

EXPLORING TRENDS IN FEDERAL SEX TRAFFICKING CASES

by

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## ABSTRACT

Sex trafficking is quickly becoming one of the most prevalent issues in the realm of criminal justice and society in general. There are more slaves in the world today than at any other point in history, and this horrific crime is affecting the most vulnerable members of society, with traffickers using various methods of recruitment and control to enslave their victims. Using court records and data from Dr. Vanessa Bouche's Human Trafficking Data, this paper is an exploratory study on victims and offender demographics at the federal level of the judiciary. Also included is an in-depth examination of charging and sentencing trends, geographic patterns, and the progression of sex trafficking prosecution at the federal level.

### Literature Review:

The Department of Homeland Security (2018) defines sex trafficking as “modern-day slavery” that “involves the use of force, fraud, or coercion to obtain some type of commercial sex act.” Territo and Kirkham (2010) state that “between 700,000 and two million women are trafficked each year worldwide and that as many as 50,000 women and children are trafficked into the United States annually...” While sexual slavery has existed throughout most of history, only in recent times has it become such an extensive epidemic that continues to spread rapidly.

### Location and Advertisements

Sex trafficking occurs in many different types of venues across the United States. According to Territo and Kirkham (2010), sex businesses are found in all areas. They exist in urban, suburban, and rural communities, and can also be found surrounding U.S. military bases. Some sex businesses act as a legal business. One of the most popular way to run a seemingly legal business is through a restaurant or a nail salon. Sex businesses also thrive in the more stereotypical venues, such as mobile homes, trailers, residential houses, and empty warehouses. Venues for trafficked women do vary a bit from state to state. Territo and Kirkham (2010) found that in the Northeast, sex businesses profligate in the form of street prostitution, massage parlors, hotel brothels, and in rented houses and apartments. The Midwest has high activity in street prostitution, strip clubs, bars, and “chicken shacks”, which are essentially structures used for a quick sexual transaction. On the Western coast, popular sex trafficking venues include street prostitution, strip clubs, adult entertainment theatres and pornography theatres, private residences, and massage parlors. In the South, massage parlors, brothels in gambling halls,

houses and trailers were all popular venues for commercial sex. There was an especially high amount of sexual rest and relaxation stations near military bases in the south.

Similar to the geographical differences in sex trafficking venues, there are also large differences in race of the prostituted women. According to Territo and Kirkham (2010), who gathered their data from the writings of Johns on the Internet (men who buy sex workers or trafficked women), the Northeast consisted of more Hispanic/Latina and black women. Asian women seemed to be more predominate on the Western coast, and there was no mention of race or ethnicity for women who were trafficked in the Midwest or South.

Advertising for sex trafficking can also be found in many different mediums. Territo and Kirkham (2010) report that advertisement for sex can be found in print media, such as mainstream newspapers and periodicals, pornographic magazines, billboards, and even the Yellow Pages. Sex advertisements are also wildly popular on the Internet, on websites such as Craigslist and Bed Page.

### Legislation

One of the very first laws regarding sex trafficking in the United States was passed as early as 1910. According to Bales and Soodalter (2009), the first law passed concerning trafficking was the Mann Act. Essentially, the federal government could prosecute any person who transported women for the purpose of prostitution. While the Mann Act was often used with racist intent during this time period, trafficking did not hit its peak until the 1990's. This peak was answered with the most recent piece of anti-trafficking legislation, the Trafficking Victims Protection Act, or the TVPA. This act was first passed in 2000 and has been reauthorized in 2003, 2005, 2008, and 2013. The law provides a three-pronged approach to trafficking which includes prevention, protection, and prosecution. The TVPA (2016) defines sex trafficking as

“the recruitment, harboring, transportation, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such an act had not attained 18 years of age.”

On the international level, the United Nations passed the United Nations Protocol to Prevent, Suppress and Punish Traffickers in Persons, Especially Women and Children in 2000, which supplemented the United Nations Convention Against Transnational Organized Crime. Also called the Palermo Protocol, this piece of legislation was ratified by 164 countries in 2003, and more than 130 member countries have enacted national legislation that criminalizes human trafficking. The Palermo Protocol is important in that it was the first international law on human trafficking. Chamie (2015) analyzes the Palermo Protocol and states that human trafficking has three basic components. The first is the act or what is done. This is the “recruitment, transportation, transfer, harboring, or receipt of persons” (pg. 83). The second component is the means, or how it is done. This can be “threat or use of force, coercion, abduction, fraud, deception, abuse of power, or giving payments” (pg. 83). The third component is the purpose. For sex trafficking, this means sexual exploitation, prostitution, or slavery. Anderson and Andrijasevic (2008) state that while the Palermo Protocol is often considered a human rights instrument, it should really be regarded as an instrument to battle organized crime. They argue that border control and police cooperation, not human rights protection, lie at the heart of the Palermo Protocol. Its emphasis is on intercepting traffickers and human smugglers and prosecuting them, and while states are encouraged to help victims of trafficking, the Palermo Protocol’s main concern is with combating organized crime, especially as it relates to transnational trafficking.

