not included in Minn. Stat. § 626.556, the provisions dealing with maltreatment of minors. This had effectively left children engaged in prostitution outside the concern of child protection and child welfare services. Because they were also included in Minnesota’s juvenile delinquency statute, children engaged in prostitution were treated as delinquents.

¹²⁵ In 2014 the Federal Government passed legislation pertaining to child welfare and sex trafficking prevention, H.R. 4980 – Preventing Sex Trafficking and Strengthening Families Act (see <https://www.congress.gov/bill/113th-congress/house-bill/4980>), which created new State obligations.

and extensive training on human trafficking and commercial sexual exploitation).¹²⁶ Most stakeholders who participated in this process did not address their comments to the new child protection approach to young people, per se, but rather discussed how child protection views adults with lived experience who are also parents.

Stakeholders described numerous ways in which Minnesota's child protection and foster care systems themselves harm victims of trafficking and exploitation and undermine their ability to leave transactional sex. Many stakeholders described deeply painful and traumatic experiences of shame, racial discrimination and negative judgement, and ultimately losing their children and their will to recover. They identified that the child welfare system creates cycles of oppression and exploitation, punishes parents in poverty who have addictions, have experienced violence, and are homeless.

"But it's [CPS] another barrier, when they take the only thing you really have." - Participant 115, lived experience, Metro area

"I think that's also a reason that they're not disclosing [trafficking victimization]. They're afraid if they report what's happening, they'll get their children taken away." - Participants 156, 157 & 158, tribal social services, lived experience, Greater MN

For Native Americans, the trauma associated with the removal of children from the home is exacerbated by historical legacy of boarding schools and forcible removal of American Indian children from their families. **American Indian children in Minnesota are 17.6 times more likely than white children to experience out-of-home placement by Child Protective Services.** The rate of out-of-home placement for American Indian children in 2017 increased significantly from 2016.¹²⁷ African American stakeholders similarly expressed deep frustration at racial disparities for out-of-home placements.¹²⁸ They expressed a desire for more culturally-specific foster care homes. Fear of losing children to the child protection system is powerful barrier to help-seeking for adults with lived experience.

Stakeholders acknowledged that there are times when people involved in transactional sex are not able to provide safe homes for their children due to drug use, violence, or neglect and that CPS involvement is important to keeping children safe. However, many believed that involvement in transactional sex on its own should not be a factor for CPS involvement. Some noted that partial decriminalization could relieve this by eliminating prostitution as a cause for arrest.

"Sex work doesn't make you ill-fitted to be a parent." - Participant 11, lived experience, Metro area

"Obviously, if there's a clear and present danger to the kid, they need to be removed, but I believe that ability is abused. I've seen a kid be removed for someone smoking weed when it's legal in half the country now." -Participant 163, public health professional, lived experience, Metro area

¹²⁶ See Minn. Dept of Human Services: Partners and providers <https://mn.gov/dhs/partners-and-providers/program-overviews/child-protection-foster-care-adoption/safe-harbor/>.

¹²⁷ Minnesota Department of Human Services: Child Safety and Permanency Division. (2017). Approximately 252 out of every 1000 American Indian children under age 2 in Minnesota experienced care (not necessarily out-of-home placement) in 2016.

¹²⁸ Minnesota Department of Human Services: Child Safety and Permanency Division. (2017). African American children were more than 3.1 times more likely to experience care in 2016. *See also for example* Bubar, R., & Thurman, P. (2004).; McKenzie, B., & Hudson, P. (1985).; Jackson, S., & Brissett-Chapman, S. (Eds.) (2018).; and LaLiberte, T., & Crudo, T., et al. (2015).

Similarly, stakeholders described arrest for drug offences as a common trigger for a child protection investigation among people with lived experience. As described more in depth below, drug use is often co-occurring with involvement in transactional sex and trafficking. However, many stakeholders believe that drug use or involvement in transactional sex in and of itself should not be the basis of CPS involvement.

“It doesn’t mean you’re a bad parent, you’re dealing with an addiction.” - Participant 115, lived experience, Metro area

Training and awareness of trafficking situations was identified as a major gap in CPS. Those stakeholders who discussed CPS suggested that as a system, it is ill-equipped to properly support parents with lived experience as they navigate the complexities of providing some stability for their children, often having to trade or sell sex to make ends meet. CPS case plans were described as unrealistic based on high levels of unmet basic needs and barriers to finding housing or jobs, drug addiction, and lack of safety. Stakeholders with lived experience wanted CPS workers to meet them non-judgmentally and offer services and supports to help them support their families.

“The worker wanted me to jump through all of these hoops, go to all of these classes, maintain housing, and how was I going to get a job when I had never had a job before and I ended up not being able to complete my case plan because it was unrealistic. And how was I going to pay my rent if I wasn’t in prostitution? How was I going to stay sober if I was in prostitution? It was just impossible.” - Focus group 2, lived experience, Metro area

“I think that CPS is an issue and needs to be fixed. People lose their children and it’s almost an impossibility to get their children back because the bar is too high, and whether it’s because they don’t understand and no one is there to advocate for them it’s a big issue. To have someone who’s in house that can handle CP issues would be huge and have a great impact.” – Participant 43, attorney, Metro area

Many stakeholders expressed the opinion that CPS would have better outcomes for parents who are victims of trafficking and exploitation and their children if the focus was on holistic family support and providing resources to families so they can stay together.

“You know, I think there just needs to be more funds and more attention to keeping a family together.” - Focus group 1, lived experience, Metro area

“Even now there’s such a culture where Child Protection is there to take your kid away. It isn’t possible to view someone as an ally when you’re started off with that relationship. It would require systemic changes where child protection listens to what a family needs.” - Participant 163, public health professional, lived experience, Metro area

Many people with lived experience and other stakeholders described situations where the family as a whole has unmet needs. Stakeholders noted that CPS could provide support and case plans that help stabilize families.

“Can we try to provide some recognition of that [family instability] so we can help parents who are trafficking survivors and see if services are available to have parents go into rehab and get access to those services while keeping their children with them.” - Participant 45, attorney, Metro area

“They need to not take our kids away from us just because we are in the life. Focus on holistic, on the family. Provide services that keep women with their children. [...]. Then get them into Housing. Without housing it's really tough for us to do anything. Without our kids we have no motivation. Taking our kids away is a huge blow to us. Instead provide services that keep the families together.” - Participant 1, lived experience, Metro area

In addition, people with lived experience expressed frustration at a lack of legal representation in CPS cases, the difficulty of appeals, and what they perceived as a lack of leniency in CPS cases towards family reunification. Those with lived experience said that removal of their children contributed to feelings of worthlessness and shame, which served to keep people unable to leave transactional sex. While there is a shift in culture and paradigm underway within CPS, stakeholders stressed the urgency of this issue.

Many people with lived experience described situations where their children were removed from them and placed with the child’s father who was also trafficking the mother.

“My mother was in prostitution when I was a child and by her husband. She wouldn’t mention anything, but he was the pimp. He never went to jail or got any time. She did. [...] So then it was bad for me because I was like basically in his hands and they like handed me over to them.” - Focus group 1, lived experience, Metro area

“If a woman is charged with prostitution, she has a sexual crime record, which leads to complications with having access to her children. Time and time again they would have custody battles between themselves, and often a pimp, who had custody of the children because she had a prostitution charge against her, and he had none against him.” - Participant 51, advocate, Metro area

Stakeholders wanted CPS workers to recognize coercive control by traffickers (i.e. crimes committed due to coercion by traffickers, drug abuse as coercive control) and understand the impacts of trauma for survivors.

Stakeholders identified placement in the foster care system as a pipeline into involvement in transactional sex and trafficking. The foster care system was described overall as a broken, overtaxed system that is not supporting children in healing from trauma. Some people with lived experience described coming from a background of foster care involvement, although this was not a specific interview question in the strategic planning process. Systems stakeholders working within CPS and foster care also recognized that these systems can cause significant harm to children.

Foster care placement was noted as a major risk factor for future involvement in transactional and victimization in trafficking and exploitation. Stakeholders described foster care youth as experiencing cycles of abuse that begin in childhood. They identified foster care as a system that is supposed to support children who are at high risk of involvement in transactional sex due to childhood experiences of abuse and parental separation but does not provide enough and appropriate support to address childhood trauma.

“It starts at a young age, abuse and neglect, and the foster care system, aging out of the foster care system, and desperation, and vulnerability, and trafficking. I mean, it kinda goes along a continuum.”

But we don't do a real good job of taking care of kids." - Participants 129 and 130, social workers, Northeast MN

"Her foster kids got into the life because of her mother being in the life and being encouraged by that implicitly and explicitly. It was chosen for her and she was trained and encouraged because that was what her mom did. It's a cycle. Born out of necessity and it could be the way of life in their family history." – Participant 81, advocate, Northeast MN

There are many positive, supportive, and loving foster care parents who make a real difference and help children to heal and grow. However, stakeholders across perspectives also highlighted that some foster care parents do not provide caring homes and in some cases are physically, emotionally, and sexually abusive to foster children. These incidents were described as systems failures that perpetuate foster youths' vulnerability to sex trafficking and trading sex.

"They're [foster children] actually being sexually exploited and then when they turn eighteen they're being just thrown to the wolves where they're easily recruited into prostitution. It's a cycle." - Focus group 2, lived experience, Metro area

"Well I have to say, even though I'm a social worker, I hate foster care. I've been in foster care twice, since my parents were like, they were just psychos, and foster care was the worst experience for me. I'd rather be out on the streets all night until I had to go out there." – Participant 40, lived experience, Southeast MN

"We have foster homes and we've got all of these other things, but is it a good foster home or is it a bad one? Luck of the draw. Whoever answers the phone the first time the agency calls, that's who the child gets placed with." – Metro area world café participant

Youth aging out of foster care were identified as a particularly vulnerable population to sex trafficking and exploitation. Dependent upon program eligibility, some supportive services can extend for former foster youth up to age 24. Regardless if the youth ages out at 18 or 24, systems stakeholders say this population experiences tremendous hardship through this period, as many lose all financial assistance and have to terminate their relationship with case managers.

"The county workers close the case, and you are just done. So that family you might have lived with for a long time, you're out. They're not getting reimbursed anything, you're not their foster youth, so you need to leave. [...] And that is where they become especially vulnerable. [...] Some of these kids have absolutely, many of these kids, have absolutely nobody. So then when there is somebody waiting in the wings to take you to the mall to buy you something, to be that boyfriend or be that somebody special in your life, you're looking for that. You've been looking for that." – Participants 129 and 130, social workers, Northeast MN

Some American Indian stakeholders identified foster care and prior experience of sexual abuse as creating vulnerability to trafficking, exploitation, kidnapping, and potentially murder.

“The girls who are in foster care have already been through sexual abuse. Moving from a big city to a small town it can be very appealing to see a flashy person, so the young people are wide open for exploitation and then they get killed.” – Participants 141 and 142, lived experience, Northeast MN

Within the foster youth population, LGBT youth were also identified as at high-risk for sex trafficking and involvement in transactional sex.

“I’ve actually known quite a few gay boys underage selling sex, a lot of them in foster care, a lot of them in homelessness, and some of them in foster care basically are homeless, which is another subset of this foster system.” – Focus group 8, lived experience and advocates, Northeast MN

Finally, one stakeholder addressed the adult foster care population and vulnerable adults as a population that often goes unaddressed in trafficking services. This stakeholder saw this population as engaged in underground transactional sex trading and trafficking, and from their perspective, saw this as a gap in systems response. Research has found people with developmental disabilities are at-risk for being a victim of trafficking, yet this is still a relatively underexplored aspect of human trafficking.¹²⁹

“We have quite a few adult foster care homes and the folks that live in these homes are in different levels of care and experiences. [...] [When they disappear] The staffing call them in as a missing person and we’ll start looking into where this person will go. You talk to the person and they’re trading sex to get around. [...] They are extremely at risk and may even be a legally vulnerable adult where their IQ is low enough where they can’t make decisions for themselves. It’s something that’s overlooked when talking about trafficking.” – Participant 114, law enforcement, Northeast MN

Chemical Dependency

Drug addiction and chemical dependency, frequently co-occurring with transactional sex, present substantial challenges for stability. Addiction can make it extremely difficult to cease involvement in transactional sex, even when a person wants to stop. Traffickers may foster chemical dependency as a means of coercive control. As discussed above, drug use and the collateral impact of drug-related arrests negatively impact housing, employment, education, child protection, and much more, often reinforcing and compelling involvement in transactional sex [see HARMS OF CRIMINALIZATION]. Stakeholders noted that short-term shelters and other housing programs often do not have expertise or capacity to deal with people who are using.

Some discussed the intersections between drug use and child protection. Participants suggested that chemical dependency treatment services should provide family housing in ways that help keep families together when at all possible. This is also discussed above [see CHILD PROTECTION].

Stakeholders also identified a serious lack of appropriate treatment programs that are equipped to handle the barriers and unique experiences of people with lived experience.

“And also, I don’t see enough- I mean I’m always looking at the treatment center- and again, it’s always a scramble, so sometimes it’s literally where you can get them in.” - Participant 110, advocate, Southeast MN

¹²⁹ See for example The Human Trafficking Legal Center (n.d.).

"[Chemical dependency is a] huge barrier. Detox center only takes alcohol. Everything is very iffy."
- Participant 104, advocate, Central MN

Stakeholders offered many ideas about how to address challenges related to chemical dependency and failures of our social services and criminal justice systems to address these challenges. Service provision for chemical dependency is often interwoven with arrest for drug charges. Stakeholders suggested that it is important to identify alternatives to drug-related charges, including rehabilitation, detox, and treatment. Rule 25 requirements and access were identified as a barrier to help-seeking from people with lived experience.

"The process can take days and weeks to work and by then the opportunity may be missed." – Participant 20, lived experience, Central MN

Stakeholders identified the need to invest in rehabilitation services including drop-in centers, treatment centers, and holistic healing. Stakeholders also identified intersections with other areas such as housing, long-term support, therapy and counseling.

"We are fortunate to partner with a resource that will come to the house and do a Rule 25 right away and provide on-site support. We've talked to other resources, will have a nurse to help people come down, but will have to look at safety overall. If we don't have a nurse there it may be a problem, but we do want to work with those people who have CD." - Participant 104, advocate, Central MN

"But some places really do have more alternative modalities to them like yoga or mindfulness, and that's really important for the women. Or a nice setting where it's in nature- just more restorative and healing like that. There are not enough places like that. And all the good places are full of course." - Participant 110, advocate, Southeast MN

Many stakeholders believe that addressing trauma and mental health needs will get at the root causes of chemical dependency and involvement in transactional sex. Some pointed to the need to combine chemical dependency treatment with mental health therapy when appropriate. People need options that are gender inclusive and also gender-specific.

Stakeholders suggested that chemical dependency issues should move from law enforcement and arrest to advocates who are better able to connect with people involved in transactional sex and have more experience and knowledge about how to helpfully intervene.

"You can't really have a proper conversation with someone who is high. How about we get you something to eat? That would be the advocacy part, not the police, and have a general conversation." - Participant 13, lived experience, Metro area

Finally, stakeholders offered differing opinions about mandated services and treatment [see RESPONSE TO CRIMINALIZATION]. Some stakeholders noted that an effective response to chemical dependency requires patience and that service use and treatment must be led by the person. They noted that, while sometimes a "push" can help people get into recovery, the person who is chemically dependent is the only person who can make the change. Other stakeholders worried that if prostitution was partially decriminalized people

might fall through the cracks. They would not be identified as having chemical dependency needs and would not be referred for treatment.

“...if we totally decriminalize it with no other coordinated action, or attention to their needs, then I don’t know if we’re serving the population well either.” - Participants 129 and 130, social workers, Northeast MN

Medical and Mental Health Services

Lived experience in transactional sex can lead to significant health and mental health needs that have been well-documented in research and practice.¹³⁰ Participants highlight the need for quality health and mental health care within any expansion of Safe Harbor, and they identified significant gaps and lack of services currently available for adults.

Overall, stakeholders identified significant deficiencies in access and availability of medical care and health insurance. This included identification of stigma and discrimination in how people with lived experience are treated by healthcare providers.

“The medical response is so ridiculous like with rape. I know it’s so broad and it’s so important and you want to get all the details but we actually do get raped, and those of us that do don’t get the treatment they deserve. They act like we learned our lesson or something and sometimes they’ll say things like that and I think it’s so ridiculous because these people have medical insurance so they should be treated just like other people.” - Participant 38, lived experience, Metro area

Stakeholders suggested that people of color, indigenous people, transgender individuals, and the LGBT community face specific stigma and discrimination in accessing high quality health care. The larger issues of discrimination and unequal access to healthcare impact people with lived experience, especially since these groups are over-represented as victims of trafficking and involvement in transactional sex.

“Overall, trans people of color have no representation in medical treatment, and that has something I would like to see in health care.” - Participant 35, lived experience, Metro area

In the Twin Cities metro area, and some other locations, participants identified only a few types of medical services that people with lived experience can access, these include sexual health, STI/HIV testing, condoms, reproductive rights, and some harm reduction services. Participants identified only a very small number of medical and dental clinics that provide free or low cost services. Lack of access to healthcare was described as particularly acute in Greater Minnesota, most notably in rural areas.

“We don’t have those high trauma therapists here, we have [redacted] Clinic, but [redacted] Clinic is all about themselves, and then they also charge a lot more and they don’t accept, well they say they do accept MA, but they don’t. They say one thing, but the whole other option is totally different. So not only do we not have therapists here who can deal with high sexual trauma, I mean it’s just, we have a couple therapists, but we don’t have any of those designed.” - Participant 39, social worker, lived experience, Metro area

¹³⁰ See for example Martin, L., & Lotspiech, R. (2014).

"I know in bigger cities they can get free health care. They can go to a clinic, they can get condoms, if they're a drug user they can get needles, they can get birth control. But in towns like this, we don't have things like that." - Participant 34, lived experience, Metro area

Stakeholders said that Minnesota's healthcare system relies on individuals to have an address, transportation, and the ability to set and keep appointment. These requirements often prevent access. For example, to qualify for medical assistance, you need an address. Many people with lived experience are homeless and do not have an address. Lack of access to healthcare was described as particularly acute in Greater Minnesota, particularly rural areas.

Participants described treatment for traumatic brain injury (TBI) as a specific healthcare need for people with lived experience which also intertwines with mental health discussed below. Long-term therapy would support individuals healing from trauma and slowly integrating back into society. Some participants wondered about the possibility of individuals qualifying for Social Security Disability Insurance or something similar.

