Defining Worthy Victims: State-Level Legislative Decisions to Prevent the Criminalization of Commercially Sexually Exploited Children in the United States

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DEFINING WORTHY VICTIMS: STATE-LEVEL LEGISLATIVE DECISIONS TO PREVENT THE CRIMINALIZATION OF COMMERCIALLY SEXUALLY EXPLOITED CHILDREN IN THE UNITED STATES

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ABSTRACT

DEFINING WORTHY VICTIMS: STATE-LEVEL LEGISLATIVE DECISIONS TO PREVENT THE CRIMINALIZATION OF COMMERCIALLY SEXUALLY EXPLOITED CHILDREN IN THE UNITED STATES

December 2019

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The federal Trafficking Victims Protection Act of 2000 (TVPA) includes children (anyone under 18) who are sexually exploited for commercial purposes in its definition of human trafficking victims. However, most states currently arrest and/or prosecute sex trafficked children for prostitution. From 2008 to 2017, six states neither arrested nor prosecuted sexually exploited children for prostitution; eight retained the right to arrest, but not prosecute minors for prostitution; and 36 states both arrested and prosecuted this population for prostitution. All 50 states passed their first human trafficking laws between
2003 and 2013. Washington passed the first in 2003 and Wyoming was the last state to pass a human trafficking law in 2013. All state human trafficking laws include a wide variation of provisions addressing the commercial sexual exploitation of children (CSEC) across states, which continue to change as various states pass additional CSEC statutes each year. Despite this tension, little research has been conducted on the wide variation among state-level child sex trafficking statutes. Most research on sex trafficking legislation focuses on federal trafficker convictions. Therefore, studying state legislation is necessary to understand CSEC policy because local law enforcement and service providers interact with sexually exploited youth more often than federal officials and these state-level statutes often determine whether children are treated as criminals or victims. Additionally, states determine crime policy more often than the federal government due to the U.S. federalist system. This mixed methods study uses Event History Analysis and interviews with anti-criminalization advocates, state legislators, state legislative aides, and state prosecutors to examine social, economic, and political factors associated with legislative decisions prohibiting the arrest and/or prosecution of sexually exploited minors for prostitution. Statistical analyses suggest states with human trafficking task forces and mandated CSEC-specific services are more likely to pass partial or full non-criminalization legislation. In contrast, states with more people living in areas of concentrated disadvantage, more anti-CSEC NGOs, and lower prevalence of sex trafficking activity are more likely to criminalize this population. Qualitative results indicate participants universally describe non-criminalization legislative processes reflect the dynamics of Punctuated Equilibrium Theory. CSEC Survivor Advocates and state prosecutors as key influencers of CSEC policymaking and the presence of statewide human
trafficking task forces and state-mandated social services in a state are key factors in passing non-criminalization legislation. State legislators and legislative aides also describe specific roles such as Judiciary Committee memberships as particularly influential within the state legislature. The theoretical implications of this study and policy recommendations for anti-criminalization advocates, CSEC stakeholders, and state legislators are also discussed.
ACKNOWLEDGEMENTS

This dissertation is a milestone in my academic career and in my life. I have been fortunate to learn theories, concepts, and tools that would have been impossible if I had not extensively carried out the needed coursework and research. I am grateful to a number of people who have influenced and supported me throughout the research process.

I would first like to thank my advisor Keith Gunnar Bentele who guided me in selecting and structuring the final theme for this research. I would not have been able to do the research and achieve learning in the same manner without his brilliance, patience, and humor.

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Lastly, I must acknowledge how my positionality as a survivor of family-controlled CSEC has informed this project. Enthusiasm for awareness-raising about and commitment to ending CSEC abounds within the anti-human trafficking movement; however, evidence-based approaches to addressing commercial sexual exploitation based on empirical research are notably limited. For that reason, I want to contribute data-driven, gender-based research on how CSEC victims and survivors are perceived and treated in the United States. This research process guides my own understanding of the dynamics that fueled my own personal exploitation, which I can then share with the larger anti-CSEC movement. This is essential because as former Wellesley Centers for Women Executive Director Dr. Susan Bailey stated, “We study our pain,” when reflecting on how researchers often study topics related to their personal wounds. In the case of my dissertation research, the personal is definitely political.

This positionality impacted my experience during this project in three ways. First, my status as a CSEC Survivor Leader afforded me greater access to participants who were wary of speaking to researchers. CSEC stakeholders are often more willing to communicate with survivors as a sign of respect and solidarity. Next, despite this advantage for reaching people, I did not immediately state my CSEC Survivor Leader status because I did not want participants to feel as if they needed to speak to me in a particular way. While I did have four participants agree to speak with me only after learning I am a CSEC Survivor Leader, I did not find any notable differences in these four participants’ responses during the interview analyses. Third, I remained reflexive throughout the research process to contemplate whether my positionality was impacting my research experience. I ensured this reflexivity in two ways: I maintained constant communication with my dissertation committee members,
particularly my committee chair, during my research process to ensure my project’s integrity and I consistently used my field notes journal to write reflections about questioning any potential biases and assumptions.
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CHAPTER 1

INTRODUCTION

1.1 Statement of the Problem

The federal Trafficking Victims Protection Act of 2000 (TVPA) includes children (anyone under 18) who are sexually exploited for commercial purposes in its definition of human trafficking victims\(^1\). However, most states currently arrest and/or prosecute sex trafficked children for prostitution (Shared Hope 2017a). From 2008 to 2017, six states neither arrested nor prosecuted sexually exploited children for prostitution; eight retained the right to arrest, but not prosecute minors for prostitution; and 36 states both arrested and prosecuted this population for prostitution (see Figure 1). All 50 states passed their first human trafficking laws between 2003 and 2013. Washington passed the first in 2003 and Wyoming was the last state to pass a human trafficking law in 2013. All state human trafficking laws include a wide variation of provisions addressing the commercial sexual exploitation of children (CSEC) across states, which continue to change as various states pass additional CSEC statutes each year. Despite this tension, little research has been conducted

\(^1\) While the TVPA defines children as trafficking victims, the law does not mention states’ rights to alter or ignore this federal definition. This tension between federal and state human trafficking statutes points to the need for future research to understand why and how states are ignoring a federal definition of sexually exploited minors.
on the wide variation among state-level child sex trafficking statutes (Price and Bentele 2016). Most research on sex trafficking legislation focuses on federal trafficker convictions (Farrell, McDevit, and Fahy 2010). Therefore, studying state legislation is necessary to understand CSEC policy because local law enforcement and service providers interact with sexually exploited youth more often than federal officials (Butler 2015) and these state-level statutes often determine whether children are treated as criminals or victims (Williams 2010b). Additionally, states determine crime policy more often than the federal government due to the U.S. federalist system (Miller 2008).

Figure 1. State CSEC Victim Non-criminalization Status, 2008-2017
When opposing non-criminalization\(^2\), criminal justice agents often cite the need to be able to control “non-compliant” sexually exploited children with threats of arrest and/or prosecution (Anitto 2011). These officials argue detention protects CSEC victims by separating them from traffickers and sex buyers (Dess 2013) and provides an incentive for sexually exploited minors to seek treatment rather than face incarceration and/or prosecution for prostitution (Adelson 2008). However, this rationale fails to consider that incarceration may re-traumatize sex trafficked children (Saada Saar et al. 2015). Research suggests a large majority of sexually exploited minors have histories of child sexual abuse and neglect prior to exploitation (Silbert and Pines 1981; Estes and Weiner 2001)\(^3\). Locations like police departments and courtrooms can trigger traumatic responses because, “in confinement, youth struggling with the sequelae or consequences of their trauma history may display behaviors that are aggressive in nature” (Espinosa and Sorenson 2016:13). Being perceived as “out of control” is particularly problematic for sexually exploited girls, especially girls of color.

\(^2\) For the purposes of this study, “non-criminalization” refers to states that neither arrest nor prosecute children (anyone under 18) for prostitution, and “partial non-criminalization” refers to states that arrest but do not prosecute children for prostitution. Conversely, “full criminalization” refers to states that retain the right to arrest and prosecute children for prostitution (see Appendix A for three summaries of sample CSEC legislation: full non-criminalization, partial non-criminalization, and full criminalization). Additionally, I initially used the word “decriminalization” to describe states that neither arrest nor prosecute CSEC victims for prostitution, but changed to “non-criminalization” so this research is not confused with state-level legislative efforts to legalize or decriminalize prostitution.

\(^3\) Caution is warranted when reading statistics about CSEC victims and CSEC risk factors because this is a hard-to-reach and hard-to-study population. For that reason, estimates regarding CSEC victims must be interpreted judiciously and these caveats about generalizability must be kept in mind when discussing this population.
because acting outside of racialized, feminine ideals, such as purity and obedience, increases their risk of being labeled as “deviant” (Halter 2010; Epstein, Blake, and Gonzalez 2016).

1.2 Trauma-Informed Approach

Trauma-informed programs are recognized by service providers and clinicians as the most beneficial approach in supporting sexually exploited minors heal from CSEC (van der Kolk 2015; Greger et al. 2015). A trauma-informed approach begins with the understanding that people with histories of commercial sexual exploitation often have difficulties trusting others, especially authority figures such as law enforcement (Menaker and Franklin 2015). With this consideration, a trauma-informed approach promotes building a sense of safety, respect, patience, and stability when working sexually exploited minors (Ko et al. 2008).

Survivor-led service organizations are often lauded by anti-CSEC advocates and clinicians as a particularly effective trauma-informed approach because survivors are uniquely able to empathize with people who are currently being exploited and to build trust with this hard-to-reach population (Clayton, Krugman, and Simon 2013; Department of Justice 2010).

Minnesota’s “No Wrong Door” framework, which protects young people up to age 24 from arrest and prosecution for prostitution, is widely regarded as the “gold standard” of trauma-informed state-level child sex trafficking legislation in the U.S. (NCSL 2017). The only state to utilize a public health approach to addressing CSEC, Minnesota provides housing, as well as physical and mental health victim services; trauma-informed CSEC training for school staff, law enforcement, child protective workers, and health care workers; and coordination amongst multidisciplinary departments working with this population. A recent statewide evaluation indicates a key outcome of this framework has been “an increase
in compassion for youth victims, especially among law enforcement and community members” (Schauben et al. 2017:15).

1.3 Background

Safe Harbor laws were created by CSEC anti-criminalization advocates\(^4\) and state legislators to advocate for trauma-informed CSEC victim protections and services in states that criminalize sex trafficked minors for prostitution (Barnert et al. 2015; ECPAT-USA 2015). However, a wide variation of Safe Harbor laws exists (Butler 2015). For instance, New York passed the first Safe Harbor law in 2008; however, the adopted bill did not include the non-criminalization provisions to prohibit the arrest and prosecution of minors for prostitution that had been proposed in the initial bill (Lloyd 2011). Instead, New York state legislators adopted an “affirmative defense” approach\(^5\) that allows sex trafficked minors to be arrested and charged with prostitution; however, these charges are dismissed if the minor can prove they engaged in prostitution due to “force, fraud, or coercion” (Barnhart 2009). Put simply, “affirmative defense” places the burden of proof of victimization on sexually exploited minors and requires them to admit guilt of engaging in prostitution in order to be considered victims (Shared Hope 2015). Conversely, anti-criminalization advocates consider Minnesota’s “No Wrong Door” approach to be the most effective Safe Harbor law in the country (NCSL 2017). This legislation non-criminalizes sex trafficked minors and ensures they receive services immediately after being identified as victims by any agency or

\(^4\) Anti-criminalization advocates are defined as non-governmental organization leaders, direct service providers, and CSEC Survivor Advocates within this study.

\(^5\) Georgia, Kansas, Louisiana, South Carolina, and Texas also use an “affirmative defense” for sexually exploited minors.
organization such as law enforcement or child welfare (ECPAT-USA 2015).

The inconsistency of these two victim protection approaches illustrates why some anti-criminalization advocates argue Safe Harbor laws are not an effective CSEC legislative strategy (Barnert et al. 2015). For example, research suggests stakeholders in states with Safe Harbor often think their state does not criminalize CSEC victims even when they do, resulting in the belief they no longer need worry about addressing victim protections and services (Butler 2015). This confusion is also compounded by the fact that not all states have the words “Safe Harbor” in their legislation addressing CSEC victim protection and mandated services, while other states consider any CSEC-related legislation to be Safe Harbor (Barnhart 2009).

To avoid further misperceptions, this study operationalizes Safe Harbor in a distinct way. The two primary Safe Harbor components of protecting victims through non-criminalization and providing CSEC-specific victim services are examined as separate legislative efforts. As a result, the policy language of “Safe Harbor” is considered as an analytical concept, rather than a specific piece of legislation. This operationalization clarifies and concretizes the original intention of this legislative strategy to protect and provide services for sexually exploited minors.

1.4 Theoretical and Practical Significance

This study also moves beyond previous research by examining how a broader scope of socio-political factors such socio-economic status, race/ethnicity, and sex assigned at birth issues intersect with state-level CSEC legislative processes. For example, poverty is a leading CSEC risk factor (Estes and Weiner 2001). Therefore, this study examines the association
between the number of people living areas of concentrated disadvantage\(^6\) in each state and the likelihood a state non-criminalizes sexually exploited minors. Historically, people living in areas of concentrated disadvantage have had less political power and minimal access to state policymakers compared with high socio-economic status populations (Wilson 1996; Wilson 2012; Wacquant 2009). Also, community organizations in poor neighborhoods are not able to advocate for youth offenders to the same degree as law enforcement and prosecutors because local leaders do not have the same political access to high-level policymakers (Miller 2008). Therefore, testing whether or not these intersectional economic considerations that inhibit access to policymakers are associated with state-level CSEC legislative processes is necessary. These findings will advance social policy theory by documenting how structural inequalities may be associated with legislative decision to criminalize CSEC victims.

Understanding these factors is also notable because CSEC legislation determines real-life consequences for sex trafficked minors. In addition to poor children, children of color, particularly girls, are at increased risk for being sexually exploited (Estes and Weiner 2001) and are, thus, at increased risk for being arrested and/or prosecuted for prostitution in states that criminalize them (ECPAT-USA 2015; Phillips 2015). Additionally, having a criminal

\(^6\) Concentrated disadvantage is percentage of people living in poverty, percentage of individuals on public assistance, percentage of female-headed households, percentage of unemployed, percentage of people less than age 18, and households with people under age 18 (Association of Maternal and Child Health Programs 2013). While this index excludes race, unlike Wilson’s (2012) original conception of concentrated disadvantage, I chose this particular index because these factors prioritize the number of children living in areas of structural inequality and the feminization of poverty, which are two factors central to CSEC.
record can inhibit future educational, employment, and housing opportunities for CSEC victims (Srikantiah 2007). Moreover, this survivor-led study heeds the growing call for survivors’ perspectives to be central in shaping CSEC policy (Clayton, Krugman, and Simon 2013).

1.5 Research Questions and Objectives

This study seeks to advance these theoretical considerations and practical applications of non-criminalizing sex trafficked children by examining the fundamental question: What factors explain legislative decisions to non-criminalize versus criminalize commercially sexually exploited children between states? This question is answered via the following objectives:

- **Objective 1:** Analyze how anti-criminalization advocates, state legislators, state legislative aides, and state prosecutors use their positions of power to influence the state legislative process to pass or block legislation prohibiting the criminalization of commercially sexually exploited children.

Policy experts posit private, elite stakeholders, such as criminal justice agents, have the most access to high-level policymakers, followed by public interest groups, and then mass publics and organized citizens (Gilens and Page 2014). Conversely, sexually exploited children have very little political power and little access to policymakers (Whittier 2016). Even though anti-criminalization advocates (public interest groups), including CSEC Survivor Advocates, often do not have the same level of power as political elites, formative research suggests their influence may affect change (Goldblatt Grace 2015). For instance, in 2016 CSEC Survivor Advocate Willamina “T” Ortiz Walker Pettigrew and the anti-CSEC non-governmental
organization (NGO) Right 4 Girls partnered with the Los Angeles County Sheriff’s Department and County Board of Supervisors to launch the “No Such Thing as a Child Prostitute” social media campaign to raise awareness about the criminalization of CSEC victims in Los Angeles County and throughout California. Walker Pettigrew’s story of being sexually exploited as a teenager is politically compelling because she was exploited while growing up in and then aging out of foster care. Including this connection to foster care is critical because studies show that the majority of CSEC victims are currently or have been involved with child welfare services at one time (Bounds, Julion, and Delany 2015). Upon launching the educational campaign, Los Angeles County adopted CSEC victim non-criminalization policies, and one year later California became the 6th state to prohibit the criminalization of CSEC victims by passing SB 1322, also known as the “No Such Thing” bill, under the leadership of Governor Jerry Brown and State Senator Holly Mitchell (Rights 4 Girls 2017).

To test these various levels of political power, I use semi-structured, in-depth qualitative interviews to explore how anti-criminalization advocates, state legislators, state legislative aides, and state prosecutors describe how they interact with and believe they influence the state-level CSEC legislative process. For anti-criminalization advocates and policymakers, I examine their intentions behind being involved with CSEC issues; their perception of why their state supports (or opposes) non-criminalization of sex trafficked children; and how they perceive that CSEC issues, such as non-criminalization, have changed over time. I explore what state legislators and their legislative staff consider to be the most salient political factors they consider when deciding to support or to oppose the non-
criminalization of sex trafficked children in their states. Finally, I consider all participants’ opinions on the social characteristics and political climates in which their state responds to CSEC victims as a way to flesh out and validate the quantitative portion of this study.

- **Objective 2:** Identify the social, political, and economic contexts in which states non-criminalize or criminalize commercially sexually exploited children.

Using discrete Event History Analysis, this study tests the probability states will pass partial or full non-criminalization by testing a wide array of social, economic, and political factors associated with state-level policymaking processes from 2008 to 2017. Examining these two types of legislation simultaneously is vital because these are the two primary approaches to legislating CSEC victim protections (Shared Hope 2017b). In addition, this study also tests the probability states will pass full non-criminalization legislation utilizing these same variables.7

I examine whether state-level legislative decisions not to criminalize sexually exploited children are a bipartisan issue, and whether certain social characteristics of a state increase the likelihood a state will non-criminalize sexually exploited minors. Additionally, I examine state budget totals because it has been argued states with fewer economic resources tend to introduce fewer new initiatives and pass less legislation due to state budget constraints (Grogan 1994). Are states with higher per capita levels of people living in areas

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7 Both types of legislation are tested because I am most interested in examining the probability states will not criminalize CSEC victims. However, only examining these statutes may not provide enough statistical variation. Therefore, I also test the probability states will pass partial non-criminalization and non-criminalization legislation because more states have passed this legislation, thus providing increased statistical variation.
of concentrated disadvantage more likely to criminalize CSEC victims? Are states with more female state legislators less likely to criminalize sexually exploited youth? Are states with mandated or authorized law enforcement training more likely to non-criminalize CSEC victims? Discovering which factors are significantly associated with states that non-criminalize sex trafficked minors provides a rich understanding of how states respond to this population.
CHAPTER 2
THEORY AND PRIOR RESEARCH

2.1 Introduction

This chapter reviews the scholarly foundation of this study by outlining the theoretical framework and previous research related to state-level policymaking processes and current state-level CSEC legislative responses. Grounding this study within policymaking theories and evidence-based praxis is essential because few longitudinal studies have been completed on CSEC legislation. Also, Durkheim (1964) argued laws reflect social beliefs. For that reason, it is imperative to consider the various circumstances in which non-criminalization laws are adopted.

In order to explore these legislative dynamics, I first outline the political science theories used in this study. These theoretical concepts are then applied to state-level CSEC legislative policymaking mechanisms to navigate the socio-political contexts in which states do or do not criminalize sexually exploited minors for prostitution. I also examine how stakeholders utilize their positions of power to influence public opinion and CSEC policy making processes. Next, I examine three types of state legislation to explore how state policymakers are responding to constituent and stakeholder pressures to address CSEC. Finally, I outline prior qualitative and quantitative research I completed on state-level CSEC legislation, which serves as the foundation of this dissertation research.
2.2 Theoretical Framework

Many political science scholars who study policy trends utilize Baumgartner and Jones’s (2009) Punctuated Equilibrium Theory, which argues policy change can occur rapidly after long periods of relative stability. Two countervailing forces are at work within this dynamic: 1) the presence of existing political and governmental institutions reinforcing the status quo around an issue and 2) the activation of a new group of people dedicated to changing existing policy and public opinion about the same issue. Baumgartner and Jones borrow Schattschneider’s (1975) concept of “mobilization of bias” to describe how these new interest groups promote change by seeking to redefine the issue’s prevailing cultural narrative, or “policy image.” New interest groups often use emotional awareness-raising campaigns as the primary causal mechanism to change the public’s hearts and minds about the issue in order to, ultimately, create a new policy image.

Arnold (1990) explains that whether or not public opinion on an issue changes depends on two factors. First, people must weigh the costs and benefits of a policy issue, and, second, people must be able to see how a particular policy is directly linked to addressing an issue. This “causal chain” links the cause and effect of legislative decisions to policy costs and benefits. Which is to say, constituents weigh their decisions about how they feel about an issue based on potential costs of proposed policy outcomes or the causes of known policy benefits. As a result, long causal chains are not popular with voters because policy outcomes may be obscured by multiple steps linking these legislative actions to the costs and benefits. Furthermore, whether or not the causal logic of their policy preference is empirically accurate
according to experts does not matter to constituents, because experts, policymakers, and ordinary citizens have varying understandings of cause and effect (Arnold 1990).

According to Arnold’s (1990) framework, once constituents decide they care about the issue and accept the cause and effect of a particular policy, they often voice their concerns to elected officials and demand that policymakers address the issue legislatively. This change of previously “inattentive publics” becoming “attentive” signals to policymakers their constituents now consider an issue to be essential. It is argued this activation of constituents is notable because increased public engagement results in policymakers’ prioritization of the matter, since re-election is their main concern (Fenno 1978; Mayhew 2004). Even if a legislator disagrees with specific policy stance, they may support legislation because they do not want to appear uncaring about an issue popular with their constituents. Policymakers may be willing to contradict their beliefs and support such “politically compelling” issues in order to secure re-election (Arnold 1990).

Demands from concerned citizens and community groups, however, do not guarantee policymakers will adopt their constituents’ suggestions. Policy experts posit private, elite stakeholders, such as criminal justice agents, have the most access to high-level policymakers, followed by public interest groups, and then mass publics and organized citizens (Gilens and Page 2014). It is argued prosecutors are more centrally involved in creating state crime policy because they want to attain easier convictions and incarcerate more people by gaining more discretionary authority than defense attorneys and judges (Gottschalk 2006; Alexander 2012; Pfaff 2017). Miller (2008) found that criminal justice agent preferences, particularly prosecutor and law enforcement, are more often represented in
federal and state policymaking than the preferences of community groups and crime victim advocates due to criminal justice agents’ robust financial resources, highly organized lobbying efforts, and access to federal and state legislative processes. Conversely, the study showed that community groups and crime victim advocates were more active in state and local legislative processes; however, their voices did not carry as much weight in policy outcomes because higher-level statutes carry more weight than local-level policies. These results illustrate the mechanisms of how criminal justice agents’ preferences dominate community groups and advocates’ preferences because they are able to mobilize greater resources at higher levels of policymaking.

Despite these various levels of political influence, Kingdon (2010) proposes that individuals and groups – “policy entrepreneurs” who are dedicated to an issue – can be successful in reframing an issue and policy if the political climate is open for change. Kingdon’s Multiple Streams Model argues issues are constructed in three streams – problem, policy, and politics – which can ultimately converge when a “window of opportunity” opens, making the emergence of new policy possible. The problems stream refers to all social problems that are constant and ongoing, while the policy stream identifies potential policy solutions suggested by legislators, interest groups, and public opinion. Lastly, the politics stream refers to how political pressure determines which issues actually gain attention and result in legislative change. While these three streams operate separately and independently, the moment they all come together through a focusing event, such as a school shooting or a recorded incidence of police brutality, a window of opportunity opens. This window propels
a problem into the national spotlight, and policymakers are compelled to find solutions in the policy stream (Kingdon 2010).

2.3 Punctuated Equilibrium Theory and CSEC

The recent proliferation of CSEC state-level statutes that provide more protections and state-mandated services for sex trafficked children may be explained by Punctuated Equilibrium Theory. States have passed numerous state-level CSEC policies as child sex trafficking has become an increasingly salient political and social issue over the past fifteen years (Halter 2010). I assert the U.S. is in the midst of one of these changes in regards to sex trafficked children being treated as victims, not criminals. For example, while only eight states passed partial or full non-criminalization legislation over an eight-year span (2007-2015), six states passed these statutes between 2016 and 2018 (Shared Hope 2017b).

I hypothesize this rapid change is being driven by CSEC Survivor Advocates who are the new group dedicated to shifting the policy image about CSEC, toward viewing sexually exploited children as victims, not criminals. CSEC Survivor Advocates have become increasingly vocal in sharing their experiences, particularly with the rise of other survivor-based movements such as #metoo and #timesup, in order to promote change. This growing recognition of the importance of survivor-based models—adapted from the domestic violence movement and substance abuse counseling—views survivors as “a complete human being, with cultural and historical context, capable of expert knowledge” (Gilfus 1999:1253). This “mobilization of bias” is challenging criminal justice institutions that have historically labeled sexually exploited children as “child prostitutes” who need to be incarcerated rather than receive services.
I also assert CSEC Survivor Advocates’ organized awareness-raising efforts, such as social media campaigns, participation in CSEC legislative processes, and sharing their emotional testimonies of surviving CSEC, are creating a new understanding of CSEC issues, which shifts the policy image for sexually exploited minors to be viewed as victims, not criminals. Given Arnold’s understandings of causal chains, we can expect that this shift in policy image then activates previously “inattentive” publics to voice their concerns to politicians about incarcerating and prosecuting sex trafficked children for prostitution. As a result of CSEC Survivor Advocates’ efforts promoting non-criminalization, numerous constituencies have called for state legislatures to respond to this issue by passing non-criminalization legislation (Anitto 2011). A recent case in Florida exemplifies how the shifting sexually exploited minors’ policy image translates into not criminalizing this population. The Florida state legislature considered amending their 2012 Safe Harbor legislation by introducing a provision (SB 1724) that mandated placing all child sex trafficking victims in locked facilities while receiving treatment after one CSEC victim was raped when she ran away from the facility where she was receiving services. This provision was ultimately removed after the state legislature received widespread pressure from the general public (Ravoira 2014).

2.4 CSEC Policy Image

The outcry from concerned Florida citizens illustrates a shift in the policy image of sexually exploited minors. Historically, this population has been labeled as “bad kids” who do not deserve non-criminal protection and services (Williams 2010a). It is argued this bias occurs because most sexually exploited minors do not fit our current gendered, racialized,
and class-based narrative of childhood being a time of “innocence” (Scott and Steinberg 2008). This cultural model of youthful purity favors children who are white (Epstein, Blake, and Gonzalez 2016; Phillips 2015), heterosexual (Friedman 2013), and middle- to upper-class (Wacquant 2009) and have little or no sexual agency or knowledge (even if sexual knowledge has been obtained through sexual violence) (Levin and Kilbourne 2008; Whittier 2016). Additionally, children who fit this ideal have access to quality education and adequate healthcare, and must live in secure housing (Isenberg 2016) within a heterosexual nuclear family (Price 2012; Tolman 2005).

The experience of sex trafficked youth, however, is often far outside of this idealized model. This is essential because sexually exploited minors may be viewed as complicit in their exploitation rather than victims in need of services and support (Adelson 2008). For example, Menaker and Miller (2012) that found sexually exploited girls were more likely to be viewed as culpable for their victimization unless their lack of agency was uncontested with proof of being “forced” into prostitution by a third party. Similarly, Halter (2010) found that law enforcement officials were less likely to criminalize sexually exploited minors, except for children who were not coerced by a perpetrator, were picked up directly by police (rather than being reported by a “concerned” individual), and/or had prior criminal record. These identifications suggest sexually exploited minors who did not fit the image of an “innocent victim” and/or did not have access to social supports and resources were more likely to be viewed as criminals.

In addition, gendered patterns often lead to males being overlooked as victims of commercial sexual exploitation. Due to patriarchal norms, men and boys are often presumed
to be child sexual abuse perpetrators, traffickers, and sex buyers (Friedman 2013), or complicit and willing sex workers (Dennis 2008). However, similar patterns of vulnerability are found among commercially sexually exploited males as among females; sexually exploited males have high rates of previous physical and sexual abuse (Estes and Weiner 2001). Many males report being either runaways or “throwaways” who were forced by unsupportive family members or caregivers to leave their homes for being gay, bisexual, or transgender (Curtis et al. 2008).

2.5 “Non-compliance” and Criminalization

Sexually exploited minors must also be cooperative and respectful toward authority, particularly criminal justice agents, to fulfill the “childhood innocence” ideal (Butler 2015). This is critical because prosecutors and law enforcement argue having the legal authority to threaten this population with arrest and/or prosecution is an essential tool in controlling “non-compliant” kids (Menaker and Franklin 2015). They also cite incarceration as a critical way to keep this population “safe” from traffickers and buyers when comprehensive, trauma-informed shelters and adequate social services are often not readily available (Williams 2010a). This rationale reflects the criminal justice system’s historically paternalistic stance toward juvenile justice, which views the state’s role as “a benign super-parent with the authority and duty to protect children and promote their development into productive adults” (Scott and Steinberg 2008:63). It is argued this centrality of adult power, particularly in a criminal justice context, reinforces patriarchal norms of male dominance, which demands obedience from children within a social framework of paternal authority (hooks 2000; Whittier 2009). Stuart (1998) utilizes the phrase “therapeutic coercion” to describe this
“police as social workers” dynamic, which “conflates law enforcement with healing, and utilizes police force as a threat of social control” (292). Put simply, sex trafficked youth are expected to make a “rational choice” of paternal protection by authorities rather than resisting their “help”; otherwise, they may remain suspect of deviance or complicit in their exploitation (Feld 1999). Srikantiah (2007:199) explains,

> Once the victim is understood to possess the ability to choose, she must exercise that choice to cooperate with prosecutorial demands. If a victim fails to cooperate because she fears reprisals against herself or her family, or is still under the trafficker’s psychological control, her legitimacy as a victim is in question.

Therefore, sex trafficked youth are expected to cooperate with criminal justice officials, otherwise, they often face criminalization (Annitto 2011).

Sex trafficked minors’ “compliance” is also an essential issue for state-level policymakers when considering supporting or opposing CSEC non-criminalization legislation. State legislators pay close attention to their constituents’ policy preferences for the different types of interventions and the long-term well-being of sexually exploited children. Therefore, given Fenno (1978) and Mayhew’s (2004) understanding of re-election being the politicians’ primary concern, we can expect policymakers to adopt whichever policies they perceive their constituents want. For example, despite growing evidence that trauma-informed services are the most effective way to address CSEC victims’ complex needs (Clawson, Salomon, and Goldblatt Grace 2008; Ko et al. 2008), constituents may strongly believe a “tough love” approach is preferable when interacting with sexually exploited youth in order to “whip these kids into shape.” These same constituents may also disagree that criminalizing this “hardened” population is harmful, per the adage “spare the
rod, spoil the child.” Therefore, if policymakers perceive that their constituents believe CSEC victims should be punished, they will be less likely to support rehabilitation interventions. The causal logic of constituents will almost always be prioritized over the causal logic of advocates when those two causal logics conflict, unless legislators perceive that their constituents are not paying attention to CSEC issues and unlikely to be provoked by “soft on delinquents” legislation (Arnold 1990; Scott and Steinberg 2008).