## Victimology

According to the Department of Homeland Security (2018), traffickers look for people who, for a variety of reasons, are easily susceptible to manipulation. The victim may be experiencing emotional or psychological vulnerability, financial hardships, lack of safe social relationships, and general instability. Once trafficked, victims rarely come forward due to fear of traffickers and fear of law enforcement, as traffickers use coercion and violence to control their victims. Many trafficking cases also include foreign victims, so in this case, a language barrier also prevents them from coming forward. Territo and Kirkham (2010) also detail the methods of recruitment. They list conditions favorable to the recruitment of women as “economic desperation and disadvantage, lack of a sustainable income, and poverty” (pg.7)

There are also several push and pull factors at work in recruitment (Territo & Kirkham, 2010). Push factors include economic and oppressive conditions in countries of origin for foreign victims, or, in many domestic cases, lack of family support, feeling like a burden, or direct family pressure. Many young girls are groomed by family members. Pimps promise money to both foreign and domestic victims, and many women are manipulated into believing they have a relationship with their trafficker. Pimps often recruit vulnerable young woman in malls and clubs by befriending them and making them dependent on their trafficker, whether it's for emotional or drug and alcohol related reasons. Certain social practices also make potential victims more vulnerable to traffickers, such as female illiteracy, lack of education, child marriage, and parental neglect. While children are especially vulnerable to traffickers, would-be migrants and undocumented migrants are also vulnerable groups. These two groups are often so desperate for work that they will take any offer that comes their way without being able to properly examine the legitimacy of the offer.

The methods of control are also a crucial part of understanding sex trafficking. Territo and Kirkham (2010) list some popular methods of control, which include “denying freedom of movement, isolation, controlling money, threats and intimidations, drug and alcohol dependencies, threatened exposure of pornographic films, and physical and sexual violence.” Violence is one of the most prominent ways of controlling victims of sex trafficking. Territo and Kirkham (2010) report that 86% of U.S. female victims and 53% of international female victims reported having physical violence used against them. 90% of U.S. female victims and 47% of international female victims reported having verbal threats made against them, and 70% of U.S. female victims and 40% of international female victims reported being sexually assaulted by their pimps and traffickers. Territo and Kirkham (2010) believe that these numbers are underrepresented, especially among the foreign victim population, due to the normalization of violence in trafficking.

### Prosecution

An important issue in the prosecution of sex trafficking cases is how to treat the trafficked women. While prostitution is a punishable crime in most areas, those who have been trafficked into it often had no choice and are victims themselves. According to the National Conference of State Legislators (2018), several state lawmakers have begun creating protections for trafficking victims in the forms of immunity, diversion, and affirmative defense. Currently, three states offer only immunity from prosecution for victims of trafficking. Many states only offer immunity to trafficked youths (not adults), as they are one of the most vulnerable populations. Eight states allow for diversion of trafficking victims. This may require an admission of guilt, but it keeps them out of the prison system with a conditional plea. Affirmative defenses are another important step forward for victims of sex trafficking in the

judicial system. An affirmative defense allows the victim to admit their actions, but it gets rid of criminal liability. 31 states currently allow trafficked victims to use an affirmative defense to the criminal charges that they may receive as a result of their illegal actions while being trafficked. Finally, 17 states offer a mix of immunity and diversion options.

The Bureau of Justice Statistics (2018) released their most recent data on human trafficking cases in the federal district in June of 2018. This data shows promising trends in the prosecution of trafficking cases. According to the BJS (2018), 1,923 suspects were referred to the U.S. attorneys for trafficking-related prosecution, which was a 41% increase from the 1,360 suspects in 2011. 93% of human trafficking suspects were convicted in 2015. The overall number of trafficking defendants who were sentenced to prison increased from 132 in 2000 to 758 in 2015. The sentences are getting longer, too: the median sentence for defendants convicted of human trafficking in 2000 was 30 months, while the median in 2015 was 180 months. The longest median sentence was 240 months for child pornography offenses, which was followed by sex trafficking of children with a median of 159 months.

