




DECEMBER 2016

**SEX TRAFFICKING CASES:  
WHERE A PUBLIC MOVEMENT MEETS  
THE CRIMINAL JUSTICE SYSTEM**

WATCH

*527 RAND TOWER SUITE 1508  
MINNEAPOLIS, MN 55402*



## TABLE OF CONTENTS

<b>Acknowledgments</b> .....	<b>4</b>
<b>Executive Summary</b> .....	<b>5</b>
<b>About WATCH</b> .....	<b>7</b>
<b>Impetus for WATCH’s Sex Trafficking Initiative</b> .....	<b>7</b>
<b>Project Methodology</b> .....	<b>8</b>
1. Identifying and Tracking Cases .....	8
2. Project Database .....	9
3. Independent Interviews .....	10
<b>Project Findings</b> .....	<b>10</b>
1. Case Volume .....	10
a. Diagram 1 Total Case Breakdown by County	
b. Diagram 2 Hennepin and Ramsey County Sex Trafficking Cases by Year (2012–2016)	
2. Victim and Defendant Demographics.....	11
a. Victim’s Age	
b. Defendant’s Age	
c. Victim’s Gender	
d. Defendant’s Gender / Female Trafficker Roles	
e. Defendant’s Ethnicity	
3. Relationship Between Victim and Defendant .....	17
4. Involvement of Backpage.com or Other On–line Media.....	18
5. How was the crime reported to Law Enforcement? .....	19
6. Do the Defendants Have a Criminal History? .....	20
7. Charging 609.322 Cases: Prostitution or Sex Trafficking? .....	21
a. Statutory Background	
b. How the Statute is Being Used by Prosecutors: Prostitution or Sex Trafficking?	
c. Charging Cases: Prostitution or Sex Trafficking? What the Prosecutors Say	
8. Case Charging Under 609.322: Two Counties, Two Approaches .....	25
a. Case Charging and Conviction Rates	
b. The Use of Aiding and Abetting and/or Conspiracy Charges	
9. Method of Resolution: Plea Bargain or Trial .....	32
10. 609.322 Case Sentences/Dispositions .....	33

11. How Tough Were the Sentences in 609.322 Cases? .....	34
12. Average Prison Sentences .....	35
13. Sentencing Departures .....	35
14. Reasons Given for Departures From the Sentencing Guidelines .....	38
15. Defendant Who Violated the Probation Terms of A Sentence .....	39
16. Cases That Resulted in Dismissals .....	40
<b>Project Recommendations .....</b>	<b>41</b>
<b>Conclusion .....</b>	<b>44</b>
<b>Appendix</b>	
A. Minnesota Statute 609.321 and 609.322 .....	45
B. Listing of all cases tracked by case name and year .....	48

## **ACKNOWLEDGEMENTS**

**This report was made possible with the generous funding of Wayne Zink and My Sister, the Pohlad Foundation, the Charlson Foundation and the Carolyn Foundation.**

**First and foremost, this project would not be possible without our amazing volunteers and interns who spent countless hours monitoring sex trafficking cases from first appearances through sentencing. We appreciate their dedication and commitment to WATCH's mission and to the anti-sex trafficking movement. WATCH would like to specially thank the following interns who worked on the Sex Trafficking Initiative: Elizabeth Montgomery, Joanna Jensen, Angela Ely, Kendra Bengtson, Kaylynn Johnson, Samantha Kalsow and Christian Spas.**

**Staff members who worked on this project are Ellen Sackrison and Amy Walsh Kern. In addition, WATCH is so grateful for the hard work of its dedicated Board of Directors throughout the Sex Trafficking Initiative. Their contributions include everything from graphic design to editing to proof reading to securing funding for the project.**

**Finally, WATCH would like to thank all of the prosecutors and judges in Hennepin and Ramsey Counties who participated in interviews with WATCH and contributed their considerable insights about handling sex trafficking cases. Similarly, WATCH thanks the law enforcement officers, victim advocates, victim service providers, victim survivors, lobbyists, legislators and other members of the Human Trafficking Task Force who participated in interviews with WATCH and helped to tell the story that the raw data cannot.**

## EXECUTIVE SUMMARY

### ABOUT THE STUDY:

Minnesota's Safe Harbor for Sexually Exploited Youth Law ("Safe Harbor") was passed in 2011 and became fully effective in 2014. It mandated changes to ensure that laws would no longer punish sexually exploited youth but instead would treat them as crime victims in need of services. Soon after, in 2012, WATCH began to see a dramatic rise in cases in Hennepin County where complaints contained charges under Minnesota Statute 609.322 (Herein "609.322"), the statute entitled "Solicitation, Inducement and Promotion of Prostitution: Sex Trafficking." Recognizing this trend, WATCH launched its Sex Trafficking Initiative in January 2014. In an effort to see how such cases were resolved once they were handed over to the state for prosecution, WATCH tracked a total of 107 cases, encompassing all juvenile and adult cases filed in Hennepin (71) and Ramsey Counties (36) between January 1, 2012 and August 30, 2016 that included charges under 609.322.

### WHAT WE LEARNED:

- Hennepin and Ramsey Counties have very different approaches to what constitutes sex trafficking, based on the way cases are charged under statute 609.322. Ramsey County uses the sex trafficking prong of the statute much more frequently than does Hennepin County. Although some prosecutors feel it is more difficult to obtain a conviction under the sex trafficking prong than under the promotion of prostitution prong of the law, the evidence seems to indicate this is not the case.
- For 609.322 cases involving juveniles, the average prison sentence in Hennepin County (72 months) is much shorter than that in Ramsey County (228 months).
- Fewer defendants in Hennepin County—in both juvenile and adult cases—receive prison time as part of their sentence than do defendants in Ramsey County.
- In both juvenile and adult cases, Hennepin County is far more likely than Ramsey County to hand down sentences that constitute a downward departure from sentencing guidelines.
- With the notable exception of juvenile cases in Ramsey County, the vast majority of 609.322 cases are being resolved via plea bargain, as opposed to trials. (In Hennepin County, plea bargains result in
- 97 percent of all juvenile cases and 87 percent of adult cases; In Ramsey County they result in 91 percent of adult cases and 62 percent of juvenile cases.)
- While Ramsey County has significantly more juvenile cases that result in sentences at the higher end of sentencing guidelines than Hennepin County, in adult cases, Hennepin County is handing down more sentences at the higher end of sentencing guidelines than Ramsey County.

- Based on available data, the majority of sex trafficking victims in cases prosecuted in Hennepin County are in the 16-17 age range, whereas in Ramsey County, the majority of victims are in the 20-22 age range.
- Accused traffickers were often connected with victims through commonly known people. In at least 73 percent of adult cases and 71 percent of juvenile cases, the defendant was a friend/acquaintance, “boyfriend” or family member of the victim.
- At least 82 percent of juvenile cases and 92 percent of adult cases in Hennepin and Ramsey Counties involved backpage.com or other online media.
- The comparatively small numbers of reports of sex trafficking by community members and the hospitality industry show a continued need for training the public on how to identify sex trafficking.

#### **RECOMMENDATIONS:**

- Every county in Minnesota should institute a standard protocol for charging cases under 609.322 that includes training for prosecutors and appointing a prosecutor or team of prosecutors to over see such cases.
- Amend Minnesota Statute 609.322 to clarify activities that are prohibited as sex trafficking and to remove references to prostitution.
- Raise the age for a first-degree sex trafficking victim, currently under the age of 18, to 24 or younger.
- Amend Minnesota’s criminal jury instructions.
- Develop statewide training on what constitutes sex trafficking for prosecutors and judges.
- Comprehensively examine judicial practices on downward departures and sentencing.

## ABOUT WATCH

WATCH is a judicial advocacy organization working to make the local justice system more responsive to crimes of violence against women and children through court monitoring, education for justice system personnel, action-based research and analysis, and widely distributed judicial policy recommendations and reports. WATCH has a pool of over 300 active volunteers and interns, who, along with WATCH staff, monitor cases of violence against women and children every day.

WATCH's core work includes: (a) raising awareness of domestic violence, sexual abuse, and sex trafficking and their impact on women, children, and families through public outreach and education; (b) monitoring courtroom processes to observe, assess, and report on the way in which professional decisions and courtroom behaviors affect not only victim safety and emotional well-being but also offender accountability; (c) providing education and training to justice system personnel to shift the way the people responsible for charging and prosecuting domestic violence, sexual abuse, and sex trafficking crimes view, interact with, and deal with victims and perpetrators; and (d) producing and distributing research-based reports that recommend and advocate for improvements in judicial policy and practice related to violence against women and children.

## IMPETUS FOR WATCH'S SEX TRAFFICKING INITIATIVE

In July 2011, Minnesota passed the Safe Harbor for Sexually Exploited Youth Law ("Safe Harbor"). The law, which was fully effective in August 2014, mandated multiple changes to Minnesota laws so that the laws would no longer punish sexually exploited youth, but instead would treat them as crime victims in need of services.

Safe Harbor represented a fundamental shift in the framework for thinking about trafficked youth. By removing from the relevant laws any punitive measures against sexually exploited youth, Safe Harbor took away the blame that was inherent in those laws. By legally requiring the state to provide services for trafficked youth, Safe Harbor instituted a victim-centered approach with a focus on getting trafficked youth the help that they need. Such an approach recognizes the trauma and harm that sexually exploited individuals have endured. It also underscores that trafficked youth are crime victims and not criminals themselves.

The passage of Safe Harbor followed years of anti-trafficking outreach and education in Minnesota. Beginning in 2005, multiple human trafficking task forces were formed; groundbreaking reports, studies and needs assessments regarding human trafficking were published; comprehensive education, outreach and anti-trafficking campaigns were launched; and increasing services to victims were made available.

Over the same time period, the first legal causes of action for trafficking victims were created under Minnesota law. Specifically, in 2005, Minnesota passed statutes defining sex and labor trafficking, and setting forth a civil cause of action for human trafficking victims. Then, in 2009, the legislature amended Minnesota Statute 609.322 (herein "609.322"), then titled "Solicitation, Inducement and Promotion of Prostitution," to specifically make sex trafficking a standalone crime. The statute was then retitled to be called "Solicitation, Inducement and Promotion of Prostitution; Sex Trafficking."

It is this revised statute, and the cases that have been prosecuted under this statute between January 1, 2012 and August 1, 2016, that are the focus of WATCH's Sex Trafficking Initiative. (Statute attached at Appendix A)

Prior to 2012, WATCH had rarely seen sex trafficking cases on the court calendars. In fact, data provided by Hennepin County indicates that in 2011, there were just four cases filed involving charges under 609.322. Beginning in 2012, however, WATCH began to see a relatively dramatic increase in cases in Hennepin County where the complaints contained charges under 609.322. In 2012, WATCH identified thirty-one new sex trafficking cases in Hennepin County alone. And in 2013, WATCH identified fourteen new cases alleging violations of 609.322 in Hennepin County.

Recognizing this trend, as well as the fact that the Safe Harbor laws would be fully implemented on August 1, 2014, WATCH launched its Sex Trafficking Initiative in January 2014. The initiative entailed tracking every court hearing – and sending court monitors to the hearings whenever possible - that involved charges under Minnesota Statute 609.322 in both Hennepin and Ramsey County. While WATCH had not done any court monitoring in Ramsey County prior to January 2014, WATCH thought that comparing the way that Ramsey and Hennepin Counties handled and resolved sex trafficking cases could add some valuable insights into how the different ways that the cases are being prosecuted.

The anti-sex-trafficking campaign in Minnesota has shed a bright light on this hidden crime. It has helped bring about a tremendous amount of public awareness about what sex trafficking is and who the victims are, and has helped to change the conversation about the way that our communities think about and react to sex trafficking victims. WATCH believes that the criminal justice system is one of the places where our societal values are most definitively reflected. Our courtrooms are a place where we as a society say that we will not tolerate a certain behavior – and there is a specific sentence that measures how much a certain behavior is condemned. Given the public interest in trafficking cases, WATCH started its sex trafficking initiative to see how these cases were resolved once they were handed over to the state for prosecution.

## **PROJECT METHODOLOGY**

### 1. Identifying and Tracking Cases

In order to locate new cases and hearings that involved charges under 609.322, each day WATCH staff identified the judges responsible for First Appearances and Felony Arraignments in both Hennepin and Ramsey counties. WATCH then reviewed each of these judges' calendars case-by-case to find the hearings relevant to this project.

Once WATCH obtained a trafficking defendant's full name, WATCH used the Hennepin County Government Center Public Access Computers to pull the criminal complaint, as well as the defendant's criminal history.



Using the case numbers, WATCH also checked the Minnesota Trial Court Information System (MNCIS) on a daily basis to track any subsequent hearings related to the trafficking charges. Once a relevant hearing was identified, WATCH sent either staff or a trained volunteer to each hearing involving a sex trafficking case. The WATCH representative used WATCH's forms for that specific hearing to gather information, and took comprehensive notes on what occurred in court.

WATCH continued to monitor all of the trafficking cases that are a part of this project, even after sentencing, in order to track any probation violations.

Using this methodology, WATCH encountered hearings involving sex trafficking charges in cases that were filed prior to January 1, 2014. Because of the relatively small number of sex trafficking cases, WATCH decided to expand its data collection to encompass cases involving 609.322 charges in Hennepin and Ramsey County from January 1, 2012 through August 2016. Both Hennepin and Ramsey County provided the case names for those cases charged under 609.322 between January 1, 2012 through August 30, 2016. With this information, WATCH was able to confirm that it had identified all trafficking cases in Hennepin and Ramsey Counties for the span of the project.