2.5.1 Trauma and “Non-Compliance”

Sexually exploited children who have experienced abuse and neglect prior to exploitation are also more likely be viewed as “non-compliant” by law enforcement, particularly when victims utilize survival strategies from underlying trauma such as running away from support services or returning to perpetrators (Saada Saar et al. 2015). Understanding the effects of trauma on sexually exploited minors’ behavior is critical because the majority of sexually exploited minors either are currently or were previously involved with child protective services (Bounds, Julion, and Delany 2015). It is argued that children without relational templates of emotional attachment to parents and/or caregivers are easily manipulated by perpetrators’ relationally based grooming tactics, or “boyfriending,” which include promises of love and protection (Raphael, Reichert, and Powers 2010; Price 2012). As a result, sexually exploited children then develop “trauma bonds” with traffickers and sex buyers as a relational survival strategy to fulfill the human need of relational connection (van der Kolk 2015). As a result, sexually exploited minors who experience their relationship with their perpetrator to be based on “love” rather than exploitation rarely consider themselves to be victims (Nelson 2015). Kluft (1990:25) quotes a pimp describing
the “ideal prostitute” to describe how this connection between sexual abuse and relational templates based on abuse makes people who were sexually abused as children vulnerable to commercial sexual exploitation. The pimp states,

Beauty, yes. Sexual expertise, somewhat. That can be taught easier than you think. What is important above all is obedience. And how do you get obedience? You get obedience if you get women who have had sex with their fathers, their uncles, their brothers – you know, someone they love and fear to lose so you do not dare to defy.

Similarly, Dalla (2011) argues this obedient connection to an exploiter results in a cycle of exit and re-entry back into exploitation when a victim begins the process of leaving commercial sexual exploitation. However, criminal justice agents may blame CSEC victims who are trapped in exploitative relationships because they are “unwilling” to leave their perpetrators in order to receive services (Menaker and Franklin 2015).

Furthermore, survival strategies often used by sexually abused and neglected children are a primary reason sexually exploited children are less likely to fulfill the ideal of childhood “innocence.” This is essential because these “survival strategies” may become criminalized (Gilfus 1999). Naramore and colleagues (2015:9) found that all children who had experienced physical neglect, sexual abuse, and parental separation in a sample of juvenile offenders were four to eight times more likely to be detained for trading sex for money, drugs, or a place to sleep, also referred to as “survival sex,” than incarcerated youth who did not experience these traumatic events, and youth offenders who had experienced higher rates of trauma were more than three times more likely to be detained for survival sex than children who had experienced lower rates of trauma. This suggests children who have experienced more abuse and neglect are more likely to trade sex as a survival mechanism,
which may increase their risk of being criminalized for prostitution.

2.5.2 Intersecting Identities and “Non-compliance”

Intersectional issues of race, class, and gender are also essential when considering CSEC and “non-compliance.” Black and brown children are more likely to be viewed as “non-compliant” by criminal justice agents because they face an implicit ethno-racial bias of criminality (Wacquant 2009; Alexander 2012). Understanding such discrimination of children of color is essential because Black girls are arrested for prostitution at the highest rates of all sexually exploited children (Saada Saar et al. 2015; Phillips 2015). Alexander (2012) asserts African-American youth (and adults) living in poor neighborhoods are disproportionately targeted by law enforcement and arrested as a form of racialized social control, which hinders social mobility. Proponents of economic deregulation, individual responsibility, and rolling back of social and economic safety nets, or “neoliberalism,” believe that people, including children, living in areas of concentrated disadvantage, who are often people of color, are there because they are “lazy” and “full of vice” and require criminal corrections instead of services (Wacquant 2009). Soss, Fording, and Schram (2011) argue these proponents also believe that this population would not be poor if they were employed, despite weak social infrastructure and the presence of structural race and class inequalities, such as a lack of employment opportunities that pay a living wage; limited access to transportation; a dearth of affordable, quality child care; and racial discrimination in hiring practices. Recognizing these factors within the context of CSEC is crucial because economic vulnerability is a leading risk factor for CSEC (Estes and Weiner 2001). However, living in areas of concentrated disadvantage, particularly in high-poverty urban areas,
submerges poor youth in an illegal street economy (of which commercial sexual exploitation is a part) utilized to survive when no “legitimate” jobs are available (Wilson 2012). Therefore, neoliberal policymakers and criminal justice agents argue sex trafficked children, particularly those involved in illegal parallel economies, are responsible for their own actions and must receive criminal corrections rather than services (Wacquant 2009; Phillips 2015).

Understanding the relationship between compliance and culpability of sexually exploited children of color is notable because, historically, addressing the exploitation and “immorality” of white women and girls has been prioritized. The Mann Act, also called the White Slave Traffic Act\(^8\), was passed in 1910 in the U.S. to outlaw the interstate or international transportation of women and girls, particularly white immigrants brought to America, for “forced prostitution” (Anitto 2011). The term “white slavery” omits the reality that people of color were also exploited in brothels during this time. Miller (2008:46) argues, “the emphasis on white victims [in the Mann Act] decoupled the crime problem from race and class stratification.” Emphasizing this “decoupling” is valuable because focusing on the sexual exploitation of white women and children reinforces the notion that people of color, who are more likely to live in areas of concentrated poverty, are responsible for their own victimization despite being more vulnerable to CSEC (Nichols 2016). This prioritization of

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\(^8\) The 1945 United Nations (U.N.) Protocol Amending the International Agreement for the Suppression of the White Slave Traffic and the International Convention for the Suppression of the White Slave Traffic first introduced the terminology of “force, fraud, or coercion” to describe lack of consent as the means by which human beings could be identified as human trafficking victims, which expanded the previous “kidnapping” definition. This legislation was inspired by the 1904 League of Nations International Agreement for Suppression of the White Slave Traffic, which addressed concerns over white women and girls being kidnapped in Europe and forced to work in brothels.
white immigrants is also consistent with an American legacy of people of color, particularly women and girls, being viewed as hypersexual and “rapeable” (Nelson 1993; Collins 2000). Philips (2015:1645) argues the idea of CSEC victimhood is “racially coded” and completely omits children of color – specifically Black girls – because “the label of ‘victim’ is not only a rebuttable [sic], but is also never presumed to begin with.”

Wacquant (2009) argues these attitudes of criminalizing poor children, particularly children of color who live in areas of concentrated disadvantage, are salient within the current neoliberal position of the U.S., where social welfare programs have been replaced with an expanded penal system and a massive incarceration movement. Gilens (1999) argues such policy preferences illustrate “social desirability bias” by criminal justice agents, policymakers, and the general public because they hide overtly discriminatory attitudes toward poor and/or children of color behind the American ethos of hard work and “rugged individualism” that promotes the idea that children growing up in “tough circumstances” need to pull themselves up by their boot straps. These attitudes toward addressing juvenile social issues criminally created a strong network of juvenile justice institutions. For instance, juvenile offenders were labeled as “super-predators” in the 1990s after a temporary spike in violent crime (Dilulio 1995), which caused an increase in juvenile justice institutions and infrastructure (Ward 2012). Two key events have influenced this perception of juvenile offenders: violent juvenile crime rates have dropped since the 1990s, and the Supreme Court recently determined that sentencing juveniles to death and to life without parole is unconstitutional due to increasing adolescent neuroscience evidence juveniles do not have the same decision-making capabilities as adults (Scott and Steinberg 2008). In other words,
even though the framing of juvenile justice issues has evolved significantly in recent decades, the presence of juvenile justice detention centers and bureaucracies created in the 1990s can still affect legislative outcomes today. For example, as anti-criminalization advocates promote state-mandated support services for CSEC victims, state legislators and criminal justice officials often cite a lack of resources and funds necessary to create and maintain these support services (Gibbs et al. 2015). As a result, states that have been more punitive toward juveniles historically may choose to maintain the “status quo” by incarcerating this population in pre-existing juvenile detention centers to keep sexually exploited children “safe” from further harm by traffickers and sex buyers (Butler 2015).

2.6 Stakeholder Influence within State-level Policy Making

*CSEC Survivor Advocates*

Within a Punctuated Equilibrium Theory framework, CSEC Survivor Advocates are the new, unique group who have emerged within the anti-trafficking movement in recent years to advocate for recognizing sexually exploited minors as victims, not criminals (Whittier 2009; Brown 2011; Smith 2014). CSEC Survivor Advocates collaborate with anti-criminalization advocacy organizations to put a personalized “face” to CSEC issues and to touch the hearts and minds of voters by telling their moving stories of surviving and exiting exploitation without having to be arrested or prosecuted in order to heal (Lloyd 2011). CSEC Survivor Advocates are also expanding the understanding of CSEC by leading awareness-raising media campaigns and testifying in state-level CSEC legislative hearings.

This convergence of the growing number of CSEC survivors using their voices to advocate for non-criminalization legislation with recent shifts in additional juvenile justice
policy areas has created a “window of opportunity” (Kingdon 1984) for states to pass non-criminalization legislation. Supreme Court rulings have recently abolished the juvenile death penalty and juvenile sentences to life without parole, citing a shift in public opinion about juvenile offenders (Scott and Steinberg 2008). Furthermore, extensive juvenile justice reforms are replacing mass incarceration with “smart incarceration” to reduce the number of incarcerated minors (Scott and Steinberg 2008), and the U.S. is experiencing historic crime lows (Uniform Crime Report 2017).

State Legislators and Constituents

This rise in public concern about child sex trafficking has resulted in an increased expectation of government response to addressing CSEC issues (Annitto 2011). Increased public engagement on child sex trafficking should determine whether and how a policymaker prioritizes CSEC, because legislators are often responsive to their constituents due to reelection concerns (Fenno 1978; Mayhew 2004). Even if a legislator disagrees with specific policy outcomes, they may be “compelled” to support a specific piece of CSEC legislation because they do not want to appear uncaring toward sexually exploited children who are increasingly seen as victims, not criminals (Arnold 1990). Bouché and colleagues (2018) found that human trafficking media coverage significantly increased public concern toward governmental responses to protect child trafficking victims. While media coverage is neither a literal nor singular representation of public opinion, media representation is viewed by policymakers as a strong indicator of public views about an issue (Manza, Cook, and Page 2014). Brown (2011:436) found that legislators argued direct conversations with constituents, community events, and media coverage provided the “the truest or most valid” information
on public attitudes about penal issues. Therefore, given Arnold’s theory of mobilizing “inattentive publics” who were previously unaware about an issue, we can expect an increase in public concern about criminalizing CSEC victims to signal policymakers they need to pay more attention to this issue to show constituents they care about this issue.

Criminal Justice Agents

Given Gilens and Page’s (2014) understanding that elite stakeholders, such as criminal justice agents, have more access to high-level legislators than community groups and the general public, we can expect criminal justice agents’ preferences will be represented in state-level agencies’ CSEC policies more often than anti-criminalization advocates’ preferences for non-criminalization, despite a shift in constituents’ perceptions of sexually exploited minors as victims, not criminals. For example, Farrell (2014) found that the number of area anti-trafficking NGOs and local media reports of human trafficking were not positively associated with criminal justice agencies mandating human trafficking training. On the contrary, news media coverage was negatively related to human trafficking law enforcement trainings (Farrell 2014:15).

Special Interest Groups

Politically affiliated special interest groups are another constituency with a lot of power within state-level policymaking (Kingdon 2010). For instance, the American Legislative Exchange Council (ALEC) is a non-profit coalition of conservative state legislators specifically affiliated with the GOP who draft and promote model state-level legislation, through issue-based task forces (ALEC 2017). ALEC created “State Law to Abolish Human Trafficking” model legislation in 2008, which focused on victim protections,
including not criminalizing sexually exploited minors (Center for Media and Democracy 2017). This group is of particular interest to this study for two reasons. First, previous research (Price and Bentele 2016) suggests states with more Republican state legislators have more comprehensive CSEC legislation and ALEC is a non-profit organization of conservative legislators and private sector representatives. Second, and perhaps more notably, ALEC has recently switched from promoting stringent sentencing laws such as non-violent drug offense “mandatory minimums” through its model “Truth in Sentencing Act” to supporting reductions in prison populations due to economic concerns such as the high cost of imprisoning a large portion of the U.S. population (Dagan and Teles 2016). Thus, their non-criminalization stance on CSEC is noteworthy.

Faith-based organizations have been very active within the anti-trafficking movement for decades, as trafficking of children issues have been of major concern to members of religious congregations and political organizations since the 1990s (Whittier 2018). Faith-based anti-human trafficking NGOs are often active in state-level CSEC legislative processes through alliances with Republican policymakers based on religious mores and morality (Soderlund 2005). Despite this integral involvement within the anti-trafficking movement, requiring human trafficking victims to adopt and adhere to religious ideological requirements such as declaring a belief in God or accepting Jesus Christ as their personal savior in order to receive services is a notable criticism from other anti-trafficking stakeholders (Uy 2011).

Secular anti-CSEC and anti-human trafficking NGOs are also an essential part of state-level CSEC legislative processes. These groups educate the public on CSEC issues and
advocate for issues such as non-criminalization (Williams 2016b). Like faith-based organizations, these NGOs also often partner with state legislators to champion CSEC issues to pass state-level non-criminalization legislation (Bouché and Wittmer 2009). While CSEC, and sex trafficking writ large, are not specifically “women’s issues,” many female state legislators have become involved with this issue because the majority of sex trafficking victims are women and girls (Wittmer and Bouché 2013). Additionally, NGOs often partner with CSEC Survivor Advocates to raise awareness that commercially sexually exploited minors are victims, not criminals. For example, the NGO Rights 4 Girls launched the aforementioned “No Such Thing as a Child Prostitute” education-raising campaign in California.

Finally, anti-CSEC NGOs often participate in human trafficking task forces to address various CSEC issues and to build coalitions with other CSEC stakeholders, including criminal justice agents. This is essential for state-level CSEC legislative processes because, as Gilens and Page (2014) argue, top groups such as state prosecutors have more contact with policymakers than community-interest groups. For that reason, statewide human trafficking task forces could be a way for anti-CSEC NGOs to gain political power within the state legislative process. These collective entities may give increased power to organized citizens’ groups that may be otherwise excluded from state-level CSEC legislative processes.

2.7 Current State CSEC Legislative Responses

Despite this historical criminalization of “non-compliant” sexually exploited children, recent research suggests state legislators and criminal justice agents increasingly view sexually exploited minors as victims, not criminals (Roby and Vincent 2017). Given
Baumgartner and Jones’s Punctuated Equilibrium Theory, we can expect more constituencies viewing sexually exploited minors as victims, not criminals, due to the new group of CSEC Survivor Advocates shifting sexually exploited minors’ policy image so they are viewed as victims, not criminals. For example, Farrell and Pfeffer (2014) found that law enforcement officers in states with more comprehensive trafficking laws were significantly less likely to identify sexually exploited children as “prostitutes” complicit in their own exploitation. Similarly, “prostitution” arrests for adults and children dropped significantly in most states after the passage of the federal TVPA, and then dropped even further after the passage of a state’s human trafficking law (Farrell and Cronin 2015).

This shifting policy image of sexually exploited children as victims, not criminals, is reflected in the following descriptions of the various state CSEC victim non-criminalization legislative responses. While most retain the right to arrest and prosecute this population for prostitution, an increasing number of states are deciding to either arrest but not prosecute or neither arrest nor prosecute sexually exploited minors for prostitution.

*Full Criminalization*

States that retain the right to arrest and prosecute sexually exploited children for prostitution are the most at risk for re-traumatizing CSEC victims, because criminal justice locations such as detention facilities and court rooms can be re-traumatizing (Espinoza and Sorenson 2016). However, many full criminalization states such as Massachusetts tout using “diversion programs,” where CSEC victims are diverted to services rather than detention centers, as a viable, trauma-informed alternative to the juvenile court system. For example, specialized trauma-informed CSEC prevention and intervention programs, such as My Life,
My Choice (MLMC) in Boston, provide the resources and structures necessary for sexually exploited minors to heal. A recent MLMC evaluation indicates after six months in the program, participant drug use decreased by 40%, depression dropped by 61%, and crime perpetration declined by 23% (Rothman et al. 2019). Massachusetts law enforcement officials stated, “processing some youth through the traditional delinquency system and court hearings may do more harm than good, by stigmatizing and traumatizing them” (Gavin and Thomson 2017:341). Additionally, research suggests states retain the right to arrest and prosecute this population in order to be able to threaten “non-compliant” sex trafficked minors with criminalization so they will receive services through these multidisciplinary diversion responses (Bendtsen 2018). Lastly, many full criminalization states require this population to prove they were exploited by “force, fraud or coercion” or by a third-party control before they are considered to be victims, not criminals (Shared Hope 2017).

Partial Non-criminalization

States that arrest but do not prosecute sexually exploited minors argue incarcerating sex trafficked minors is the “safest” option to keep them away from traffickers and buyers (Bendtsen 2018), despite evidence most juvenile detention centers do not offer trauma-informed services necessary for CSEC victims to heal (Saada Saar et al. 2015). Similarly, these states cite the need to detain sexually exploited minors in juvenile detention centers due to a lack of trauma-informed alternatives (Williams 2010b) or while identifying appropriate placement options (Barnhart 2009). For instance, Illinois’s “Safe Children Act” determines sexually exploited children can be incarcerated for up to 48 hours while law enforcement verifies they are a minor. Once determined they are under 18, sexually exploited children can
then be held in “temporary protective custody” in places such as medical settings, foster homes, or other licensed facilities, while victim service placements are identified (Anitto 2011).

**Full Non-criminalization**

An increasing number of states are passing legislation preventing sexually exploited minors from being arrested and/or prosecuted for prostitution. Health professional research suggests trauma-informed services – rather than criminalization – provide commercially sexually exploited children with the medical and social supports necessary for this population to heal and thrive (Barnert et al. 2015; Cook et al. 2018). Providing services is essential for CSEC victims because without such supports, victims remain at risk for re-exploitation (Shared Hope 2016). Similarly, most legal scholars argue criminalizing sexually exploited minors at the state level is inconsistent with federal sex trafficking legislation and unjust because minors are being criminalized for their own victimization (Adelson 2008; Anitto 2011; Butler 2015).

**2.8 Prior Research**

This current research study is rooted in prior qualitative and quantitative research I completed on state-level CSEC legislation. This previous research provides an essential foundation in understanding the current state-level CSEC policy landscape, which is necessary when taking a “deep dive” into examining the socio-political factors significantly associated with state-level non-criminalization legislative decisions. These initial projects examined comprehensive state CSEC policy in Massachusetts and nationwide, respectively. My intention for this research was to learn how existing state-level CSEC legislation was
passed, including the political dynamics between various CSEC stakeholder groups and state policymakers, as well as to understand state-level CSEC policy trends more broadly.

2.8.1 Pilot Interviews

First, I completed semi-structured, in-depth interviews with Massachusetts Attorney General Maura Healey and Lisa Goldblatt Grace, director and co-founder of the CSEC advocacy organization My Life, My Choice (MLMC), to explore the state legislative process and the role of champions in passing state-level CSEC legislation within the state. Both participants were chosen because they are integrally involved in the state legislative process in their respective individual positions, as well as through their membership within the Support to End Exploitation Now (SEEN) Coalition. The SEEN Coalition worked with the Massachusetts Attorney General’s Office in 2010 (under former Massachusetts Attorney General Martha Coakley) to introduce the state legislation that was adopted as the state’s human trafficking law in 2011. Such insider perspectives were essential to understanding the Massachusetts state legislative process and the history of the state’s human trafficking law.

Interview questions focused on the three broad topics: the state legislative process, existing CSEC legislation in Massachusetts, and personal influence on policy outcomes.

Two key themes emerged from interviews: 1) the importance of collaboration among governmental organizations and CSEC stakeholders; and 2) the significance of CSEC survivors’ voices within legislative processes. First, the importance of collaboration between NGOs, elected officials, and law enforcement in drafting and passing legislation emerged as the most prominent theme. Both participants discussed how state-level CSEC legislative processes are relationally based in that trust builds among stakeholders as they work together
to create and, ultimately, pass legislation. Goldblatt Grace described how this trust was essential because she knew another stakeholder’s “heart was in the right place” even if she disagreed with the person. This trust built during collaboration was also notable because she described how non-criminalization legislation caused dissensus among all human trafficking stakeholders when Massachusetts Interagency Human Trafficking Task Force members drafted the state’s human trafficking bill. CSEC anti-criminalization advocates wanted full non-criminalization of sex trafficked minors; however, criminal justice agents disagreed. According to Goldblatt Grace, law enforcement and prosecutors stated, “You can do that [non-criminalize sex trafficked youth], but we will never support your bill and your bill is not going to pass…We’re gonna fight you all along this.” As a result of this disagreement, the CSEC victim non-criminalization provision was not included in the final bill and Massachusetts retains the right to arrest and prosecute sexually exploited minors⁹.

The second key theme that emerged was the importance of survivors’ voices. Both participants regarded CSEC survivors’ perspectives as central to the legislative process because their lived experience can inform legislation. Attorney General Healey went on to stress the importance of working with survivors through survivor-led organizations such as MLMC to enforce the law. Healey stated, “Victims and survivors are not going to knock on the door of the Attorney General’s Office. There needs to be those bridges and so, in addition to coordinating with local, state, and federal partners, we coordinate with these organizations

⁹ Learning about the importance of the human trafficking task force in passing Massachusetts’ CSEC legislation during this interview inspired me to create a variable measuring whether or not a state had a human trafficking task force for the original dataset I built for my quantitative analysis (see section 2.8.2).
and entities. And that is something that helps us, I think, lever the effect of the law and the enforcement of the law.”

These two pilot interviews provided a solid basis for understanding various CSEC stakeholders’ level of influence within state-level CSEC legislative processes and specific details about the drafting and passage of the Massachusetts anti-trafficking law. As a result, I was able to grasp the nuances of state-level CSEC legislative process, as well as the importance of “behind the scenes” legislative work done by task forces, state-level legislative aides, prosecutors, and various governmental staff. Finally, this preliminary qualitative research was important to this current study because during these two pilot interviews I began to understand the wide variety of state-level legislative responses to criminalizing sexually exploited minors, as well as the diverging CSEC stakeholder perspectives about non-criminalization legislation. For that reason, these initial interviews were foundational in creating this current dissertation research.

2.8.2 Quantitative Study

This study also builds on prior research I completed (with Bentele 2016). We used cross-sectional time series statistical analysis to examine factors associated with states having more comprehensive state CSEC legislation. The dependent variable was a score based on Shared Hope International’s annual Report Card Series from 2011 to 2016. Shared Hope is an anti-CSEC NGO founded by former U.S. and Washington State Congresswoman Linda Smith. The annual report card series, which was first published in 2011, creates a framework to track states’ annual legislative progress in addressing CSEC statutes. To calculate the annual Shared Hope score, each state received 2.5 points for every one of 41 provisions
Shared Hope deemed necessary to comprehensively address CSEC at the state level. Provisions were chosen based on interviews with approximately 300 advocates and service providers throughout the United States about “limitations placed on their abilities to implement effective trafficking responses due to inadequate state laws” (Shared Hope 2015). Shared Hope scores are a subjective evaluation of the impact of CSEC-specific state statutes that address all aspects of CSEC, including: non-criminalization of CSEC victims; CSEC victim protection and service provision; and trafficker, facilitator, and buyer prosecution. Therefore, Shared Hope scores reflected states’ ability to respond to the needs to CSEC victims in multiple areas: scores were not simply a count of bills passed each year. For instance, states that have non-criminalization legislation have a higher Shared Hope score than states who do not. Shared Hope’s annual Report Card series is widely regarded within the anti-trafficking movement as a reliable tool to track progress of state CSEC legislation.

As previously noted, a time trend was found to be the largest explanatory factor of states having more comprehensive legislation within these analyses of overall CSEC legislation. Beyond this time trend, the presence of Safe Harbor laws, higher percentages of Republican state legislators, higher proportions of female state legislators, higher percentages of white Evangelicals in a state, and the presence of a statewide human trafficking task force were found to be significant indicators of a state having more comprehensive CSEC legislation.

At this point it is also worth emphasizing the factors that were not significant in these analyses. The number of calls to the Polaris/National Human Trafficking Hotline (as a measure of sex trafficking prevalence), the child poverty rate, and the number of foster
children or the number of reported cases of abuse were not significant in full models. Our best attempts to find proxy measures that captured the severity of the CSEC problem in a state or at least the size of the vulnerable population all appeared to be unrelated to legislative activity concerned with CSEC. The child poverty rate was significant in reduced models, but this disappeared when one controlled for the size of the white Evangelical population. These two factors were highly correlated (.65), but full model results consistently suggested that the correlation between child poverty and higher Shared Hope scores was spurious and was in fact a product of the larger white Evangelical communities in these states with more poor children. Last, we were surprised to see that the number of human trafficking NGOs in a state was unrelated to the level of legislative activity. In separate analyses (not shown) we examined the state-level factors associated with the passage of Safe Harbor laws. The only significant predictor in those analyses was the measure of state anti-trafficking NGOs. As a result, it is very likely that some of the impact of NGOs on state scores was captured by the Safe Harbor law variable.

We also found additional significant contextual results. For instance, the per capita number of anti-CSEC NGOs moderated the effect of a statewide human trafficking task force; a larger number of NGOs had a significant effect on the amount of CSEC legislation passed in a state without a task force. Additionally, states with a higher percentage of GOP leadership and a higher percentage of children living in poverty had more comprehensive

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10 We did not examine crime statistics as a measure of the CSEC problem for this study due to concerns about underreporting and inconsistent definitions of CSEC on a state level.
CSEC legislation, suggesting Republican leaders were more responsive to CSEC in the presence of larger numbers of poor children.

2.9 Conclusion

These theoretical frameworks, combined with previous research, provide a roadmap of how we can expect a wide array of socio-political factors to intersect with and influence state-level legislative decisions to non-criminalize or criminalize sexually exploited minors. Understanding how these theoretical and practical applications may impact the CSEC policymaking process is essential due to increased CSEC legislative activity regarding non-criminalization. As a result, exploring how the dynamics of CSEC state-level policymaking and how key stakeholders shape state-level CSEC legislation is necessary to understanding this recent rise in non-criminalization legislative activity. These factors can determine whether sexually exploited children are treated as victims or criminals.

I now turn to the methodology of investigating state-level legislative responses to non-criminalize sexually exploited minors as considered in the research question and objectives.
CHAPTER 3
RESEARCH METHODOLOGY

3.1 Project Design and Implementation

This study uses the Punctuated Equilibrium Theory to examine factors associated with recent CSEC policy proliferation using mixed methods with a quantitative focus. First, I construct an original dataset that includes measures for all states identifying social, economic, and political factors associated with CSEC legislative processes, and builds on my previous research. Second, I build on pilot interviews with an anti-criminalization advocate and elected official who have participated in CSEC legislative processes (i.e., helping draft legislation, testifying during state legislative hearings) by interviewing anti-criminalization advocates, state legislators, state legislative aides, and state prosecutors to show how these constituencies describe how they influence legislative processes. I also include how stakeholders throughout the United States describe the social, economic, and political climates in which their states respond to CSEC victims from the first step as a way to draw connections to the quantitative portion of this study.

3.2 Quantitative Methods

In this study, I created a unique, original dataset to measure state socio-political factors that may be associated with states being more likely to non-criminalize sex trafficked
children, for all 50 United States from 2008 to 2017. The first efforts to pass non-criminalization legislation and to provide CSEC victim services took place in 2008 when New York passed CSEC legislation (ECPAT-USA 2015); therefore, the dataset consists of 500 “state-years.” Between 2008 and 2017, 6 states passed non-criminalization legislation, and 8 additional states passed legislation to arrest but not prosecute this population for prostitution (see Table 1).


<table>
<thead>
<tr>
<th>Year</th>
<th># Partial Non-Crim*</th>
<th># Full Non-Crim**</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2009</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2010</td>
<td>1 (Illinois)</td>
<td>0</td>
</tr>
<tr>
<td>2011</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2012</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2013</td>
<td>3 (Kentucky, Nebraska, North Carolina)</td>
<td>1 (Minnesota)</td>
</tr>
<tr>
<td>2014</td>
<td>1 (New Hampshire)</td>
<td>0</td>
</tr>
<tr>
<td>2015</td>
<td>0</td>
<td>1 (Montana)</td>
</tr>
<tr>
<td>2016</td>
<td>2 (Alabama, Utah)</td>
<td>3 (California, Connecticut, Florida)</td>
</tr>
<tr>
<td>2017</td>
<td>0</td>
<td>1 (Indiana)</td>
</tr>
<tr>
<td>Total</td>
<td>8</td>
<td>6</td>
</tr>
</tbody>
</table>

*Arrest, but not prosecute  **Neither arrest nor prosecute

3.2.1 Event History Analysis

The current study builds on prior research I did (with Bentele 2016) by using discrete Event History Analysis (EHA) to examine socio-political factors associated with state-level decisions to non-criminalize versus criminalize commercially sexually exploited children between states. EHA is an appropriate method for the current study on non-criminalization legislation passage because logistic regression EHA examines the probability an event will occur once an individual (an individual state) becomes “at risk” of experiencing the event (or
passing legislation, in this case) (Steele 2005). The following is my binary logistic regression model where $P$ denotes the hazard, or the probability an event will occur, given that the individual (or state) is still at risk for the event to occur, and $\ln$ denotes this probability will be expressed in logits, or log odds. This example model illustrates that the probability an event will occur is determined by $\beta_0$, which is the constant, and up to 11 different explanatory variables ($\beta_1X_1…\beta_kX_k$).

$$
\ln\left(\frac{P}{1-P}\right) = \beta_0 + \beta_1X_1 + \beta_2X_2 + \ldots + \beta_kX_k
$$

For this study, all 46 states became “at risk” of passing victim protections and services legislation in 2008 when New York approved the first CSEC-specific legislation. Four additional states\(^{11}\) became “at risk” of passing this legislation in 2009 because they are only in session every other year. Once legislation was passed in a state, subsequent observations were removed from each respective test, as the individual state was no longer “at risk” of specific legislation being passed or a particular provision being adopted.

Additionally, while previous research examined Safe Harbor as specific legislation, this study operationalizes Safe Harbor in a distinct way. Understandings of state-level CSEC legislation, particularly defining “Safe Harbor” laws, are complex and inconsistent even amongst CSEC stakeholders and policymakers deeply involved in this issue (Butler 2015).