#### Data and Methods:

The data used in this research came from one resource; a National Institute of Justice grant awarded to Dr. Vanessa Bouche, a political science professor at Texas Christian University and a prolific researcher in human trafficking. She compiled a dataset entitled Human Trafficking Data, which is a searchable platform that contains every federal sex and labor trafficking case from 2001 to 2016. The data used in this database came straight from court records of federal human trafficking cases. The platform allows the user to filter searches by trafficking type, victim demographics, defendant demographics, statutes charges, and sentencing details. The present study includes only sex trafficking cases of minor and adult female victims,

who were either foreign or domestic born. While there are male victims in sex trafficking, I wanted my research to focus on females, as they overwhelmingly tend to be the victims of sex trafficking.

The resulting dataset for this study included 172 cases. These specific cases were selected because they met my criteria: they included both foreign and domestic victims, and only female victims, both minor and adult. Each case contained seven variables including the state, district, year, number of total victims, number of minor victims, number of foreign victims, and number of defendants. Defendant demographics were captured as well. These included the defendant's name, gender, race, total charges, total sentences, highest charge, and highest sentence. These variables were used to analyze common defendant, victim, and geographic trends in federal sex trafficking cases.

## Results

### Federal cases processing trends

My first conclusion, shown in Figure 1, is that the number of federal sex trafficking cases that are prosecuted each year is increasing. In 2001, there were only two sex trafficking cases that had been prosecuted. We see this number steadily increasing, and in 2013, there were 26 sex trafficking cases prosecuted at the federal level. While this number does decrease from 2013, I believe that this is because there are many cases that are still in the process of being prosecuted. Because cases can often take two to three years to reach trial, it is unsurprising that there is a decrease in the number of cases that have been prosecuted simply because at the time of data collection, these cases were still ongoing or had not yet reached the trial phase.

### Victim demographics

Next, Table 1 examines the victim demographics in these cases. Out of 172 cases, 168 of them include at least one minor victim, which is 98% of cases. 32 cases include at least one foreign victim, and 140 cases include at least one domestic victim, so we're able to see that at the federal level, victims are overwhelmingly minors and domestic-born. As Table 2 demonstrates, there were 516 total defendants, with an average of three defendants per case. In total, there were 1,620 victims. There was a total of about 7 victims per case. Out of these 1,620 victims, 699 of them were foreign-born, and 461 of them were minors. There was one case, however, that included 400 foreign victims, so this case was left out of the average as it would skew the mean.

### Geographical trends

Next, the relationship between federal districts and sex trafficking cases is analyzed, as shown by the map in Figure 2. Through this map, we are able to see that more than a fifth of these cases are occurring along the western coastline in District 9. The next highest concentration of cases is up north in District 2 with 13.4% of all cases, followed by District 4 on the eastern coast with 13.4%. Table 3, shown below, provides more information on these geographic trends. Table 3 looks at the cases involving foreign victims and their location. As previously mentioned, there were 32 cases with foreign victims. Nine of these cases occurred in District 2, followed by eight cases in District 11, and finally, six cases in District 9. Because there is no known country of origin for most of these foreign victims, it is difficult to say why these particular districts contain so many cases involving foreign victims. Though it is only speculation, I believe there are so many cases involving foreign victims in these districts because they are all highly populous districts along a coastline with a prominent international presence.

The final table, Table 4, takes a closer look at defendant demographics. While there were 516 total defendants, only 386 of them had actually been sentenced for their crime. Of these 386

defendants, about half of them (190) were Black. There were 128 Hispanic defendants, 47 White defendants, 10 Asian defendants, and three defendants with no race listed. 77% of defendants were male, so it was clear that the majority of offenders are male. It is also important to note that many of the female defendants were also victims who had been arrested for a sex trafficking-related charge. The defendant's average age was 32. Each defendant would receive, on average, 4 charges. They would then be sentenced, on average, for two of those charges with the mean sentence being 174 months.

#### Discussion and Conclusion:

Though this is only an exploratory study, the data gives a great deal of information about sex trafficking cases at the federal level. It is clear that the number of cases and the prosecution of cases is increasing and will most likely continue to increase. There is a high concentration of cases on the Eastern and Western coasts. Because these data do not provide information on the state or country of origin for the victims, one can only speculate as to why this is occurring. Further understanding of this issue, however, can help law enforcement understand how and why victims are being trafficked to and in these specific regions. The data also shows us that this is an issue that is primarily affecting domestic-born victims and especially minors. Finally, it appears that offenders of sex trafficking are mostly relatively young males who receive an average sentence length of 14 years for their crime.

