

THE JUDICIAL SYSTEM RESPONSE TO HUMAN TRAFFICKING

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Blue Earth County Attorney's Office



OUR BACKGROUND

- RYAN:
 - Felony prosecutor for 10 years.
 - Experience in Blue Earth, Redwood, Winona and Hennepin Counties
- CASEY:
 - 11 years prosecuting juvenile offenders and handling Truancy CHIPs
 - More recently traditional CHIPs cases

Both of us have been involved with various safe harbor trainings and initiatives

VICTIMS RIGHTS

- MN Stat. 611A

611A.015 SCOPE OF VICTIMS' RIGHTS.

The rights afforded to crime victims in sections 611A.01 to 611A.06 are applicable to adult criminal cases, juvenile delinquency proceedings, juvenile traffic proceedings involving driving under the influence of alcohol or drugs, and proceedings involving any other act committed by a juvenile that would be a crime as defined in section 609.02, if committed by an adult.

NOTIFICATION OF RIGHTS

- 611A.02 NOTIFICATION OF VICTIM SERVICES AND VICTIMS' RIGHTS.
- Subd. 2. Victims' rights. (a) The Office of Justice Programs in the Department of Public Safety shall update the two model notices of the rights of crime victims.
- (b) The initial notice of the rights of crime victims must be distributed by a peace officer to each victim, as defined in section 611A.01, at the time of initial contact with the victim. The notice must inform a victim of:
 - (1) the victim's right to apply for reparations to cover losses, not including property losses, resulting from a violent crime and the telephone number to call to request an application;
 - (2) the victim's right to request that the law enforcement agency withhold public access to data revealing the victim's identity under section 13.82, subdivision 17, paragraph (d);
 - (3) the additional rights of domestic abuse victims as described in section 629.341;
 - (4) information on the nearest crime victim assistance program or resource;
 - (5) the victim's rights, if an offender is charged, to be informed of and participate in the prosecution process, including the right to request restitution; and
 - (6) in homicide cases, information on rights and procedures available under sections 524.2-803, 524.3-614, and 524.3-615.
- (c) A supplemental notice of the rights of crime victims must be distributed by the city or county attorney's office to each victim, within a reasonable time after the offender is charged or petitioned. This notice must inform a victim of all the rights of crime victims under this chapter.

**Minnesota Victim
Information and Notification
Everyday**

1-877-MN4VINE

1-877-664-8463

www.vinelink.com

CONTACT US

Victim Witness Program Coordinators

Renee Howard - Juvenile Division
Renee.howard@blueearthcountymn.gov
507-304-4610

Lisa Seifert - Adult Division
Lisa.seifert@blueearthcountymn.gov
507-304-4612

Colleen Baker - Adult Division
Colleen.baker@blueearthcountymn.gov
507-304-4613

Vanessa Barr - Adult Division
Vanessa.barr@blueearthcountymn.gov
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**Office of Blue Earth County Attorney
Patrick R McDermott
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**CRIME
VICTIM
RIGHTS**



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As a victim of crime, Minnesota law provides you with specific rights. Know your rights.

Right to be Notified of

Victim rights.

Content of any plea bargain agreements.

Final disposition of the case.

Any pending appeals by the Defendant, including the right to attend the oral argument or hearing.

Sentence modifications for the offender, including the date, time, and location of the review.

Release of the offender from prison or custodial institution.

Transfer of the offender from prison or custodial institution.

Escape of the offender from prison or custodial institution.

The offender's petition for expungement.

The decision not to prosecute a domestic assault or harassment case.

Right to Protection from Harm

Tampering with a witness is a crime in Minnesota and should be reported.

Employers may not discipline or dismiss victims or witnesses who are called to testify in court.

Right to request address is withheld in open court.

Right to a secure waiting area during court.

Right to request law enforcement to withhold their identity from the public.

Right to Participate in Prosecution

Right to provide input in a pre-trial diversion decision.

Right to request a speedy trial.

Right to bring a supportive person to the pre-trial hearing.

Right to object to a plea agreement.

Right to object to proposed disposition or sentence.

Right to attend the sentencing hearing.

Right to inform the court at the sentencing hearing of social and economic impact of crime on persons and businesses in the community.

Right to inform court of impact of crime at the sentencing hearing.