\(^{11}\) Montana, Nevada, North Dakota, and Texas state legislatures hold legislative sessions every other year. Therefore, these four states have been omitted from all analyses in 2008, 2010, 2012, 2014, and 2016 as they are not “at risk” of passing legislation when not in session.
Therefore, the two primary Safe Harbor objectives of passing non-criminalization legislation and providing victim services are examined separately.

3.2.2 Dependent Variables

This study utilizes a multi-outcome approach to examine three outcomes in separate analyses: 1) factors associated with state-level decisions to pass partial and full non-criminalization legislation; 2) state-level decisions to pass full non-criminalization legislation; and 3) factors associated with states mandating CSEC-specific victim services. Examining partial and full non-criminalization legislation simultaneously is vital because these are the two primary approaches to enacting CSEC victim protections. Additionally, exploring factors associated with states passing full non-criminalization alone is necessary prohibiting the arrest and prosecution of sexually exploited minors for prostitution is non-criminalization advocates’ primary goal. Lastly, investigating factors associated with states that mandate CSEC-specific services provides insight on how each stage of the CSEC legislative process may shape subsequent steps and how various moderating factors may influence each part of the process.

- **First outcome:** Factors associated with state-level legislative decisions pass partial and full non-criminalization legislation.

  Longitudinal data were examined on a dichotomous dependent variable indicating whether or not a state passed state legislation prohibiting sexually exploited minors from being prosecuted for prostitution in a given year. Therefore, the first dependent variable measured states that passed partial and full non-criminalization legislation. Furthermore, two different sets of individual models were needed to examine the first outcome of interest due
to the persistent significance of an index variable. As a result, the first set of individual models examines the significance of all index elements in aggregate. Those elements were then disaggregated in the second set of individual models to examine the significance of each index element individually.

- **Second outcome:** Factors associated with state-level legislative decisions to pass full non-criminalization legislation, which prohibits arresting and prosecuting commercially sexually exploited children for prostitution.

  Two sets of individual models were used for the second set of analyses examining whether a state passes legislation to neither arrest nor prosecute sexually exploited children: Preliminary models indicate that the presence of a statewide human trafficking task force perfectly predicts the passage of full non-criminalization legislation. Therefore, longitudinal data is explored on a dichotomous dependent variable examining factors associated with the outcome of states passing full non-criminalization legislation in a given year in one set of individual models, followed by a different set of models utilizing a dichotomous dependent variable examining factors associated with the outcome of states creating a statewide human trafficking task force.

- **Third outcome:** Factors associated with state-level legislative decisions to mandate CSEC-specific victim services.

  A third set of models examined state-level legislative decisions to mandate CSEC-specific victim services after preliminary models indicated that the presence of state-mandated CSEC-specific services perfectly predicted the creation of a statewide human trafficking task force. As a result, longitudinal data is explored on a dichotomous dependent
variable examining factors associated with the outcome of states passing legislation mandated CSEC-specific victim services in a given year. Including the set of models with task forces as an outcome variable is necessary because task forces are central to the causal chain in passing full non-criminalization legislation. Heteroskedasticity-robust standard errors are used because a Breusch-Pagan test indicated the presence of heteroskedasticity in all models.

3.2.2 Independent Variables

The predictor variables in these analyses build on earlier research on significant factors associated with states having more comprehensive CSEC legislation because these findings provided valuable insight into current child sex trafficking policy trends (Price and Bentele 2016). For that reason, this analysis replicates the following variables: presence of a statewide human trafficking task force, proportion of GOP state legislators, percentage of female state legislators, state per capita population of white Evangelicals, and the state per capita number of anti-CSEC NGOs. Two factors that were not significant in prior research, state per capita number of children in foster care and state per capita residents who identify as Catholic, are included in the current study because being involved with child protective services is a top risk factor for CSEC (Bounds, Julion, and Delany 2015) and faith-based organizations are ubiquitous in the anti-trafficking movement (Soderlund 2005). Similarly, the percentage of children living in poverty was not significant in the previous study; however, per capita people living in areas of concentrated disadvantage is included in the current study as a way to examine the complexities of structural socio-economic inequality because low socio-economic status is a key CSEC risk factor (Weiner and Estes 2001).
Therefore, including these factors in these analyses is essential in order to test the full scope of factors associated with state-level CSEC non-criminalization legislation.

*Partisan and Gender Composition of State Legislatures:* The percentages of both Republican and female state legislators are included in all tests due to their significance in prior research. Furthermore, including the percentage of GOP legislators is theoretically salient because, in the context of deep partisan polarization, in recent years it has become increasingly difficult to find genuinely bipartisan policies. Anti-CSEC legislation might be an exception. The national trend of increasing CSEC legislation nationwide suggests essentially all states – regardless of partisan control – have been passing legislation. In order to examine whether there is a partisan dynamic to this trend I examine whether a state having a larger percentage of Republican state legislators impacts their decision to pass non-criminalization legislation (NCSL 2018).

In addition, a large body of research exists examining the extent to which the representation of women in governing bodies impacts policy outcomes and, particularly, policies that support females (Caiazza 2004). Many female state legislators have become champions of state-level CSEC legislation because girls are the majority of commercial sexual exploitation victims (Bouché and Wittmer 2009; Wittmer and Bouché 2013). Therefore, examining the presence of this group of policymakers is within CSEC legislative processes is warranted.

*Religious Composition.* Faith-based initiatives are ubiquitous in the the anti–human trafficking movement and state-level legislative processes (Soderlund 2005). For that reason, faith-based advocacy organizations are most likely impact the passage of state-level CSEC
legislation through multiple avenues including the relative electoral success of Republican politicians, lobbying, and public opinion. As a rough proxy for these various mechanisms I created two variables to test whether the percentages of Evangelical and Catholic residents in a state, respectively, are associated with passage of partial and full non-criminalization legislation. These data were obtained from the 2010 wave of the Religious Congregations & Membership in the United States survey (Grammich et al. 2012). This survey provides the best available estimates of state-level residents’ religious adherence, broken down by religious tradition (Finke and Scheitle 2005). Significant undercount of particular denominations is a widely known limitation of this survey. Therefore, I regard the measure of Evangelical state residents as a measure of white Evangelical adherents given that historically African-American denominations are most likely to be underrepresented in this survey.

**Interest Groups.** The presence of social movements is known to be significantly associated with progressive social policy change (Whittier 2009). Anti-CSEC NGOs are an integral part of the anti-trafficking movement through awareness-raising campaigns, collaborating with political champions to pass effective legislation, and coalition-building with other community stakeholders. To measure the potential impact of NGOs on the passage of comprehensive CSEC legislation, I estimated the average annual number of anti-CSEC NGOs per capita in each state. Data was gathered utilizing three online tools: Guidestar, an online database of non-profit organizations; state-specific resource guides produced by Polaris Project and Girls Education and Mentoring Services (GEMS), two leading anti-CSEC NGOs; and a general search using popular search engines. A limitation of this data collection
method is the subjective nature of online queries; however, I did ensure saturation was reached for each state’s list of NGOs. This count variable was highly skewed and enters all models in a logged form. I anticipate states with more anti-CSEC NGOs will be more likely to non-criminalize child sex trafficking victims.

Measures of Vulnerability for CSEC: African-American girls have the highest rates of arrest for prostitution amongst all juveniles (Saada Saar et al. 2015; Epstein, Blake, and Gonzalez 2016). Children of color, especially African-American girls, do not fulfill the racialized narrative of childhood innocence (Phillips 2015), which may increase their likelihood of being criminalized for prostitution (Adelson 2008). Juveniles who identify as female are also more likely to be criminalized for prostitution than juveniles who identify as male (Friedman 2013). Therefore, as a rough proxy for sex trafficked victims’ policy image, I test the percentage of incarcerated juveniles who are African-American and percentage of incarcerated juveniles who are female in each state. Since African-American juveniles and commercially sexually exploited girls do not fit the current racialized and gendered images of “childhood innocence,” I expect that states with a higher proportion of incarcerated African-American juveniles and incarcerated girls are less likely to non-criminalize sex trafficked children.

Research suggests the majority of sexually exploited minors are currently or have been involved with child protective services at one point in their lives (Bounds, Julion, and Delany 2015). Research suggests foster children are more easily manipulated by exploiters with promises of love because they lack consistent, stable attachment (Raphael, Reichert, and Powers 2010). To test the relationship between child welfare services and CSEC, I test the
number of children living in foster care per capita in each state (Annie E. Casey Foundation 2017). I expect states with higher numbers of children living in foster care are more likely to non-criminalize sexually exploited minors as a state response to protecting this vulnerable population.

*State Economic Considerations:* Research suggests children living in neighborhoods of concentrated disadvantage are at increased risk for sexual violence (Popkin et al. 2016), and poverty is a leading risk factor for CSEC (Estes Weiner 2001). Therefore, I measure state per capita rates of people living in areas of concentrated disadvantage from 2008 to 2017. Data were compiled from the American Community Survey (U.S. Bureau of the Census 2017a), and then converted into Z-scores$^{12}$ (see Figure 2 for average state scores and Appendix F for gradient levels of concentrated disadvantage). Researchers argue children living in areas of concentrated disadvantage are more likely to be criminalized because social services and social welfare programs have been replaced with mass incarceration within the United States’ current neoliberal position (Wacquant 2009; Soss, Fording, and Schram 2011). Additionally, anti-criminalization advocates argue children of color living in structural poverty are more likely to be incarcerated for prostitution (Saada Saar et al. 2015). For that reason, I hypothesize states with larger proportions of people living in areas of concentrated disadvantage are less likely to pass non-criminalization legislation.

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12 A Z-score is the number of standard deviations from the mean value of zero in the reference population. For this study, the minimum average z-score is -1.33 or 1.33 standard deviations below mean of zero, indicating the fewest people living in areas of concentrated disadvantage in U.S. The maximum average z-score is 1.60 or 1.60 standard deviations above the mean of zero, indicating the most people living in areas of concentrated disadvantage in the U.S.
Additionally, states with fewer economic resources tend to introduce fewer new statutes and pass less legislation due to budgetary constraints (Grogan 2014). Therefore, I test per capita state budget totals as an indicator of states’ economic ability to introduce and pass new legislation such as non-criminalization statutes. I hypothesize states with larger per capita budget totals are more likely to pass non-criminalization legislation.

**Figure 2. Levels of Concentrated Disadvantage in the U.S.**

*CSEC Prevalence:* The Federal Bureau of Investigations (FBI) Uniform Crime Report (UCR) is a nationwide, voluntary crime reporting system used to track and publish crime statistics from nearly 18,000 local, state, tribal, and federal law enforcement agencies. UCR data are recognized by criminal justice scholars and practitioners as the most widely utilized source of crime data in the U.S., despite criticisms of inconsistent data collection and
underreporting of crimes (Gove, Hughes, and Geerken 1985). Therefore, UCR data on the
number of juveniles arrested for prostitution in all 50 states from 2007 to 2017 were
compared with state per capita number of sex trafficking calls to the Polaris National Human
Trafficking Hotline that were used in prior research as a measure of CSEC prevalence across
states to ensure consistency. Polaris is widely recognized within the human trafficking
movement as strong estimation of state-level sex trafficking prevalence. A new variable
measuring per capita incidents of sex trafficking as reported in the UCR was created to
confirm the validity of prior CSEC prevalence findings.

*Juvenile Justice Statutes:* The criminal justice system has historically taken a
paternalistic view toward juvenile offenders; however, attitudes toward juvenile justice have
changed dramatically in recent years due to advances crime policy reform (Scott and
Steinberg 2008). Recent Supreme Court rulings\textsuperscript{13} abolishing the juvenile death penalty and
juvenile life without parole sentencing are key examples of how this shift is changing
juvenile justice policy (Scott and Steinberg 2008). As rough proxies of state attitudes toward
incarcerating children, this study includes a measure identifying per capita juveniles
sentenced to death and life without parole prior to the Supreme Court rulings that declared
both of these sentences unconstitutional for minors. I hypothesize states that sentenced
juveniles to death prior to the Supreme Court rulings are less likely to non-criminalize sex
trafficked minors. I also hypothesize states with a larger proportion of juveniles sentenced to

\textsuperscript{13} Roper v. Simmons abolished the juvenile death penalty in 2005, and Graham v. Florida
abolished juvenile sentences to life without parole in 2010. The Supreme Court stated such
treatment was unconstitutional for minors in both cases.
life without parole prior to these same rulings are also less likely to non-criminalize sexually exploited children.

3.2.4 Second Order Policy Effects

Numerous institutions such as statewide human trafficking task forces and policies to provide services and training have been created to address trafficking at the state level since state legislatures began addressing child sex trafficking, and human trafficking writ large, in the last fifteen years. Formalizing these state-based initiatives in new institutions and policies may result in second order policy effects, in which these new institutionalized coalitions and procedures may influence further human trafficking legislative initiatives. As a result, it is key to examine the potential impact of these newly established institutions and procedures in furthering CSEC legislative initiatives.

*Policy Diffusion.* The passage of CSEC legislation in nearby states may increase the likelihood of a state adopting similar policies. In order to uncover evidence of state-level diffusion, I examine the impact of the count of contiguous states with partial non-criminalization, full non-criminalization, statewide human trafficking task forces, and state-mandated CSEC-specific victim services in the respective Event History Analyses.

*State-mandated CSEC-specific Victim Services.* States are increasingly mandated to provide general support and health services, as well as CSEC-specific services, to support CSEC victims in healing as well as exiting exploitation (Gibbs et al. 2015) (see Figure 3). These services are a trauma-informed alternative to incarceration to keep sexually exploited children “safe” from sex traffickers and sex buyers (Williams 2010b). In order to examine
the presence of victim supports, I evaluate the degree of association of state-mandated
CSEC-specific services with outcomes in all Event History Analyses.

**Figure 3. CSEC Victim Services Status**

![Map of the United States indicating the status of CSEC services by state]

*State-authorized and -mandated Law Enforcement Training.* States have begun
authorizing or mandating that law enforcement receive trauma-informed training from human
trafficking victim advocates in order to: 1) raise awareness about human trafficking in their
jurisdictions; 2) increase likelihood of officers’ ability to identify human trafficking victims
and perpetrators; and 3) disseminate training-based knowledge throughout law enforcement
departments from executive-level to patrol-level officers (Renzetti et al. 2015). While
research suggests the effects of this training is limited (Farrell, McDevit, and Fahy 2010),
CSEC stakeholders recognize training law enforcement as a primary strategy to ensure police officers interactions with CSEC victims are trauma-informed (Farrell, Pfeffer, and Bright 2015).

Figure 4. Statewide Human Trafficking Task Forces

Statewide Human Trafficking Task Forces. State-level human trafficking task forces have become progressively more common in recent years, with all 50 states having a task force as of 2016. Some statewide human trafficking task forces were created voluntarily to address growing concerns about this issue, while others were mandated by state human trafficking legislation. Additionally, the Department of Justice (DOJ) began funding task forces in 2009 to bring together federal, state, and local law enforcement and victim service
organizations to facilitate prosecution of multidistrict sex trafficking cases (NIJ 2009) (see Figure 4). Task forces provide an institutional point of focus for anti-trafficking and anti-CSEC advocates and NGOs as well as an additional venue for the diffusion of state legislation (Goldblatt Grace 2015).

3.2.5 Controls Variables

*Time Trend.* As was evident in my prior research (with Bentele 2016) there is a very strong trend of increasing passage of CSEC legislation over time. Sex trafficking of both adults and children has become increasingly salient as a political issue and has widely diffused across state party lines and legislatures. I control for the time trend driven by increased saliency with a series of dichotomous variables in multi-year clusters for every year except 2008. Time trend dichotomous variables were clustered by 2 to 4 years to account for years when no legislation was passed.

3.3 Qualitative Interviews

This project aims to gain first-hand knowledge about how anti-criminalization advocates, state legislators, legislative staff, and state prosecutors perceive they affect the strength and passage of CSEC state statutes. Therefore, qualitative interviews are the most beneficial method in learning about how these constituencies perceive their ability influence the content and passage of state CSEC statutes (Weiss 1995). Most interviews lasted approximately 45-60 minutes. Limited time availability was a key issue for some participants, particularly elected officials, due to multiple pressing demands on their time. Therefore, in those instances, I identified which interview questions were most critical for
each specific person when preparing for each interview so the most important topics were
discussed.

These qualitative interviews complement the quantitative analysis by asking
participants their opinions on topics such as how the socio-economic and political factors in
their states contribute to sex trafficked children being considered victims or criminals.
Additionally, interviews were completed with populations reflecting characteristics measured
in quantitative variables such as Republican state legislators and female state legislators.
These interview responses provide “real life” context to quantitative results.

3.3.1 Sampling

A snowball sample was started utilizing my existing network of human trafficking
stakeholders (see Appendix E for a list of key contacts). Recruitment included referrals from
elected officials, CSEC Survivor Advocates, NGOs that provide services to sex trafficked
children, state and local law enforcement, national and state criminal justice agents, and
personal contacts. Interview participants were also recruited through referrals from anti-
criminalization advocates and elected officials interviewed during the aforementioned pilot
study. I completed 31 semi-structured, in-depth interviews with 11 CSEC anti-
criminalization advocates, 6 state legislators, 4 state legislative aides, and 10 state
prosecutors who have participated in state CSEC legislative processes. I originally intended
to reach 10 participants from each group; however, recruiting 10 state legislators and 10
legislative aides was difficult due to the timing of the 2018 mid-term elections. However, in
retrospect, I realize interviewing 10 legislative actors in total is representative of this group
because legislative aides work so closely with state legislators. Also of note, I interviewed
one additional CSEC anti-criminalization advocate (11 total) because I wanted to ensure all U.S. geographical regions were represented, and an anti-criminalization advocate from one remaining region I needed responded to my interview request. Additionally, I collaborated with two key informants – a National Conference of State Legislators staff person and a state prosecutor – to recruit 15 interview participants (48% of my sample) who do not know I am a CSEC survivor to ensure the sample includes a wide variety of perspectives. In addition to reaching numerical goals, recruitment efforts also subsided once I determined I had reached saturation when participants from all groups were repeating the same themes regarding the criminalization and non-criminalization of sexually exploited minors.

Since this study aims to gain a better understanding of differences in state-level non-criminalization legislation, my sample also includes interviews with participants from states with varying degrees of CSEC legislative activity. Using the Shared Hope (2017a) Annual Report Card Series as a guide, I targeted states with rapid and incremental rates of non-criminalization legislative activity, as well as states with no non-criminalization activity. Therefore, interviewing participants from each point on this non-criminalization legislative spectrum is necessary in order to gain insight into how stakeholders and legislators describe each state’s stance. Next, one person from each of the three categories (anti-criminalization advocates, state legislators/state legislative aides, and state prosecutors) was interviewed in one full criminalization state and one full non-criminalization state in order to examine full criminalization and full non-criminalization legislative processes from all sides. Finally, 21 states and all U.S. regions (New England, Northeast, Mid-Atlantic, South, deep South, Southwest, mid-West, Pacific Northwest, and West Coast) are represented in my sample.
This target sample strategy intends to create a strong representation of perspectives on non-criminalization.

All recruitment occurred via e-mail (see Appendix C for Recruitment E-mail and Phone Scripts), and two follow-up attempts were made by e-mail and phone. I explained participation was confidential and voluntary. I did not mention I am a CSEC survivor in initial e-mail contact and I instructed the one key informant who knows I am a CSEC survivor not to tell participants about my survivor status so participants would not censor their interview responses. However, I did identify myself as a CSEC survivor, specifically of family-controlled child sex trafficking, in the follow-up e-mail recruitment script, which was sent after the person did not respond to my initial e-mail. Past experience has shown that CSEC advocates, policy makers, and prosecutors are often more willing to speak to human trafficking survivors as a sign of support. Therefore, my status as a CSEC Survivor Advocate afforded me greater access CSEC stakeholders. I received 4 responses from participants after sending the follow-up e-mail identifying myself as a CSEC survivor. While this insider/outsider status is helpful for access, I am careful to remain unbiased in my research by consistently seeking feedback on my methods and objectivity in my work. In this instance, I examined these 4 interviews to ensure participant responses were not biased overtly toward supporting CSEC Survivor Leaders or anti-criminalization efforts. Similarly, while no one declined to be interviewed, multiple people I contacted did not respond to my recruitment e-mails. I did not identify or discover any systematic differences between subjects who did and did not choose to participate, suggesting the absence of selection bias.
At the interview meeting or telephone call and prior to asking interview questions, I outlined the research study again, reiterated participation was voluntary and confidential, and obtained consent (see Appendix D for consent forms) (human subject considerations detailed below). Interviews occurred at a location chosen by the participant or on the telephone. Audio recording began after the participant granted permission. At the conclusion of each interview, I asked the participant for the contact information of additional CSEC advocates, state legislators, state policy aides, and prosecutors to initiate the snowball sample. Each participant was offered a $25 Visa gift card for participating in the interview (as anticipated, most elected officials and state policy aides declined the incentive due to state employee guidelines on receiving gifts).

3.3.2 Data Collection

After obtaining written or verbal consent to interview participants, and to audio tape the interviews, I conducted semi-structured in-depth interviews. Interview questions covered three broad topics: the state legislative process, opinions about existing state CSEC legislation, and personal influence on policy. State legislative process questions explored how individuals specifically interact with the state legislation (e.g., sponsoring/co-sponsoring a bill, advocating for inclusion/exclusion of specific provisions). Additionally, questions were asked about their opinions on current CSEC legislation, effective strategies for passing state CSEC legislation, socio-political characteristics related to stakeholders’ opinions about CSEC, and their personal ability to effect policy change (see Appendix B for interview guide). As in-depth interviews are more conversational, I did not ask each of the potential questions; they were simply aides. Further, there was no specific order for the in-depth
interviews, so the conversation flowed naturally while I ensured all themes were addressed. I also wrote field notes immediately after each interview to record interview environmental data, connections to existing research, emerging themes, and research journal reflections to capture my expectations and observations.

3.3.3 Data Management

Once completed, each interview was given a numbered study ID. Interviews were transcribed by the Revolution transcription service. The completed transcripts were uploaded to the qualitative software package NVivo for analysis. The data are located on the password-protected hard-drive of my computer and an external hard drive for backup. Only I have access to these digital files and hard-copy notes. Audio files will be destroyed one year from the interview date per University of Massachusetts Boston (UMass Boston) IRB protocol.

3.3.4 Human Subjects

This study received UMass Boston IRB approval (determination #2016033). All participants were over 18. There were minimal risks for participating in this research study. The primary risk was that the content discussed could make the participant feel uncomfortable or embarrassed. The research participants and others may benefit from the study through the improved understanding of the factors associated with non-criminalization versus criminalization of sex trafficked youth across states.

I did not collect identifying information of any kind from participants. I took the following steps to ensure participant confidentiality: The participant’s name is not included on the digital file or notes taken during the interview; and a study ID number was entered on the file name and transcript of the conversation. The data are located on the password-
protected hard-drive of my computer and an external hard drive for backup. And the participant’s identity will be protected to the maximum extent possible when I publish any written work on this project. I will not refer to the participant by name in any report, paper, blog post, or book.

3.3.5 Analysis

Transcripts were analyzed using NVivo. Thematic analysis (Braun and Clarke 2006) was used to code themes, patterns, and differences within state legislative approaches by utilizing a theoretical foundation of Baumgartner and Jones’s Punctuated Equilibrium Theory. Key theoretical elements such as “policy image” characteristics, and examples of Schattschneider’s (1975) “mobilization of bias,” as utilized by Baumgartner and Jones, were used as the “parent nodes” to create a thematic coding structure. Information on overlapping and intersecting barriers to passing CSEC legislation and differing perspectives on arresting and/or prosecuting sex trafficked children were also identified in order to determine the complexity of those interactions. Data were utilized to test various hypotheses created during the research design.

3.3.6 Triangulation

All participants except four\(^{14}\) received a copy of their interview transcript via encrypted e-mail Protonmail for their review. The majority\(^{15}\) of transcripts were confirmed as

\(^{14}\) Four interviews could not be transcribed due to poor audio quality, and interview data was extracted from field notes. Each participant was notified they would not be receiving a copy of their interview transcript for their approval as previously reported. Quotes and data from non-transcribed interviews were verified by participants via encrypted e-mail.

\(^{15}\) Two interview transcripts sent to participants were not verified. One interviewee did not respond to multiple e-mail requests to verify their transcript, while the second’s e-mail
accurate, which bolsters the interviews’ validity. Participant confidentiality was maintained because e-mails were deleted once transcript accuracy approval was received, and each e-mail address was removed from the password-protected list of e-mail addresses and corresponding interview numbers after each approval was received. This approval process, in addition to reviewing my field notes written after each interview, serves as a means of triangulation to ensure research rigor (Merriam 2009). Information gathered via these different methods ensures the internal validity of qualitative research results (Merriam 2009).

3.4 Delimitations

This study aims to focus specifically on the non-criminalization of sex trafficked children in the United States. As a result, the ongoing debate of legalizing prostitution in the U.S. is beyond the scope of this analysis. The topic of legalization tends toward addressing the right for adults to choose “sex work” as a profession even though children are implicated because children are usually sexually exploited along the same “tracks” and locations as adults, and often enter into prostitution when they are minors (Wharton 2010).

Recommendations and “best practices” for direct service provision for commercially sexually exploited youth are also beyond the scope of this study. This topic is certainly essential within the larger directive of ensuring CSEC victims receive trauma-informed services, housing, and long-term care. However, the intention of this analysis is to address policy determining whether sexually exploited children are treated as criminals or victims on the state level.

address became inactive after they left their position. Therefore, due to poor audio quality and participant non-response, 25 of the 31 interview transcripts were confirmed accurate.
3.5 Limitations

The main limitation for the qualitative portion of this study is that representatives from all 50 states who participated in state CSEC legislative processes were not interviewed due to time and resource constraints. Participants from 21 states (48% of the United States) are interviewed in the sample. Therefore, first-hand experiences of CSEC policymaking processes in each state are not included. However, state CSEC legislative processes from all 50 states from 2008 to 2017 are represented in the cross-sectional data included in the quantitative portion of this dissertation.

Limitations also exist within the quantitative analysis. I was not able to include a dichotomous variable on the presence of CSEC Survivor Leader testimony during non-criminalization legislation hearings. Given the significance of the percentage of GOP and female state legislators in previous research, coupled with the centrality of state prosecutors’ influence on CSEC non-criminalization legislative policymaking, I wanted to include tests of these same dynamics for state prosecutors in this current study. However, collecting these data for all variables proved difficult. Once I started collecting by contacting fellow CSEC Survivor Leaders to ask if/when they had testified, I realized I did not have the time and resources to gather this information for all non-criminalization legislative hearings. Many CSEC Survivor Leaders who had testified were unsure of critical details such as bill numbers and exact dates. I was also unable to access all testimony transcripts in order to verify these details. Similarly, I was unable to include political affiliation and gender identification of the over 2,000 elected U.S. state prosecutors. I was unable to find a database of this information at the National District Attorneys Association, and I did not have the time and resources to
collect this data manually. Additionally, bias due to right censoring data is another EHA challenge (Allison 2014). This consideration is noteworthy because not all states passed non-criminalization legislation by the end of 2017, the final year of the study.

Finally, these analyses should be considered as tests of the earliest stages of passing CSEC full and partial non-criminalization legislation in the U.S. As more states adopt non-punitive legislation toward sexually exploited minors, the dynamics of which socio-political factors predict the adoption of non-criminalization legislation will most likely shift over time.
CHAPTER 4

QUANTITATIVE RESULTS AND ANALYSES

4.1 Introduction

The following sets of quantitative analyses examine the social, economic, and political factors associated with state-legislative decisions to non-criminalize sexually exploited minors for prostitution. These decisions are captured in the examination of three distinct sets of models examining state-level CSEC legislation: passage of partial and full non-criminalization legislation; passage of full non-criminalization legislation; and passage of legislation mandating CSEC-specific services. The first set of models examines whether states have passed policies that arrest but not prosecute sexually exploited minors for prostitution and neither arrest nor prosecute this population. These laws capture the central outcome of interest in this study: whether states either partially or fully non-criminalize sexually exploited minors for prostitution. Examining these two types of legislation simultaneously is key because these are the two primary approaches to legislating CSEC victim protections (Shared Hope 2017b). The second outcome explores factors associated with state-level legislative decisions to neither arrest nor prosecute, or non-criminalize, this population. Examining this type of legislation singularly is valuable because this approach is
the ultimate goal for anti-criminalization advocates who believe that sexually exploited minors need to receive trauma-informed services outside of the juvenile justice system (Shared Hope 2017b).

Figure 5. Cumulative Effects and Incremental Process

Preliminary models indicate all states with full non-criminalization legislation have a statewide human trafficking task force, and additionally that the presence of state-mandated CSEC-specific services perfectly predicts the presence of statewide human trafficking task forces. For that reason, examining these two factors within the same context as the first two legislative outcomes is necessary. These results suggest passing this type of legislation is an incremental process, and looking at these outcomes is, therefore, taking a step back in the causal chain that leads to the primary outcomes of interest (see Figure 5). As a result, the
third set of models examines factors associated with a state creating statewide human trafficking task forces and mandating CSEC-specific victim services. Figure 5 illustrates how the adoption of the two Safe Harbor provisions of victim protections and CSEC-specific services, as well as the creation of statewide human trafficking task forces, often precedes passing non-criminalization legislation. Understanding this cumulative effect is essential, because results suggest passing non-criminalization legislation may be a result of second order policy effects where states institutionalize actions to address CSEC – such as mandating CSEC-specific services and creating statewide human trafficking task forces – prior to making legislative decisions to non-criminalize CSEC victims. I will now explore this cumulative process by explaining each set of results.

4.2 Partial and Full Non-criminalization Legislation

Table 2 contains the results of six models examining factors associated with passing partial and full non-criminalization legislation. These two legislative approaches consider criminalizing sexually exploited minors for prostitution to be re-traumatizing for this population.