"With me personally, I will say that the years after the abuse, head injuries, drug use, trauma, there's days where I don't- I really- not that I can go to regular work." - Participant 15, lived experience, Metro area

"Then, traumatic brain injury absolutely has to be dealt with. You may recover from chemical dependency or get a mental illness under control. You will never get better from a traumatic brain injury." - Participant 73, advocate, Metro area

Across stakeholder groups, participants talked about the need for individual therapy for people with lived experience. They suggested that therapy is critical because it addresses underlying issues of trauma.

"You can't just have, you know, housing, because at the same time, we're coming to these [groups] but we're not getting, like, the help that we actually need underlying." - Focus group 1, lived experience, Metro area

"I don't think a lot of women understand the power of having a therapist who is specifically trained in trauma, EMDR therapy and PTSD therapy, because it is a different type of therapist, not your run of the mill counselor, someone who knows the extra stuff. I wish there was more of them and that they were more accessible." - Focus group 9, lived experience in Northeast MN

Yet, participants also described a severe lack of mental healthcare services, especially individual therapy that is culturally responsive, trauma-informed, and relevant to the unique experiences within the affected population. They described needs for therapists who are informed on the issue of transactional sex, know and use appropriate language, and who are equipped to treat complex trauma.

"For especially African Americans and minorities, we're really not big on therapy and working with someone to get coping methods. Myself, I needed something different. So I was the first one in my family to step out and see a therapist. That gave me coping methods to continue my journey...But even building up a team to work with minorities. To have people look like them in this field, trained in trauma-informed care, and the harm-reduction model." - Participant 115, lived experience, Metro area

“We have a massive shortage of healthcare providers. This included healthcare providers informed in the LGBTQ community. And a lot of the LGBTQ community is trafficked.”- Participant 150, advocate, lived experience, Southeast MN

Many described experiences of therapy that was harmful, shaming, or otherwise *bad* with a provider who was unprepared. Lastly, participants (especially those with lived experience) thought treatment of trauma related to transactional sex would be distinct from other sexual traumas. Many thought therapy would require work with the physical body.

“And they kind of be talking to you with a long handles spoon, like. I don’t even discuss that with my therapist no more. She makes me feel embarrassed and guilty.” - Focus group 1, lived experience, Metro area

“For mental health, EMDR is a great option, but the thing is, at the end of the day, we have a lack of people that are specifically trained in PTSD that comes from trafficking because there is an extra layer of trauma.” - Participant 89, advocate, Metro area

“[We need] way more trauma-informed therapists, because there is therapists but not a lot that understand the issue. The idea of trauma, not just one time but trauma on top of trauma, it’s different.” - Participant 20, lived experience, Central MN

Some suggested that the mental health system itself, right now, is an oppressive force for victims of trafficking and exploitation, as well as others involved in transactional sex because of the systematic harms within the helping sectors. Particularly, some communities identified use of mental health diagnoses as a way to further stigmatize and silence victims. Some said that a mental health diagnosis will “follow them” around for their entire lives, allowing people to dismiss them and minimize their contributions. Further, it was described as a matter of equity.

“Perpetrators [referring to sex buyers] don’t get sentenced to mental health services for the rest of their lives the way victims do.” - Participants 141 and 142, lived experience, Northeast MN

Many people involved in transactional sex would like access to alternative and complementary healthcare like acupuncture, massage, yoga, and other forms of body work. Stakeholders identified the body work provider network in the Twin Cities as particularly non-judgmental and supportive of people of color and people involved in transactional sex. However, these services can be expensive and not covered by income-based insurance.

Participants with lived experience tended to see the lack of access to healthcare, including mental health services, as a problem of the system itself, citing discrimination, marginalization, lack of knowledge and understanding among healthcare providers, financial barriers, and overall stigmatization. People without lived experience tended to view lack of access more as a public safety or public health risk and tended to focus on healthcare needs such as STI/HIV, access to insurance, and reproductive health.

Potential Role of Police

The role of police was a very common theme among interviewees, particularly those with lived experience. We describe the opinions and recommendations here because the police have a unique and potentially important role in implementing any new approach to prostitution and sex trafficking. Stakeholder views on

the role of police is also covered in depth above in the discussion of stakeholder opinions about policy alternatives on criminal liability. The topic warrants further discussion here in the context of considerations for implementation.

Opinions on the potential role of police in the expansion of Safe Harbor is shaped by deep distrust of police by people with lived experience. Some saw potential positive roles for police whereas others believed that trust is broken and will require deliberate action to repair before they could see a positive role for police. It is clear from stakeholders across the state that it is important to address past and present police misconduct. Many stakeholders believe repairing this damage will take active effort.

Police as Part of the Solution

Many stakeholders across stakeholder groups expressed the opinion that police officers are a critical part of the solution to reducing harms for sex trafficking victims and victims of exploitation.

“In some cases, you really want a cop. In those cases, the police are absolutely the best.” - Participant 73, advocate, Metro area

Many identified a sea change in philosophy and approach already underway among law enforcement and criminal justice personnel. Police, people with lived experience and many other stakeholders noted a significant recent shift in some departments among some officers from punitive approaches to an emerging “victim-centered” perspective for people with lived experience. The new approach seeks multi-disciplinary teamwork to identify resources and service referrals for people with lived experience instead of arrest and charges.

“One thing that has changed that I’ve seen change has been that there has been a great leniency to adult females who are viewed as involved in the commercial sex industry. Either there are no charges or charges are dropped or there is a referral to services just the same as they would do for something under the age of 18. They’re doing that for any age. I don’t know that we’re even seeing prosecutors charging out on any of those cases anything. I think that’s a real positive shift that we’ve witnessed. Certainly, that’s a shift from when I started in 2014.” – Participant 79, program administrator, Metro area

“People look at law enforcement as if we’re looking to arrest everyone, but that isn’t how it works anymore. Law enforcement is here as a first responder to the victims of sexual assault and we need to convince people that the first step has to be done properly and we need correctly trained officers to do that.” – Participant 54, law enforcement, Metro area

In jurisdictions across Minnesota, stakeholders have described how police departments have already changed their practices away from charging people who sell/trade sex, instead focusing on building cases against sex buyers and traffickers.

“There are some serious instances where we are looking at police officers, some of them I work with, and they are phenomenal agents of change and supports and allies” - Participant 88, advocate, Metro area

“Well, I’m real pleased with the [city] police department and county attorney’s office. We all share the same goal – to identify and convict the traffickers, bring down demand with the buyers, and then help women get out of the life.” - Participant 110, advocate, Southeast MN

Many are actively participating in multi-disciplinary taskforces or are experimenting with other approaches to better serve victims of trafficking and exploitation.

“Having a co-located advocate, independent of the police but based out of the police department, allowed us to be on-hand and to build a working relationship. The relationship allows for healthy, non-adversarial, professional discussions.” – Participants 126, 127 & 128, advocates, Northeast MN

Despite a growing focus on sex buyer and trafficker accountability, people who sell sex continue to face arrest. Many law enforcement stakeholders described a belief that an arrest is one way to rescue someone from a trafficker.

“And, again, a huge part of why we do that [arrest] is just to separate them from their traffickers. Because if we release them they’re going to hook right back up with them. And obviously they’ve been told, ‘Don’t talk to the police. You be loyal to me.’ So we don’t give them an option. It’s always what we do.” - Participant 109, prosecutor, Southeast MN

Many stakeholders see the law enforcement role as identification and front-line rescue of people from dangerous situations, and they also described frustration when victims refused services or returned to their traffickers.

“If we rescue a victim and she has full knowledge that she can escape, then she escapes and is back with the trafficker in business before police can start paperwork.” – Participant 54, law enforcement, Metro area

Stakeholders suggested that Minnesota’s lack of access to effective alternatives to jail for people in need of housing or mental health and chemical dependency treatment may compound this frustration. In addition, police and prosecutors may need more tools around protecting people who give evidence in trials, such as witness protection and other supports for victims involved in criminal proceedings.

Harmful Interactions with Law Enforcement

People with lived experience and others described **pervasive experience of harms through interactions with law enforcement**. Until recently in Minnesota, the vast majority of police prostitution operations were designed to identify and arrest people with lived experience.

Stakeholders with lived experience said that typical sting operations, in which a police officer poses as a sex buyer and attempts to solicit sex, can create troubling power dynamics. Many participants believe this power dynamic presents a barrier to getting help and reporting crimes against them.¹³¹ In some jurisdictions in Minnesota, police officers were described as engaging in some amount of sexual activity in order to make the arrest. People with lived experience consistently described these sting operations as unfair, deceitful,

¹³¹ See Norfleet, N., & Chanen, D. (2015, August 21). Report of recent changes in Minneapolis Police Department procedures related to prostitution enforcement.

shameful, scary, and a sexual violation.¹³² Furthermore, many stakeholders said that these sting operation tactics erode trust and set up a negative or adversarial relationship between police and people with lived experience.

“They shouldn’t be able to feel on you for one, on a prostitute. It’s gotta be female-on-female. If you get picked up for prostituting, he’s able to touch you, to search you. That’s a violation.” - Focus group 3, lived experience, Metro area

“Even if theoretically, the way that [Metro City] police are handling prostitution are connecting victims to services, the threat of consequences for selling sex strikes a power balance and this fearful dynamic is making women not want to come forward.” – Participant 51, advocate, Metro area

Some with lived experience described the arrest as part of a cycle that ends up re-victimizing victims of violence and trafficking.

“I believe that the cycle of this usually starts as a juvenile and carries over into adulthood. I know for myself it started when I was 12, it’s just a cycle that keeps going, how can you prosecute someone who started as a victim and continues to play out that cycle of abuse and self-victimization into their adulthood? I think criminalizing people who have been victimized is like re-victimizing them.” - Focus group 9, lived experience in Northeast MN

These stakeholders viewed these practices as “entrapment” and fundamentally disrespectful. Some stakeholders with lived experience perceived physical searches, stings, witness flipping and being used as confidential informants to be abusive.

“I don’t think criminalizing victims to have a token to bargain with is appropriate or okay.” - Participant 163, public health professional, lived experience, Metro area

All stakeholder groups, including some police officers, reported that **criminalization of selling or trading sex leaves open the possibility for police misconduct related to prostitution enforcement**. Stakeholders described police officers who purchase sex, commit violence, assault or rape, and some who extort people to provide sex or sexual contact in exchange for not arresting them.¹³³ These officers are perceived to act with impunity, further eroding trust.

“So, 90% of people arrested for selling sex do not have a great experience with the cops. Some of it is passive, like they didn’t understand. And some of it is like, ‘The cop raped me when he arrested me and then he didn’t do anything.’ So getting the police out of the equation is the best, safest option in most cases and the police are not the best first point of contact in most cases.” - Participant 74, advocate, Metro area

“I had a probation officer that I gave him oral sex in promise for cash but he didn’t give me cash. So I’m feeling some sort of way. This happened two years ago. Right now today, I’m pressing charges. I think about this every day because he used me. Because of him being an authority figure he has my life in his hands, I did what he told me to do. Right now today, I’m still hurt because he

¹³² See for example Williamson, C., & Baker, L., et al., (2007).; and Krüsi, A., Chettiar, J., et al. (2012)..

¹³³ See for example Williamson, C., Baker, L., Jenkins, et al., (2007).

didn't pay me. He used me for false promises. It kills me because he's a probation officer. Authority figure. I felt used. I think that was real wrong." - Focus group 3, lived experience, Metro area

"And the detective that was handling the case told me he'd make it all go away if I screwed him. Because I was a hooker and that's what should be done. Which, of course, I'm not dumb. I screwed him and it all went away." - Participant 21, lived experience, Northeast MN

Stakeholders with lived experience described verbal harassment by law enforcement, including curse words, racially derogatory language, and calling people "whores" or other derogatory names for transactional sex. Some described cruelty and small acts to exert power, such as dropping someone off in the middle of nowhere with no money or deliberately driving a squad car through a puddle to splash a person working the street. Others noted that the small number of police who themselves purchase transactional sex or who abuse power in the legal sex industry shapes how people with lived experience view law enforcement in general.

"Like, there's a – the police chief of the town that I work in comes into our club all the time. And he – like, his friend was super, super drunk – like, fall-down drunk. And he said something, like, super racist and offensive to my friend. And the, right after that, he demanded a dance from me. And I said no. And my boss said I had to. So, like, he knows that he holds this, like, authority. He knows that he scares me." - Participant 12, lived experience, Metro area

Some stakeholders noted that outside law enforcement can be effective when local police cannot or do not respond well to people with lived experience in their community or trafficking cases.

"Calling in the BCA [Bureau of Criminal Apprehension] has worked in the small-town situations when local law enforcement cannot or will not respond. Lack of response may be resources, attitudes, or local relationships." – Participants 126, 127 & 128, advocates, Northeast MN

At the same time, stakeholders offered many ideas about how to productively address these challenges related to law enforcement abuse of power.

"I think there should be a social worker on every police force, at least one. There needs to be more crossover. Police are not equipped to handle trafficking victims or mental health crises." - Participant 163, public health professional, lived experience, Metro area

Stakeholders suggested the following ideas to decrease the harms of policing. Many thought that survivor-advocates should work alongside law enforcement in buyer stings to ensure appropriate survivor responses. Others suggested that Minnesota should limit police involvement with survivors and sex workers and ensure that people with lived experience have rights to their belongings and property. Some thought Minnesota should create a police ombudsperson or hotline that people could call to report police abuse of power.

Some talked about the need for more general standards of conduct for police officers in the field to avoid use of derogatory language, behavior designed to humiliate or shame someone, or present unprofessional behavior. Further, many would like to see a real commitment to prosecuting police who commit violence, abuse power, or otherwise harm people with lived experience.

According to some of the police officers who participated in this process, there are challenges to supporting people with lived experience within police culture. While elements of police culture are changing, people with lived experience are still looked down upon and disbelieved by some individual officers. Many people involved in transactional sex are people of color, indigenous people, and LGBTQ people. Stakeholders, particularly people with lived experience and participants from diverse communities, raised issues of racial profiling by police, discrimination, disproportionate stops within communities of color, and police shootings of unarmed black and brown people, as important broader context for thinking about policing of prostitution. Additionally, as in the broader community, sexism and racism continue within law enforcement.¹³⁴

“Take care of the cop thing too - that will be tough; maybe old timers age-out? Really bad cop culture. Not every cop, but the bad ones ruin it. It’s like your trying to get through a wall and just banging your head against it. It might be part of the structure. People might not want it to change. It’s bigger than just one law. We would have to change the culture.” - Participant 143, law enforcement, Northeast MN

Prevention Opportunities

Stakeholders expressed widespread and shared values around prevention of harm to people involved in transactional sex. Many described this strategic planning process used for this report a unique opportunity in Minnesota to reshape policy in ways that promote safety, health, dignity and justice for people with lived experience in Minnesota.

Stakeholders consistently cited lack of housing and economic stability as “push” factors into transactional sex. While housing and other supports are important *interventions*, stakeholders were clear that ensuring access to stable housing in particular is also a critical *prevention* strategy. “Upstream” or primary prevention means identification of root causes to change the culture, system, and societal pressures that cause harm. Several stakeholders described it like this:

“Prevention work is really like anarchy. We have to tear down a lot of systems. But we know that our society wants to excuse and promote letting certain people behave sexually aggressively and have sexual access to what they want. So we punish the person selling themselves and not the person driving demand.” - Participant 74, advocate, Metro area

“It is inevitable that it is always the most vulnerable who end up being trafficked. All the -isms, poverty, racism, ethnicity, lack of education allow young people to fall prey to commercial sex exploitation.” – Participant 78, public health professional, Metro area

“I guess I'd say the prevention piece needs to be included. It doesn't matter how many response laws and how much work we do around response, we're just going to be putting band aids over it. I imagine a bucket with holes in it. So like we're just going to keep trying to tape up those holes, but then they're just going to keep coming undone unless we are actually addressing the root cause of the problem. So I think we as a state need to have a more coordinated effort around prevention to be actively trying to reduce the problem as opposed to legislating and creating all these response pieces without actually addressing the root cause of the problem.” – Participant 84, public health professional, Metro area

¹³⁴ See for example Golkar, N. (2016, August).; Vitale, A. S. (2018).; Alexander, M. (2010).; and Musto, J. (2013).

The services and supports described above [SERVICES AND SUPPORTS FOR ADULTS VICTIMS], when provided prior to exploitation or trafficking, were seen as a way to prevent exploitation in the first place. For example, access stable housing would reduce survival sex trading for a place to stay, which would also prevent adults from contact with traffickers. Stakeholders pointed specifically to living wage work as prevention.

“No one wants prostitution in their neighborhood, but I don’t see anyone picketing for \$14 an hour. People have to take care of their children.” – Participant 75, advocate, Southwest MN

“I think it goes to economics. You’ve got most of these women who come from poor neighborhoods, poor communities. It either involves alcohol or drugs. I think we need to start to look at these communities where these women are coming from. We need to start looking at opportunities for these women – and the men too – do better for themselves – I know it’s not going to be immediate but it will change generation after generation. I look at the reservation and we have one little park and a Boys and Girls Club – our kids are just walking around, looking for trouble. They’re so bored. That’s how you start. So they’re not sitting there thinking, ‘What can we do?’” – Participant 165, tribal social services, Greater MN

Others, specifically sex workers, also approached prevention from the perspective of making the marketplace itself safer. The focus was on preventing harms related to abusive behaviors within the marketplace – violence, coercion, trafficking, and economic exploitation – rather than attempting to do away with the marketplace itself.

Many stakeholders talked at length about connections between transactional sex, violence, exploitation, and cultural norms about men and women. Upstream prevention could involve efforts to re-imagine and change socialization of men and social norms of masculinity.

“I think that we need to develop an awareness of what the dynamic is that leads to this. [...] Systemic, societal attitude of patriarchy that allows it to flourish, to be forgiven, overlooked, excused. I think we need to have the cultural shift in the way that we view women and their autonomy.” - Participant 69, judge, Metro area

“What needs to change also is men and boys’ attitudes towards women. Is there some progress? Absolutely. Is there a lot more that’s needed? Yes, the bigger picture is attitudes towards women.” – Participant 123, prosecutor, Northeast MN

Some thought that part of the solution is really about men connecting with other men to look at their own behavior and beliefs about women and sex.

“But I think there might be an avenue for dudes having real conversations with other dudes about our culture and how we are exasperating the problem over time.” – Focus group 10, law enforcement, Metro area

Other stakeholders expressed the belief that popular advertising and the media are part of the construction of social norms that lead to exploitation of people in transactional sex.

