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Human Trafficking, Domestic Violence, and Sexual Assault

Considerations for Sexual Assault and Domestic Violence Agencies

South Carolina Coalition Against Domestic Violence & Sexual Assault (SCCADVASA)

Sexual assault (SA) and domestic violence (DV) exist on a continuum of violence, which can range from coercive control or intimidation, to assault and abuse. DV and SA often co-occur with one other, as well as with other violent crimes. SCCADVASA believes that medical providers, advocates, law enforcement, attorneys, prosecutors, mental health workers, and other professionals working with DV and SA survivors must be mindful of the intersections between domestic violence, sexual assault, and human trafficking (labor and sex trafficking). Just as DV and SA are crimes deeply rooted in an imbalance of power and privilege between individuals and within systems in society, so too is human trafficking. Survivor services must be centered on the unique experiences of each survivor, policy should be holistic in nature, and prevention must be grounded in a public health approach.

What is Human Trafficking?

Human trafficking is defined in South Carolina statuteⁱ and in federal lawⁱⁱ as when a person is induced to, or there is an attempt to, subject someone to, perform labor, services, or a commercial sex act through force, fraud, or coercion. Profiting from the sexual exploitation of children is not permitted under state or federal law, and there is no need to establish force, fraud, or coercion for victims of sex trafficking who are under the age of 18. When anything of value is given, promised to, or received in exchange for the sexual exploitation of a child under the age of 18, it is considered human trafficking.

Sex Work vs. Sex Trafficking

There is often a misperception that all sex work (i.e. prostitution, pornography, exotic dancing, or erotic massage) is synonymous with sex trafficking. It is important for service providers to understand the inherent risks of sex work, one of which is the risk of being targeted for trafficking, while also distinguishing the difference between *forced* sex work (always illegal) versus *voluntary* sex work (may or may not be illegal). No one agrees to be sexually assaulted or forced into servitude or slavery, even if certain behaviors were given freely or consensually at one point in time.

Also remember that there is an exception for victims under the age of 18. The legal age for sexual consent in South Carolina is 16 years old, but it is universally agreed that children do not yet have the capacity to consent to have someone else profit from their

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sexual acts. Therefore, any time a child under 18 is engaged in a sexual act and someone else receives anything of value in exchange for this sexual act, this is considered illegal sex trafficking of a minor. There does not need to be evidence of force, fraud, or coercion. For example, while a 16-year-old can consent to have sex with an adult, they cannot consent to be sold for sex for someone else's benefit.

How often does Human Trafficking Occur in South Carolina?

Reliable statistics on trafficking are not yet available across the United States nor in South Carolina. Much like other intimate partner and sex crimes, human trafficking is often hidden behind closed doors and shrouded in secrecy. Furthermore, victims of trafficking may not identify as victims. Even though this crime is not new, new-found energy has been placed on increasing services and protections for victims of trafficking, which requires alternative ways of collecting data to capture a more accurate picture of this crime. According to Polaris, which runs the *National Human Trafficking Hotline*, in 2021 the Hotline received 121 reported human trafficking cases from South Carolina (84 sex trafficking, 24 labor, 4 sex and labor, and 9 other). According to the *South Carolina Human Trafficking Task Force 2021 Annual Report* compiled by the SC Attorney General's Office, local law enforcement charged 18 counts of trafficking in that year. Thirty-one human trafficking cases were closed in SC State Court. Fifty-two cases were pending in state courts by year-end. This number does not include cases pending in the federal court system.ⁱⁱⁱ During a global pandemic which impacted all aspects of life, SCCADVASA's 22 member organizations quickly adjusted and pivoted to continue to offer critical services to survivors, while following new and ever-changing health and safety protocols. SCCADVASA member organizations provided services such as shelter, hospital accompaniment, and advocacy to over 103 adult and child survivors of sex and labor trafficking.^{iv} Other social and legal service providers are also reporting an increase in service provision to victim/survivors of sex and labor trafficking.

How do Domestic Violence, Sexual Assault, and Human Trafficking Intersect?

The intersections between domestic violence, sexual assault and human trafficking can be complicated and lines between these crimes can sometimes be blurred. Human trafficking is often committed as a complex continuum of violence where traffickers use tactics such as false promises, lies, coercion, assault, and abuse as tools to force or manipulate a person or persons. Traffickers prey on a person's vulnerabilities, just like in domestic and sexual violence. Immigrants who may be dependent on a spouse for their legal status, people with limited English proficiency, people from ethnically marginalized

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groups, children and adults who have spent time in the child welfare or juvenile justice systems, people from the LGBTQ+ community, or individuals with physical or developmental disabilities are more vulnerable to trafficking, just as they are more vulnerable to intimate partner and sexual violence. Additionally, people who have been victims of past domestic or sexual violence, child abuse, or other trauma are at increased risk of becoming victims of trafficking. Human trafficking can leave a victim vulnerable to future domestic or sexual violence because of extreme needs for housing, finances, or stability.

Domestic Violence and Human Trafficking

When the trafficker is an intimate partner, it may be difficult to distinguish between the crimes of trafficking and domestic violence. Even when a person does not identify themselves as a victim of both crimes, it is beneficial for community-based DV advocates to be able to identify when both crimes have occurred because it can potentially expand the options available for legal protections and services. This knowledge will also enable the advocate to create holistic safety and case management plans that take into account the complex trauma experienced by the survivor to minimize potential trauma triggers. This trauma-informed service model can be handled in much the same way that DV advocates work with all other survivors; however, advanced training about trafficking will be required.

Below are a few ways in which trafficking can co-occur with domestic violence:

- Involuntary servitude in marriage: Cases where traffickers force their spouses to perform services and labor, working at family businesses, or sex work. These traffickers may also physically or sexual abuse their spouses, as well as threaten them with immigration and legal consequences.
- Sexual economics: Cases where individuals are recruited into sex trafficking by traffickers feigning love interest in them. The cases may involve fraudulent courtship, sexual assault, reproductive coercion, and then a distinct pattern of domestic violence to control or convince the victims to engage in selling sex (i.e. prostitution, exotic dancing, or pornography).
- Other forced labor: Cases where individuals are trafficked by other family members (besides intimate partners) into forced labor situations (e.g. restaurant, sales, or janitorial work).

Sexual Assault and Human Trafficking

Traffickers commonly use sexual violence (including harassment and rape) as a means of maintaining control over their victims, regardless of the type of trafficking or the gender or age of the victim(s). Community-based SA advocates must be knowledgeable about the intersections of SA and HT so that they can identify expanded opportunities for legal

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protections, social services and criminal prosecution, as well as being able to serve survivors in a holistic, trauma-informed manner. Advocates must not “screen out” survivors because they willingly engaged in sex work in the past, because they were prostituted by an intimate partner, or because they do not fit a narrow definition of sexual assault.

Below are a few ways in which trafficking can co-occur with sexual assault: vi

- **Commercial sex industry:** Although not all people who work in the sex industry are trafficked, those who are engaged in the commercial sex industry are at high risk of sexual assault. Sexual assault may be used as a tool by a trafficker to force the victim to enter or remain in the commercial sex industry. Because sex work is stigmatized, sexual assaults suffered by sex workers are both underreported and undervalued.
- **Domestic violence and servile marriage:** There are an increasing number of incidents in which traffickers force intimate partners and spouses to perform services and labor, such as domestic work, working at a family or other business, or sex work. Often, the trafficking victim is emotionally manipulated, coerced, or forced into having sex with their intimate partner/trafficker and/or other individuals. Marital rape and intimate partner sexual violence are under-identified and underreported, especially for the LGBTQ community^{vii}.
- **Workplace:** Sexual assault in formal and informal workplaces is under-reported and under-identified. Workplace sexual harassment or violence occurs when the perpetrator of the assault and/or the trafficker is also the victim’s employer (or an agent of the employer) and the harmful act occurs on the job. Reports of victimization are even lower for immigrant workers who may lose their legal status or work authorization if they lose their job, are threatened with deportation if they make a complaint, and are unable to reach out for help because of limited English proficiency, lack of knowledge of their rights in the US, and physical isolation.

What are the Challenges of Serving HT Victim/Survivors at DV and SA Centers?

Advocates have long understood the links between DV, SA, and HT. Furthermore, survivors of trafficking have often looked to advocacy centers as a place to find safety and healing from their trauma. However, as criminal prosecution of these crimes has increased, so have the number of “rescue” operations or criminal stings. This has led to an increased need for emergency, transitional, and long-term victim services, such as housing, crisis intervention, legal services, medical assistance, alcohol and drug detox,

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and intensive (often very long-term) case management. Multidisciplinary response team members have been calling on DV and SA centers to help fill the need. Many advocacy centers have opened their doors, but have faced challenges to fulfilling the unique needs of HT survivors within the traditional DV/SA service delivery model.

Some of the specific challenges faced by DV and SA agencies include:

- **Funding:** Community-based DV/SA agencies usually provide a wide array of services with limited funds, sometimes serving large geographic locales or rural areas. Expanding services may simply be impossible for some agencies, especially when it comes to services that require a significant increase in the amount of staff time and resources. In addition, traditional funders of DV/SA agencies such as federal and state grants may have stipulations on how and for what services their funds can be used. Before expanding services or adjusting agency missions, approval must be sought from the agency Board of Directors and the agency's funders.
- **Emergency Shelter:**
 - *Triggers:* Communal living is a norm for most DV shelters in South Carolina. This can be a challenge for HT survivors, who may have been abused or exploited in a communal living situation or who may feel obligated to "earn their keep" by cleaning for or waiting on other residents or staff. The presence of children may pose a trigger to victims who have been unwillingly separated from their children. Locked escape doors can be another trigger to those survivors who have experienced confinement.
 - *Self-Referral:* The policies and procedures for domestic violence shelters usually require that victims self-identify and self-refer to the shelter. This may also be a stipulation from a funder. If a person is not yet self-identifying as a victim of trafficking, they may not wish to go to shelter. Domestic violence shelters are not able to hold victims against their will, even if it is for their own protection. These kinds of issues can pose a difficulty when the DV shelter takes referrals directly from a law enforcement raid. If DV shelter policy is to speak directly to the survivor, law enforcement officers will not be permitted to be an intermediary. When shelter residents are not self-referred, there can be a safety risk for other residents and staff if the resident discloses the location of the shelter to traffickers, flees, recruits shelter residents, or acts aggressively to others. Additionally, if victims are actively high on drugs or alcohol, they may have medical needs that are outside what DV shelter staff are able to manage.
 - *Length of Stay:* Domestic violence shelters often work with residents to have a plan for alternate safe housing within a short period of time

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(usually a few months). The length of time required to fully transition to safety is usually much longer for survivors of trafficking who are immediately escaping.

- *Need for Multiple Beds and Shelter for Males:* When conducting a sting operation, law enforcement may want victims to stay together in shelter or they may need multiple beds at one time, which may not be feasible for DV shelters with limited space. In addition, HT crimes may require more services to males than DV centers are accustomed to providing, which can pose a challenge to shelters that are mandated to provide equal access regardless of gender.
- **Services to Children:** Human trafficking crimes may involve minors. Children may be the primary victims of direct exploitation/trafficking, or they may be secondary victims, whose parent/caregiver has been trafficked. Children affected by trafficking may be unaccompanied by a caregiver or may be an immigrant whose caregiver resides in another country. Some DV/SA centers are also child advocacy centers (CACs), which is often the location for forensic examination of children; therefore, they may be an early point-of-contact for assistance. However, CACs as well as DV/SA centers often struggle with how to assist child victims of HT who have emergency medical, and shelter needs and who are unaccompanied. DV/SA centers have service models that are usually designed for providing services to people over the age of 18. Their policies and procedures (as well as funding) may not allow them to serve children without parental consent. In addition, service models and therapeutic interventions designed for adults may not be a good fit for children.
- **Intensive Case Management and Legal Needs:** Survivors of trafficking who are stabilizing their lives after the crime and those who are immigrants often need intensive, comprehensive case management, including assistance with legal protections. Survivors may need assistance to access special benefits, educational/vocational training, and intensive financial assistance. Immigrant survivors may have additional language and cultural barriers. Legal assistance may be needed to enforce victim's rights in the criminal proceeding against the trafficker, to expunge past or defend against criminal charges related to the trafficking, to secure immigration protections for immigrant survivors, to pursue civil legal remedies against the trafficker (i.e. personal injury, unpaid wages, etc.) and to assist a survivor in maintaining custody of children.
- **Safety Considerations:** In addition to the safety considerations in shelter, which were mentioned above, there are additional safety considerations for survivors as well as for the staff and agency who are working with them. It is common for trafficking survivors who were abused for a long period of time to develop a survival bond with their trafficker or the "john." Trafficking survivors may give perpetrators information about their whereabouts, about the investigation, or

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about an upcoming raid. In addition, human trafficking cases can bring about media attention, especially in large raids or in sensational cases, and this can lead the media to call on agencies looking for victim accounts. If the trafficker is still at large or is possibly still in your community, agencies may need to take into consideration how they can assure safety for their staff and for clients. viii

What are the Recommendations for DV and SA Agencies Collaborating in a Response to HT?

DV and SA advocates have many assets to lend in human trafficking service provision and should be a mainstay of human trafficking multidisciplinary response teams. However, careful consideration should be paid to both the similarities and differences in service provision to survivors of DV, SA, and HT. DV and SA agencies should be wary of trying to fulfill all the needs of human trafficking survivors, especially if they are drastically different from their existing models. Furthermore, agencies should differentiate between the needs of survivors versus the needs of the community or a partner agency. Agencies must learn how to embrace the intersecting nature of issues and change with the changing needs of survivors, but also identify for yourself what is and is not a good fit. Spend time carefully considering the unmet needs of this population and how/when your agency is able to assist.

Here are some recommendations of how to get started:

- **Agency Leadership:** Boards of Directors, Executive Directors, and other leadership should engage in internal dialogue about trafficking and how the agency is able to respond. Ask yourselves, “What do funders say about human trafficking services? What is the current capacity of the organization to respond?” Consider looking at the challenges mentioned above and brainstorm how the agency would respond to each challenge. Consider the existence of alternative services in your community.
- **Agency Staff:** Even if you are not expanding services, DV and SA agencies should consider training all of their staff on identification of trafficking, the effects of complex trauma, and the short- and long-term needs of human trafficking survivors. Staff should discuss ways in which trafficking survivors may enter into your care and how they respond. Identify similarities and differences between the needs of survivors of DV, SA, and HT. Look at existing networks and social services to identify which resources would most likely be used as referrals for trafficking survivors. If your agency decides to provide emergency shelter or extensive case management for survivors of trafficking, update agency protocols and policies to reflect the unique process for working with this population. consider creating a flowchart that can be used as a quick reference for staff and that can be shared with external partners.

