

# Trafficking in Native Communities

by Victoria Sweet, JD



Although attention to human trafficking has grown in the last few years, trafficking is not a modern crime. Trafficking has existed in Native communities for centuries, since the earliest point of contact with Europeans.<sup>i</sup> According to journal accounts, Christopher Columbus engaged in the exploitation of Indigenous people from the moment he encountered them, including providing Indigenous women and girls for his crew and tolerating rape and other atrocities.<sup>ii</sup> This behavior set the tone for the exploitation and abuse of Native women at the hands of non-Native men that continues into the 21st century.

In an article documenting the history and describing lingering effects of historical attitudes and behaviors, legal scholar Sarah Deer wrote “[t]oday, the eroticized image of Indian women is so commonplace in our society that it is unremarkable—the image of a hypersexual Indian woman continues to be used to market any number of products and ideas.”<sup>iii</sup> Normalization of these hyper sexualized images and historical attitudes contribute to views of Native women that disparage or fetishize their ethnicity. In a report on the prostitution and trafficking of Native women in Minnesota, Native women share their experiences to illustrate how ethnicity is directly connected to why they became prostitutes and how they were treated by clients. One woman said “I’m put down anyway, so why not prostitution? I’m called a

‘squaw’, so why not?”<sup>iv</sup> Another, discussing a client said “[h]e likes my hair down and sometimes he calls me Pocahontas. He likes to role play like that. He wants me to call him John.”<sup>v</sup>

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While many studies provide statistics on other forms of violence, little empirical human trafficking data exists. The reasons for this vary. Many trafficking victims do not identify themselves as victims. They suffer from fear, shame, and distrust of law enforcement.<sup>vi</sup> It is also not unusual for trafficking victims to develop traumatic bonds with, and want to protect, their traffickers because of the manipulative nature of this crime. However, data and research from related studies suggest that human trafficking may likely not only affect Native women and girls, but also disproportionately impact them. This article will explore child protection implications of trafficking through the review of two bodies of research that may provide useful information on trafficking of Native women and girls 1) the research on the existence of predictive risk factors within the community and 2) the data on the impact of the commercial sex trade.

## PREDICTIVE RISK FACTORS

Generally, it is estimated that 50 to 80% of identified trafficking victims are or have been involved with child welfare services at some point in their lives.<sup>vii</sup> Traffickers often prey on children and youth minimal social support.<sup>viii</sup> Additional risk factors include: poverty; limited education; lack of work opportunities; homelessness, being an orphaned, runaway, or "thrown away" youth; history of previous sexual abuse; physical, emotional, or mental health challenges; drug or alcohol addiction; post-traumatic stress disorder; multiple arrests; and a history of truancy or being expelled.<sup>ix</sup>

These risks may be magnified in Native communities. According to the most recent data available "Native American children are overrepresented [in foster care] at a rate that is 2.1 times their rate in the general population"<sup>x</sup> and as many as 32.4% of Native children and youth live in poverty. Intergenerational trauma patterns<sup>xi</sup> associated with the history of tribal relocations, boarding schools, and large scale adoptions of Native children have increased the likelihood that Native women and girls will experience additional predictive risk factors.<sup>xii</sup> Reports from Alaska also suggest that traffickers may target Native girls. In 2010, Anchorage police and the Federal Bureau of Investigations warned delegates at the Association of Village Council Presidents annual convention

of a rise in rural Alaska Native girls and women who leave their families and villages for Anchorage being lured into prostitution with the promise of security. The sex-traffickers see these young Native runaways as especially easy prey.<sup>xiii</sup>

## COMMERCIAL SEX TRADE DATA

Information on commercial sex trade can help paint a picture of trafficking in Native communities. Although not every person involved in prostitution is legally a trafficking victim, according to limited data, many are. In one commercial sexual exploitation study, researchers discovered that about half of the women interviewed "met a conservative legal definition of human trafficking."<sup>xiv</sup>

A review of community impact data taken from four formal studies demonstrates the disproportionate impact the commercial sex trade has on indigenous communities in both the United States and Canada. In Hennepin County, Minnesota, roughly 25% of the women arrested for prostitution identified as American Indian while American Indians comprise only 2.2% of the total population.<sup>xv</sup> In Anchorage, Alaska, 33% of the women arrested for prostitution were Alaska Native, but Alaska Natives make up only 7.9% of the population.<sup>xvi</sup> Canadian studies show similar results. In Winnipeg, 50% of adult sex workers were

defined as Aboriginal, while Aboriginal peoples comprise only 10% of the population<sup>xvii</sup> and 52% of the women involved in the commercial sex trade in Vancouver were identified as First Nations, while First Nations people comprise only 7% of the general population.<sup>xviii</sup>

Though this data does not provide a complete picture of the impact of either the commercial sex trade or human trafficking on indigenous communities, it does illuminate a disturbing trend. In all four studies, indigenous women were disproportionately represented in the commercial sex trade. Since close to half of sex trade workers may meet a legal definition of trafficking victims, it stands to reason that disproportionately large numbers of Native women may be victims of trafficking and trafficking threatens the security of indigenous communities.



## RECOMMENDATIONS

Native women and girls may continue to be disproportionately impacted by human trafficking as long as society continues to embrace hyper sexualized and degrading images of Native women and intergenerational traumatic patterns are not effectively addressed. Mitigating these risks begins with education. Communities should:

- Continue to raise awareness within communities of the signs of trafficking and of the increased risk for Native women both on and off reservations.
- Train educators, medical workers, social workers, law enforcement, street outreach workers, attorneys, judges, and other related professionals on identification and response.
- Pay particular attention to culturally appropriate services for Native girls and women trafficked outside of their reservations.
- Explore solutions to the rates of Native children placed outside of the family or extended family and to problems associated with ICWA compliance. Both of these issues increase the number of Native children in care.
- Improve protocols to track children in the system to identify missing foster child in a timely manner.