Task Forces and CSEC-specific Services

The first reduced model is provided to examine the impact of dropping state-mandated CSEC-specific services on the coefficient for statewide human trafficking task forces as these two factors are moderately correlated (.55). These variables have a moderate correlation, as one would expect, in that each represents prior state responses to addressing CSEC. The task forces variable does not have a direct effect when services are omitted,
### Table 2. Discrete Event History Analysis: Partial and Full Non-criminalization with Aggregated Concentrated Disadvantage: 2008-2017

<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
<th>Model 4</th>
<th>Model 5</th>
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<tr>
<td><strong>State Gov. Orientation to CSEC</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Human Trafficking Task Force</td>
<td>5.69</td>
<td>4.51</td>
<td>2.31</td>
<td>13.19**</td>
<td>34.89^</td>
</tr>
<tr>
<td></td>
<td>(7.09)</td>
<td>(3.00)</td>
<td>(16.72)</td>
<td>(63.21)</td>
<td></td>
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<tr>
<td>State-mandated CSEC-specific Services</td>
<td>7.17**</td>
<td>6.17**</td>
<td>6.00**</td>
<td>7.24**</td>
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<td></td>
<td>(4.93)</td>
<td>(4.10)</td>
<td>(3.90)</td>
<td>(5.01)</td>
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<td><strong>State Legislature Composition</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% GOP State Legislators</td>
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<td>0.98</td>
<td>0.98</td>
<td>0.98</td>
<td>0.98</td>
</tr>
<tr>
<td></td>
<td>(0.02)</td>
<td>(0.02)</td>
<td>(0.02)</td>
<td>(0.02)</td>
<td>(0.02)</td>
</tr>
<tr>
<td><strong>Interest Groups</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count of CSEC NGOs (logged)</td>
<td>0.36^</td>
<td>0.31^</td>
<td>0.30^</td>
<td>0.32^</td>
<td>0.23^</td>
</tr>
<tr>
<td></td>
<td>(0.22)</td>
<td>(0.21)</td>
<td>(0.19)</td>
<td>(0.20)</td>
<td>(0.16)</td>
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<td><strong>Religious Composition</strong></td>
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<tr>
<td>% white Evangelicals</td>
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<td>1.05</td>
<td>1.04</td>
<td>1.16***</td>
<td>1.04</td>
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<td>(0.04)</td>
<td>(0.05)</td>
<td>(0.04)</td>
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<tr>
<td><strong>Proxy Measures of Prevalence/Vulnerability</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% Incarcerated Girls</td>
<td>0.99</td>
<td>1.01</td>
<td>1.00</td>
<td>0.40**</td>
<td></td>
</tr>
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<td>(0.02)</td>
<td>(0.02)</td>
<td>(0.02)</td>
<td>(0.02)</td>
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<tr>
<td>Per Capita ppl Living in Areas of Concentrated Disadvantage</td>
<td>0.25^</td>
<td>0.18^</td>
<td>0.24^</td>
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<td>0.16^</td>
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<td></td>
<td>(0.18)</td>
<td>(0.15)</td>
<td>(0.17)</td>
<td>(0.15)</td>
<td>(0.13)</td>
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<tr>
<td>Per Capita Polaris National Hotline Calls (logged)</td>
<td>1.89^</td>
<td>1.63^</td>
<td>1.23</td>
<td>1.24</td>
<td>1.19</td>
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<td></td>
<td>(0.58)</td>
<td>(0.43)</td>
<td>(0.45)</td>
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<td><strong>Interactions</strong></td>
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<td></td>
<td></td>
<td></td>
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</tr>
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<td>Taskforce x % white Evangelicals</td>
<td></td>
<td></td>
<td></td>
<td>0.89^</td>
<td></td>
</tr>
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<td></td>
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<td></td>
<td></td>
<td>(0.05)</td>
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<td>Taskforce x % Incarcerated Girls</td>
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<td></td>
<td></td>
<td>2.51**</td>
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<td>(0.77)</td>
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<td><strong>Control Variables</strong></td>
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<td></td>
</tr>
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<td>% Female State Legislators</td>
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<td>1.20</td>
<td>1.31</td>
</tr>
<tr>
<td></td>
<td>(0.41)</td>
<td>(0.64)</td>
<td>(0.68)</td>
<td>(0.57)</td>
<td>(0.66)</td>
</tr>
<tr>
<td>Per Capita Children in Foster Care (logged)</td>
<td>2.25</td>
<td>2.70</td>
<td>3.42</td>
<td>3.76</td>
<td>4.40</td>
</tr>
<tr>
<td></td>
<td>(1.69)</td>
<td>(2.82)</td>
<td>(3.73)</td>
<td>(4.21)</td>
<td>(4.92)</td>
</tr>
<tr>
<td><strong>Time Trend</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010-2012</td>
<td>5515561***</td>
<td>1992673***</td>
<td>3506099***</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013-2014</td>
<td>1.68e+07***</td>
<td>6722065***</td>
<td>1.31e+07***</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015-2017</td>
<td>1.18e+07***</td>
<td>4577352***</td>
<td>8810001**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>0.000191^</td>
<td>1.40e-06^</td>
<td>1.30e-13***</td>
<td>6.23e-14***</td>
<td>2.47e-15***</td>
</tr>
<tr>
<td><strong>Log Pseudolikelihood</strong></td>
<td>-54.76</td>
<td>-50.71</td>
<td>-48.60</td>
<td>-47.92</td>
<td>-46.06</td>
</tr>
<tr>
<td>N</td>
<td>442</td>
<td>442</td>
<td>442</td>
<td>442</td>
<td>442</td>
</tr>
</tbody>
</table>

Notes: *p < 0.1, *p < 0.05, **p < 0.01, ***p < 0.001; Exponentiated coefficients are presented so that a hazard ratio interpretation can be applied to the coefficients above. Results are displayed in odds ratio for ease of interpretation.
which suggests there is not a direct effect of task forces on this outcome in the absence of this collinear factor. In all cases except Kentucky\textsuperscript{16}, states that passed partial or full non-criminalization legislation had a statewide human trafficking task force. Therefore, this insignificant direct effect indicates that the presence of a human trafficking task force is nearly necessary, but not sufficient to predict the outcome of passing partial or full non-criminalization legislation. In other words, while it is the case that nearly all states that did pass partial or full non-criminalization legislation had a task force, it is simultaneously true that most states have created a task force and also have not passed non-criminalization legislation. Given the rapid diffusion of task forces nationally, they appear to be an important, but insufficient in isolation, step toward non-criminalization. Such a relationship would not be captured in a regression model assessing a linear relationship.

One additional consideration is that within prior research on anti-CSEC legislation (with Bentele 2016) it was apparent that including the time dummy variables captured much of the variance otherwise explained by task forces, and a similar dynamic may be present here as evidenced by the lower task force coefficient once the time trend is introduced in Model 3.

Despite the absence of a direct effect of task forces, the presence of state-mandated CSEC-specific services is persistently significant. This consistent significance indicates states with mandated CSEC-specific victim services have a tighter fit in terms of predicting the passage of legislation prohibiting the prosecution of sexually exploited minors for

\textsuperscript{16} Kentucky simultaneously passed “arrest, no prosecute” legislation and legislatively mandated the creation of a statewide human trafficking task force in 2013.
prostitution. States that require CSEC-specific victim service provision are roughly six times more likely to pass partial non-criminalization legislation than states without compulsory CSEC-specific services. Mandated CSEC-specific service provision indicates states are more likely to have an established and adequate infrastructure to support CSEC victims outside of the juvenile justice system.

Alternatively, state legislatures with enough support to pass legislation mandating CSEC-specific victim services may also have enough political momentum to subsequently pass partial or full non-criminalization legislation. Not all task forces, however, have been created legislatively, which indicates states with task forces may not have the same level of political will in the state legislature to pass partial or full non-criminalization legislation. As a result, the impact of task forces most likely depends on the presence of additional significant factors or groups in state. This conditionality of task forces relative to passing partial or full non-criminalization legislation is illustrated in Models 4 and 5: the task forces variable is only significant when interacted.

_T ime Trend Controls_

Models 2 and 3 further examine task force and state-mandated CSEC-specific services by examining all factors without and with the time trend variables controlling for the increased salience of CSEC as a political issue over time. Model 2 is identical to Model 3 except for the exclusion of the dichotomous year dummies. In my previous research on CSEC legislation I found CSEC legislation diffused across states substantially over time and a time trend explained an enormous amount of variation in the increase of comprehensive state legislation. Here we see the dichotomous variables for years are significant, indicating a
non-constant hazard rate of passage of legislation over time, but their inclusion does not substantially change the size or significance of the main effects in the model. The primary influence of dropping the time trend controls is a modest increase in the coefficient of CSEC-specific services as well as a slight decrease in the per capita concentrated disadvantage variable. The comparison between these two models indicates that the presence of state-mandated CSEC-specific services, as well as fewer people living in areas of concentrated disadvantage, are significantly associated with the passing partial or full non-criminalization legislation above and beyond the impacts of the passage of time relative to the baseline years of 2008-2009.

Additionally, the time trend variables used in Models 3-5 indicate a highly significant increased probability of passing partial or full non-criminalization in all years relative to the baseline years 2008-2009. Caution is warranted, however, when interpreting these large time trend coefficients because the passage of legislation prohibiting the prosecution of sexually exploited minors for prostitution was very rare in 2008-2009.

Concentrated Disadvantage

In addition to the importance of state-mandated CSEC-specific services and the time trend, the results of the full Model 3 indicate the proportion of the state population living in areas of concentrated disadvantage is also consistently significantly associated with state-level legislative decisions not to prosecute sexually exploited minors for prostitution. The per capita concentrated disadvantage variable is the single most influential factor in these analyses, indicating that the odds of a state passing partial or full non-criminalization legislation decreases 81% for every one unit increase in the concentrated disadvantage
Given the average concentrated disadvantage index in this study ranges from -1.33 to 1.60, this underlies the substantial impact of this factor. States with more people living in areas of concentrated disadvantage are more likely to be punitive toward this population for CSEC. This is one of the most noteworthy findings of this study because most evidence linking CSEC and low socio-economic status is anecdotal, even though poverty is widely recognized by stakeholders as a leading CSEC risk factor. Therefore, these findings suggest states with more children at risk for being commercially sexually exploited due to living in areas of concentrated disadvantage may also be at higher risk for being criminalized for CSEC.

Task Force Interaction Effects

In addition to testing independent variables and time trend controls in this set of models, I also explore multiple theoretically plausible interaction terms. State-level CSEC legislative processes are complex; therefore, investigating interactions between independent variables provides a more nuanced depiction of the socio-political landscape of partial and full non-criminalization states. As such, examining the role of task force interaction effects is crucial to these analyses because my previous research on CSEC legislation indicates states with more anti-CSEC NGOs that do not have a statewide human trafficking task force have

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17 Since states with fewer people living in areas of concentrated disadvantage significantly increases the likelihood a state will pass legislation not to prosecute sexually exploited minors, I disaggregated the six elements of the concentrated disadvantage variable to examine which components are most salient (see Appendix G for disaggregated concentrated disadvantage models). Results indicate, however, the presence of all six components simultaneously is the most important attribute of the concentrated disadvantage variable, which emphasizes the practical and theoretical importance of this index.
more comprehensive CSEC legislation. For that reason, it is necessary to explore the role of task forces when moderated by significant factors in these analyses. The first interaction effect explores my hypothesis that states with more white Evangelicals, which is a proxy for faith-based organizations, are more likely to pass partial or full non-criminalization legislation. Conversely, the second examines my hypothesis that states with more incarcerated girls, which is a rough proxy of CSEC victims’ “policy image,” are less likely to pass partial or full non-criminalization legislation. Results of Models 5 and 6 suggest task forces are influential in increasing the likelihood a state passes partial or full non-criminalization when moderated by the presence of white Evangelicals and incarcerated girls, respectively\(^\text{18}\).

**Figure 6. Task Force and White Evangelicals Interaction Effect**

\(^{18}\) Given the significance of state-mandated CSEC-specific services and per capita concentrated disadvantage in this set of models, I tested interaction terms using these variables respectively to examine whether either of these factors significantly moderated the presence of GOP legislators, female legislators, incarcerated girls, and children in foster care. However, no interaction effects were significant, indicating that only the direct effects of these two variables predict partial and full non-criminalization legislation passage.
Task Forces and White Evangelicals

Model 4 results suggest task forces are influential in increasing the likelihood a state passes partial or full non-criminalization when moderated by the presence of white Evangelicals. As displayed in Figure 6, states with a higher proportion of white Evangelicals without a task force are more likely to pass partial or full non-criminalization legislation than a state with a high proportion of white Evangelicals with a task force. Put simply, the presence of more white Evangelicals in a state compensates for the absence of a statewide human trafficking task force. However, in states with a task force, the proportion of white Evangelicals has only a subtle effect in increasing the likelihood of passing partial non-criminalization legislation. Given the significance of statewide human trafficking task forces in these analyses, the finding that states with more white Evangelicals and no task force seem to have the highest likelihood of passing partial or full non-criminalization is counterintuitive. However, the significance of this interaction effect speaks to the importance of faith-based organizations within the human trafficking movement.

Task Force and Incarcerated Girls Interaction Effect

Similarly, Model 5 indicates that the presence of more incarcerated girls in states with a task force slightly increases the likelihood a state will pass partial or full non-criminalization legislation (see Figure 7). In states without a task force, however, the presence of more or fewer incarcerated girls does not matter much in terms of the probability a state will pass partial or full non-criminalization. Which is to say, states with a human trafficking task force that are more punitive toward girls are marginally more likely to pass partial or full non-criminalization legislation. This finding suggests statewide human
trafficking task forces are slightly more active in advocating for non-criminalization legislation in states that are more punitive toward girls because they are more aware of girls being criminalized for CSEC. Model 5 also indicates states with more anti-CSEC NGOs are less likely to pass partial non-criminalization legislation. This finding is counterintuitive because many anti-CSEC NGOs are involved in advocating for non-criminalization legislation. However, a possible explanation is anti-CSEC NGOs are less likely to form and mobilize in states with an active statewide human trafficking task force who are already advocating for CSEC victim protections.

This first set of models tells us a great deal about factors associated with states more likely to pass partial non-criminalization legislation. The passage of time, the presence of state-mandated CSEC-specific victim services, and fewer people living in areas of concentrated disadvantage have the most significant direct effects, while the presence of a statewide human trafficking task force, the proportion of white Evangelicals, and the

**Figure 7. Task Force and Incarcerated Girls Interaction Effect**
percentage of incarcerated girls are significant when interacted. These results illustrate factors both internal and external on the state legislature when it comes to the impact on the likelihood a state will adopt partial or full non-criminalization legislation. This is essential for understanding the incremental process of adopting this type of legislation over time.

I now examine how these same factors are associated with state-level decisions to neither arrest nor prosecute sexually exploited minors for prostitution.

4.3 Full Non-criminalization Legislation

Table 3 contains two models examining factors associated with state-level full non-criminalization legislation. These non-criminalization models include two types of state human trafficking task forces to examine which type may be most influential.

4.3.1 Full Non-criminalization Models

Task Forces

Models 1 and 2 in Table 3 indicate that states with both types of human trafficking task forces are significantly more likely to pass full non-criminalization legislation, with DOJ-funded task forces slightly more likely to pass full non-criminalization in both the full and reduced models. Both types of task force variables indicate a highly significant increased probability of passing full non-criminalization in all years relative to the baseline years 2008-2009. Caution is warranted, however, when interpreting these large task force coefficients because the passage of full non-criminalization legislation was very rare in 2008-200919. These highly significant direct effects, as well as the presence of task forces in every state

19 The analysis coefficients are rate ratios, which is why the coefficients on the task force variables are so large.
that passed full non-criminalization legislation, indicate that these small groups of people who care about addressing CSEC are central to passing state-level CSEC legislation.

Table 3. Discrete Event History Analysis Full Non-criminalization: 2008-2017

<table>
<thead>
<tr>
<th>State Gov. Orientation to CSEC</th>
<th>Model 1</th>
<th>Model 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Trafficking Task Force (DOJ)</td>
<td>1998238*** (4582437)</td>
<td>2417591*** (4227588)</td>
</tr>
<tr>
<td>Human Trafficking Task Force (not DOJ)</td>
<td>1008260*** (2881239)</td>
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<tr>
<td>State-mandated CSEC-specific Services</td>
<td>39.62* (71.13)</td>
<td>44.49^ (91.87)</td>
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<tr>
<th>State Legislature Composition</th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>% GOP State Legislators</td>
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<td>1.00</td>
</tr>
<tr>
<td>% Female State Legislators</td>
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<th>Interest Groups</th>
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<th></th>
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</thead>
<tbody>
<tr>
<td>Count of CSEC NGOs (logged)</td>
<td>0.29* (0.17)</td>
<td>0.30* (0.17)</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Religious Composition</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>% white Evangelicals</td>
<td>1.02</td>
<td>1.05</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Proxy Measures of Prevalence/Vulnerability</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>% Incarcerated Girls</td>
<td>1.05^ (0.03)</td>
<td>1.05 (0.04)</td>
</tr>
<tr>
<td>Per Capita ppl Living in Areas of Concentrated Disadvantage</td>
<td>0.09* (0.10)</td>
<td>0.09* (0.10)</td>
</tr>
<tr>
<td>Per Capita Polaris National Hotline Calls (logged)</td>
<td>2.94* (1.59)</td>
<td>1.55 (0.97)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Time Trend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2014-2015</td>
<td>0.9958512</td>
</tr>
<tr>
<td>2016-2017</td>
<td>3.545949</td>
</tr>
</tbody>
</table>

| Constant | 8.91e-13*** | 1.22e-12*** |
| N        | 472          | 472          |

Log Pseudolikelihood

Notes: * p < 0.1, * * p < 0.05, ** p < 0.01, *** p < 0.001; * Exponentiated coefficients are presented so that a hazard ration interpretation can be applied to the coefficients above. Results are displayed in odds ratios for ease of interpretation.
CSEC-specific Services and Polaris Calls

Additionally, Model 1 indicates that the presence of state-mandated CSEC-specific services and higher prevalence of sex trafficking as indicated by more calls to the Polaris National Human Trafficking Hotline are only significant without time trend controls. However, the time trend is not significant in Model 2. For that reason, cautiously interpreting these direct effects is still warranted because the outcome of passing full non-criminalization legislation is rare and there is very little variation to explain in the model. While these results are only suggestive, Model 1 indicates states with state-mandated CSEC-specific services may be 40 times more likely to pass full non-criminalization legislation than states without state-mandated CSEC-specific services. Similarly, the presence of state-mandated CSEC-specific services is nearly significant in the full Model 2, which further suggests that to some extent passing full non-criminalization legislation may be predicated on states having CSEC-specific victim services in place prior to passing this legislation. Additionally, Model 1 suggests states with a more reported sex trafficking activity may also be more likely to pass full non-criminalization legislation than states with lower prevalence of sex trafficking. While caution is warranted in interpreting these direct effects, these results tell us both victim services and pervasiveness of sex trafficking in a state may be notable predictors of passing full non-criminalization legislation.

Anti-CSEC NGOs

While state-mandated CSEC-specific services and Polaris calls are significant only in Model 1, the presence of anti-CSEC NGOs is significant in both models. For every additional one unit increase in the logged count of anti-CSEC NGOs per capita, states are 70% less
likely to pass full non-criminalization legislation. Notably, the presence of fewer NGOs in predicting the passage of full non-criminalization legislation may be counterintuitive. Anti-CSEC NGOs and CSEC victim non-criminalization advocacy groups often participate in CSEC legislative processes. However, a possible explanation is anti-CSEC NGOs are more likely to form and mobilize in states that arrest and prosecute sexually exploited minors for prostitution as a way to advocate for victim protections, and are not as needed in states that do not prosecute sexually exploited minors for prostitution. Additionally, Texas, which is a full criminalization state, has roughly five times more per capita anti-CSEC NGOs than similarly populous states such as California. Many Texas anti-CSEC NGOs are church groups focused on providing financial resources and services to CSEC victims, not advocacy groups lobbying for legislative change. Put simply, Texas’ criminalization status, coupled with the large per capita number of Texas-based NGOs’ potential focus on resources, not legislation, may help explain why direct effect results suggests states with fewer anti-CSEC NGOs are more likely to pass partial or full non-criminalization legislation.

Concentrated Disadvantage

Next, both models indicate states with fewer people living in areas of concentrated disadvantage are more likely to pass legislation to neither arrest nor prosecute sexually exploited minors for prostitution. While the resulting coefficients are model specific, interpreting the reasons why these factors are significant to passing both partial and full non-criminalization legislation may be similar. These findings suggest this lack of state-level victim protections may be a mechanism associated with higher criminalization rates for poor children and children of color. Females and people of color are more likely to live in areas of
concentrated disadvantage. These considerations are critical to this research for two reasons. First, states with more concentrated disadvantage have more children at risk for being commercially sexually exploited because poverty is a leading CSEC risk factor. Second, girls of color, particularly African-American girls, are arrested for prostitution at higher rates than white girls. Put simply, states with more girls of color at risk for CSEC are significantly more likely to arrest and prosecute sexually exploited minors for prostitution.

**Figure 8. Per Capita Concentrated Disadvantage and Per Capita Calls to Polaris National Human Trafficking Hotline, 2017**
Concentrated Disadvantage and Prevalence

Given this relationship between poverty and commercial sexual exploitation, we would expect to see more calls to the Polaris National Human Trafficking Hotline reporting suspected sex trafficking activity in states with more people living in areas of concentrated disadvantage. However, Model 1 indicates that states with fewer people living in areas of concentrated disadvantage are more likely to pass full non-criminalization legislation, while states with a higher prevalence of sex trafficking are more likely to pass this statute. For that reason, examining the relationship between these factors across states is warranted.

Figure 8 illustrates the correlation between per capita concentrated disadvantage and reported sex trafficking Polaris calls (logged) in 2017. For example, New Mexico and Nevada have more people living in areas of concentrated disadvantage, as well as high levels of reporting suspected sex trafficking. However, Mississippi, Utah, and West Virginia have more people living in areas of concentrated disadvantage, but fewer Polaris calls. These results indicate different reporting rates and patterns of suspected sex trafficking activity, controlling for reporting, across states. One possible explanation for this variation is that the general public in states with more poor people but fewer Polaris calls does not have the same level of awareness and skill on how to identify commercial sexual exploitation. Paternalistic

---

20 I examine the correlation between these two variables for one year (2017) – as opposed to the average from 2008 to 2017 – to capture the maximum level of public awareness about sex trafficking in the Polaris calls variable. It is argued that knowledge of how to identify sex trafficking was greater in 2017 than in 2008 due to educational campaigns from anti-CSEC NGOs. Examining a single year of per capita number of people living in areas of concentrated disadvantage captures the level of extreme poverty in a state because these rates are relatively constant from 2008 to 2017.
attitudes toward poor, commercially sexually exploited people in states with more people living in areas of concentrated disadvantage may be another mechanism for this disparity between reporting versus actual prevalence of sex trafficking. This cultural explanation may indicate the general public in poor states believes sex trafficking victims are “deviant” or complicit in their exploitation, rather than victims of a crime.

4.3.2 Task Force Models

I now turn to an examination of what factors are associated with creating statewide human trafficking task forces in Table 4. This is notable because all states that passed full non-criminalization legislation had a statewide human trafficking task force, indicating that the presence of task force may be nearly a necessary condition for adopting legislation prohibiting the arrest and prosecution of sexually exploited minors for prostitution. The criticality of task forces in passing full non-criminalization legislation suggests creating a statewide human trafficking task force may be usefully conceptualized as an example of a second order policy effect. That is, the existence of institutionalized coalitions of CSEC stakeholders within a human trafficking task force may lead to subsequent legislative initiatives such as legislation prohibiting the arrest and prosecution of sexually exploited minors for prostitution.

We will now examine which factors are significantly associated with a state creating human trafficking task forces. These factors can also be considered as important to passing full non-criminalization legislation because statewide human trafficking task forces have been shown to be such a notable precursor to state-level non-criminalization of CSEC victims.
Female Legislators and White Evangelicals

The first reduced model is provided to examine the impact of dropping the proportion of female state legislators on the coefficient for percentage of white Evangelicals as these two factors have a moderate negative correlation (-.55). I provide this comparison to show what happens when each is excluded due to this collinearity. These results indicate each has a significant direct effect when the other variable is omitted, suggesting the strength of each variable’s direct effect is impacted by multicollinearity. Additionally, the negative association indicates that states with more female state legislators have fewer white Evangelical citizens. This relationship is central to addressing CSEC because both female legislators and faith-based organizations are very involved in human trafficking at the state level (Whittier 2018; Wittmer and Bouché 2013).

Model 2 indicates states with a higher proportion of female legislators are significantly more likely to have a statewide human trafficking task force when time trend controls are added and the percentage of white Evangelicals is omitted. This tells us for every one unit increase in the percentage of female legislators a state’s likelihood of creating a statewide human trafficking task force increases by 223%. Given this factor ranges from a value of 8% to 42% this indicates that this is one of the most influential factors in these analyses. The significance of this direct effect suggests female state legislators are a galvanizing force in creating and advocating for statewide human trafficking task forces. Conversely, Models 1 and 4 suggest states with fewer white Evangelicals are significantly more likely to have a statewide human trafficking task force. Model 1 indicates for every one unit increase in the percentage of white Evangelicals, states are 7% less likely to create a task
force. And Model 4 similarly indicates for every one unit increase in the percentage of white Evangelicals states are 5% less likely to have a task force.

Table 4. Discrete Event History Analysis Task Forces: 2008-2017

<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
<th>Model 4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State Gov. Orientation to CSEC</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State-mandated Services</td>
<td>3.31^</td>
<td>2.63^</td>
<td>6.68**</td>
<td>3.28^</td>
</tr>
<tr>
<td></td>
<td>(2.02)</td>
<td>(1.60)</td>
<td>(4.17)</td>
<td>(2.02)</td>
</tr>
<tr>
<td><strong>State Legislature Composition</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% GOP State Legislators</td>
<td>0.99</td>
<td>0.99</td>
<td>1.00</td>
<td>0.99</td>
</tr>
<tr>
<td></td>
<td>(0.01)</td>
<td>(0.01)</td>
<td>(0.01)</td>
<td>(0.01)</td>
</tr>
<tr>
<td>% Female State Legislators</td>
<td></td>
<td></td>
<td>3.23**</td>
<td>1.87*</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1.22)</td>
<td>(0.58)</td>
</tr>
<tr>
<td><strong>Interest Groups</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count of CSEC NGOs (logged)</td>
<td>0.35**</td>
<td>0.37***</td>
<td>0.47***</td>
<td>0.32***</td>
</tr>
<tr>
<td></td>
<td>(0.11)</td>
<td>(0.11)</td>
<td>(0.10)</td>
<td>(0.10)</td>
</tr>
<tr>
<td><strong>Religious Composition</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% white Evangelicals</td>
<td>0.93**</td>
<td>0.97^</td>
<td>0.95*</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(0.02)</td>
<td>(0.01)</td>
<td>(0.02)</td>
<td></td>
</tr>
<tr>
<td><strong>Proxy Measures of Prevalence/Vulnerability</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% Incarcerated Girls</td>
<td>0.89*</td>
<td>0.89*</td>
<td>0.93^</td>
<td>0.89**</td>
</tr>
<tr>
<td></td>
<td>(0.04)</td>
<td>(0.04)</td>
<td>(0.04)</td>
<td>(0.04)</td>
</tr>
<tr>
<td>Per Capita ppl Living in Areas of Concentrated Disadvantage</td>
<td>0.96</td>
<td>0.43^</td>
<td>0.62</td>
<td>0.70</td>
</tr>
<tr>
<td></td>
<td>(0.44)</td>
<td>(0.22)</td>
<td>(0.32)</td>
<td>(0.34)</td>
</tr>
<tr>
<td>Per capita Polaris National Hotline Calls (logged)</td>
<td>1.87**</td>
<td>1.94***</td>
<td>2.32***</td>
<td>1.96***</td>
</tr>
<tr>
<td></td>
<td>(0.48)</td>
<td>(0.37)</td>
<td>(0.53)</td>
<td>(0.34)</td>
</tr>
<tr>
<td><strong>Time Trend</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009-2011</td>
<td>8.35</td>
<td>5.94</td>
<td>7.39</td>
<td></td>
</tr>
<tr>
<td>2012-2014</td>
<td>38.68*</td>
<td>21.75*</td>
<td>34.47*</td>
<td></td>
</tr>
<tr>
<td>2015-2017</td>
<td>99.10**</td>
<td>139.88**</td>
<td>131.81**</td>
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<tr>
<td>Constant</td>
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<td>.0185157*</td>
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</tr>
<tr>
<td>N</td>
<td>173</td>
<td>173</td>
<td>173</td>
<td>173</td>
</tr>
</tbody>
</table>

Notes: * p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001; * Exponentiated coefficients are presented so that a hazard ratio interpretation can be applied to the coefficients above. Results are displayed in odds ratio for ease of interpretation.
The finding that states with fewer white Evangelicals are more likely to have a statewide human trafficking task force is extremely counterintuitive. Faith-based anti-human trafficking initiatives are very active in the human trafficking movement and state-level legislative processes. A possible explanation is faith-based advocates and organizations may not participate in statewide human trafficking task forces because these institutions often comprise governmental agencies such as law enforcement, child welfare services, and state-funded direct services. Another possible mechanism is faith-based organizations were more active in states without task forces to fill a void of advocating for non-criminalization of CSEC victims (all states have statewide human trafficking task forces as of 2016). While coefficients cannot be compared across models, it is notable the task force and white Evangelicals interaction effect in the first set of models indicates states with more white Evangelicals without a task force are significantly more likely to pass partial or full non-criminalization legislation (see Figure 6). For that reason, we can cautiously consider the influence of faith-based organizations may be most prominent when statewide human trafficking task forces are absent.

*State-mandated Services*

Next, we examine the significance of victim services in creating task forces. The presence of state-mandated CSEC-specific services perfectly predicts statewide human trafficking task forces. For that reason, a variable measuring the presence of state-mandated services, which includes both CSEC-specific and non-CSEC-specific services, is used in Table 4. The presence of state-mandated services is significant only when time trend variables are omitted in the reduced Model 3. This suggests the time dummies are accounting
for much of the variation in the Models 1, 2, and 4 where the presence of state-mandated services is significant at the level of a one-tailed test (p < .10). This direct effect and near significance of mandated services suggests a strong association between task forces and legislative directives to ensure the availability of victim services, as one would expect since both are state-level approaches to addressing this issue.

**Time Trend, Anti-CSEC NGOs, Polaris Calls, and Incarcerated Girls**

Model 4 also indicates that four remaining factors are significant predictors of states creating human trafficking task forces: time trend from 2012 to 2017; per capita anti-CSEC NGOs; prevalence of sex trafficking in a state as measured by the per capita number of sex trafficking calls to the Polaris National Human Trafficking Hotline; and the proportion of incarcerated girls. Notably, a higher prevalence of identified sex trafficking activity in a state positively predicts the creation of a statewide human trafficking task force, while states with fewer anti-CSEC NGOs and incarcerated girls, as well as fewer white Evangelicals, are more likely to have a task force. The time trend variables tell us that states were significantly more likely to create a statewide human trafficking task force from 2012 to 2017, relative to the reference year of 2008. Additionally, the full model suggests states with a higher prevalence of sex trafficking are more likely to create a statewide human trafficking task force to address this issue (for every one unit increase in logged Polaris calls a state’s likelihood of creating a task force increases by 96% in Model 4). Next, as found in the partial and full non-criminalization models, anti-CSEC NGOs are less likely to form and mobilize in states already addressing CSEC issues at the state level through institutions such as task forces. Finally, for every one unit increase in the percentage of incarcerated girls, states are 11% less
likely to have a statewide human trafficking task force. This indicates states with a more punitive orientation toward girls are less likely to have a human trafficking task force.