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- **Intake and Screening:** Consider inserting one or two questions into the intake and screening process, such as “Has anyone ever restricted your access to finances?” “Did anyone ever force you to do something physically or sexually that you didn’t feel comfortable doing?” or, “Has anyone ever restricted your access to important documents or your identification cards” These questions could open up possibilities of trafficking or could reveal other forms of harassment and control in domestic violence and sexual assault. Either way, the responses to questions such as these could influence survivor safety and case management plans. Intake staff should be trained on how to respond, what follow up questions to ask, and what services to refer.
- **Shelter Services:** If your agency decides to provide emergency shelter for HT survivors, connect with law enforcement or other emergency responders to train them on the criteria for shelter residents. *At least two levels of screening are recommended when HT survivors are referred to a domestic violence shelter:* one conducted externally (by law enforcement or another first-responder) and one conducted by the shelter staff. Among other things, screening for shelter services should consider possible trauma triggers from communal living in shelter, imminent threat to the victim, safety for the victim, residents and staff, and the availability of shelter beds.
- **Emergency Medical Response:** Meet with medical professionals such as Sexual Assault Nurse Examiners (SANEs) and emergency medical responders to help them understand how to identify and respond to complex trauma, such as trafficking. If a sexual assault occurred, or if the patient experienced sex trafficking, sexual assault advocates should be called to the hospital immediately to accompany them during a forensic examination and to help them understand their reporting options. The protocol will remain relatively the same as with any victim/survivor of sexual assault, but consider reviewing the procedure with your medical partners to see if alterations or adjustments are needed. Create procedures for how to handle a situation where a trafficking victim is accompanied by the trafficker. Expand your list of referral services to include those most commonly needed by victims of trafficking, for example counseling about sexually transmitted infections, assistance with immediate legal needs, or detox services.
- **Multidisciplinary Collaboration:** Participate in local human trafficking task forces to keep abreast of what is happening in your victim service community. Help mentor and educate HT service providers (especially those new to the field) about the topics that you know best – the intersection of HT with DV/SA, victim-centered service delivery, trauma-informed agency models, confidentiality, shelter standards, primary prevention of violence, and multidisciplinary collaboration. Speak with Domestic Violence Coordinating Councils (DVCCs) and Sexual Assault Response Teams (SARTs) to help them understand the differences

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- and similarities between the crimes and how your agency plans to respond. Help your team to work with local HT task forces to create protocols for how HT victims/survivors will be assisted through the system. Become acquainted with your local HT investigators, prosecutors, and victim advocates in your jurisdiction's federal, state, and local law enforcement and prosecutorial agencies, as well as the appropriate points of contact within the Department of Social Services.
- **Immigrant Victims:** All DV and SA agencies should create and implement a plan for serving immigrant victims, which includes procedures for working with clients who are undocumented, whose lawful immigration status is tied to an abusing partner/trafficker, and who needs language services. Develop relationships with experienced immigration attorneys who can assist law enforcement with petitions for Continued Presence, provide representation in removal cases, and file applications for immigration benefits for trafficking survivors. Identify who within local, state, and federal law enforcement is responsible for approving requests for assistance with immigration protections for immigrant victims, including applications for Continued Presence and U/T visa law enforcement certifications. Direct services staff should be trained on the specialized services and public benefits that are available to victims who are not US citizens. Additionally, all staff should be trained on the use of language services, and be familiar with the services offered by other local, national and international organizations who have more direct expertise in working with foreign national victims, including foreign consulates, local culturally-specific, immigrant and refugee resettlement organizations, as well as the International Organization for Migration (IOM), which offers repatriation and family reunification assistance.
 - **Funding:** Agencies must check with grant administrators and funders to determine if their funds can be used for services to human trafficking victims who are not subjected to sexual violence or abused or trafficked by an intimate partner. Tapestry Inc., a nonprofit organization in Atlanta, GA, receives funding through the national Trafficking Victim Assistance Program (TVAP) to subcontract with local agencies in the Southeast to provide direct case management and financial assistance to foreign nationals (adults and minors) victims of trafficking. (See resources section below.) County councils and local municipalities, as well as private businesses, have shown interest in supporting trafficking efforts. Consider approaching these entities to enlist their support for all your agency services.

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Resources and Tools for DV and SA Agencies

Manuals/Required Reading for DV and SA Advocates: (Click for Resource)

- Collaborating to Help Trafficking Survivors: Emerging Issues and Practice Pointers
- Developing a Language Access Plan
- Human Trafficking Service Provider Manual for Certified Domestic Violence Centers
- Meeting the Legal Needs of Human Trafficking Victims: An Introduction for Domestic Violence Attorneys and Advocates
- Services Available to Victims of Human Trafficking
- Working with Interpreters
- [Immigrant Relief for Victims of Human Trafficking and Other Crimes Information Sheet](#) (Click through to website)

Tools for Service Providers: (Click for Resource)

- Victim services Screening Tool: Intimate Partner Abuse, Sexual Assault, and Human Trafficking (sample- Community Solutions)
- Human Trafficking Key Indicators
- Goal Planning & Action Plan for Client
- In Shelter Goal Plan
- Referral Tracking Form
- Safety Planning Tips for Supporting Survivors
- For Immigrant Survivors
 - [Tapestri \(Provides TVAP funds to approved agencies for case management and financial assistance to foreign national victims\)](#) (Click through to website)
 - [US Department of Health and Human Services, Office on Trafficking in Persons \(for Foreign National Trafficking Victim Assistance Program \(TVAP\), Public Benefit Certification and Eligibility Letters\)](#) (Click through to website)
 - [International Organization for Migration \(for repatriation and family reunification assistance\)](#) (Click through to website)

Tools for Task Forces: (Click for Resource)

- Task Force Operational Protocol Outline Sample
- [Human Trafficking Task Force e-Guide](#) (Click through to website)

Training, Technical Assistance, and Tools for DV/SA Agencies and Other Partners/Allies:

□ South Carolina Coalition Against Domestic Violence and Sexual Assault:

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www.sccadvasa.org, 803-256-2900

Resources for Survivors of Trafficking in South Carolina:

☐ Legal Assistance:

- Legal Assistance for Survivors of Trafficking (LAST):

last.southcarolina@gmail.com, 843-790-LAST

South Carolina Coalition Against Domestic Violence and Sexual Assault June 2018

- SC Legal Services – Human Trafficking Equal Justice Works Fellow: 1-888-799-9668

- Assistance for Immigrant Victims and Unaccompanied Minors:

- Lutheran Services of the Carolinas, <http://www.lscarolinas.net>,

nnetzel@lscarolinas.net

- World Relief Upstate SC, <https://worldreliefupstatesc.org>

- Faith-based Human Trafficking Organizations and Shelters in South Carolina:

- Doors to Freedom (shelter for sex trafficked youth located in Summerville):

<https://doorstofreedom.com/>

- Jasmine Road (shelter for HT victims 18+ years old in the Greenville):

<https://www.jasmineroad.org/>

- Lighthouse for Life (education and case management services for domestic minor sex trafficking located in Columbia):

<https://www.lighthouseforlife.org/>

- SWITCH (education and case management services for sexually exploited women in Greenville): <https://www.switchsc.org/>

- 24-Hour Hotlines:

- National Human Trafficking Hotline: 888-373-7888

- Other South Carolina Resources:

- South Carolina Attorney General's Human Trafficking Project:

www.humantrafficking.scag.gov

- South Carolina Victim Assistance Network (SCVAN):

www.scvan.org, 803-750-1200

- South Carolina Homeland Security Investigations: 803-737-9000

- South Carolina FBI Victim Specialist: Pamela Gregory, 864-948-1497

- South Carolina Department of Crime Victim Compensation:

sova.sc.gov, 803-734-1900

i SC Code §§ 16-3-2010, 16-3-2020(a).

ii Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 U.S.C. § 7102.

iii The South Carolina Attorney General's Office 2021 *Human Trafficking Task Force Annual Report*.

iv SCCADVASA, December 2021.

v Adapted from Freedom Network USA's *Human Trafficking and Domestic Violence* factsheet, April 2015.

vi Adapted from Freedom Network USA's *Human Trafficking and Sexual Violence* factsheet, April 2015



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vii National Alliance to End Homelessness, *Homeless Youth and Sexual Exploitation: Research Findings and Practice Implications*.

viii Adapted from *Safety Tips and Safety Plans: Safety Considerations for Working with Victims of Trafficking*.

Compiled by Kate Rocke and the Central Texas Coalition Against Human Trafficking.

<https://www.unt.edu/mansfield/events/conference/2014-archive/workshop/resources/safety-considerationsworking-with-victims.pdf>.

South Carolina Coalition Against Domestic Violence and Sexual Assault June 2018

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- South Carolina Coalition Against Domestic Violence and Sexual Assault:
www.sccadvasa.org, 803-256-2900

Resources for Survivors of Trafficking in South Carolina:

- Legal Assistance:
 - SCCADVASA Contract Attorney Program: Patricia Ravenhorst, pravenhorst@sccadvasa.org; (803) 256-2900

- SC Legal Services – Human Trafficking Equal Justice Works Fellow: 1-888-799-9668
- Assistance for Immigrant Victims and Unaccompanied Minors:
 - Lutheran Services of the Carolinas, <http://www.lscarolinas.net>, nnetzel@lscarolinas.net
 - World Relief Upstate SC, <https://worldreliefupstatesc.org>
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 - South Carolina Victim Assistance Network (SCVAN): www.scvan.org, 803-750-1200
 - South Carolina Homeland Security Investigations: 803-737-9000
 - South Carolina FBI Victim Specialist: Pamela Gregory, 864-948-1497
 - South Carolina Department of Crime Victim Compensation: sova.sc.gov, 803-734-1900

ⁱ SC Code §§ 16-3-2010, 16-3-2020(a).

ⁱⁱ Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 U.S.C. § 7102.

ⁱⁱⁱ The South Carolina Attorney General’s Office *2017 Human Trafficking Task Force Annual Report*.

^{iv} SCCADVASA, December 2017.

^v Adapted from Freedom Network USA’s *Human Trafficking and Domestic Violence* factsheet, April 2015.

^{vi} Adapted from Freedom Network USA’s *Human Trafficking and Sexual Violence* factsheet, April 2015

^{vii} National Alliance to End Homelessness, *Homeless Youth and Sexual Exploitation: Research Findings and Practice Implications*.

^{viii} Adapted from *Safety Tips and Safety Plans: Safety Considerations for Working with Victims of Trafficking*.

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Collaborating to Help Trafficking Survivors:

Emerging Issues and Practice Pointers

Produced by



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WHAT is this manual and WHO is it for?¹

This manual is for those committed to assisting trafficking survivors, especially sexual assault and domestic violence advocates and their allies in the criminal and legal systems² who have basic knowledge of the trafficking assistance process. It is the product of a special pilot project of the Futures Without Violence, previously Family Violence Prevention Fund, sponsored by the United States Department of Justice, focusing intensive resources on two promising models in Atlanta, Georgia and Washington state. An advisory board of national experts worked with local sexual assault, domestic violence, and immigrants' rights leaders to develop an innovative approach to building effective collaborations necessary to reach, help and empower trafficking survivors.

Instead of recreating materials created by others working on trafficking issues, this manual examines issues and promising practices that have emerged during the six years since the federal government decided in 2000 to devote significant attention to trafficking and its victims. Where appropriate, the manual provides links to websites and resources that provide more in-depth background on particular issues. Background documents created by model programs that assisted in this project are available.³

We hope this manual will encourage you to think creatively about your role in helping trafficking survivors, spur you to build new collaborations to do this work, and give you concrete tools to accomplish these goals. We have found that there is no one perfect solution, no single best model, and that developing useful approaches is an evolutionary process. We do believe, however, that whatever approach you use must be “victim-centered.”⁴

Significant gaps remain in creating an adequate service and support alliance for trafficking survivors. You may find new ways to meet the multiple needs of this unusually isolated and vulnerable population as your work progresses over time. Please share your experiences with us through networks noted in the resource section.

1 Gail Pendleton wrote this manual with extensive and invaluable assistance from the following experts on various aspects of trafficking: Kay Buck, Florrie Burke, Marissa Dagdagan, Maria Jose Fletcher, Grace Huang, Leni Marin, Sonia Parras, Olga Trujillo and Sujata Warrior. These experts contributed most of the ideas and suggestions contained in this manual; the author and the Family Violence Prevention Fund gratefully thank them for their commitment to helping survivors of human trafficking.

2 Trafficking may occur within the United States (both between states and within a state), and US citizens may be part of such trafficking. This manual, however, focuses on non-citizen trafficking victims.

3 Visit www.futureswithoutviolence.org for additional resources.

4 This manual uses both the word “victim” and “survivor” to refer to those who have suffered trafficking. “Victim” generally applies to those early in the process of escaping and recovering from trafficking. Many victims become “survivors” as they gain security, confidence and skills; eventually, they may thrive. “Client” is used to apply to all victims and survivors, and when necessary to individualize, clients are female. In reality, however, many clients may be men or boys.



Trafficking and Its Victims⁶

- The United Nations says 4 million people are trafficked across borders internationally every year.⁶
- The United States Department of State says around 14,500–17,500 people a year are trafficked into the United States.⁷
- The new U.S. law on trafficking says “severe forms of trafficking” include recruiting, harboring, transporting, providing or obtaining people for commercial sex or labor. If victims are 18 or over, they must have been forced, coerced, or induced by fraud to engage in commercial sex or slavery-like labor.⁸

Poverty, oppression and civil unrest often contribute to conditions that foster trafficking.

Norms devaluing women and girls or that condone mistreatment of women and children foster trafficking.

This is a problem not just in the home country, but also in countries in which trafficking victims are brought as well as countries where they travel or which they travel through to reach another country.

Traffickers may be:

- Neighbors
- Friends
- Acquaintances
- Family members (immediate and distant relatives)
- Village chiefs
- Owners of small or medium-sized businesses
- Organized crime
- Respected members of the community

5 The report by Caliber Associates on contains background on trafficking and its victims. *Human Trafficking Into and Within United States: A Review of the Literature*. For an electronic version of this paper, please go to <https://aspe.hhs.gov/system/files/pdf/75891/index.pdf>

6 Report of the Special Rapporteur on Violence Against Women, submitted to the 56th session of the UN Commission on Human Rights, E/CN.4/2000/68, para. 7. Available at <http://www.un.org>

7 Department of State (2004). Trafficking in Persons Report, June 2004. Found at <http://www.state.gov/g/tip/rls/tiprpt/2004/>.

8 The full definition of trafficking is as follows: “(a) the recruitment, harboring, transportation, provision or obtaining of a person for purpose of a commercial sex act in which the sex act is induced by fraud, force, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” 22 U.S.C. § 7102.

They recruit through:

- Acquaintances
- Family
- Newspaper ads
- Fake Employment Agencies
- Front Businesses
- Word of Mouth
- Abduction

Victims may include:

- People brought in large groups, over the border or on boats, for prostitution rings or forced labor, such as sweatshops or farms
- Individuals lured in for legitimate work or promised citizenship that turns out to be forced sex or labor
- Individuals brought in as spouses but treated as indentured servants or prostitutes or both
- Individuals and groups brought in on fraudulent papers, or on short-term visas that have expired and are no longer valid
- People whose legal immigration status depends on the trafficker's cooperation and support (employers and family members may be traffickers)

Key Points

- Trafficking does not always involve organized crime; many individuals from different backgrounds and professions may be trafficking one or two individuals for sexual or labor exploitation.
- Entering “voluntarily” doesn’t mean you aren’t trafficked.
Some examples:
 - ▶ Some people who think they are being smuggled into the United States to work actually are being trafficked in for forced labor or sex.⁹
 - ▶ Traffickers may use legal immigration routes to bring in their victims.

For instance, some employers may use employment visas to bring in a workers who they exploit through unfair compensation and unsafe work environments in order to cut costs. U.S. citizens may use fiancée visas to bring in spouses they wish to use as indentured servants or sex workers.

⁹ Smuggling is defined as transportation of migrants through illegal channels.



Identifying Trafficking Victims: An Exercise

Here are three stories that illustrate a variety of issues in trafficking cases. These stories will appear throughout the manual, with questions we hope will encourage you to think about trafficking in ways you may not have considered before.

Questions for You

As you read the examples, ask yourself:

Is this trafficking?

If so, what is it for (sex or labor or both)?

Here are some trafficking “red flag” questions to ask about potential trafficking victims:

How did they get here?

What happened once they got here?

Was there fraud or coercion?

What were their real or perceived choices?

Who is in control?

Can they leave?

Are they or their families threatened (real or perceived)?

Who has their documents or other things that matter to them?

Are Joyce, Nadia and Carlos trafficking victims?

Joyce, a woman from the Philippines, attended a dance school that is sponsored by the Philippine government for overseas workers. She has received her “certification” and signed up with a broker to be an entertainer in Seattle. Upon her arrival, she learned that her debt for “school and transport into the United States” is \$4,000. To ensure that she pays off the broker, she is required to stay at a home that the broker owns. She owes \$500 per month in rent to live there and is not allowed to leave alone. She is also required to dance at the broker’s club, where she is paid \$100 a week – her rent and food is deducted from this amount. Her debt keeps mounting and she feels she will never be able to pay it back. She is told that she could earn more money at the club by performing sexual acts with customers.

She does not have any immigration documents. She agrees to work performing sexual acts at the club to “pay back her debt” to her employer, and to send money home to her family.