Right to request a probation review hearing.

Right to Apply for Financial Assistance

Victims may be eligible for financial assistance from the state if they have suffered economic loss as a result of a violent crime.

For forms and information, you may write or call

Crime Victim Reparations Board

445 Minnesota St., Suite 2300

St. Paul, MN 55101-1515

(651) 282-6256 or 1-888-622-8799

or contact the Victim/Witness Coordinator in the Blue Earth County Attorney's Office to obtain additional information.

Victims may request the Court to order the Defendant to pay restitution.

NOTIFICATION OF PLEA AGREEMENTS

- 611A.03 PLEA AGREEMENTS; NOTIFICATION.

- Subdivision 1. Plea agreements; notification of victim. Prior to the entry of the factual basis for a plea pursuant to a plea agreement recommendation, a prosecuting attorney shall make a reasonable and good faith effort to inform the victim of:
 - (1) the contents of the plea agreement recommendation, including the amount of time recommended for the defendant to serve in jail or prison if the court accepts the agreement; and
 - (2) the right to be present at the sentencing hearing and at the hearing during which the plea is presented to the court and to express orally or in writing, at the victim's option, any objection to the agreement or to the proposed disposition. If the victim is not present when the court considers the recommendation, but has communicated objections to the prosecuting attorney, the prosecuting attorney shall make these objections known to the court.

VICTIM IMPACT STATEMENT

- 611A.038 RIGHT TO SUBMIT STATEMENT AT SENTENCING.

- (a) A victim has the right to submit an impact statement to the court at the time of sentencing or disposition hearing. The impact statement may be presented to the court orally or in writing, at the victim's option. If the victim requests, the prosecutor must orally present the statement to the court. Statements may include the following, subject to reasonable limitations as to time and length:
 - (1) a summary of the harm or trauma suffered by the victim as a result of the crime;
 - (2) a summary of the economic loss or damage suffered by the victim as a result of the crime; and
 - (3) a victim's reaction to the proposed sentence or disposition.

VICTIM'S CONFIDENTIALITY RIGHTS

- 611A.021 NOTICE OF RIGHT TO REQUEST WITHHOLDING OF CERTAIN PUBLIC DATA.
- A victim has a right under section 13.82, subdivision 17, clause (d), to request a law enforcement agency to withhold public access to data revealing the victim's identity.

VICTIM'S CONFIDENTIALITY RIGHTS

- 611A.035 CONFIDENTIALITY OF VICTIM'S ADDRESS.
- **Subdivision 1. Discretion of prosecutor not to disclose.** (a) A prosecutor may elect not to disclose a victim's or witness's home or employment address, telephone number, or date of birth if the prosecutor certifies to the trial court that:
 - (1) the defendant or respondent has been charged with or alleged to have committed a crime;
 - (2) the nondisclosure is needed to address the victim's or witness's concerns about safety or security; and
 - (3) the victim's or witness's home or employment address, telephone number, or date of birth is not relevant to the prosecution's case.
- **Subd. 2. Witness testimony in court.** No victim or witness providing testimony in court proceedings may be compelled to state a home or employment address, telephone number, or the date of birth of the victim or witness on the record in open court unless the court finds that the testimony would be relevant evidence.

DECISION NOT TO PROSECUTE

- 611A.0315 VICTIM NOTIFICATION; DOMESTIC ASSAULT; CRIMINAL SEXUAL CONDUCT; STALKING.
- **Subdivision 1. Notice of decision not to prosecute.**(a) A prosecutor shall make every reasonable effort to notify a victim of domestic assault, a criminal sexual conduct offense, or stalking that the prosecutor has decided to decline prosecution of the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim should include, in order of priority: (1) contacting the victim or a person designated by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody, the notification attempt shall be made before the suspect is released from custody.

UNIQUE CHALLENGES WITH VICTIMS OF HUMAN TRAFFICKING

- DON'T VIEW THEMSELVES AS VICTIMS
- ARE NOT WILLING TO DISCLOSE THAT THEY ARE A VICTIM DUE TO:
 - Fear
 - Guilt
 - Shame
 - Chemically Dependent
 - Vulnerable- without other options
- HIGHLY MOBILE
- DISTRUST OF LAW ENFORCEMENT/CRIMINAL JUSTICE SYSTEM

HOW TO OVERCOME THOSE BARRIERS?