Two of these outcomes are worth emphasizing. First, the fact that the number of calls to the Polaris National Human Trafficking Hotline reporting sex trafficking is predictive of creating task forces is noteworthy. This significant association suggests states are directly responding to a higher prevalence of sex trafficking in a state by creating a statewide human trafficking task force to address this issue. This is important because state human trafficking task forces are a significant predictor of states passing partial or full non-criminalization legislation. However, it is also necessary to contextualize this outcome. Creating a task force is easier to accomplish politically than passing non-criminalization legislation or mandating CSEC-specific services. Task forces are less of a fiscal or political commitment than prohibiting the arrest and prosecution of sexually exploited minors for prostitution or requiring that this population receives specialty services. The fact that creating a task force is a “lighter lift” from a legislative perspective relative to the more substantive policy changes is likely a contributing factor to the lack of significance of task forces in the initial analyses of state passage of both partial and full non-criminalization legislation.

Second, the fact states that are more punitive toward girls are less likely to have a human trafficking task force is also worth emphasizing. While all coefficients are model specific, comparing these task force model results to the task force and incarcerated girls interaction effect in the partial and full non-criminalization models is interesting. The interaction in the first set of models suggests that the presence of more incarcerated girls in states with a task force slightly increases likelihood of passing partial or full non-
criminalization (see Figure 6). Put simply, these results suggest states with more punitive orientations toward girls require an organization such as a task force to shift incarcerated girls’ policy image from delinquents to victims. For example, statewide human trafficking task forces can leverage their political power to advocate for recognizing sexually exploited minors as victims, not criminals, in states that are more punitive toward girls.

Now that we have examined factors significantly associated with creating human trafficking task forces, I turn to the final set of models to explore how these same factors are associated with state-level decisions to require victim services. State-mandated CSEC-specific services are significantly associated with states passing partial and full non-criminalization legislation, and they perfectly predict the presence of task forces. For that reason, examining predictors of compulsory CSEC-specific services is warranted.

4.4 CSEC-specific Victim Services

Table 5 contains two models examining factors associated with states mandating CSEC-specific services. First and foremost, the presence of state-mandated CSEC-specific services consistently predicts a higher likelihood of passing partial and full non-criminalization legislation. Also, the fact all states with state-mandated CSEC-specific services had this service provision in place when creating their task forces is another reason to explore this outcome. This noteworthy association between state-mandated CSEC-specific services and task forces also illustrates the importance of the second order policy effects on CSEC legislative processes. Formalizing victim services and creating a small group of individuals dedicated to addressing CSEC issues are key predictors of states prohibiting the arrest and/or prosecution of sexually exploited minors for prostitution.
Model 1 is a full model without the time trend variables, and Model 2 is the full model. Notably, the time trend variables are not significant in Model 2, suggesting the passage of time is not an important predictor of state-level legislative decisions to mandate CSEC-specific services.

Table 5. Discrete Event History Analysis State-Mandated CSEC-Specific Services: 2008-2017

<table>
<thead>
<tr>
<th>Model 1</th>
<th>Model 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State Gov. Orientation to CSEC</strong></td>
<td></td>
</tr>
<tr>
<td>Human Trafficking Task Force (DOJ)</td>
<td><strong>2.22e+07</strong>* (3.61e+07)</td>
</tr>
<tr>
<td>Human Trafficking Task Force (not DOJ)</td>
<td><strong>1.24e+07</strong>* (1.70e+07)</td>
</tr>
<tr>
<td><strong>State Legislature Composition</strong></td>
<td></td>
</tr>
<tr>
<td>% GOP State Legislators</td>
<td>1.00 (0.2)</td>
</tr>
<tr>
<td>% Female State Legislators</td>
<td><strong>0.23</strong> (0.13)</td>
</tr>
<tr>
<td><strong>Interest Groups</strong></td>
<td></td>
</tr>
<tr>
<td>Count of CSEC NGOs (logged)</td>
<td>1.12 (0.42)</td>
</tr>
<tr>
<td><strong>Religious Composition</strong></td>
<td></td>
</tr>
<tr>
<td>% white Evangelicals</td>
<td>0.97 (0.04)</td>
</tr>
<tr>
<td><strong>Proxy Measures of Prevalence/Vulnerability</strong></td>
<td></td>
</tr>
<tr>
<td>% Incarcerated Girls</td>
<td>0.93 (0.04)</td>
</tr>
<tr>
<td>Per Capita ppl Living in Areas of Concentrated Disadvantage</td>
<td>1.65 (1.21)</td>
</tr>
<tr>
<td>Per Capita Polaris National Hotline Calls (logged)</td>
<td>1.17 (0.39)</td>
</tr>
<tr>
<td><strong>Time Trend</strong></td>
<td></td>
</tr>
<tr>
<td>2009-2011</td>
<td>0.10</td>
</tr>
<tr>
<td>2012-2014</td>
<td>0.21</td>
</tr>
<tr>
<td>2015-2017</td>
<td>0.28</td>
</tr>
<tr>
<td>Constant</td>
<td><strong>2.22e-07</strong>* 6.59e-07***</td>
</tr>
</tbody>
</table>

Notes: * p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001; * Exponentiated coefficients are presented so that a hazard ratio interpretation can be applied to the coefficients above. Results are displayed in odds ratios for ease of interpretation.
**Task Forces**

Both models indicate states with both DOJ-funded and non-DOJ-funded human trafficking task forces are significantly more likely to mandate CSEC-specific services than states without task forces. Interpreting these large coefficients with caution is necessary, though, because the rate of state-mandated CSEC-specific services in states without task forces is extremely low. As a result, these rate ratios of state-mandated CSEC-specific services in states with a task force versus states without a task force are sizeable. These highly significant direct effects, as well as the presence of task forces in every state that passed non-criminalization legislation, indicate these small groups of people who care about addressing CSEC are central to passing state-level CSEC legislation. Both models suggest states with DOJ-funded human trafficking task forces are substantially more likely to have state-mandated CSEC-specific services than states with non-DOJ-funded task forces.

**Female State Legislators**

The only other factor significantly associated with states mandating CSEC-specific services is the percentage of female legislators. It appears states with more female state legislators are actually less likely to mandate CSEC-specific services. This outcome is in contrast to the task force set of models, which indicates states with more female legislators are much more likely to have a statewide human trafficking task force than states with fewer female state legislators. This negative impact of the likelihood of states mandating CSEC-specific services may reflect Wittmer and Bouché’s (2013) research, which suggests disproportionate female sponsorship on a bill viewed as a “women’s issue” such as human trafficking (or CSEC, in this instance) prohibits the bill from passing. These findings suggest
passing legislation that invests state resources, such as mandating CSEC victim services, signals prioritization of this issue and may require both male and female legislators’ sponsorship in order to pass such financial mandates.

4.5 Non-Significant Variables

It is also worth emphasizing variables that are not significant. The proportion of GOP legislators and per capita number of children in foster care are both insignificant in all models. Given that CSEC and human trafficking, more broadly, are widely considered to be a bipartisan issue, the insignificance of Republican legislators should be expected. However, prior research (Price and Bentele 2016) suggests GOP legislators favor passing legislation strengthening criminal prosecution of traffickers as the primary approach to protecting CSEC victims, whereas Democrats tend to prefer mandating direct victim service provisions and protections. Therefore, one would expect states with fewer GOP legislators would be more likely to pass partial or full non-criminalization legislation. I also examined whether the proportion of GOP legislators was significant in different contexts through a series of interaction effects (models not shown). While one interaction with GOP legislators and per capita number of children sentenced to death or life without parole was statistically significant, the weakness of the association did not warrant discussion.

Additionally, given that the majority of sexually exploited children either are currently or have been involved with child protective services at some point, one would expect the per capita number of children living in foster care would also have a significant association within these models. However, per capita number of people living in concentrated disadvantage and the percentage of incarcerated juveniles who are girls were
the only significant proxy measures for children vulnerable for CSEC. An additional consideration is that the foster care variable captures only the number of children currently in foster care, rather than the number of children who have been involved with child protective services at some point in their lives. Therefore, the foster care variable does not represent all children vulnerable to CSEC due to current or prior involvement with child protective services.

Lastly, the following factors were also not significant (in models not shown):

- Proportion of Catholics in a state population
- Percentage of incarcerated juveniles who are African-American
- Prevalence of sex trafficking in a state as measured by cases reported in the FBI’s annual Uniform Crime Report
- Per capita state budget totals
- Per capita minors sentenced to death or life without parole prior to the Supreme Court rulings
- State-authorized and -mandated law enforcement training
- Contiguous-state policy diffusion for all dependent variables (partial and/or full non-criminal, non-criminalization, task forces, and state-mandated CSEC-specific services)

4.6 Quantitative Results Summary

In sum, these analyses provide a rich understanding of the likely factors driving state-level legislative decisions to non-criminalize sexually exploited minors. This cumulative effect and incremental process reflects the goals of Safe Harbor legislation to protect victims through non-criminalization legislation and to provide victim services. Figure 9 illustrates this progression in greater detail than the previous diagram, now that all results have been discussed. The more detailed figure reflects how task forces may influence non-
criminalization legislation either directly or when interacted, as well as how the creation of statewide human trafficking task forces mutually supports the Safe Harbor law objectives of victim protections and service provision. Establishing these new institutions charged with pursuing legislative change has proven to be an extremely effective approach in other policy domains, and this appears to be the case for CSEC victim non-criminalization legislation as well. While this illustration does not fully capture all factors associated with passing non-criminalization legislation, the mutually positive relationship between task forces, victim services, and legislative efforts to protect victims through non-criminalization are represented.

**Figure 9. Task Forces, Victim Services, and Victim Protection Legislation**
In addition to task forces and CSEC-specific services, these analyses indicate the time trend, more female state legislators, white Evangelicals, and incarcerated girls, as well as a higher prevalence of CSEC, are all drivers of passing partial or full non-criminalization legislation. In contrast, states with fewer per capita people living in areas of concentrated disadvantage and anti-CSEC NGOs are more likely to pass non-criminalization legislation. While I have already speculated on the mechanisms of each of these factors singularly, considering the broader impact of these factors in totality is more complex. The presence of statewide human trafficking task forces, CSEC-specific services, more female state legislators, white Evangelicals, and incarcerated girls, as well as a higher prevalence of sex trafficking, as predictors of state-level legislative decisions to pass either partial or full non-criminalization legislation reflect the broader narrative within the human trafficking movement about addressing CSEC issues legislatively. For instance, these analyses suggest initial steps taken by state legislatures to address CSEC such as creating human trafficking task forces and mandating CSEC-specific services, particularly in states with more reported sex trafficking, are leading to additional legislative changes to protect CSEC victims. However, speculating on why states with more people living in areas of concentrated disadvantage are less likely to non-criminalize CSEC victims is more complicated. These findings suggest states with more children at risk for being commercially sexually exploited due to poverty and structural inequalities are more likely to be criminalized for prostitution. One possible explanation is minors who are sexually exploited by exchanging sex for basic necessities such as housing, food, and clothing are viewed by criminal justice agents and state legislators as making a “bad choice” and, therefore, need to be “reformed” by the
juvenile justice system. Another possible mechanism is children living in areas of concentrated disadvantage do not fit cultural image of an “ideal victim,” so they are criminalized for being sexually exploited.

While the causal mechanisms between concentrated disadvantage and criminalization are multi-layered, the lessons these analyses provide for advocates to increase the probability a state passes non-criminalization legislation are more direct. Instituting statewide human trafficking task forces and state-mandated CSEC-specific services are paramount to passing non-criminalization legislation. All states except Kentucky had a statewide human trafficking task when passing partial or full non-criminalization, and the presence of state-mandated CSEC-specific victim services perfectly predicts task forces. Therefore, the second order effects of these policies will increase the likelihood of passing non-criminalization legislation. Both institutions indicate state-level commitments to prioritize CSEC issues such as victim protections and further policy efforts.

Furthermore, these analyses underscore the advantages of taking a multi-outcome approach to examining state-level CSEC victim non-criminalization legislation. Exploring each of the four outcomes separately revealed how each stage of the CSEC legislative process affected the others and how various moderating factors and contingencies influenced each stage. Most notably, the fact that prevalence of sex trafficking in a state matters for creating statewide human trafficking task forces, but not for passing non-criminalization legislation or mandating CSEC-specific services, is a critical dynamic I might otherwise not have captured without examining each stage of passing non-criminalization legislation. This finding is also notable because creating an institution such as a statewide human trafficking
task force in states with higher reported prevalence of sex trafficking activity suggests state legislators are positively responding to the severity of the problem.

One final consideration is to emphasize these results represent dynamics emerging in the earliest years of passing partial and full non-criminalization legislation. This reflection is necessary because future passage of this type of legislation may reveal substantially different dynamics between the social, political, and economic factors associated with prohibiting the criminalization of sexually exploited minors.

I now turn to the results of the qualitative semi-structured, in-depth interviews with anti-criminalization advocates, state legislators, state legislative aides, and state prosecutors to provide further context on how these stakeholders interact with state-level legislative processes to non-criminalize sexually exploited minors.
CHAPTER 5
QUALITATIVE RESULTS AND ANALYSIS

5.1 Introduction

The following qualitative analyses examine how anti-criminalization advocates, state legislators, state legislative aides, and state prosecutors describe how they interact with and influence state-legislative processes to pass CSEC victim non-criminalization versus criminalization legislation. Qualitative results are organized similarly to the theoretical frameworks and current CSEC legislative responses outlined in Chapter 2. I argue that the CSEC stakeholder actions and state legislators’ decisions I examine are well-described by Baumgartner and Jones and Arnold’s theories of policymaking. For this reason, I first consider how participants describe how they influence state-legislative decisions to treat CSEC victims as victims or criminals, which mirrors Punctuated Equilibrium Theory (see Figure 10). Next, I explore how participants describe the influence of state legislators and state legislative aides, as well as statewide human trafficking task forces within CSEC legislative processes. Finally, I conclude with how participants describe state-level legislative decisions were made to adopt three legislative approaches to identifying sexually exploited children: arrest but not prosecute, full criminalization, and non-criminalization. Coupled with my quantitative findings, these qualitative analyses provide a rich understanding of current
state-level legislative decisions not to criminalize versus criminalize sexually exploited minors.

I now turn to examining how participants describe the ways CSEC state-legislative policymaking processes follow Baumgartner and Jones’ and Arnold’s policymaking theories, which are the primary theoretical frameworks utilized in this study.

5.2 Punctuated Equilibrium Theory and CSEC

Qualitative results indicate CSEC legislative processes reflect the Punctuated Equilibrium Theory framework. Notably, most participants describe how CSEC Survivor Advocates have recently emerged as a new, highly visible group to raise awareness that sexually exploited minors are victims, not criminals, which has influenced an increase in non-criminalization legislative efforts. I now turn to exploring these dynamics in full detail.

Figure 10. Stakeholder Influence on Non-criminalization Legislative Process
Anti-criminalization Advocates

Anti-criminalization advocates, particularly CSEC Survivor Advocates, were described by nearly all participants as the most influential group within CSEC legislative processes. Participants described how CSEC Survivors Advocates’ emotional testimony during legislative hearings puts a face to child sex trafficking, which motivates state legislators to act. One state legislative aide from a full criminalization state explained, “I think the survivor population is absolutely the most influential group…Once [legislators] hear stories of survivors and know the horrific situations that they have had to endure, and what they think the state should have to protect.” Stories about CSEC victimization as relayed by direct service providers were also described as impactful. A non-criminalization advocate currently residing in a full criminalization state who has done CSEC legislative advocacy in multiple states stated,

I would say stories from direct services for child sex trafficking are very influential. I’ve had legislators say ‘It wasn’t until I heard that story, that I made up my mind [to pass non-criminalization legislation]’…Whether they thought this was not happening in the way people are saying it’s happening, they heard those stories from those people who work with children…who have to be the one that hear those grueling, inhumane things that were done to them that could turn anybody’s heart to change.

CSEC Survivor Advocates also mentioned the need to focus on evidence-based practice and trauma-informed solutions when it comes to addressing non-criminalization, and not just their tragic stories. One CSEC Survivor Advocate described how they promoted full non-criminalization in their partial non-criminalization state by offering specific non-punitive solutions such as receiving CSEC-specific services. They explained, “I think survivor voices have to be joined with efficacious policy. So, if I’m in [state] and I’m screaming, ‘This is
what happened to me! You need to do something about this!,’ you need to be telling them what the solution looks like.” CSEC Survivor Advocates described telling state legislators to pass CSEC victim non-criminalization legislation was that solution. For example, when explaining how CSEC survivors influenced passing full non-criminalization legislation in their state, one non-criminalization advocate stated, “[Criminalization] was coming to light through survivors…and realizing ‘Okay, this is a problem. This is happening in our state, and [non-criminalization] is what we’ve got to do about it.’”

Most participants also described how anti-criminalization advocates’ CSEC awareness-raising efforts are shifting sex trafficked children’s policy image from criminals to victims. One CSEC Survivor Advocate explained how they helped raise awareness while passing full non-criminalization legislation in their state:

[I]n this movement we have seen institutional responses and cultural responses to the changes in [non-criminalization] legislation…I think as more time goes by and people get used to dealing with [sexually exploited minors] in those terms, views become more solidified that, yes, children are victims in these cases. They’re not choosing to go out and sell their bodies. I think there’s been a social response. And just attention to the issue. There’s an awareness piece of that as well.

Similarly, one legislative aide described how this change in attitude helped full non-criminalization legislation pass in their state. “I think there is a better understanding. I think people are seeing them as the victims they are, as opposed to bad kids.”

Lastly, many participants described the anti-criminalization advocates’ strong influence because they have been on the front lines of the human trafficking movement. For example, one anti-criminalization advocate from a full criminalization state said,
What’s interesting now is, when I say we, I mean the [advocacy] partners, when we started doing this work, there was nobody else. In a funny way, it established many of us as knowledgeable people or resources, or agencies with experience. That’s the thing, a couple of years ago that I think I took stock of that made me feel really good, was we’ve been doing this for ten years. We have this learning experience so these aren’t just abstract ideas…Some of what we know, we know because we’ve experienced it. That seemed really important and I do feel like there’s been a lot of respect for that.

In addition to looking back, one CSEC Survivor Advocate stressed the importance of capitalizing on the awareness-raising on gender-based violence and harassment within the current #metoo and #timesup movements when advocating for full non-criminalization in their full criminalization state. “I think now is the time we can really make change, when we kind of join forces with other movements. Because I think what’s happening with prostitution and trafficking are left out of the #metoo movement, and [trafficking] is like #metoo on steroids.”

*Activating Inattentive Publics*

Multiple participants also described how CSEC Survivor Advocates’ awareness-raising efforts, particularly those in the media, activated previously inattentive publics to call for legislators to address non-criminalization. For example, one legislative aide described how the legislator they supported introduced legislation to non-criminalize CSEC victims in their full criminalization state after a constituent forwarded the state legislator a CSEC Survivor Advocate’s awareness-raising article written for a local National Public Radio website. The constituent was surprised to learn their state criminalized sexually exploited minors for prostitution and demanded the state legislator address the issue. The legislative aide said, “[T]he article was a big inspiration for [state legislator] to look into the topic…[it]
was a big turning point in our office…It really startled my boss and [state legislator] wanted to look into it further.” The state legislative aide also explained how the Judiciary Committee did not forward the resulting legislation to the full state legislature for a vote; however, they indicated the state legislator will reintroduce the bill in a future session.

Participants also described how media coverage of advocates’ educational campaigns about specific events caused many previously inattentive publics to pressure policymakers to pass CSEC legislation. One anti-criminalization advocate from a full criminalization state that hosted the Super Bowl explained,

We got a lot of people to get involved, a lot of people to say, ‘Hey, we need to look at this.’ Of course, people advocate that human trafficking happens all the time no matter what time of season, any time of year, but we did expound on the fact that we had Super Bowl coming to [the state] and we had people talking about it and so we utilized that aspect of it to get [state legislator name] legislature and state policy folks involved. On the next go around in [year] came around for that and we were able to get [the bill] passed.

Another anti-criminalization advocate explained how media coverage of a sex trafficking victim’s murder in their city was used as a tool “to show the harms of this, and why this is important that we change this kind of legislation to help these individuals,” including passing full non-criminalization legislation to protect sexually exploited children in their state.

State Prosecutors

While many participants described CSEC Survivor Advocates’ emotional stories influencing people’s “hearts and minds,” state legislators and prosecutors also described how prosecutors have more direct access to influencing state-level CSEC legislation. For instance, multiple prosecutors described drafting CSEC bills with state legislators that eventually passed and advising policymakers on specific legislation. One legislative aide from a full
criminalization state said, “The District Attorneys have a big voice on whether or not they agree or disagree with a policy. [State legislative] leadership understands that they, in fact, probably do the most…or a big chunk of the ‘on the ground’ work surrounding this topic.”

Multiple prosecutors also described how state legislators sought their advice on practical considerations such as how specific legislation would be implemented and enforced, including decisions whether or not to criminalize sexually exploited minors. One state prosecutor from a full criminalization state described,

I’ve also done lots of readings with senator’s or representative’s offices ahead of time to talk about and advise them on different [human trafficking] proposals they’re considering…whether those will be helpful or not helpful to the people who are on the ground and actually working the types of cases.

Additionally, one state legislator suggested that pro-criminalization prosecutors’ participation in the political arena gives them more access to and influence with high-level policymakers in their full criminalization state than anti-criminalization advocates. “[W]e listen to prosecutors…social service agencies tend not to have very much political clout because they’re generally not involved with the political side of things. And they don’t volunteer in campaigns.”

This influence on CSEC legislation is of great consequence because many criminal justice agents, including prosecutors and law enforcement, do not support non-criminalization. Some state prosecutors I interviewed described being able to threaten “unruly” sexually exploited minors with arrest and/or prosecution for prostitution as a “good tool” when CSEC victims “chose” to return to their traffickers or refused to receive services. However, most anti-criminalization advocates described disagreeing with state prosecutors’
justification for criminalization as a way to assist “non-compliant” CSEC victims. One anti-criminalization advocate described their experience with pro-criminalization law enforcement in their full criminalization state:

So, [their attitude is] ‘This girl just got out of trafficking, and I need to step in and control her.’ Do we see that now, really, we’re just acting as a pimp… I hate when people say we need to arrest them to help them. There are many other things that you can do to help people, other than arrest them… And if you look at the places… so a lot of these girls run, right, and if you look at where we’re sending them, you’d run too… But we don’t have any specialized places for these girls. We’re holding them in [juvenile detention] facilities and just awful places. And then we’re like, ‘Oh, they’re runners’. Well, they’re running from something.

However, another anti-criminalization advocate who works in the same state empathized, “I think [state prosecutors’ justification of criminalization] probably came from a position of worrying for kids who were unwilling to accept help or aid, and who might remain at risk… that the leverage of the court might persuade cooperation or compliance [by the child]. … I think it’s probably also a big deal for police and District Attorneys to give up the option.”

Despite these concerns, many prosecutors described how they believed CSEC victims should not be criminalized. Multiple state prosecutors explained how working with sexually exploited minors for an extended period and gaining an understanding of the complex dynamics of commercial sexual exploitation gave them the confidence to promote non-criminalization legislation with their colleagues. One state prosecutor described how they advocated for a non-punitive response in their partial non-criminalization state.

Everyone that was concerned [and] saying ‘Wait a minute, what now do we do with these juveniles if we can’t hold them?’ And having done juvenile defense work for ten years, I said, Listen, trust me, I know what this looks like, we can manage it. We
don’t need this. We need to let this go because legally it doesn’t make sense and morally it’s wrong. We can be fine, and we have been fine.

Similarly, a state prosecutor explained how passing full non-criminalization legislation in their state was “a natural outgrowth of several steps and really understanding [with prosecutors and] with our legislature, as well as law enforcement, that kids can’t consent.” This legislative change toward not criminalizing CSEC victims reflected how changing this population’s policy image could directly impact how criminal justice agents treated this population.

*Policy Image*

Most participants also described this shift in viewing sexually exploited children as victims, not criminals, as the way the perceptions about CSEC have changed the most over time. This understanding is foremost within Punctuated Equilibrium Theory because this mobilization of bias driven by CSEC Survivor Advocates directly affects how CSEC victims are treated legislatively. For example, one state legislator said,

Recognition that the girls are our girls and they’re not far born abroad, brought over from other countries to be prostitutes here… I think that’s a significant change. It’s been much more embraced as a problem and an issue to grapple with. When we first introduced a CSEC bill, it was one bill… So it went from being very isolated to being almost popular among my colleagues to do something on the subject… There was a recognition that this is very horrible crime… You know, and as all of those things started to come together, it became more popular for legislators to get involved with.

Therefore, an increased understanding that sexually exploited minors are victims who need protections and services has led to increased legislative efforts for victim protections.

Similarly, another state legislator described, “In the beginning it was merely just imposing criminal penalties on those who practice child sex trafficking… Over time it evolved so that
you realize there are things you need to do more to protect your victims than what we were doing.”

Most participants described an increased awareness about how CSEC victims did not “choose” to be commercially sexually exploited. For example, many participants explained how social and economic circumstances, such as poverty and living in areas of concentrated disadvantage, perpetuate CSEC regardless of their state’s non-criminalization status. For instance, a state legislator from a full non-criminalization state explained, “The best thing we could do to fight child sex trafficking is to invest in affordable housing and strong social safety nets…to invest in young people. That’s anti-trafficking work.” Similarly, an anti-criminalization advocate from a full criminalization state said,

A lot of people that I talk to really don’t understand [CSEC victims] because they’ve never lived in the damn ‘hood…Not all, but many of these little girls are bobbing and weaving, getting pulled into some kind of sexual exploitation and molestation daily while trying to go to school. Just trying to survive in this. So, it becomes a norm that they get pulled into this stuff…Then the next thing you know, she’s servicing the gang members, the drug dealers and she’s still way underage. She becomes the next generation of [exploited] women.

A state legislator from a full criminalization state also explained, “And for those girls [living in poverty], the pimp is a fairy godfather that lets them get some nice clothes, get their hair done, lets them sleep in nice places, and takes them to luxury hotels…those girls who don’t see themselves as being exploited. They see themselves as a beneficiary, and that’s really scary.”

In addition, multiple participants described how shifting attitudes about the effects of abuse and violence within CSEC led them to advocate for partial or full non-criminalization legislation to protect victims. One state prosecutor from a full non-criminalization state
commented,

This crime started out as individuals who’d been in law enforcement for a very long time who felt like these [victims] made a choice and they’re getting what they deserve, kind of this ‘old boy network.’ It took a long time for people to understand [victims were saying], ‘My trafficker kept me addicted to heroin, or my trafficker blackmailed me, or coerced me in some way’…It took a long time to understand the dynamics of the actual crime that was being committed and then to convince law enforcement officers who had this ‘old school’ mindset that this really is a crime of violence, this really is something, that we should be prosecuting.

This sea change in “old school” thinking was also reflected by another state prosecutor from a partial non-criminalization state who said, “[Why are we] locking up kids who are in an abusive subservient relationship to a human trafficker? Why in the name of God would you ever lock that child up? But we did. It was considered great policy for quite some time.”

Many participants described trauma-informed training for criminal justice agents as a primary mechanism for educating prosecutors and law enforcement that sexually exploited minors are victims, not criminals. A state prosecutor who advocated for their state’s partial non-criminalization legislation explained,

I would say [CSEC victims will not be traumatized] if law enforcement has been trained to act in a trauma-informed way. I mean it’s something that can’t be, I mean the social worker’s not going to go and kick down the door. You know, take the trafficker away. So, it’s something that can’t be avoided, so what we try to do is to teach law enforcement, you know, this is what you should expect from a victim. This is how [CSEC victims] are going to respond to you. These are the types of terms that you use, ‘trauma-informed.’ And, of course, just like anything else, some [police officers] are better at that than others. But I think that we are really, we are working really hard to get that message through to law enforcement.

Similarly, an anti-criminalization advocate from a full non-criminalization state described a law enforcement agent they have collaborated with for years. “[H]e understood the impact of trauma on victims and how that was going to be important to a case…the victim still had to
be cared for and treated in a certain way...those things just came together in a perfect storm when he did that training.”

*Increase in Non-criminalization Legislation*

Multiple participants described how this shift in policy image that sexually exploited minors are victims, not criminals, has resulted in an increase of non-criminalization legislation. Participants described how this legislative change has often been incremental due to the need for continued awareness-raising with stakeholders and policymakers who do not initially support non-criminalization. For instance, when describing an initial bill that did not get passed prior to their state passing partial non-criminalization legislation, one state legislative aide explained, “Victims’ advocates had been trying to start the conversation for some years, but again we’re kind of getting that, ‘You know, it’s just prostitution,’ kind of thing. I think it was just a matter of starting to get people education.” The aide went on to explain,

Generally speaking, these larger reforms take several years to get passed. It takes people a little bit of time to wrap their heads around what’s going on, what are we trying to do. To require somebody to have a complete mind shift on something takes a little bit of time. So, I think they were just trying to get people’s feet wet and trying to get passed what they thought they could get passed. That year that bill actually passed the house, and it went down to the Senate, and it passed the Judiciary Committee, and then ended up dying. There was a lot of really high emotions the last night of session. Several of the victims’ advocates were emotionally upset because they had really wanted to get something passed for victims and, unfortunately, weren’t able to do so. So that just reinforced for the next go around, ‘You know what, we’re going after the whole kit and kaboodle [the next year].’ I think it sort of made some people just that much more determined.

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Reporting on how the bill introduced the following legislative session did pass, the aide stated, “It was actually a better bill. We’re so glad we didn’t get that bill passed in [the previous legislative session] now…We got pretty much everything we wanted.”

An anti-criminalization advocate also described how their state passed full non-criminalization legislation incrementally. Their state first passed a Safe Harbor bill that allowed sexually exploited minors to be arrested but not prosecuted for prostitution, and then passed a non-criminalization bill a few years later. The advocate described,

The issue was starting to just come more to light through [CSEC] survivors, and then through that process of legal advocates and attorneys and legislators and all of them centering around the same issue and realizing okay, [criminalization] is a problem. This is happening in our state, and this is what we’ve got to do about it.

These descriptions illustrate how CSEC Survivor Advocates’ awareness-raising efforts and collaboration with other stakeholders and policymakers are central to passing non-criminalization legislation, which reflects “mobilization of bias” within the Punctuated Equilibrium Theory framework.

The comments throughout this section provide evidence state-level CSEC victim non-criminalization legislative processes reflect the dynamics of Punctuated Equilibrium Theory for four reasons: First, anti-criminalization advocates, particularly CSEC Survivor Advocates, are described as the new group driving a shift in sexually exploited minors’ policy image from criminals to victims both inside and outside of the state legislature. Next, participants describe how this shift is leading to previously inactive publics to put pressure on state legislators to address CSEC issues, including non-criminalization, legislatively. Third, participants also describe state prosecutors as the group who often advocate to maintain the
status quo of criminalizing sexually exploited minors as a way to protect them and/or punish them for making “bad choices.” Finally, despite this tension, participants describe an increase in state-level non-criminalization legislative activity. This is noteworthy because a rapid increase in the amount of legislation being passed around a specific issue is a key tenet of the Punctuated Equilibrium Theory framework.

