



Policy for People in Alaska's Sex Trades

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The Community United for Safety and Protection (CUSP) is a group of current and former sex workers, sex trafficking victims, and allies working towards safety and protection for everyone in Alaska's sex trades. We became an official Alaskan "entity" in 2014. Each year since 2015, we have had between one and three members who registered as representational lobbyists to work towards our rights in the state legislature. We have successfully lobbied, with the help of several legislators on both sides of the aisle, to change Alaska's prostitution and sex trafficking laws. Every December we host a candlelight vigil for the International Day to End Violence Against Sex Workers to bring attention to the seventeen missing and murdered Alaskan sex workers and sex trafficking victims whose cases are still unsolved. Please visit our website at www.sextraffickingalaska.com, join our mailing list, and click on Listen to Us to hear some of our stories.

Immunity in Reporting

A few years ago, we started to notice a growing public concern for the safety and work conditions of those of us working in Alaska's sex industry. However, the legal realities we faced did not seem to match the public statements of concern made by some members of the law enforcement community. If police, prosecutors, and legislators were concerned about us being sex trafficked, why hadn't they developed a legal mechanism for us to report sex trafficking without being arrested?

In 2014 we became aware of a man who was threatening escorts who travelled to Fairbanks, saying that he was a police officer and would arrest them if they didn't pay him a "tax" of \$1,000. We were concerned that the man might really be a police officer. One of the women who had been threatened agreed to come forward if she would not be charged with a crime for reporting. Police and prosecutors declined to even make a statement that they would not charge her with prostitution or with sex trafficking if she came forward (you can read the whole story at:

https://www.vice.com/en_us/article/kwqkqm/alaska-declares-open-season-on-sex-workers-922). To us, this was only one well documented example of an experience with which our community is all too familiar.

In 2015, CUSP opposed a bill sponsored by Senator Gardner that would allow an affirmative defense for sex trafficking victims who had already been arrested and charged with prostitution. We wanted sex trafficking victims, and those who encountered them, to be able to come forward and report with no fear of arrest.

In 2016, Senator Gardner amended her bill to create a sort of immunity (Alaska's immunity statute was not invoked): a section was added to the prostitution statute saying that a person could not be charged with prostitution *if* the evidence for prosecution was gained from them making a good faith report of one of a short list of heinous crimes of which they had been victim or witness (text below). Senator McGuire amended this text into SB91 on the Senate side, and Representative Lynn amended it in on the House side. In the end, it became Section 36 of SB91. This section has not been slated for repeal in any of the SB91 follow up bills.

Here is the text that was added to the state prostitution statute (11.66.100):

(c) A person may not be prosecuted under (a) (1) of this section if the
(1) person witnessed or was a victim of, and reported to law enforcement in good faith, one or more of the following crimes:

- (A) murder in the first degree under AS 11.41.100;
- (B) murder in the second degree under AS 11.41.110;
- (C) manslaughter under AS 11.41.120;
- (D) criminally negligent homicide under AS 11.41.130;
- (E) assault in the first degree under AS 11.41.200;
- (F) assault in the second degree under AS 11.41.210;
- (G) assault in the third degree under AS 11.41.220;
- (H) assault in the fourth degree under AS 11.41.230;
- (I) sexual assault in the first degree under AS

11.41.410;

- (J) sexual assault in the second degree under AS

11.41.420;

11.41.425; (K) sexual assault in the third degree under AS
11.41.427; (L) sexual assault in the fourth degree under AS
11.41.434; (M) sexual abuse of a minor in the first degree under AS
11.41.436; (N) sexual abuse of a minor in the second degree under AS
11.41.438; (O) sexual abuse of a minor in the third degree under AS
11.41.440; (P) sexual abuse of a minor in the fourth degree under AS
(Q) robbery in the first degree under AS 11.41.500;
(R) robbery in the second degree under AS 11.41.510;
(S) extortion under AS 11.41.520;
(T) coercion under AS 11.41.530;
(U) distribution of child pornography under AS 11.61.125;
(V) possession of child pornography under AS 11.61.127;
(W) sex trafficking in the first degree under AS
11.66.110; (X) sex trafficking in the second degree under AS
11.66.120; (Y) sex trafficking in the third degree under AS
11.66.130; or
11.66.135; (Z) sex trafficking in the fourth degree under AS
(2) evidence supporting the prosecution under (a)(1) of this section was obtained or discovered as a result of the person reporting the crime to law enforcement; and
(3) person cooperated with law enforcement personnel.

In 2017, Anchorage Assembly member Felix Rivera sponsored an ordinance to add a similar section to the Municipality of Anchorage’s prostitution code. This proved to be more difficult, as the ordinance faced opposition from the Anchorage Police Department. The only explanation APD provided for their opposition was “child pornography,” apparently a reference to the ordinance allowing prostitutes to report child pornography that they witnessed without being charged with prostitution. After several meetings, the ordinance passed almost unanimously (watch a video of the whole process here: <http://sextraffickingalaska.com/immunity-in-reporting-in-the-municipality-of-anchorage/>).