“We need to change the organizational practices in public policies to change the overall norms and changing the exploitation of women in advertising. To shape this prevention stuff are these kinds of things, marketing that objectifies women and shapes the culture. And the culture of men being better than women. And then going after pornography and closing down the strip clubs in Minneapolis. So, the strip clubs and pornography are the most obvious indicators and what we should go after to change the underlying cultural norms and expectations. Another thing for primary prevention is education, but education alone doesn’t change things. It is a step toward larger organization policy change. Coaches in high schools have to take this gender respect training and a parallel training for middle school coaches in the community athletics and the main thing is that there needs to be policies and protocols put into place not just education. Sexual harassment policies need to be more developed and enforced.” – Participant 44, independent consultant, Central MN

Stakeholders also identified the need to deal with racism, including the continuing effects of enslavement and colonization, in efforts to prevent trafficking and exploitation.

“At a high level—cultural shifts need to happen and a there’s a lot of different ways to do that. This is also an intersectional issue. Domestic violence, sexual violence, gender-based violence in general are factors. How do we think about the value of certain people and how do we send the messages to adults and to children? When they’re socialized, we have the opportunity to teach the positive thing, not the negative. People have value and worth, no matter what they look like. We can’t dehumanize and hurt people. There are many adults who were in the life as they were kids, so this is a huge opportunity with children and youth. When we’re talking about prevention and shifting culture, we must do intentional anti-racism work. This is not a strategy that’s widely used in many circles. People are totally afraid of the word “racism” in Minnesota in general. Racism is an institutional issue with lots of politics and cultural dynamics. People don’t necessarily understand the correlation. In my research around the issue, there is a strong historical tie using exploitation to control a group of people. The use of rape and violence during slavery and colonization is central to today’s trafficking epidemic. People of color and indigenous people get paid less for sex work, which makes them devalued in most things through disparities in MN even in sex work. We must also focus on the broader scope of preventing sexism and tying into #MeToo and other movements.” – Participant 46, social worker, Metro area

“I think education is a big thing for the people who are purchasing. They are mostly white guys, middle class, suburban guys – are they thinking about the oppression it creates amongst people of color and LGBTQ? The societal impact it has?” – Participant 116, social worker, Metro area

Stakeholders also called for continuing research to examine links between prostitution, exploitation, and trafficking within the legal sex industries. Some related this to efforts to shift the narrative and eliminate stigma against people who trade/sell sex.

Many stakeholders talked about needing to do more in schools around sex education, healthy relationships, and how to recognize exploitation. Many felt that young people do not have the tools they need to stay safe and recognize exploitation and manipulation before it happens. This includes education with boys about healthy relationships, masculinity, and consent.¹³⁵ Some stakeholders noted that some youth do not have positive examples of healthy relationships in their lives and may experience generational involvement in transactional sex.

¹³⁵ See for example Schaefer & Associates (2015).; and UROC & The Link (2016).

“So I go out and do a sex trafficking prevention curriculum to youth ages 13-18, where we can talk about what consent means, we can talk about human trafficking, sexual exploitation, red flags, healthy relationships, not healthy relationships. [...] If youth don’t have access to that information, how would they know?” - Participant 85, advocate, Metro area

“You know honestly it is about getting back to the basics on prevention. To me the prevention is getting in the school and teaching them about safety, about loving yourself and about not harming others. I mean, that is the very broad, simple message. But to get more in depth about why this is harmful, and you know we go into schools, well we are working on going into school right now about education, about what's trafficking and who traffickers are and what they are looking for and how to get help if you think this is happening to a friend or if it's happening to you.” – Participant 63, social worker, lived experience, Metro area

Some stakeholders pointed out that not all youth can relate to a heteronormative framework and called for ensuring gender-expansive education.

“We need a holistic approach. I don’t think teaching potential victims on how not to be victims – this should not be the total approach. It needs to be a male and female approach, and gender expansive. We need to be more inclusive in our approach, teaching people not just about trafficking, but also not to purchase other human beings. And this content shouldn’t just be in health class, but in economics too! Teach about the harms to people – trafficking as a whole, labor trafficking. Incorporating our prevention work in an expansive way, not just a health model way. Where do we apply this in other areas? This is an economic-based harm and we need to talk about this. Age appropriate education – middle, high school. But not just in classrooms. Sports teams for men, and all of the realms of school including afterschool programming. This relates to safety, bullying, and non-predatory behavior. We can include this in internet safety too. It shouldn’t be segmented to one curriculum, but rather included in other areas as well. It shouldn’t be segmented to certain populations – but all youth.” – Participant 112, social worker, Metro area

“Sex is a taboo subject over here in America. They don’t teach healthy relationships, or consent. I think if maybe to change society is to say that sex is a natural, healthy, human ability, the responsibility, it wouldn’t be such a secretive thing.” - Participant 39, social worker, lived experience, Metro area

The majority of participants, when asked about prevention, talked about the lack of understanding of trafficking and exploitation among law enforcement, social services, parents, and the broader society. Most advocated for trainings and community meetings. Some suggested that survivors should lead these trainings in partnership with others.

“If you talk to your average white middle-class person, they don’t even want to hear about it. They don’t think it exists. They don’t think prostitution is in any way a form of slavery – which it is.” - Participant 34, lived experience, Metro area.

“Schools should be able to talk about this. Teenagers should be able to know what sex exploitation is and what it looks like without talking about it likes it’s a bad thing. What can the community do and how we can support people who are in the life. Those conversations need to be had and not everybody is going to be on the same page.” – Participant 72, advocate, Metro area

Many stakeholders opined that sex buyers and their communities are unaware of the harms caused by purchasing sex. They also suggested that sex buyers need to know that most people are not “choosing” to be involved in transactional sex.

“When I interacted with people who have trafficked or purchased, they really thought the victim was choosing this, or that this was better than what they had before, or they really love me.” - Participant 45, attorney, Metro area

FINDINGS CONCLUSIONS

In this section we described resonant themes from the community engaged strategic planning process that engaged more than 290 people across the state of Minnesota who have expertise, wisdom, and experience related to transactional sex. The themes included topics mandated by the MDH RFP and the State legislature, as well as key themes that emerged directly from stakeholders. Stakeholders discussed stigma, harms, and oppression that they see as related to transactional sex. They also shared extensive opinions, perspectives, caveats, and cautions about different policy and legal approaches to criminal liability in relation to transactional sex. Finally, we provided an overview of the extensive feedback from stakeholders on considerations for implementation of Safe Harbor expansion of services and supports. Based on these findings, we outline the following conclusions.

Effective, respectful, and responsive expansion of Safe Harbor to include all adults will require leadership by people with lived experience. Stakeholders are clear that leadership must reflect the diverse communities which experience trafficking and exploitation. People with lived experience must be engaged both in the professional leadership *and* in other meaningful ways throughout the design, decision-making, implementation, and evaluation of Minnesota’s response.

Without exception, stakeholders identified significant harms to people with lived experience under the current (full criminalization) system. Many identified harms resulting from criminalization: stigma, judgment, and discrimination against people with lived experience. Others described serious harms at the hands of sex buyers or traffickers. Some described transactional sex as itself exploitative. These harms undermine the rights to health, safety, dignity, and justice. All stakeholders expressed a desire to reduce the burden of criminalization on people with lived experience. Stakeholders expressed strong support for the State to take steps to prevent, mitigate, and remedy these harms.

Most stakeholders identified partial decriminalization (decriminalization of selling sex) as the most promising legal approach to preventing and mitigating the harms experienced by people with lived experience. However, stakeholders raised concerns about potential negative impacts of partial decriminalization on people with lived experience and investigations of trafficking and other crimes. Stakeholders expressed the need for the State to continue work with multi-jurisdictional stakeholders, including people with lived experience, to carefully plan for decriminalizing the sale of sex and to identify strategies to mitigate potential negative impacts. A smaller number of stakeholders, including people from a wide range of stakeholder groups, felt the potential negative consequences did not outweigh the potential for improvement and thus did not endorse a move to decriminalize selling sex.

Partial decriminalization should be implemented in tandem with expansion and enhancement of robust services and supports. Stakeholders were very clear that focusing on the legal framework related to prostitution alone is not enough to promote safety, health, dignity, and justice for people with lived experience. Intervention and prevention services including outreach, housing, economic stability supports, healthcare, mental healthcare, chemical dependency treatment, and family stability are essential to helping people avoid and exit trafficking and exploitation. Participants advocated developing an approach that is

appropriate for adults based on autonomy and respect without increasing State control over adults with lived experience. They also raised cultural, community, and grassroots approaches as necessary for many people with lived experience. Statewide access to services and supports will be critical in reducing harms and turning away from the current criminal justice system approach.

Tribal nations and indigenous communities must be engaged in planning and implementation. American Indian people are disproportionately impacted by sex trafficking and exploitation, and there are unique strengths for cultural and community healing. Stakeholders were clear that the State should continue to address potential jurisdictional challenges, connect with tribal and community leaders, and fund indigenous people with lived experience to lead planning and implementation of any response. Stakeholders pointed out that past implementation efforts of Safe Harbor did not adequately engage tribal and indigenous communities. Safe Harbor expansion offers an opportunity to learn from the past and improve.

Stakeholders identified immediate ways to limit harms resulting from criminalization. Many stressed improved access to diversion and expungements, increased attention to investigating and prosecuting crimes against people who sell sex, dedicated efforts to make child protective services more trauma-informed, and an end to out-of-home placement of children based solely on involvement in transactional sex. These efforts can increase health, safety, dignity, and justice for those with lived experience. Amending the Minnesota statutes to eliminate stigmatizing language will also help ensure people are treated with respect and dignity.

With some exceptions, stakeholders supported continued criminal liability for buying sex. Some called for increased penalties for people who buy sex from trafficking victims. Indigenous and African American stakeholders who view transactional sex as a continuation of the harms of colonialism, settlement, and enslavement rejected the elimination of criminal liability for sex buyers. Other stakeholders worried that continued criminalization of buying sex might continue to keep transactional sex underground, stigmatized, and ripe for exploitation. They also thought it might create a “buyers’ market” where sellers would have to compete against each other for fewer buyers. These stakeholders tended to advocate for **full decriminalization**. This potential for partial decriminalization to restructure the market for transactional sex is why housing, family stability, living wage jobs, and other supports for people with lived experience must be enacted in tandem with partial decriminalization so people can choose to avoid transactional sex (if they want) and reduce vulnerabilities to exploitation and trafficking.

Most stakeholders expressed strong opposition to legalization. For many this was rooted in their belief that transactional sex is inherently harmful. Others highlighted the regulatory burdens on people with lived experience that come with legalization, continued stigma, and exploitation. Some expressed concern that legalization would disproportionately harm marginalized communities, such as undocumented persons or people of color, who would be relegated to the more dangerous, unregulated marketplace. Stakeholders also suggested that legalization could increase trafficking crimes by creating a legal market for transactional sex, thus incentivizing traffickers.

Minnesota has real opportunities for investing in prevention of sex trafficking and exploitation. Stakeholders consistently cited poverty, housing instability, and other economic instability as push factors into transactional sex. Stakeholders also spoke of the need to invest in traditional prevention modalities such as youth education. Many stakeholders identified connections between transactional sex, violence, exploitation, and cultural norms about men, women, and masculinity. They also identified the need to deal with racism, including the continuing effects of enslavement and colonization, in attempts to prevent trafficking and exploitation. Prevention of trafficking and exploitation requires concrete investment and action.

Section Three:

RECOMMENDATIONS



SAFE HARBOR FOR ALL

Section Three: Recommendations

We identified 19 key recommendations from the input of over 290 stakeholders with knowledge, expertise, and experience related to transactional sex from every region of Minnesota.

We engaged knowledgeable experts from across the entire state of Minnesota. Participants included people with lived experience in transactional sex, including victims and survivors of exploitation and trafficking as well as independent providers and sex workers. We also engaged stakeholders who have a wide range of professional experience, including service providers, police, prosecutors, state agencies, and advocates [see WHO PARTICIPATED]. Those findings were analyzed and synthesized into the recommendations described in this section. We used the lens of the potential to improve **safety, health, dignity, and justice** for people engaged in transaction sex through offering, agreeing, or being hired to provide sex or sexual activity.

The report Introduction describes the strategic planning team and our legislative mandate. We provide a brief recap here. Funding for strategic planning process was awarded by MDH, through a competitive grant process, to a three-agency partnership lead by the University of Minnesota Urban Research and Outreach-Engagement Center with The Advocates for Human Rights and Rainbow Research.¹³⁶ MDH required that the statewide strategic plan, which they called “Safe Harbor for All,” include recommendations that address **relevant criminal issues, access and availability of services, unintended consequences, and intersections** with other forms of oppression.

People involved in transactional sex (selling or trading sex) are referred to in Minnesota statutes as “prostitutes.” We did not use that term in this report because it is widely viewed as derogatory. We use the term “lived experience” to refer to the wide range of experiences and perspectives in transactional sex, including sex trafficking, commercial sexual exploitation, independent involvement providing sex, and sex work. Participants in the strategic planning process self-identified their preferred terms to describe their experiences and perspectives.

The Minnesota Legislature asked the strategic planning process to consider the impact of policy change on adult victims of sexual exploitation and sex trafficking, but we know that any changes to legislation, policy, and service delivery will also impact people involved in transactional sex who do not identify as victims or survivors. These distinctions and definitions are not necessarily reflective of people’s lived experience because transactional sex is complex and people’s experiences can change over time. Thus, the strategic planning team deemed it essential to include a wide range of experiences and perspectives in transactional sex. In so doing, we seek to avoid proposing recommendations that inadvertently pose harm to some with lived experience while promoting positive outcomes for others. Distinctions within lived experience and perspective on those experiences are noted as appropriate.

Transactional sex, including sex trafficking and exploitation, presents many complex policy challenges. It carries stigma and entrenched negative social narratives and misperceptions, as well as deep differences in perspectives. It is experienced within and shaped by broader oppressions and discrimination, such as racism, sexism, classism, heterosexism, and other forms of oppression. Many people with lived experience suffer multiple and complex forms of trauma – before, during and after involvement in transactional sex – that are difficult for any system or agency to handle effectively. Stakeholders highlighted the need for community and cultural resources for healing as well.

¹³⁶ See MDH RFP, p. 4.

These recommendations are a **first step** toward creating a statewide response to achieve more positive outcomes – safety, health, dignity, and justice – for people with lived experience, their families and their communities. There are many potential recommendations for action that could be derived from findings presented here if different criteria were used. We invite interested stakeholders to explore findings and discern recommendations and actions for themselves, if they so choose.

These recommendations are provided in response to the Minnesota Legislature and the MDH and in fulfillment of our contract. They may or may not reflect the individual opinions of all stakeholders in Minnesota, the project’s Process Advisory Group, or members of the strategic planning team. The strategic planning team strove to accurately reflect both the wishes of the State in funding this strategic planning process and the direction and wisdom of the diverse stakeholders who took time to share their thoughts, experiences, and opinions.

OVERVIEW OF RECOMMENDATIONS

We identified 19 recommendations based on findings presented here that we believe will begin the process of extending Safe Harbor to include all adults in the State of Minnesota. Below we provide a summary of these recommendations followed by a deeper discussion of each in the sections that follow. We expect that the implementation of each recommendation will require time, deliberation, refinement, clarification, planning, and effort from people with lived experience, policymakers, stakeholders, advocates, and many others across the state.

Some of the proposed recommendations may already have broad social consensus, while others may not. Conclusions here represent our data gathered from stakeholders with experience and knowledge related to transactional sex. Determination of broad public and policymaker opinions or support for recommendations was outside the scope of this project. Thus, implementation efforts may require consensus-building, shifts in public perception, more data, hard conversations, and difficult choices.

Recommendations are divided into five sections: approach and philosophy; relevant criminal issues; availability and access to prevention and intervention services; tribal sovereignty and indigenous communities; and training, reforms, and evaluation.

In approach and philosophy, **Recommendation #1** strongly recommends that the state work with and fund leadership from people with lived experience in implementation of all recommendations described here. Furthermore, implementation should be based on dignity and respect. Widespread use of the term “prostitute” in State Statute was deemed harmful and stigmatizing. Thus, **Recommendation #2** calls for the development of new terminology in Statute and practice through a process that would engage leadership of people with lived experience.

There are seven specific recommendations related to relevant criminal issues, Recommendation #3-#9. This includes recommended changes to specific statutes, review and revision of other statutes, and emphasis for enforcement. Based on the strategic planning process we recommend that Minnesota move toward reduction of criminal liability for people with lived experience. This includes expungement, vacatur, diversion, protection from arrest for reporting a crime, and increasing access to crime victims’ rights for people with lived experience. These are described in **Recommendation #3**.

The majority of stakeholders from across Minnesota from all stakeholder perspectives expressed support for partial decriminalization (if implemented in tandem with more and better services). This is captured in **Recommendation #4 and #5**. We identified complex, informal barriers to services caused by laws and practices related to things like background checks, employment law, and housing policies. Real partial

decriminalization, allowing fuller access to housing and economic stability, will also require identification, reform, and amendment of these statutes as well. Support for partial decriminalization was not a unanimous opinion. Some stakeholders expressed reservations, concerns, or opposition. Thus, moves in this direction must be taken with care, further deliberation, and concrete planning to avoid unintended consequences.

We also recommend focusing penalties and enforcement on sex buyers who purchase sex from minors or sex trafficking victims and those who commit violence as described in **Recommendation #6 and #7**; retaining criminal liability for sex trafficking, but amending statutes to reduce criminal liability on people with lived experience in **Recommendation #8 and #9**.

Partial decriminalization without robust supports for people with lived experience could have the unintended consequence of making things worse, particularly for already marginalized communities. Therefore, access and availability of housing, services, and supports was identified as a necessary component of partial decriminalization in order to support safety, health, dignity, and justice. **Recommendation #10** describes the need for funded and focused planning, as well as substantial increases in funding for whatever model or approach is developed. The State could explore legislation with a sunrise clause, as was done with Safe Harbor for Youth and No Wrong Door, with the addition of leadership from and engagement with diverse people with lived experience.

The model should be implemented without age limits and funded. A statewide and funded planning process is needed to implement Safe Harbor expansion; this is described in **Recommendation #11**. Here we also provide direction from stakeholders that suggests that Minnesota should invest in long-term housing solutions, economic support, health care (including mental health), chemical dependency treatment, and healing from intersecting violence and trauma (such as sexual violence and domestic violence), combined with efforts to reduce stigma within Minnesota's system response. Additionally, outreach to people with lived experience is critical to increasing awareness and access to supports.