There were some limitations in this study and areas in which future studies can expand upon. For example, there are no details on cases that are not sentenced under human trafficking laws. In the dataset, there was one case with 38 defendants who each received a singular charge of racketeering. It could be helpful for future research to understand the reasoning behind charging decisions, and why some defendants are charged with sex trafficking or a sex-based

charge and some are not. It is also crucial to understand the prosecution of female victims. As previously stated, many of the female defendants in my dataset were also victims of trafficking. While acts such as prostitution and transportation of a minor for sex-related purposes are crimes, it is important to understand the motive behind the act. For example, some defendants are acquitted of homicide because the intent was not present in the execution of the crime. That same principle should be applied to sex trafficking, and certainly to victims of trafficking. We need to focus on the rehabilitation rather than the incarceration of trafficking victims. If we continue to incarcerate trafficking victims without any rehabilitation or empathy for their situation, victims will be hesitant to come forward. Victims of trafficking need to feel protected by the law just as victims of any other crime.

Sex trafficking is an especially heinous crime, and those that prey on the vulnerable should be punished as severely as possible. While it's encouraging that the prosecution and punishment of trafficking is increasing, the criminal justice system still has a way to go. It is pertinent that we learn more about why trafficking happens, who is involved and why, how to further prevent it from occurring, and how the justice system can better serve victim of trafficking.