Unfortunately, under both state and municipal law our first responders to sex trafficking, customers, still cannot report sex trafficking to police without fear of arrest and public humiliation.

Our recommendation is to expand this immunity to clients by adding section (a)(2) of the prostitution statute in the first line:

(c) A person may not be prosecuted under (a)(1) or (2) of this section if the...

The Problem with the Sex Trafficking Law

In 2014, a sex worker finished her shift at a strip club in Fairbanks without making her goal. Back at her hotel room, she posted an ad on craigslist offering her time for \$180/30 minutes to see if she could reach her goal that night. An undercover police officer responded. When he arrived at her room, he repeatedly tried to get her to agree to perform a sex act in exchange for money. She repeatedly told him that it is illegal to sell sex in Alaska and that she was only selling her time, eventually telling him to leave her room. She was arrested and charged with sex trafficking in the fourth degree, a misdemeanor. Although the charge was eventually amended and then dropped, it is still accessible to the public on CourtView. Because of this, she abandoned her education in the medical field and continues to do sex work.

How did this happen? In 2012 Alaska passed a bill that broadly redefined all prostitution as sex trafficking. The bill renamed our previous Promoting Prostitution statutes Sex Trafficking, made some changes to the wording, and increased the penalties throughout. The woman in the example above was charged with “aiding or facilitating” her own alleged prostitution.

In summary, the new statute said:

First degree sex trafficking (AS 11.66.110) is what the public thinks of as sex trafficking:

- Forcing someone into prostitution.
- Inducing someone under the age of 20 into prostitution.
- Inducing someone in your custody into prostitution.

This doesn't, but should, also include using coercion or threats to induce someone to engage in an act of prostitution, and under 20 should go back to being under 18.

Second degree sex trafficking (AS 11.66.120) is:

- Having a prostitution enterprise.
- Procuring or soliciting a patron for a prostitute.
- Offering travel for the purpose of prostitution.

Unfortunately, sex workers in crisis often ask their colleagues to post an internet advertisement for them (soliciting) or refer them clients (procuring). Since this is now a class B felony, sex workers have been afraid to help our colleagues who are facing homelessness or escaping from domestic violence or pimps. Additionally, sex workers often travel together between Anchorage and Fairbanks, or to more remote areas of the state, for safety. Riding with a friend between Fairbanks and Anchorage can now make them guilty of a class B felony.

Third degree sex trafficking (AS 11.66.130) is:

- Having a place of prostitution.
- Receiving money from a prostitute.
- Inducing someone above the age of 20 into prostitution.
- Aiding or facilitating a prostitution enterprise.

Place of prostitution was defined broadly, to include a prostitute's home or hotel room. The receiving money part criminalizes prostitute's landlords, babysitters, etc., serving to make them homeless and isolated. Curiously, neither the laws against receiving money or having a prostitution enterprise have been applied to the Municipality of Anchorage, whose prostitution stings resulted in well over twelve thousand dollars in fines in 2013 and 2014 alone.

Fourth degree sex trafficking (AS 11.66.135) is:

- Aiding or facilitating prostitution.

This was defined broadly to include aiding or facilitating one's own prostitution, but also applied to outreach workers who distribute condoms and friends who prostitutes check in with for safety when beginning and leaving an appointment.

The SB91 Partial Fix

In 2016 Representative LeDoux brought a bill aimed at preventing prostitutes from being charged with trafficking themselves or each other when they shared a hotel room. The bill was amended into SB91 and became sections 37-40. It added the following language to the third- and fourth-degree statutes:

(b) A person does not act with the intent to promote prostitution under (a) of this section if the person

- (1) engages in prostitution in violation of AS 11.66.100(a) in a location even if that location is shared with another person; and
- (2) has not induced or caused another person in that location to engage in prostitution

In 2017, this was again changed in Senate Bill 54 using language suggested by the Department of Law to redefine the group of people who are not sex traffickers as those who do not receive money from another's prostitution rather than those engaging in prostitution themselves. This definition protects outreach workers and friends of sex workers who act out of concern for a prostitute's safety without being paid.