## 2. Project Database

WATCH developed a project database, which it used to keep track of the following data, to the extent the information was available, for each sex trafficking case that is a part of the project:

- Defendant's name;
- Defendant's role in the case;
- County (Hennepin or Ramsey);
- Case number;
- Date of next court appearance;
- Defendant's gender;
- Defendant's ethnicity;
- Defendant's date of birth;
- Defendant's age at the time of offense;
- Highest level of education defendant received;
- Charges cited in criminal complaint;
- Statutory reference as cited in criminal complaint;
- Level of original charge;
- Charges cited in MNCIS;
- Statutory reference cited in MNCIS;
- Bail amount;
- Address of incident;
- How incident was reported to law enforcement;
- Victim's ethnicity;
- Victim's age at the time of the offense;
- Whether backpage.com or another website was involved in the case;
- Courtroom notes;
- Charges and statutory references of which defendant is found guilty;
- Level of offense of which Defendant is found guilty;
- Case disposition;

Whether there was a durational departure from the sentencing guidelines;  
Whether there was a dispositional departure;  
Whether the case was resolved by trial or plea bargain;  
Whether the defendant was offered a pre-plea investigation;  
What sentence the sentencing guidelines prescribed;  
Whether the sentence was in the lower, middle or higher third of the guidelines;  
Whether the defendant was in custody;  
Defendant's address;  
Date of first court appearance;  
Date of sentencing;  
Length of time it took to resolve the case;  
Name of judge, prosecutor, and defense attorney;  
Defendant's past criminal history;  
Whether the defendant violated probation, if applicable and  
Consequences of any probation violation.

In addition to this information, which is stored in WATCH's database, WATCH also maintains physical files on individual defendants containing the criminal complaint, monitoring forms and notes, departure forms and any other related documents.

#### 1. Independent Interviews

In order to supplement the information obtained through publicly available data, data provided by Hennepin and Ramsey County officials, and information obtained by attending court hearings, WATCH also conducted more than two dozen dozens of interviews with prosecutors, law enforcement, judges, legislators, lobbyists, non-profit service providers, victim survivors and other stakeholders in the anti-sex trafficking movement. The identity of the interviewees is confidential, and the interviews are numerically categorized. These interviews have helped to provide a more complete picture of the complexities of prosecuting sex trafficking cases.

## **PROJECT FINDINGS**

#### 1. Case Volume

WATCH's Sex Trafficking Initiative tracked a total of 107 cases. This number encompasses every case filed in Hennepin and Ramsey Counties between January 1, 2012, and August 30, 2016, that included charges under Minnesota Statute 609.322, the statute entitled "Solicitation, Inducement and Promotion of Prostitution; Sex Trafficking."

71 of those cases were in Hennepin County, and 36 were in Ramsey County. Within each county, WATCH classified cases as either "Adult" or "Juvenile." Adult cases are those that involve only charges where the alleged victim(s) is 18 years or older. Juvenile cases are those that include charges where the alleged victim is under the age of 18. Based on that classification scheme, in Hennepin County, there were 36 Juvenile cases and 35 Adult cases. In Ramsey County, there were, 23 Juvenile cases and 13 Adult cases.

Diagram 1 illustrates the total case breakdown by county.

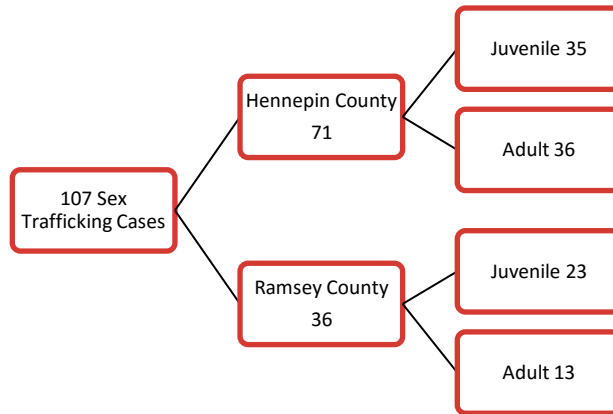
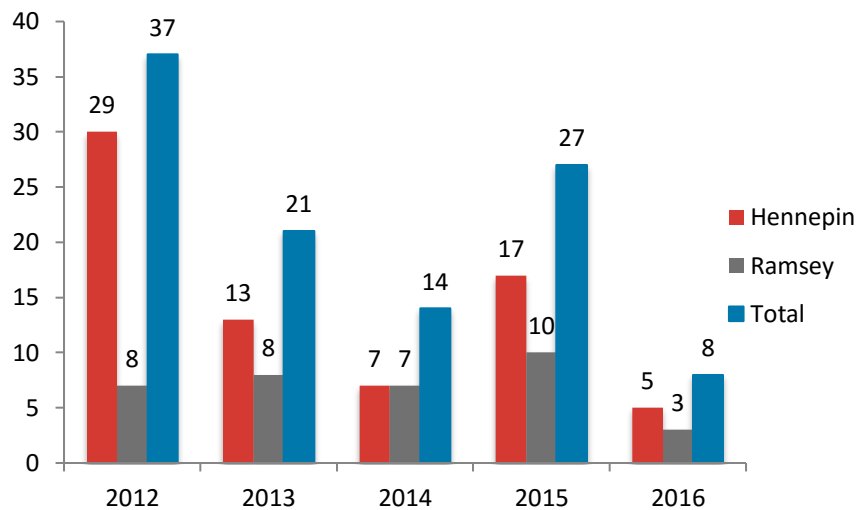


Diagram 2 shows Hennepin and Ramsey County Sex Trafficking Cases by Year (2012-2016)

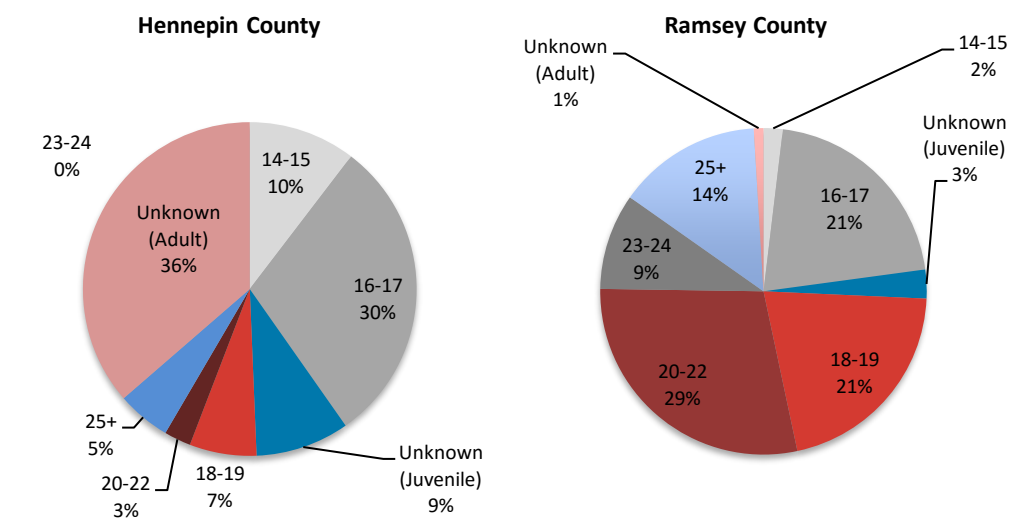


A full listing of all of the cases by year is included at Appendix B.

2. Victim and defendant demographics

WATCH tracked certain victim and defendant demographic information as part of the project. The variables tracked included age, gender, and race/ethnicity.

## Victim's Age



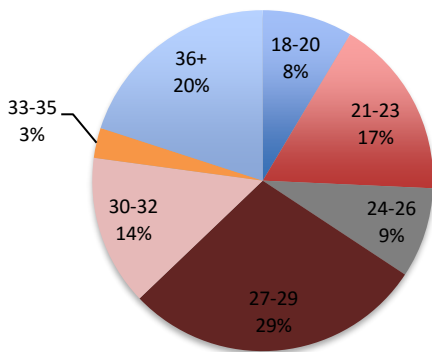
WATCH obtained data on the ages of victims from criminal complaints, police reports, and from its monitors' notes. If the information was not available from any of those sources, then WATCH was unable to obtain it. Most of the criminal complaints filed in Ramsey County contain the victim's age at the time of the crime. Fewer criminal complaints filed in Hennepin County contain that information.

Based on available data, the majority of victims in Hennepin County are in the 16-17 age range, whereas in Ramsey County, the majority of victims are in the 20-22 age range. In terms of victims' ages, it is worth noting that in Ramsey County, 59% of the victims are between 18-24 years of age. In Hennepin County, only 10% of the victims whose exact age is known are between 18-24, but given the large percentage of victims over 18 whose exact age is unknown, it is likely that number is actually significantly larger. This number is significant because under Minnesota Statute 609.322, once a victim is 18, the offense drops from a first-degree felony to a second-degree felony, and the available penalties also drop. In addition, a conviction of a second-degree felony does not carry with it a requirement that the defender register as a predatory offender.

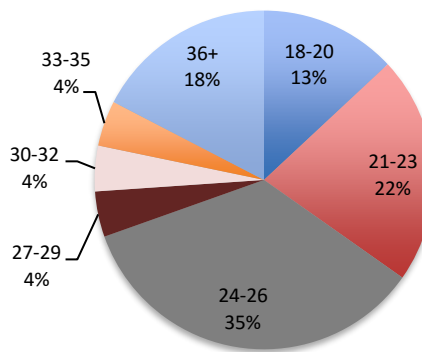
In terms of defendants' ages, it is clear that the juvenile victims are largely trafficked by individuals who are under 30. In fact, in Hennepin County 63% of the juvenile victims are trafficked by individuals 30 years of age or younger. Similarly, in Ramsey County, 74% of the traffickers are under the age of 30. However, when it comes to adult victims, the age of the trafficker also increases. In Hennepin County, 69% of those who trafficked adult victims are aged 30 over, and in Ramsey County 54% of the traffickers with adult victims are aged 30 or over.

## Defendant's Age

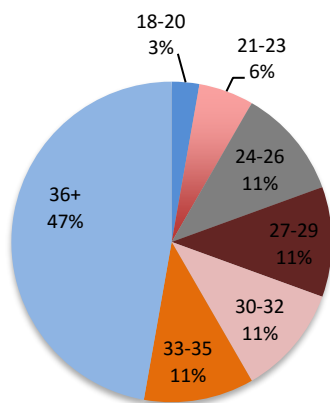
**Hennepin County  
(Juvenile Cases)  
Total = 36 Cases**



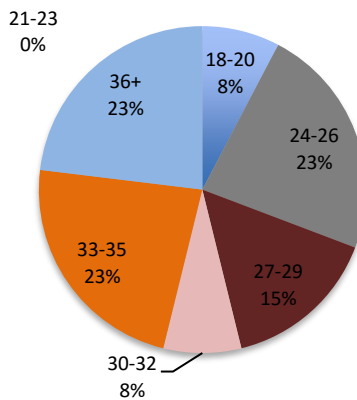
**Ramsey County  
(Juvenile Cases)  
Total = 23 Cases**



**Hennepin County  
(Adult Cases)  
Total = 36 Cases**



**Ramsey County  
(Adult Cases)  
Total = 13 Cases**



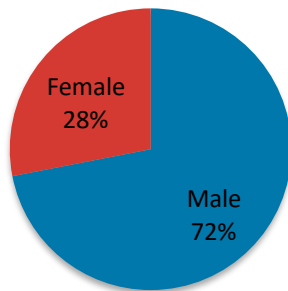
## Victim's Gender

Out of 107 cases, all of the victims are female.

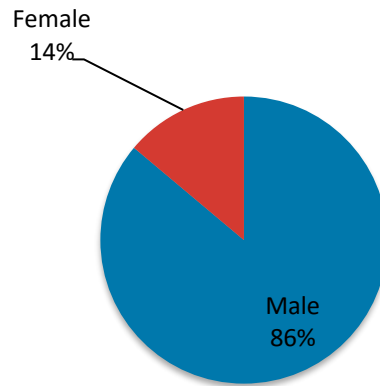
## Defendant's Gender

In terms of the gender of traffickers, as the charts below show, while the overwhelming majority of traffickers are male, there are a number of female traffickers – and that number is larger in the juvenile trafficking cases.

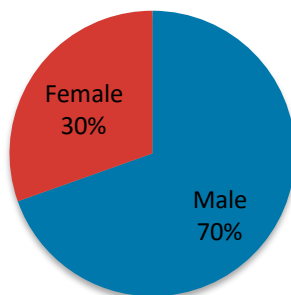
**Hennepin County  
(Juvenile Cases)  
Total = 35 Cases**



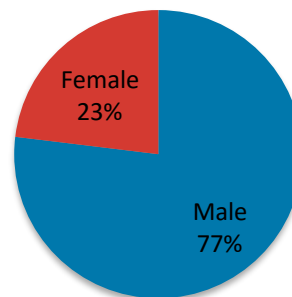
**Hennepin County  
(Adult Cases)  
Total = 36 Cases**



**Ramsey County  
(Juvenile Cases)  
Total = 23 Cases**



**Ramsey County  
(Adult Cases)  
Total = 13 Cases**



Whether the female trafficker is herself a trafficking victim is an issue that presents itself in many trafficking cases and can impact whether the prosecution proceeds with the case at all, as well as the sentencing. (Interview Numbers 8-11, 15, 16 and 17) One third of the dismissed sex trafficking cases were against female traffickers. (See Diagram on Page 40). Sentences against female traffickers are also, on average, less than those against male traffickers. Specifically, the average sentence for a female trafficker is 70 months, and the average sentence for a male trafficker is 128 months. (Neither of these averages factor in sentences that were stayed.)