Nadia was interested in coming to the U.S. and thought she could go to school, as well as work and make money there to support her family back home. She was approached by a prominent businessman in her community and told that he could get her into the U.S. to work. The prominent businessman ran a mail order bride business. He placed Nadia’s picture in his catalog and explained to Nadia that she could come to the United States, marry an American and have all her dreams come true. Tom has picked Nadia out of a catalog to possibly be his wife. Tom gets a fiancée visa for Nadia and brings her into the United States. After she gets here, Nadia is too busy taking care of the house and Tom’s children from a previous marriage to go to school. Nadia works 16 hours a day to keep the house clean and keep Tom and the kids fed. Tom has Nadia’s visa in his safety deposit box. Nadia is afraid of Tom.

Carlos lived in Mexico and wanted to come to the United States to work. He paid a *coyote* (smuggler) to be brought into the country. Once he crossed the border, he was taken to a safe house where a contractor picked him up with others staying there and transported him to an apple farm where he was to work in Washington State. Carlos was told that the cost of being smuggled into the U.S. and transported to the farm was \$2,500. Once at the farm, Carlos understood that he could not leave and that he would be beaten if he attempted to do so. Carlos was paid for his work but rent and food costs were subtracted. Carlos was moved to other farms throughout the west coast depending on the season. He never felt he could leave the farms where he lived.



II. Working with Trafficking Survivors

This section focuses on what you must know and think about to work effectively with trafficking survivors. While trying to understand their reality, you also must be aware of how your reality affects your work with them. We provide some suggestions based on a decade of experience working with immigrant survivors of crime.

Trafficking victims may come to you in a number of ways:

- They may walk through your doors because they are sexual assault or domestic violence victims, providing no obvious cues that they are in trafficking situations.
- They may be sent to you by law enforcement agencies who rounded them up as part of a prostitution or sweatshop bust.
- They may want you to help them get immigration status, without revealing the details of their work or home environments.
- They may be seeking back pay or compensation for inequitable work situations.

Building trust is essential to working with all violence survivors, especially those who lack secure immigration status. Be aware of the barriers they experience in trying to access your help. Spend time working to overcome those barriers and building trust.

- ▶ Non-citizens in general may be unfamiliar with the systems and resources available to crime survivors in this country.
- ▶ They may think you work for the government and may fear that talking to you will get them or their family members deported.
- ▶ They may come from countries or situations where there they had few or no rights (especially if they are women or children), and they may not realize that our criminal and civil justice systems must protect them, regardless of their immigration status.
- ▶ They may not understand the services and resources you are offering if you are not communicating in the same language. As with other survivors of violence, they may be focused on needs that seem relatively unimportant to you, but which make sense in their own realities.

Understanding Their Reality

The best way for you to learn how to work with trafficking survivors is to adapt and expand what you know from your current work and experience. Consider these questions in the context of your work with domestic violence and sexual assault survivors:

Why might they not tell you the details of their experience?

Have they experienced violence throughout their lives¹⁰ and, if so, how does this affect their actions now?

If you ask them whether they have been “sexually assaulted” or “subjected to domestic violence,” will they know what you’re talking about?

Why might they need time to make decisions or seem paralyzed about making decisions?

Why might they want to go back to their home country?

Why might they fear accessing or using the U.S. criminal system?

Why might they not disclose relevant information?

What can you do to make sure survivors are making decisions because they think they are the best for them, not because they fear the traffickers?

If their fears are legitimate, what can you do to help eliminate the reasons for their fears?

What additional issues may prevent immigrant survivors from talking to you?

Why won’t they be willing to identify their traffickers?

- ▶ No information or misinformation about our legal system (*who controls their access to this information?*)
- ▶ Fear that the criminal system will harm them (*who instills this?*)
- ▶ Fear of deportation if they access services (*could this happen to them?*)
- ▶ Fear of retaliation against them or their families if they tell the truth.
- ▶ They can’t work legally and are economically dependent on the traffickers.
- ▶ Their communities, here or abroad, may ostracize or punish them for challenging the traffickers.

In addition to the answers you came up with to the questions above, here are some observations from those who work with trafficking survivors:

- They may have difficulty identifying their own individual needs if they are used to thinking of their needs as irrelevant or secondary to others’ needs.

¹⁰ Many trafficking victims were abused or sexually assaulted in the past, have been treated like property all their lives, or have experienced the violence of war, natural disaster, or political unrest.



- If they've been in the trafficking situation for a long time, or if they have been subjected to power, control and violence most of their lives, they not be used to making choices and decisions for themselves.
- Like other trauma survivors, they may minimize their problems.
- They may not have the vocabulary to communicate what they've experienced, and they may use nonverbal cues differently from you (e.g., to them, eye contact may be a sign of disrespect, not truthfulness).
- They may be coerced into staying in the trafficking situation even if they are not physically restrained. Traffickers, like abusers, use psychological and other forms of coercion to keep their victims from leaving.
- They may not understand our mental health services or, like other crime survivors, may resist because they think there is stigma attached to them. They may be suffering, however, from various mental health problems, including Post Traumatic Stress Disorder, dissociative disorders, depression and suicidal impulses or desires.

Understanding *Your* Reality

Try to be sensitive to the things you bring to the table that might inhibit communication with survivors:

Your professional role

Ethnic/racial differences

Class (within immigrant groups, as well as between different groups)

Language

Gender

Educational Level

Language Proficiency or Diction

Any or all of these factors may make communicating difficult, unless you take steps to identify and overcome them. Assumptions and stereotypes about specific ethnic groups, about immigrants, or about trafficking victims generally may cloud your ability to see your client's reality. The next section on Cultural Competence provides more background on these issues. Here are a few rules that are particularly relevant here:

Be aware of your biases, prejudices and knowledge about a victim.

- ▶ Do not make assumptions based on appearance.
- ▶ Use appropriate language.
 - ▷ Are you judging your client, consciously or unconsciously?

- ▷ What assumptions do you have about prostitutes? Do you think you know why your client is a prostitute?
- ▷ What about undocumented workers? Do you think that people can't be exploited if they are making more money than they would in the home country?

Discard your assumptions and judgments. They are probably wrong and certainly unhelpful.

Recognize your professional power and avoid imposing those values.

- ▶ Use non-judgmental questions.

Listen to the victims.

- ▶ Let them tell their stories.
- ▶ Do not assume what they know and don't know.
- ▶ Pay attention to verbal and nonverbal cues.

Gather information about the victim's interpretation of their culture.

- ▶ "What would it be like for you to talk about this problem with your family or in your community?"

Validate the victim's strengths.

- ▶ Thank them for sharing. Also, acknowledge their efforts to access existing support systems and stay safe.

Whose Life Is This?

Be aware that your clients have been living as slaves. They have adapted and survived by allowing themselves to be dominated and manipulated. It may be hard for them to avoid replicating these roles. It is your job, therefore, to guard against this occurring.

- Don't assume they understand what you're telling them, just because they say they do.
- Ask her to explain what you told her in her own words so you know she understands and is not just trying to appease you.
- Avoid imposing your goals and your ideas about the right outcomes.

Making decisions for your clients may backfire in many ways: it can undermine trust, it may result in choices that are not what your clients want, and it may further endanger or



traumatize them. To be good at this work, you must leave at home the notion that you “know what’s best”.

For instance, you may feel pressure from funding sources to encourage your clients to participate with the criminal justice system. Many of your clients may need time before they are ready to cooperate, some may never be willing to participate in a way that satisfies the criminal justice system, and some may not be sufficiently “good” victims or witnesses to get help from the criminal justice system.

Some clients may need other things first, before you can help them. Their top priority may be housing, food and clothing, or dental care so they can eat the food they are given. They may be preoccupied with what’s happening to their family in the homeland because the money they have been sending to them to survive is now gone, or because they think the traffickers will harm them. They may be so traumatized that they require mental health intervention. Most clients will need physical health care and tests sooner rather than later.

If you can’t meet your client’s immediate needs right now, get them to others who can help them with their top priorities. However, maintain your relationship with them, because you can help them navigate the other people and systems they need, and you will be there when they are ready for your help.

If the problem is lack of funding to provide the help your client needs, work with your collaboration partners (*see section IV*) to secure money from other sources that will fill the gaps. Helping trafficking victims requires long-term commitment and a broad range of resources. Given space, time and patience, most trafficking victims will rebound from their experience and not only learn to survive, but will thrive. You can help them do this.

Some Basic Rules

Here are some suggestions for communicating with non-citizen survivors. These are particularly important if you are the first person seeing the victim after a law enforcement arrest.

Do NOT say:

- What is your immigration status? (Do you have a green card? Are you a citizen?)
- Are you “residing” in this county? (“Lawful permanent residence” is the immigration status those with “green cards” have, so the words “residing” or “resident” may be confusing).

Do say:

- I do not work for the government, the immigration system, or the police (if this is true). *My main job is to help you find services.*
- Everything you tell me is confidential and I will not share it with anyone else without permission (ensure that this is true for your professional role).
- I provide services regardless of your immigration status.
- You do not have to talk about your immigration status if you do not feel comfortable. Some victims of crimes qualify for immigration status, however, so I may tell you about some options for applying for status that could apply to you, if you are not a U.S. citizen.
- You also have rights if you are picked up by the police or by immigration. These include the right to speak to an attorney, to not sign anything or say anything without an attorney present, and to have a hearing before a judge if you are charged with a crime or with being deportable.

The National Human Trafficking Resource Center developed the Human Trafficking Assessment for Domestic Violence and Sexual Assault Programs to help identify trafficking victims. Please visit www.humantraffickinghotline.org to download tool.

INTERPRETATION GUIDELINES¹¹

- When you are serving a small or marginalized group, beware of using people from the same community. Use someone from out of town; if necessary, use the AT&T line.
- Conduct a confidentiality screening to see if the interpreter knows the client or trafficker or has any friends/relatives who may know the client or trafficker.
- Create or use the Informed Consent Letter to make sure that the client knows the role of the interpreter and understands the interpreter's vow of confidentiality.

¹¹ Developed and reprinted with permission by the Coalition to Abolish Slavery and Trafficking (CAST), 2002.



Confidentiality

When communicating with trafficking survivors, confidentiality is of utmost importance. This is not only a question of security for your client, your organization, and yourself, but also enables you to develop trust between you and your client. Furthermore, the level of confidentiality to which you are bound depends upon the laws in your state and your professional role. Here are a few things to consider with regards to confidentiality:

- Resist pressure to share all your information.
- Examine what those pressuring you really need to do their jobs; what they want may be a lot more than what they need.
- What information do you really need in your official files? Sometimes less is better.
- Depending on the complexity, extent of the case, or stage of the investigation, the threat to your client's safety may increase.
- Understand the rules of confidentiality you are bound to by your profession or locality.

The Coalition to Abolish Slavery and Trafficking (CAST), has developed some tips on ensuring confidentiality:

DON'T: Share information in a way that violates or undermines confidentiality, or that undermines trust

- Use client's name in public
- Give out address/phone number without consent
- Show pictures of client to anyone
- Discuss case details in initial contacts with service providers
- Avoid "identity disclosure by association"¹²
- Disclose medical or mental health information without consent
- Discuss specifics of a case with non-service providers who are members of the survivor's community

¹² Identity disclosure by association occurs when your client's identity is revealed through her relationship with other members of the community

Key Points

- You may not know someone is a trafficking victim until you discover or uncover information that raises trafficking “red flags.”
- Trafficking victims may have experienced a continuum of violence throughout their lifetimes. If they are women, in particular, they may have suffered rape and domestic violence, as well as kidnapping, labor exploitation, and the violence of slavery.
- Try to understand their realities, not impose expectations based on “culture” or your own frameworks and assumptions.
- Your goal is to get your trafficked clients stabilized so they can then make appropriate choices.
- It takes some people a long time to relate their trafficking story.
- Do not press them to cooperate with law enforcement unless and until they are ready.
- Provide as much information as possible at every step of the way: Identify key players and what will happen with services and systems, including the criminal system.

Identifying trafficking victims: the exercise

Now go back to Joyce, Nadia and Carlos, and ask yourself:

- ▶ Why might they not tell you about their experience?
- ▶ What aspects of their reality might affect their ability to talk to you?
- ▶ What barriers might you bring to the table, even if unintentionally?
- ▶ What assumptions are you making about them?
- ▶ How would you ask questions without shutting them down?



III. Improving Your Approach

At the end of the last section we brought to your attention the barriers you may bring to working with trafficking survivors. In this section, we focus on what you can do to improve your program and your individual work. We share some lessons we have learned about working with immigrant survivors of violence.

Becoming Culturally Competent

The Culture Handbook (available at www.endabuse.org) provides detail on culture and working to become culturally “competent.”

A few key points:

Culture shapes

- An individual’s experience of violence
- Whether services are equally accessible to all
- Your responses within the culture of the systems and institutions in which you work

Culture

- Is not fixed, and assuming it is fixed leads to stereotyping and unhelpful generalizations
- Includes but is not limited to class, sexual orientation, disability, immigration status, gender, ethnicity, race, location, time, and other variables arising from the particular experience of the group or individual

All these variables intersect differently in individuals and groups. They also change over time, because both society and individuals are constantly evolving.

Developing Competence

- Is not a one-time thing; it is a lifelong process
- Requires learning from multiple sources over time
- Requires recognizing historical oppression and how people experience it

- Includes frequently examining and understanding your own cultural biases (both individual and institutional)

Here are some suggestions on applying these principles to how you work with trafficking victims:

- Recognize and be aware of your preexisting beliefs about your client's culture
- Listen to and build on the survivors' strengths
- Be aware of the power you have as an advocate or professional
- Gather information on the survivors' interpretation of their own culture

Institutional Changes to Enhance Competency

Work to make your agency more culturally competent:

- Examine protocols and policies for cultural appropriateness; do the same with institutional values and principles. Are they excluding or discouraging access or participation, whether intentionally or not?
- Train and develop the skills of ALL staff, not just those assigned to work with particular populations.
- Hire staff that represents the populations you serve or wish to serve.
- Develop linkages with relevant communities. Be aware of the differences between cooperation, coordination and collaboration.

Cooperation refers only to working together

Coordination accounts for power differentials

Collaboration refers to power sharing

Improving Your Program

Although providing adequate services will always be a challenge, there are several steps you can take to improve how your program provides services.



Train Staff Regularly

Staff must be trained on all the issues facing trafficking survivors, so they understand their reality and can identify their options. These include all the issues identified in this manual.

Cultural competency

Crime victims

Human rights

Public benefits

Trauma

Working with immigrant communities

Immigration options

Provide Staff Support

You must provide staff support because this is difficult work. The issues are difficult, the experiences your clients have had are difficult, and juggling all your clients' needs and priorities is difficult. Below are some suggestions as to how to provide your staff with support.

- Provide a place for staff to talk about their cases and how they feel about them.
- Encourage staff not to take casework home with them. This is harmful for their own mental health and can lead to burnout.
- Prohibit staff from discussing cases outside the organization. This is harmful to the clients.
- Examine caseloads and look for burnout by staff that may experience “vicarious” trauma from working with trafficking survivors.
- Have an outside expert, such as a licensed clinical social worker, come in regularly to review boundary issues with staff, check in with them to identify burnout or vicarious trauma, and answer ethical questions that may have arisen in their work.

One issue staff may need help with is maintaining boundaries between themselves and clients. Trafficking survivors may volunteer to help, cook for staff, or otherwise replicate their roles in the trafficking situation. Discourage this behavior by defining appropriate boundaries between staff and clients.

Recruit New Staff

One of the best ways to improve your services is to hire people from affected communities, or who at least come from the same culture. Speaking the same language is a good start, but

it does not mean they are from the same culture. Consult with other agencies about how they've recruited; use their outreach and resource lists, if possible.

Explore Multiple Funding Sources

The federal government now funds agencies serving survivors at different parts of the process. By combining these monies, you may be able to cover many of the services trafficking survivors need. They are not the only sources of funding, however. Other providers are receiving money from diverse sources, including state domestic violence and sexual assault coalitions and private funders. Explore private funding sources, too. Trafficking is a “hot” topic, and funders favor collaborative approaches.