Remaining Problems with the Sex Trafficking Law

1. It remains Sex Trafficking in the second degree, a class B felony, to “obtain or procure” a customer for a prostitute, even if no money is received by the procurer. In this age of internet advertising, sex workers often ask their friends and colleagues to post their ads for them – either because of technical issues that often occur in crisis or because they are not “internet savvy.” In some cases, this law has resulted in women becoming homeless or moving in with pimps, as in the messages below:

Tara This is [redacted]. I n a vs been trying everything I know to be able to post a add so I can make some money to eat and sleep a one where warm. I just am not able to figure out how to post for any escort web sites and all my numbers of my clients were lost with my phone. I have no family and no friends, no one.. I am sleeping out side now cz I am totally broke. It's freezing out here no one should hv to live like this. I wish I was still in Prison. I don't get my money until the first that's a long wud away. I'm not asking for any hand outs if I sound like it but I am asking you if you could PLEASE post a add for me I t.v. credit s in my Paxful wallet but that's as far as I could get. There has to be some where where every one is putting their adds on and are actually getting clients that use the site. Men are still wanting

could get. There has to be some where where every one is putting their adds on and are actually getting clients that use the site. Men are still wanting dates and women still need to survive can you help me find which one they go on. I'm desperate Tara. Thank you and good night..

Seen

2:40 PM

I really wish I could but it's a class B felony.

6:07 PM

Hey! How are you?

Could u please do me the biggest favor ever? I've left [redacted] so I'm on my own and the only place I can stay at is this pimps house. Please please could u possibly put up a basic add for me? I just sent them a money order but that will take days and I just want to be able to put a roof over my head

6:10 PM

I really wish I could honey but it's a class A felony. Can you go to the shelter for a couple days?

6:11 PM

Additionally, the law against “soliciting or procuring” (AS 11.66.120) criminalizes many things that sex workers and sex trafficking victims do for safety. If you retweet another sex workers tweet advertising her tour to Alaska, this makes you a sex trafficker, even if no client is procured and you receive no money from the other sex worker. If a customer asks you to book a double with you and one of your friends, you become a sex trafficker. If a customer has you call in another sex worker, who turns out to be sex trafficked, you are now at risk of being charged with sex trafficking if you help the victim report. When sex workers and sex trafficking victims share information about or refer safe clients to each other, this also makes them felons. In these ways, laws that were purported to help workers in the sex trade actually put us at more risk.

2. The law against travel (AS 11.66.120) makes carpooling between Anchorage and Fairbanks, or to more remote areas of the state, which sex workers commonly do for safety, a Class B felony. We believe turning common safety measures into a serious felony is wrong and against our Alaskan values of helping each other stay safe.
3. The law against aiding or facilitating for money (AS 11.66.135) has prevented sex workers from hiring support staff, such as drivers, security, or booking and screening agents. Last year Cheri Ingram was stabbed to death by a man who had been a client of several other escorts – but he was aware that they had drivers waiting outside for them. If Cheri had had a driver waiting outside for her, she might be alive today.
4. The laws against having a place of prostitution (AS 11.66.130) or having a prostitution enterprise (AS 11.66.120) criminalizes what are essentially worker collectives who pool resources to rent an apartment, share child care, share a phone line, or share a blacklist of violent criminals who pose as customers.

A Complete Sex Trafficking Fix

Alaskan sex workers and sex trafficking victims worked with an attorney to create this complete replacement of the current sex trafficking statute that would address all of the above unintended consequences. It adds the use of fraud or coercion to induce a person into prostitution, which is much needed, as well as several types of abuses that sex workers and sex trafficking victims actually experience and that the public believes is being addressed by the current statute, but is not:

AS 11.66.110. Sex trafficking in the first degree.

(a) A person commits the crime of sex trafficking in the first degree if the person

- (1) induces or causes another person to engage in an act of prostitution through the use of force or coercion;
- (2) as other than a patron of a prostitute, induces or causes another person who is under 18 years of age to engage in an act of prostitution; or
- (3) induces or causes a person in that person's legal custody to engage in prostitution.

(b) In a prosecution under (a) (2) of this section, it is not a defense that the defendant reasonably believed that the person induced or caused to engage in prostitution was 18 years of age or older.

(c) Except as provided in (d) of this section, sex trafficking in the first degree is an unclassified felony.

(d) A person convicted under (a) (2) of this section is guilty of an unclassified felony.

(e) In this section, "coercion" includes

- (1) seizure of a person's official identification or passport as a means to induce or cause a person to engage in prostitution;
- (2) making it a condition of participation in a prostitution enterprise that a person has no choice regarding participation in the enterprise;
- (3) threats against the life of a third party as a means to induce the person into prostitution or prevent them from leaving the prostitution enterprise;
- (4) the following conduct if intended to compel a person to engage in an act of prostitution :
 - (A) instilling in a person a fear of physical injury;

- (B) accusation of anyone of a crime;
- (C) exposure of confidential information or a secret, whether true or false, tending to subject a person to hatred, contempt, or ridicule or to impair the person's credit, or business repute; or
- (D) taking or withholding action as a public servant or cause a public servant to take or withhold action; or
- (E) threatening to testify or provide information or withhold testimony or information with respect to a person's legal claim or defense.