On the other hand, in some cases, the female trafficker may be uniquely positioned to use her influence to lure a victim into trafficking in a way that no other individual could have. For example, in one case, a female trafficker convinced her cousin to be trafficked. (Interview Numbers 15 and 16). So while prosecuting female traffickers, especially where the trafficker has been a victim herself, may present a tough set of choices, prosecutors are sensitive to the particular type of influence a female trafficker may have over another.

Two-thirds (14) of the female traffickers were arrested with male co-defendants. Only one third (7) are not described as engaging in trafficking activities with males. Based on information obtained in criminal complaints and from its court monitors' notes, WATCH examined what the roles of the female traffickers were. That information is contained below.

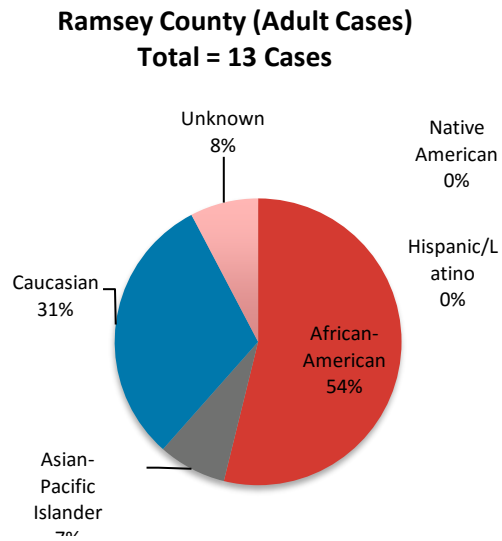
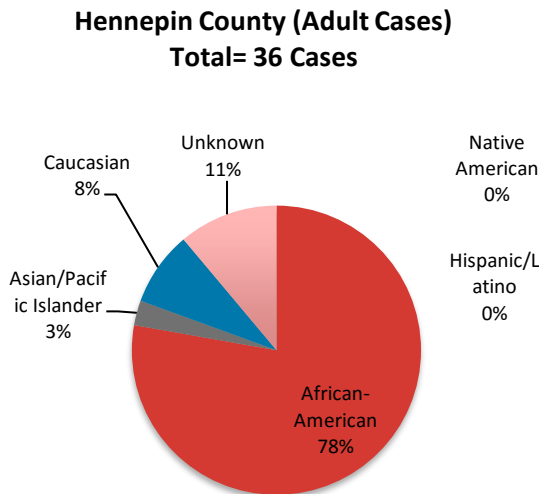
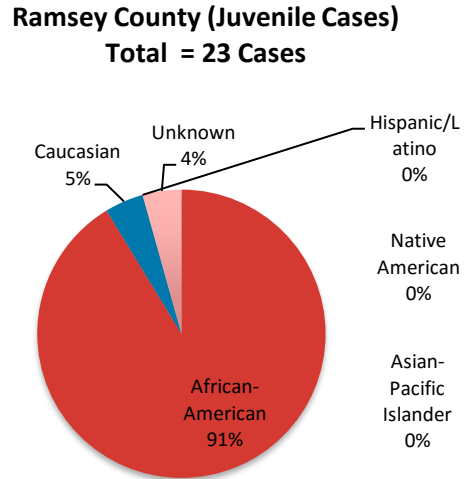
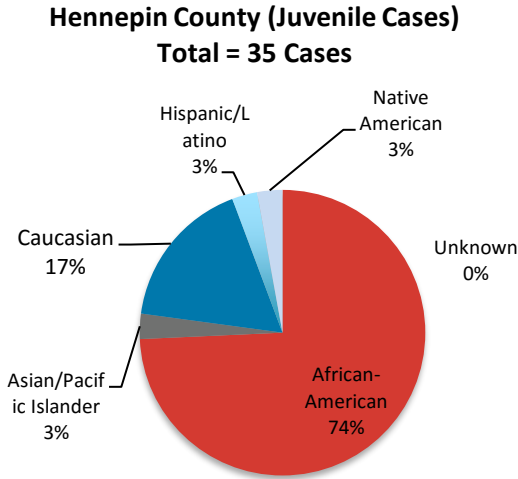
### Female Trafficker Roles

Role	# Defendants Accused of Activity
Recruiting	10
Selling	9
Transporting girls	8
Posting ads	11
Receiving profit	8
Renting hotel	5
Drug providers	2
Providing place for girls to live	3

## Defendant's Ethnicity

WATCH obtains information about the ethnicity of defendants through arrest warrants, press articles, and its monitors' observations. As the ethnicity of victims is seldom contained in criminal complaints and victims often do not attend court hearings pertaining to their cases, WATCH was unable to obtain meaningful data about the victim's ethnicity.

As demonstrated below, in the overwhelming majority of cases, the defendants are African American.

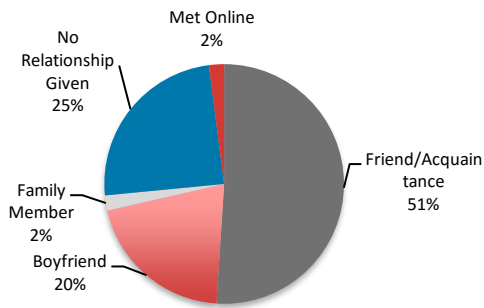




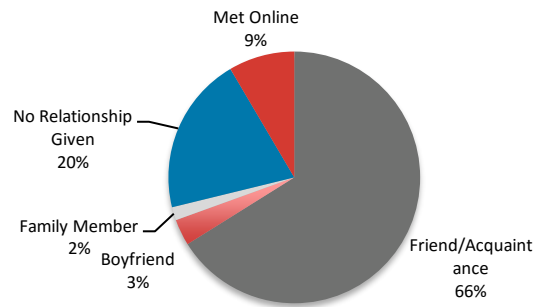
## Relationship Between Victim and Defendant

The information regarding the relationship between the victim and the defendant is obtained through the criminal complaint or WATCH's court monitors' observations. While more cases labeled friend/acquaintance may be more accurately categorized as a "boyfriend" relationship, WATCH only labeled the relationship as "boyfriend" where the complaint or court proceedings specifically referenced a sexual or other type of romantic relationship. These statistics underscore how often traffickers are connected with victims through commonly known people.

### Adult Cases



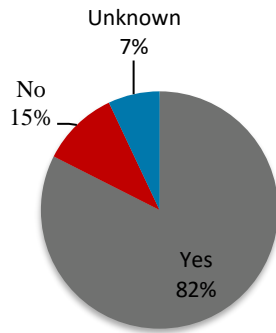
### Juvenile Cases



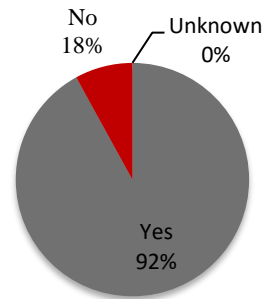
## Involvement of Backpage.com or Other On-Line Media

WATCH also tracked how many cases involved backpage.com or other on-line classified services as the method for advertising the victim. Not surprisingly, such media outlets are used in the vast majority of the trafficking cases.

**Juvenile Victims in Hennepin and Ramsey County**  
Total = 58 Cases

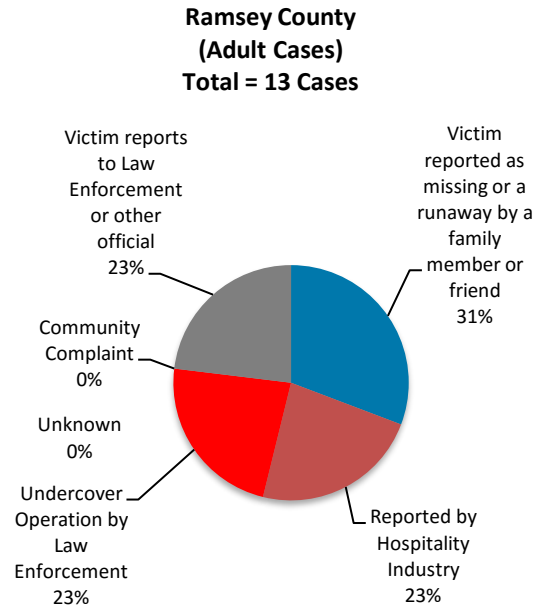
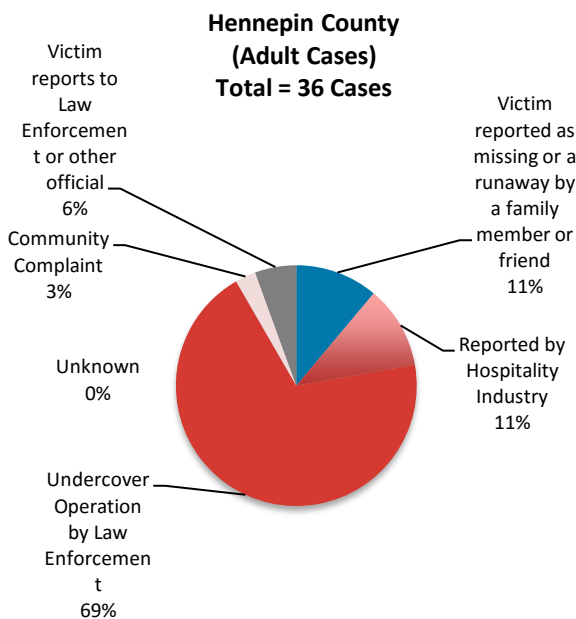
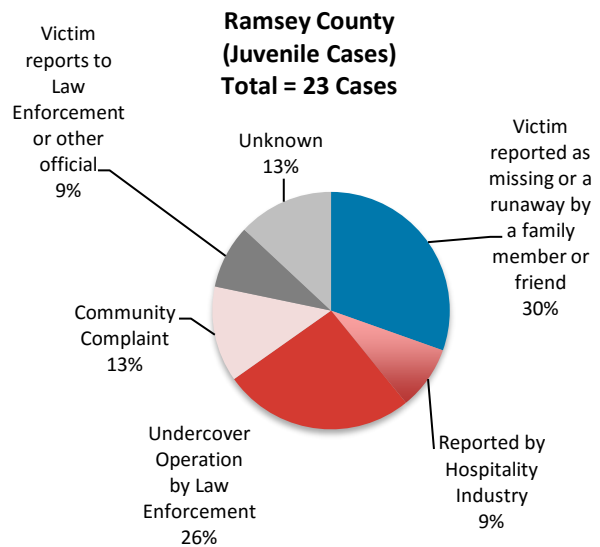
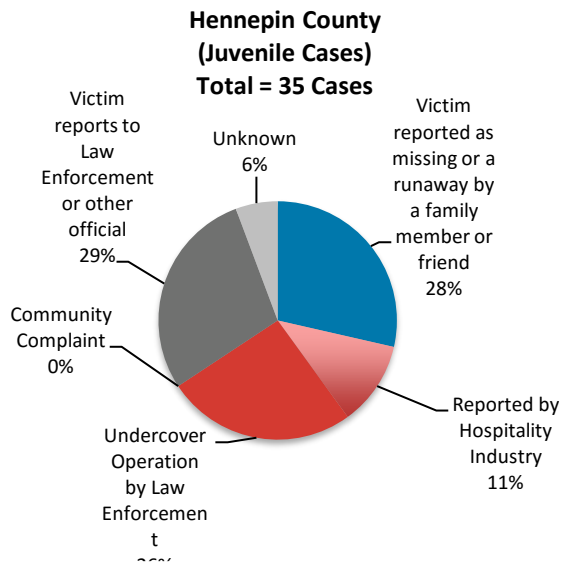


**Adult Victims in Hennepin and Ramsey County**  
Total = 49 Cases



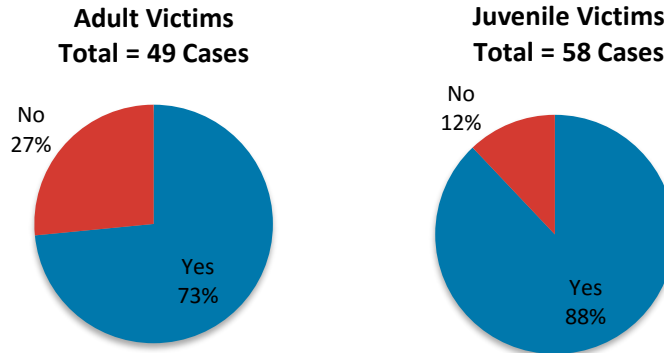
## How was the crime reported to Law Enforcement?

In terms of how sex trafficking was reported to law enforcement, friends, families and victims themselves are important sources of information. Additionally, undercover police operations are also critical. The numbers reflect that reports of sex trafficking by community members and the hospitality industry are relatively small. There is obviously room for training the public on how to identify sex trafficking.