Develop Safety Protocols

Working with trafficking survivors raises safety and security issues beyond those you may have encountered in the domestic violence and sexual assault arenas. Some traffickers are affiliated with organized crime. You must take your safety very seriously. A sample of some things to consider:

Security systems

Car service for case managers working with high profile clients

Space for meeting with clients away from the organization and the traffickers

Using locations undisclosed to the general public

Using post office boxes for confidential mailing addresses

Getting Ready for Outreach

Before you start doing outreach you must be prepared.

- Do you know what populations of trafficking victims are in your community?
- Do you know where they originally come from, what they have experienced while here?
- Are there organizations in your area that work with sweatshop workers or domestic workers?
- You must connect with those individuals or organizations who already work with immigrant communities.
- In rural areas, link with organizations that help migrant workers, such as those who provide health services.



Don't assume that immigrant and ethnic communities will not be interested or will refuse to acknowledge that trafficking occurs.

- Ask to do a presentation for community-based organizations, or the people in them who may care most about this issue, such as their board of directors.
- Ask them if they know about trafficking, tell them what you do and why you would like to work with them to reach survivors.
- Offer to serve as a buffer against backlash.
- You or another organization should be the listed contact, so the local organization does not get flack for challenging traffickers, who may be powerful members of the community.

Working together on outreach is one way to build effective partnerships with key allies. Once community contacts know how to identify trafficking, they may become an important first point of entry into services and safety, particularly for victims of labor trafficking. You should not take them for granted, however.

Build community contacts into future grant applications, and help key allies build capacity to work with you and with trafficking survivors. Help get their ideas for doing outreach funded, and get them resources to follow through on these ideas.

What other systems might unwittingly encounter trafficking victims? Contact the part of the court system that deals with prostitution. This includes probation officers and mandatory health programs for those convicted of prostitution. Educate them about trafficking and the signs that a person has been trafficked. These systems might also be in need of cultural competency training.

Are you ready for victims of trafficking if they come? Can you provide or get victims what they need? Have you connected already with others who can help trafficking victims with their key needs? Have you thought through what all those needs are? If you do premature outreach, you will be scrambling to help people in crisis. You may even end up harming them unwittingly. *Do your homework first.*

Outreach When You're Ready

Once you've got your systems in place, think about where the most isolated people might go or how they might receive information.

Put posters¹³ in:

- laundromats they may use,
- supermarkets they may shop in,
- beauty and massage parlors where they may work,
- restrooms at restaurants they may work at or go to,
- religious institutions where they may attend services, and
- parks and schools where they may take their traffickers' children.

Remember that many trafficking victims may not be able to read English or even their native language, so use pictures and cartoons to communicate, not just words.

Work with your allies from local immigrant organizations and organizations that work with immigrant populations. They can identify trafficking victims, visit places survivors may frequent (such as parks where nannies take children), scan job ads in local papers, and follow up on possible leads they've discovered. They will have the best ideas on how to find victims.

Use the media. Do public service announcements in newspapers, magazines, on radio and television stations. Specifically, present your public service announcements in ethnic publications and on radio and television programs that are targeted toward immigrant populations. Make sure to include a contact phone number in your media outreach. Encourage local newspapers to cover the array of services available for trafficking survivors. Even the most isolated victims may have access to these media. Furthermore, neighbors and acquaintances may hear the public service announcements or read a story about trafficking and realize they can help someone who lives near them.

Be creative. If you know trafficking is occurring in particular places or areas, distribute information in ways traffickers are unlikely to notice but that workers might find in their daily life. Day laborer sites may be a good place for information about labor trafficking. Some trafficking agencies have put their contact information on matchbooks distributed in bars, restaurants and churches, free lipstick containers given out on corners, calendars posted in nail parlors, and prayer cards given to those attending religious services.

Repeat your message. Those of you who've worked with domestic violence survivors know that it often takes time for your message to get through. Keep it up; once is not enough.

13 The Department of Health and Human Services has developed a public education campaign to reach trafficking victims. Their materials are free and available at <https://www.acf.hhs.gov/otip/resource-library/search>. DHSBLUECampaign-Resources<https://www.dhs.gov/blue-campaign/library>.



IV. Meeting the Needs of Survivors

This section looks at the challenges you face in finding the resources trafficking survivors need. How will you help trafficking survivors? One way to prioritize is to focus on stabilizing your client's well-being. What do you need NOW to do this? Can you do what's needed now, or is there someone else who can help? **Probably, you will quickly realize you must network with others to effectively help trafficking survivors.**

You may be the first person to really communicate with a victim. Your job is to focus on her needs. Explain to others who want to talk to her that she will not be very useful to them until you've helped her address her most urgent needs. Once she's stabilized, she will be in a better position to evaluate and assess her other needs and options. Until then, she should not be subjected to long interviews. These may feel like interrogations and add to her trauma.

Think of yourself as a buffer as well as an advocate.

Help create a safe space for her, which includes warding off demands that will undermine her progress.

If you already work with survivors of domestic violence or sexual assault, doing this should not be completely foreign to you.

A. Maintain Role Integrity

As you work within this area, you may feel pressure to go beyond your normal role. Some of this pressure may be indirect: Funders want to "see the numbers." Some pressure may come from other systems and individuals who want you to "get your client" to do what they think needs to be done. You may also feel internal pressure to fill service and reporting gaps.

Be conscious of these pressures. Doing this work correctly requires creativity, but you should not do another system's work. For instance,

- You can always improve your efforts to reach survivors BUT it's not your job to patrol brothels and workplaces.
- You should learn the signs of severe trauma BUT it's not your job to provide mental or physical health services.

- You can help clients make choices about their legal options and play an important role in helping clients document and put together cases BUT you cannot practice law if you are not an attorney (or an “accredited representative” if you are in the immigration system).¹⁴

Crossing the boundary into the work of others jeopardizes your safety and the integrity of your role as an advocate. Instead, focus on making your services more accessible and building collaborations to meet the wide range of challenges facing trafficking survivors.

B. A Range of Needs, An Alliance of Services

If you already are working with trafficking survivors, you know that it’s virtually impossible for one agency to do everything for a trafficking victim. Here is a list of some things trafficking survivors need:

- ✓ Literacy
- ✓ Interpretation
- ✓ Housing
- ✓ Food and clothing
- ✓ Medical care and health education
- ✓ Mental health care
- ✓ Dental care (for lost teeth and serious infections)
- ✓ Transportation
- ✓ Legal and immigration services
- ✓ Protection by the criminal system
- ✓ Help taking care of family in the homeland
 - ▶ economic support lost by the survivor leaving trafficking
 - ▶ safety
- ✓ ESL training
- ✓ Independent living skills
- ✓ Safety planning
- ✓ Job placement
- ✓ Employment skills training
- ✓ Human rights education
- ✓ Repatriation and reunification (some survivors may wish to return home or be reunited with their families)

¹⁴ For more on what “accredited representatives” are and how you might become one, see section V.



Who will take the lead in finding all these resources? How will the different “players” in your client’s case interact? Will they work together or at odds? What role can you play in making a collaboration work? The only way to build this alliance of services is to work together.

Trafficked Children

Congress has ensured that trafficked children access services swiftly by eliminating some of the requirements for gaining government certification. This means, however, that proving their age is essential. The section on the immigration options for survivors contains some suggestions for helping with this.

The Office on Trafficking in Persons (OTIP) within the Administration for Children and Families (ACF) provides overall leadership of anti-trafficking programs and services including issuing Eligibility Letters, in accordance with the TVPA.

A foreign national child victim of human trafficking, under the age of 18, is eligible for Federal and State benefits and services to the same extent as a refugee upon the determination by HHS to issue an Interim Assistance Letter or Eligibility Letter. For information and resources please consult the fact sheet: Assistance for Child Victims of Human Trafficking <https://www.acf.hhs.gov/otip/resource/eligibilityfs>.

Your Role in the Alliance

How you initially help trafficking victims may depend on where they are in the alliance of services. If you are the first person they’ve spoken to, you must help stabilize them by identifying and meeting their immediate needs. Doing a safety assessment for trafficking survivors is not comparable to safety planning for domestic violence victims.

If they’ve come to you after encountering law enforcement, the health care system, or another social service provider, you not only may need to help stabilize them, you must help them process what they’ve experienced in these systems and identify how and whether their immediate needs have been met. In either situation, you should help them do some safety planning and chart the full course for achieving self-sufficiency.

One thing you must be clear about from the beginning is what you can and can’t do. You may not, for instance, be able to find housing, which might be a top priority for

stabilizing your client. You may not be available 24 hours a day. Be clear about when victims and other agencies will be able to reach your services. *Only promise what you can deliver.*

Your clients need an advocate or case manager who is willing to help them navigate everything in their new lives. Find out what's happened in other systems they've encountered and collect any documents from those encounters. Help them get transportation or show them how to use public transportation. Show them how to use a phone and how to leave a message on a phone machine. Help them find English-as-a Second Language classes, if they want to learn English. Help them open bank accounts and learn how to manage money. Your agency or a partner in your collaboration should provide training in such life skills, but your clients still need an individual guide until they can find their way on their own.

In addition to finding adequate interpretation, cross-training on the core issues noted below will help you work more effectively with trafficking survivors, as well as help you develop the collaborations you need. For instance, you need to know when someone walking in your door should get to a clinic or hospital immediately, or is so traumatized they need immediate counseling or mental health intervention. Although you cannot provide these services yourself, cross-training will help you identify and respond to emergencies appropriately.

Medical Services

Medical care is critical. You should expect clients to have dental, mental and physical health care needs. Services that are essential to the life and safety of your clients should be available to them regardless of their immigration status. You must involve local medical clinics and county hospitals, since they are most likely to help impoverished clients who lack immigration status. Identify your emergency service contacts before you get cases.

Best case scenario: Identify and train your team of responders as soon as possible. Continue building your team over time, modifying your service protocols based on experience. Get cross-training sooner rather than later, so you are not surprised by what dealing with trafficking survivors entails.

Many trafficking victims have serious dental problems that interfere with their basic functioning, such as speaking and eating. Finding dental care can be particularly challenging, but some domestic violence organizations have found networks to provide dental services to their clients. Domestic violence case managers and advocates may know what exists.



Victims of sex trafficking may need gynecological services, testing for sexually transmitted diseases and HIV, and health care for the consequences of forced abortions. Those subjected to forced labor may have been sexually assaulted, as well as exposed to the full panoply of health problems associated with working in industries that routinely violate environmental and workplace safety laws.

Be aware that medical examinations may be intrusive and ensure that your clients understand what is happening. Forensic exams, moreover, are not designed to improve the health of your clients, but to help with criminal prosecutions. Their results may be used against your clients in the legal system, so they should understand the potential consequences as well as benefits for prosecuting or suing the traffickers.

Doing your own frontline medical assessment may be a good idea.

Overcoming Trauma

Many of your clients have suffered trauma. Unfortunately, many mental health services are not currently culturally competent or offered in your client's first language. If health care workers ask the typical "who are you, where are you, who is the President" questions to determine if someone is "with it," they may get answers arising from fear and ignorance of our system, not from mental disorientation.

Although providing mental health services is not your job, **you should get trained on trauma and how it manifests itself.** For instance, if your client is not making sense (in her own language), or if she doesn't seem connected to reality, she may need immediate mental health intervention.

What would someone in the home country do if they were experiencing the same symptoms as your client, such as insomnia, nightmares, flashbacks, or lost appetite? Ask your clients. You will probably discover that what would happen in the home country is not like the mental health system in this country.

You may also discover that the trafficking was just a part of a **continuum of trauma and violence** suffered by your client. This may be the first time they have been in a situation where someone else was not making all their decisions for them.

Your client may not need mental health intervention now, but this may change as she works through other issues. If your client has regular problems in the following areas, it may be a sign that she needs more help:

She can't make appointments on time

She can't wake up

She has no appetite

She is emotionally withdrawn

She has suicidal thoughts

When your client needs help, you must explain how our system works. You also may be able to help make it as responsive as possible to her needs and her cultural context.

Legal Options

- Trafficking victims and those who work with them often feel pressure to immediately help the criminal system or pursue immigration status. Don't encourage your clients to do this before their most urgent needs are met.
- Forcing them to cooperate or file papers may re-traumatize them if they have not had counseling that addresses the trauma they've experienced.
- They may "cooperate" in ways that undermine their cases: They may wish to please authority figures, on the one hand, or avoid remembering what they've suffered, on the other.

Your clients may need help determining their immigration options. Do not call the Department of Homeland Security (Citizenship and Immigration Services or Immigration and Customs Enforcement) to help your client or to figure out a client's status **unless and until** you have spoken with an attorney or advocate with expertise on the immigration options for trafficking survivors. Instead, identify point people or organizations that can help provide representation in the immigration system

They may need representation in the family law system if their family members are the traffickers or connected to the traffickers. They may wish to **file civil suits** to retrieve money damages, especially if your client's family resides in the home country and depends on their financial support. You **MUST** train any lawyers or firms you work with on all the issues facing trafficking survivors, or the representation they provide may do more harm than good.



They may not be ready to access the US legal system. It is unlikely that they've had good experiences with such systems in the past, either here or in their home countries. If their traffickers are family members, they may not wish them prosecuted or deported from the United States. If the traffickers are not incarcerated, your clients may not be safe.

Relocation may be essential to their well-being, whether the traffickers are members of organized crime or members of their family.

Don't minimize the challenges they will face when they work with such systems.

- Assisting the criminal system in an investigation or prosecution may be grueling and re-traumatizing.
- In most cases, pursuing immigration status is not simple, but it can be swift.
- However, getting family members from abroad into the United States is not swift or easy. Be clear that you'll try to get family members abroad any help you can, as soon as possible, but that it may take time. While your clients are in the immigration process, it will be difficult and risky for them to travel abroad to see their children or other family.

These kinds of problems may contribute to your clients' inclination to leave the United States or go back to the trafficking situation. This is another reason they need to focus on developing life skills: the legal process is unlikely to provide much more immediate satisfaction or security.

Monitor and coordinate your clients' various legal cases, as well as their access to other services and skills building.

- Don't let lawyers intimidate you or push you around; you know what's best for your client because you have the relationship of trust with her and an overview of her needs.¹⁵
- Most attorneys have no training in dealing with crime or trauma survivors, and the good ones will readily admit this.
- Contact the national networks listed in the resource section for suggestions of attorneys and agencies in your area that already know how to work with immigrant crime survivors. They are the ones most likely to treat advocates as partners, having learned the value of such partnerships in the past.

¹⁵ The author is an attorney who has spent twenty years educating and organizing other attorneys.

Prepare your clients for backlash. Attempting to gain justice in either the criminal or civil systems may mean your clients will be subjected to scathing attacks by the traffickers' defenders. These may include the local immigrant or business community, as well as the traffickers' legal representatives. Criminal cases may last several years; your client will need support throughout the case, and maybe beyond, if the trafficker gets a light sentence. Relocation until your client testifies may be the safest option. You can help her find a safe place to live by accessing networks that work on trafficking issues (*see resources*). You must commit to being there to help your client when she returns to testify at any future hearings.

Building Life Skills: Gaining Self-Sufficiency

- Once their immediate needs are met, your clients must make decisions about what to do next. **This is the time when they are most likely to return to the trafficking situation or otherwise disappear.** This occurs for a variety of reasons: fear of the unknown, emotional attachment to the trafficker, etc.
- They probably cannot work right away and may worry about what is happening with their families, here or in their homeland.
- They may become frustrated or angry with the legal system's slowness and difficulty, especially when they see others getting benefits or work authorization.
- They may find that making decisions about their new choices is overwhelming.

Some of the important questions they face:

Do they want to gain immigration status or go home?

Do they want or need to work?

Are they preoccupied with helping family in the home country?

Are they ready to make any of these decisions?

If they want to work and are able to obtain work authorization, they may need job skills training before they can successfully hold a job. They need to know their rights on the job. Even if they have the skills to work, they may end up being exploited in their new workplace, since this is how they've experienced work in the past. For those of you who work with domestic violence survivors, you are familiar with survivors replicating behavior or situations because it is what's familiar to them.