Safe Harbor for All would serve as both prevention and intervention for people with lived experience. **Recommendation #12** proposes a statewide prevention plan should include housing, economic stability and foster care fixes in addition to education and culture change. Primary prevention should address racialized poverty and structural oppressions that are often at the root of exploitation in transactional sex.

It is critical that Minnesota recognize and continue to work with tribal governments and indigenous communities and agencies under their leadership to address the disproportional impact of transactional sex on native peoples. **Recommendations #13, #14 and #15** cover a wide range of important considerations including the need for dedicated funding.

Findings suggest that there is need for expanded training of police, service providers, and the general public which is described in **Recommendation #16**. This training can focus on reducing stigma and changes in broader culture. Training combined with policy implementation efforts could identify and ameliorate harmful practices and policies identified in the strategic planning process, that are in place within many state agencies, including child welfare, foster care, police, and service providers. This is **Recommendation #17**. Given the identified need for reform, we recommend developing and funding accountability measures for policy and practice in **Recommendation #18**. Finally, stakeholders highlighted the need for evaluation of process, impacts, and outcomes as well as flagging needed course-corrections which are described in **Recommendation #19**. Many stakeholders indicated that evaluation should include leadership of people with lived experience and be participatory and community-based.

The next sections describe recommendations within each of the categories. We provide more detail, reference to findings, potential difficulties, and rationale for each recommendation below.

APPROACH AND PHILOSOPHY

Recommendation #1: *Fund* and include people with lived experience to lead creation and implementation of Minnesota’s response.

Recommendation #2: No longer refer to people as “prostitutes” in Minnesota statute.

Recommendation #1

Provide funding to people with lived experience from diverse communities to lead in creation and implementation of Minnesota’s response.

Involvement should include designing the approach, participation in fine-grained implementation of recommendations, testifying before the Legislature, evaluating impact, and assessing new developments as they arise. In particular, black, brown, and indigenous people, as well as LGBTQ and gender non-conforming people, should be prioritized. Ensure diversity with respect to experience in transactional sex, including people who identify as victims and survivors, independent providers, sex workers, and other experiences in transactional sex. A diversity of perspectives and experiences among people with lived experience brings critical wisdom, knowledge, and experience to the table and can help avoid unintended consequences. Minnesota should prioritize inclusion of culturally-specific perspectives and providers.

Guidance for implementation includes the following:

- Work with the survivor advisory board for the MDH.
- Connect with other survivor advisory groups in Minnesota.
- Network with other groups of people with lived experience (for example, regional task forces, support groups, and sex worker groups).
- Identify ways to hire those with lived experience to design, implement, and hold system actors accountable.
- Make sure that leadership opportunities are substantive, real, and paid. Avoid tokenism.

Recommendation #2

Remove the term “prostitute” from Minnesota law.

Almost all stakeholders believed the term “prostitute,” as used in Minnesota’s statutes, is stigmatizing and does not connote dignity and respect [see STIGMA, REPLACE TERM PROSTITUTE]. This should be changed in all statutes in which it is used. This was a particularly strong theme among all people with lived experience.

Minnesota statutes, rules, and other policies refer to people as “prostitutes” across statute blocks, including the criminal code, background checks, rental and housing codes, law enforcement, custody and child protection, and other statutes. We recommend working with people with lived experience to identify appropriate language that describes the behavior rather than labelling the person. Below is some guidance for implementation:

- Describe the conduct without labelling the person.
- Convene a panel of people with lived experience to develop recommendations to the Legislature around appropriate language.
- Ensure that panel accurately reflects the diversity of people in Minnesota with lived experience. Compensate people who serve on this panel.

RELEVANT CRIMINAL ISSUES

The MDH RFP mandated identifications of recommendations for criminal liability related to transactional sex to better support victims and survivors of exploitation and sex trafficking in Minnesota. This section has three sub-sections including:

- Recommendations related to criminal liability for providing sex
- Recommendations related to criminal liability for purchasing sex
- Recommendations related to criminal liability for sex trafficking crimes.

Any future planning related to relevant criminal issues should engage neighborhoods, businesses, and other communities that experience secondary impacts of the transactional sex market. The concerns of neighborhoods with visible street-based prostitution, hotels, and others need to be identified and addressed. This strategic planning process did not engage enough voices about this.

Criminal Liability for Providing Sex

Recommendation #3: Reduce burden of criminal liability on people with lived experience via other remedies (i.e. expungement, vacatur, diversion, and crime victims' rights).

Recommendation #4: Review all Minnesota statutes that mention prostitution to identify needed revisions to decriminalize the sale of sex as per recommendation #5.

Recommendation #5: Decriminalize the sale of sex as described in Minn. Stat. § 609.324, subdivisions 6 and 7 after completion of planning, preparation, and initial steps.

Criminalization of agreeing or being hired to provide sex presents significant harms to victims and survivors of sex trafficking and sexual exploitation as well as independent providers and sex workers. These harms are profound and long-lasting. They interfere with the ability of people with lived experience to move forward with their lives [see STIGMA AND HARMS OF CRIMINALIZATION]. These should be implemented in tandem with **Recommendations #10 and #11**.

Recommendation #3

Take immediate corrective action to reduce burden of criminal liability while considering larger issues associated with partial decriminalization.

Below we describe stakeholder thinking related to reform of expungement and vacatur, defenses and diversion programs, protection from arrest when reporting a crime, and more tangible support for victims of trafficking, exploitation and violence in transactional sex. Stakeholders described an emerging practice among law enforcement toward not arresting people with lived experience. This practice should continue. Training needs as described in **Recommendation #16** could cover this topic as well.

Expungement and Vacatur

Criminal records pose persistent challenges for people with lived experience, barring employment and secure housing, threatening custody of children, and denying access to public benefits. This inhibits their ability to move forward in their lives. Minnesota's expungement statute, while recently strengthened, was described by stakeholders as difficult for people with lived experience to access and navigate. Minnesota's existing

post-conviction relief law provides no specific provisions for victims of human trafficking crimes. Convictions outside Minnesota pose particular challenges.

- Fund community-based outreach and education so people with lived experience know their options.
- Fund training for public defenders, prosecutors, judges, and civil legal service providers about existing options for moving to dismiss probation and for expunging records.
- Increase funding for public defenders and civil legal services to help people expunge records and vacate convictions for prostitution offenses and other offenses that resulted from victimization.
- Consider simplifying expungement through a “one-stop shop” or other mechanism to reduce the burden on people with lived experience to file multiple petitions and include fee waivers.
- Consider creating an automatic expungement of charges under 609.324, subdivisions 6 and 7, after a certain length of time without additional charges.
- Explore ways to minimize the impact of background checks on people with lived experience from the use of criminal arrest or conviction records by employers or housing providers.
- Consider post-conviction relief options for human trafficking victims consistent with those recommended by the Uniform Law Commission in 2013.¹³⁷
- With partial decriminalization, we recommend a provision to automatically vacate all previous charges under Minn. Stat. § 609.324, subdivision 6 and 7, so that similarly situated people convicted prior to the law’s change will not be disadvantaged by old convictions.

Defenses

Minnesota law allows trafficking victims to raise an affirmative defense to prostitution (selling) charges. Stakeholders suggested the defense was under-used and inadequate to mitigate the harms of criminalization.

- Fund training for law enforcement, prosecutors, public defenders and criminal defense attorneys, and judges on the existing affirmative defense to charges under Minn. Stat. § 609.324, subdivisions 6 and 7, found at Minn. Stat. § 609.325.
- Consider creating affirmative defenses to other crimes that are the result of trafficking.

Diversion Programs

Diversion programs can mitigate harms associated with criminalization while partial decriminalization is implemented. Minnesota law provides for various diversion programs, including stays of adjudication,¹³⁸ execution,¹³⁹ imposition,¹⁴⁰ and continuance for dismissal.¹⁴¹

- Prosecutors should consider pre-trial diversion programs in any case in which charges are brought under Minn. Stat. § 609.324, subdivision 6 or 7.
- Prosecutors should consider pre-trial or pre-sentence diversion programs for people charged with crimes resultant from being trafficked.
- Consider diversion programs for trafficking victims and others with lived experience who are charged under Minn. Stat. § 609.322 so that people are not disproportionately or inappropriately held criminally liable for crimes resulting from victimization in trafficking or practices to promote safety.
- Diversion programs should be strengths-based, trauma-informed, and available statewide, as well as culturally appropriate.

¹³⁷ Uniform Law Commission: The National Conference of Commissioners on Uniform State Laws. (2013).

¹³⁸ See Minn. Stat. § 152.01, 357.021, and 241.67 (2017).

¹³⁹ Minn. Stat. § 609.10 (2017).

¹⁴⁰ Minn. Stat. § 609.135 (2017).

¹⁴¹ Minn. Stat. § 609.132 and Rule 27.05 (2017).

Protection from Arrest when Reporting Serious Crime

People involved in transactional sex experience serious crimes including sexual assault, domestic violence, robbery, and assault, but fear of arrest is a barrier to reporting.

- Ensure people will not be charged under Minn. Stat. 609.324, subdivisions 6 or 7 if they report a crime that occurred during transactional sex. This could be modelled on “good Samaritan” laws that suspend criminal liability for drug use when reporting a suspected drug overdose.¹⁴²
- Do not arrest victims of human trafficking or people with lived experience on bench warrants or for minor violations when they report serious crimes (such as sexual assault, domestic assault, assault, and robbery). Law enforcement should take reports without running background checks.
- Ensure crime victims have options for reporting crimes and providing and preserving evidence (such as a SANE nurse) without triggering a police investigation. Victim-centered reporting options such as anonymous reports and information escrowing should be explored.

Crime Victims’ Rights

While many protections exist and apply equally to people with lived experience as well as general crime victims, people’s ability to access these remedies is hampered by the fact that they have historically been seen as criminal perpetrators, not crime victims. People with lived experience may experience serious threats against themselves or their families when testifying against traffickers, especially when traffickers are part of larger criminal organizations. We recommend the following:

- Review existing crime victim/witness protection measures to ensure they meet the needs of people with lived experience, especially regarding safe housing. Ensure sufficient funding is available to meet the needs of trafficking victims as they testify against traffickers.
- Identify and implement effective approaches so that people with lived experience understand and can access restitution in criminal prosecutions, other crime victim rights, and available crime victim assistance programs.
- Provide information and training to ensure systems professionals and service providers are well-informed about restitution in criminal prosecutions, other crime victim rights, and available crime victim assistance programs.

Recommendation #4

Identify and review all statutes, rules, and agency policy that pertain to prostitution.

Minnesota statutes have numerous areas that refer to, describe or regulate aspects of prostitution. To accomplish partial decriminalization, we also recommend a thorough review of all pertinent statutes, rules, and agency policy guidance to identify where “prostitution” is included. This should include review of informal barriers, rules and regulations. These are critical preparatory steps for making amendments to state statutes that would decriminalize agreeing to be hired or being hired to provide sex as described in

Recommendation #5.

¹⁴² See, e.g. Minnesota’s Good Samaritan Overdose Prevention Act (Steve’s Law), Minn. Stat. 605A.04 and 605A.05 (2017), enacted Minn. Session Laws – 2014, Chap. 232. See also Association of Prosecuting Attorneys. (2018, February 26).

Recommendation #5

Remove criminal penalties for the sale of sex (partial decriminalization) in tandem with statewide access to housing, services, and supports.

Stakeholder feedback, on balance, suggests that removing criminal penalty for the sale of sex as described in Minn. Stat. § 609.324, subdivisions 6 and 7, would increase safety, health, dignity, and justice for victims of sex trafficking and exploitation, as well as independent providers and sex workers.

Partial decriminalization is expected to alleviate the significant negative impacts on safety, health, and dignity which result from the inability of people with lived experience to call upon the services of police and courts to address significant violence committed by sex buyers and traffickers [see STIGMA and HARMS OF CRIMINALIZATION]. Partial decriminalization would eliminate the many long-term consequences of criminal convictions, including barriers to housing and employment, out-of-home-placement of children, and more which block people with lived experience from achieving economic self-sufficiency and family stability [see RESPONSE TO PARTIAL DECRIMINALIZATION].

Stakeholders addressed safety, health, dignity, and justice for individuals with lived experience while also articulating a broader conception of public interest. These are two equally important values that may lead to tension and disagreement about different policy options and outcomes. We strongly recommend a planning period, prior to enacting this recommendation, during which to explore and resolve at least three issues.

First, **Recommendation #5 must be seen in tandem with Recommendations #10 and #11** which envision **significant expansion of housing, services and supports** for people with lived experience. Stakeholders across the board were very clear that partial decriminalization without services and supports for people with lived experience might actually increase exploitation and trafficking. We recommend identification of new and robust outreach and referral mechanisms that would supplement and replace current practices where police are the primary system that identify and refer victims to services.

Second, law enforcement and criminal justice personnel identified some **significant potential legal and criminal procedural issues related to partial decriminalization**. Stakeholders feared that this could undermine strategies used by law enforcement and prosecutors to gather evidence and ensure witness cooperation in trafficking prosecutions. Some speculated that accountability for buyers could be undermined if “both sides” of the transaction are not criminalized. The State should ensure planning with criminal justice professionals, in partnership with people with lived experience, to identify, pilot, and provide training about techniques to mitigate such adverse effects, such as victim absent prosecutions.

Third, partial decriminalization would change the State’s **ability to use temporary holds, diversion, and mandated services to intervene in trafficking and compel participation in services**. Some stakeholders advocated for the need to rescue trafficking victims or compel services for people’s own good. While other stakeholders strongly believe forced or mandated rescue or services ultimately hurts people with lived experience. Some stakeholders believe it is necessary to forcibly intervene in order to protect the public interest by reducing prostitution. We identified a lack of consensus among stakeholders that will need to be explored via **Recommendations #10 and #11**.

Criminal Liability for Purchasing Sex

Recommendation #6: Maintain criminal liability for purchasing sex. Increase penalties and accountability for buyers of sex with trafficking victims and minors; focus law enforcement efforts on these sex buyers.

Recommendation #7: Investigate and prosecute perpetrators of crimes against people with lived experience.

There was consensus among most stakeholders, including law enforcement, survivors, and social service providers, that people who purchase sex should “be held accountable.” Many stakeholders said that even with laws on the books it is critical to focus on accountability in arrest and prosecutions for people who purchase sex [see CRIMINAL LIABILITY FOR SEX BUYERS]. It should be noted that some stakeholders, particularly those identifying as sex workers, believed that purchasing sex should be decriminalized along with agreeing to be hired to provide sex. Additionally, some stakeholders agreed in principal that all sex buyers should be subject to criminal penalties but believed that it was not practical to enforce and that it would potentially harm people with lived experience [see POLCY ALTERNATIVES].

There was near unanimous consensus that Minnesota law should specify increased penalties for purchasing sex with minors or trafficking victims and that police and prosecutors should focus their attention on sex buyers who commit other egregious harms to people with lived experience under cover of transactional sex [see ACCOUNTABILITY OF TRAFFICKERS AND SEX BUYERS].

Recommendation #6

Continue to impose criminal liability for people who purchase sex.

We identified a widespread perception that currently there is a lack of accountability for sex buyers that may be related to deficiencies in the law itself or how it is applied. **Recommendations #16 and #17** propose increased training and changes to practice. Stakeholders suggested that law enforcement and prosecutors continue to prioritize enforcement efforts on sex buyers seeking to purchase sex from a minor or a trafficking victim.

It is important to note that the strategic planning process did not identify specific penalties for sex buyers, so we do not make recommendations here. We recommend engaging people with lived experience, criminal justice personnel, and others to determine where new penalties may be needed in statute versus more accountability in practice for sex buyers under current statute.

As noted in **Recommendation #5**, the State may need to identify additional mechanisms for investigation of sex buyers and trafficking related to adults if the State partially decriminalizes prostitution. Law enforcement suggested that the current distinction in 609.324 of purchasing sex in public versus private may impede investigation. Further, many stakeholders identified the need for post-conviction diversion or treatment options for people who purchase sex.

- Retain criminal liability for the purchase of sex at Minn. Stat. § 609.324. Consider increasing the penalty assessment authorized by 609.324, subd. 1 (minors) to provide a further deterrent for buyers of sex.
- Resolve inconsistencies in penalties for people who solicit sex from a minor between 609.324 and 609.352 (electronic solicitation of a minor).

- Consider amending Minn. Stat. § 609.324 to create increased criminal liability for the purchase of sex from a victim of trafficking.
- Consider whether to retain the distinction between Subd. 2 (public place) and Subd. 3 (general crime) to ensure accountability for agreeing via electronic means to buy sex.
- Develop more robust diversion programs for sex buyers that include treatment options as needed.
- Continue training and development of best practices to ensure that efforts to increase sex buyer accountability do not create disparate racial impact of arrest and conviction of people of color.

Recommendation #7

Ensure accountability for crimes against people with lived experience.

Stakeholders across Minnesota were clear that sex buyers and traffickers are rarely held accountable for crimes they commit against people with lived experience. Stakeholders identified this failure of accountability as a significant source of harm in the lives of people with lived experience. Stakeholders described how some police officers do not take reports of violence and other crimes committed by sex buyers. For some this was attributed to stigma and collateral consequences of criminalization. Barriers to reporting crime, noted in **Recommendation #3**, compound lack of investigation, charge, or prosecution of sex buyers or traffickers for serious crimes [see HARMS OF CRIMINALIZATION and CRIMINAL LIABILITY FOR SEX BUYERS].

Minnesota should ensure that sex buyers are held criminally liable for other crimes they commit as part of purchasing sex, such as harassment, stalking, rape, assault, theft, and other crimes of violence and intimidation. Minnesota should also ensure that traffickers are held accountable not only for sex trafficking offenses but also for the crimes of assault, sexual assault, domestic assault, extortion, and the like which were used by the trafficker to control the victim. We recommend the following steps to ensure accountability for crimes against people with lived experience:

- Law enforcement, prosecutors and courts should develop standards of practice that promote the detection, investigation, prosecution and conviction of crimes against people with lived experience.
- Minnesota must prioritize the detection, investigation, and prosecution of missing and murdered indigenous women. As a first step, the Legislature should create a Task Force on Missing and Murdered Indigenous Women to examine and report on systemic causes and identify measures to protect indigenous women and girls from violence.

Criminal Liability for Sex Trafficking

Recommendation #8: Retain criminal liability and penalties for sex trafficking.

Recommendation #9: Amend Minnesota sex trafficking statutes to reduce criminal liability for victims of sex trafficking and practices people with lived experience use to increase safety.