AS 11.66.115. Sex trafficking in the second degree.

(a) A person commits the crime of sex trafficking in the second degree if the person

(1) using or employing deception, fraud, false pretense, false promise, misrepresentation, or knowingly concealing, suppressing, or omitting a material fact with intent to induce or cause a person to engage in prostitution;

(b) Sex trafficking in the second degree is a class A felony.

AS 11.66.120. Sexual exploitation in the first degree.

(a) A person commits the crime of sexual exploitation in the first degree if, with intent to promote prostitution, the person

(1) manages, supervises, controls, owns, alone or with others, a prostitution enterprise or a place of prostitution, and:

(A) it is a condition of the prostitutes' participation in the prostitution enterprise that they may not leave the place of prostitution or may not leave it alone OR

(B) it is a condition of the prostitutes' participation in the prostitution enterprise that they have no right of refusal for certain sex acts or customers

(b) Sexual exploitation in the first degree is a class B felony.

AS 11.66.125. Sexual exploitation in the second degree

(a)A person commits the crime of sexual exploitation in the second degree if, with intent to promote prostitution, the person

(1)manages, supervises, controls, owns, alone or with others, a prostitution enterprise or a place of prostitution, and:

(A) with intent to deprive a prostitute of property or to appropriate the property of a prostitute to oneself or a third party, the person obtains the property of a prostitute OR

(B) makes sexual demands of a prostitute who participates in their prostitution enterprise or offers advantages within the prostitution enterprise in exchange for meeting sexual demands.

(b) Sexual exploitation in the second degree is a class C felony.

AS 11.66.130 Sexual exploitation in the third degree

(a)A person commits the crime of sexual exploitation in the third degree if, with intent to promote prostitution, the person

(1)manages, supervises, controls, owns, alone or with others, a prostitution enterprise or a place of prostitution, and:

(A) engages in workplace conduct which creates an environment that induces workers to perform unwanted sex acts, OR

(B) requires workers to drink alcohol or consume mind altering substances as a condition of participating in the prostitution enterprise.

(b)A person commits the crime of sexual exploitation in the third degree if, without intent to promote prostitution, the person

(1) Commits any degree of assault or sexual assault against an alleged prostitute and tries to prevent it's reporting by:

(A) threatens exposure of confidential information or a secret, whether true or false, tending to subject a

person to hatred, contempt, or ridicule or to impair the person's credit, or business repute; or

(B) threatening to testify or provide information or withhold testimony or information with respect to a person's legal claim or defense; or

(C) taking or withholding action as a public servant or cause a public servant to take or withhold action.

(c) sexual exploitation in the third degree is a class A misdemeanor.

Police Sexual Contact and Penetration

When police officers avail themselves of sexual services before making an arrest or use the threat of arrest to coerce sex workers into unwanted sexual contact or penetration, it erodes trust between the law enforcement and sex work communities. Consent that is gained by deception is not consent. It is especially disturbing when police represent that they are targeting underaged sex trafficking victims in these stings. Trust between the sex work and law enforcement communities is essential to combatting sex trafficking, as noted in a 2013 Attorney General's Task Force report on sex trafficking in Alaska (which can be accessed here: http://www.law.alaska.gov/press/public_notice/101712-TaskForce.html).

Terra Burns did her graduate research at the University of Alaska Fairbanks on the lived experiences and policy recommendations of people in Alaska's sex trade. In a survey, about a quarter of sex workers said that a police officer had "collected a freebie" from them, but sixty percent of trafficking victims said that a police officer had collected a freebie from them. In a survey done by the Hayes Research Group in 2016 90% of Alaskans said they wanted this to be made illegal (access the full survey: <http://sextraffickingalaska.com/wp/wp-content/uploads/2017/02/Q908-CUSP-2016-Final-Results4.pdf-1.pdf>)

In 2016 Representative Matt Claman sponsored House Bill 112 (http://www.akleg.gov/basis/Bill/Detail/30?Root=hb112#tab1_4), which would have expanded language added to the sexual assault statute in 2013. The 2013 language defined sexual assault as sexual contact (AS 11.41.427 (a)(3)) or penetration (AS 11.41.425 (a)(4)) by an officer of a person in their custody. House Bill 112 would have expanded that language to include suspects under active investigation by the officer who sexually penetrates or contacts them. This would also address anecdotal stories of police "collecting freebies" from women they come into contact with during drug and illegal ivory investigations. Who would oppose the much needed closing of this loophole?