In addition to describing the dynamics within this theoretical framework, these results provide a detailed account of the mechanisms in which CSEC stakeholders and state legislators support and contest the shift in sexually exploited minors’ policy image. Participants’ descriptions seem to suggest CSEC Survivor Advocates’ awareness-raising efforts are an effective tool in changing this image; however, results also indicate criminal justice agents want to continue to have the option to criminalize this population for various reasons. This articulation of the specific arguments for and against non-criminalization is a key finding because prior evidence of this dynamic has only been anecdotal.

While participants describe anti-criminalization advocates and state prosecutors as the primary actors promoting and resisting changes to sexually exploited minors’ policy image within the dynamics of Punctuated Equilibrium Theory, state legislators and state legislative aides are also described as key actors within CSEC legislative processes. For that reason, I now turn to exploring how participants describe these groups’ influence state-level decisions to criminalize versus non-criminalize this population.
5.3 State Legislators and State Legislative Aides

State Legislators

All state legislators described themselves as being influential in the state legislative process simply by their role as elected officials. One state legislator from a full criminalization state described, “By passing legislation, we’re giving tools to the prosecutors...[and] the social service agencies...including money...The legislation is critical to advancing the eradication of sex trafficking.”

Multiple participants also described the increased influence of state legislators who are “champions” of CSEC issues. Participants described how champions often use strategies to raise awareness within the state legislature by inviting CSEC Survivor Advocates to testify during legislative hearings. A legislative aide from a full criminalization state explained,

I firmly believe that just giving people a piece of paper with words and numbers on it doesn’t turn their hearts, but being exposed to victims and real-world circumstances touches everybody’s heart. So, it’s people in a position to influence things...seeing the impact and the destruction or despair of the victims is what motivates [legislators] to get off their butts and do something.

One anti-criminalization advocate described being moved by how a state legislator advocated for non-criminalization in their state. “[It's powerful] when a legislator really becomes passionate about the issue, and that’s when they begin advocating for it at the cost of other things, and that’s not something legislators do very easily.”

Many state legislators also described the importance of serving on legislative committees in order to pass CSEC legislation. One state legislator described how their role within the Judiciary Committee helped them pass partial non-criminalization legislation because, “All criminal justice matters come before [the committee], so I feel pretty
influential in the process of it.” Similarly, a state legislator echoed the importance of committee members, particularly committee chairs. “Well, I think that the legislature is a complicated place. So much of what happens up here is based on relationships…good relationships with the committee chairs and things like that, to kind of get things done, and get things through the process.” However, getting a bill out of committee can be difficult due to competing legislative priorities. For instance, one state legislative aide explained how a proposed full non-criminalization bill in their state was not a priority to the Judiciary Committee, stating,

They weren’t necessarily interested in anything, the session that didn’t have to do with the bigger criminal justice reform bill…and it’s not that they aren’t good bills, but it wasn’t the priority of the committee. And a lot of times, depending on what the hot topics of the session are, those types of bills get pushed off to the side, which is, in my opinion, a shame. And that’s not really how public policy should work. But it’s how they’ve decided to function in their committee. And if you can’t get the committee support where the bill is, then the bill is kind of dead in the water.

As a result, legislative procedures such as committee work are necessary considerations within the CSEC legislative process.

*State Legislative Aides*

Like the state legislators they support, all legislative aides also described themselves as being influential with CSEC legislative processes. One legislative aide explained,

I think I have a decent amount of influence…No one would take what I said and just do it because I said so. But I think the conversations I’ve been able to have with advocates and police and some different academic individuals or even survivors, I think has been able to get folks in the room, who may not have been in the room before. And maybe push them to think a little more differently about the topic.

Similarly, a legislative aide declared their influence derived from their responsibilities in drafting their state’s partial non-criminalization legislation. “[I]n drafting the legislation…we
would hit big policy questions or big logistics questions...And inevitably I would come up with wording and solutions to put in the bill that worked.” Therefore, the legislative aides described how they were the ones problem-solving and outlining the details of CSEC legislation.

Additionally, several participants described how legislative aides are influential because state legislators rely on them to understand the intricacies of CSEC issues, as policymakers must address so many topics simultaneously. One state legislator from a full criminalization state who advocates for full non-criminalization explained, “Well, I mean honestly, I’m not the expert on any of this. As you know, us legislators, we’re doing a million different things. And so, I’ve dumped a lot of it in [state legislative aide]’s lap [to understand].”

These comments seem to provide evidence state legislators and legislative aides influence state-level CSEC legislative processes on two levels: First, the very nature of state legislators’ roles is to influence the legislative process. However, participant descriptions of the importance of particular positions with the state legislature such as committee chairs seems to suggest some state legislators have more power than others. Second, participants describe how state legislative aides are instrumental to legislative decisions because they often draft the specific legislation or sort out the logistics of how legislation is going to be enacted. This implies state legislative aides are also very influential to CSEC legislative processes even though they do not serve as elected officials.

Like state legislative aides, members of statewide human trafficking task forces are usually not elected officials; however, most participants described task forces as very
influential on state-level non-criminalization legislative decisions. Many CSEC stakeholders describe serving on a statewide human trafficking task force as a key component of their work. For that reason, I now turn to examining how participants describe the influence of statewide human trafficking task forces within state-level CSEC legislative processes.

5.4 Statewide Human Trafficking Task Forces

In addition to describing influence in their individual roles, many participants also mentioned the importance of their participation in statewide human trafficking task forces in influencing CSEC-related policy and practice. One CSEC Survivor Advocate from a partial non-criminalization state explained how collaborating and building trust within the task force translated to law enforcement working more effectively with victims.

[T]he only way a task force model really works is if you have your law enforcement and your social service people plugging in…[T]he task force has to have both, and to me that’s when law enforcement works best is when they’re talking to, networking, and working hand-in-hand with the social service side…[W]hen you have law enforcement talking to that victim saying, ‘I can help you and I can keep you safe,’ [victims] need to know that those things are true.

Similarly, a state prosecutor from a partial non-criminalization state explained, “[W]e are doing a lot of education...we have a federal grant from the Department of Justice…to make a task force and a response effort…[P]eople are starting to look at things as possible trafficking, whereas before they might have thought, ‘Oh, it’s a kid who’s a prostitute.’”

Another described how collaborations within the task force have led to an expansion of how their governmental agencies address CSEC in their full non-criminalization state:

[The task force] focused on, ‘How can we better serve the victim? What kind of resources can we provide the victim? How can we better train our law enforcement officers? And, how do we bring in that training and make it statewide so that an agency in the [state region] is handling that victim in the same manner as an agency
in [city].’ So, it’s gotten better over time just with the collaborations through the [task force] which has been phenomenal. They’ve done some fantastic work, done some fantastic research and received legislative funds to build residential programs for juvenile sex trafficking victims.

Finally, another state prosecutor who chaired their state’s task force described the influence of task force-drafted legislation in their full criminalization state.

I testified in front of several different committees that were considering the task force legislation…That statewide task force generates a legislative agenda amongst its members, which include a large number of state agencies that work on the issue. They include local agencies as well. They include advocacy victim-serving organizations, law enforcement, prosecution, trying to get in as many of the types of people that would work on the issue. Then when the task force took forward legislation or recommendations, those are typically unanimous [in the state legislature].

This “unanimous” vote illustrates task forces’ influence within the state legislative process and the trust state legislatures have in their collaborative approach to drafting CSEC legislation.

Participants’ descriptions indicate task forces are essential to furthering state-level CSEC legislative efforts for two reasons: First, participants describe how task forces provide a forum for CSEC stakeholders to debate differing positions about CSEC issues and to build trust. This suggests to me the collaborative and coalition-building efforts occurring within task forces are a key component of shifting sexually exploited minors’ policy image from criminals to victims. Second, participants’ descriptions of task forces’ legislative efforts indicate a high level of influence within the state legislature. This suggests to me state legislators trust task forces’ perspective and policy suggestions because multiple stakeholders and agencies addressing the issue in a state are represented.
Now that we have explored policymaking dynamics and mechanisms of state-level CSEC legislative processes, I now turn to how participants describe their state’s respective legislative decisions to criminalize or not criminalize sexually exploited minors. Three legislative outcomes are examined: partial non-criminalization, full non-criminalization, and full criminalization of sexually exploited minors.

5.5 Current State Legislative Responses

While understanding how the dynamics of Punctuated Equilibrium Theory impact the increased passage of non-criminalization legislation, exploring how participants described state legislative decisions to criminalize or not criminalize CSEC victims is also notable. Identifying arguments supporting and opposing non-criminalization provide an in-depth understanding of how participants describe these legislative decisions are made.

Partial Non-criminalization

Participants from states that retain the right to arrest but not prosecute sexually exploited minors focused on the importance of providing victim services as their state’s primary CSEC intervention. For example, one legislative aide explained,

[Law enforcement tries] not to [arrest] as much. I think it’s how everyone believes you can remove the child when you perceive them to be the victim, but they themselves may not believe that they are being victimized or be in a space where they could make that known to the scary law enforcement. So, the way to remove the person from the situation, get the services they need and eventually hopefully prosecute the people who put them in that situation is to forcibly remove them through some type of criminal penalty. Whether that’s an arrest or some sort of order to a safe home or something. And that’s been the tough piece.

Similarly, an anti-criminalization advocate described how this mandate to “protect” sexually exploited minors in their partial non-criminalization state by detaining them could be
problematic if their state did not also have formal service provision protocols or standardized systems of care for CSEC victims.

We rush to get these really good laws placed, like shutting down the electronic felon options, like Safe Harbor, and so these are both really good things. But we had no mechanism in place on what to do once those pieces of the puzzle were taken away. So now we have, for the states that have Safe Harbor laws, we’re not criminalizing these kids anymore, but you’re still not responding to them. You still have no way to get them connected to care in any systematic way.

One state prosecutor also described the importance of providing victim services, because the number of CSEC victims receiving services was their metric for measuring the efficacy of their state’s laws. “The thing that you have to worry about is, whether you’re a politician, or a state’s attorney, or a public defender, is we don’t want [sex trafficking] amongst children going up. We do want services to go up, because we know [CSEC] is a tsunami.”

*Full Non-criminalization*

Similar to partial non-criminalization states, participants from full non-criminalization states described the importance of having a robust infrastructure of CSEC victim services. One legislative aide state explained,

One of the challenges is that, if you decriminalize [CSEC victims], then don’t have the services, which…my understanding is that we don’t fund enough services as it is for victims of sex trafficking. And so, if we go ahead and decriminalize [victims] without also having the services, what’s going to be the consequences of that? So, I think people would like to see the services in place and decriminalize [victims] at the same time.

While participants from non-criminalization states advocated for services, they also described opposing criminalizing this population for ethical and legal reasons. One state prosecutor from a full non-criminalization state explained how they experienced opposition from other CSEC stakeholders when they advocated for a non-criminalization approach.
[Their] concern was that if we’re not able to arrest juveniles for prostitution and hold them they will run, and they will run, but my response was, ‘If you want to arrest a juvenile, you can always find a reason to do it.’ Whether it’s trespassing, or resisting without violence, or truancy…There’s going to be something else that we can hang our hat on…without charging them with that stigma…It’s almost dirty to them...[J]uveniles can’t consent to commercial sex, so how are we, literally, charging this? It’s not the right thing to do. I didn’t think it was ethically the right thing to do, but legally it made no sense to me.

Comparably, another state prosecutor explained how passing full non-criminalization legislation in their state happened over time as more people agreed minors cannot consent to sex and “just because you add money to it doesn’t make them criminals in that regard.” This same state prosecutor went on to describe how not criminalizing sexually exploited minors prevents them from being further “victimized in terms of the law labeling them as criminals...[and they] get to clear their record and they get to get services.”

Participants from full non-criminalization states also described how their states adopted non-punitive legislation because they believed arresting and prosecuting CSEC victims for prostitution traumatized this population. One anti-criminalization advocate explained, “we had a problem with arresting children [prior to passing non-criminalization legislation] for crimes that they were actually victims of these crimes…It was not logical to be doing that, not to mention the harm in terms of the additional trauma associated with an arrest of a minor for prostitution.” Equally, an anti-criminalization advocate from a full non-criminalization state explained,

We really do want to have a victim-centered, trauma-informed, strength-based, youth-centered, culturally-inclusive approach and that doesn’t always bump up so easily with what people see as a ‘Criminal Justice Accountability’ approach…But, part of [a legislative initiative] and Safe Harbor was to really try to just disconnect this punitive approach and really focus on our rehabilitative approach for these youth.
A state prosecutor from the same state also described how their state had an “advanced mindset” about not criminalizing CSEC victims, particularly because their state utilizes a public health approach to address CSEC. The state prosecutor also described how the state situated the agencies addressing CSEC within the Department of Public Health, not the criminal justice system, which allowed the state to address CSEC from a public health, rather than punitive, approach.

Despite this commitment to a non-punitive approach, some participants described how this population were still criminalized for trafficking-related crimes or for safety concerns in non-criminalization states. One legislative aide from a partial non-criminalization state explained,

> The problem with these cases sometimes is that they are complex, and it’s not just the child was being trafficked. It was that the child was committing some other crime. The child was shoplifting…There was another crime or several other crimes involved, breaking into cars or stealing whatever they were doing. There would be some elements in law enforcement that would say that person needs to be arrested. Again, it goes back to education if you look at the force of why they’re doing what they’re doing. This is really a child who’s being trafficked, and they’re doing what they’re doing because they’re scared to death, and they see no other way.

An anti-criminalization advocate from a full criminalization state also described, “[Bill number] was trying to be passed because law enforcement responded to the fact that they don’t arrest children for prostitution, but yet they would arrest them and find another way to charge them with something, based on they felt like if they didn’t they would just return to an unsafe situation.” Similarly, a state prosecutor from a partial non-criminalization state referred to another scenario where law enforcement decided to arrest a CSEC victim for an offense other than prostitution:
Children cannot be charged or arrested for prostitution at all…Now, children are not supposed to be detained…unless they are a danger to themselves or others. So, we’ve only had one time where a girl was detained, a 16-year old. She tried to take the gun off the law enforcement that was dealing with her, and then she threatened to go kill the person who [reported her to the police]. And so, she was in custody on drug charge for possession, because she had drugs on her, not for anything related to her trafficking situation, you know, not for being a prostitute or being a status offender or running away.

These participant descriptions of situations in which CSEC victims were detained illustrate how law enforcement interacts with sexually exploited minors in non-criminalization states.

**Full Criminalization**

Participants from full criminalization states described three main arguments behind their states’ legislative decisions to fully criminalize: assumption of risk, choice, and structural inequality. “Assumption of risk” refers to states being averse to adopting policies they fear will place sexually exploited minors at risk from further harm by traffickers, while “choice” considers criminal justice agents’ and legislators’ concerns sexually exploited minors may intentionally choose to participate in the commercial sex trade. Finally, “structural inequality” denotes how institutional sexism and institutional racism promote the criminalization of sexually exploited minors. I will now explore how participants describe the rationale for each argument.

**Assumption of Risk**

Most participants from full criminalization states described their states as not willing to risk a sexually exploited child being harmed within CSEC for three reasons: lack of “safe” alternatives to incarceration, a dearth of resources and capacity for direct services and governmental child protective agencies, and concern non-criminalization would leave all
minors at increased danger of CSEC. Of these three, participants described “assumption of risk” as the primary factor because stakeholders believed incarceration was currently the best way to protect CSEC victims. One non-criminalization advocate from a full criminalization state explained,

As part of our grant project with our leadership advisory board, we’ve had a conversation about [non-criminalization], and I think what’s emerged since then is that safety and charging [victims]…are inextricably conflated sometimes, and in real ways and in wishful ways. The perception that holding a child for their own safety is helpful. There are folks who certainly hang on to that, but in the absence of good, safe alternatives, it’s harder to have the conversation and we don’t have the good safe alternative.

The argument that holding a sexually exploited minor was for their own good, however, was refuted by some participants. For example, one anti-criminalization advocate from a full criminalization state explained,

We just ‘recovered,’ and I hate that term, a youth victim at a hotel. … [Child protective services] want to send her to a locked psych unit and force the rape kit on her, which means we’ve got a crazy kid. But these are the things that are happening. Now you’re talking about kids that have had essentially taken all their power and control away, and now we’re going to step in and just become exactly what they’ve just gotten away from. And then we don’t understand why they don’t cooperate, or they’re non-compliant. They need to be offered resources and tools and given a voice and choice and we help them with what they need. Not tell them what they need.

This scenario illustrates how anti-criminalization advocates describe the advocating for implementing trauma-informed, victim-centered supports and services, as opposed to holding victims against their will.

Despite best intentions of finding trauma-informed solutions, however, some participants described how their states decided to pass full criminalization legislation because
they could not find a “safe,” practical alternative to incarceration. For example, one anti-criminalization advocate said,

I do think [the decision to criminalize sexually exploited minors] was done with great intention and a desire to non-criminalize, but in the absence of a safe alternative or what feels like an effective alternative, it’s hard to give up…we looked at everything. We actually sat in a room here, a bunch of us, including attorneys…looking for non-criminal ways to potentially compel a child to be in placement and the only alternative was a psychiatric commitment. Didn’t feel a lot better, nor the right solution.

The same anti-criminalization advocate went on to emphasize no one wanted to take away a child’s rights; however, the group concluded full criminalization was the best approach due to concerns for children’s safety, at least until CSEC stakeholders and state legislators could find a “safe” alternative to incarceration in their state.

Participants also described how states did not want to assume the risk that sexually exploited minors would run away. One state prosecutor from a full criminalization state explained,

[Without criminalization] there is no way of keeping them within those services or within the system. But we do have a Safe Harbor law, 

21 it’s just not called that. We have a way for them not to end up with charges on their record at all, and be able to access services. It’s not a blanket deal, and it’s not titled a Safe Harbor law. We don’t have a square alternative system for them to flow into. … Those states [that do not criminalize CSEC victims] are much more comfortable with letting these kids go back and forth to their traffickers every night. Our state is not comfortable with that.

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21 Even though this study considers Safe Harbor laws as an analytical concept and not a singular piece of legislation, most participants referred to state-level CSEC legislative efforts in their states as Safe Harbor laws. Therefore, I do include the words “Safe Harbor” in participants’ quotes, but I also include if the participant is discussing the two primary Safe Harbor provisions of protecting victims through non-criminalization and providing CSEC-specific victim services.
Even though not all participants considered running away negatively, most did voice concern about preventing sexually exploited minors from running when their state did not have a viable non-punitive alternative to incarceration. One anti-criminalization advocate from a full criminalization state explained,

[Non-criminalization] is not going to be the all-time solution… we’re doing this housing study right now, looking at programs nationally to identify if there are models out there, where the efficacy is high and maybe there’s an evidence basis to be able to apply some good practice to programs here so that there might be a higher level of confidence in using different options. … They’re likely going to [run away]. Our model is designed around trying to prevent the leaving and preparing for the return, rather than declaring failure when a child leaves. We, all of us, would collectively like to know if we could create a program that, even if a child comes and goes over time, it’s leading to a place of stability and safety and wellness and healthy future.

These responses illustrate how many participants described the coexistence of the belief that detaining a child is “helpful” and the lack of safe alternatives to incarceration.

Most participants also described lack of funding and resources, rather than principles, as another key reason why states retain the right to involve sexually exploited minors in the criminal justice system. A state legislative aide involved in drafting their state’s partial non-criminalization legislation explained,

[T]he sticking points were more a factor of resources than they were ideology. It’s more a fact of okay, so we have a minor who a police officer finds walking down the street or…trying to sell themselves for sex...Once you pick up this child and have custody of the child, where do you take the child? The child is going to probably try to run, so if we can’t detain them then what? There were just…logistical kind of problems. I don’t think anyone was so much against the idea of doing this as there were, ‘I don’t have the resources to do this, and you’re going to ask me to do what because I don’t even have enough people to handle what we’re doing now.’

Similarly, one state prosecutor from a partial non-criminalization state said, “Those kind of things require money. It requires money to staff our offices with outreach. It requires money
for the social service providers. [Victims] are people of extremely limited means, if any means at all. The means that [all] they have is their body, and that’s it.” Another legislative aide explained how addressing the root causes of CSEC would require tremendous funding because CSEC has “connections to poverty, food insecurity, housing instability, I mean, living wage, all of that. If people have other opportunities and more stability, then [CSEC] isn’t as much of an issue.”

This lack of funding was also described as a major obstacle by participants from states that divert sexually exploited minors into trauma-informed, multidisciplinary services and/or state child protective service, yet still fully criminalize this population. One anti-criminalization advocate said,

I think that [our CSEC full criminalization legislation’s] strengths lie in its clear identification of [CSEC] as a form of child abuse, and its integration with the child welfare system. It’s unique in its multidisciplinary focus. It’s not as strong as it could be on the provision of services, because it’s not tied to an appropriation.

Conversely, a legislative aide from a partial non-criminalization state who was hopeful a recent child welfare funding increase may allow their state to address full non-criminalization stated, “I know [CSEC awareness] has elevated the status of child protective services, the visibility of that whole system within our state and with policymakers…this year we had a substantial increase in that budget, which they haven’t seen in a long time. I think that it all comes from this work.”

Republican opposition to funding for victim services and child welfare agencies was a key obstacle discussed by many participants. Even though nearly all participants stated CSEC is a bipartisan issue, most acknowledged each political party tends to take a different
approach to providing CSEC victim protections and services. Participants described Democratic legislators prefer to fund victim services and Republicans tend to support legislation increasing trafficker penalties and sentencing and training law enforcement. An anti-criminalization advocate stated, “I think it’s very easy for a Republican or Democrat to get behind protecting children from sex predators. But when it turns into a partisan issue, when you get you into the nitty-gritty details like are you going to provide funding to service providers.” A state legislative aide from a full criminalization state also explained,

   There’s a handful of Republicans that will vote against the budget entirely, but especially any increase as to any budget line items just because of their morals and what they believe in. So, if you had to try to argue with some of the minority leader, or the staff, or other Republicans on really prioritizing funding for this population, you might get some pushback and they might say, ‘Well, why can’t the [child protective services] use funds they already have to support this population?’ And we would just have to argue that there’s a certain subset of needs and they need...Their foster parents or their adoptive parents or their parents need certain services to be able to make sure the child is safe and they can live a happy life and all that kind of stuff. But they would probably advocate for using, just diverting the existing funding.

Similarly, an anti-criminalization advocate from partial non-criminalization state described,

   “[Republican legislators] may not want to put funding towards education for health care providers or funding towards [victim] mental health services...The funding goes to criminal justice because it’s addressing a crime. The crime of sex trafficking of children.”

   Lastly, a few participants described the rationale that criminalizing CSEC victims is more about protecting this population from further harm than giving criminal justice agents the right to arrest and prosecute them for prostitution. One state prosecutor who opposed their state’s full non-criminalization status said non-criminalization left minors more at risk for being sexually exploited by manipulative traffickers in that,
[T]he real concern that remains today is whether by decriminalizing, you are making [CSEC victims] more of a target for pimps and traffickers because [minors] can be convinced they won’t be prosecuted and so there is no consequence so that they can be more easily deceived and manipulated since most of our victims are psychologically coerced versus physically coerced into commercial sexual activity.

This rationale that passing non-punitive legislation would actually promote sexual exploitation was also explained by an anti-criminalization advocate from a full non-criminalization state. “I have had that pushback from some [state] law enforcement folks that I think…were concerned that exploiters would have less to worry about because his property would not risk being arrested for this crime, so it would potentially increase the activity.” Comparably, an anti-criminalization advocate from a full criminalization state who experienced opposition when advocating for non-criminalization explained,

[It was argued] if commercially sexually exploited children cannot be arrested for prostitution, then they can continue in that activity without any reprisal, no penalties, and so therefore, you’re essentially legalizing this sort of activity, which I found to be astounding. And the fact that under federal law anyway, and in [state] law, you can charge [sex] buyers of children as human traffickers, so it hardly makes it become legal. … I think there was concern that we were just going to allow this activity to continue.

These arguments suggest protecting CSEC victims from further harm is predicated on criminalizing them for prostitution.

Choice

Many participants from full criminalization states also described their states’ legislative decisions to criminalize sexually exploited minors who choose (or are perceived to be choosing) to be involved in the commercial sex trade. Participants described age as a primary factor in considering whether a minor was able to make a choice about CSEC. One legislative aide from a full criminalization state explained,
They try not to [arrest and prosecute minors] as much. I think it’s sort of how everyone believes you can remove the child to perceive them to be the victim, but they themselves may not believe that they are being victimized. … And then there were a few people talking about; ‘Well they’re 15, 16, 17, so it might be something that the person’s willing to do.’ But I think we’ve gone beyond that ‘either or’ scenario so there are folks who do believe that there are individuals who are choosing to do it who might still be considered an under 18 minor and they’re not being trafficked.

As a result of being perceived as being able to make a rational choice to either stay or leave CSEC, older children may be not be afforded protections given to younger children. An anti-criminalization advocate described how arguments about these levels of victim protections varied depending on a minor’s age in their partial non-criminalization state:

By the time a youth hits their early teens to mid-teens, the juvenile justice response to that child drastically changes. So there’s still a child that has always had abuse and neglect issues, there’s still a child that has never had stability or good support systems or good family connections, but now they’re acting out sexually or aggressively, so now we no longer see this child as a victim of the multiple things that have happened to them, we now see them as a perpetrator and part of the problem… You’re going to the population that serves them and you’re saying, ‘No, they’re victims.’ And those people are like, ‘No, they’re not. They’re a delinquent.’ And both are true. But I mean they’re delinquent because of the things that have happened to them. They’re not delinquent because they’re bad kids. … And somebody thinks that they have to win the argument, but you’re losing the war because you’re still not serving this kid.

This sentiment was echoed by multiple participants who described older teens as being expected to “know better” than to be involved with CSEC and to make “better choices” despite experiencing high amounts of trauma that made such “good choices” difficult or impossible.

Conversely, participants also described how their states decided to retain the right to arrest and/or prosecute sexually exploited minors so criminal justice agents could use the threaten to criminalize minors for prostitution as leverage against minors who don’t choose
to cooperate law enforcement, to receive direct services, or to leave their trafficker. One state prosecutor from a full criminalization state explained,

Unfortunately, not only are some of the sex trafficking victims unwilling to accept services, unwilling to get out of ‘the life,’ they get involved in other things, such as drug trafficking, robberies. They’re working in coordination with the pimp…so we always wanted to have [criminalization] available to us. … [W]e almost universally are not going to charge and prosecute on these crimes, but we do want to reserve the right, just in case we need it in our court. … That is a good tool. It’s the same with the drugs, too. If we give up, if we non-criminalize drugs, then we wouldn’t be in a position to get people. We can leverage a lot of people.

An anti-criminalization advocate further explained the importance of leverage to criminal justice agents in their full criminalization state. “The other concern is when you cannot arrest a child for prostitution, then you don’t have the leverage on that child to turn in a trafficker and that kind of thing, which happens with adult victims all the time, that criminal charges are a pretty big hammer.”

Some participants went on to explain how, unlike states that transitioned from partial non-criminalization legislation to full non-criminalization, this verbal commitment to not arrest or prosecute this population while still retaining the right to criminalize “non-compliant” sexually exploited minors deterred further non-criminalization legislative efforts. One anti-criminalization advocate from a full criminalization state said, “[Look at] the number of arrests in the last five years. It’s too many, right? But, it’s not a lot, so people will frequently say, ‘Kids aren’t getting arrested anyway.’ It creates a certain amount of complacency [about] changing the law.” A state legislative aide from the same state echoed this sentiment, saying once CSEC stakeholders and state legislators determine sexually exploited children are “safe,” then state legislatures do not prioritize additional non-
criminalization efforts. “I think politically, it is very smart to be an advocate for children and to stand against exploitation, [but] a lot of people don’t agree on what extent [state] can assist or fund or give services to that population.” These participant descriptions suggest such disagreements can lead to legislative inertia around passing non-criminalization legislation.

Lastly, many participants described how CSEC victims’ actions due to trauma were central in deciding to fully criminalize CSEC as a way to separate victims from their traffickers, whom they would not leave without the threat of criminalization. One state prosecutor described the justification of full criminalization in their state at the risk of retraumatizing CSEC victims:

I think an arrest is traumatizing for [CSEC victims]. The level of trauma associated with arrests is just so far down with the trauma of being prostituted. Whether it was from a misguided belief, that’s how you have to survive or because your boyfriend helped you into it or because you were coerced into drugs…I understand the argument that we’re biased.

A state legislator also advocated for full criminalization because CSEC victims may not leave their traffickers due to emotional dependence, or “trauma bonds,” and explained, “[Traffickers] hustle the young girls from our rural villages…it ends up being a co-dependency there, ‘Stockholm Effect’ with those girls who don’t see themselves as being exploited. They see themselves as a beneficiary [of clothing, shelter, etc.] and that’s really scary.” Therefore, participants expressed validation in retaining the right to criminalize CSEC victims in order to separate them from perpetrators.

Structural Inequality

Additionally, some participants described how institutional sexism among state-level policymakers and law enforcement reinforced legislative decisions to criminalize sexually
exploited minors. For example, one legislative aide described how some state legislators in their partial non-criminalization did not want to address CSEC issues legislatively because they conflated CSEC and prostitution:

[They were] within the good old boys’ system who just really think that prostitution in and of itself may not be the worst thing in the world. It’s just the oldest profession, you know, that sort of mindset. So, getting anything changed or penalties enhanced, or directing any kind of additional attention to or penalization of that type of activity was frowned upon.

These dismissive and discriminatory attitudes toward victims were also echoed by a CSEC Survivor Advocate who mentioned that male law enforcement in her full criminalization state called her a “pig” and a “whore” while arresting her for prostitution. Lastly, another anti-criminalization advocate from a full criminalization state described how a law enforcement officer admitted to harassing a CSEC survivor while they were being exploited. “The woman sitting next to me who’s a survivor talked about the horrendous, bad things cops did to her, and a couple cops in the audience got [angry] and said some things about harassment and doing that and mocked her. [Then one officer said, ‘I just have to say, I’m the cop that did that to her.’]” Naming the sexist actions and attitudes participants described is a vital consideration because state legislators and criminal justice agents were described as powerful figures within state-level CSEC legislative processes.

In addition, participants described similar discriminatory attitudes and actions toward CSEC victims of color. For example, another anti-criminalization advocate from a full
criminalization state described how victims of color are arrested at higher rates than white victims in their city:

I do think racism factors into the criminalization of [victims] in the sex trade. For example, the majority of the [victims] we see in [city] are white women yet when I go to the jail the majority of participants in the groups are women of color. I feel like when a white woman enters prostitution people are able to see the vulnerabilities that led her there and want to help her. When it is a woman of color we view it as a choice and blame her.

This description of white victims being treated as victims while victims of color are criminalized illustrates how this population must meet racialized ideals of “purity” and “innocence” in order to be treated as victims, not criminals.

Some participants discussed racist attitudes within the state legislature during CSEC legislative processes. One anti-criminalization advocate explained how state legislators in their full criminalization state, who were “predominantly white,” did not understand how children of color were often more at risk for CSEC due to socio-economic factors such as living in areas of concentrated disadvantage. They explained,

On the legislative level, [the lack of awareness is] really deep. Every now and then I get to throw it in there, but every now and then I have to remember to be strategic, because they’re all white and they live in a white world and they believe everything is equal and there’s only a few things that aren’t equal. They do, they really do…It’s important to understand that. It’s really important…[T]hese vulnerabilities are worse [for] Black, brown, and indigenous [victims]…I have to be strategic with it.