## Do the Defendants Have a Criminal History?

WATCH tracked whether the sex trafficking defendants had a criminal history, and if so, of which types of offenses the defendants had been convicted. Overwhelmingly, the defendants had a criminal history. Interestingly, burglary and theft, as well as drug convictions, were among the most common with both juvenile and adult defendants. Assault and domestic assault are also highly prevalent among trafficking defendants. Relatively few trafficking defendants had prostitution or sex-trafficking convictions.



### Most Common Offenses Juvenile Victims

Offense	Total Number
Burglary/Theft	21
Drugs (Possession, distribution, controlled substance)	19
Disorderly Conduct	18
False Information to Law Enforcement	14
Assault (1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> , 4 <sup>th</sup> and 5 <sup>th</sup> Degree)	14
Domestic Assault (includes Domestic Assault by Strangulation)	13
Illegal Possession of a Firearm or Weapon	8
Prostitution (Hired, Engage, Promote)	5

### Adult Victims

Offense	Total Number
Drugs (Possession, distribution, controlled substance)	16
Assault (1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> , 4 <sup>th</sup> and 5 <sup>th</sup> Degree)	16
Burglary/Theft	15
Domestic Assault (includes Domestic Assault by Strangulation)	12
False Information to Law Enforcement	12
Prostitution (Hired, Engage, Promote)	7
Illegal Possession of a Firearm or Weapon	6

## Charging 609.322 Cases: Prostitution or Sex Trafficking?

### A. Statutory Background

In charging sex traffickers under Minnesota state law, the applicable statute is Minnesota Statute 609.322. The statute offers a few different options for prosecutors to charge a case. Prosecutors can charge an offense as:

- (1) solicits or induces an individual to practice prostitution;
- (2) promotes the prostitution of an individual;
- (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution; or
- (4) engages in the sex trafficking of an individual.

If the trafficked individual is under the age of 18, a violation of any of the four sections of the statute is considered a first-degree felony and can be punished by up to twenty (20) years in prison and/or a fine of up to \$50,000. In addition, a conviction requires the defendant to register as a predatory offender.

If the trafficked individual is 18 or older, a violation of any of the four sections of the statute is considered a second-degree felony and can be punished by up to fifteen (15) years in prison and/or a fine of up to \$40,000. A conviction does not result in a predatory offender designation.

A prosecutor can also seek a higher penalty of up to 25 years in prison and/or a fine of up to \$60,000 if any of the following aggravating factors are proved:

- 1) the offender has committed a prior qualified human trafficking-related offense;
- (2) the offense involved a sex trafficking victim who suffered bodily harm during the commission of the offense;
- (3) the time period that a sex trafficking victim was held in debt bondage or forced labor or services exceeded 180 days; or
- (4) the offense involved more than one sex trafficking victim.

According to the definitions of the statute, one promotes the prostitution of an individual when one:

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

On the other hand, one commits the offense of sex trafficking by:

- (1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or
- (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

## B. How the Statute is Being Used By Prosecutors: Prostitution or Sex Trafficking?

An examination of the definitions of three prostitution-related offenses, as compared to the definition of “sex trafficking,” reveals that many of the same activities could be charged as either offense. For example, renting a room used to sell an individual for sex, posting pictures to sell someone for sex, taking money derived from the sale of sex, and driving an individual to a place where that individual is sold for sex, all are activities that could be charged under the prostitution-related offenses, or as sex trafficking. Indeed, a review of criminal complaints shows that the same activities are often charged using different parts of the statute.

In effect, prosecutors are left with a choice as to what part of 609.322 they want to use to charge a case. And given that there is not a higher penalty for a conviction for sex trafficking than there is for a conviction of any of the prostitution-related offenses, there is no statutory incentive to use one prong of the statute over another. The notable exception to this is that to prove that 3 out of 4 of the aggravating factors were present – which does allow for a higher sentence - the prosecutor must prove that sex trafficking occurred.

The chart below illustrates how the same criminal activities are being charged differently.

<b>Ramsey County</b>				
<b>Defendant Name</b>	Cozart, Samuel NMN	Lakes, Larry Darnell	Diggs, Fonati McArthur	Edwards, Jonathan Bernard
<b>Sex Trafficking or Promotes Prostitution</b>	Promotes Prostitution	Promotes Prostitution	Sex Trafficking	Sex Trafficking
<b>Role/Involvement</b>	<ul style="list-style-type: none"> <li>• Arranged for men to have sex with 17-year old victim.</li> <li>• Posted advertisements of victim on backpage.com.</li> <li>• Kept the proceeds from sex buyers.</li> </ul>	<ul style="list-style-type: none"> <li>• Arranged for men to have sex with 21-year old victim.</li> <li>• Posted advertisements of victim on backpage.com.</li> <li>• Kept the proceeds from sex buyers.</li> </ul>	<ul style="list-style-type: none"> <li>• Arranged for men to have sex with 16-year old victim.</li> <li>• Kept the proceeds from sex buyers.</li> </ul>	<ul style="list-style-type: none"> <li>• Arranged for men to have sex with 15-year old victim.</li> <li>• Posted advertisements of victim on backpage.com.</li> <li>• Kept the proceeds from sex buyers.</li> </ul>
<b>Charges</b>	609.322.1(a)(2)	609.322.1a(1) 609.322.1a(2) 609.322.1a(3)	609.322.1(a)(4)- 3 counts 609.322.1a(4)- 1 count	609.322.1(a)(4)
<b>Convictions</b>	609.322.1(a)(2)	609.322.1a(1) 609.322.1a(2) 609.322.1a(3)	609.322.1(a)(4) – 1 count 609.322.1a(4) – 1 count	609.322.1(a)(4)

## Hennepin County

<b>Defendant Name</b>	Bryant, Joshua William	Matthews, Antoine Lashawn	Stately, Julius Roman	Butterfly, Peter Rayfield
<b>Sex Trafficking or Promotes Prostitution</b>	Promotes Prostitution	Promotes Prostitution	Sex Trafficking	Sex Trafficking
<b>Role/Involvement</b>	<ul style="list-style-type: none"> <li>• Took photos of 16-year old victim.</li> <li>• Defendant’s computer was used to post advertisement of victim on backpage.com.</li> <li>• Kept part of the proceeds from sex buyers.</li> <li>• Picked victim up from hotel.</li> </ul>	<ul style="list-style-type: none"> <li>• Took photos of 16-year old victim.</li> <li>• Posted advertisements of victim on backpage.com.</li> <li>• Provided transportation.</li> <li>• Kept the proceeds from sex buyers.</li> </ul>	<ul style="list-style-type: none"> <li>• Took photos of 17-year old victim in lingerie</li> <li>• Posted advertisements of victim on backpage.com.</li> <li>• Provided transportation.</li> <li>• Kept the proceeds from sex buyers.</li> </ul>	<ul style="list-style-type: none"> <li>• Provided transportation.</li> </ul>
<b>Charges</b>	609.322.1(a)(2)	609.322.1(a)(2)	609.322.1(a)(4)	609.322.1(a)(4)
<b>Convictions</b>	609.322.1(a)(2)	609.322.1(a)(2)	609.322.1(a)(4)	609.322.1(a)(4)

### C. Charging Cases: Prostitution or Sex Trafficking? What the Prosecutors Say

While the statutory definitions of the solicitation, inducement and promotion of prostitution and “sex trafficking” encompass the very same criminal activities, WATCH’s interviews with prosecutors in Hennepin and Ramsey County reveal that prosecutors have developed guideposts to determine when to charge a case as a prostitution-related offenses and when to charge a case as sex trafficking.

In the point of view of several prosecutors, one is more likely to get a conviction by charging a case under the prostitution-related offenses of 609.322 than by charging a case as sex trafficking. The varying reasons offered for that are:

#### Clarity of the Definitions

- The definition of what activities constitute the solicitation, inducement and promotion of prostitution are clearer and more specific than the definition of what constitutes sex trafficking.
- The words “**obtaining by any means**” in the definition of sex trafficking (“receiving, recruiting, enticing, harboring, providing, or obtaining by any means to aid in the prostitution of the individual...”) are confusing and would be difficult to prove.
- The words “aid in” are not defined and are potentially confusing to a fact-finder.

(Interview Numbers 6, 8-11, 15).

## Comporting with the General Public's Understanding of What Constitutes Sex Trafficking

- The public expects sex trafficking to be a more elevated offense – with some sort of aggravating factor like assault or control of the victim with drug use - than a prostitution-related charge. If there is not evidence of force, drugs or some other kinds of manipulation, the evidence may not meet the jurors' expectations of sex trafficking.
- The jury box is not the right place to educate the public as to what constitutes sex trafficking and what constitutes prostitution. The argument followed that since the definitions of the prostitution-related offenses are easier to prove, it is safer to charge a case as prostitution.
- If a case involves a defendant merely posting of pictures of a victim but not driving the victim, renting her a room, taking her on "dates", or actually selling her for sex, then the case should not be charged as sex trafficking.
- If the victims are not actually sold for sex, the case should not be charged as sex trafficking.
- If the victim is a "girlfriend" of the trafficker then it is not appropriate to use trafficking charges.

(Interview Numbers 6, 8-11, 15).

## Obtaining a Favorable Plea Deal

- A defendant may be less willing to plead to a "sex trafficking" charge as opposed to a prostitution-related charge because of the increased stigma of being labeled as a "sex trafficker."

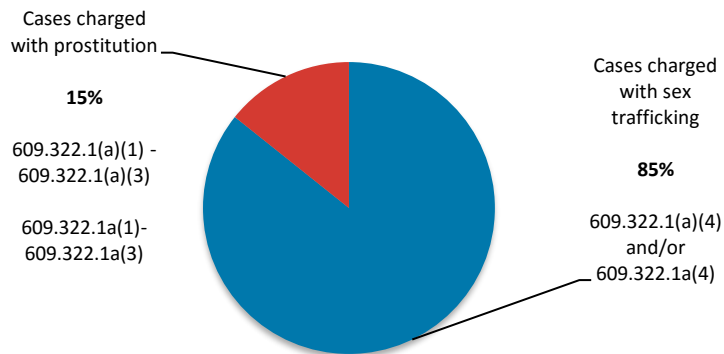
(Interview Numbers 6, 8, and 9).



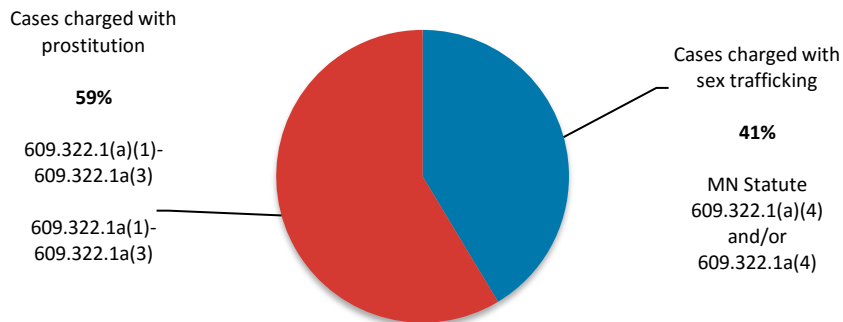
## Case Charging Under 609.322: Two Counties, Two Approaches

An examination of the way that cases are charged under 609.322 reveals that Hennepin and Ramsey counties have very different approaches to what constitutes sex trafficking. As shown below, Ramsey County uses the sex trafficking prong of 609.322 much more frequently than Hennepin County does and is achieving convictions of its sex trafficking cases a larger percentage of the time than it does in prostitution-related charges. This evidence would appear to indicate that the sex trafficking prong of 609.322 is not necessarily more difficult to obtain a conviction under than the promotion of prostitution.

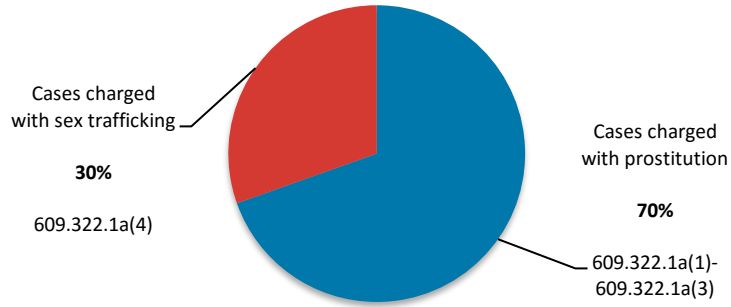
**Juvenile Cases In Ramsey County Charged Under MN Statute 609.322**



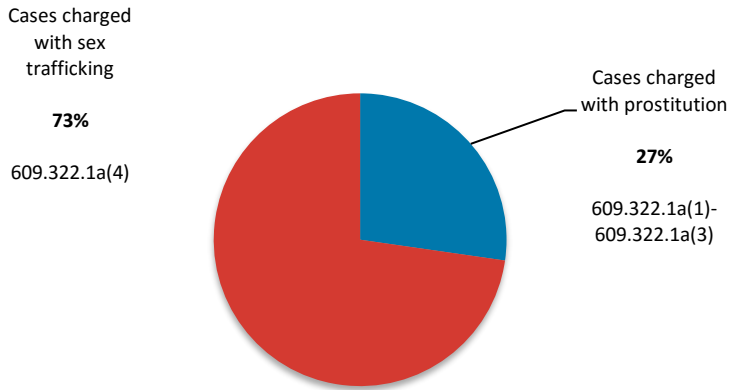
**Juvenile Cases in Hennepin County Charged Under MN Statute 609.322**



**Adult Cases in Hennepin County Charged Under MN Statute  
609.322**



**Adult Cases in Ramsey County Charged Under MN Statute  
609.322**



## Case Charging and Conviction Rates

### Hennepin County- Juvenile (Total= 29 cases)

\*Note: A defendant can be charged with more than one prong of the Statute.