Recommendation #8

Continue to prosecute trafficking crimes.

Without exception, stakeholders supported Minnesota's efforts to prosecute human trafficking crimes. Sex trafficking is a violent crime against persons and should continue to be classified among the most serious of crimes. We include this here as a recommendation to reflect the findings.

We also recommend exploration of prosecution strategies and protocols that seek to reduce disparate impact on communities of color and indigenous people.

Recommendation #9

Take steps to ensure that people with lived experience and others do not face trafficking charges that are inconsistent with the severity of their conduct.

While stakeholders support continued accountability for sex trafficking crimes, stakeholders also expressed concern that Minn. Stat. § 609.322 has swept all third-party involvement in transactional sex within its definition. The statute's broad construction and lack of less serious degrees provides little flexibility to appropriately calibrate charges in cases where perpetrators are also trafficking victims, where people are collaborating for their own safety, or where their involvement may have been incidental. Victims of trafficking have been prosecuted as traffickers for their role in the trafficker's hierarchy of control. In other cases, actions taken by sellers to minimize risks of harm, such as working together to screen sex buyers, have fallen within the trafficking statute.

Stakeholders described the many ways that third-party involvement in transactional sex is complex and nuanced. It warrants further evaluation and review of current practice.

- Consider pre-trial and pre-sentence diversion programs for victims of trafficking who are forced to engage in sex trafficking.
- Review and amend the affirmative defenses set forth in Minn. Stat. § 609.325, Subd. 4 to include the sex trafficking statute, Minn. Stat. § 609.322
- Review and amend Minn. Stat. § 609.322 to target traffickers and provide subdivisions addressing less serious degrees and penalties which reflect the level of decreased or collateral involvement in the crime.
- Develop more thorough guidance for prosecutors, judges, and others in the criminal justice field. Ensure consistent, high-quality training of justice systems actors regarding trauma.

AVAILABILITY AND ACCESS TO PREVENTION/INTERVENTION SERVICES

Recommendation #10: *Fund* a planning process to develop a service and support model that is appropriate for adults; include people with lived experience in leadership.

Recommendation #11: Implement the model by removing age limits and *fund* expanded housing, services and support to all adults with lived experience.

Recommendation #12: Develop a statewide prevention plan that provides housing, economic stability, and systems reforms; including professional, public and school-based education, and culture change to reduce stigma.

Many stakeholders expressed the concern that legislators or others might think that partial decriminalization of prostitution statutes on its own would be sufficient to improve safety, health, dignity, and justice for people with lived experience. They were clear that partial decriminalization should happen in tandem with expanded and enhanced services and supports. Findings from the strategic planning process strongly support removal of the age requirement for access to Safe Harbor along with significant new funding to better support adults with lived experience [see CONSIDERATIONS FOR IMPLEMENTATION].

The strategic planning process identified significant gaps and a substantial dearth in services and supports for adults with lived experience and their children. Expansion of Safe Harbor to include all adults will dramatically increase the number of people seeking already scarce services. These gaps are particularly acute in rural Minnesota. Therefore, it is **NOT advisable to remove the age restriction without funding** a robust support and service delivery model that is appropriate for adults.

The community engagement methods were not geared to collecting the kinds of details and specialized information needed to develop a full-blown proposal for funding a new service delivery model. We did identify many findings related to what kinds of services and supports are needed as well as ideas for prevention strategies [see SERVICES AND SUPPORTS FOR ADULT VICTIMS and PREVENTION]. The State should carefully consider the approach, philosophy, strengths, and types of services and supports that are needed, which are different for adults than minors [see PRINCIPLES AND APPROACH].

Recommendation #10

Fund a planning process to identify, develop, implement, and evaluate prevention and intervention services.

This process should include compensated leadership from people with lived experience as well as State agencies, service providers, and other key stakeholders in diverse communities throughout Minnesota. Some suggested a similar legislative mechanism that created a sunrise clause for Safe Harbor for Youth to allow time for development of the No Wrong Door model.¹⁴³ Stakeholders were clear that this process must engage those most impacted by transactional sex.

Participants in the process described the profound and positive impact on young peoples' lives that has resulted from the resources and support directed to the Safe Harbor system. But they articulated that more is needed. Many stakeholders discussed both strengths and weaknesses of the current Safe Harbor model as

¹⁴³ See Laws of Minnesota 2011, 1st Spec. Sess., chapter 1, article 4, section 9.

they provided input about expansion to include all adults. This is a unique opportunity. This planning process could be used as a way to review, enhance, reform and reinvigorate the entire Safe Harbor system, including the response to minors under age 18 (who currently face no penalties for selling sex), young adults aged 18-24 (who currently face penalties but also have access to services and supports), and adults aged 24 and older.

We identified several unresolved issues and questions that will need be resolved. Should services be voluntary or mandated? What is the role of grassroots and community support? Who should deliver services? How will people with lived experience lead? Should it be called Safe Harbor or something else?

Stakeholder input offers some guidance. Services must to be appropriate for adults. **Services should NOT be rooted in paternalistic “savior” or “rescue” models** and should treat people as autonomous adults capable of making decisions. Individuals’ experiences, self-identification, and life circumstances can change over time. Provision of services and supports should not depend on self-identification or proof of “victimization”. Service providers should have qualified privilege to ensure participants can communicate openly with providers.

We suggest that expansion of Safe Harbor or No Wrong Door to adults should be made **available for all people with lived experience**, without making the model based on self-identification as a “victim” of trafficking. Many people do not identify as “victims” of trafficking or exploitation for a myriad of reasons. Statutory definitions of sex trafficking and exploitation are rarely clear-cut in the experiences of people involved in transactional sex. Individuals’ perceptions and experiences can change over time. Not only is it impractical, but more importantly it is potentially stigmatizing and harmful for adults who experience exploitation and violence, but may not technically be victims of sex trafficking with a third party.

Some stakeholders believe some people with lived experience may not voluntarily choose to use services, particularly in relation to chemical dependency and mental health. They expressed the need to identify a mechanism to compel service use, particularly for people who experience complex co-occurring traumas and disorders. Other stakeholders were strongly opposed to mandated services and supports, believing that people must be ready and willing to confront their trauma and to deal with the fallout once they do so. Our process was not able to resolve this issue. Further stakeholder engagement and inquiry is needed to identify appropriate mechanisms for balancing informed consent, individual autonomy, and emergency intervention.

Minnesota’s legal framework for sex trafficking does not fully encompass the broad range of connections between involvement in transactional sex and low-wage work, mass incarceration, immigration enforcement, racial and gender discrimination, discrimination against LGBT people, impacts of enslavement and colonization, and generational poverty.

Many stakeholders expressed the concern that people with lived experience may not know about or be able to access services and supports that may become available to them. Many stakeholders pointed out that the primary way people are identified and referred to much-needed services is through arrest. Without arrest, this link could be lost. Thus, we recommend that part of the planning include **development of robust mechanisms for outreach to adults** that can replace arrest as a way to identify, triage, and refer adults to services and supports as needed.

Recommendation #11

Ensure people with lived experience have access to housing, employment, economic stability, medical and mental healthcare, chemical dependency treatment, and family stability.

The strategic planning process did not gather enough information to fully describe the expansion of Safe Harbor for all adults, but we did identify a great deal of specific information related to housing, employment, services, child protection, and foster care that are described below. Within these service areas several key themes emerged. Services and supports should care for whole families, not just individuals. They should be equipped to address complex trauma, related to sexual violence, domestic violence, adverse childhood experiences (ACEs), and the specific traumas experienced in transactional sex. Each sector should be able to help adults address chemical dependency, mental health, and healing from trauma on their own terms. Finally, stakeholders expressed the need for formal and informal support groups of other people with lived experience. Services and supports should be seen both as intervention and prevention tools [see CONSIDERATIONS FOR IMPLEMENTATION].

Housing

Lack of affordable housing drives people into the marketplace and keeps them there. Increased availability of stable, affordable housing is essential to prevent harm and promote safety, health, and dignity. Stable housing is a foundation for people to cease involvement in transactional sex if that is their wish. **Housing that allows families and children was identified as critical for people with lived experience.**

As part of the process of Safe Harbor expansion for all adults we recommend that the State:

- Significantly increase investment in affordable housing throughout the state.
- Create a “housing first” approach to services for people involved in transactional sex, ensuring that stable, secure and safe housing is immediately available and accessible.
- Provide emergency, transitional, long-term and affordable housing options. The need is particularly acute in Greater Minnesota.
- Coordinate with efforts described in **Recommendation #3** to eliminate formal and informal barriers to housing through vacatur, expungement, and reform to background check policies and procedures.
- Consider creating a private cause of action against landlords who use or attempt to use knowledge of involvement in transactional sex to extort sex from tenants or prospective tenants.

Employment

Expansion of Safe Harbor to include all adults should include employment supports and training as well as removal of barriers to employment in living wage jobs faced by people with lived experience.

- Coordinate with efforts described in **Recommendation #3** to eliminate formal and informal barriers to housing through vacatur, expungement, and reform to background check policies and procedures.
- Review statutory barriers to employment and professional licensure to identify and eliminate unnecessary bars to people with lived experience.
- Consider creating a private cause of action against employers who use or attempt to use knowledge of involvement in transactional sex to extort sex from employees or prospective employees.

Chemical Dependency, Mental Health, and Physical Health Services

Chemical dependency, mental health, and physical health services as well as access to state funded health insurance are a critical need for people with lived experience. Opioid addiction, in particular, was identified as a factor driving people into transactional sex, and chemical dependency services can therefore also be seen as a prevention tactic. There is specific need for programming that addresses co-occurring issues of chemical dependency and mental health as they intersect with transactional sex. We recommend these be included as core aspects of Safe Harbor expansion for all adults offered, based on individual needs and desires.

Child Protective Service

Many people with lived experience have children. Fear that children will be taken away inhibits people with lived experience from reporting crimes, seeking services, or otherwise coming to the attention of the system. Many stakeholders described involvement with Child Protective Services (CPS) as ubiquitous and traumatic. Racial disparities in out-of-home placement compound this trauma for American Indian families and African American families. Minnesota should take immediate steps to reduce family separation of people with lived experience. Stakeholders with lived experience described CPS case plans as unrealistic and not taking into account the barriers in the family's life. Additionally, stakeholders described involvement by CPS itself as a source of harm where CPS failed to recognize trafficking within family units, sometimes removing children from mothers due to involvement in prostitution and placing the children in the sole custody of the trafficker.

- Fund a statewide safety and accountability audit of Minnesota's child protection system to identify and eliminate harms experienced people with lived experience and their families as a result of contact with the child protection system.
- Continue work to address racial disparities in out-of-home placement of African American and Native American children as it pertains to transactional sex.
- Involvement in transactional sex on its own should not be a basis of CPS involvement.
- CPS should train staff on lived realities of people involved in transactional sex and trafficking to improve identification of trafficking, with the goal of creating CPS case plans that consider the whole family.
- Fund safe and culturally appropriate childcare options that are flexible and available to people with lived experience so that people do not lose custody of their children.
- Improve legal representation for families involved in child custody cases with easier appeal processes.
- Develop housing and other services appropriate for families.

Foster Care

The foster care system was described by stakeholders as part of a "cycle" of sexual exploitation and trafficking and considered a "pipeline" into transactional sex. This is due to high number of adverse childhood experiences (ACEs) that foster youth experience prior to involvement in foster care, the continuation of harmful experiences while in foster care, and the vulnerability experienced by many when aging out of foster care. Young people aging out of foster care and into adult systems were described by stakeholders as needing additional supports and services to prevent exploitation and trafficking. Effective trauma and culturally-specific healing modalities were cited as urgently needed. Finally, vulnerable adults in adult foster homes were described as an under-reported and high-risk population to sexual exploitation and trafficking.

- Provide more support to foster parents who provide critical and much needed support for children.
- Fund low-barrier supportive services for young adults with any prior experience in the foster care system and extend eligibility for existing aging-out services.
- Re-evaluate criteria for response to abuse allegations by foster parents.
- Promote culturally-specific healing for foster youth, including culturally-specific group homes and foster parents.
- Expand and fund trauma-informed therapeutic options for all youth in the foster care system that includes more support for foster parents.
- Identify gaps and barriers for vulnerable adults who are sexually exploited or trafficked.

Appropriate and Accessible Services

Stakeholders were clear that services must be available and accessible throughout the state and to all cultural communities. Rural stakeholders described severe lack of essential services for people with lived experience. Cultural communities also identified serious deficiencies in effective and appropriate services. These shortages must be addressed.

- Identify geographic gaps in essential services and ensure funding exists to provide access to those services.
- Support communities of color, American Indian, immigrant, refugee, transgender, and other communities to identify strengths and needs for development of effective community and culturally-responsive services and supports.
- Provide funding for a Tribal Navigator for each tribal nation.

Recommendation #12

Planning is needed for a statewide prevention plan.

As per the requirements set forward by MDH, our process deliberately sought information about prevention opportunities. When specifically asked about “prevention” most stakeholders suggested school-based education around consent and healthy relationships, broad public awareness about the harms of transactional sex and recognizing sex trafficking, or both [see PREVENTION].

Careful examination of all our data made clear that stakeholders also identified prevention of sex trafficking and exploitation as linked to addressing the intersectional oppressions, poverty, race, gender, historical trauma, and transphobia. Some linked prevention to culture change about acceptable male behavior. Numerous stakeholders described housing and economic stability as both intervention and prevention measures. Individuals with stable housing and the ability to support themselves and their families are less likely to be exploited or trafficked.

We recommend that the State engage in a robust and community-based effort to identify and produce primary prevention plans related to trafficking and sexual exploitation. This could be carried out by MDH using a public health and epidemiological approach.

TRIBAL NATIONS AND INDIGENOUS COMMUNITIES

Recommendation #13: Affirm tribal sovereignty in implementation

Recommendation #14: Fund indigenous people and tribes to lead implementation in their communities.

Recommendation #15: Reform longstanding harmful multi-systemic practices that disproportionately impact indigenous people that are linked to violence and transactional sex.

It is important that the State of Minnesota fully engage and fully include tribal nations and indigenous communities in planning and implementation of Safe Harbor expansion to include all adults. American Indian people are disproportionately impacted by sex trafficking and exploitation and they also have unique strengths for cultural and community healing. The State should continue to address potential jurisdictional challenges, connect with tribal and community leaders, and fund indigenous people with lived experience to lead planning and implementation of any response [see STIGMA].

Recommendation #13

Minnesota must recognize tribal sovereignty.

Each tribal nation is unique in its legal system, its jurisdiction, and its relationship to the State of Minnesota.

- The State of Minnesota should engage with each tribal nation individually, on a government-to-government level, to develop a plan for an effective legal response to sex trafficking.
- Minnesota should work with each tribal nation to identify how specific jurisdictional issues in the criminal and civil legal systems impact people with lived experience. Minnesota should provide specific funding to each tribal nation to support this process and implement recommendations.
- Minnesota should continue to support the work of tribal nations by funding multi-jurisdictional tribal sex trafficking task forces and work with that task force to develop specific implementation plans.

Recommendation #14

Fund indigenous people and tribes to lead implementation in their communities.

American Indian people are disproportionately impacted by sex trafficking. At the same time, Native people are often excluded from organizing and funding designed to create solutions. Minnesota can best address these harms by ensuring Native people lead the development and implementation of the response.

- Minnesota should engage and fund indigenous individuals, especially those with lived experience, to lead the development and implementation of Safe Harbor expansion to all adults. Funding should be sufficient to ensure meaningful participation by people from all tribal nations and urban Indian communities.
- Minnesota should engage and fund urban Indian communities in Bemidji, Duluth, Minneapolis, and Saint Paul and Native-led nonprofit organizations and coalitions to participate in the development and implementation of Safe Harbor for All.
- Provide funding for a Tribal Navigator for each tribal nation.

Recommendation #15

Reform longstanding harmful multi-systemic practices that disproportionately impact indigenous people that are linked to violence and transactional sex.

Separation of families, crimes against Native women, opioid addiction, and homelessness remain unaddressed despite epidemic rates staggeringly out of proportion to white Minnesotans. These harms are intertwined with transactional sex in Native communities. Minnesota cannot create an effective response to sex trafficking without addressing these systemic failures.

- Minnesota should take immediate steps to decrease the disproportionate number of American Indian children who experience out-of-home placement compared to white children.
- Review and reform Indian Child Welfare Act interpretation and case law, in consultation with tribal governments.
- Minnesota must prioritize the detection, investigation, and prosecution of missing and murdered indigenous women. As a first step, the Legislature should create a Task Force on Missing and Murdered Indigenous Women to examine and report on systemic causes and identify measures to protect indigenous women and girls from violence.
- Continue to fund efforts to prevent and treat opioid addiction throughout Minnesota.
- Invest in stable, affordable housing in Native communities. Support accessible, culturally appropriate housing and services for people involved in sex trafficking and sex trading and their families.

TRAINING, REFORM, AND EVALUATION

Recommendation #16: *Fund* and extend statewide training across systems.

Recommendation #17: Review and reform harmful policies & practices in state agencies that work with adults with lived experience.

Recommendation #18: Develop and *fund* accountability measures for law enforcement.

Recommendation #19: *Fund* independent evaluation of Safe Harbor expansion to identify impacts, outcomes, and course-corrections that includes people with lived experience and is participatory and community-based.

Numerous issues were described in the findings that necessitate statewide and multidisciplinary training coupled with reform of specific practices within governmental and non-governmental responses to the harms of transactional sex. We provide four recommendations related to training and practice reform.

Recommendation #16

Fund and extend statewide training across systems.

People with lived experience identified the need for training and education on ways to clear criminal records [see MODIFICATIONS]. Stakeholders also discussed training needs for businesses and the general public. Stakeholders acknowledged that extensive training efforts are already underway across the state related to Safe Harbor for Youth. Implementing this recommendation could begin by ensuring that current training efforts incorporate and include content relevant to adults with lived experience.

Law enforcement expressed particular interest in additional training, including specific training around police procedures, multi-jurisdictional protocols, and general education about the realities of transactional sex and trafficking. Stakeholders described some jurisdictions in which law enforcement have implemented more victim-centered and trauma-informed approaches. These could serve as examples. Many of these jurisdictions have already been trained in relation to the current Safe Harbor system. However, these impacts are uneven, and more training is necessary.

Below are some training issues that we identified. There are likely more that will emerge through a planning process as envisions in **Recommendation #10**.