Help the families in the home country, if you can. Link with international nongovernmental organizations who may be able to help them. Contact the networks listed in the resource section for suggestions.

Your clients will need time and repeated information about their options before they can make choices. Remember that they have not been allowed to make decisions for themselves while in the trafficking situation, and some may have been under others' power and control all their lives. They have been conditioned to believe that if they make a decision, bad things will happen.

Provide support and services that keep them occupied, safe and teach them skills to cope with their new lives. This support is extremely important. Without it, trafficking victims may return to their old lives because their new environment overwhelms them, scares them or is not meeting their own and their family's financial needs.

Many trafficking survivors need to gain or regain self-confidence and self-esteem. They must learn to assert themselves and their views, needs and goals, even when they are with people who have more power than they do, which will be most of the people they encounter after they leave the trafficking situation.

Avoid being judgmental when they do make decisions for themselves. Listen, support, be there. Part of empowering others is letting them make mistakes or do things differently than you might do.

The Strength-Based Approach

Building life skills emphasizes identifying and building a survivor's strengths. Case managers who do this must accompany their clients on a long journey. They must commit to an ongoing relationship and check in regularly to see how they are doing. Questionnaires are not particularly good ways to do this, partly because they tend to be culturally biased and partly because they encourage focusing on the issues emphasized in the questionnaire. Good case managers must keep their ears open and hear what their clients are saying, not try to fit them into little boxes and precise categories.

Programs that use the strength-based approach provide educational programs for trafficking survivors after they are stabilized. These programs build life skills and keep survivors busy during the vulnerable period before they receive work authorization.

One Creative Model

The Coalition to Abolish Slavery (CAST) in Los Angeles has established a ground-breaking program that provides one-stop services for trafficking survivors. They spend a lot of time working on building life skills through the strength-based model. One way they help clients explore their strengths is through helping them keep journals. What their clients want may also come out in their dreams. Case managers help clients identify and nurture their dreams.

CAST mandates that clients attend their educational programs, which include English-as-a-Second Language (ESL), yoga, computer classes, legal clinics, organic gardening, and cooking dinner with other survivors, including staff and former clients who no longer live in the shelter. They teach them how to budget and save for the future, and how to make a plan for reaching the future they seek.

Clients who have been through some of the systems mentor those who are just at the beginning of the process. They may help new clients deal with their anxiety about talking to federal law enforcement officers, for instance. They explain what to expect and how to handle it. As survivors grow stronger, they've developed their own caucus. As they've found their strengths, they've sought to learn more about leadership skills, including mentoring others in a more formal way, talking to the media and speaking in public.

A Word on the Media

The media may want to talk to your trafficking clients. Beware of facilitating or allowing this. Unless your clients are well on their way to gaining self-sufficiency, media exposure will probably traumatize them. It also can torpedo their legal claims and undermine prosecution of the traffickers. Having said this, empowered clients may be ready to talk to the media, and media coverage may help her or other trafficking survivors. Make sure you control the situation, however. Practice what will happen with your client. Talk to experts who do a lot of work with trafficking survivors to anticipate problems they've experienced.

Here's something that should not need saying but, unfortunately, does: Do not attract media attention to get publicity for you or your program. It is unethical to place you or your organization's priorities ahead of those of your clients.

Note: "Protection of victims is at the heart of all anti-trafficking measures. Journalists, photographers and media outlets must protect potential and actual victims (and third persons) by altering the image, personal story and identity." The framing of human trafficking should include both labor and sex trafficking, domestic and foreign survivors.



c. Why Collaborate?

The only way you can ensure trafficking survivors get everything they need is to build relationships with organizations and allies in key systems that encounter or help crime victims. Trafficking survivors may need counseling and help with sexual or domestic abuse they have suffered, as well as trauma from other crimes. They need help identifying their legal options for gaining immigration status and filing any civil suits to challenge their exploitation. If survivors want immigration status they must work with, or attempt to work with, the criminal justice system's investigation of the trafficking and related crimes. They likely need health care, and perhaps also mental health and dental services. They need public benefits, and safety planning, and someone to help them understand their options. They must make their own choices, however, which means they may need someone to help buffer them from conflicting agendas.

Who Must Be at the Table?

Just to meet the immediate needs noted above, survivors need help from health care providers, federal and local law enforcement, and advocates such as you. Whoever can provide housing must be involved in these discussions.

To effectively reach and help survivors, you also must build relationships with the agencies closest to them and with portions of the criminal justice system that they may encounter. You need lawyers or legal advocates to make the various legal options a real choice.

In some major regional cities and states, task forces now meet to discuss trafficking issues. These task forces include a wide variety of organizations that may enhance services and response to victims of trafficking.

Following is a list of organizations typically included on these task forces:

Federal Bureau of Investigation	Victim Witness Coordinators
Department of Labor	Department of Homeland Security
Child Protective Services	Refugee Services
Health Departments	Department of Agriculture
Immigrant Services	Legal Services
Faith-based Organizations	Sexual Assault and Domestic Violence Programs

Labor Organizations Local Law Enforcement and Prosecutors
 Ethnic community based organizations U.S. Attorneys Offices
 Representatives from other existing task forces (e.g. domestic violence, sexual assault)

As you sit together, identify who's missing. Are all the federal agencies who are working with trafficking victims there? What about local police who may encounter rape and forced labor survivors? Should representatives of the Department of Labor be there because you're encountering significant numbers of people subjected to forced labor? Is child protective services intervening to take your clients' children away? Get these folks to the table, if only to explain their view of their role. You can explain, in turn, what you all are doing together and why they should join in your collaborative approach. It may take time, but keep at it.

Are there gaps no one can fill? If you work in areas with few resources, or where resources are far apart, you should work collaboratively to fill these gaps. Funders should be impressed that you are working together, using a holistic model, and developing creative ways to fill gaps.

Maintaining Your Integrity

Collaborating does not mean giving up your boundaries. You must maintain the integrity of your role, despite pressures to help others in their work. You should be particularly wary of sharing information and databases. Doing this may violate your clients' confidentiality. You should only share informations that (a) does not violate the confidentiality of your role and/or (b) given without your client's permission.

Those who do not work in the criminal justice system should not serve as investigators or agents. It is not your job to keep your client in custody or ensure she doesn't leave a shelter. Your primary priority is helping your client determine and pursue the options she chooses. Similarly, those in the criminal justice system should not take on responsibility as sexual assault, domestic violence or trauma counselors.

If pressures arise to cross professional lines, explain why it's a problem and offer to brainstorm ways to help them without undermining your integrity. Put your roles in writing, and modify and expand on these written "protocols" as your roles and collaborations evolve.



Building Long-Term Collaborations

Building good working relationships requires time and energy. It means developing and respecting a relationship of trust, which is often challenging when interests and priorities conflict. The payoff is a system that effectively and sympathetically helps all trafficking victims. If you are having trouble bringing people together because of inter-agency conflicts or personality disputes, bring in an outsider who can help mediate these barriers.

To ensure such improvements live beyond the individual relationships you establish, you must work with your system allies to memorialize the improvements in written policies and protocols. Bringing others into the working relationship also will help ensure your work has lasting effects. By building the community that works together on trafficking cases and issues, you create a “quality control” structure for holding all actors accountable.

Choose Natural Allies

Don’t assume there are no natural allies in the criminal system (a common mistake of advocates and attorneys). As sensitivity to gender-based crimes has increased, more people concerned with curtailing such crimes have started working within the criminal system. Don’t just look at the top; victim witness coordinators may be your best allies and often need little convincing. They may, in turn, be able to influence the rest of the system in which they work.

Build the Relationships

Do things together in non-confrontational settings. Invite partners to meetings, to conferences, to public events on trafficking. Work with them to design joint presentations. You will come to understand where they are coming from, their priorities, goals and pressures to perform. As you work together, identify where you agree and disagree.

Identify Common Ground and Acknowledge Disagreements

You don’t have to agree on everything to work well together. You can work very effectively together on a single area of agreement, as long as you explicitly agree to disagree on everything else and take those issues off the discussion table. As you work together on common ground, you will find that ground expanding beneath you. For one thing, you are learning to see the situation through their eyes, and vice versa. For another, you are coming to trust each other. Do not underestimate the importance of maintaining that trust; cherish and protect it.

Nurture Trust

Building trust does not mean jeopardizing your clients; it means being honest about your goals. Acknowledge that there may be legitimate differences in perspectives. Answer disagreements with reason, logic and policy, not rhetoric. Don't be evasive: Be clear, up front, when you can't discuss something because of client confidentiality.

Share who you are. Finding the common humanity in your allies makes doing the hard work together easier and, sometimes, fun. Admit when you are wrong, and that you don't know all the answers. When mistakes happen, which they inevitably do, acknowledge your role in them, derive lessons from them, and move on. Create rules to avoid making similar mistakes again and get back to the common ground, common goals and collaborative work.

Do Joint Fundraising

Funders favor collaborations, especially those that bring together unusual partners to provide holistic services. Joint proposals generally require writing down the roles each partner plays. Creating Memoranda of Understanding (MOUs) for these relationships will help clarify your roles, strengthen the grant application, and create a formal structure for your model.

Create Accountability

Many collaborations have foundered when key individuals leave. Creating institutional accountability is the key to avoiding this problem. Identify a point person for each agency in the collaboration. Establish an evaluation process and regularly revisit it.

Turn your solutions into formal policies or protocols. Distribute them to everyone who should know about them. Policies and protocols are invaluable tools for holding systems accountable because they remain after you and your allies are gone, but others must know about them for your work to have lasting effect.

Include accountability in your joint funding proposals. Funders may be willing to pay for special consultants who can help negotiate and write protocols that institutionalize best practices and systems.

What works in an urban setting may not translate well to a rural situation. The resources available to those in cities often doesn't exist in rural areas. If you are outside of an urban



metropolitan area, you may need to be especially creative. Work with what you have, identify gaps as you develop your collaborations, do joint fundraising and outreach to fill the gaps.

Ensure there is a case manager for trafficking victims at every step, if possible. Case managers or advocates should be allowed to accompany survivors whenever they meet with law enforcement or other agencies. Build your own best practice model and share it with us.

Modify your protocols as you learn and work together. For some sample protocols, see New York City Community Response to Trafficking (www.nyc-crt.org) and the California Sexual Assault Response Team Manual (www.calcasa.org).

The New York community-based collaborative is now working on its second set of guidelines, available through the website noted above.

There is no one right way to build or maintain an effective collaboration. Tailor your expectations to your resources for now, and focus on filling gaps and building resources for the future.

d. Working with Law Enforcement

All non-citizen trafficking victims must help or try to help the criminal justice system if they wish to gain public benefits, work authorization and secure immigration status. Although federal law enforcement authorities are primarily responsible for investigating and prosecuting trafficking, Congress made clear in the 2003 trafficking reauthorization bill that helping local and state criminal systems may also qualify victims for help. If you don't already have allies in the criminal system, it's time to find them.

The primary federal agencies you will work with are the FBI, U.S. Attorneys and the Bureau of Immigration and Customs Enforcement (ICE) under the Department of Homeland Security. As with any system, you should look for your allies in these systems. There are several ways you can work to enhance your relationships with them. All of the following tips focus on ways to foster dialogue and discussion.

You may not be able to choose the agency or individual to work with. Although different law enforcement agencies may be involved with different kinds of cases, or several may be

involved in one case, the approaches and issues are similar. Here are some tips for working with people in the criminal system, regardless of the context:

Examine your own assumptions about who survivors are and leave them at the door.

Put yourself “in their shoes.” Try to understand their priorities and the context in which they work. What is their job? What institutional pressures are they under? Don’t tell them how to do their jobs.

Acknowledge that your priorities may be different from theirs, and that the client may perceive her priorities as something else entirely. Try to understand their concerns, even if you disagree with them.

Realize there may be professional “cultural” differences. Try not to take offense at attempts at humor or other comments that are not meant to offend.

Don’t lecture; explain. When comments or practices offend, explain that you are having that reaction and why.

Don’t talk publicly about cases. This burns any bridges you’ve built with those who must deal with the repercussions of your actions.

What is the common ground on which you agree; if not in an individual case, in trafficking cases generally?

Be very clear and specific about your role and what you perceive as their roles. Explain why you can’t do everything they may want you to do. Hear what they have to say about their roles and expectations.

Achieve balance. Is there a way to meet all of your priorities, or compromise on priorities, and do what the client wants?

Negotiate access to clients earlier in the process, without actually riding along in police vehicles or working in situations where you may be perceived as a law enforcement agent. Early access benefits law enforcement because they don’t want to deal with all the client’s needs, and you are better equipped to do so. This agreement may depend on developing a working relationship, and some trust.

Invite them to come to meetings of the groups who are working together on trafficking. Ask them to make an institutional commitment to regularly attending such meetings and to send the same person as much as possible. Although it’s best if significant decision-makers



attend, they may not be able to make regular meetings. As long as the person attending will be heard in the agency when she reports back, the most important characteristic is commitment to making the agency responsive and to working collaboratively. Sending someone who is just a note taker is not acceptable; it's not a real commitment.

If you don't have an official "task force," set one up. Include federal and local law enforcement, as well as other key agencies working with trafficking survivors. It doesn't have to start big; start with who you can get, and build from there.

Involve them in trainings. A good first step is to offer to train them, and then include them in meetings and invite them to present at future trainings.

Include and target victim advocates or victim witness coordinators at each law enforcement agency, including the federal agencies. They often are sympathetic, available, and more influential in their offices than you may realize.

Get to know your law enforcement allies personally. Working on real cases is one way this happens, but it's also worth spending some time discussing roles and expectations when you are not dealing with immediate crises.

Propose collaborative fund-raising. Many local law enforcement agencies are experiencing financial belt-tightening. They will be more receptive to working with you if you are not asking them to expand their workload for free.

Do cross-trainings: have them train you on what they do; train them on what you do.

Co-sponsor trainings for others. The best trainings are those in which messengers come from all the systems working with survivors, including law enforcement and advocates. By training together, you also are providing a model of effective collaboration and why it's a good thing.

Keep trying. Initially, it might be difficult to establish these partnerships with law enforcement agencies. However, it is worth the effort. Keep trying to find, develop, and nurture allies in these systems.

Be aware that there may be turf issues ("jurisdiction" in legal lingo). The various federal agencies may vie for control of a case, or they may pass the buck back and forth. Add local law enforcement to the mix, and the turf issues get even more complicated.

Sort out turf issues before they become problems in real cases. Pose hypothetical cases and

ask what each law enforcement agency thinks its role is in that case. Write down the answers and draft suggested protocols (who does what and when) based on this discussion. Participants may resist putting their roles in writing, but the discussion process itself will help clarify roles for future cases and collaborative efforts.

An Ongoing Conversation: Who Is a Victim?

Although federal law enforcement agencies have made excellent efforts to educate field officers about trafficking, advocates in the field report that reality on the ground does not always reflect policies at the top levels. For instance, they report that some local Immigration and Customs Enforcement officers triage out and deport eligible trafficking victims before an advocate ever sees them. This is another reason it's vital for advocates to develop working relationships with federal law enforcement officers in your area. Use examples of people you've helped to expand their vision. For those of you who work with domestic violence or sexual assault survivors, this situation is not new; you've worked to educate the criminal system about how survivors cope with their situation. Now you, or your partners, must explain how it works in the trafficking context.

Encourage law enforcement to bring you into the process earlier, so you can help identify victims. If law enforcement won't let you speak to people they don't think meet the definition of victim, work with immigration lawyers to gain access to the detention centers where they keep potential trafficking victims. Use "know your rights" presentations to identify trafficking victims (and other victims of crimes) law enforcement missed. You may be able to help them gain safety and security. Use these cases to educate law enforcement, your other allies, and policy makers about the problems with using a narrow definition.

Key Points

- Collaboration and services are a complicated mix; several people may be working with a victim at the same time.
- It is a delicate balance—professionals maintaining their individual roles while collaborating with others to find creative services.
- Confidentiality is paramount.
- The victim-centered approach is the basis for collaboration.