Another anti-criminalization advocate explained how white state legislators in their full criminalization state refused to consider tribal input from Native American nations living

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22 The following quote refers to adult women, not minors. Since this is a study on the commercial sexual exploitation of children, I did confirm with the participant that they also see the same disparity between the criminalization with children of color and white children as well.
within their state about their state’s human trafficking bill due to what they described as racist attitudes toward Native Americans:

[Some] people in policy who don’t want Native Americans to have any power. They don’t want them to utilize their sovereign power. They don’t, they just want them to stay in their little bubble and live in their little land and whatever happens there, happens there…That’s their mindset. That’s how they view the reservation in their state.

The same anti-criminalization advocate went on to explain how involving Native American tribes in CSEC and all human trafficking legislative discussions was important because “every tribe has someone that’s missing [due to human trafficking].”

These descriptions of varying legislative positions on non-criminalization suggest to me states are grappling with this issue in multiple ways: First, participants describe how some states fully support non-criminalization and are implementing trauma-informed responses throughout their states. Second, participants also describe how some states do not support the idea of prosecuting sexually exploited minors for prostitution but still retain the right to arrest this population to keep them “safe.” Third, most participants describe how their states retain the right to arrest and prosecute sexually exploited minors due to three issues: assumption of risk, choice, and structural inequality. Similar to the Punctuated Equilibrium Theory framework findings, these results are crucial because evidence of these varying arguments for and against non-criminalization are largely anecdotal. For that reason, participants’ descriptions of these three legislative responses outline detailed explanations for these three approaches, which can provide a broad understanding of these various positions.
5.6 Qualitative Results Summary

In sum, these analyses provide a comprehensive view of how CSEC stakeholders and state legislators describe how they influence and interact with legislative decisions to determine if a state treats sexually exploited minors as victims or criminals. Figure 11 illustrates these dynamics in greater detail than the previous diagram, now that all results have been discussed. The more detailed figure reflects how anti-criminalization advocates, including CSEC Survivor Advocates, described how they influence CSEC legislative processes by raising awareness with the general public, state legislators and state legislative aides, task force members, and state prosecutors. Conversely, state prosecutors explained they influence state legislators more directly than anti-criminalization advocates; however, they are also influenced by anti-criminalization advocates through trauma-informed, victim-centered law enforcement trainings. State legislators and state legislative aides described how they utilized their direct roles within state-level CSEC legislative processes to champion CSEC issues, including non-criminalization. While this illustration does not fully capture all dynamics of CSEC legislative processes, the various mechanisms in which anti-criminalization advocates, state legislators, state legislative aides, and state prosecutors described they utilize to influence and to access CSEC legislative processes are represented.

Furthermore, these results suggest to me all participants describe their professional – and sometimes personal – judgement on how to best serve sexually exploited minors. Many state prosecutors and state legislators described criminalization as the best way to keep kids “safe” from further harm. This “therapeutic coercion” approach of incarcerating this population as a safety measure suggests to me these participants believe criminalization is the
best approach to helping sexually exploited minors, even though it does not reflect evidence-based, trauma-informed best practices for serving this population. Participants describe the three primary concerns – assumption of risk, choice, and structural inequality – as reasons why they do not support full non-criminalization, despite evidence suggesting criminalization is re-traumatizing for this population. Moreover, given state legislators’ descriptions they listen to prosecutors’ opinions on CSEC issues, we can expect to see criminal justice agents’ preferences enacted within state-level legislation even if it is not evidence-based.

**Figure 11. Detailed Stakeholder Influence on Non-criminalization Legislative Process**
Finally, these results suggest to me the rapid increase of non-criminalization legislation will continue in the U.S., despite these three primary concerns. Participants describe state-level CSEC legislative change as an incremental process requiring perseverance and patience. For example, as one state legislative aide described, they were actually glad their initial non-criminalization bill did not pass because they were able to create an even better bill the following legislative session. For this reason, these results indicate participants are fully engaged in state-level CSEC legislative processes and are dedicated to passing evidence-based, trauma-informed legislation serving sexually exploited minors in all fifty states of the U.S.

I now turn to a discussion of the theoretical implications, suggestions for further research, and policy recommendations based on these study results. Considering quantitative and qualitative results concurrently is essential because they provide a more comprehensive understanding about non-criminalization legislative processes in the U.S.
CHAPTER 6
DISCUSSION

Examining how social, political, and economic factors intersect with CSEC policy trends is essential to understanding whether states identify sex trafficked minors as victims or criminals. Little has been written about how these factors explain the wide variation in state-level legislative decisions not to criminalize versus decisions to criminalize sexually exploited minors in the United States. This study creates a snapshot of state-level non-criminalization policy trends determining whether sexually exploited minors are treated as victims or criminals between states. This chapter considers the broader implications and applications of these findings. As a result, the first section reviews quantitative and qualitative results, and then integrates these findings to consider how one complements the other. Next, I consider the theoretical implications of these outcomes. Third, I provide policy and practice recommendations for stakeholders and policymakers advocating for non-criminalization state legislation. Lastly, I discuss recommendations for further research and limitations of this study. These considerations provide a roadmap for future directions in addressing state-level legislative decisions to non-criminalize sexually exploited minors in the United States.
6.1 Quantitative and Qualitative Results Overview

Quantitative Findings Overview

Services and Task Forces

Quantitative results indicate passing non-criminalization legislation is a cumulative and incremental process (see Appendix H for a bullet-point list of all significant factors). This progression often begins with passing state-level legislation mandating CSEC-specific services and statewide human trafficking task forces. Results indicate creating state-level institutions – CSEC-specific services and task forces – to address CSEC have second order policy effects on the legislative process, increasing the likelihood of passing partial or full non-criminalization legislation. Due to this substantial influence, it is worthwhile to consider factors significantly associated with state-mandated CSEC-specific services: statewide human trafficking task forces and fewer female state legislators. Similarly, it is necessary to consider factors associated with states having a statewide human trafficking task force: state-mandated CSEC-specific services, more female state legislators, more sex trafficking activity, fewer anti-CSEC NGOs, fewer white Evangelicals, and fewer incarcerated girls.

No Prosecute and Non-criminalization Legislation

Once services and task forces are in place, states are then more likely to mandate further victim protections by passing partial and/or full non-criminalization legislation. As a result, states with state-mandated CSEC-specific services, statewide human trafficking task forces when interacted with white Evangelicals and incarcerated girls, and fewer people living in areas of concentrated disadvantage are significantly more likely to pass legislation prohibiting the prosecution of sexually exploited minors for prostitution. States with a
statewide human trafficking task force, state-mandated CSEC-specific services, fewer anti-CSEC NGOs, and fewer people living in areas of concentrated disadvantage are more likely to pass non-criminalization legislation.

I now turn to a summation of how anti-criminalization advocates, state legislators, state legislative aides, and state prosecutors describe state-level CSEC legislative processes and primary considerations when passing or opposing non-criminalization legislation.

Qualitative Findings Summary

Punctuated Equilibrium Theory

I assert qualitative results indicate Punctuated Equilibrium Theory well describes the dynamics of CSEC non-criminalization legislative activities. First and foremost, most participants described CSEC Survivor Advocates as a new group that is influencing CSEC legislative processes with awareness-raising efforts. These educational campaigns are challenging the status quo maintained by criminal justice, which has historically criminalized sexually exploited minors for prostitution. As a result, CSEC Survivor Advocates are shifting CSEC’s policy image to recognize this population are victims, not criminals, which then translates into an increase in passing non-criminalization legislation.

Additional Influencers

In addition to the dynamics of Punctuated Equilibrium Theory, state legislators and state legislative aides also described how they utilized their direct roles within state-level CSEC legislative process to champion CSEC issues, including non-criminalization. And most participants described the substantial influence of statewide human trafficking task
forces on state-level CSEC legislative processes, as well as raising awareness about CSEC more broadly.

**Current State CSEC Legislative Responses**

Lastly, participants described the most salient considerations of passing or opposing non-criminalization legislation (see Appendix I for a bullet-point list of considerations by legislation type). Participants from states that arrest but do not prosecute sexually exploited minors for prostitution described victim service provision as their primary focus. They described that maintaining the right to arrest this population for prostitution provided leverage to incarcerate them as a way to keep them “safe” from traffickers. In addition, participants described passing “arrest, but no prosecute” legislation as an incremental step before their state passed non-criminalization legislation.

Participants from non-criminalization states described having a robust infrastructure of state-mandated CSEC victim services, including necessary funding to maintain these provisions. They also described the importance of legal considerations for non-criminalization, such as what they considered the “unlawfulness” of charging sexually exploited minors for prostitution when children cannot consent to sex. Similarly, participants also described how arresting and/or prosecuting this population for prostitution is retraumatizing and, therefore, “unethical.” However, participants also described how sexually exploited minors are not completely free from being criminalized because they are often arrested for trafficking-related charges such as drug possession, weapons charges, truancy, and shoplifting.
Participants from full criminalization states described three categories of arguments why their states retain the right to criminalize this population: assumption of risk, choice, and structural inequality. First, stakeholders and policymakers do not want to place sexually exploited minors at risk from further harm when they do not have a “safe” alternative to incarceration. Second, some participants described concerns that sexually exploited minors choose to participate in the commercial sex trade or, conversely, do not choose to receive services or to leave their exploiters. Third, some participants described how institutional sexism and racism perpetuated the criminalization of sexually exploited minors due to what they described as sexist and racist attitudes by some CSEC stakeholders and state policymakers.

*Integrated Quantitative and Qualitative Findings*

While quantitative and qualitative analyses were completed separately, multiple overlapping themes emerged within each set of results. I now consider six thematic pairings of a significant quantitative variable and a qualitative finding that illustrate how these findings work in tandem within state-level CSEC legislative processes.

*State-mandated CSEC-specific Services and Assumption of Risk*

Quantitative analyses indicate that the presence of state-mandated CSEC-specific victim services is a key predictor for state-level legislative decisions to pass partial and/or non-criminalization legislation. Given how qualitative interview results suggest “assumption of risk” is a primary concern for state prosecutors and state legislators, this quantitative outcome is expected. Most participants described the availability of a “safe” alternative to incarceration as a prerequisite to passing non-criminalization legislation or as a justification
to criminalize this population when a “safe” alternative was not available. Therefore, these data suggest mandating CSEC-specific services is a prerequisite to passing partial and/or full non-criminalization legislation.

Despite criminal justice agents’ justification of using criminalization as a “safety mechanism,” some anti-criminalization advocates described they believe this approach creates what I call a “compliance paradox.” Criminal justice agents expect compliance from sexually exploited minors in the same way traffickers demand their obedience. This approach, anti-criminalization advocates maintain, does not follow evidence-based, trauma-informed “best practices.” Law enforcement officers often label actions such as refusing to receive services or running away as being “unruly” and “risky,” even though these responses are often grounded in sexually exploited minors’ underlying trauma that requires support outside of punitive systems. “Power,” Foucault (1987:86) argues, “is tolerable only on condition that it mask a substantial part of itself. Its success is proportional to its ability to hide its own mechanisms.” In other words, it is argued criminal justice agents are able to use their influential positions within state legislatures to promote their preference for criminalization, despite growing evidence trauma-informed responses are the most effective approach for working with CSEC victims.

Lastly, funding for services and state legislator sponsorship for victim protection statutes are two final considerations for this point. First, ensuring mandates include appropriations to provide CSEC-specific services is essential. Many participants, including some from states with mandated CSEC-specific services, described they were not able to provide adequate services for victims due to lack of funding and resources. Second,
quantitative results indicate states with fewer female state legislators are more likely to require CSEC-specific services, and qualitative results suggest Democrats are more likely to support victim service provision, while Republicans tend to advocate for higher penalties and longer sentencing for traffickers.

Statewide Human Trafficking Task Forces and CSEC Stakeholder Influence

Similar to state-mandated CSEC-specific services, quantitative analyses indicate that the presence of a statewide human trafficking task force is the second key predictor for passing partial and/or full non-criminalization legislation. All states that passed partial non-criminalization legislation (except Kentucky) had a task force, and all states that passed non-criminalization legislation had a task force. This point suggests task forces are an essential driver for passing non-criminalization. Qualitative data also suggest the importance of task forces, in that many participants described either belonging to statewide human trafficking task forces or working closely with these groups during state-level CSEC legislative processes. This centrality of statewide human trafficking task forces suggests the collaboration between CSEC stakeholders, including anti-criminalization advocates, CSEC Survivor Advocates, and criminal justice agents is valuable for each group to be able to communicate their preferred approach to issues such as non-criminalization. While criminal justice agents’ preferences may be adopted over those of anti-criminalization advocates’, as illustrated in the aforementioned example of the Massachusetts task force, advocates describe task force meetings as an opportunity to raise awareness with criminal justice agents about the traumatizing effects of criminalization. Therefore, task force membership is another
opportunity to shift sexually exploited minors’ policy image from criminals to victims among criminal justice agents.

**Time Trend and Shifting CSEC Victims’ Policy Image**

This shift in CSEC victims’ policy image as a result of anti-criminalization advocates’ awareness-raising efforts is likely captured in part by quantitative time trend variables. This temporal trend is significant for the passage of partial or full non-criminalization legislation and for the presence of statewide human trafficking task forces. Additionally, nearly all participants described this change in viewing sexually exploited minors as victims, not criminals, as the way the issue of CSEC has changed most over time.

Therefore, both quantitative and qualitative findings suggest these educational campaigns are an effective strategy to influence the “causal chain” of CSEC legislative decisions, either directly in the case of partial or full non-criminalization legislation passage, or incrementally through raising awareness during task force meetings, which then increases the likelihood states will pass non-criminalization legislation.

**Incremental Process and Assumption of Risk**

This incremental, cumulative effect of passing CSEC legislation is also reflected in creating state-mandated CSEC-specific services and statewide human trafficking task forces. Institutionalizing state-level responses to CSEC have second order policy effects that increase the likelihood of passing non-criminalization legislation. Qualitative results suggest passing legislation gradually gave states more time to bolster trauma-informed responses to CSEC victims. Participants described the fact that this increased service capacity, and increased CSEC stakeholders’ and state policymakers’ confidence they could keep CSEC
victims “safe” without incarceration. And, as a result, they passed non-criminalization legislation.

Concentrated Disadvantage and Structural Inequality

Quantitative analyses suggest states with fewer people living in areas of concentrated disadvantage are significantly more likely to pass partial and full non-criminalization legislation. In other words, states with more people living in extreme poverty are substantially more likely to criminalize sexually exploited minors for prostitution. Similarly, participants described structural inequality issues such as law enforcement and state legislators expressing pejorative attitudes toward females and people of color as barriers to passing non-criminalization. This is notable because concentrated disadvantage disproportionately affects females and all people of color living in isolated areas with limited access to sustainable jobs, education, and services (Wilson 2012). As a result, girls – particularly girls of color – are simultaneously more at risk for CSEC, and are also significantly more likely to be criminalized for prostitution. Furthermore, people in states with more people living in areas of concentrated disadvantage and less reported sex trafficking activity may have more paternalistic attitudes toward poor children, and thus, support criminalizing this population. This is particularly significant because elected officials in these states, especially prosecutors and state legislators, may be less likely to support non-criminalization legislation because they fear political criticism from their constituents.

I now turn to the theoretical implications of these quantitative and qualitative findings.
6.2 Theoretical Implications

First and foremost, these findings suggest CSEC victim non-criminalization legislative processes reflect the dynamics of Punctuated Equilibrium Theory. Participants described CSEC Survivor Advocates as the new group driving non-criminalization legislative efforts by shifting sexually exploited minors’ policy image from criminals to victims.

Participants also described how many state prosecutors advocate to maintain the status quo of criminalizing this population. Lastly, participants described anti-criminalization advocates’ efforts to shift CSEC victims’ policy image are resulting in an increase in state-level non-criminalization legislation. For example, 12 states\(^{23}\) introduced non-criminalization legislation during the 2018 legislative session alone. In addition, seven states\(^{24}\) passed full non-criminalization legislation in 2019, bringing the total number of full non-criminalization states to 13 (see Figure 12). This significant increase of bills suggests the U.S. is in a period of rapid non-criminalization policy change after a long period of relative stability, which is a central tenet of Punctuated Equilibrium Theory.

This study also supports research results from previous studies on legislative passage in other policy areas utilizing the Punctuated Equilibrium Theory framework. Multiple studies indicate high-profile traditional and social media events and local organizing efforts create the “tipping point” where policy change occurs after long periods of relative stability. For example, Casmasso and Jagannathan (2014) found that cases of severe child

\(^{23}\) Colorado, Hawaii, Iowa, Maine, Massachusetts, Michigan, Missouri, Oklahoma, Pennsylvania, South Dakota, Washington, and Wisconsin.

\(^{24}\) Delaware, Georgia, Maine, Mississippi, New Mexico, Nevada, and Utah.
maltreatment that captured national media attention acted as the “focusing event” to promote comprehensive child welfare policy reform throughout the United States. Similarly, Dziengel (2010) utilized Punctuated Equilibrium Theory to examine the marriage inequality policymaking process in Minnesota. The author found that robust coalition-building and events such as a local state employee union campaign to gain same-sex partner benefits were the key factors associated with shifting marriage inequality’s policy image, which resulted in lasting policy change.

**Figure 12. State CSEC Victim Non-criminalization Status, 2008-2019**

This study also supports Arnold’s (1990) theories of activating previously inactive or uncaring publics as a powerful policymaking tool. Qualitative results indicate public pressure from constituents has the power to motivate state legislators to address non-criminalization
legislation, as well as to dismiss provisions the public does not support. Furthermore, this study also supports Kingdon’s Multiple Streams Model. A “window of opportunity” has opened as CSEC policy solutions have been proposed by stakeholders and legislators, and anti-criminalization advocates are the “policy entrepreneurs” dedicated to reframing CSEC within a political climate that is open to change around this issue.

Next, this study supports the theoretical assertions of Miller (2008) and Gilens and Page (2014), who argue various groups have different levels of access to policymakers. Qualitative results suggest criminal justice agents, an elite interest group have the most direct access to high-level policymakers followed by public interest groups, such as anti-criminalization NGOs, and community organizations. Participants described state legislators’ and criminal justice agents’ concerns about “assumption of risk” and “choice,” as well as the presence of structural inequalities, as being accepted more often than when non-criminalization legislation is adopted.

These findings also suggest people living in areas of concentrated disadvantage – who are vulnerable to commercial sexual exploitation due to economic insecurity – are not able to access and to influence state-level CSEC legislative processes in the same way as state prosecutors and criminal justice agents who support criminalizing sexually exploited minors. As a result, this study advances theoretical knowledge about the relationship between structural poverty and CSEC by documenting how states with more people living in areas of concentrated disadvantage are significantly less likely to pass legislation prohibiting the arrest and/or prosecution of sexually exploited minors for prostitution. This finding is key because it indicates states with more minors vulnerable to CSEC are more likely to
criminalize them for prostitution. I originally intended to include concentrated disadvantage as a measure of vulnerability for CSEC; that is not what happened. Instead, I suspect this variable captured paternalistic and neoliberal cultural attitudes toward people living in areas of concentrated disadvantage that promote criminalizing this population, rather than recognizing their vulnerability for exploitation. This conclusion is based on informed speculation resulting from applying the theoretical work of scholars such as Wilson (2012), Collins (2000), Wacquant (2009), and Soss, Fording, and Schram (2011) to the dynamics of CSEC, and will require further research to explore more fully. In addition, this finding is very counterintuitive, given the increased public and governmental concern about child sex trafficking victims.

Comparably, this study also expands knowledge about African-American girls’ higher rates of incarceration for prostitution. While the proportion of incarcerated juveniles who are African-American is not a statistically significant predictor of state-level legislation to arrest and/or prosecute sexually exploited for minors, the proportion of incarcerated girls was significant when interacted. Therefore, these findings indicate gender is a more significant factor than race/ethnicity in predicting state-level non-criminalization legislation. However, qualitative results suggest race/ethnicity is a more significant factor than gender in determining who is actually incarcerated for prostitution in states that criminalize this population. Some participants described how African-American and Native American females are criminalized for prostitution at higher rates than white females, even in areas where both groups are exploited at equal rates. In other words, states that are more punitive toward girls are more likely to pass partial or full non-criminalization legislation; however,
girls of color are more likely to be arrested and/or prosecuted for prostitution than white girls in states that criminalize this population.

Lastly, this study expands theoretical knowledge about paternalism and patriarchal norms within state legislatures and the criminal justice system as outlined. Participants described sexually exploited minors who were perceived as choosing not receive support from criminal justice agents faced criminalization in the name of being helped. This supports Stuart’s theory of “therapeutic coercion” because participants described how criminal justice agents incarcerated “non-compliant” sexually exploited minors to “help” keep them safe from traffickers and sex buyers. Detaining sexually exploited minors in the name of “support” also reinforces the idea of the juvenile justice system as a parental or patriarchal figure who “knows what’s best” for sexually exploited minors, despite strong evidence criminalizing this population is re-traumatizing.

I now turn to non-criminalization policy and practice suggestions based on these findings and implications.

6.3 Policy Recommendations

Quantitative and qualitative findings, as well their theoretical implications, will inform evidence-based policy and practices within state-level non-criminalization legislative processes. The following 13 recommendations can be incorporated into current state-level efforts to prohibit the arrest and/or prosecution of sexually exploited minors for prostitution.

State-level Responses to CSEC

- **Mandate CSEC-specific services.** The presence of statewide human trafficking task forces and state-mandated CSEC-specific services are two key predictors of significantly
increasing the likelihood states will pass either partial or full non-criminalization legislation. As of 2016, all states have a statewide human trafficking task force; however, only 12 states have state-mandated CSEC-specific services (see Figure 3). Therefore, I recommend passing specialized victim service legislation as a precursor to focusing on non-criminalization legislative efforts. Mandated specialized services assure criminal justice agents and state legislators with “assumption of risk” concerns that CSEC victims have a “safe” alternative to incarceration.

- **Mandate sufficient appropriations for CSEC-specific services.** Attach appropriations to legislation mandating CSEC-specific services, or pass appropriations bills for states that already mandate these services. Many participants described their states as having state-mandated CSEC-specific services, but they could not adequately serve CSEC victims because appropriations were not attached to the bill. As a result, many participants described incarceration as the most viable option to keep sexually exploited minors “safe.”

Securing sufficient funding to serve CSEC victims is challenging because supporting this population requires a lot of time, money, energy, and resources. CSEC victims have complex needs resulting from trauma, substance abuse, economic challenges, food insecurity, and mental health issues that made them vulnerable to being commercially sexually exploited. As a result, a robust infrastructure for planning as well as providing services and supports is needed to address healing from CSEC and underlying issues such as histories of abuse and neglect.

- **Seek Department of Justice funding for statewide human trafficking task forces.** Quantitative results indicate states with DOJ-funded statewide human trafficking task forces
are significantly more likely to pass full non-criminalization legislation and to have state-mandated CSEC-specific services. For that reason, these results suggest DOJ support is a critical component for statewide human trafficking task force efficacy in addressing CSEC issues.

- **Strengthen the social safety net for economically vulnerable youth.** Addressing socio-economic factors such as providing sustainable job opportunities and creating affordable housing are essential considerations for addressing CSEC. Statistical analyses suggest states with more people living in areas of concentrated disadvantage are significantly more likely to arrest and/or prosecute sexually exploited minors for prostitution. For that reason, passing legislation to raise the minimum wage and to increase affordable housing options is a practical, long-term solution to ensuring economically vulnerable youth are not criminalized for prostitution. Providing economic opportunity will decrease the number of sexually exploited minors participating in the commercial sex trade due to economic necessity.

- **Continue authorizing and mandating training for criminal justice agents.** State-authorized and -mandated criminal justice training is not a significant quantitative predictor of passing non-criminalization legislation. However, qualitative results suggest these trainings are an effective mechanism for anti-criminalization advocates to teach criminal justice agents the “best practices” of working with sexually exploited minors, including trauma-informed communication strategies and awareness-raising that sexually exploited minors cannot “choose” to participate in CSEC. These trauma-informed considerations speak to the “compliance paradox” of expecting sexually exploited minors to be obedient to either
criminal justice agents or traffickers or else face criminalization or further violence, respectively. Anti-criminalization advocates also described these trainings as an opportunity to educate criminal justice agents on ways the criminal justice agents can “dehumanize” and “humiliate” sexually exploited minors, such as law enforcement calling CSEC victims derogatory names and requiring strip searches when sexually exploited minors are taken into police custody.

State Legislature Responses

• **Form bipartisan coalitions for victim services appropriations legislation.** While CSEC is widely considered a bipartisan issue, party lines often determine political preferences on how to best protect CSEC victims. Republicans have historically preferred incarcerating and prosecuting traffickers, while Democrats support victim services. Consequently, forming bipartisan coalitions of members from both parties who support CSEC-specific services appropriations increases the likelihood this legislation will be adopted.

• **Form coalitions of state legislators who identify as female and male.** Quantitative results indicate states with fewer female state legislators are more likely to have state-mandated CSEC-specific services. Therefore, female state legislators may choose to form coalitions with male state legislators to sponsor this legislation. Research indicates disproportionate female sponsorship on a bill labeled as a “women’s issue,” such as human trafficking, prevented the bill from passing (Wittmer and Bouché 2013).

In addition, forming coalitions of female and male state legislators can challenge what some participants described as “old boys’ network” attitudes in state legislatures and
law enforcement. Participants described how these beliefs perpetuate patriarchal norms such as discriminating against females involved in commercial sex trade and viewing commercial sexual exploitation as “no big deal.” Similarly, these coalitions can promote the implementation of current statutes to fine and sentence sex buyers, who often only receive a “slap on the wrist” for purchasing sex from minors.

- **Involve prosecutors who support non-criminalization legislation in state-level non-criminalization legislative processes.** Qualitative results suggest state prosecutors were very influential in state-level legislative decisions to pass non-criminalization legislation. These state prosecutors explained they supported non-criminalization legislation because they believed criminalizing CSEC victims was illegal and immoral. First, this stance is important due to diverging opinions among CSEC stakeholders and state legislators on how to engage CSEC victims in services. Many criminal justice agents argue they need to be able to threaten “non-compliant” sexually exploited minors with criminalization in order to receive services, or to incarcerate this population because they will likely run away or return to their traffickers. Second, state legislator participants described how they trust state prosecutors because they work with laws on a daily basis, and they participate in political campaigns. Due to this level of influence, including state prosecutors’ support for non-criminalization is necessary to increasing the likelihood state-level non-criminalization legislation will be adopted.

- **Include CSEC Survivor Advocates in drafting state-level non-criminalization legislation.** While qualitative data indicate CSEC Survivor Advocates are the primary force promoting the shift in CSEC victims’ policy image from criminals to victims, these results
also indicate state prosecutors are more directly involved in state legislative processes such as drafting CSEC legislation. Historically, CSEC Survivor Advocates are primarily involved by providing moving, emotional testimony during legislative hearings to persuade state legislators’ “hearts and minds” to adopt proposed legislation. However, bringing CSEC Survivor Advocates to the table earlier in state-level non-criminalization legislative processes gives them the same direct access to high-level policymakers as state prosecutors. This is of great consequence because, as the significant time trend variables suggest, CSEC Survivor Advocates are effectively changing state legislators’ perceptions of sexually exploited minors as victims, not criminals, over time.

- **Recognize passing non-criminalization legislation is an incremental process.**

Finally, all CSEC stakeholders and state legislators must recognize passing non-criminalization legislation is an incremental process. Participants described how they needed to introduce non-criminalization legislation for multiple sessions before the bill was passed. Others explained how they needed to pass “arrest, but no prosecute” legislation before non-criminalization was adopted. However, many participants also described how inertia set in around non-criminalization legislative efforts because CSEC stakeholders and state legislators could not agree on the best approach to keeping CSEC victims “safe” from traffickers and sex buyers. For that reason, I recommend CSEC stakeholders and state legislators who support non-criminalization be patient, yet persistent in continuing their efforts. Study results indicate the U.S. is passing non-criminalization legislation at increasingly high rates due to shifts in CSEC victims’ policy image.
Anti-Criminalization Advocate Responses

- **Ensure that anti-criminalization advocates and anti-CSEC NGOs participate in and contribute to state legislators’ political campaigns.** One state legislator described how criminal justice agents have more political influence than anti-CSEC NGOs because criminal justice agents participate in legislators’ political campaigns. This is valuable because participating in and contributing to campaigns demonstrates an in-depth understanding of the political process. Re-election is elected officials’ primary concern.

- **Directly address “assumption of risk” and “choice” when advocating for non-criminalization legislation.** Findings also suggest anti-criminalization advocates would benefit from addressing criminal justice agents’ primary concerns of assumption of risk and choice when promoting non-criminalization legislation. These topics can be highlighted in public awareness-raising campaigns, task force meetings, and meetings with state legislators. For example, addressing the practical concerns of non-criminalization, such as trauma-informed agency protocols and sustainable victim service infrastructures, illustrates anti-criminalization advocates have the necessary, in-depth knowledge of best practices to support CSEC victims.

- **Articulate non-criminalization and mandated CSEC-specific victim services legislation as two separate legislative efforts, not “Safe Harbor laws.”** Interview data indicate a tremendous confusion about the definition of “Safe Harbor laws,” even among NGOs and advocates deeply involved in CSEC issues. As a result, I suggest replacing “Safe Harbor” language with specifically naming the legislative effort’s two primary goals, non-criminalization and mandated CSEC-specific services. This articulation clarifies the original
intention of this legislative strategy to protect and provide services for sexually exploited minors. Naming these two goals individually is essential. Participants described how CSEC legislative efforts often waned after their states passed “Safe Harbor laws” because people believed passing “Safe Harbor” equated with non-criminalization, even when the new law did not prohibit criminalization.

6.4 Recommendations for Further Research

While this study focuses exclusively on non-criminalization, this study can be replicated to examine other aspects of CSEC policymaking such as vacating and expunging CSEC victims’ criminal records, increasing trafficker and sex buyer penalties and sentencing, and criminal justice agent provisions for investigating and prosecuting CSEC cases. This same study can also be continued as data become available to track non-criminalization policy trends beyond 2017.

Further quantitative investigation of CSEC Survivor Advocates’ and state prosecutors’ influence within state non-criminalization legislation is also warranted. Qualitative results suggest both groups are very influential within state-level CSEC legislative processes; however, no quantitative data measuring this influence currently exists. Therefore, testing the following areas with variables in this current study would provide valuable information on stakeholder influence on the likelihood of states passing non-criminalization legislation: the presence CSEC Survivor Advocate and criminal justice agent testimony during state non-criminalization legislative hearings, CSEC Survivor Advocate and criminal justice agent involvement in drafting legislation, and the political affiliation and gender self-identification of state prosecutors. Gathering these data would be time-intensive,
but would provide valuable information on CSEC stakeholder influence on state-level CSEC legislative processes.