MN Statute	Statute Reference	Number of Defendants Charged with:	Number of Defendants Convicted of:
609.322.1(a)(1)	Solicits or induces an individual under the age of 18 years to practice prostitution.	3	1 (33%)
609.322.1(a)(2)	Promotes the prostitution of an individual under the age of 18 years.	20	13 (65%)
609.322.1(a)(3)	Receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of prostitution, of an individual under the age of 18 years.	5	4 (80%) * One charge reduced to a Gross Misdemeanor
609.322.1(a)(4)	Engages in the sex trafficking of an individual under the age of 18 years.	11	7 (63%)
609.322.1a(1)	Solicits or induces an individual to practice prostitution.	1	1 (100%)
609.322.1a(2)	Promotes the prostitution of an individual.	11	4 (36%)
609.322.1a(3)	Receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of prostitution, of an individual.	0	0
609.322.1a(4)	Engages in the sex trafficking on an individual.	4	2 (50%)
609.322.1(c)(2)	Aggregation of cases	1	0 (0%)
609.3243	Loiter with Intent to Participate in Prostitution (Misdemeanor)	1	1 (100%)
609.713.1	Terroristic Threats	1	0 (0%)
609.52.2(1)	Theft of Motor Vehicle	1	0 (0%)
150.025.2(a)(1)	Drug Possession-5 <sup>th</sup> Degree	1	1 (100%)
609.324.1(a)(1)	Engages in prostitution with an individual under the age of 13 years	1	1 (100%)

## Case Charging and Conviction Rates

### Ramsey County- Juvenile (Total= 21 cases)

\*Note: A defendant can be charged with more than one prong of the Statute.

MN Statute	Statute Reference	Number of Defendants Charged with:	Number of Defendants Convicted of:
609.322.1(a)(1)	Solicits or induces an individual under the age of 18 years to practice prostitution.	7	5 (71%)
609.322.1(a)(2)	Promotes the prostitution of an individual under the age of 18 years.	6	4 (67%)
609.322.1(a)(3)	Receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of prostitution, of an individual under the age of 18 years.	0	0
609.322.1(a)(4)	Engages in the sex trafficking of an individual under the age of 18 years.	15	11 (73%)
609.322.1a(1)	Solicits or induces an individual to practice prostitution.	6	6 (100%)
609.322.1a(2)	Promotes the prostitution of an individual.	3	3 (100%)
609.322.1a(3)	Receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of prostitution, of an individual.	0	0
609.322.1a(4)	Engages in the sex trafficking on an individual.	11	8 (72%)
Possess Pistol 624.713.1(2)	Except as otherwise provided in clause (9), a person who has been convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime of violence.	1	1 (100%)
Assault in the 2 <sup>nd</sup> Degree 609.222.1	Whoever assaults another with a dangerous weapon	2	1 (50%)
Domestic Assault by Strangulation 609.2247.2	Unless a greater penalty is provided elsewhere, whoever assaults a family or household member by strangulation is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both	1	1 (100%)
Criminal Sexual Conduct in the 3 <sup>rd</sup> Degree 609.344.1(c)	A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists (C) the actor uses force or coercion to accomplish the penetration.	2	1 (50%)
Possess Pornographic Work- Computer 617.247.4(a)	A person who possesses a pornographic work or a computer disk or computer or other electronic, magnetic, or optical storage system or a storage system of any other type, containing a pornographic work, knowing or with reason to know its content and character	1	1 (100%)

## Case Charging and Conviction Rates

### Hennepin County- Adult Only (23 Total)

\*Note: A defendant can be charged with more than one prong of the Statute.

MN Statute	Statute Reference	Charged with	Convicted of
609.322.1a(1)	Solicits or induces an individual to practice prostitution.	1	0 (0%)
609.322.1a(2)	Promotes the prostitution of an individual.	19	17 (89%) * One charge reduced to Gross Misdemeanor
609.322.1a(3)	Receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of prostitution, of an individual.	8	5 (63%) * Two charges reduced to Gross Misdemeanors
609.322.1a(4)	Engages in the sex trafficking on an individual.	7	4 (57%)
609.324.1a(2)	Hires, offers to hire, or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact.	1	0 (0%)
609.25.1(2)	Kidnap	1	1 (100%)
150.025.2(a)	Drug Possession- 5 <sup>th</sup> Degree	1	0 (0%)
609.506.2	False Information to Police	1	0 (0%)

## Case Charging and Conviction Rates

### Ramsey County- Adult Only (Total=11 cases)

\*Note: A defendant can be charged with more than one prong of the Statute.

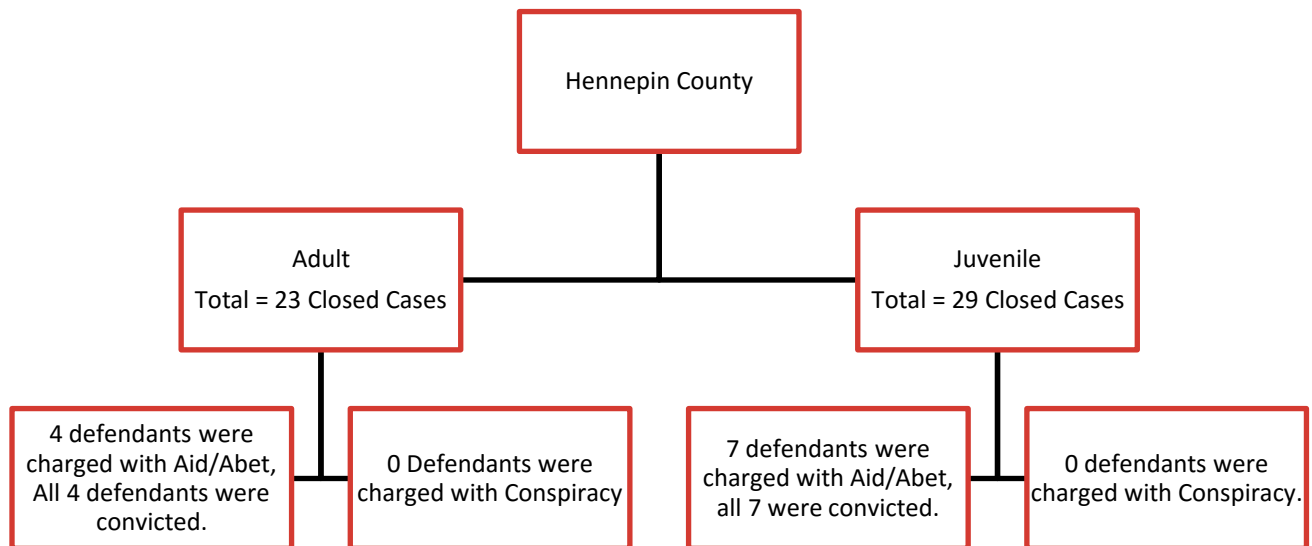
MN Statute	Statute Reference	Charged with	Convicted of
609.322.1a(1)	Solicits or induces an individual to practice prostitution.	3	2 (67%)
609.322.1a(2)	Promotes the prostitution of an individual.	4	2 (50%)
609.322.1a(3)	Receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of prostitution, of an individual.	3	3 (50%)
609.322.1a(4)	Engages in the sex trafficking on an individual.	9	7 (78%)
609.344.1(c)	Criminal Sexual Conduct in the 3 <sup>rd</sup> Degree	1	0 (0%)

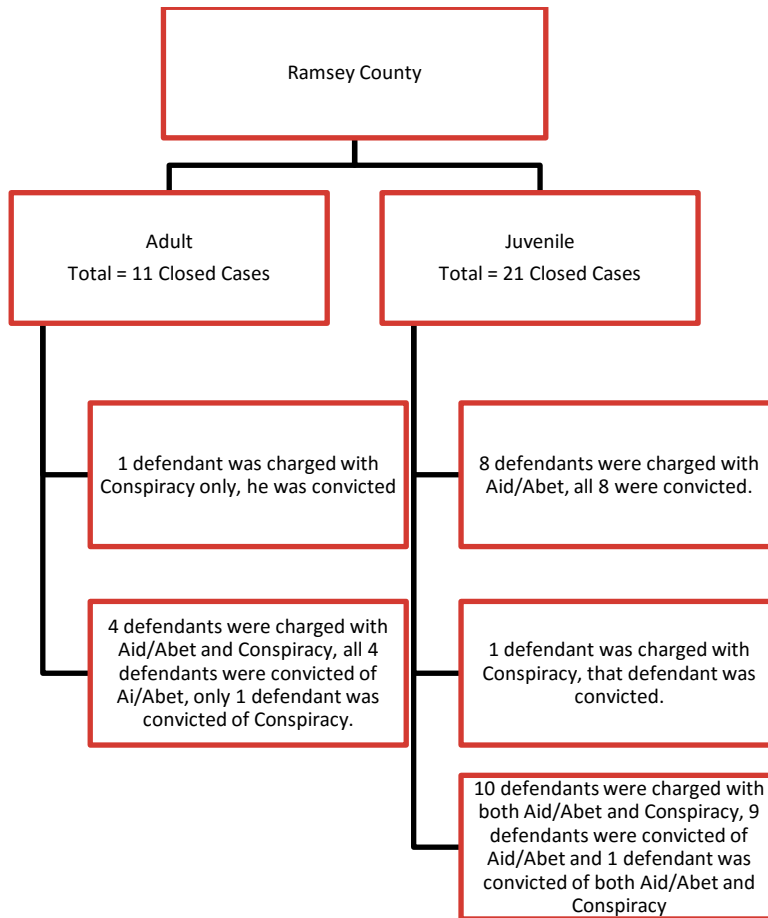
## The Use of Aiding and Abetting and/or Conspiracy Charges

Another difference in the way that Hennepin County and Ramsey County prosecute cases is the way that the counties use aiding and abetting and conspiracy charges. Hennepin County never uses conspiracy charges in prosecuting 609.322 cases, whereas Ramsey County uses conspiracy charges with much greater frequency. The conviction rate of conspiracy charges is quite low; however, where there is a conspiracy charge, the rules of evidence change in terms of what constitutes hearsay and may allow for more statements to be admitted into evidence.

In both Hennepin and Ramsey County, there is a one hundred percent conviction rate for aiding and abetting charges.

### Aiding and Abetting and/or Conspiracy Charges by County





## Method of Resolution: Plea Bargain or Trial

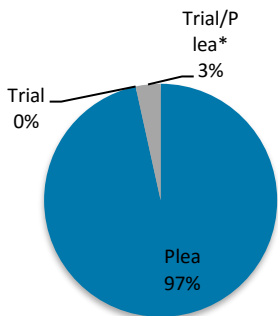
As demonstrated by the charts below, with the notable exception of juvenile cases in Ramsey County, the vast majority of 609,322 cases are being resolved via plea bargains as opposed to trials.

Prosecutors in both Hennepin and Ramsey Counties cited some of the challenges with taking sex trafficking cases to trial. Some of those challenges are set forth below.

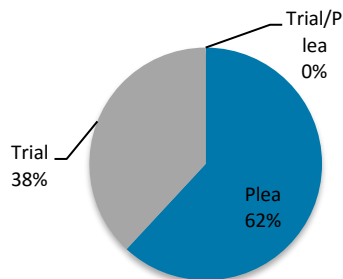
- Many trafficking cases involve multiple defendants, with varying levels of participation and culpability. In such cases, these defendants may be required to provide credible testimony against one another in order to provide the evidence necessary for a conviction.
- Victims in trafficking cases are reluctant to come forward and testify against their traffickers either because they are in relationships with their traffickers and do not want to turn against them, they are afraid of their traffickers, or because they do not want to admit what happened to them in open court, possibly in front of family members or friends.
- Putting victims through a trial puts them at risk for re-traumatization.
- Victims can be unreliable witnesses because of trauma, because of relationships with their traffickers, or fear. In some instances, victims will either refuse to testify, recant their prior testimony or not show up for court.
- Because many victims come from unstable family and living situations, it can be difficult to find supportive parties to help the victim participate in the criminal justice system and the court process.

(Interview Numbers 6,8-11, 15, 16 and 18).

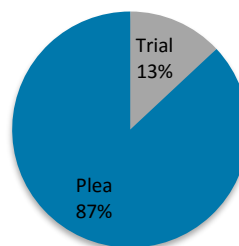
**Hennepin County  
(Juvenile Cases)  
Total = 29 cases**



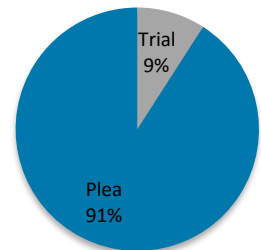
**Ramsey County  
(Juvenile Cases)  
Total = 21 cases**



**Hennepin County  
(Adult Cases)  
Total = 23 Cases**



**Ramsey County  
(Adult Cases)  
Total = 11 Cases**



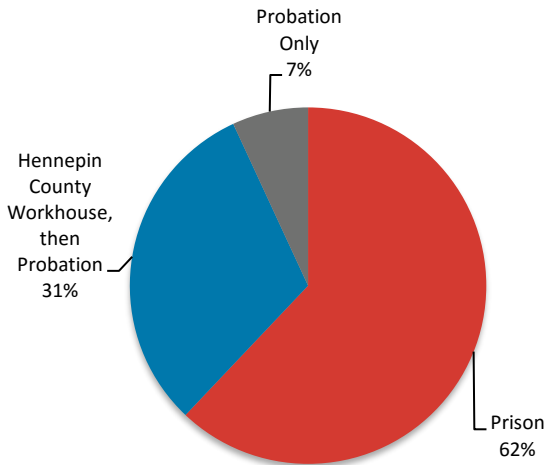
\* One case in Hennepin County resulted in a hung jury and a plea deal followed.