V What Benefits Can They Access and How?

Whether and how much your trafficked clients can get the things they need may depend on whether they've accessed the criminal justice system and where they are in the immigration process. If they have not yet gotten "certified"¹⁶ by federal law enforcement officials they may be undocumented, and eligible for little except emergency services. Even if they have secure immigration status, however, meeting their needs will require creativity and extensive networking and collaboration. Your clients also may wish to pursue civil law suits against traffickers to regain money they've earned or receive damages for their injuries. Finding enough money to support themselves, their children, and their families back home is often a high priority for trafficking survivors.

The minimum needs identified earlier for trafficking victims are:

- ✓ Housing
- ✓ Medical care and health education
- ✓ Work authorization and job skills
- ✓ Food and clothing
- ✓ Mental health and dental care

The following sections provide an overview of each of these needs, as well as how advocates can help victims successfully obtain these resources.

Housing Survivors and Their Families

Housing trafficking victims may be difficult for a number of reasons. Some victims don't meet the eligibility requirements for existing shelters, such as domestic violence and homeless shelters. Most trafficking survivors need long-term housing (more than a year), so even if they can stay in a local domestic violence shelter, they probably can't stay there for very long. They often have a child, which means they need housing appropriate to a family unit. Many labor trafficking victims are men and boys, and they probably cannot stay in local domestic violence shelters.

Federal, state and local public housing restrictions may make these and other housing resources unavailable, at least until the survivors have received secure immigration status. Finally, relocation and special safety precautions may be necessary when the survivors have fled

¹⁶ The Department of Health and Human Services (HHS) initiated a certification process to assist trafficking in persons victims. These letters enable eligible trafficking victims to become eligible to apply for federal and certain state benefits to the same extent as refugees.

organized trafficking rings, often connected to organized crime. Experiences from assisting victims shows that organized trafficking rings can easily find victims and compromise shelter, public housing and private rental options.

Some options trafficking advocates are using:

- Domestic violence shelters
- Rental units
- Short and long-term hotels (suites for families)
- Special shelters build just for trafficking survivors

All of these options are available regardless of where your clients are in the criminal justice system or the immigration process, although this is not true for shelter options governed by public housing rules. In addition, agencies awarded grants by the Office of Refugee Resettlement (ORR) are providing special services, including housing, to trafficked children. Public housing, however, is available only to clients who have been certified by the Department of Health and Human Services and may be unavailable even to those certified because of waiting lists and restrictions not related to immigration status. Some public housing may be run by ethnic-based organizations; these may be available for your clients if you have built partnerships with such agencies or are able to work with these agencies to provide your client with housing.

Fortunately, the federal government is funding programs to provide all of these kinds of housing, and as this issue gains visibility, other governments and foundations may support such essential services. Work with your partners to fill gaps in services through creative fundraising and resource development.

Things to Avoid

Avoid mixing trafficking victims with other populations, especially formerly incarcerated people. Don't mix genders, except to keep families together. Places that have inflexible rules will not work well; they cannot adapt to serve people from different cultures. Shelters that require people to leave during the day probably will not work well for trafficking survivors. Consider security issues with any shelter, as well as lack of language resources and culturally appropriate food.

If you work with existing domestic violence, homeless or children's shelters, make sure you use special protocols or memoranda of understanding about how they handle your trafficked clients. Do this *before* you place clients with them. Otherwise,



your clients may find the shelters re-traumatizing if they replicate the subservient behavior they are used to when placed in a group living situation. Shelters and shelter workers must guard against this. If your clients are becoming servants at their shelters, it is **not** a safe or appropriate place for them.

Relocation: Sometimes the Safest Option

Your client may need relocation to be safe from her traffickers. This may be true whether the traffickers are racketeers or family members. Existing witness protection programs are not helpful, however, because those programs require individuals that know our systems well to forge new identities and disappear within the systems. Working with others in the national networks that help immigrant crime survivors may be more helpful (*see resource section*).

Food, Clothing and Medical Care: Pre- or Post-Certification?

Traditional public benefits programs often cover such basic needs as food, clothing and basic health care. Some are available regardless of immigration status, but the most comprehensive require that victims 18 and older be certified by the federal Department of Health and Human Services (HHS), obtain a T visa, or have another “qualifying” immigration status.

After certification, trafficking survivors are eligible for Temporary Assistance to Needy Families (TANF), Food Stamps and Medicaid.¹⁷ This bright line between pre-certification and post-certification often places pressure on agencies and survivors to pursue options that the client may not be ready to pursue or that may threaten their mental health or physical safety. Those agencies providing the most comprehensive, victim-based services have, therefore, worked hard to fill the pre-certification gap, so that their clients are making the choices they want, when they want to. The federal Office on Refugee Resettlement (ORR) of the Department of Health and Human Services funds some pre-certification services. The Office for Victims of Crime¹⁸ provides grant funding to non-governmental and state organizations to provide comprehensive and specialized services to victims of trafficking. Grantees have worked to create extensive service networks and collaborations in their communities to ensure that services are coordinated rather than ad hoc. Every state has a State Refugee Coordinator or Regional Representative who oversees benefits for trafficking victims, as well as refugees and other populations. Link to list of contacts: <https://www.acf.hhs.gov/orr/resource/orr-funded-programs-key-contacts>. For an Overview of Federal and State Public Benefits: Access for Immigrant Survivors and their Children go to: <http://library.niwap.org/wp-content/uploads/fmRC-1.4.1a.pdf>

17 For a chart of immigrant access to public benefits generally, go to <http://www.nilc.org>.

18 For an up to date list of services currently funded by the Office for Victims of Crime, visit:

<https://ovc.ncjrs.gov/humantrafficking/traffickingmatrix.html>

Some needs, such as dental services and emergency clothing, personal necessities and prescription medications, are not specifically covered by any existing program, regardless of a survivor's position in the certification process. The OVC does, however, does require that all grantees who provide comprehensive services must meet all of these needs either in-house or through a partner organization. Agencies are filling these gaps with state emergency assistance funds (not available in many states), *pro bono* providers (such as dental schools) and special grants.

Pre-Certification Options

To get the pre-certification services listed below you must provide good, intensive case management and link to programs that know how to access the full range of services. This is why your collaborative network is so essential.

Services necessary to protect life and safety¹⁹, e.g., Victims of Crime Act Assistance (VOCA)

Emergency services, including medical care

Testing & treatment for communicable diseases, such as sexually transmitted diseases (STDs)

Crisis counseling

Violence and abuse intervention/prevention

Child protective services

Benefits provided regardless of income/assets, such as food from a shelter or food bank

Services provided by non-profits

VOCA funds

VOCA money comes in two forms: victim compensation and victim assistance. Victim compensation requires victims to report the crime within a reasonable period of time. Check your state requirements on what this means. These funds cover:

Medical care

Mental health counseling

Emergency financial aid

Victim assistance services programs may be administered by:

- Domestic violence shelters

¹⁹ "Specification of Community Programs Necessary for Protection of Life or Safety Under Welfare Reform Legislation, Final Rule." Federal Register. 66 (16 January 2001): 2353-2001.



- Rape crisis centers and
- Victim assistance programs in the criminal system
- Hospitals and welfare agencies

They may cover:

- Crisis intervention
- Emergency shelter
- Criminal system advocacy
- Emergency transportation

To fill pre-certification gaps, work with:

- VOCA agencies and programs
- Domestic violence shelters, where appropriate
- Faith-based organizations **that are trained in survivor issues**
- Office on Victims of Crime (OVC) grantees. A full matrix with contact information is available at <https://ovc.ncjrs.gov/humantrafficking/traffickingmatrix.html>

Don't try to fit square pegs into round holes. Only some trafficking victims fit well with the way domestic violence shelters work. This is true even for shelters who do a lot of work with immigrant survivors.

Ensure cross-training on trauma, cultural competency, crime victims, do's and don't related to trafficking, identifying "red flags" for the core issues noted in section IV, public benefits, immigration options, human rights, and working with immigrant communities. Otherwise, these places may unwittingly re-traumatize your clients.

Work Authorization and Legal Immigration Status

Legal work authorization requires a qualifying immigration status. For most trafficking survivors, this will be the "continued presence" and T visa process Congress specifically created for them. They may also qualify for other forms of status designed for non-citizen crime survivors. Do not assume, however, that those who have been enslaved are ready to jump into the labor market. They may need extensive mental counseling, as well as life and job skills training to survive and thrive in a new work environment. Those who have been granted T visas and continued presence status enable access to refugee benefits to ease in this transition.

How the Immigration Process Works

Some of your clients may not be ready to access the criminal justice system. This may mean that they cannot, at least for now, pursue the immigration options designed for trafficking survivors. If they want to stay here, you should explore (or find someone to help your client explore) other routes to immigration status. Other materials on trafficking discuss how the immigration system works for trafficking survivors, so we will just summarize the process and options and provide some practice pointers for those of you are not immigration attorneys.²⁰

Children

Children under 18 are exempt from some of the immigration proof requirements, but they must show their age to qualify for these exceptions. To do this, they usually need documents from their home countries.

Network with non-governmental organizations, the Department of State (DOS) and embassies to help get evidence of age. Be aware, however, that people at embassies abroad may be connected to the traffickers. If you need help with this contact the International Organization for Migration (IOM) or the Freedom Network (Listed at end of this publication).

Here are the key eligibility requirements for a T visa:

- Victim of “severe form of trafficking” as defined by the TVPA (*see page 2*)
- Complied with any “reasonable request” for assistance in the investigation or prosecution of acts of trafficking (or is under 18)
- Physically present on account of trafficking in the United States
- Extreme hardship involving unusual and severe harm if deported

Law enforcement endorsements satisfy the “victim” and “complied with any reasonable request” requirements. According to the immigration experts working in the field, obtaining these endorsements is often the hardest part of preparing a T visa petition. Strategies for obtaining such endorsements involve skills beyond traditional lawyering and advocacy.²¹

²⁰ For information on immigration options for trafficking survivors see: <https://www.ilrc.org/u-visa-t-visa-vawa>

²¹ For more information on T visa strategies, please see: <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>.

For Legal Resources see <https://www.ovcttac.gov/taskforceguide/eguide/4-supporting-victims/resources-44-legal-services>.



Qualified trafficking survivors are eligible for two types of immigration relief—"continued presence" and a T visa—both of which grant authorization to work and entitle survivors to receive social service benefits but which require assistance from law enforcement personnel to obtain.

Continued presence is what many victims get initially, especially if law enforcement agencies encounter them first. Continued presence is granted by the Attorney General allowing them to stay temporarily in the country during the investigation or prosecution. Both continued presence and the T visa (regardless of whether you've gotten continued presence) get you work authorization. The Office on Refugee Resettlement (ORR) does the certifying for HHS.

T visas are the primary route to permanent status for trafficking survivors.

Other related routes:

Self-petitioning or cancellation of removal for spouses and children of abusive US citizens or lawful permanent residents; U visas for those who help the local criminal system

Trafficking survivors may pursue more than one immigration status at the same time. This may be worth doing because while one status may be easier and quicker to obtain, others may provide better access to public benefits, work authorization or secure status. Some also require more cooperation with law enforcement than others.²²

You can help survivors decide which ones to pursue and find the people they need to help them do this effectively. You will probably play a significant role in helping your trafficking clients put together their story and documents.

Your role in this and the roles of your allies

As noted above, you can be very helpful to trafficking survivors seeking immigration status. Here are some things domestic violence and sexual assault advocates already are doing for immigrant survivors:

- Helping clients understand their options
- Collecting documents that show they meet eligibility requirements
- Advocating/negotiating with the criminal system for what the clients want
- Buffering them against others' agendas

What you should do:

Learn everything you can about her options

Provide her with as much information about the pros and cons of the various options so that she can make a decision

Support her decisions

Find assistance for her whether you agree with her decisions or not

Expanding Legal Resources: Immigration and Beyond

There will never be enough immigration attorneys to provide all the free or low-cost services needed by trafficking survivors and other immigrant survivors of crimes. However, you can help expand the service resources available for survivors.

Help more immigrant survivors. Those who help non-citizen survivors of domestic violence and sexual assault may access both federal and state money that prioritizes assisting underserved populations. You can do this by adding staff with immigration expertise or by developing true partnerships with such experts (referral systems are not true partnerships). By broadening your scope, you also provide more comprehensive services. As previously noted, many trafficking survivors are also victims of domestic violence or sexual assault.

Work with existing agencies to use scarce resources wisely: We promote the model that empowers advocates to help survivors prepare their cases, under the supervision of immigration experts. This allows the few immigration legal experts who can do this work to focus on the difficult immigration cases (those where “red flags” are present). It also allows exponentially more immigrant survivors to access status, since the few immigration experts aren’t trying to do the easy cases. Funders, including federal and state resources, are currently funding collaborative models that allocate and expand scarce legal resources.

Explore getting your agency and staff “recognized and accredited” to practice immigration law. The immigration system allows non-attorneys (“accredited representatives”) to practice immigration law if they are employed by a “recognized” agency and have sufficient training and supervision. Agencies that do a lot of work with immigrant survivors, and whose staff work closely with and are trained by immigration experts are good candidates for pursuing this process. The Catholic



Legal Immigration Network (CLINIC) provides training and legal capacity to combat domestic violence and sexual assault against immigrants for agencies interested in this process.²²

Use pro bono attorneys. Some alliances and agencies have had success recruiting pro bono attorneys to expand legal resources. **Be aware**, however, that pro bono attorneys **need as much supervision and training** as non-immigration advocates. An immigration expert should provide the same “quality control” over the work of the pro bono attorneys as she would for non-attorney advocates.

Other Legal Options

Trafficking survivors may need other kinds of legal expertise:

Labor lawyers to get back wages and file complaints with relevant state and federal agencies

Tort law experts to get compensation and damages for their pain and suffering

Family lawyers/advocates if the trafficker is also a spouse or father of the survivor’s children and may challenge custody, visitation and support

To find these resources, talk to your partners who may already be working with state and local bar associations. Offer to do a lunch meeting for your local women’s bar association, your county bar association, or other group of lawyers in your area. Some of these cases may be financially rewarding for the attorney as well as the client. Others may appeal to young attorneys who are looking for meaningful *pro bono* work, often supported by their firms as a contribution to the community.

Pulling It All Together

You are not in this work alone. Just as we suggest adopting a holistic approach to helping trafficking survivors, we also encourage you to join existing networks that work on this issue. There are two primary national networks of advocates, attorneys and others working with immigrant trafficking, domestic violence, and sexual assault survivors: the Freedom Network, devoted solely to trafficking issues. Go to their conferences, join their list serves, become part of the networks. You will find support and inspiration to sustain you in this challenging work.

<http://www.freedomnetworkusa.org/>

CAST leads the The Legal Anti-Trafficking Working Group and provides technical assistance on legal remedies. <http://www.castla.org/services>, E-mail: technicalassistance@castla.org

²² For more information and help with the recognition and accreditation process, please visit <https://cliniclegal.org/ovw>.

For more than three decades, Futures Without Violence, previously Family Violence Prevention Fund has worked to end violence against women and children around the world, because everyone has the right to live free of violence. Instrumental in developing the landmark Violence Against Women Act passed by Congress in 1994. We continued to break new ground by reaching new audiences including men and youth, promoting leadership within communities to ensure that violence prevention efforts become self-sustaining, and transforming the way health care providers, police, judges, employers, and others respond to violence.

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DEVELOPING A LANGUAGE ACCESS PLAN FOR YOUR AGENCY

Guidelines:

If your organization receives federal funds, either directly or through the state, your agency is required to develop a language access plan (this does not mean hiring staff for every conceivable language spoken by your clients).