In addition, mixed methods research is warranted to investigate the relationship between state rates of people living in areas of concentrated disadvantage and girls of color arrested for prostitution. Quantitative results suggest states with more people living in areas of concentrated disadvantage are significantly less likely to pass non-criminalization legislation, and girls of color are arrested for prostitution at higher rates than white girls in the U.S. For that reason, the study would examine the association between per capita number of people living in areas of concentrated disadvantage, prostitution arrest rates for girls of color, and state non-criminalization legislation status to determine whether poverty is significantly associated with increased risk of girls of color being arrested for prostitution in states that criminalize sexually exploited children. A quantitative variable measuring state minimum wages could also be added as a state-level economic indicator to provide further information on each state’s economic landscape for residents earning low wages. Qualitative interviews would also be completed with criminal justice agents, anti-criminalization advocates, CSEC Survivor Advocates of color who were arrested for prostitution as minors, and state legislators to determine how they describe the intersection of socio-economic status, race/ethnicity, and criminalizing sexually exploited girls for prostitution.

Lastly, widespread program assessments on direct victim service providers are necessary to determine which programmatic approaches are effective, “safe” alternatives to incarceration for sexually exploited minors. Determining service provision protocols and “best practices” could help alleviate CSEC stakeholders’ and state legislators’ “assumption
of risk” concerns. A few anti-criminalization advocates described conducting their own locally developed assessments to determine their own efficacy and evidence-based protocols; however, assessments on a national scale would provide more in-depth knowledge about these approaches and would promote information sharing between states.

6.5 Conclusion

“A system cannot fail those it was never meant to protect.” – W.E.B. DuBois

At a recent CSEC policy expert working group meeting, the policy director of an anti-CSEC NGO posed the question of why state-level non-criminalization legislation was not passing in all states as quickly as legislation addressing other CSEC issues. As a result, I relayed that my research suggests states with mandated CSEC-specific services, statewide human trafficking task forces, and fewer people living in areas of concentrated disadvantage are significantly more likely to pass legislation prohibiting the arrest and/or prosecution of sexually exploited minors in the U.S. In addition, the passage of time and higher prevalence of sex trafficking activity as well as the proportion of incarcerated girls, white Evangelicals, female state legislators, and anti-CSEC NGOs were also key predictors within non-criminalization legislative processes. Lastly, I explained my qualitative data indicates CSEC legislative processes reflect the dynamics of Punctuated Equilibrium Theory, where CSEC Survivor Advocates are promoting increased non-criminalization legislation by shifting sexually exploited minors’ policy image from criminals to victims despite most criminal justice agents’ efforts to maintain the status quo of criminalizing victims for prostitution. I was grateful to be able to answer questions immediately because these findings can inform current CSEC non-criminalization policy change efforts among those very experts.
Through this research study, I have discovered that the vast majority of CSEC stakeholders and state legislators want to help sexually exploited minors. While diverging opinions on exactly how to provide that help often exist, most stakeholders believe this population needs the support of caring adults. What most CSEC stakeholders and participants seem to grappling with, however, is working within legislative and criminal justice systems that currently prioritize protecting children who meet current cultural norms of childhood “innocence.” I have learned these systems are largely neither trauma-informed nor equitable in addressing social and economic disparities within the U.S. population. In other words, while public concern about sexually exploited minors is nearly universal, the image of a kidnapped 10-year old blonde-haired girl from the suburbs evokes more sympathy than a 16-year old African-American girl living in extreme poverty. For that reason, these findings indicate anti-criminalization advocates and CSEC stakeholders are expanding the ideal of who is considered a “worthy victim” within legislative and criminal justice systems – as well as the culture more broadly – as they advocate for all child survivors of commercial sexual exploitation and demand that the needs of this population be recognized and fulfilled through receiving trauma-informed services, not criminal corrections.
Minnesota’s No Wrong Door Model ensures that any child that is victimized through sex trafficking can access services. The Model was established through the Safe Harbor law passed in 2011. This legislative initiative had unique sources of support in Minnesota, including private financial support from the Minnesota Women’s Foundation which paid for the fiscal note and cost benefit analysis that drove the legislative efforts to establish state-funded access to services. The Safe Harbor law mandated a study based on research and recommendations. The resulting No Wrong Door Report set out a plan to ensure a comprehensive protective response for juvenile sex trafficking victims that would allow any victim, regardless of how that victim was identified, to be referred to a point of contact in that region—a “regional navigator”—who would connect the exploited youth with services. To ensure the availability of adequate and appropriate services to meet the needs of commercially sexually exploited youth, a statewide coordinator position was funded. In addition, regional navigator grants were given to organizations responsible for identifying available services and connecting juvenile sex trafficking victims to these trauma-informed services.

The impetus for Minnesota’s Safe Harbor for Sexually Exploited Youth law and No Wrong Door Model started in 2010 when ECPAT-USA approached The Advocates for Human Rights to “create a campaign aimed at passing legislation to protect sexually exploited children in Minnesota.” To accomplish this, the Family Partnership and an array of others working in the field developed language endorsed by the Minnesota Human Trafficking Taskforce that was introduced and enacted in 2011. The law, Senate File 1, made minors under 16 immune from delinquency charges for prostitution-related offenses, aligning the treatment of this subset of commercially sexually exploited juveniles with their status as victims of sex trafficking. Senate File 1 also established a diversion process for minors aged 16 and 17. Unlike Tennessee however, Minnesota’s immunity provisions did not go into effect immediately. Instead, the effective date was delayed for three years to allow time for the legislature to enact a funded service response for commercially sexually exploited youth. The process of enacting legislation to fund a service referral mechanism in Minnesota took two more legislative sessions, but during that time advocates were able to secure laws to extend immunity to all minors under 18, and funds were appropriated to establish a process for referring juvenile sex trafficking victims to services.

[Update: These laws now cover all persons up to age 24 as of July 1, 2016.]

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25 Complete text of the Minnesota bill could not be located at the writing of this proposal because the law was passed within three separate bills.
Kentucky (partial non-criminalization)
HB3: Human Trafficking Victims Rights Act

AN ACT relating to human trafficking and making an appropriation therefor.

Create a new section of KRS Chapter 620 to require that a child who is suspected to be a human trafficking victim be treated as a case of dependency, neglect, or abuse, and provide requirements for how to handle these cases, require the creation of administrative regulations, and require an annual report; amend KRS 620.040 to clarify duties of various agencies in child human trafficking cases and allow protective custody by law enforcement; create a new section of KRS Chapter 15A to provide requirements for the Department of Juvenile Justice when a child is suspected to be a victim of human trafficking and require promulgation of administrative regulations; amend KRS 605.030 to permit court-designated workers to screen for human trafficking; create a new section of KRS Chapter 630 to prohibit a child victim of human trafficking from being charged with or adjudicated guilty of a status offense; amend KRS 529.010 to amend the definitions relating to prostitution and human trafficking; create a new section of KRS Chapter 529 to create a fee for a conviction of human trafficking offenses; create a new section of KRS Chapter 529 to establish a human trafficking victims fund; create a new section of KRS Chapter 529 to require asset forfeiture for human trafficking offenders and to provide for distribution of the proceeds; create a new section of KRS Chapter 529 to prohibit the prosecution of a minor under prostitution statutes; amend KRS 529.020 and 529.080 to conform; amend KRS 15.334, relating to police training, to require training relating to human trafficking; amend KRS 15.706 to require the Prosecutors Advisory Council to collect data on human trafficking; amend KRS 15.718 to require human trafficking training for prosecutors; create a new section of KRS Chapter 16 to require the Department of Kentucky State Police to designate a human trafficking unit; amend KRS 421.500, relating to victims services, to include victims of human trafficking; amend KRS 421.570, relating to victim advocates, to include training on human trafficking; amend KRS 413.249, relating to civil actions relating to childhood sexual abuse or childhood sexual assault, to include child victims of human trafficking; amend KRS 421.350, relating to testimony of certain child victims, to include child victims of human trafficking offenses; amend KRS 431.082 to provide a cause of action for victims of human trafficking; amend KRS 431.600, relating to coordination of child sexual abuse investigations and prosecutions, to include advocates for human trafficking victims; create a new section of KRS Chapter 336 to require the Labor Cabinet to report incidents of human trafficking and provide for reasonable cause immunity; amend KRS 337.385 to allow a court to award punitive damages and other costs and fees to victims of human trafficking; amend KRS 516.030, relating to forgery in the second degree, to include coercing another person to make or obtain a false instrument in the commission of human trafficking; require the Cabinet for Health and Family Services to file a report on its plan to implement provisions relating to child human trafficking victims; provide that the Act may be cited as the "Human Trafficking Victims Rights Act.

Amendments: HCS/LM/CI - Retain original provisions except clarify that the provisions
applying to children arise when there is a reasonable cause to believe a child has been the victim of human trafficking and to delete requirement for reports to the Interim Joint Committees on Judiciary and Health and Welfare.

SCS/FN/LM/CI - Retain original provisions except amend to modify reporting requirement, include provision for adequate funding allocation to the Cabinet for Health and Family Services through regulations; make technical corrections.
Maine (full criminalization)
§4701. Remedies for human trafficking

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.
B. "Criminal proceeding" includes the investigation and prosecution of criminal charges. A criminal proceeding remains pending until final adjudication in the trial court. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]
C. "Human trafficking offense" includes:
(1) Aggravated sex trafficking and sex trafficking under Title 17-A, sections 852 and 853, respectively; and
(2) All offenses in Title 17-A, chapters 11, 12 and 13 if accompanied by the destruction, concealment, removal, confiscation or possession of any actual or purported passport or other immigration document or other actual or purported government identification document of the other person or done using any scheme, plan or pattern intended to cause the other person to believe that if that person does not perform certain labor or services, including prostitution, that the person or a 3rd person will be subject to a harm to their health, safety or immigration status. [2013, c. 407, §1 (RPR).]
  [ 2013, c. 407, §1 (AMD).]

2. Civil action for damages, relief. A trafficked person may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief. A prevailing plaintiff is entitled to an award of attorney's fees and costs.

3. Statute of limitations. An action brought pursuant to this section must be commenced within 10 years of the date on which the trafficked person was freed from the trafficking situation.
A. If a person entitled to bring an action under this section is under disability when the cause of action accrues so that it is impossible or impracticable for the person to bring an action, the time during which the person is under disability tolls the running of the time limit for the commencement of the action. For the purposes of this paragraph, a person is under disability if the person is a minor or is mentally ill, imprisoned, outside the United States or otherwise incapacitated or incompetent. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]
B. The statute of limitations is tolled for an incompetent or minor plaintiff even if a guardian ad litem has been appointed. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]
C. A defendant is estopped from asserting a defense of the statute of limitations if the trafficked person did not file before the expiration of the statute of limitations due to:
(1) Conduct by the defendant inducing the plaintiff to delay the filing of the action or preventing the plaintiff from filing the action; or
(2) Threats made by the defendant that caused duress to the plaintiff. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]
D. The statute of limitations is tolled during the pendency of any criminal proceedings against the trafficked person. [2007, c. 684, Pt. B, §1 (NEW); 2007, c. 684, Pt. H, §1 (AFF).]

4. Cause of action on trafficked person’s behalf. A legal guardian, family member, representative of the trafficked person or court appointee may represent the trafficked person or the trafficked person's estate if deceased.

SECTION HISTORY
APPENDIX B

IN-DEPTH INTERVIEW GUIDE FOR CSEC SURVIVORS, STATE LEGISLATORS, STATE LEGISLATIVE AIDES, AND STATE PROSECUTORS WHO HAVE PARTICIPATED IN STATE LEGISLATIVE PROCESSES

I) Introduction
a) Introduce myself (name, UMass Boston Ph.D. student)
b) Introduce study and explain purpose of the interview
c) Give interviewee opportunity to ask questions about the research
d) Explain consent form and obtain signature or verbal consent to interview and to digitally record interview (remind participant interview is confidential and voluntary)

II) Interview Questions (start digital recorder)

A) State Legislative Process
I know you have worked on child sex trafficking legislation. I’d like to ask you about your work and your state’s legislative process.

1.) Tell me a bit about CSEC policy in your state and how you started working on CSEC policy issues.
2.) In your experience, what the key elements to getting state CSEC legislation passed?
3a.) Tell me about any key events that happened in your state that you think influenced the writing or adoption of legislation around these issues.
3b.) Are there any particular social, political, or economic reasons in your state related to why advocates and legislators are responding to decriminalizing (or criminalizing) sexually exploited children?
3c.) Tell me about any specific changes in media coverage on CSEC that caused you to act.
4.) In your experience, is CSEC legislation a bipartisan issue? Why or why not?
5a.) Advocates and prosecutors: How does your work intersect with the state legislative process, both directly and/or indirectly?
5b.) Advocates: Who invited you to participate and/or testify during your state’s CSEC legislative process?
5c.) Advocates and prosecutors: Do you feel your work influences the legislative process? How so? And if so, why? If not, what are the barriers to having your work tie into the legislative process?
5d.) State legislator and legislative aides: How does your work on CSEC intersect with the broader state legislative process?
6.) How do you perceive the issues of child sex trafficking have changed over time?
7.) How have you seen CSEC state legislation change over time? What is your involvement with that change?
B) Existing CSEC Legislation

*I now am going to ask your opinion on the efficacy of CSEC legislation.*

8.) Are you familiar with Safe Harbor laws? Can you describe Safe Harbor, in general? (If not, offer the definition.)

9a.) For states with a Safe Harbor law: What do you think of your state’s Safe Harbor law? (Have a copy of law so can say “I have it here, I can tell you” if they are not familiar with state’s law.)

9b.) For states w/o a Safe Harbor law: What do you think about your state not having a Safe Harbor law?

10.) Can you think of any other legislative initiative(s) in another state that you would like to see passed in your state around child sex trafficking? What parts are working?

11.) Criminalization

a. (For states that arrest and/or prosecute sex trafficked children) [State name] [arrests and/or prosecutes] minors for prostitution. How was that decision made in [state name]?

b. (For states that neither arrest nor prosecute sex trafficked children) [State name] does not arrest or prosecute minors for prostitution. How was that decision made in [state name]?

12.) What would you change in terms of your state’s CSEC legislation if you had the power?

13.) What do you think are key factors in telling if CSEC legislation is working (Possible probes: number of arrests? numbers of children receiving services? funding available?)

C) Personal Influence and Final Thoughts

*Now I’d like to talk about an individual’s capacity and ability to influence change within CSEC legislation.*

14.) How influential do you think you and/or your group are in terms of influencing state or national policy?

15.) Why do you personally think interacting with the state CSEC legislative process is important?

16.) Who do you think are the most influential individuals within the anti-trafficking movement and/or in terms of influencing CSEC legislation in the U.S.? Why?

17.) Is there anything I have missed or you would like to add to the interview?

Tell the respondent the recorder is being turned off.
III) Final debriefing:

Thank you for taking the time to take part in this interview. Now that we are done, do you have any questions for me that I can answer about the study or this research?

I think we have covered everything, but would it be okay if I contact you via e-mail if any additional questions come up? Thank you, again, for your time.
APPENDIX C

RECRUITMENT E-MAILS AND PHONE SCRIPTS FOR
DEFINING WORTHY VICTIMS: STATE-LEVEL
NON-CRIMINALIZATION OF COMMERCIAL
SEXUALLY EXPLOITED CHILDREN IN THE U.S. STUDY

Initial contact e-mail script:

Dear XXX,

My name is Kate Price. I am a PhD student at the University of Massachusetts Boston. I am conducting a study that explores the state legislative process and the role advocates, state legislators, legislative aides and prosecutors play in getting commercial sexual exploitation of children (CSEC) legislation passed. I got your name and contact information from XXX.

I am contacting you to see if you would be available to speak with me for approximately 60 minutes, to be interviewed about a variety of topics related to the passage of CSEC state legislation and your involvement. As a champion of human trafficking legislation, you have a valuable perspective on the state legislative process, specifically as it pertains to addressing CSEC. The interview will be confidential and you will receive a $25 Visa gift card as a thank you for your time.

Would you be willing to set up a time to talk with me? Your unique insight is needed for a well-informed understanding of state CSEC legislation throughout the United States. I can be reached at 617-999-0699 or via e-mail (Kathleen.Price001@umb.edu).

Thank you for your consideration. I look forward to hearing from you.

Sincerely,
Kate Price
Follow-up E-mail Script:

Dear XXX,

I am writing to follow-up on my earlier request to a confidential interview with you for a study I am conducting on the role of the role advocates, elected officials, legislative aides and prosecutors in getting state CSEC legislation passed. In addition to being a Ph.D. student at the University of Massachusetts Boston, I am also a child sex trafficking survivor. This experience brings a survivor-led lens to this study. You would receive a $25 Visa gift card as thanks.

I would truly appreciate the opportunity to interview you. Your position as a champion brings a necessary perspective to providing a well-informed understanding of state CSEC legislation throughout the United States. I can be reached at 617-999-0699 or via e-mail (Kathleen.Price001@umb.edu).

Thank you for your consideration. I look forward to hearing from you.

Sincerely,
Kate Price

Follow-up Phone Call Script:

Hi, may I please speak with XXXX?

Hi XXX, my name is Kate Price. I am a PhD student at the University of Massachusetts Boston. I am conducting a study that explores the state legislative process and the role advocates, state legislators, legislative aides and prosecutors play in getting commercial sexual exploitation of children (CSEC) legislation passed. I got your name and contact information from XXX.

I am contacting you to see if you would be available to speak with me for approximately 60 minutes, to be interviewed about a variety of topics related to the passage of CSEC state legislation and your involvement. As a champion of human trafficking legislation, you have a valuable perspective on the state legislative process, specifically as it pertains to addressing CSEC. The interview will be confidential and you will receive a $25 Visa gift card as a thank you for your time.

Would you be willing to set up a time to talk with me? Your unique insight is needed for a well-informed understanding of state CSEC legislation throughout the United States. I can be reached at 617-999-0699 or via e-mail (Kathleen.Price001@umb.edu).

Thank you for your consideration. I look forward to hearing from you.
APPENDIX D

CONSENT FORMS FOR DEFINING WORTHY VICTIMS:
STATE-LEVEL NON-CRIMINALIZATION OF
COMMERCIALosexually exploited children
in the U.S. study
Consent Form for: Defining Worthy Victims: State-level Non-criminalization of Commercially Sexually Exploited Children in U.S. Study

Introduction and Contact Information
You are asked to provide consent to take part in a research project to better understand external factors, including individuals, that may influence the passage of state-level CSEC legislation. The researcher is Kathleen (Kate) Price, a Ph.D. student in the Department of Sociology at the University of Massachusetts Boston. Please read this form and feel free to ask questions. If you have further questions later Kate Price will discuss them with you. Her telephone number is 617-999-0699.

Description of the Project
In this study, I’d like to speak with you about your experiences with state legislative processes and your opinions about CSEC legislation. I will ask you about your personal background (occupation; education; how you became involved with anti-trafficking efforts), about your involvement with state legislative processes (how your work intersects with the state legislative process; other state legislative initiatives you either disagree with or admire; your opinion on what factors are necessary to get legislation passed in your state), your opinions about current CSEC legislation (how effectively state child sex trafficking laws are being enforced; indicators of legislation efficacy). You will be interviewed one time for approximately 30 minutes.

Benefits
While there is no direct, personal benefit from participating in this study, it is anticipated that there will be a benefit to the field of research on child sex trafficking legislation as a whole.

Risks or Discomforts
The primary risk associated with this study is the emergence of negative or distressful feelings during the interview. You may speak with Kate Price to discuss any distress or other issues related to your participation in this study. In addition, you may choose to not answer any question or to terminate the interview at any time.

Voluntary Participation
The decision whether or not to take part in this research study is voluntary. If you do decide to take part in this study, you may stop participating at any time without consequence.
Rights
You have the right to ask questions about this research before you sign this form and at any
time during the study. You can reach Kate Price at 617-999-0699 and her dissertation
research advisor Dr. Keith Bentele at 617-287-4056. If you have any questions or concerns
about your rights as a research participant, please contact a representative of the Institutional
Review Board (IRB, at the University of Massachusetts, Boston, which oversees research
involving human participants. The Institutional Review Board may be reached at the
following address: IRB, Quinn Administration Building-2-080, University of Massachusetts
Boston, 100 Morrissey Boulevard, Boston, MA 02125-3393. You can also contact the Board
by telephone or e-mail at (617) 287-5374 or at human.subjects@umb.edu.

Signatures
I HAVE READ THE CONSENT FORM. MY QUESTIONS HAVE BEEN ANSWERED. MY
SIGNATURE ON THIS FORM MEANS THAT I GIVE CONSENT TO PARTICIPATE IN
THIS STUDY. I ALSO CERTIFY THAT I AM 18 YEARS OF AGE OR OLDER.

Signature of Participant  Date  Signature of Researcher

Printed Name of Participant  Typed/Printed Name of Researcher
CONSENT FOR AUDIOTAPING & TRANSCRIPTION

This study involves the audio taping of your interview with the researcher. Neither your name nor any other identifying information will be associated with the audiotape or the transcript. Only the researcher will be able to listen to the recording.

The recordings will be transcribed by the researcher and erased once the transcriptions are checked for accuracy. Transcripts of your interview may be reproduced in whole or in part for use in presentations or written products that result from this study.

Immediately following the interview, you will be given the opportunity to have the recording erased if you wish to withdraw consent to taping or participation in this study.

By signing this form you are consenting to

☐ having your interview taped;

☐ to having the tape transcribed;

☐ use of the written transcript in presentations and written products.

By checking the box in front of each item, you are consenting to participate in that procedure.

This consent for taping is effective until the following date: _________________. On or before that date, the tapes will be destroyed.

Participant's Signature ___________________________________ Date_________
APPENDIX E

LIST OF KEY CONTACTS TO INITIATE SNOWBALL SAMPLE

- Nikki Antonucci, Victim Advocate, Office of MA Attorney General
- Victor Boutros, Co-Director and Co-Founder, Human Trafficking Institute (former trial attorney in U.S. Department of Justice, Criminal Division) (faith-based)
- Sarah Brown, Program Director, Criminal Justice Program, National Conference of State Legislators
- Vednita Carter, CSEC Survivor Advocate and Founder, Breaking Free (Minnesota/mid-west region)
- Sister Mary Jane Cavallo, Sisters of St. Joseph, Bakhita House
- Stephanie Clark, Executive Director, Amirah House (faith-based)
- Peter DiMarzio, Victim Assistance Specialist, U.S. Homeland Security
- Emalie Gainey, Deputy Press Secretary, Office of MA Attorney General
- Donna Gavin, Lieutenant, Boston Police Department Human Trafficking Unit
- Holly Gibbs, CSEC Survivor Advocate
- Lisa Goldblatt Grace, Co-founder and Director, My Life, My Choice
- Kay Kahn, MA State Representative
- Wendy Macias Konstantopoulos, Director, MGH’s Freedom Clinic
- Rachel Lloyd, Found and Director, GEMS Girls
- Ima Matul, Human Trafficking Survivor Advocate, LA CAST
- National Survivor Network (national network of human trafficking survivor advocates)
- Christine Raino, Policy Director, Shared Hope International
- John Richmond, Co-Director and Co-Founder, Human Trafficking Institute (former federal prosecutor in U.S. Department of Justice Human Trafficking Prosecution Unit) (faith-based)
- Chris and Anna Smith, Co-Founders and Co-Directors, Anchor House (faith-based) (North Carolina/southern region)
- Carol Smolenski, Founder and Director, ECPAT-USA
FIGURE 13: GRADIENT LEVELS OF CONCENTRATED DISADVANTAGE IN U.S.*

*(1.6 indicates highest levels of people living in areas of concentrated disadvantage relative to the U.S. average and -1.33 indicates lowest levels of people living in areas of concentrated disadvantage relative to the U.S. average)
### Table 6: Discrete Event History Analysis Full and Partial Non-Criminalization with Disaggregated Concentrated Disadvantage: 2008-2017

<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
<th>Model 4</th>
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<tr>
<td><strong>State Gov. Orientation to CSEC</strong></td>
<td></td>
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<tr>
<td>Human Trafficking Task Force</td>
<td>3.75</td>
<td>1.85</td>
<td>29.84*</td>
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<td>(0.69)</td>
<td>(2.40)</td>
<td>(56.44)</td>
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<td>State-mandated CSEC-specific Services</td>
<td>6.49**</td>
<td>7.15*</td>
<td>6.53**</td>
<td>7.65**</td>
</tr>
<tr>
<td>(4.23)</td>
<td>(5.15)</td>
<td>(4.54)</td>
<td>(5.84)</td>
<td></td>
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<tr>
<td><strong>State Legislature Composition</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>% GOP State Legislators</td>
<td>0.98</td>
<td>0.97*</td>
<td>0.96*</td>
<td></td>
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<tr>
<td>(0.02)</td>
<td>(0.02)</td>
<td>(0.02)</td>
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<tr>
<td><strong>Interest Groups</strong></td>
<td></td>
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<td></td>
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<tr>
<td>Count of CSEC NGOs (logged)</td>
<td>0.36</td>
<td>0.32</td>
<td>0.22*</td>
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<tr>
<td>(0.27)</td>
<td>(0.23)</td>
<td>(0.18)</td>
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<td><strong>Religious Composition</strong></td>
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<td></td>
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<tr>
<td>% white Evangelicals</td>
<td>1.05 (0.04)</td>
<td>1.07* (0.04)</td>
<td>1.10* (0.04)</td>
<td>1.11* (0.05)</td>
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<tr>
<td>% Poverty Index (% Poverty + % Public Assistance)</td>
<td>0.94 (0.07)</td>
<td>0.91 (0.08)</td>
<td>0.81 (0.10)</td>
<td>0.81* (0.16)</td>
</tr>
<tr>
<td>% Unemployment</td>
<td>1.07 (0.21)</td>
<td>1.09 (0.17)</td>
<td>1.52* (0.38)</td>
<td>1.49 (0.42)</td>
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<tr>
<td>% Female-headed Households</td>
<td>0.84 (0.16)</td>
<td>0.76 (0.18)</td>
<td>0.78 (0.21)</td>
<td>0.73 (0.21)</td>
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<tr>
<td>% Households with Children (under 18)</td>
<td>0.95 (0.15)</td>
<td>0.89 (0.12)</td>
<td>0.87 (0.13)</td>
<td>0.84 (0.12)</td>
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<tr>
<td>Per Capita Polaris National Hotline Calls (logged)</td>
<td>1.69* (0.36)</td>
<td>1.90* (0.62)</td>
<td>1.40 (0.52)</td>
<td>1.31 (0.59)</td>
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<td><strong>Interactions</strong></td>
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<tr>
<td>Task Force X % Incarcerated Girls</td>
<td>2.47* (0.96)</td>
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<tr>
<td><strong>Control Variables</strong></td>
<td></td>
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<tr>
<td>% Female State Legislators</td>
<td>1.12 (0.44)</td>
<td>1.01 (0.44)</td>
<td>1.07 (0.50)</td>
<td>1.10 (0.51)</td>
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<td>Per Capita Children in Foster care (logged)</td>
<td>0.94 (0.56)</td>
<td>1.83 (1.94)</td>
<td>2.47 (2.73)</td>
<td>3.07 (3.52)</td>
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<tr>
<td><strong>Time Trend</strong></td>
<td></td>
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<tr>
<td>2010-2012</td>
<td>3.581376***</td>
<td>1.10e+07***</td>
<td></td>
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<tr>
<td>2013-2014</td>
<td>2.97e+07***</td>
<td>1.05e+08***</td>
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<td>2015-2017</td>
<td>2.60e+07***</td>
<td>8.79e+07***</td>
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<tr>
<td>Constant</td>
<td>.599451</td>
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<td>3.64e-08*</td>
<td>2.05e-09*</td>
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<tr>
<td>Log Pseudolikelihood</td>
<td>-53.61</td>
<td>-50.14</td>
<td>-46.33</td>
<td>-44.05</td>
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<tr>
<td>N</td>
<td>442</td>
<td>442</td>
<td>442</td>
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Notes: * p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001; * Exponentiated coefficients are presented so that a hazard ratio interpretation can be applied to the coefficients above. Results are displayed in odds ratio for ease of interpretation.
APPENDIX H

STATISTICALLY SIGNIFICANT FACTORS FOR ALL DEPENDENT . . VARIABLES

Partial Non-criminalization and Full Non-criminalization Legislation
- Time trend
- State-mandated CSEC-specific services
- All states except Kentucky had a statewide human trafficking task force when passing partial or full non-criminalization legislation
- Higher prevalence of sex trafficking activity (reduced model)
- Fewer anti-CSEC NGOs (full model)
- Fewer people living in areas of concentrated disadvantage
- Statewide human trafficking task force and white Evangelicals interaction
- Statewide human trafficking task force and incarcerated girls interaction

Full Non-criminalization Legislation
- State-mandated CSEC-specific services
- All states had a statewide human trafficking task force when passing non-criminalization (DOJ-funded and not DOJ-funded)
- Higher prevalence of sex trafficking activity
- Fewer anti-CSEC NGOs
- Fewer people living in areas of concentrated disadvantage

Statewide Human Trafficking Task Force
- Time Trend
- State-mandated CSEC-specific services
- More female state legislators
- Higher prevalence of sex trafficking activity
- Fewer anti-CSEC NGOs
- Fewer white Evangelicals
- Fewer incarcerated girls

State-mandated CSEC-specific Services
- Statewide human trafficking task force (DOJ-funded and not DOJ-funded)
- Fewer female state legislators
APPENDIX I

CRIMINALIZATION AND NON-CRIMINALIZATION CONSIDERATIONS BY LEGISLATIVE TYPE

Partial Non-criminalization Legislation
- Service provision
- Incarceration when no “safe” alternative for services is available
- Step in incremental process before passing non-criminalization legislation

Full Non-criminalization Legislation
- Robust infrastructure of state-mandated CSEC-specific services
- Sufficient funding for service provision
- Legal considerations: age of consent for sex
- Ethical considerations: moral obligation to protect children, criminalization as traumatizing experience, stigma of being arrested for prostitution
- CSEC victims still face criminalization for trafficking-related crimes: drug possession, weapons charges, truancy, and shoplifting

Full Criminalization Legislation
- Assumption of risk: incarceration as safety and leverage
- Choice: sexually exploited minors choosing to participate in sex trade, not choosing to receive services, not choosing to leave trafficker
- Structural inequality: CSEC stakeholders and policymakers conflating prostitution and CSEC, racist attitudes of incarcerated victims of color at higher rates than white victims, state legislator resistance to working with Native American tribes in the same state
REFERENCE LIST


Dalla, Rochelle L. 2011. “You Can’t Hustle All Your Life.” *Prostitution and Human Sex Trafficking Conference*. Lecture conducted from University of Toledo, Toledo, OH.


Goldblatt Grace, Lisa. 2015. Interview in Boston, MA. (October 2, 2015).


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Ravoira, Lawanda. 2014. E-mail message to author, October 23.