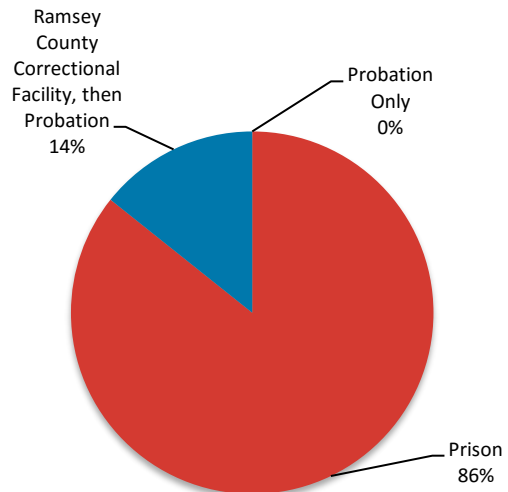
## 609.322 Case Sentences/Dispositions

As the charts below demonstrate, fewer defendants sentenced in Hennepin County – in both juvenile and adult cases – are receiving prison time as their sentence than defendants in Ramsey County are. Hennepin County is sending more defendants to a correctional facility, followed by probation, than Ramsey County is. Further, Hennepin County is sentencing trafficking defendants to probation only – meaning no time in either the workhouse or prison. In 22% of the adult cases in Hennepin County, there was a sentence of probation only. Ramsey County has not sentenced any trafficking defendants to probation only.

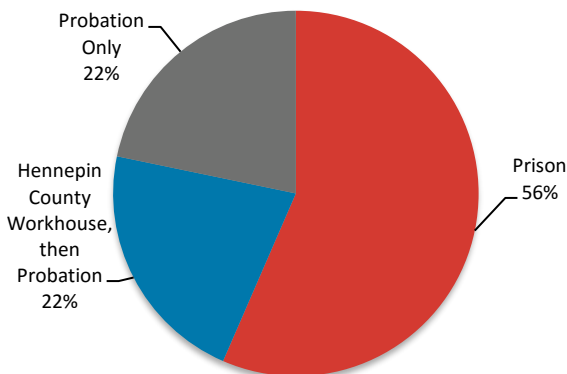
**Sentences (Prison, Workhouse, Probation Only)  
Hennepin County (Juvenile Cases)  
Total = 29 Cases**



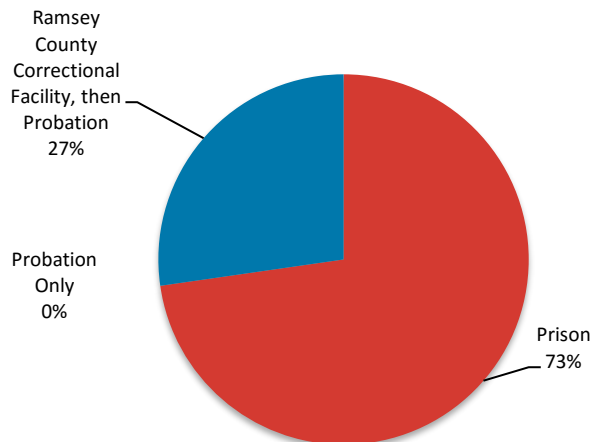
**Sentences (Prison, Workhouse, Probation Only)  
Ramsey County (Juvenile Cases)  
Total = 21 Cases**



**Sentences (Prison, Workhouse, Probation Only)  
Hennepin County (Adult Cases)  
Total = 23 Cases**



**Sentences (Prison, Workhouse, Probation Only)  
Ramsey County (Adult Cases)  
Total = 11 Cases**



**Hennepin County Workhouse and the Ramsey County Correctional Facility:** These adult corrections facilities house offenders (male and female) who have been convicted of a misdemeanor or a gross misdemeanor for up to one year. The purpose of the facilities is to provide offenders with job skills and programming. Offenders can be granted work/study release, which allows them to leave the facility to maintain their employment or education.

## How Tough Were the Sentences in 609.322 Cases?

WATCH categorized all of the sentences in 609.322 cases in terms of whether the sentence was in the upper, middle or lower third of the sentencing guidelines. The categorizations were

**Lower: 1-5 years in prison**

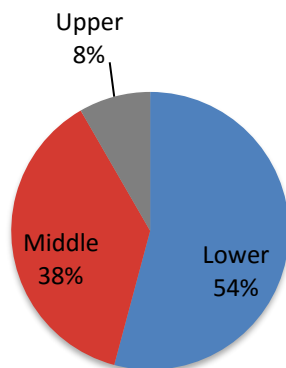
**Middle: 6-13 years in prison**

**Upper: 14- 20+ years in prison**

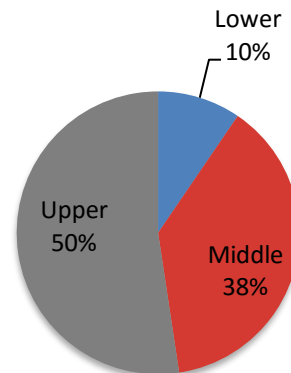
As the charts below show, Ramsey County has significantly more juvenile cases resulting in sentences at the higher end of the sentencing guidelines. On the other hand, in adult cases, Hennepin County is handing down more sentences at the higher end of the sentencing guidelines. The average prison sentences, shown below, also reflect these same sentencing trends.

And, in every category, cases that are taken to trial result in higher sentences than cases that resolve via a plea bargain.

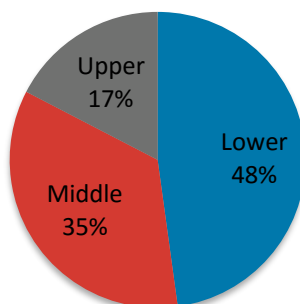
**Hennepin County (Juvenile Cases)**  
Total = 25 cases



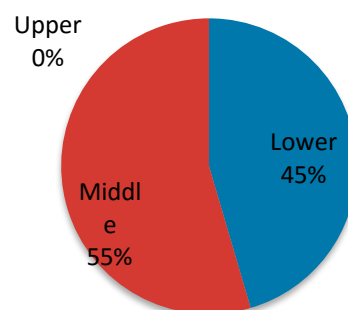
**Ramsey County (Juvenile Cases)**  
Total = 21 cases



**Hennepin County (Adult Cases)**  
Total = 23 Cases



**Ramsey County (Adult Cases)**  
Total = 11 Cases



## Average Prison Sentences

(The average sentences do not include stayed prison time unless the defendant violated probation and is actually serving the prison time.)

	Hennepin County	Ramsey County
<b>Juvenile</b>	71.6 months	227.7 months
<b>Adult</b>	89.9 months	76.7 months

### Average Prison Sentences: Trial v. Plea Bargain

County	Trial	Plea
<b>Hennepin County (Juvenile)</b>	No trials resulted in a sentence	71.6 months
<b>Hennepin County (Adult)</b>	122.7 months	80.1 months
<b>Ramsey County (Juvenile)</b>	331.75 months	144.5 months
<b>Ramsey County (Adult)</b>	91 months	75.25 months

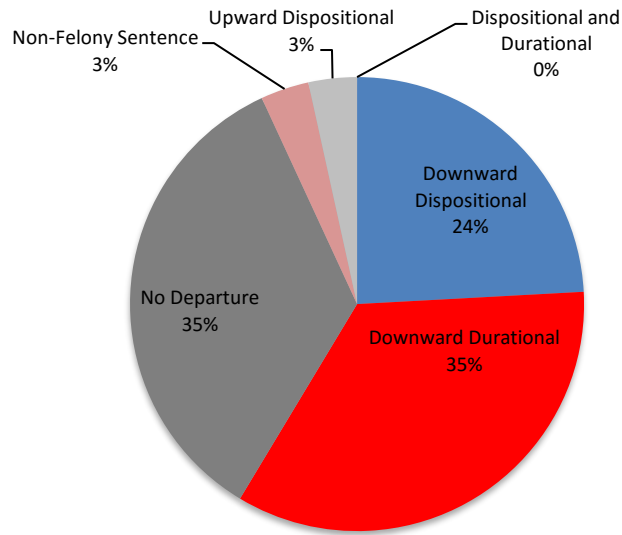
## Sentencing Departures

There are two basic kinds of sentencing departures: durational departures and dispositional departures. A **durational departure** occurs when the court orders a prison sentence for a longer or shorter amount of time than the presumptive fixed duration or range in the applicable sentencing grid. A durational sentencing departure can either be aggravated (more time) or mitigated (less time).

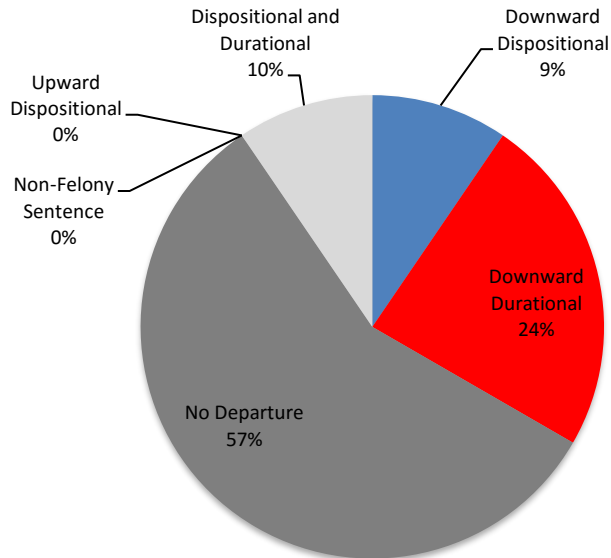
A **dispositional departure** occurs when the court orders a disposition or case outcome (i.e., a decision to sentence to prison or probation) other than the disposition recommended in the Guidelines. There are two types: aggravated dispositional departures and mitigated dispositional departures.

As the charts below demonstrate, Hennepin County is far much more likely than Ramsey County to hand down sentences that constitute a downward departure: either dispositional or durational.

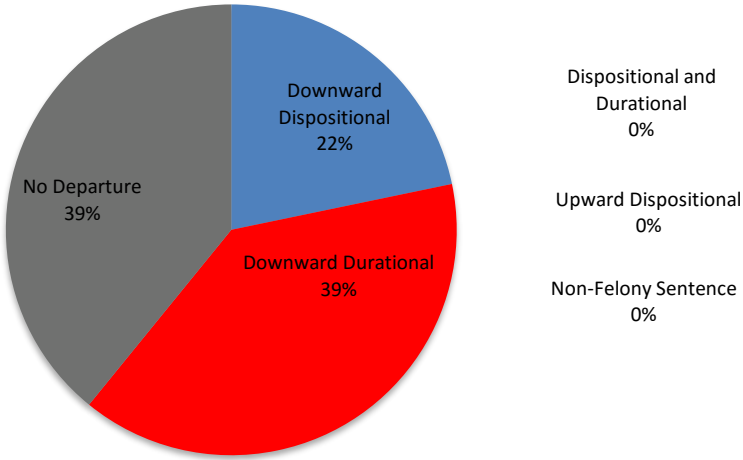
**Sentencing Departures in Hennepin County Juvenile Cases  
(Total = 29 Cases)**



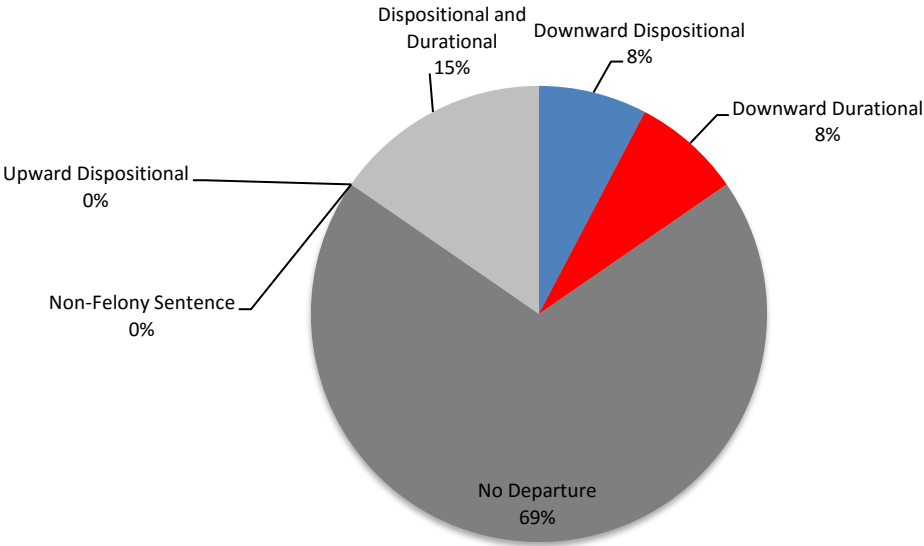
**Sentencing Departures in Ramsey County Juvenile Cases  
(Total = 21 Cases)**



**Sentencing Departures in Hennepin County Adult Cases  
(Total = 23 Cases)**



**Sentencing Departures in Ramsey County Adult Cases  
(Total = 11 Cases)**



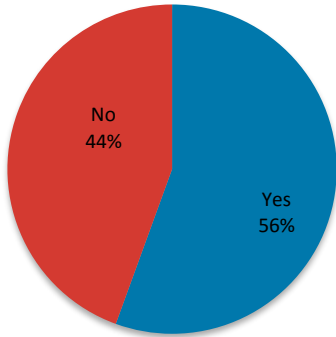
## Reasons Given for Departures From the Sentencing Guidelines

When a sentence constitutes either a downward or an upward departure from the Sentencing Guidelines, the judge is required to file a Departure Report with the Sentencing Guidelines Commission. The report includes the reasons for the departure. Listed below are the reasons given for various departures. Each departure report may cite multiple reasons for the departure.