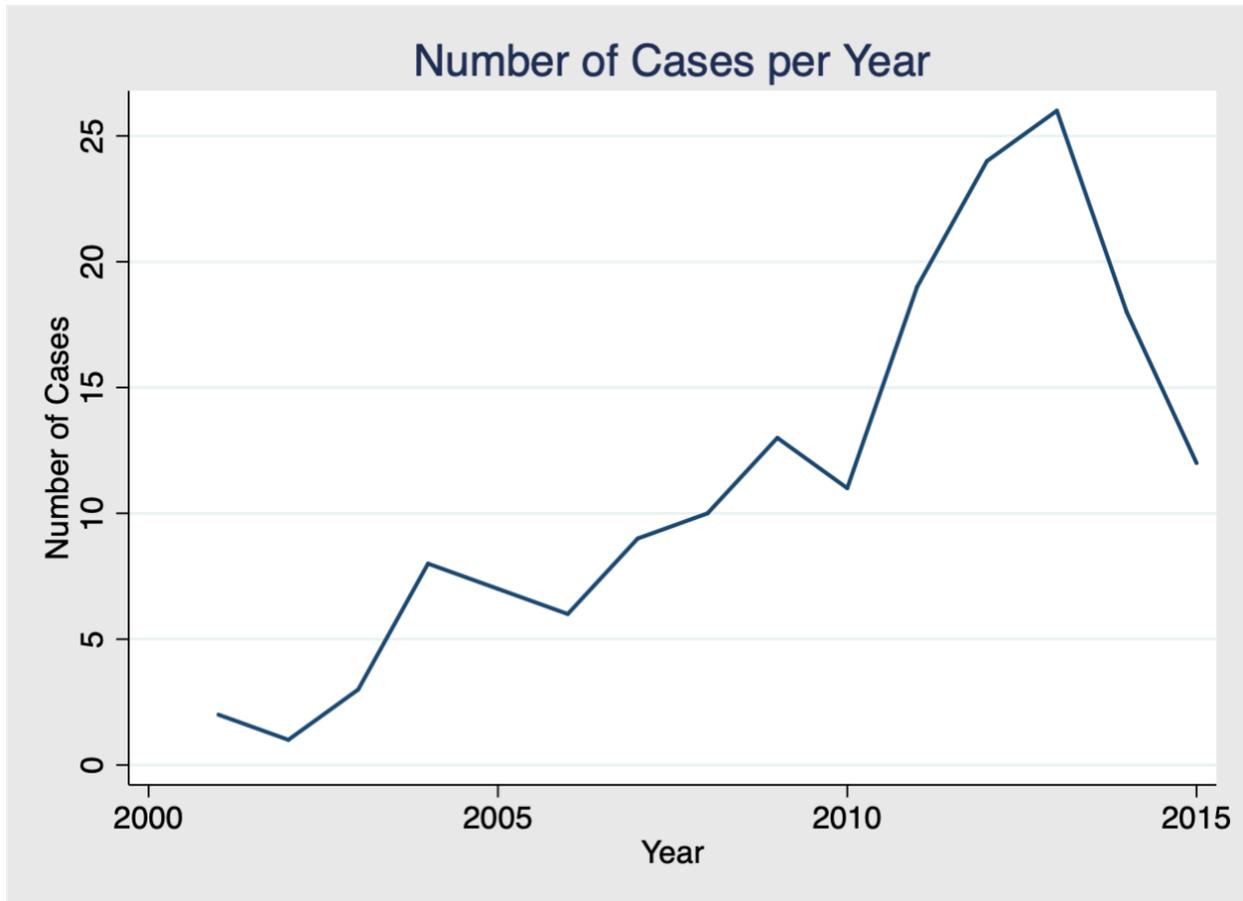


Figure 1: 14-year trend in sex trafficking cases

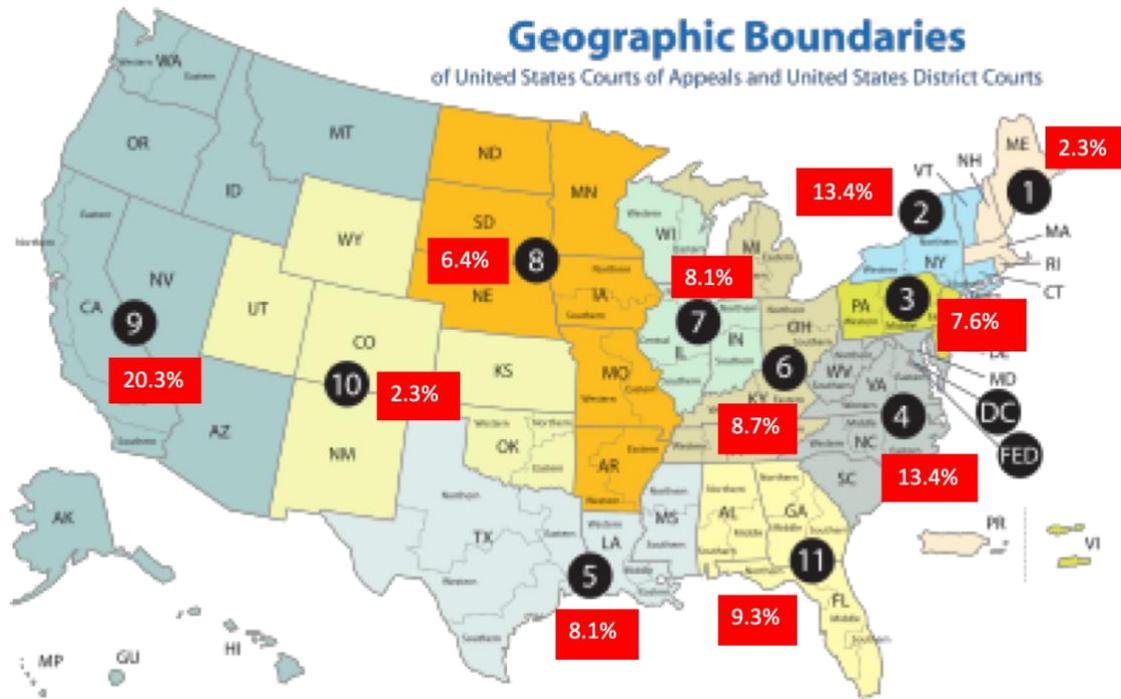


Figure 2: Percent of federal cases prosecuted by district

Variables	N	%
Minor victims	168	97.7
Foreign victims	32	18.6
Domestic victims	140	81.4

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**Table 2: Average number of defendants and victims per case**


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Variable	n	$\bar{x}$	s
# Defendants	516	3.00	3.84
Total Victims <sup>a</sup>	1620	7.18	31.65
Minor Victims	461	2.73	3.60
Foreign Victims <sup>a</sup>	699	9.65	70.14

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<sup>a</sup>one case with 400 victims was excluded from the average

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**Table 3: Cases involving foreign victims**


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Variable	n	%
Foreign Victims <sup>a</sup>	32	19%
By District <sup>b</sup>		
2 (New York)	9	39%
3 (Pennsylvania)	2	15%
4 (Virginia)	2	9%
5 (Texas)	5	36%
9 (California)	6	17%
11 (Florida)	8	50%

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<sup>a</sup> No country of origin represented

<sup>b</sup> Percentages are for the total number of cases in that district

Table 4: Defendant demographics		
Variables	N	%
Defendants		
386		
Ethnicity		
Asian	10	3
Black	190	50
Hispanic	128	34
White	47	12
Other	3	1
Gender		
Female	87	23
Male	291	77
Age <sup>a</sup>		
	$\bar{x}$	S
	31.52	9.77
Charges		
	$\bar{x}$	S
Total Charges	3.57	1.92
Sentences		
Total Sentences	2.14	1.41
Highest Sentence Length	174.31	241.19
<sup>a</sup> 11 defendants with no listed age; percentages are calculated without those 11 defendants (n=367)		

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