- Trauma-informed interviewing practices, such as Forensic Experiential Trauma Interview (FETI) or other approaches
- Implicit bias training for all systems professionals, including law enforcement, prosecutors, courts, corrections, and service providers
- Realities of transactional sex
- Recognizing sex trafficking
- Police practices and procedures on crime reports from people with lived experience
- Training judges, prosecutors, defense attorneys, and civil legal service providers on motions to dismiss probation, expungement, and post-conviction relief for people with lived experience
- Training of all child welfare system and human service agency staff on lived realities of transactional sex and trafficking to improve identification of trafficking, with the goal of creating case plans that consider the whole family. This should include staff from case management, foster care system,

mental health, adult protection services, chemical dependency, direct care and treatment facilities, licensing and investigations staff.

- Fund training for law enforcement, prosecutors, public defenders and criminal defense attorneys, and judges on the existing affirmative defense to charges under Minn. Stat. § 609.324, subdivisions 6 and 7, found at Minn. Stat. § 609.325.

Findings did not provide specific instructions about how these trainings should be developed and delivered. A clear principle from stakeholders is the need to make sure that people with lived experience are involved in leadership of implementation. We suggest that planning for training efforts could also be included in implementation of **Recommendation #10**.

Recommendation #17

Review and reform harmful policies & practices in state agencies that work with adults with lived experience.

Many stakeholders raised issues within systems that go well beyond simply training staff. Findings describe many instances of policies and procedures within agencies that have the net effect of blocking access, increasing stigma, or leaving people with lived experience worse off than they were before [see STIGMA and HARMS OF CRIMINALIZATION]. Findings also revealed where systems do not interact well with each other in ways that result in people falling through the cracks and not receiving support when needed [see PRINCIPLES AND APPROACH]. In many instances this seems to occur because certain policies, practices, and procedures are at odds with the realities of transactional sex and people's lives. For example, as discussed in the report, many stakeholders identified harmful child protection practices that sometimes result in a child being removed from their mother and placed with a father who is also a trafficker.

In some cases, stakeholders wanted the help of services and supports to implement practices that value the whole person, including celebration of incremental change, loosening eligibility criteria, and offering support without judgement or preconceived notions [see PRINCIPLES AND APPROACH].

Many stakeholders identified ongoing problems within "police culture" and practices that likely go beyond training needs. These included disproportional policing in communities of color, broken trust due to past police interactions, and more accountability for officer misconduct [see ROLE OF POLICE].

The strategic planning process did not identify specific steps for this recommendation. Planning for this could be included within the work scope of **Recommendation #10**. Also, state agencies could enact a review process for their policies and procedures. Again, as specified in **Recommendation #1**, stakeholders asserted the importance of including people with lived experience in this process.

Recommendation #18

Develop and fund accountability measures for law enforcement.

Most stakeholders articulated some positive roles for law enforcement in Safe Harbor expansion. However, many stakeholders, particularly people with lived experience, expressed a desire to develop and implement more accountability measures for law enforcement as they work with adults with lived experience.

Stakeholders with lived experience, and others, wanted to see more outside oversight of policing related to prostitution and sex trafficking. They also identified the need to develop and enforce standards of conduct that respect people with lived experience. As noted in the findings, participants described ways that some standard police practices are experienced as harmful or stigmatizing. Stakeholders expressed a desire to more effectively hold law enforcement officers accountable for abuses of power, purchasing sex, not taking crime reports from people with lived experience, or other police misconduct against people with lived experience. Stakeholders with lived experience pointed to instances in which police were not held accountable and they were not believed [see STIGMA, HARMS OF CRIMINALIZATION, and ROLE OF POLICE].

The strategic planning process did not yield specific steps on how to accomplish this.

Recommendation #19

Fund independent evaluation of Safe Harbor for all to identify impacts, outcomes, and course-corrections that includes people with lived experience and is participatory and community-based.

Across the board, stakeholders wanted to see more evaluation of all aspects of Safe Harbor, including arrests, diversion programs, housing, referrals, service delivery, and much more. Many relayed excitement and concerns about No Wrong Door and requested hard data to answer questions about impact, outcome, and whether we need any course corrections. Stakeholders from many perspectives wondered about the impact of criminal justice efforts such as John's Schools or new policies of referring people with lived experience to services rather than arresting them.

Formal and legal extension of Safe Harbor to include all adults would be a first in the United States. Law, policy, social structure, culture, social service environment, political climate, and other factors surrounding our response to transactional sex in Minnesota form an "ecosystem." Change in one area will necessarily be shaped and constrained by the other factors. While several countries have enacted different versions of partial decriminalization that could serve as models, the impacts in an international context may or may not be applicable in the United States. Numerous stakeholders wanted more concrete – yet also participatory and community-based – data to help drive decision-making. Thus, we recommend that the State of Minnesota fund a holistic approach to evaluation of efforts related to Safe Harbor expansion to include all adults. This would include examination of jurisdictions that have already adopted partial decriminalization in practice, formative evaluation of implementation of Safe Harbor expansion, and summative evaluation of impacts of Safe Harbor.

Report Conclusion

Sex trafficking and sexual exploitation violate basic human rights to safety, self-determination, health, and dignity. Lack of accountability for trafficking and exploitation undermines justice for victims and the broader community. Transactional sex, trafficking, and exploitation result in numerous harms including violence, threats of violence, abuse, loss of children, instability, trauma, and much more. All adults who are trafficked for sex or involved in transactional sex in Minnesota experience harms due to stigma and criminalization of prostitution, including lack of housing, discrimination, and lack of police protection.

Minnesota has spent more than a decade building a community dedicated to eliminating the human rights abuses resulting from human trafficking. Important steps include the criminalization of human trafficking, creation of the Minnesota Human Trafficking Task Force, strengthening of penalties against traffickers, investment in training of systems personnel, passage of the Safe Harbor for Sexually Exploited Youth Act, and implementation of the No Wrong Door system of services for youth and young adults. These steps have taken investments in time, money, and effort to achieve.

As part of these efforts, broad consensus has emerged that minors under the age of 18 should not be viewed as criminals or delinquents for any type of involvement in transactional sex, including survival sex, exploitation, and trafficking. This represents a sea change in public perception and institutional practice. This shift, while not easy to accomplish, was somewhat straight-forward because it involved children. It was possible to make the case that children cannot consent to or choose transactional sex and as a society we have protections in place for children that are not deemed appropriate for adults.

But, it is much harder to envision a unified public policy and systems approach to adults. There is lack of agreement about the nature of transactional sex involving adults and its relation to exploitation and trafficking. Building on the foundation of Safe Harbor, the Minnesota Legislature authorized development of a strategic plan that prioritized thoughtful input from diverse stakeholders throughout the State of Minnesota to explore whether and how Safe Harbor might extend to adult victims of trafficking and exploitation.

Our process began with acknowledgement of a rift in perspective related to adults involved in transactional sex. Some believe transactional sex is always violence and that prostitution should be abolished. Others believe transactional sex under some circumstances can be experienced as a form of work and that labor rights will improve safety, dignity, and autonomy. However, these advocacy stances do not necessarily encompass the complexity, diversity, changeability, and nuances of most people's experiences in transactional sex, exploitation, and trafficking which evolve and often change over time. Whose voices should be included? What perspectives "count"? We opted for broad inclusion with the belief that all people with lived experience in transactional sex have important perspectives to share, including people who identify as victims and survivors of exploitation and trafficking, independent providers, and sex workers.

The strategic planning process required input from many stakeholders and the team spoke to people with diverse experiences from communities across the state to gather information about the impact of current practices, explore potential new approaches, and identify unintended consequences. Input from over 290 individuals also raised values that underpin opinions about the best direction for Minnesota. This process was valuable. It yielded important information, including areas of widespread agreement and deep division. Importantly, the Legislature directed the strategic planning process to include people with lived experience in addition to systems actor stakeholders. The inclusion of all these voices yielded critical insights and allowed us to identify points of real agreement. We hope we have done justice to every stakeholder who generously shared their wisdom during the strategic planning process.

While the strategic planning process did not yield unanimity on all issues, clear conclusions can be drawn. People with lived experience suffer significant harms under the existing, fully criminalized system. Decriminalization of selling sex in tandem with access to essential services to prevent, intervene, and help people exit transactional sex at their own pace emerged as the most promising approach to preventing and mitigating the harms experienced by people with lived experience. Criminal accountability for buying sex remains a priority for most stakeholders who participated in the process. Stakeholders with lived experience and many other stakeholders agree that priority should be given to increased prosecution of and accountability for sex buyers who commit violent crimes against people with lived experience.

People with lived experience must be paid to develop, implement, and evaluate systems and interventions. In particular, the State of Minnesota should engage tribal nations and indigenous communities as well as other communities of color and marginalized groups in planning and implementation. Immediate steps can be taken to limit harms resulting from criminalization and to begin to counteract stigma against people with lived experience. Minnesota has real opportunities for investing in prevention of sex trafficking and exploitation.

This report's recommendations suggest immediate actions that can be taken (such as eliminating stigmatizing language from statutes) and continued engagement processes that are needed (such as developing new strategies to investigate and prosecute trafficking crimes) to bring Minnesota's response to adult victims of trafficking and exploitation in alignment with the strategic direction identified. Predictably, the recommendations offer no quick fix and instead will require continued investments of time, effort, and money to achieve.

In this report, the strategic planning team did our best to identify common ground while also highlighting disagreements and the wide range of opinions and perspectives among stakeholders in Minnesota. We are deeply grateful for the participation, wisdom, and support from so many stakeholders, particularly those with lived experience. Minnesota is uniquely positioned to enact transformative legislative, policy, and practice changes that prioritize the health, safety, and dignity of people with lived experience without compromising justice for victims and the broader community.

The strategic planning team is honored and humbled by the opportunity to learn from so many people across the state. We hope the findings and recommendations offered here contribute to safety, health, dignity, and justice for survivors of sex trafficking, those who experience violence and exploitation, and all people involved in transactional sex.

Appendices

APPENDIX A: STRATEGIC PLANNING METHODS

Participant Consent Form

Overview. In 2011, Minnesota decriminalized prostitution offenses for youth under 18. This means that anyone under the age of 18 involved in trading or selling sex cannot be arrested or charged criminally for prostitution. Minnesota has also created a statewide coordinated system of supportive services and housing for youth, called Safe Harbor for Youth.

Minnesota legislators now want feedback on how Minnesota should respond to individuals ages 18 and over who are selling or trading sex, including survivors of sexual exploitation and trafficking. We know that there are a lot of different experiences; for this reason we are talking with people from a variety of experiences and perspectives with selling or trading sex, including survivors of sexual exploitation and trafficking, and we are also having conversations with systems professionals.

In this conversation, we want to know your thoughts as an expert about how Minnesota should respond to individuals ages 18 and over who are selling or trading sex, and survivors of sexual exploitation and trafficking. What are the advantages if people were no longer arrested? What are the pros and cons? What services or supports are needed to help reduce harm? We are not asking for your personal information or your stories, but you are welcome to share with us whatever you think we should know. We're talking with you as an expert with really important knowledge and experience. We want to make sure the state understands the pros and cons and any potential problems that might happen based on new legislation. This interview will last about an hour. We have \$40 in cash to give as a thank you for your time for those who have previous experience selling or trading sex or as a survivor. At the end we will also ask you to complete a demographic form so we can make sure we are talking with people from diverse perspectives.

Confidentiality/Voluntary. Your participation in this conversation is completely voluntary; likewise you are free to skip any question that we ask you that you'd prefer not to answer, or stop the conversation at any time.

The information that you share will be combined with the feedback from others and summarized in a report for Minnesota Department of Health as well as the general public. We will not identify you or what you say in any way.

We are not mandated reporters; we will not share any information that you tell us with any authorities. We have a list of community resources that we will give you at the end if you would like to pursue support or additional resources.

Recording. Before we get started, I'd like to ask for your permission to record this interview. Recording will allow us to better capture your suggestions and recommendations. This recording will not be shared with anyone outside of the strategic planning team, and we save all recordings on password-protected servers. We will delete all audio recordings once this project is complete. Is this ok with you?

Neutrality. The nature of this conversation can be highly political and is tied into people's values and assumptions around gender and sexuality. In our role we are trying as best as possible to hold space for all opinions around this issue.

Eligibility. We are talking with individuals currently 18 years of age or older. Are you 18 years of age or older?

Consent Form. We just talked through all of the elements of the consent form. What additional question do you have? Please check the boxes below if you still want to participate.

☐ I consent to participate. ☐ Yes, you can record this conversation.

First name (Optional) Date

Questions/Concerns?

Lauren Martin of the University of Minnesota, Urban Research and Outreach-Engagement Center (UROC) is the Principal Investigator on this study. If you have any questions or concerns, you may contact her via email or number below.

Email: mart2114@umn.edu | Office: (612) 624-4035

Semi-Structured Interview Guide

Introduction: Review consent form.

Topic	Description/Background Info	Suggested Questions
Opening and Ice Breaker	<ul style="list-style-type: none"> Review consent Review the order or “chunks” of topics we’d like to discuss Emphasis is on multiplicity of experiences; intersectionality How do you identify? What language do you prefer? 	<p>We’re going to start with a few questions about you to understand where you’re perspective and expertise comes from.</p> <ol style="list-style-type: none"> 1. What words do you use to identify yourself and your involvement in the life/with this issue? [Survivor, sex worker, etc.] 2. What is important that we know about you as it relates to this conversation? Your race/ethnicity, gender, religion, immigration, where you grew up, sexual orientation, work background, or other lived experiences.
Current Policies	<ul style="list-style-type: none"> Define current laws: prostitution & trafficking HANDOUT What works? What doesn’t work? Emphasis on strength-based dialogue 	<p>We’re going to start with how things work now and then talk about the new proposed changes and get your perspectives on these changes.</p> <p>Currently we have laws to protect “victims of sex trafficking” which involves a pimp or another person who makes money and usually involves force, fraud or coercion. These are our current <i>trafficking</i> laws.</p> <p>We also separately have laws that make selling sex and purchasing sex illegal. Those are our current <i>prostitution</i> laws.</p> <ol style="list-style-type: none"> 3. Currently, people get arrested for selling sex----. How does that hurt or help people in your community? / How do you see this impact people from your prof. experience? 4. What works about the current system? 5. What doesn’t work? What are problems with the current laws?

		<p>6. [Other challenges or issues people run into?] Are there any other policies, laws or rules that have affected people in your community/people that you work with that the legislature needs to pay attention to? I.e. other legal issues, other charges, existing charges on your record, child protection, housing, etc.</p> <p>7. If our laws (the system) were designed to work for you, what would that look like? What would it include? (you can think about interactions with police, child custody or social services, medical, anything)</p> <p>8. Describe for me the context of services as you've seen it- what's available, what's working, what's not?</p>
<p>Exploring Partial Decriminalization</p> <p>Strengths</p> <p>Weaknesses</p> <p>Unintended impacts</p>	<p>Definition: HANDOUT</p> <p>Partial Decriminalization protects individuals who are selling sex from arrest and being charged. Buying or facilitating the sale of sexual services remains illegal.</p> <p><i>Tailor questions as an inquiry to specific discipline and perspective of participant.</i></p>	<p>The legislature is interested in decriminalizing the sale of sex- this is called partial decriminalization. People selling sex would not get arrested, but people buying sex can get arrested.</p> <p>9. What are your opinions about this idea? CUES:</p> <p>A. What would happen to people in your community/people you work with if selling sex became legal but purchasing sexual services remained illegal?</p> <p>B. What would be the pros? What's good about it?</p> <p>C. What would be the cons? What's not good about it?</p> <p>D. What worries do you have about that policy? IF that policy was put into place, what problems would still exist and need to be fixed?</p> <p>Ask about:</p> <ul style="list-style-type: none"> • Income/ economic independence • Housing • Employment • Physical and emotional safety • Children and family • Health and wellness • Education • Immigration • Criminal records • Policing practices • Social services • Other legal concerns • Family safety • Labor concerns <p>[In response to disclosure about strip clubs, massage parlors, pornography etc.--- prompt: Anything about that we should</p>

		<p>know related to these legal options? Is there something about that setting specific to these legal options?]</p> <p>10. Do you think this legal change would specifically help or hurt different groups of people? [by race/ethnicity, language, sexual orientation, gender identity, immigration status, market segment, geography, tribal etc.?] [If stuck, rephrase using their identities-how would this specifically hurt or help African American women? People who mostly sell sex on the street? Those experiencing homelessness etc.]</p> <p>11. How do you imagine this would affect the larger society?</p> <p>12. How would this hurt or help people who are being trafficked or have a pimp?</p> <p>13. What do you think should be the penalties for purchasing sex, if any? [ex. John school, jail time, diversion, mandatory therapy, registered sex offender lists, etc.]</p> <p>14. If not penalties for buying, do there need to be penalties for something else? I.e. violence against sex workers, not paying, etc.</p>
<p>Other legal frameworks for prostitution laws:</p> <p>Full decriminalization</p> <p>Legalization</p> <p>Other ideas?</p>	<p>Definitions: HANDOUT</p> <p>Full decriminalization removes all laws prohibiting and regulating prostitution including those laws against facilitating and buying. Other laws, including those against sexual trafficking, child exploitation, and public indecency still apply.</p> <p>Legalization differs from decriminalization in that prostitution is legal, regulated and controlled by the government. These</p>	<p>The state has not proposed this, but we wanted to get your thoughts on other legal options, including full decriminalization and legalization. Full decriminalization means people would not get arrested for buying or selling sex. With legalization, people selling sex might need to get certified, get paperwork, or have health inspections.</p> <p>15. What are your opinions about full decriminalization or legalization? NOTE: as people answer, double check which model they are referring to. Give opportunities to respond to both models, but skip if people don't have opinions.</p> <p>E. What would happen to people in your community? F. What would be the pros? What's good about it? G. What would be the cons? What's not good about it? H. What worries do you have about that policy? IF that policy was put into place, what problems would still exist and need to be fixed? ***Anything new you would want to add that you didn't bring up in response to partial decriminalization?***</p>

	<p>controls may include licensing, zoning, or mandatory health checks. Other laws, including those against sexual trafficking, child exploitation, and public indecency still apply.</p> <p><i>Tailor questions as an inquiry to specific discipline and perspective of participant.</i></p>	<p>Ask about:</p> <ul style="list-style-type: none"> • Income/ economic independence • Housing • Employment • Physical and emotional wellbeing • Children and family • Health and wellness • Education • Immigration • Criminal records • Policing practices • Social services • Other legal concerns • Family safety • Labor <p>16. Do you think this legal change would specifically help or hurt different groups of people? [by race/ethnicity, language, sexual orientation, gender identity, immigration status, market segment, geography, tribal etc.?] [If stuck, rephrase using their identities-how would this specifically hurt or help African American women? People who mostly sell sex on the street? Those experiencing homelessness etc.]</p> <p>17. How do you imagine this would affect the larger society?</p> <p>18. How would this help or hurt people who are being trafficked or have a pimp?</p> <p>19. In summary of our conversation, in a perfect world, what would be your ideal solution even if it wasn't one of the ones presented here?</p>
Services	<ul style="list-style-type: none"> • Explore services needed: • Housing? • Child welfare? • Health care? • Law enforcement approaches? • Immigrant rights? • Cash assistance? • Disability services? • Chemical dependency? 	<p>In addition to potential changes in the criminal justice system, we want to ask your opinion about supports or services that could decrease harm and exploitation for people involved in selling or trading sex.</p> <p>20. Let's pretend this policy change happens. What else needs to change to make it actually work? (i.e. police training, health care, disability, cash assistance, chemical dependency, housing, child welfare, immigrant rights)</p> <p>21. What additional supports or services would you want to see? /Any promising practices we should know about?</p>

Prevention Activities and needs	Prevention for adult victims of sexual exploitation and other policies for protection of trafficked individuals?	<p>22. What needs to change across the state to prevent exploitation and harm?</p> <p>23. What needs to change across the state to prevent sex trafficking?</p>
Values, principles, Priorities For Safe Harbor for All	Explore with people what they think should be the main values, principles and priorities of Safe Harbor for All (or prostitution laws for adults in MN)	<p>24. What do you want the state to know?</p> <p>25. Where should the state start? What needs to happen first?</p>
Wrap-Up	Other concerns not yet addressed	<p>26. Anything else you'd like to share about this topic? Great- we're done! How are you feeling? How was it?</p> <p>Anyone else you think we should talk with?</p>

Ask individual to fill out demographic form and sign incentive receipt.