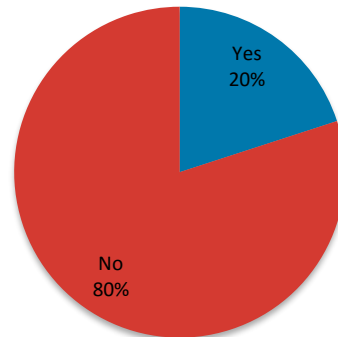
<b>Downward Dispositional</b>	<b>Downward Durational</b>	<b>Upward Durational</b>	<b>Non- Felony Conviction</b>
Prosecutor does not object to the departure (1)	Shows remorse/accepts responsibility (18)	Request prison to avoid probation and/or jail (1)	Shows remorse/accepts responsibility (1)
Plea agreement on sentence (4)	Prevented trauma to witnesses/victims from testifying (3)	Request prison as part of plea agreement (1)	Plea agreement on sentence (1)
Amenable to probation (6)	Cooperated with prosecution (1)	Departure recommended by prosecutor (1)	
Amenable to treatment (2)	Was a victim of same in her past (1)	Plea agreement on sentence (1)	
Shows remorse/accepts responsibility (4)	Plea agreement on sentence (15)		
Prevent trauma to witnesses for testifying (1)	Best interest of the victims (1)		
Witnesses unlikely or unable to testify (1)	Crime less onerous than usual (5)		
Cooperated with authorities (1)	Not opposed by court services (1)		
Generally law-abiding and contributing member of society (1)	Recommendation or agreement of victim/victim's family (2)		
Crime less onerous than usual (1)	Departure recommended by Prosecutor (1)		
Recommended by court services (1)	Amenable to probation (2)		
Offender played minor or passive role (1)	Prosecutor does not object to the departure (6)		
Departure recommended by prosecutor (1)	Agreement of parties to avoid the uncertainty of trial (1)		
	Co-defendants received substantially lower sentences than guidelines for this offense (1)		
	Quick Resolution (1)		
	Benefit of the deal (1)		
	Departure recommended by prosecutor (1)		

## Defendants Who Violated the Probation Terms of A Sentence

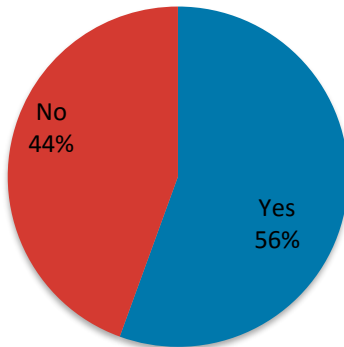
**Hennepin County (Juvenile Cases)**  
Total = 9 Cases



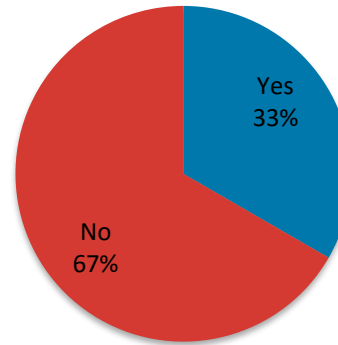
**Ramsey County (Juvenile Cases)**  
Total = 3 Cases



**Hennepin County (Adult Cases)**  
Total = 9 Cases



**Ramsey County (Adult Cases)**  
Total = 3 Cases



## Cases That Resulted in Dismissals

Of all of the trafficking cases that were filed, twelve resulted in dismissals of trafficking charges at some point in the criminal proceedings; therefore, there was no conviction or sentence. One third of the dismissed cases involved female defendants.

Total = 12 Cases  
(\* Female defendant)

County	Adult/Juvenile	Defendant Name	Charges based on M.N. Statute	Reasons for Dismissal
Ramsey	Adult	Alexander, Elizabeth Ann *	609.322.1a(4)	Unknown
Ramsey	Adult	Zhao, Xin NMN	609.322.1a(2)	Dismissed by Prosecuting Attorney Pursuant to Rule 30.01. State cited that neither counsel have the evidence requested to prosecute the case, it is not in the interests of justice to proceed.
Hennepin	Adult	Cook, Angela Lydia *	609.322.1a(2)	Unknown, was found guilty of one count of Drug Possession in the Third Degree.
Hennepin	Adult	Ellis, Vonell Allen Sr	609.322.1a(2)	Unknown, defendant was found guilty in separate case involving similar charges.
Hennepin	Adult	Fritz, Dexter Lawrence	609.322.1a(2) and 609.322.1a(3)	Dismissed by Prosecuting Attorney Pursuant to Rule 30.01. Reasons are unknown because report is unavailable.
Hennepin	Adult	Henderson, Joseph Jermaine	609.322.1a(2) x2 and 609.322.1a(3) x2	Unknown
Hennepin	Adult	Miller, Phillip Leron	609.322.1a(2)	Dismissed by Prosecuting Attorney Pursuant to Rule 30.01. State cited that they couldn't prove their case beyond a reasonable doubt.
Hennepin	Adult	Pulju, Jonah Joseph	609.322.1a(3) and 609.322.1a(2)	Dismissed by Prosecuting Attorney Pursuant to Rule 30.01. State cited it is not in the interests of justice to proceed.
Hennepin	Adult	Stump, Calvin Jesse	609.322.1a(2) x2	Dismissed by Prosecuting Attorney Pursuant to Rule 30.01. State cited that there are two victims in the case: one cannot be located and the other would not cooperate with prosecution.
Hennepin	Adult	Westgaard, Travis Adam	609.322.1a(1), 609.322.1a(3), and 609.322.1a(4)	Unknown
Hennepin	Juvenile	Martin, Carlie Rae *	609.322.1(a)(4)	Unknown; convicted of being hired as a prostitute in separate case.
Hennepin	Juvenile	Ward, Autumn Lee *	609.322.1(a)(4)	Dismissed by Prosecuting Attorney Pursuant to Rule 30.01. State cited it is not in the interests of justice to proceed.



## PROJECT RECOMMENDATIONS

### 1. **Institute A Standard Protocol for Charging Cases under 609.322 in Every County in Minnesota.**

That Protocol Should Include:

- a) Training for prosecutors on charging cases using the sex trafficking portion of Minnesota 609.322.

WATCH's findings indicate that the approach to prosecuting cases under 609.322 lacks consistency. As demonstrated in the section of the report analyzing case charging, cases with very similar fact patterns and describing virtually identical criminal activities are being charged differently. One of the goals of Safe Harbor was to ensure that trafficked youth are treated as victims and not criminals. Yet prosecutors continue to charge cases – even those with juvenile victims – as prostitution-related offenses. By charging a case in this manner, the prosecutor is in effect saying that the youth being sold for sex is a prostitute and not a victim of sex trafficking.

Training prosecutors to use the sex trafficking portion of the statute when the evidence establishes the elements of sex trafficking, rather than the portions setting forth prostitution-related offenses, should be a leadership priority in every county attorney's office in Minnesota. Charging cases in this manner will help to educate the public – including individuals who may serve on juries or are in a position to identify sex trafficking, as well as the defendants themselves – about the nature of the crime being committed. By labeling the crime as sex trafficking instead of prostitution, it helps discredit the mistaken concept that girls consent to being sold or that selling sex is a victimless crime.

- b) Appointing a prosecutor or a team of prosecutors to oversee 609.322 cases from charging through sentencing.

Having a specially appointed prosecutor or team of prosecutors for 609.322 cases ensures consistency in charging decisions, provides oversight on whether to accept a plea bargain or take a case to trial, and establishes consistency in what types of sentences are appropriate, and whether they are commensurate with the seriousness of the offense.

For example, In Ramsey County, possible 609.322 cases are brought to a designated team of prosecutors for charging. It is clear that in Ramsey County, there is increased consistency in charging juvenile 609.322 cases as sex trafficking and not prostitution. Further, those cases are going to trial more often and are resulting in higher sentences than juvenile trafficking cases in Hennepin County.

### 2. **Amend Minnesota Statute 609.322 to Clarify/Expand Activities that Are Prohibited As Sex Trafficking and to Remove References to Prostitution OR to Increase the Penalties for Sex Trafficking to Incentivize Prosecutors to Use That Portion of the Statute.**

When sex trafficking was made a stand-alone crime in 2009, that change happened by appending “sex trafficking” to the statute that criminalized the “Solicitation, Inducement and Promotion of Prostitution.”

As it is currently drafted, 609.322 provide prosecutors the opportunity to charge the same criminal activities as either the Solicitation, Inducement and Promotion of Prostitution, or as Sex Trafficking (or both). There is no difference in penalties for charging a case as prostitution or as sex trafficking, unless certain aggravating factors that require proof of “sex trafficking” are present.

It is WATCH’s recommendation that the language of 609.322 should be amended to clarify all of the activities that constitute sex trafficking. One option would be for legislators to remove the references to prostitution and to move all of the activities that are defined as being prostitution-related to the definition of sex trafficking. If legislators still believe that there should be another label for the crimes described in addition to sex trafficking, WATCH recommends that it be labeled “criminal sexual exploitation.” All references to prostitution should be removed.

However, if the Minnesota Legislature does not remove the prostitution-related offenses from 609.322, then legislators should consider instituting a higher penalty for sex trafficking so that prosecutors have an incentive to charge a case as sex trafficking.

### **3. Raise the Victim Age for A First-Degree Sex Trafficking Offense to 24 or Younger.**

As the data collected by WATCH shows, a significant percentage of the trafficking victims are between the ages of 18-24. Further, as multiple prosecutors and law enforcement have noted, many trafficking victims have been sold for sex for years before their trafficker is actually caught and charged by law enforcement. Many criminal complaints also set forth a pattern of abuse over an extended period of time. Minnesota’s Safe Harbor Laws now provide services for sexually exploited youth through the age of 24. Likewise, Minnesota law should make sex trafficking a first-degree felony in all instances where the victim is 24 or younger. This would mean higher penalties for those who are convicted of trafficking youth covered by the current safe harbor laws. Doing so would also mean that anyone convicted of trafficking individuals under the age of 24 would be required to register as a predatory offender. As the laws are currently written, only offenders convicted of trafficking individuals under the age of 18 are required to register as a predatory offender.

### **4. Develop Statewide Training on Prosecuting Sex Trafficking Cases for Law Enforcement, Prosecutors and Judges.**

Law enforcement, judges, and prosecutors that handle 609.322 cases should receive comprehensive training regarding sex trafficking cases. First, it is important that individuals in these positions are knowledgeable about the statute and the various options for charging. Second, it is critical that prosecutors across the state have standardized training on charging under 609.322, as many trafficking enterprises and activities span multiple counties and require cross-jurisdictional cooperation. As such, there should be statewide charging protocols and guidelines. Third, the dynamics of sex trafficking, and in particular the relationship between traffickers and their victims, are complicated and not necessarily intuitive. Victims in particular

may behave in ways that make prosecuting trafficking cases especially difficult. Training on what experts – including victim advocates, victim service providers, and experienced law enforcement and prosecutors – have learned about trafficking victims and how to best work with them as witnesses is critical to the successful prosecution of sex traffickers. Further, such training will help prosecutors learn the tools to educate judges and jurors on the crime of sex trafficking and to empathize with victims. Finally multiple prosecutors have suggested that sex trafficking cases are among the most difficult that they handle, perhaps – given the large amounts of electronic evidence, the tactics defendants use to cover their criminal activities, and the multiple defendants that are often present – even more difficult than murder cases. As such, prosecutors should have the benefit of thorough training targeted at sex trafficking cases.

## **5. Comprehensively Examine Judicial Practices on Downward Departures and Sentencing 609.322 Cases**

The data collected by WATCH shows that, with the exception of juvenile cases prosecuted in Ramsey County, the majority of 609.322 cases are not resulting in sentences at the higher end of the sentencing guidelines. In fact, in Hennepin County, the majority of both Juvenile and Adult cases are resulting in sentences at the lower end of the sentencing guidelines, meaning the defendants received only 1-5 years in prison. Further, the majority of sentences in Hennepin County constitute some type of downward departure from the sentencing guidelines. On the other hand, the majority of the sentences for 609.322 defendants in Ramsey County do not constitute a downward departure. Further, in Hennepin County, there are cases where the defendants receive probation only, meaning that the defendant does not even serve time in prison or a correctional facility. There are no cases in Ramsey County where the sentence is probation only with no time in a correctional facility.