At the time the bill was introduced, the Department of Law sent an email to several legislators stating that an officer who engaged in sexual conduct during a prostitution sting would be fired, charged with prostitution, and decertified (see below). Chief Johnson, while being sworn in to the Alaska Police Standards Commission made the same promise to the Senate State Affairs committee (watch a video of this here: <http://sextraffickingalaska.com/chief-bryce-johnson-we-would-fire-and-decertify-officers-who-had-sexual-contact-during-an-investigation/>). However, neither Chief Johnson nor the Department of Law responded to emails with charging documents where prosecutors allege that the police had sexual contact or penetration with the defendants, and none of the officers named in the documents (see below) have been fired, charged, or decertified. This arbitrary enforcement or non-enforcement requires a clear solution in statute.

The email from the Department of Law:

You called this afternoon asking about sexual conduct between law enforcement and persons being investigated for prostitution. I am assuming you are referring to an email that has been circulating which describes sexual conduct on the part of law enforcement as part of a “sting” operation. It is neither legal nor acceptable for a law enforcement officer to engage in sexual conduct with a person that that officer is investigating.

Engaging in sexual conduct as part of an investigation into prostitution exceeds the justification statute and would, at the very least, make the person engaging in such conduct guilty of prostitution (11.66.100(a)(2)). Depending on the specific facts of the case, this conduct would also violate numerous statutes including: coercion (class C felony, AS 11.46.530), official misconduct (class A misdemeanor, AS 11.56.850), and compounding (class A misdemeanor, AS 11.56.790). Further, if an arrest has been made (the described purpose of the “sting” operation in the email), law enforcement officers engaging in sexual conduct after the arrest would also likely be guilty of sexual assault in the third degree (class C felony, AS 11.41.425(a)(4)) or sexual assault in the fourth degree (class A misdemeanor, AS 11.41.427(a)(3)) for engaging in sexual conduct while the person is in the custody or apparent custody of the officer. If the sexual conduct occurred under the threat of arrest or prosecution, an officer would likely be guilty of sexual assault in the first degree (an unclassified felony, AS 11.41.415(a)(1)) or sexual assault in the second degree (class B felony, AS 11.41.420(a)(3)) for engaging in sexual conduct that is coerced and therefore without consent.

Administrative safeguards are also available to ensure that an officer engaging in this conduct would never work in the field again. In order to work as a police officer at any agency in the state an officer must be certified by the Alaska Police Standards Council (APSC). The APSC may revoke an officer’s certification if the officer engages in conduct that would cast doubt on the officer’s respect for the rights of others, for the law, or is detrimental to the integrity of the police department where the police officer worked (13 AAC 85.110). Good “moral character” is a statutory requirement to be a police officer in Alaska (AS 18.65.240). Law enforcement agencies in the state are required to report to APSC substantiated allegations of misconduct.

Individual law enforcement agencies also have policies against such behavior. Therefore, an officer engaging in this conduct may also be subject to employment actions.

Please let me know if you have any questions.

*Kaci Schroeder
Assistant Attorney General
Criminal Division
Alaska Department of Law
465-4037*

Here is a small sampling of typical charging documents that allege sexual penetration or contact, and the officers have not been fired, charged, or decertified:

Note the ages of these sex workers. If you have heard that the average sex worker begins at thirteen years old and only lives five years, these charging documents prove that wrong. More charging documents are available at: <http://sextraffickingalaska.com/wp/wp-content/uploads/2018/01/NewSexualContact.pdf>

In a 2017 ADN article (<https://www.adn.com/alaska-news/crime-courts/2017/05/07/bills-to-ban-police-sexual-contact-with-prostitutes-they-investigate-met-with-opposition/>) describing the Anchorage Police Department's lobbying against HB 112, Deputy Chief Sean Case explained that it was necessary for police to touch sex workers' breasts in order to prove that they aren't cops, a phenomenon he called "cop checking:"

It all comes down to touching, he said: Prostitutes have used a technique known as "cop checking" to immediately identify officers and shut down an investigation.

"(In an undercover investigation) they ask one simple question: 'Touch my breast.' OK, I'm out of the car. Done. And the case is over," said Case, offering a hypothetical example of what he thinks might happen if the law passed. "If we make that act (of touching) a misdemeanor we have absolutely no way of getting involved in that type of arrest."

However, charging documents show that women are charged with prostitution on the basis of having *asked* the officer to engage in sexual contact or expose their genitals to prove they aren't police. In these cases the officers did not engage in the requested sexual contact, genital exposure, or "cop checking" but the workers were convicted of prostitution for merely asking:

COUNT 1: PRACTICING/ASSIGNATION

To Wit: [REDACTED] did knowingly engage in prostitution or assignation, which is in violation of Anchorage Municipal Code 8.65.020.A.

This complaint is based on witness information provided by OFC.
and/or This complaint is based on personal observations of the complaining witness. The defendant engaged in assignation by exposing her left breast, demanding that I touch her breast to prove I was not a "cop" or member of law enforcement.