- Involve an Advocate: Someone wholly independent of the criminal justice system.
- Victim Witness Coordinator: A non-attorney who works in our office who can be a liaison between the victim and the prosecutor.
- Let them dictate the relationship:
 - Ask victim's how much contact they would like
 - How they would like the communication to take place (letters, phone calls, meetings)

APPLICABLE STATUTES

- MN. Statute 609.321, Subd. 7a Defines “Sex trafficking” as:
- (1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or
- (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

APPLICABLE STATUTES

- MN Statute 609.321, Subd. 7- "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:
 - (1) solicits or procures patrons for a prostitute;
 - (2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual;
 - (3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual;
 - (4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual;
 - (5) admits a patron to a place of prostitution to aid the prostitution of an individual; or
 - (6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual.

SEX TRAFFICKING- FIRST DEGREE

- 609.322, SUBD. 1, SOLICITATION, INDUCEMENT, AND PROMOTION OF PROSTITUTION; SEX TRAFFICKING IN THE FIRST DEGREE.
- (a) Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$50,000, or both:
 - (1) solicits or induces an individual under the age of 18 years to practice prostitution;
 - (2) promotes the prostitution of an individual under the age of 18 years;
 - (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years; or
 - (4) engages in the sex trafficking of an individual under the age of 18 years.
- (b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$60,000, or both, if one or more of the following aggravating factors are present:
 - (1) the offender has committed a prior qualified human trafficking-related offense;
 - (2) the offense involved a sex trafficking victim who suffered bodily harm during the commission of the offense;
 - (3) the time period that a sex trafficking victim was held in debt bondage or forced labor or services exceeded 180 days; or
 - (4) the offense involved more than one sex trafficking victim.

SEX TRAFFICKING- SECOND DEGREE

- 609.322, Subd. 1a. Solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree:
- Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000, or both:
 - (1) solicits or induces an individual to practice prostitution;
 - (2) promotes the prostitution of an individual;
 - (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual; or
 - (4) engages in the sex trafficking of an individual.

PROSTITUTION CRIMINALIZED

- 609.324: Engaging in, hiring, or agreeing to hire minor to engage in prostitution;
- It is a crime to:
 - Engage in prostitution
 - Hire or offer to agree to hire an individual to engage in sexual penetration or sexual contact; OR

OFFENSE SEVERITY LEVELS VARIES DEPENDING ON:

- Age of the person you are engaging in prostitution with or agreeing to hire
- The age the purchaser reasonably believes the person they are purchasing to be

617.247

PORNOGRAPHIC WORK INVOLVING MINORS

- Subd. 3. **Dissemination prohibited.** (a) A person who disseminates pornographic work to an adult or a minor, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than seven years and a fine of not more than \$10,000 for a first offense and for not more than 15 years and a fine of not more than \$20,000 for a second or subsequent offense.
- Subd. 4. **Possession prohibited.** (a) A person who possesses a pornographic work or a computer disk or computer or other electronic, magnetic, or optical storage system or a storage system of any other type, containing a pornographic work, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than five years and a fine of not more than \$5,000 for a first offense and for not more than ten years and a fine of not more than \$10,000 for a second or subsequent offense.

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JUVENILE JUSTICE SYSTEM RESPONSE

EARLIEST INDICATIONS OF A SEXUALLY EXPLOITED OR TRAFFICKED YOUTH:

- 1. CHRONIC RUNAWAY
- 2. CHRONIC TRUANT
- 3. CHEMICALLY DEPENDENT
- 4. STRAINED FAMILY/PARENT RELATIONSHIP

SAFE HARBOR LAW

- In 2014 MN Officially Decriminalize Prostitution for individuals under the age of 18
- CHIPs Statute was accordingly amended to classify “Sexually Exploited Youth” as Children in Need of Protection or Services.
 - **“Sexually exploited youth”** means an individual who:
 - (1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;
 - (2) is a victim of a crime described in section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, 609.352, 617.246, or 617.247; (Victim of Criminal Sexual Conduct or Child Pornography)
 - (3) is a victim of a crime described in United States Code, title 18, section 2260; 2421; 2422; 2423; 2425; 2425A; or 2256; or
 - (4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.