1. Learn the requirements of Title VI, Executive Order 13166, and your state laws.
2. Determine language needs using DOJ's four-factor assessment:
 - a. Number or proportion of persons with Limited English proficiency (LEP) in the eligible service population.
 - b. Frequency with which these LEP persons come into contact with your program.
 - c. Importance of the benefit or service.
 - d. The resources available.
3. Based on the assessment's results, identify the languages that will be included in the agency's language access plan and how the agency will provide interpretation services to LEP clients.
4. Develop an outreach plan to notify LEP persons that services are available.
5. Integrate your agency's language access policies and procedures into the agency's regular policies and procedures manual for use by all, not only bilingual, staff.
6. Train all staff and volunteers on language access laws:
 - a. Federal laws: Title VI and Executive Order 13166.
 - b. State laws on court interpretation to determine:
 - clients' rights to interpreters in civil courts,
 - who provides the interpreters,
 - who pays for interpretation.
 - c. Protocols for filing a Title VI complaint with the Department of Justice should a client's language access rights be denied by a federal grant recipient.
7. Implement and train staff about language access advocacy and agency protocols on:
 - a. Responding to LEP callers and in-person contacts.
 - b. Advocating for and asserting LEP clients' rights to qualified interpreters in courts and other systems.
 - c. Providing LEP clients with tools (such as "I speak..." cards) that assist them in asserting their right to language access in the courts and other public agencies.
 - d. Responding to court requests that bilingual advocates interpret by attempting to decline and disclosing their conflict of interest on record.
 - e. Working with interpreters, including basic knowledge about interpretation: types, modes, code of ethics, qualifications and roles.
 - f. Identifying and responding to poor, incorrect or biased interpretation.
8. Evaluate plan's effectiveness regularly to ensure it meets the needs of LEP persons.
9. Monitor demographic changes and immigration/refugee resettlement patterns to identify new LEP populations your agency will need to serve.
10. Engaging courts and public agencies in a dialogue on language access and Title VI.

Resources:

1. **American Bar Association:** List of state statutes on the provision of language interpreters in civil cases. http://www.abanet.org/domviol/docs/Foreign_Language_Interpreters_Chart_12_2008.pdf
2. **American Bar Association's Commission on Domestic Violence:** Materials on integrating interpretation in civil representation of domestic and sexual violence victims. http://www.abanet.org/domviol/institute/integration_of_interpreters.html
3. **Department of Justice, Office of Civil Rights,** *Executive Order 13166 Limited English Proficiency Resource Document: Tips and Tools from the Field:* Overview and tips and tools for law enforcement, domestic violence specialists and service providers, 911 call centers, courts, federally conducted programs and activities. http://www.lep.gov/resources/tips_and_tools-9-21-04.htm
4. **Department of Justice, Office of Coordination & Review:** File complaints for Title VI violations. <http://www.usdoj.gov/crt/cor/complaint.php>
5. **Legal Services Corporation:** Guidance to LSC programs on training, procedures and policies. http://www.abanet.org/domviol/institute/integration_of_interpreters/Guidance_to_LSC_Programs_for_Serving_Client_Eligible_Individuals_with_LEP.pdf
6. **National Association of Judiciary Interpreters and Translators (NAJIT):** Professional certification, training, policy advocacy, how to work with interpreters. <http://www.najit.org>
7. **National Center on Immigrant Integration Policy:** Policy, research, technical assistance, training and an electronic resource center on immigrant integration issues with a special focus on state and local policies and data. http://www.migrationinformation.org/integration/language_portal
8. **National Consortium of State Courts:** Materials on court interpretation including tests for certifying interpreters and model guide. http://www.ncsconline.org/D_RESEARCH/CourtInterp.html and http://www.ncsconline.org/wc/publications/Res_CtInte_ModelGuideChapter10Pub.pdf
9. **Ohio State, Dept of Public Safety/Office of Criminal Justice Services:** Training materials for law enforcement and judges. <http://www.ocjs.ohio.gov/LEPResources.htm>

Meeting the Legal Needs of

Human Trafficking Victims:

*An Introduction for Domestic
Violence Attorneys & Advocates*



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Preface

The American Bar Association is pleased to provide you with *Meeting the Legal Needs of Human Trafficking Victims: An Introduction for Domestic Violence Attorneys & Advocates*, which we hope will serve as an important and timely resource for you in your practice representing human trafficking victims. This publication was developed pursuant to a generous grant from the ABA Enterprise Fund, as part of a collaborative effort by several ABA entities aiming to provide attorneys with leadership and training to better represent victims of human trafficking.*

Human trafficking and domestic violence are crimes which occur at alarming rates in the United States. Notably, there is also a high co-occurrence of these crimes. Many victims of human trafficking are also victims of domestic violence and many victims of domestic violence have also been trafficked. However, the legal needs of, and remedies available to, victims of domestic violence and human trafficking can be distinct. As a result, it is imperative that attorneys who represent victims of domestic violence are able to identify if their clients are trafficking victims as well, and be familiar with the range of legal remedies available to human trafficking victims as well as the relevant resources in their communities.

The impetus for the creation of this publication came from the many domestic violence attorneys who contacted the ABA Commission on Domestic Violence seeking information about human trafficking and wanting to ensure that they were providing comprehensive legal assistance to their clients.

Like domestic violence cases, human trafficking cases are often complex and multi-dimensional. This guide serves as an overview of the unique issues and remedies which are often present in such cases, and is not intended to be comprehensive. We have included references to many other resources on related topics throughout.

Through this guide, we hope to support your efforts to serve a very vulnerable population in desperate need of high-quality legal assistance. We applaud you for the heroic work that you do on their behalf.

Regards,

Karen Mathis & Laura Stein

Honorary Co-Chairs

American Bar Association Civil Legal Remedies for Human Trafficking Victims Project

April 2009

*The ABA Enterprise Fund collaborating entities are the Commission on Domestic Violence, Commission on Immigration, Rule of Law Initiative, Center on Pro Bono, Commission on Youth at Risk, Section of Individual Rights and Responsibilities, and the Center for Human Rights.

Author Biographies

Jean Bruggeman is the Director of the Community Legal Interpreter Bank, a project of Ayuda in Washington, D.C. The Bank, supported by an appropriation from the D.C. Council, provides trained legal interpreters to civil legal service providers in the District of Columbia. The Bank includes specialized training for interpreters working within the attorney-client context, testing of interpreter proficiency, and training for providers on the ethical and legal implications of serving Limited English Proficient (LEP) and Deaf and Hard of Hearing communities.

For six years, Jean was the Survivor Services Department Director for Boat People SOS, a national Vietnamese community-based organization. Jean led the development and implementation of the Community Against Domestic Violence and Victims of Exploitation and Trafficking Assistance Programs. She supervised the legal and social service staff, conducted outreach and education within the Vietnamese community, and provided training and technical assistance to service providers around the country. Jean coordinated the filing of T visa applications for over 200 human trafficking victims in the *U.S. v. Kil Soo Lee* garment factory case, in collaboration with over 40 attorneys in more than 20 states. All applications were approved.

Jean graduated from the Georgetown University Law Center and was awarded a Women's Law and Public Policy Fellowship to serve as the VAWA Attorney at Ayuda in Washington D.C. in 2000. During her fellowship year, Jean represented over 50 battered immigrant women, edited the 4th edition of Ayuda's VAWA Manual, and developed a pro bono project for the representation of battered immigrant women. Jean also holds a B.A. in Sociology and Anthropology from Bryn Mawr College.

Elizabeth Keyes is a Supervising Attorney at WEAVE (Women Empowered Against Violence) in Washington, D.C., where she specializes in providing legal services to immigrant survivors of domestic violence, in the areas of immigration and family law. Since starting at WEAVE in June 2007, she has worked with 50 immigrant domestic violence survivors, including several trafficking survivors who she assisted with their protection order, custody and child support cases, as well as working on the many immigration remedies available to these clients.

Prior to working at WEAVE, Elizabeth spent three years as a Skadden Fellow and Staff Attorney at CASA of Maryland, working on the civil and immigration aspects of human trafficking cases, litigating in state, federal, and immigration courts. She focused particularly on trafficked domestic workers, and their exploitation by diplomats. Before law school, Elizabeth spent several years working on African policy and development issues with Catholic Relief Services, the World Bank and the United Nations Development Program, throughout Africa. Elizabeth received a law degree *magna cum laude* from Georgetown University Law Center, a Masters in Public Affairs from Princeton University, and a B.A. in African Studies from Carleton College.

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Introduction

What Will I Learn From This Guide?

It is our hope that as a result of reviewing this guide, you will be better able to:

- Recognize trafficking victims among your existing domestic violence caseload;
- Identify the key civil legal remedies and other issues that you will need to explore in order to effectively assist human trafficking victims; and
- Identify and use other resources to pursue specific legal remedies and secure social services and other benefits for your clients.

Just as the experiences of domestic violence and human trafficking victims overlap, so do the available remedies. Some civil and immigration remedies are available to victims of all forms of abuse, while others are available to only a portion who met certain requirements. Exploring these intersections will allow you to think more holistically and creatively about legal remedies and auxiliary services available to clients.

The Need for Competent Legal Representation in Civil Law Matters Involving Human Trafficking

The issue of human trafficking has begun to receive more and more attention in recent years. Laws specifically designed to prevent it from occurring, protect and support its victims, and hold perpetrators accountable have been enacted. As a result, new civil causes of action and social services are available to victims. Collaborations at the state, local, and federal levels within and among government agencies as well as service providers have emerged and have provided victims with enhanced community-wide safety nets.

Despite these advances the civil justice system is still inaccessible to many trafficking victims. They are largely unaware of the legal recourse and services available to them; psychological trauma, threats to their lives and safety, and lack of resources often prevent them from seeking help. Without assistance and support, victims who do manage to escape are at risk for being re-trafficked.

Because anti-trafficking laws are still relatively new, too few attorneys possess the depth of knowledge necessary to competently, safely, and holistically assist victims. In particular, lawyers must be prepared to plan for the safety of their clients, employees, and others.

Promoting the competence of domestic violence attorneys who represent victims of trafficking, and giving them the tools they need to identify victims among their clients will better enable victims to seek the justice that they deserve. That is our purpose and our goal in producing this guide.

As a Domestic Violence Attorney/ Advocate, Why Should I Learn About Human Trafficking?

There is much to be gained from cross-training attorneys and advocates working with victims of domestic violence and human trafficking. Serving an individual client through both a domestic violence and human trafficking lens increases the likelihood that the entirety of the client's needs will be addressed appropriately. Clients who have access to a larger field of experienced attorneys will be more likely to achieve a measure of justice. Similarly, attorneys who develop a larger, better-rounded skill set and diversify their daily work will be better equipped to provide the most

comprehensive and appropriate legal services to all of their clients. An added benefit for attorneys is broadening their expertise and professional development, which often leads to increased job satisfaction.

The Overlap of Domestic Violence and Human Trafficking

As an attorney or advocate serving victims of domestic violence, it is likely that you have already served trafficking victims, without you or your client necessarily framing the case as such. There are several common ways in which domestic violence and human trafficking overlap: there are individuals whose experience with domestic violence makes them vulnerable to traffickers; there are trafficking victims who are vulnerable to domestic violence upon their escape from trafficking; and there are the “intersection” cases which contain the elements of both domestic violence and human trafficking, occurring simultaneously.

In reading descriptions of these three types of situations, you may recognize some of your current or former clients. We encourage you to use this information with insights about prior cases you have handled in order to adapt your intake and screening tools to ensure that you identify these cases in the future.

People experiencing domestic violence are often vulnerable to traffickers, especially when economic abuse is part of the power and control dynamic in which a victim is caught. Many trafficking victims explain that they were willing to take a job abroad, or to accept unclear or risky employment conditions, as it was the only way to earn enough money to be able to care for their children without an abusive spouse’s economic support. Other victims recount that they were willing to accept the

risks because they already were facing great danger at home. Where abuse intersects with poverty, human trafficking is more likely to occur. This pattern of victimization will be easy for domestic violence attorneys familiar with the cycle of violence to recognize.

Similarly, trafficking victims are often vulnerable to domestic violence, especially if they escaped their trafficking situation unassisted or unsupported. Trafficking involves a deprivation of liberty, financial resources and independence, as well as emotional and physical abuse. Victims are often left in poverty with few marketable skills and greatly damaged self-esteem. Traffickers, like perpetrators of domestic violence, often use isolation to increase their power and control, leaving victims with no social network or support system. Trafficking victims who also lack legal immigration status are especially vulnerable to repeat victimization. A thorough discussion with a domestic violence client may reveal a past experience as a human trafficking victim, which may or may not have been previously recognized.

CASE STUDY

Carmen came legally to the United States to work as a housekeeper for a family of diplomats.¹ The husband sexually assaulted her, and the family only paid her \$50 a month. The wife yelled at her for the smallest perceived shortcoming and made Carmen work 12 hours each day. Carmen spoke little English and only left the house to go to religious services with the children of the family. She finally found someone at her church to talk to about her situation, a man in the choir, who offered her sympathy and found her a place to stay if she decided to leave. When she finally left, she moved in with his sister-in-law. They began dating within a few weeks, but he quickly became

¹ Throughout this guide, names and identifying details have been altered to preserve confidentiality.

violent toward her and said she owed him everything for his help in getting her away from the diplomats. By this time, however, Carmen knew other women at her church and was able to get help. Carmen was a human trafficking victim, whose trafficking made her vulnerable to the domestic violence that she encountered upon escape.

Finally, the most extensive form of overlap is the client who is being trafficked within an intimate partner relationship.² These situations are referred to as “intersection” cases, as they represent a direct intersection between domestic violence and human trafficking. While each case is unique, intersection cases share many characteristics. First, they involve intimate partner relationships. Second, they involve forced labor and/or commercial sex. Third, they are complicated. Often, there is a complex emotional relationship between the abuser/trafficker and the victim that can prevent her from seeking assistance, decrease the opportunities for support and assistance from her community, and cause confusion for law enforcement and benefits-granting agencies. The emotional ties and other complexities inherent in these cases are very familiar to domestic violence attorneys, and intersection cases are more common than many people realize.

CASE STUDY

Charu met her husband while they were both students at the University of Indiana.³ They married within months and Charu thought that she had found the traditional groom of her dreams, as he was living with his parents. However, it became shockingly clear to Charu, almost immediately, that what had been a love match for her was going to be nothing more than exploitative housekeeping for this family. Her mother-in-law forced her to do all the family’s cooking, laundry and cleaning. Charu had studied accounting, so her husband made her help for 10 hours a day in his small business, without compensation. He also forced himself on her sexually, including once immediately after she suffered a miscarriage. Twice, he struck her with such force that she fell on the floor. He told her that he would tell her family that she was a lazy, infertile whore if she complained or found outside employment. Charu was a victim of human trafficking within her intimate partner relationship.

² “Intimate partner relationship” includes, for the purposes of this guide, any dating or marital relationship. Trafficking can also exist in other types of relationships including families and friendships, but this guide focuses on cases within a dating, marital or other intimate partner relationship. Many of the same remedies and services will be available for other types of relationships.

³ See *supra* note 1.

CHAPTER ONE

Identifying Potential Human Trafficking Cases

What is Human Trafficking?

Human trafficking involves a pattern of power and control used to extract labor or services, often, but not always, for financial or material gain. U.S. law, through the Trafficking Victims Protection Act (TVPA), defines trafficking as:

Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.⁴

One of the most common misconceptions about human trafficking is that it is primarily a crime of movement. It is not. In fact, the law does not require any movement or crossing of jurisdictional boundaries for a trafficking crime to occur. Human trafficking is primarily a crime of exploitation. Human trafficking occurs when an individual's freedom is curtailed and labor or other services are extracted through force, fraud, or coercion by another individual. This is an important nuance to keep in mind when working with clients who have not been transported across borders, as they may still be trafficking victims.

Another important element to trafficking is the other party's gain; for a crime of trafficking to occur, one

person must materially benefit from the exploitation of another by receiving something of value. While traffickers often benefit from the money that they earn from the exploited labor of the victim, this component is fulfilled if anything of value is exchanged, such as food, drugs, goods, and labor.