COUNT 1: PRACTICING/ASSIGNATION

To Wit: [REDACTED] did knowingly engage in prostitution or assignation, which is in violation of Anchorage Municipal Code 8.65.020.A.

This complaint is based on personal observations of the complaining witness, VICE Officer Wisel. The defendant engaged in assignation by requesting Under Cover Officer Wisel to expose his genitals and touch her genitals to prove to her he was not a Cop.

COUNT 1: PRACTICING/ASSIGNATION

To Wit: [REDACTED] did knowingly engage in prostitution or assignation, which is in violation of Anchorage Municipal Code 8.65.020.B

This complaint is based on witness information provided by Det. Ramon Dojaque.
The defendant engaged in practicing by asking if Det. Ramon Dojaque was a cop and requesting to see the male genitalia.

COUNT 1: PRACTICING/ASSIGNATION

To Wit: [REDACTED] did knowingly engage in prostitution or assignation, which is in violation of Anchorage Municipal Code 8.65.020.A.

This complaint is based on witness information provided by OFC ELBIE*.
and/or This complaint is based on personal observations of the complaining witness. The defendant engaged in assignation by Grabbing towards genitals.

Later in the article, Deputy Chief Case explains that they do not target the average prostitute in these stings anymore—they specifically target sex trafficking victims. It is unacceptable that sexual contact or penetration is how sex trafficking victims are identified by police and it is unacceptable in a civil society to have a deputy police chief make public claims that are easily disproven by public record.

Expungement

People with prostitution convictions or charges that show up on CourtView face discrimination in housing, employment, child custody, and even access to financial instruments. Our anti-prostitution laws keep people trapped in prostitution, and that's in one example, a former sex worker was fired from every job she had for three years because of gossip and CourtView checking that followed her. Listen to her story here: <http://sextraffickingalaska.com/amy-a-lifelong-sentence/>

CUSP has drafted a bill to allow sex workers to expunge prostitution records by amending AS 12.72.028. Email sextraffickingalaska@gmail.com for a copy.

Anti-discrimination

Sex workers face discrimination in housing, employment, child custody, and access to financial instruments that can leave them homeless, turning to pimps for housing, and trapped in the underground economies. Members of the Parnell administration made many statements that enabling sex workers to leave prostitution was a priority for Alaska, yet our prostitution law can keep people trapped in prostitution.

CUSP has drafted an antidiscrimination bill. Email sextraffickingalaska@gmail.com for a copy.

Aggravator

The sex trafficking statute does not address the most common crimes against people in the sex trades, whether they are there through choice, circumstance, or coercion. Crimes like robbery, assault, sexual assault, extortion, and even murder are rarely investigated or prosecuted when the victim is a sex worker or sex trafficking victim. To address the seriousness of these crimes when they are committed against Alaska's most marginalized, a section should be added to Alaska's aggravator statute.

Here's a sad fact: Anchorage Police Department's murder clearance rate, going back twelve years, is 85%. For missing and murdered sex workers, it's 16% - and in every case of a murdered sex worker that has been solved, the murderer has been found on scene with the body. Rather than redefining everything as sex trafficking, the proper way to address crimes against people in the sex industry is by increasing penalties for ALL crimes when they are committed against a person in the sex industry. This will incentivize the law enforcement community to treat these investigations as a priority and help to turn the tide on what has been called an "open season" on sex workers in Alaska.

In February of 2019, Winfred Hipp, who had been charged with two unclassified felonies for kidnapping and sexually assaulting a minor teenager, was offered a plea deal for on Class C felony and essentially time served by the Fairbanks DA. When the judge inquired about this extreme plea deal, the prosecutor explained that the perpetrator would claim the minor victim was a prostitute. From this case, we learned that the aggravator language needs to also include victims who are accused of engaging in sex work, even if they haven't. In consultation with child advocates, we developed language to address this

issue which also includes perpetrators who pay their victims as a means of psychological abuse and control.

To that end, CUSP has drafted aggravator language amending AS 12.55.155. This year we are asking legislators to amend this language in to House Bill 5. Email sextraffickingalaska@gmail.com for a copy.

Sex Trafficking of Minors in Alaska: It's Not Like the Movies

The Trafficking Victim Protection Act, part of the Violence Against Women Act, broadly redefined the entire category of teen runaways exchanging sex for housing or other survival needs (previously known as “bad kids”) as sex trafficking victims. This is our largest category of sex trafficking victims in the United States and in Alaska, and is also not criminalized as sex trafficking. The men who sexually exploit these youth are guilty of Sexual Abuse of a Minor only if the youth is under the age of consent. There is no one to charge with sex trafficking. Youth who have survival sex are then in the odd position of being classified as sex trafficking victims under VAWA but not being victims of anyone who can be charged with sex trafficking. This definition has been used in misleading and confusing ways—for example, to keep youth incarcerated “for their own protection.” At other times, youth agencies have cited statistics that many of their clients meet the definition of non-criminal sex trafficking, and then launched into examples of the most violent and extremely rare criminal kinds of sex trafficking.