Courts can also develop court rules and best practices to deal with trafficking victims and change the way trafficked youth are treated in courts around the country. According to Los Angeles Superior Court Commissioner Catherine J. Pratt, youth end up charged with a crime that “arguably they cannot commit . . . if you are too young to consent to sex . . . you are too young to consent to sell sex. . . . We lock them up, take away their ability to make decisions for themselves and label them with some of the most shameful terms used to describe humans: ‘prostitutes’ and ‘criminals.’”<sup>xix</sup>

Legislatures around the country should continue to tackle the need for better legal codes that define human trafficking appropriately, mandate strong consequences for traffickers, and protect victims. Efforts should address the need for rehabilitative services like long term housing and job training and for more research to assist policymakers in understanding the impact trafficking has on Native communities and off reservation community members. Steps need to be taken to plan for the future and mitigate risk to end the cycle of abuse and exploitation.

<sup>i</sup>ALEXANDRA PIERCE & SUZANNE KOEPLINGER, *NEW LANGUAGE, OLD PROBLEM: SEX TRAFFICKING OF AMERICAN INDIAN WOMEN AND CHILDREN 2* (National Online Resource Center on Violence Against Women 2011), available at [www.vawnet.org/assoc\\_files\\_vawnet/ar\\_nativesextrafficking.pdf](http://www.vawnet.org/assoc_files_vawnet/ar_nativesextrafficking.pdf).

<sup>ii</sup>For a thorough review of the history of the exploitation of Indigenous women, see Sarah Deer, *Relocation Revisted: Sex Trafficking of Native Women in the United States*, 821 Wm. MITCHELL L. REV. 621, available at <http://www.wmitchell.edu/lawreview/document/8.Deer.pdf>.

<sup>iii</sup>*Id.* at 626.

<sup>iv</sup>MELISSA FARLEY, ET AL., *GARDEN OF TRUTH: THE PROSTITUTION AND TRAFFICKING OF NATIVE WOMEN IN MINNESOTA* 33 (2011).

<sup>v</sup>*Id.* at 32.

<sup>vi</sup>STATE OF ALASKA TASK FORCE ON THE CRIMES OF HUMAN TRAFFICKING, PROMOTING PROSTITUTION AND SEX TRAFFICKING, FINAL REPORT AND RECOMMENDATIONS 1 (2013), available at <http://www.law.state.ak.us/pdf/admin/021513-TaskForceFinalReport.pdf>.

<sup>vii</sup>*Id.* at 3.

<sup>viii</sup>*Id.* at 4.

<sup>ix</sup>STATE OF ALASKA TASK FORCE ON THE CRIMES OF HUMAN TRAFFICKING, PROMOTING PROSTITUTION AND SEX TRAFFICKING, *supra* note vi at 6-7.

<sup>x</sup>NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, *DISPROPORTIONALITY RATES FOR CHILDREN OF COLOR IN FOSTER CARE* 7 (Technical Assistance Bulletin 2013).

<sup>xi</sup>CENTER FOR NATIVE AMERICAN YOUTH, *FAST FACTS ON NATIVE AMERICAN YOUTH AND INDIAN COUNTRY* (2013), available at <http://aspennstitute.org/sites/default/files/content/images/Fast%20Facts.pdf>.

<sup>xii</sup>Maria Yellow Horse Brave Heart & Lemyra M. DeBruyn, *The American Indian Holocaust: Healing Historical Unresolved Grief*, 8 AM. INDIAN AND ALASKA NATIVE MENTAL HEALTH RES. 75 (1998).

<sup>xiii</sup>Alex DeMarban, *FBI, APD: Sex-Trafficking Rings Target Rural Girls New to Anchorage*, ALASKA DISPATCH NEWS, Oct. 7, 2010, available at [www.adn.com/article/fbi-apd-sex-trafficking-rings-target-rural-girls-new-anchorage](http://www.adn.com/article/fbi-apd-sex-trafficking-rings-target-rural-girls-new-anchorage).

<sup>xiv</sup>FARLEY, ET AL., *supra* note vii at 3.

<sup>xv</sup>ALEXANDRA PIERCE, *SHATTERED HEARTS: THE COMMERCIAL SEXUAL EXPLOITATION OF AMERICAN INDIAN WOMEN AND GIRLS IN MINNESOTA* 32 (2009).

<sup>xvi</sup>FARLEY, ET AL., *supra* note vii at 19.

<sup>xvii</sup>MAYA SESHIA, *THE UNHEARD SPEAK OUT: STREET SEXUAL EXPLOITATION IN WINNIPEG* 16 (2005), quoting Ndaawin, *PROTECTING CHILDREN INFORMATION GUIDE: PREVENTING THE SEXUAL EXPLOITATION OF CHILDREN AND YOUTH THROUGH PROSTITUTION* 14 (date published unknown).

<sup>xviii</sup>Melissa Farley, et al., *Prostitution in Vancouver: Violence and Colonization of First Nations Women*, 42 *TRANS-CULTURAL PSYCHIATRY*, 249 (2005).

<sup>xix</sup>Catherine J. Pratt, *No Such Thing as a Child Prostitute: A Perspective from the Bench*, HUFFINGTON POST, Jan. 30, 2015, [http://www.huffingtonpost.com/catherine-j-pratt/no-such-thing-as-a-child-\\_b\\_6581402.html](http://www.huffingtonpost.com/catherine-j-pratt/no-such-thing-as-a-child-_b_6581402.html).