WATCH understands that there are good reasons for accepting plea bargains rather than taking a case to trial: lack of evidence, re-traumatization of the victim, and other mitigating circumstances related to the defendant's life circumstances are among them. Also, a defendant may be less likely to accept a plea if it is not a downward departure. However, it bears examining whether a plea bargain with a downward departure is really the most just outcome in the majority of the cases, as is occurring in Hennepin County. WATCH encourages prosecutors to examine whether the sentences they are getting in the plea bargain are the most just outcome that could occur and whether a better sentence could be obtained by taking a case to trial. The data shows that cases that go to trial result in higher sentences in those that are resolved via plea bargain. WATCH suggests that in every 609.322 case, prosecutors should question whether the sentence they are obtaining is really the most just outcome for the sex trafficking victim and that victim's family.

## CONCLUSION

The dramatic increase in sex trafficking cases since Safe Harbor was passed reflects the robust efforts of law enforcement and prosecutors to stop sex traffickers through our criminal justice system. However, the main tool that prosecutors have to prosecute sex trafficking cases – 609.322 – is a seriously flawed statute. WATCH believes that 609.322 should be redrafted as suggested in this report. In the meantime, however, WATCH believes that law enforcement officers and prosecutors should receive additional training about sex trafficking, and the statute, so that charges are brought under the sex trafficking portion of the statute as often as possible. Doing so will help change the conversation amongst the judiciary and the general public about what sex trafficking really is.

WATCH hopes that this report will lead prosecutors to examine their charging practices. Likewise, WATCH hopes that this report encourages the benches in Hennepin and Ramsey County to review their sentencing practices in sex trafficking cases, and in particular the tendency toward downward departures and relatively light sentences in some instances. After all, the criminal justice system is the place where – through the sentences given to convicted offenders – we as a society say that we will not tolerate certain behavior. The passage of Safe Harbor reflects the people of Minnesota’s voice on sex trafficking, and our judiciary should ensure that the sentences are in keeping with our state’s very progressive and strong anti-sex trafficking stance.

## Appendix A

### 609.321 PROSTITUTION AND SEX TRAFFICKING; DEFINITIONS.

**Subdivision 1.** Scope. For the purposes of sections 609.321 to 609.325, the following terms have the meanings given.

**Subd. 2.** Business of prostitution. "Business of prostitution" means any arrangement between or organization of two or more persons, acting other than as prostitutes or patrons, who commit acts punishable under sections 609.321 to 609.324.

**Subd. 3.** [Repealed, 1998 c 367 art 2 s 33]

**Subd. 4.** Patron. "Patron" means an individual who engages in prostitution by hiring, offering to hire, or agreeing to hire another individual to engage in sexual penetration or sexual contact.

**Subd. 5.** Place of prostitution. "Place of prostitution" means a house or other place where prostitution is practiced.

**Subd. 6.** [Repealed, 1998 c 367 art 2 s 33]

**Subd. 7.** Promotes the prostitution of an individual. "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:

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

**Subd. 7a.** Sex trafficking. "Sex trafficking" means:

- (1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or
- (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

**Subd. 7b.** Sex trafficking victim. "Sex trafficking victim" means a person subjected to the practices in subdivision 7a.

**Subd. 8.** Prostitute. "Prostitute" means an individual who engages in prostitution by being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual contact.

**Subd. 9.** Prostitution. "Prostitution" means hiring, offering to hire, or agreeing to hire another individual to engage in sexual penetration or sexual contact, or being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual contact.

**Subd. 10.** Sexual contact. "Sexual contact" means any of the following acts, if the acts can reasonably be construed as being for the purpose of satisfying the actor's sexual impulses:

- (i) the intentional touching by an individual of a prostitute's intimate parts; or
- (ii) the intentional touching by a prostitute of another individual's intimate parts.

**Subd. 11.**Sexual penetration. "Sexual penetration" means any of the following acts, if for the purpose of satisfying sexual impulses: sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion however slight into the genital or anal openings of an individual's body by any part of another individual's body or any object used for the purpose of satisfying sexual impulses. Emission of semen is not necessary.

**Subd. 12.**Public place. A "public place" means a public street or sidewalk, a pedestrian skyway system as defined in section 469.125, subdivision 4, a hotel, motel, steam room, sauna, massage parlor, shopping mall and other public shopping areas, or other place of public accommodation, a place licensed to sell intoxicating liquor, wine, nonintoxicating malt beverages, or food, or a motor vehicle located on a public street, alley, or parking lot ordinarily used by or available to the public though not used as a matter of right and a driveway connecting such a parking lot with a street or highway.

**Subd. 13.**Place of public accommodation. "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

**Subd. 14.**Prior qualified human trafficking-related offense. A "prior qualified human trafficking-related offense" means a conviction or delinquency adjudication within the ten years from the discharge from probation or parole immediately preceding the current offense for a violation of or an attempt to violate section 609.322, subdivision 1 (solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree); 609.322, subdivision 1a (solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree); 609.282 (labor trafficking); or 609.283 (unlawful conduct with respect to documents in furtherance of labor or sex trafficking).

## **609.322 SOLICITATION, INDUCEMENT, AND PROMOTION OF PROSTITUTION; SEX TRAFFICKING.**

**Subdivision 1.** Solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree.

(a) Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$50,000, or both:

- (1) solicits or induces an individual under the age of 18 years to practice prostitution;
- (2) promotes the prostitution of an individual under the age of 18 years;
- (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years; or
- (4) engages in the sex trafficking of an individual under the age of 18 years.

(b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$60,000, or both, if one or more of the following aggravating factors are present:

- (1) the offender has committed a prior qualified human trafficking-related offense;
- (2) the offense involved a sex trafficking victim who suffered bodily harm during the commission of the offense;
- (3) the time period that a sex trafficking victim was held in debt bondage or forced labor or services exceeded 180 days; or
- (4) the offense involved more than one sex trafficking victim.

**Subd. 1a.** Solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree. Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000, or both:

- (1) solicits or induces an individual to practice prostitution;
- (2) promotes the prostitution of an individual;
- (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual; or
- (4) engages in the sex trafficking of an individual.

**Subd. 1b.** Exceptions. Subdivisions 1, paragraph (a), clause (3), and 1a, clause (3), do not apply to:

- (1) a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution; or
- (2) a parent over the age of 55 who is dependent on an individual acting as a prostitute, who may have benefited from or been supported by the individual's earnings derived from prostitution, and who did not know that the earnings were derived from prostitution; or
- (3) the sale of goods or services to a prostitute in the ordinary course of a lawful business.

**Subd. 1c.** Aggregation of cases. Acts by the defendant in violation of any one or more of the provisions in this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

## Appendix B

### Trafficking Cases by Year 2012-2106

#### 2012

Barnes, Brandon Darnel- 62-CR-12-5823  
Bass, Crystal Yvette - 27-CR-12-39419  
Baymon, Giorgio Jovan- 62-CR-12-5824  
Broadway, Michael Scott - 27-CR-12-6858  
Christon, James Maurice- 27-CR-12-39420  
Cook, Angela Lydia- 27-CR-12-40899  
Cozart, Samuel- 62-Ramsey-12-716  
Cross, Timothy Densel- 62-CR-12-9924  
Diggs, Fonati M.- 62-CR-12-9925  
Ellis, Vonell Allen Sr- 27-CR-12-4930  
Ellis, Vonell Allen Sr- 27-CR-12-30385  
Gbadyu, Philip Ricky- 27-CR-12-15018  
Henderson, Joseph Jermaine- 27-CR-12-27552  
Hollins, Marquello Kim- 27-CR-12-9218  
Johnson, Dexter Lamar- 27-CR-12-10803  
Jones, Tyree E.- 62-CR-12-877  
Juean, Peter Paul- 27-CR-12-26855  
Karon, Akmal Saleem- 27-CR-12-1951  
Keys, Joseph Nathan- 27-CR-12-9442  
Lakes, Larry Darnell- 62-CR-12-2304  
Latawiec, Jeffrey John- 27-CR-12-29129  
Le, Phuoc Phong- 27-CR-12-36971  
Lee, Ronald NMN- 27-CR-12-5160  
Love, Robert Virgil- 27-CR-12-29602  
Mastrud, Brittany Christine- 27-CR-12-40163  
Mixon, Bianca- 62-CR-12-876  
Moore, Jamal Jacob- 27-CR-12-28333  
Morris, Bernard Elvet- 27-CR-12-35680  
Petroske, Jocelyn Lynetta- 27-CR-12-6405  
Robinson, Broderick Boshay- 27-CR-12-24863  
Tarley, Aloysius D.- 27-CR-12-9478  
Toe, Mikyboy NMN- 27-CR-12-6869  
Vasser, Columbus NMN Jr- 27-CR-12-3274  
Warborg, Meranda Lynn- 27-CR-12-24424  
Ward, Autumn Lee- 27-CR-12-5158  
Washington, Edward Andre- 27-CR-12-5159  
Williams, Tramayne Colfred- 27-CR-12-31047



## 2013

Alexander, Elizabeth Ann- 62-CR-12-2595  
Butterfly, Peter Rayfield- 27-CR-13-28584  
Carlisle, Joseph Jemail- 27-CR-13-3436  
Edwards, Johnathan Bernard- 62-CR-13-9489  
Fritz, Dexter Lawrence- 27-CR-13-1266  
Jackson, Amair Amahd Cortez- 27-CR-13-2300  
Martin, Carlie Rae- 27-CR-13-19078  
Miller, Phillip Leron- 27-CR-13-36713  
Page, Antoine Lee- 27-CR-13-8996  
Parker, Montia Marie- 27-CR-13-15997  
Pollock, Scott Eugene- 27-CR-13-3459  
Rhodes, Arteco M.- 62-CR-13-3859  
Roxas, Robert Alan- 27-CR-13-40759  
Stately, Julius Roman- 27-CR-13-19079  
Washington- Davis, Antonio Dion- 62-CR-13-2492  
Washington, Calvin Ray- 62-CR-13-2480  
Washington, Otis Deno- 62- CR-13-2475  
Washington, Robert James- 62-CR-13-2479  
Westgaard, Travis Adam- 27-CR-13-3319  
Wilson, Kevin Bernard- 27-CR-13-41567  
Yusuf, Kauser Mohamoud- 62-CR-13-9491

## 2014

Banks, Justin Keith- 62-CR-14-8813  
Bryant, Joshua William- 27-CR-14-2159  
Dinning, Justina Margaret- 62-CR-14-5998  
Hipp, Isaac Martin- 27-CR-14-30185  
Houston, Deeforest Mentay- 27-CR-14-15971  
James, Ronell Aaron- 62-CR-14-2101  
Larscheid, Amanda Marie- 62-CR-14-880  
McKenzie, Troy Allen- 62-CR-14-5999  
Merritt, Matthew Lee- 27-CR-14-13514  
Moore, Johnathan Dimitri- 27-CR-14-2160  
Stewart, Melvin Nathaniel- 62-CR-14-774  
Tart, Santangalo Ar'Evon- 62-CR-14-8815  
White, Michael Dewayne- 27-CR-14-17666  
Williams, James Wayne- 27-CR-14-8300

## 2015

Brooks, Major Lamont - 27-CR-15-14902  
Bruss, Matthew Thomas- 62-CR-15-3272  
Crawford, Domubari Levi- 27-CR-15-25016  
Cross, Suwuan Dominique- 62-CR-15-155  
Davis, Jamie Cyron- 27-CR-15-8677  
Dodd, Terrance Tristan- 62-CR-15-9233  
Evans, Thomas William- 62-CR-15-1561  
Foster, Yolanda Katrice- 62-CR-15-1559  
Ivy, Rashad Ramon- 62-CR-15-4420  
Johnson, Danika Sterlin- 62-CR-15-645  
Jones, Dante Ohaier- 27-CR-15-11104  
Keller, Dorie Marie- 62-CR-15-1558  
King, Wayde Joseph- 27-CR-15-23212  
Matthews, Antoine Lashawn- 27-CR-15-20528  
Mays, Mark Anthony- 27-CR-15-3504  
Milstein, Terri Ann- 27-CR-15-12021  
Olivencia, Luis Reinaldo- 27-CR-15-3608  
Pulju, Jonah Joseff- 27-CR-15-18009  
Richmond, Corby Lewis- 27-CR-15-5069  
Rodgers, Alexandria Laneill- 27-CR-15-2358  
Satterlund, Tony Terrell- 27-CR-15-22207  
Smith, Marcus Aaron- 27-CR-15-7549  
Sorrell-Benford, Ladairo Ray Louis- 27-cr-15-28358  
Tang, Rong NMN- 27-CR-15-21161  
Trapps, Tarris Tereze -62-CR-15-6454  
Tucker, Tayvon Lamont- 27-CR-15-1994  
Williams, Ishmael Jermaine- 62-CR-15-1560

## 2016

Jackson, Kenneth Bruce- 27-CR-16-22441  
Lawson, Yolanda Angelisha- 27-CR-16-14914  
Moran, Laqueshia Daneika- Kay'D- 62-CR-16-3661  
Patten, James Franklin- 27-CR-16-4099  
Rodgers, Courtney Emmanuel- 27-CR-16-14912  
Stump, Calvin Jesse- 27-CR-16-12620  
Taylor, Darryl NMN- 62-CR-16-4347  
Zhao, Xin- 62-CR-16-1357