Reminders:

- Let participant lead conversation. Continually invite people to discuss how intersectionality plays into these policies. Address people as they identify.

Group Conversation Facilitation Guide

Focus Group Wording

Reserve 2 hour block of time.

10 min: eat/chat/settle

5 min: consent form/questions

Focus group guide: 1.5 hours

15 min: fill out demographic form and distribute incentives

Supplies:

- scented oils
- doodle paper/markers
- consent forms, incentives, incentive signoff sheet, demographic form
- handout of table defining part decrim etc. Four legal options final doc.
- snacks/food
- recorder

Prior to meeting; work with advocate to recruit participants, emphasis the following:

- Will NOT be a format for people telling stories or a support group; focus on concerns and recommendations for laws and policies as an expert
- Advocate can feel free to interrupt or put pause to conversation if they feel like that's necessary for the emotional safety of the group; advocate may want to reserve time to emotionally debrief with the group afterwards.
- Advocate, if a survivor, can participate as a member of the conversation if they want to.
- Advocate can encourage people to participate, however, an important part of consent is that the people in the group do not feel pressured to participate, including feeling the pressure to participate because someone they care about and trust (their advocate) has asked them to. Be mindful of that when inviting people to participate to be clear that they really don't have to and it won't hurt your feelings as an advocate.
- Share questions ahead of time.

Meeting flow:

1. Food! Chat!
2. Introduce self, project.
3. Go through consent form
4. Additions for focus group format:
 - a. Additional risks: we ask that people in this group hold privacy for whatever is shared, but we can't guarantee that so don't share anything that you wouldn't want people to know.
 - b. We don't need people to agree. If anything- we want a lot of different opinions and ideas shared because all those opinions and ideas are important.
 - c. Please only speak from your own perspective--- don't share the stories of someone else in the room. Likewise let's skip examples from movies.
5. Any questions?
6. Permission to record.

Ice-breaker [5 min]

1. Please start us off by sharing your name, and a good quality you like about yourself.

Current Situation & Services [20 min]

We're going to start with how things work now and then talk about the new proposed changes and get your opinions on these changes.

Currently we have laws to protect "victims of sex trafficking" which involves another person who makes money and usually involves force, fraud or coercion. These are our current trafficking laws.

We also separately have laws that make selling sex and purchasing sex illegal. Those are our current prostitution laws.

2. What, if anything, do you think is good about the current system? [re. law enforcement, services, child protection etc.]
3. What is not good about the current system? What are problems with how things work now? [Law enforcement, services, child protection, housing, other charges, etc.]
4. If our laws (the system) were designed to work for you, what would that look like? What would it include? (you can think about interactions with police, child custody or social services, medical, anything)
5. Thinking specifically about services or supports for adults in the life---what's available? what's working, what's not?
6. What additional supports or services should there be for adults with experience in the life?

Response to Partial Decrim [20 min]

Lawmakers want to know your feedback on partial decriminalization. Partial decriminalization means selling sex would not be a crime, but buying would still be a crime.

7. What are your opinions about this idea?
 - a. Probes: How would it help or hurt people in the life?
 - b. What would happen to people in your community if selling sex was not a crime but buying sex was a crime?
8. Do you think this change would specifically help or hurt different groups of people? We live in a racist society—would this specifically hurt or harm people depending on race? [language, sexual orientation, gender identity, immigration status, market segment, geography, tribal etc.?] [If stuck, rephrase -how would this specifically hurt or help people who mostly sell sex on the street? Those experiencing homelessness etc.]
9. We know that just changing that one law wouldn't fix all the problems. If that policy was put into place, what problems would still exist for people in the life that would still need to be fixed?

PROBES:

- Income/ economic independence

- Housing
- Employment
- Physical and emotional safety
- Children and family
- Health and wellness
- Education
- Immigration
- Criminal records
- Policing practices
- Social services
- Other legal concerns
- Family safety
- Labor concerns

10. What do you think should be the penalties for purchasing sex, if any?

Full Decrim & Legalization [20 min]

The state has not proposed this, but we wanted to get your thoughts on other legal options, including full decriminalization and legalization. Full decriminalization means selling sex and buying sex is not a crime and there is no government involvement. With legalization, the government would get involved- might be that people can only sell sex at certain places, or that people selling sex might need to get certified, or have health inspections or other safety features.

11. What are your opinions about either of those ideas?
 - a. Probes: How would it help or hurt people in the life?
 - b. What would happen to people in your community if selling sex and buying sex became legal? Became regulated?
12. What worries do you have about that policy? IF that policy was put into place, what problems would still exist and need to be fixed?
13. In summary of our conversation, in a perfect world, what would be your ideal solution even if it wasn't one of the ones presented here?
14. Let's pretend one of these policy changes happens. What else needs to happen to make it actually work? (ie police training, health care, disability, cash assistance, chemical dependency, housing, child welfare, immigrant rights)

Prevention [10 min]

15. What ideas do you have to prevent exploitation and harm? What should we try?

Close out [15 min]

[go around group- all speak]

16. What is the most important thing about this issue that you want the state know?/ Anything else you'd like to share about this topic? [Alt option: Where should the state start? What needs to happen first?]

Distribute demographic forms- read through slowly as people go. Distribute incentives and have people sign off.

Great- we're done! How are you feeling? How was it?

World Café Feedback Guide

World Café Feedback Guide for Safe Harbor for All Strategic Planning Process

2 hours total

SETTING THE ROOM

- Small group tables of 4-5 chairs per table
- Pre-set tables with blank paper, question cards and legal models charts for Table Host, a large flip chart piece of paper, and washable colored markers
- Prewritten questions held by Table Host for distribution throughout the discussion
- Can include a centerpiece or fidgets if available

INTRODUCTION (10 minutes)

Minnesota decriminalized prostitution offenses for minors involved in trading or selling sex in 2011, called Safe Harbor.

Created and implemented the No Wrong Door Model, which was a statewide coordinated system located within the Minnesota Department of Health built on the premise that there should be “no wrong door” for youth seeking support from commercial sexual exploitation. This included the creation of a statewide Safe Harbor Director position, several Regional Navigators, and grants for housing and supportive services.

In 2015, the legislature amended the eligibility requirements for Safe Harbor services to serve youth up to 24 years.

Now, the Minnesota legislature is interested in addressing its response to adults (ages 18 and older) who are involved in selling/trading sex, many of whom are victim/survivors of sexual exploitation and trafficking. We know that those ages 18 to 24 are eligible for supportive services, but 25 and older are not eligible. Furthermore, every over age 18 is subject to arrest and criminal charges under Minnesota’s Prostitution statutes.

The Safe Harbor for All Strategic Plan seeks to answer some basic questions: What should be our state’s response to adults involved in selling or trading sex? If we decriminalize selling/trading sex, would this hurt or help people? Or does decriminalization need to happen alongside other service changes? Do you envision any unintended consequences of such changes, and if so, would they hurt or help certain communities differently? In other words, what is the best solution to reducing harm and exploitation for people involved in “the life?”

INSTRUCTIONS + TABLE DIALOGUE

Instructions for Table Hosts:

- You will have 1 hour and 15 minutes to discuss all five questions. We will give you a 5-minute warning.
- Encourage people to sit in groups of 3-5 people either at tables.

- If you don't have a designated student note taker from The Advocates, try to take notes as close as possible to what people are actually saying. Don't summarize.
- If participants get off topic or spend too long on a single story or issue, gently steer them back to the question being discussed.
- Ask to hear from people who haven't yet spoken, but don't force people to participate.
- You may ask follow up questions to get more detail if you feel it would help clarify.
- You will receive copies of each question to distribute around the table. As you proceed through the question set, distribute each question as you come to it.
- Question 1 - You don't have to cover every prompt in Question 1. The prompts are to help guide your thinking about the question.
- Question 4 – Distribute the Four Legal Models chart and use the Simplified Terms narrative to help you explain the difference between models. Expect that these models may be new to some people, ad clarification may be needed.
- At the end of the entire discussion, take one minute to finish your thoughts and make sure you captured the conversation in your notes.

QUESTIONS (1 hour and 15 minutes)

The state of Minnesota is considering decriminalizing selling/trading sex for all adults. This would mean that people could no longer be arrested and charged for selling or trading sex, but buyers would still be subject to arrest and criminal charges. This is called partial decriminalization.

1A. If we do partial decriminalization, what do you think would be the impact (pros/cons)?

Impact on people involved in selling/trading sex?

Impact on trafficking crimes / people who have been trafficked?

Impact on people of color and indigenous communities?

Impact on LGBTQ people?

Impact on immigrant communities and people who are undocumented?

Impact on greater society?

1B. What else would need to change to make this model successful?

2. What are the biggest *barriers* for adults involved in selling/trading sex for those trying to exit “the life” or transition out of commercial sex?
3. What additional challenges do adults involved in commercial sex encounter that need to be addressed?
4. What is something that *works well* for adults who are victim/survivors of sexual exploitation and/or trafficking? (It could be a promising practice, a law or policy, a social service)
5. Show the *Four Legal Models chart*. Use the *Simplified Terms narrative* to help explain the legal models. There are many legal models around prostitution (commercial sex). These include:
 - Full criminalization (All buying, selling, facilitating sex is illegal. We currently have this)
 - Full decriminalization (All buying and selling sex is not illegal and not regulated.)
 - Legalization (Buying and selling sex are legal, but regulated through licensing.)

Do you have any opinions about the pros/cons of these models?

6. **What should change in the state to prevent sexual exploitation and trafficking?**

SHARE BACK + CLOSING (5 minutes)

1. Thank everyone for their time and contributions.
2. Facilitator asks for someone at each table to report back and share 2 things: 1) a Pro or con of partial decriminalization (Q1), and 2) One other thing from their discussion
3. Discuss next steps for Safe Harbor for All.
4. Facilitator should collect all table notes and large group notes.

Four Legal Models Checklist Handout

Four Legal Models									
	Selling Sex			Buying Sex			Trafficking		
	Illegal	Legal	Legal, Regulated	Illegal	Legal	Legal, Regulated	Illegal	Legal	Legal, Regulated
Currently (Criminalization)	X			X			X		
Partial Decriminalization		X		X			X		
Full Decriminalization		X			X		X		
Legalization		X	X		X	X	X		

Online Survey Questions

Safe Harbor for All Strategic Planning: Community Input

Q1. Safe Harbor for All Strategic Planning Process

The State of Minnesota Legislature seeks to identify the most appropriate and effective response for adults impacted by commercial sexual exploitation and sex trafficking, as well as the harms that criminalization of prostitution causes to people involved in commercial sex. This effort may lead to changes in Minnesota laws and services. We need your input.

The Safe Harbor for All strategic planning process was mandated by the Minnesota Legislature to help the State decide next steps. The legislature funded a grant to pass-through the Minnesota Department of Health (MDH). MDH awarded the project to a partnership of three agencies lead by the University of Minnesota's Urban Research and Outreach-Engagement Center (UROC) with The Advocates for Human Rights and Rainbow Research.

The strategic planning process includes stakeholder input, analysis of existing data, and review of the literature. The final product will be a strategic plan delivered to MDH no later than October 15, 2018 and presented to the Minnesota Legislature.

We seek to actively engage stakeholders to identify potential impacts of policy changes on the health, wellness, and dignity of adults involved in commercial sex, including trafficking and exploitation survivors. We also want to know people's opinions about intended and unintended consequences related to different legal frameworks.

About this survey

This survey is for anyone who would like to contribute knowledge and information to our strategic planning process for Safe Harbor for All. We encourage those with expertise on the issues of sex trading, sex work, and sex trafficking to participate - this includes people with personal experience in these issues and systems professionals. If you have not participated in the strategic planning process, this is a great opportunity to share your feedback, perspectives, and wisdom. If you have already participated in the process and have more to share, you are welcome to share more in this survey.

We ask a few questions and provide a lot of room for you to share your thoughts, followed by a short demographic form. It is important for our process that we are able to describe participants to make sure we have reached key stakeholders across Minnesota.

The information you provide here will be used to help develop a strategic plan. Your participation in this survey is anonymous and confidential. We do not ask for your name and will not share any personal information about you. Thank you for your time and input!

If you have any questions about this survey, you can email Lauren Martin, mart2114@umn.edu.

Do you consent to participating in this survey?

Yes

No

Q4.

The State of Minnesota is considering decriminalizing prostitution offenses for adults involved in selling or trading sexual activity. This would mean that people could no longer be arrested and charged for selling or trading sex, but buyers and traffickers would still be subject to arrest and criminal charges. This is called **partial decriminalization**. Please share your thoughts below. Some questions to explore could include:

If Minnesota adopted partial decriminalization, what do you think would be the impact (pros/cons) in Minnesota? How would this hurt or help people? What else might need to happen if we did this?

[Open text box]

Q5. Would this policy impact some communities in different ways than others (positively or negatively)?

For example, consider how this policy might affect people of color, American Indian communities, immigrants, undocumented persons, LGBTQ persons, people with disabilities, people living greater Minnesota or the Metro area, trafficked persons, or sex workers?

[Open text box]

Q6. What barriers and challenges do adults involved in selling/trading sex experience when trying to leave "the life" or transition out of commercial sex?

[Open text box]

Q7. What additional challenges do adults involved in commercial sex encounter that need to be addressed?

[Open text box]

Q8. If the laws and system were designed to work well for survivors of sexual exploitation and/or trafficking, what would that look like? (It could be a promising practice, a law or policy, a social service, culture/attitudes change)

[Open text box]

Q9. There are many legal models around prostitution (commercial sex). Trafficking in persons is illegal in all of the four main policy approaches. Below is a *brief* description of these legal models followed by a chart. Do you have any opinions about the pros/cons of these models? If you have no opinions, you can skip this question.

Full criminalization (All buying, selling, facilitating sex is illegal. We currently have this)

Partial decriminalization (Selling sex is not illegal, but buying is.)

Full decriminalization (All buying and selling sex is not illegal and not regulated.)

Legalization (Buying and selling sex are legal, but regulated through licensing.)

[Open text box]

Q10. What would you like to see done in Minnesota that would help *prevent* sexual exploitation and trafficking?

[Open text box]

Q11. Is there anything else you would like to share?

[Open text box]

[DEMOGRAPHIC QUESTIONS HERE]

Q27 (OPTIONAL) If you would like to be added to the mailing list to receive updates about the strategic plan, please include your contact information below:

☐ Email address: _____

☐ First name: _____

☐ Last name: _____

Participant Demographic Form

STAKEHOLDER INFORMATION FORM

The legislative mandate for Safe Harbor for All Strategic Planning strongly recommends that we connect with a broad and diverse group of stakeholders. Because of this, we are asking for some information to make sure that we are including a diversity of opinions, backgrounds, and experiences in this strategic planning process. We will not use this information in any way that is connected with you as an individual. These questions are not intended to be comprehensive, and we recognize that there are multiple ways of identifying.

Q1. Tell us how you identify your race, ethnicity, and community. Check all that apply:

- | | |
|--|---|
| <input type="checkbox"/> African | <input type="checkbox"/> Foreign-born |
| <input type="checkbox"/> African American | <input type="checkbox"/> Immigrant |
| <input type="checkbox"/> Asian | <input type="checkbox"/> Refugee |
| <input type="checkbox"/> Asian American | |
| <input type="checkbox"/> Biracial | <input type="checkbox"/> LGB (lesbian, gay, bisexual, queer, pansexual) |
| <input type="checkbox"/> Black | <input type="checkbox"/> Transgender |
| <input type="checkbox"/> European | |
| <input type="checkbox"/> First Nations | |
| <input type="checkbox"/> Indigenous | |
| <input type="checkbox"/> Latina/o/x | |
| <input type="checkbox"/> Multiracial | |
| <input type="checkbox"/> Native American / American Indian | |
| <input type="checkbox"/> Native Alaskan | |
| <input type="checkbox"/> Native Hawaiian | |
| <input type="checkbox"/> Pacific Islander | |
| <input type="checkbox"/> White | |
| <input type="checkbox"/> Other: _____ | |

Q2. What is your gender identity?

- ☐ Woman
- ☐ Man
- ☐ Gender non-conforming/non-binary
- ☐ Other: _____

Q3. How old are you today? _____

Q4. Which county in Minnesota do you call home? _____

Q5. Would you describe your current home as _____? (Circle all that apply):

Urban Suburban Rural Tribal Other: _____

Q6. As an adult, have you ever traded or sold sex or sexual contact for anything of value, including money, gifts, shelter, drugs, transportation, or a place to stay? Check one:

- ☐ Yes
- ☐ No (Skip to Q10)
- ☐ I'm not sure

Q7. How do you identify your connection to selling or trading sex?