Violent sex trafficking of minors does happen in Alaska – it happened to one CUSP board member – but it is rare and often exists outside the commercial sex industry. The last time anyone was charged with sex trafficking an actual minor in Alaska were in the Jerry Starr and Sabil Mujahid cases (which *were* like the movies) in 2007 and 2008. In 2014 the Alaska State Troopers created the Special Crimes Investigative Unit with the primary mission of locating and rescuing minors who are being sex trafficked in the commercial sex industry. Their investigations have yet to lead to a single charge of sex trafficking a person under eighteen.

In 2019, the sex worker/client community cooperated to gain evidence of a person who was sex trafficking minors, and reported it to the FBI. That man, Alex Asino, was the first person to be charged with trafficking an actual minor in Alaska since 2008. In 2021, a Kotzebue man was charged with sex trafficking of a minor for paying a child that he sexually abused.

Just as in the Kotzebue case, criminal sex trafficking of minors often occurs outside the sex industry. In one example, a twelve-year-old was rescued during the FBI's 2015 Operation Cross Country. While the FBI's press release read that they had rescued minors who were being prostituted from filthy hotel rooms and dimly lit roadsides, with the youngest victim being twelve, the charging documents told a much different story. The twelve-year-old had been lured into an online relationship with an adult man, and her mother had allowed it to continue in exchange for cash and expensive gifts that the man gave her. In Alaska we are aware of situations where legal guardians have allowed sexual access to children in exchange for housing and where legal guardians have declined to cooperate with police investigations into their teenager's ongoing sexual abuse in exchange for money. There is no way to know how common these situations are, but our experiences and some research (http://www.millennia2015.org/files/forms/306013894_0.5864069/Victims_of_sexual_exploitation.pdf) indicates that they may not be as uncommon as one would think.

CUSP is very sympathetic to the idea that rebranding child sexual abuse as sex trafficking will increase prosecution of child sexual abuse, especially because many of our members have been victims of sex crimes that have not been prosecuted. Our board member Terra Burns was told by a Fairbanks DA in the 90's that her father could not be prosecuted for pimping her out not because of a lack of evidence, but because juries did not see teenaged prostitutes as relatable victims. At that time prostitution of a minor

was part of Alaska's Sexual Abuse of a Minor statute, and we believe that is where all sexual abuse of minors that happens outside of the commercial sex industry belongs. Calling sexual abuse of a minor sex trafficking does a disservice to both the victims in those cases and victims of sex trafficking.

Additionally, the Justice for Victims of Trafficking Act, which modified VAWA, in 2015 created another definition of sex trafficking: men who agree to pay for sex with a minor. Nationwide, and here in Alaska, federal agents have placed fake ads posing as minors or as people pimping out minors. The men who respond to those ads are charged with sex trafficking, as in the local 2018 case against Danny Ray Lowe (<https://www.justice.gov/usao-ak/pr/anchorage-man-convicted-attempted-sex-trafficking-and-exploitation-minors>). These are cases where someone is charged with sex trafficking of a minor, but *no actual minor* has been sex trafficked or even been involved in the case.

It is important when reading sex trafficking press releases and research to understand which cases of sex trafficking include actual minor victims rather than a imaginary minors being pimped by police, which cases involve the commercial sex industry, and what types of trafficking are non-criminal or involve minors outside of the commercial sex industry or involve no actual minors at all.

A Brief History

As anyone who has lived in Alaska for long knows, Alaska was funded and founded on the backs of sex workers and gold miners. Sex workers provided the first social services in Alaska, grubstaked miners, lived and worked on National Forest Service land in Anchorage, and lived and worked on “The Line” (city land set aside for them) in Fairbanks. Several streets are named after historic sex workers in Fairbanks and Alaska’s tourism industry makes much of our proud history of feisty independent sex workers.

In Fairbanks, the rules governing prostitution were established by an Episcopalian bishop who understood that prostitution was a reality in western boom towns. He had traveled and ministered extensively in the wild west and believed he could eliminate many of the problems that had occurred in other towns with a few rules: the cabins on The Line were owned by the city and the rent was fixed so as to eliminate abusive, extortionist landlords, and only workers themselves could lease the cabins. The workers then could choose to have men around for security or companionship, but there was no management role available to men or non-workers.