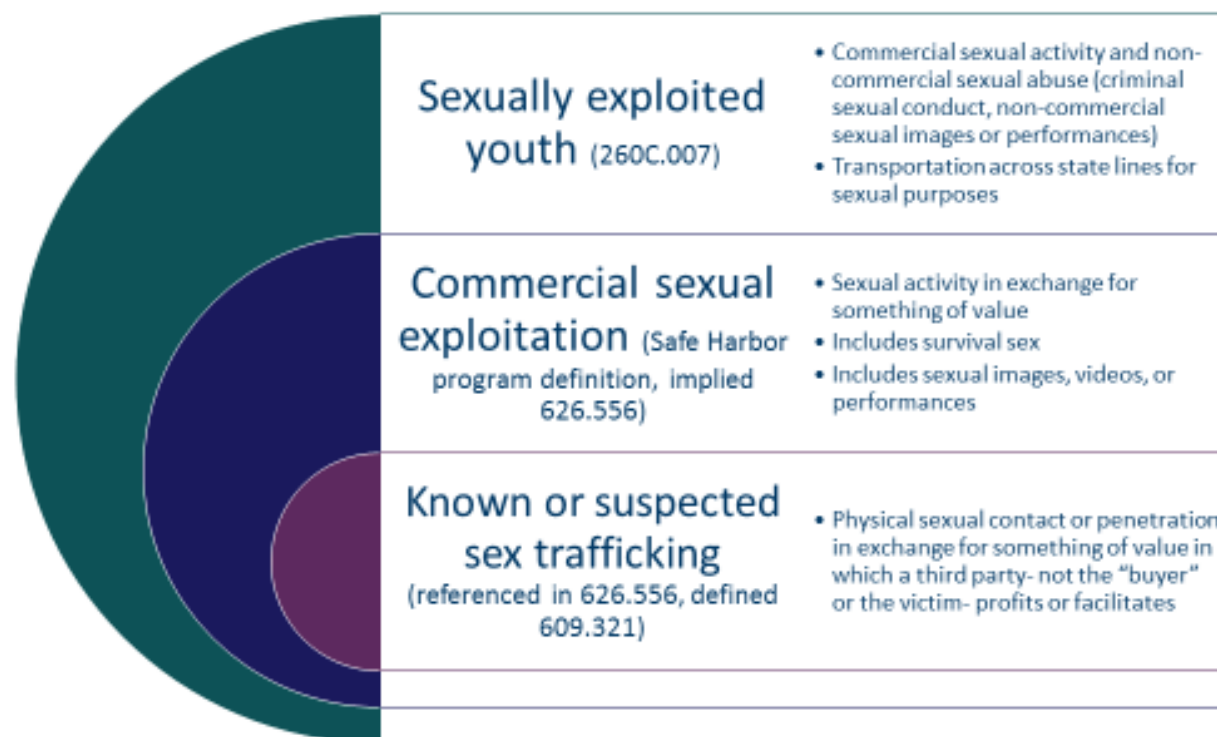
CHILD PROTECTION SCREENING GUIDELINES

- Human Services must screen in a case for assessment where there is “known or suspected sex trafficking involving a child”

A “Yes” to one or more question = suspected sex trafficking:

1. Has law enforcement or another person or agency made a report of the child being involved in trafficking?
2. Has the child reported being forced or coerced into sexual activity for the benefit of another person?
3. Has the child been found in a trafficking situation? (See Appendix H for High Risk Indicators that may show a child is in a trafficking situation and the DHS Safe Harbor/No Wrong Door website for additional resources and information)
4. Has the child been found or described in an advertisement for escort services or a sex act in a newspaper or online?

Sexually Exploited Youth or Sex Trafficked Youth?



HOW TO BE “VICTIM CENTERED” WHEN YOU ARE PROSECUTING YOUR VICTIM

- Assume the child in juvenile justice system (whether it is Juvenile Protection or Juvenile Delinquency) has experienced trauma that you don't know about.
- Dispositional outcomes that are in their best interest should look the same whether a child is a delinquent or whether they are CHIPs.
- If Safe Harbor has done it's job- a justice involved youth has accessed the necessary services by being charged with an offense OR if they have been designated CHIPs.

QUESTIONS???