- ☐ Victim/survivor of sex trafficking
- ☐ Victim/survivor of sexual exploitation
- ☐ Sex worker
- ☐ Prostitute
- ☐ Independent provider
- ☐ Other: _____
- ☐ None of the above

Q8. In which type of activity were you involved? Check all that apply:

- ☐ Online escort
- ☐ Street-based
- ☐ Brothel-based
- ☐ Massage parlor/sensual massage
- ☐ BDSM/Dominatrix/fetish work
- ☐ Pornography
- ☐ Stripping/erotic dancing
- ☐ Survival sex trading (sex acts for shelter, food, clothing, drugs, etc.)
- ☐ Other: _____

Q9. As an adult, did you ever have someone that used false promises, emotional manipulation, or coercion to get you involved, or keep you involved in sex trading/sex work?

- ☐ Yes ☐ No ☐ I'm not sure

Q10. How has your work brought you into connection with selling or trading sex or sex trafficking? Check all that apply:

- ☐ Personal involvement in sex trading/sex work
- ☐ Social worker
- ☐ Advocate
- ☐ Therapist
- ☐ Outreach worker
- ☐ Nurse
- ☐ Public health professional
- ☐ Police officer
- ☐ Detective/investigator
- ☐ Prosecutor
- ☐ Public defender/defense attorney
- ☐ Attorney
- ☐ Probation officer
- ☐ Judge

- ☐ Hotel/hospitality industry
- ☐ Foundation
- ☐ Faith community
- ☐ Academia/research
- ☐ Other: _____

☐ Check here if one or more of the professional positions you selected above is a tribal government or service provider

☐ Check here if you are a member of a local human trafficking task force

Below is to be completed by staff:

Event/Location:	Date:	Participant ID:	Staff Initial:
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Resources

Call **911** 
in the case of an emergency

Crisis

1.866.223.1111 

Minnesota Day One Crisis Hotline

Access free confidential help from an advocate 24 hours a day. Call for information and resources about domestic violence, sexual violence, and human trafficking.

Employment

resource-mn.org 
612.752.8444

RESOURCE Women in Transition Services

A results-oriented career center that offers supportive workshop sessions that are open to all women regardless of work experience, education or income levels.

Legal

lawhelpmn.org

Find free legal information, lawyers, legal forms and court forms.

Mid-Minnesota Law Aid
Mylegalaid.org

Evictions and landlord abuse, Section 8 housing, housing discrimination, child custody and support, domestic abuse, disability, immigration

Central MN Legal Services
www.centralmnlegal.org

Southern MN Regional Legal Services
www.smrls.org

Legal Aid Service of NE MN
lasnem.org

Tubman.org
612.870.2424 

Tubman's Legal Services
Pro-bono (free) legal services related to domestic violence, sexual assault, divorce, and child custody.

Filing a Complaint in Minneapolis

www.dli.mn.gov
651.284.5070 

MN Department of Labor

Contact the Minnesota Department of Labor and Industry, listed above, to report issues of labor rights violations or ask questions related to employee rights.

minneapolismn.gov
Call Minneapolis **311** 

Workplace health and safety, discrimination, police misconduct
Confidential complaints can be filed online or by calling 311.

Information in this resource guide was compiled by staff at UROC and is not intended to be comprehensive. Mar 2018.

Human trafficking & sexual exploitation

traffickingresourcecenter.org/
888.373.7888 ☎

National Human Trafficking Resource Center

Call to report a tip, connect with anti-trafficking services in your area, or to request training and technical assistance, general information or specific anti-trafficking resources on this 24 hour hotline.

Thefamilypartnership.org
612.728.2062 ☎

PRIDE (Prostitution to Independence, Dignity & Equality)

PRIDE provides supportive services for people of all genders engaged in sex trading. They provide 24/7 crisis hotline, case management, support groups, and an African American Women's chemical health group.

Breakingfree.net
651.645.6557 ☎

Breaking Free

Breaking Free provides housing and other services to women and girls experiencing commercial sexual exploitation, trafficking, and prostitution who are interested in exiting the trade.

Health & Wellness

northpointhealth.org
612.543.2500 ☎

NorthPoint Health and Wellness Center

Medical, dental clinic, behavioral health services, Food shelf, employment assistance, and more.

reddoorclinic.org
612.543.5555 ☎

Red Door Clinic

Sexual health for everyone. Confidential testing and treatment in a safe, caring, setting.

Sex workers' rights

To reach the Minneapolis Chapter Coordinator:
swop.welcome@gmail.com

Sex Workers Outreach Project

SWOP-USA is a national social justice network dedicated to the fundamental human rights of sex workers and their communities, focusing on ending violence and stigma through education and advocacy.

swopusa.org
877.776.2004 ☎

Culturally specific

casadeesperanza.org
651.772.1611 ☎

Casa De Esperanza

Casa de Esperanza provides housing, advocacy, services related to domestic violence. They offer a 24 hour multilingual crisis line. Una linea de 24 horas para todas en crisis.

awum.org
612.724.8823 ☎

Asian Women United of Minnesota

AWUM offers a 24 hour, multilingual crisis line to connect women to local shelter, legal and financial advocacy, and employment assistance.

miwrc.org
612.728.2000 ☎

Minnesota Indian Women's Resource Center

Housing resources, mental health care, and other healing services in Minneapolis for American Indian women. MIWRC also offers programming for Two-Spirited and LGBTQ individuals.

outfront.org/resources
800.800.0350 ☎

Outfront Minnesota

Outfront MN delivers programs and services to Minnesota's LGBTQ and allied communities. This page links to multiple other LGBTQ resources.

Process Advisory Group Meeting Agendas

January 2018

SAFE HARBOR FOR ALL: PROCESS ADVISORY GROUP

AGENDA for January 20, 2018, 11:30 am – 4:00 pm

Meeting Goals:

- Understand roles and meet the team
- Provide feedback on interview questions
- Share recommendations on strategies for recruitment and inclusion

Registration and Lunch

Welcome and Introductions

Safe Harbor for All Planning Process Background

Process Advisory Group Member Roles and Timeline

Break and Snacks —

Interview Guide Group Work

Feedback on Outreach Strategy

Wrap-Up and Next Steps

June 2018

SAFE HARBOR FOR ALL STRATEGIC PLANNING:

PROCESS ADVISORY GROUP MEETING AGENDA – JUNE 16, 2018

Meeting Goals:

- Review roles and reconnect with the team
- Update on progress so far (who, where, what), what are we missing?
- Share recommendations on how to gather feedback on preliminary drafts

Agenda

11:30 – 12:00: Registration & Lunch

12:10 - 12:40: Welcome and Introductions

12:40 - 1:00: Review Planning Process Background Roles and Legislative Mandate of Advisory Group

1:00 - 1:40: Overview of Process to Date

1:40 - 1:50: Group Activity: Who else should include? Any critical voices we can amplify?

1:50 – 2:00: Break and Snacks

2:00 - 2:30: Overview of Analysis Plan and Early Strong Themes

2:30 - 2:40: Break and Snacks (Optional Q & A)

2:40 - 3:00: Recommendations for Report Draft Feedback Process

3:00 - 3:30: Wrap-up and Next Steps

3:30 – 4:00: Socializing and check-out

August 2018

Safe Harbor for All: Process Advisory Group

AGENDA for August 25, 2018, 11:00 am – 3:00 pm

Meeting Goals:

- Review report introduction and findings
- Share insights regarding report recommendations
- Overview timeline for release of report

11:00 – 11:30 Registration and Lunch

11:40 – 12:00 Welcome and Introductions

12:00-12:20 Report Introduction

12:20-1:00 Review Report Findings

Break and Snacks —

1:10-2:20 Overview of Report Recommendations

Traveling Café

2:20-2:30 Overview of MDH Timeline for Releasing Report

2:30-2:45 Wrap-Up and Next Steps

2:45-3:00 Check-Out

Qualitative Analysis Codebook Overview

Code Name	Code Description
Additional legal remedies	Mention/discussion of legal or statutory remedies not directly related to prostitution or sex trafficking laws that are needed to reduce harms to people who trade/sell sex. Includes potentially negative or positive impacts from other criminal/civil statutes, expungement, employment law, prohibitions against hiring people arrested for prostitution, refusal of rental, loitering, etc.
Legal jurisdictional challenges	Mention/discussion about challenges, strengths, barriers across jurisdictions. Include laws or policies that prohibit effective service provision or interdiction based on jurisdiction. May be double-coded with systems coordination.
Other crimes as related	Mention/discussion of other types of crimes that people who trade/sell sex will/could be arrested for regardless of the prostitution legal model, such as theft, drug sales or possession, check forgery, etc. Many interviewees have talked about other things people who trade sex are commonly arrested for. Some arrests “stand-in” for prostitution including, loitering, public nuisance, drunken behavior, etc.
Alternatives within criminalization	Mentions of opinions, reactions, or potential impacts of alternative approaches to criminalization of prostitution. Include discussion of alternatives such as mandated services, diversion programs, prostitution court, etc. that do not fit into the other policy models.
Consequences of criminalization to providers	Mention/discussion of the consequences, harms, or effects that arrest and criminalization of "prostitution" has on people who trade/sell sex.
Implementation	Any other recommendations related to implementation of Safe Harbor for All (or their proposed policy regime) that are not covered in the child nodes. This includes funding, political will, role of philanthropy and business, strategic partnerships, and more.
Priorities for State	What do people think we should do first or what is most important
Role of people who trade/sell sex in implementation	Mention/discussion about the involvement of people with experience trading sex, sex workers, and survivors in the implementation of SH4All. Include mentions of survivor leadership in systems as well.
Intersectional oppression and structural barriers	Mentions/discussion of the intersectional oppressions or structural barriers faced by people involved in transactional sex and/or trafficking. This includes discussion related to "isms" such as racism, xenophobia, anti-LGBTQ bias, immigration and deportation issues, poverty, classism, and more. Discussion of differential treatment or issues related to

Code Name	Code Description
	racial/ethnic identity, immigrant community, or LGBTQ community should be coded here. General barriers (e.g. lack of housing) should be coded in System/Services.
Opinions on full decriminalization	Mentions of opinions, reactions, or potential impacts of full decriminalization of prostitution.
Opinions on legalization	Mentions of opinions, reactions, or potential impacts of legalization of prostitution.
Opinions on partial decriminalization	Mentions of opinions, reactions, or potential impacts of partial decriminalization of prostitution.
Prevention	Mention/discussion about how to prevent sex trading/trafficking, and reduce harm.
Role of police - policing	Mention/discussion of the role of police and policing in prostitution, commercial sex, and sex trafficking. This includes ways that police/policing cause problems; police as purchasers, police being paid off, stigmatizing, disrespect, etc. Also includes ways that police/policing can be helpful for who trade/sell sex. This can include wishful thinking, an interaction that went well, or the role that police should have in this issue going forward.
Stigma - destigmatization	Mention/discussion of stigma of sex trading, specifically, including its impacts, root causes, sources of, and pathways to destigmatization. Code for specific references of "stigma" or easily referenced words like "discrimination."
System and Service Response	Any mentions/discussion of systems or service response to people involved in commercial sex and/or trafficking that are not covered by the child nodes. If vague or generic references to social service sectors, include in this parent node.
Chemical dependency	Mention/discussion of issues related to chemical dependency, including barriers, needs, and solutions for people who trade or sell commercial sex.
Child Protection	Mention/discussion of issues related to child protection, including barriers, needs, and solutions for people who trade or sell commercial sex

Code Name	Code Description
Employment	Mention/discussion of issues related to employment, including barriers, needs, and solutions for people for people who trade or commercial sex.
Housing	Mention/discussion of issues related to housing, including barriers, needs, and solutions for people who trade or sell commercial sex.
Medical	Mentions/discussion of issues related to medical care for people involved in commercial sex and/or trafficking, including barriers, needs and solutions.
Mental Health	Mention/discussion of issues related to mental health, including barriers, needs, or solutions for people involved in trading or selling commercial sex.
Other Social Services	Mention/discussion of social services needed (other than housing, child protection, chemical dependency, employment) for people who provide commercial sex. Includes types of services, how to implement the services, etc. some examples may be, job training, health care/insurance, and more.
Outreach	Mentions/discuss of issues related to outreach to people involved in commercial sex and/or trafficking, including barriers, needs, and solutions.
Philosophy and Approach	Mentions/discussion of philosophy, approach, or values for working with people involved in commercial sex and/or trafficking. This includes descriptions of best practices and wished-for approaches.
Self-worth and “deprogramming”	Mentions/discussion of issues related to self-worth for people involved in commercial sex, including barriers, needs, and solutions. Many referred to this as "deprogramming".
Systems Coordination	Mentions/discussion of the ways that systems work together, do not work together, or should work together for issues of commercial sex and/or trafficking. Includes referrals to systems providers, partnerships, collaboration, across jurisdictions and criminal justice systems.
What to do with Buyers	Mention/discussion of how the law should deal specifically with people who purchase sex. This includes discussions of increasing penalties, removing penalties (i.e. decrim for them), differentiating “good” from “bad” sex buyers, etc. Included in here are barriers to prosecuting sex buyers. This can be coded liberally.

Code Name	Code Description
What to do with Third Parties	Mention/discussion about the kinds of third parties involved and whether/how they should be criminalized, prosecuted, or other criminal justice consequences. Include barriers to prosecuting traffickers. Include collaborative arrangements among people who trade sex. This can be coded liberally.

APPENDIX B: STRATEGIC PLANNING BUDGET

The MDH provided \$67,000. However, the total cost to execute this project exceeded the amount of funds provided by the Legislature. The strategic planning team leveraged its own resources and staff time as allowable to complete this process. Here provide some detail on the funds provided by MDH and additional expenditures so that any future efforts can be aware of the true costs of a process such as this.

Table 4. Below provides a high level the budget breakdown of funds from MDH that were awarded to the University of Minnesota, UROC and the amounts that were disbursed to Rainbow Research and The Advocates for Human Rights.

TABLE 4. MDH BUDGET FOR SAFE HARBOR FOR ALL STRATEGIC PLANNING

Agency	Amount	Description
University of Minnesota, UROC	\$15,000	Project leader; project management; gather data from diverse stakeholders; identify additional resources
Rainbow Research	\$37,000	Project team; gather data from people with lived experience.
The Advocates for Human Rights	\$15,000	Project team; gather data from systems professionals; coordinate AHR volunteers and interns
Total from MDH	\$67,000	

In addition to funds from MDH, the strategic planning team contributed additional funds, volunteer time, and additional staff effort to complete this project. It is not possible to provide a complete accounting of all additional resources.

All members of the strategic planning team contributed additional staff time not supported by funding from MDH. UROC and AHR marshalled significant volunteer and intern effort for transcription of interviews, background research and literature reviews, recruitment and scheduling some interviews, conducting some interviews, note taking, and copy editing the final draft. This included more than 40 individuals who donated their time to the project to complete essential elements.

Additional funds were identified from UROC to support the following. UROC provided approximately \$17,550 to support the Process Advisory Group for food and refreshments, stipends for people with lived experience, additional planning and facilitation support, travel support for group members from Greater Minnesota as needed, and other incidentals. We more than doubled the number of people with lived experience interviewed for this project that originally included in the MDH budget. UROC contributed \$4650 to support additional compensation for people with lived experience and staff time for Rainbow Research to collect and analyze additional data. UROC hired additional temporary staff to help with data analysis which cost \$5,406. We also provided \$5,811 to support travel and lodging for members of the strategic planning team to travel across the state.

We appreciate the generosity of several individuals and churches that donated some funds to partially support the participation of people with lived experience in the process.

APPENDIX C: RELEVANT STATUTES REFERENCED IN THE REPORT

The information provided here is a preliminary review of relevant statutes. This is not a completed list.

Minnesota Statutes that Use the Term “Prostitute”

This is a preliminary list. The recommendations call for an official and complete thorough review.

Criminal Code:

- 609.321, 609.322, 609.3232 (protection orders); 609.324, 609.3241 (penalty assessments); 609.3242 (park zones), 609.3243 (loitering with intent to participate in prostitution); 609.325 (defenses); 609.326 (witness)
- 609.33 (disorderly house)
- 609.5215 (forfeiture)
- 609.3471 (victim identity in records)
- 609.131 (certification as a petty misdemeanor)
- 609.153 (increased penalties)
- 609.531, 609.5312, 609.5315 (forfeiture of vehicles)

Background Checks:

- Firearms (crime of violence): 624.712
- Background check crime: 299C.61
- Professional licensure barriers: 245C.15
- Effects of conviction: 617.242 (adult entertainment establishment)
- Effects of conviction: 122A (teachers)
- Predatory offenders registration: 243.166
- Protection orders, school bus drivers: 171.3215

Civil Cause of Action against Traffickers:

- Coercion for use in prostitution (civil cause of action): 611A.80 to 611A.88
-

Rental and Housing:

- Public nuisance: 617.80
- Landlords and tenants: 504B.171

Law Enforcement:

- Wiretapping: 626A.05
- Law enforcement activities, grants: 299A.71, 299C.065 (**299A.71 COMBATING JUVENILE PROSTITUTION; PREVENTION GRANTS**)
- Sexually exploited youth outreach program: 626.558
- Undercover operatives: 5B.13

Custody and Child Protection

- Sexually exploited youth: 260C.007
- Reporting of maltreatment of minors; sexual abuse: 626.556 **promoting juvenile prostitution**
- Vulnerable adult abuse: 626.5572
- Custody and parenting: 631.52

Commitment and Treatment Act: 253B.02

Trials, court calendar, order: 630.36

Additional Minnesota Statutes that Prohibit the Sale of Sex

Disorderly House

Minnesota statute makes it a crime to operate a “disorderly house”¹⁴⁴ and a conviction carries significant collateral sanctions.¹⁴⁵

Loitering with Intent to Participate in Prostitution

Minnesota law classifies loitering “in a public place with intent to participate in prostitution” as a misdemeanor. Without amendment, Minn. Stat. § 609.3243 would continue to penalize street-based prostitution. While this could mitigate neighborhood concerns, failure to amend the statute will disparately affect those most on the margins of the transactional sex marketplace, including people of color and others who disproportionately engage in street-based prostitution.

¹⁴⁴ Minn. Stat. § 609.33 (2017).

¹⁴⁵ A conviction under Minn. Stat. § 609.33 (disorderly house) is defined at Minn. Stat. § 245C.24 as a disqualifying crime carrying a 10-year disqualification for people applying for jobs requiring a Human Services Background Study under Minn. Stat. § 245C. A Human Services Background Study is required for people working in child and vulnerable adult care, residential housing programs, and hospice programs. *See generally* Minn. Stat. § 245C.

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