With impending statehood, pressure from the federal government to shut down prostitution in Alaska increased. In Fairbanks, at one point, The Line was shut down, but when violence immediately increased and one sex worker was gruesomely murdered, the city fathers immediately reopened The Line. In some cities the politicians made a show of “trying” to get rid of prostitution by shuffling the sex workers to different parts of the city and collecting “sin taxes” (regularly scheduled fines). In Seward one elder reported that when the locals got word that the “federalers” were coming to town for the sex workers, the city put all the sex workers on a ferry to another town and brought them back when it was safe.

In the mid 1900’s, Alaska Native elders tell us, anti-prostitution laws were used to arrest Alaska Native women who were not sex workers if they went into areas where whites didn’t want them. These same sorts of laws, called “Loitering for the Purpose of Prostitution” or “Manifesting Prostitution,” have been used to target other marginalized people who were not sex workers, particularly black transgender women. In the 2010s several courts, states, and cities changed these laws because of their discriminatory use. Alaska was far ahead of the game, with our Supreme Court finding in 1978 that the loitering for prostitution law was unconstitutionally vague (see *Brown v Municipality of Anchorage*).

Prostitution continued to exist fairly openly in parlors in and around Fairbanks and Anchorage through the early 2000’s. Parlors were, for the most part, run by women, inspected by the health and fire departments, and safe workplaces. In the early 2000’s with the passing of the Trafficking Victim’s Protection Act (part of VAWA) the federal government increased pressure on Alaska to shut down prostitution. Anchorage immediately cooperated and the Spenard parlors were shut down, mostly with money laundering and tax evasion charges, in the early 2000’s. With the shutting down of the parlors, there was an increase in incredibly violent pimps such as Jerry Starr and Sabil Mujahid. Fairbanks continued to resist the federal pressure until 2008, when police officers kindly warned parlor owners that if they weren’t gone by a certain date, they would have to arrest them. Eventually, Fairbanks PD did coordinated stings on all of the remaining (Asian) massage parlors. The workers were charged with prostitution and with felony sexual assault for touching the officers’ genitals – after the officers had paid them to do so!

In the mid 2000's, Craigslist's erotic services section became popular, enabling anyone with an internet connection to advertise themselves for prostitution, and pimps were again made irrelevant. Many women chose to work alone or with each other, often with hired drivers for security, until 2012's sex trafficking legislation made working together, communicating about safe and unsafe clients, and hiring security felonies.

Today, exploitative pimping in Alaska most often takes the form of boyfriends who gradually become abusive or drug dealers who "help" their clients make money for drugs by advertising them for prostitution and/or providing security services, for which they often take half of the workers earnings as a fee and the other half for drugs. Worker collectives are gone, and independent workers, stripped of the right to share information or hire security or client screening assistance, are at increased risk of violence.

Throughout Alaska's history the actions of police and legislators have created working conditions for people in Alaska's sex trades and industries. Today, people in Alaska's sex trades are asking legislators to work with us to craft legislation that keeps us safe and gives us access to equal protection under the law.

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A Rights Based Perspective

Sex trafficking has been viewed through three lenses: as an organized criminal underworld, as a problem of women and girls, and through a rights-based lens as a labor abuse.

For the most part, and particularly in Alaska, there is no organized criminal underworld of sex trafficking. To the extent that gangs have engaged in sex trafficking, it has not been and is not profitable for them to come to Alaska. Sex traffickers are individuals, not part of a huge imaginary network. This perspective leads to policy that rebrands and redefines all prostitution as sex trafficking, such as Alaska's 2012 sex trafficking law, and attacks the safety practices of independent sex workers, leading to increased violence.

The perspective that sex trafficking is a problem of women and girls, that women and girls are weak, have no agency, and always fall prey to men who easily coerce them into prostitution is often put forth by church groups and social workers who have created jobs and identities for themselves out of providing moral instruction to "fallen women." From a policy perspective this view ignores the one half or more of minor sex trafficking victims who are boys and creates diversion programs where women (never men) are forced into religious moral training programs or often unneeded social services under threat of imprisonment. From a feminist perspective, this view promotes the idea that women are weaker and dumber. If a man travels to a new place and encounters adverse conditions, it is expected that he will overcome and have an adventure. If a man chooses sex work over a minimum wage service job, it is perceived that he has made the best available choice for himself, and he will overcome. Why is it perceived differently when the person is a woman?

A rights-based perspective tells us that all adults have the right to choose not to enter into sex work, and all adults have the right to choose to enter into sex work. It tells us that if workers are being forced, coerced, or exploited, they should have the right to access the equal protections of the criminal justice system without fear of being criminalized themselves. It tells us that workers have the right to organize and to negotiate for their own safe work conditions (in this case our "bosses" – those who create our working conditions – are police and politicians). It tells us that governments have no right to criminalize private consensual adult sex. It also tells us that we must work towards equal opportunity and equal pay for women, and that we must create social safety nets for children and teens that are safe and that do not cause children and teens to see running away and engaging in prostitution or survival sex as safer or preferable.