CASE STUDY

Sally was born and raised just outside of Chicago, in a small middle-class suburb. Sally's mother died when she was 16, leaving her confused and angry at a difficult time. Sally's boyfriend, Tom, was 18 and already living on his own. Within a year Sally was living with Tom and helping to pay the bills with a part-time job at a convenience store. That winter, construction jobs were hard for Tom to find, and the couple were about to be evicted. Tom convinced Sally that she owed him for all of the months of rent he had paid. He told her that she could make some quick money by having sex with a few guys; that no one would need to know; that Tom would protect her. To get through it, Sally got drunk. The next time, she got high. Each time, Tom took all of the money. He said it was safer if she didn't have to handle the money. When Sally told Tom she wanted to stop hooking, he would hit her. Then he would get her high. Then he would remind her of those months after her mother

⁴ Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 (8) (2008).

died when he held her all night long while she cried. He told her that he loved her, but that they needed the money; that she owed him. Sally is a U.S. Citizen victim of domestic violence and trafficking. Tom is using emotional coercion and physical violence to enslave Sally, but since Sally is a minor these factors are not required for a criminal prosecution of Tom as a human trafficker. Sally may be eligible for a range of social and legal services, but will not need immigration services.

Finally, people of all nationalities are trafficked, both within their own countries and/or to other “destination” countries. The TVPA created special remedies for trafficking victims who are non-U.S. Citizens or Lawful Permanent Residents (LPRs). These remedies include immigration options and social services.

CASE STUDY

Elizabeth lived with her abusive husband in Benin, and he denied her the money she needed to adequately provide for their children.⁵ Desperate to leave the violence and find a way to support her children, she responded to an ad that promised to place women in housecleaning agencies in the United States, where they would earn \$500 per week. She accepted the job, only to find herself trapped in involuntary servitude working in a restaurant in New York City for a man who failed to pay her, confiscated her documents, threatened to have her arrested if she complained, and denied

her any contact with the outside world, including her children in Benin. Elizabeth was a domestic violence survivor who was vulnerable to, and became a victim of, human trafficking.

Special services for trafficked youth, including U.S. citizens, were authorized by the Trafficking Victims Protection Reauthorization Act of 2005.⁶ Similar to the creation of the Violence Against Women Act (VAWA) self-petition process for battered immigrant women,⁷ specialized immigration remedies have been developed to prevent the use of immigration status as a weapon by traffickers. The specialized social services were made available because undocumented victims were not otherwise eligible to receive many public benefits. However, immigration or citizenship status is irrelevant to the definition of human trafficking. U.S. citizens of all ages may be trafficked in a variety of settings and may be eligible for a host of civil legal remedies and federal, state, and local social services (including food stamps, WIC and Medicaid).

A Note on Gender

Human trafficking, like domestic violence, affects all genders and ages within all types of relationships. In this guide, however, we will generally use female pronouns when speaking of clients because domestic violence providers are most likely to encounter female trafficking victims within their predominantly female client population.⁸ We note, however, that the type of labor or services for which victims are exploited is certainly gendered. Women and girls are more often trafficked for commercial sex, domestic servitude,

⁵ See *supra* note 1.

⁶ Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, 119 Stat. 3558, (codified in scattered sections of 18 and 22 U.S.C.).

⁷ See Chapter Two of this guide for a more comprehensive discussion of this remedy.

⁸ See, e.g., Bureau of Justice Statistics, Crime Data Brief, Intimate Partner Violence, 1993-2001, (2003) (reporting that 85% of victims of intimate partner violence are women, and 15% are men).

and garment factory work; whereas men and boys are more often trafficked for machine factory and farm labor. This guide, however, focuses on clients at the intersection of domestic violence and human trafficking where, in our experience, females are the majority of the victims. We in no way intend to minimize the reality that men can be, and are, victims of domestic violence and human trafficking, but for ease of reading we have selected this approach.

How Do I Identify Human Trafficking Victims Among My Clients?

Domestic violence attorneys have a unique opportunity to identify victims of human trafficking and to assist them in seeking legal relief.

First, it is important to educate yourself on the dynamics and circumstances common to human trafficking situations. Learn the definition and the warning signs and understand that human trafficking occurs in contexts other than those most often depicted by the media. For more general information about human trafficking, please see the resource section of this guide.

Second, review your intake forms and procedures. Consider adding some additional questions, such as those in the text box on this page.

Interview Questions

The following questions may be useful in screening your clients for human trafficking.

- Have you ever been forced to work?
- Did anyone ever threaten to hurt you or your family if you did not work?
- Did anyone force you to cook or to clean the house?
- Were you lied to about the kind of work you would be doing?
- Did anyone take your money?
- What would have happened if you did not give that person your money?
- What did you fear would happen if you left?
- Were you ever forced to do something sexual for your abuser or someone else?
- Have you been involved in commercial sex?
- Did you know others in the same kind of situation as you were in?
- Were you able to keep your identification documents with you, or did someone take them from you?

And for immigrant clients:

- How did you enter the United States?
- Were you able to keep your passport, visa or identification with you, or did someone take it from you?
- Were you working to pay off a smuggler or other debt?
- Were you free to find another job to pay the debt, or were you forced to work at a certain place?

Third, prepare yourself to represent trafficking victims, or to refer them to another attorney. The following chapters provide an overview of the legal remedies available to trafficking victims, some key practice pointers, and some important resources for practitioners representing trafficking victims. Whether you intend to represent trafficking victims yourself or refer them to others, you will need to develop a network of local resources. Victims will need access to legal, social service, medical and mental health providers who are familiar with human trafficking and who are willing and able to serve them. This area of the law is relatively new, so services can be difficult to find. Collaboration is essential. Fortunately, there are national resources available to provide technical assistance and to guide you to local organizations with expertise in social and legal services for trafficking victims. For more information about national and local resources, please see Chapter 4.

How Cultural Beliefs and Practices Can Affect Trafficking Case Recognition

Thuy's aunt introduced her to Thang, a Vietnamese man who had immigrated to the U.S.⁹ They corresponded by phone, mail and email for six months until Thang asked Thuy to marry him. Thuy was excited, but knew that her parents' permission was critical. Thang arrived in Vietnam and stayed with Thuy's family for two months. With Thuy's parents' approval, Thang and Thuy had a traditional Vietnamese engagement ceremony. Families and friends of the couple attended, including over 250 guests. As is common after an engagement ceremony, Thuy then moved in with Thang's family (an aunt and uncle who lived several hours away from Thuy's family in Vietnam) and lived there for four months while waiting for her visa. Once Thuy finally arrived in the U.S., she was excited to begin building a life with

Thang. However, Thang was not the loving suitor he had been while visiting Vietnam. He left Thuy living with a friend, claiming that he needed to finish preparing their marital home. She was forced to work in the friend's restaurant for 12 hours a day and was not paid. Thang would visit weekly and spend the night with Thuy. She believed it was her duty to repay the friend for her room and board and to show that she was a hard-working and obedient wife. Thang warned her that if she displeased him she would be returned to her family in Vietnam, a potent threat for a traditional Vietnamese woman. Thang threatened that he had sponsored Thuy and that he could have her deported. He pointed out that the Vietnamese engagement ceremony was meaningless to U.S. authorities and that if she did not please him he would not complete the marriage and Thuy's visa would expire. Thuy knew that her family would be devastated if she returned home from the U.S. without a husband. Since the entire community had attended her engagement ceremony, if she returned they would believe that she was a bad woman and worthless as a wife. The government had removed her from her family's household registration when she moved to the U.S. If she returned, she would face discrimination in housing, schooling, and employment.

Thuy is a victim of trafficking within her intimate partner relationship, but this may be a difficult case to present for criminal prosecution or immigration relief. Since Thuy is not married to her abuser, she is not eligible for a VAWA self-petition, although this wouldn't be a bar for the U or T visa. Because she was not enslaved through force or threats of force, but rather through cultural factors unique to her community, immigration and law enforcement officials may not recognize human trafficking without extensive education and advocacy.

⁹ See *supra* note 1.

The Special Complexities of Intersection Cases

Recognizing cases and clients that raise issues related to both domestic violence and human trafficking is critical and these cases are complex. These cases may present as either pure trafficking or pure domestic violence cases or even simple wage and hour cases. As is common for domestic violence victims, clients may be unwilling to describe their relationship, uncomfortable or emotionally unable to discuss the abuse in detail, or unaware that the abuse is unlawful. The legal requirements for relief may not coincide with the elements of the relationship that were most painful for the client and the words she uses to express them. Cultural beliefs (held by the client, advocate, law enforcement officer or prosecutor) about the role of women in relationships also can serve to camouflage these cases.

The existence of an intimate partner relationship, especially marriage,¹⁰ generally leads advocates, attorneys, and law enforcement to assume an abusive or exploitative situation is domestic violence and to discount human trafficking. Do not let the existence of the intimate partner relationship and of familiar legal remedies end the inquiry. The client may have additional remedies available and pursuing them may not only benefit her, but result in the protection of other women from the same fate.

Family-Based Immigration: A Modern Day Slave Route

In an attempt to evade increasing immigration enforcement, some traffickers look to family-based immigration options to entrap a slave from overseas. These options include both marriage and adoption. A marriage, for example, may have been arranged by family members through family friends or acquaintances, via an internet connection (including “mail order bride” websites or marriage brokers) or have developed out of a romantic relationship. The couple may have known each other or each other’s families for many years or have only met at their wedding ceremony. Enslavement also occurs through adoptions, when a child is adopted legally, but the adopting family intends only to force the child to engage in labor or commercial sex. The victim may believe that he or she is indebted to, and/or legally bound to the trafficker. The victim may believe that he or she cannot leave without fear of deportation or imprisonment. The victim may have family ties that would lead to great shame, severe ostracism, or further abuse upon ending the relationship.

To determine whether a case constitutes a domestic violence and human trafficking intersection case, two key components must be satisfied:

- 1 Presence of an intimate partner relationship.**
The victim is/was in an intimate relationship with the abuser/trafficker; and
- 2 Presence of labor, commercial sex or “involuntary servitude”¹¹ performed under force, fraud or coercion, or commercial**

¹⁰Marriage has a special connotation in many cultures of being beneficial, loving, safe, and important to society. These associations make it especially difficult for many people to identify trafficking within the relationship.

¹¹“Involuntary servitude includes a condition of servitude induced by means of, “any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint.” 22 U.S.C. § 7102(5)(A) (2008).

sex involving a minor. This includes any commercial element in which the abuser/trafficker benefits from the victim's labor. The labor performed may be highly varied, including cleaning the home, performing sexual acts for the abuser or others or working in a business owned by the abuser, his family, or others. The victim may be unpaid, underpaid, or face confiscation of her pay. The labor is mandated by the abuser through force, threats of force, or psychological coercion. The abuser may threaten deportation, arrest, harm to family members in the U.S. or elsewhere, or damage to the victim's reputation (or the reputation of her family). Sex trafficking of a minor does not require a showing of force, fraud or coercion.

Practice Pointers for Intersection Cases

Keep the following tips in mind as you explore potential intersection cases:

Ask about all kinds of work: Clients may not describe themselves as having been forced to work, but a discussion may reveal that when the client was sick and unable to clean the house, she was beaten. You may find that she was expected to clean not only the home that she shared with the abuser, but also that of the abuser's mother/sister/friend. You may find that she was forced to work in the business operated by the abuser or his family members. You may find that seemingly routine housework was required to an abusive degree. For example, the victim was beaten if any dust was visible.

Ask who chose the work: Exploitative labor situations abound with low pay and terrible working conditions. The key distinction between labor exploitation and trafficking is that trafficking victims cannot choose their employer or decide

when to leave. A domestic violence victim may be working at her abusive spouse's restaurant because she does not have a car or because she shares in the proceeds. A trafficking victim works in the restaurant because she is told that if she tries to get another job she will be thrown out on the street or because she is taken there every day and told she cannot leave until she finishes the dishes from the dinner service.

Ask about sexual abuse: Sexual abuse is always difficult for a client to discuss, but when you do discuss it you may find that the client was forced to engage in sexual acts with others as repayment for her abuser's debt or for payment (collected by her abuser). U.S. law describes sex trafficking as any sexual act induced by force, fraud, or coercion for which anything of value was exchanged.¹² Sex trafficking of a minor does not require force, fraud, or coercion, just a sex act in exchange for something of value. The premise of the law is that sexual consent from a minor is not possible.

Follow the money: If the client received any money for any labor or services, but the money was taken by the abuser, ask more questions. If she was working, but not keeping any of the money, find out why. This is a classic marker of trafficking—labor without adequate pay. If she really enjoyed her work but believed it was best for her spouse to handle the finances of the home and generally agreed with his financial decisions, it is probably not trafficking. Any situation short of that is potentially trafficking, but the coercion may be very subtle and culturally embedded.

Once you have identified an intersection case, you have a lot of decision-making to do. There are a variety of remedies available, but you may have to choose which to pursue and in what order. Keep in mind that the client may have remedies that

¹²“Sex trafficking means, “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.” 22 U.S.C. § 7102(9) (2008).

are unrelated to the victimization. For example, immigration remedies unrelated to victimization include temporary protected status, a family-based visa, a student visa, and/or an unrelated asylum claim. Those options are important to keep in mind but are thoroughly explored in other training materials. Please see the resources section for additional information on these remedies. Here, we will discuss only the remedies that directly relate to human trafficking and domestic violence.

Law Enforcement Referrals: What Will You Do?

Domestic violence programs around the country are increasingly being asked by law enforcement agencies to serve human trafficking victims. These clients' cases may be trafficking but may or may not be domestic violence cases. The victims are usually (but not always) women. The law enforcement agency is trying to find the most appropriate provider to serve these high-need clients, and there may not be a trafficking program in your area. Referrals from law enforcement tend to be for clients who were identified during a workplace raid or an anti-prostitution enforcement action. Before accepting such a referral, your agency should consider the ways in which trafficking clients may be different from domestic violence clients. Some key distinctions include:

- Trafficking victims who were “rescued” from the trafficking situation may not identify themselves as victims. They may be skeptical, or even resentful, of your services;
- The clients may have been arrested and detained in a jail for some time before being referred to you. They may think that you are connected to law enforcement and may have trouble trusting you;

- The clients may be emotionally connected to the trafficker and eager to return to the trafficker as soon as possible. They may be contacting the trafficker by phone and revealing your location;
- The clients should not participate in group therapy or discuss the trafficking situation with anyone who does not have a legal privilege (such as a lawyer or doctor);
- It is unlikely that law enforcement will tell you the whole story, either because they do not know it yet or to protect their ongoing investigation;
- Law enforcement may not understand that you have privacy protections for your clients and may expect that you will actively assist with their investigation;
- Law enforcement may not understand that you run a voluntary program and may expect that you will keep the client with you regardless of her desire to leave your facility.

These clients are often in need of very intensive case management and may need immediate medical and mental health care. Increasing access to comprehensive services for trafficking victims is an important goal. Your agency may be able to expand services to accommodate this incredibly vulnerable population, but it must be done thoughtfully. Begin to explore these issues with your organization before the referral comes to your door, and you will be better prepared to set reasonable limits with law enforcement and to provide appropriate services to these clients.

CHAPTER TWO

Civil Legal Remedies for Human Trafficking Victims

Litigating Civil Actions for Trafficking and Domestic Violence Victims

Once you identify a trafficking victim among your clients, you may choose to take the case yourself or refer the client to another attorney depending on a variety of factors, including the availability of resources and expertise. The following is an introductory roadmap to the civil remedies that may be available to your client should you decide to take the case.

Civil litigation can be an enormously powerful tool to seek redress for the harms done to trafficking and domestic violence victims. With some remedies, litigation may restore earnings, help victims pay off trafficking-related debts, or give victims a sense of justice in punishing the trafficker. In all cases, the victim drives the decision-making; as opposed to being the victim-witness in a criminal case controlled by the prosecution, the client is the center of the civil case. This role can be particularly vital in the process of empowerment.

It is crucial, however, to advise the client about the potential negatives of civil litigation. It can be time-consuming and drag on well past the time that the client just wants to move on with her life. It can be arduous, particularly during the discovery phase, requiring that the client provide ever greater levels of detail about her story. It can be frightening to face the trafficker across the litigation table, in a

deposition or during trial, and it may increase the risk to the victim's safety. All of these aspects need to be discussed with the client before considering whether to pursue a civil cause of action at all.

There are many different civil claims that can be brought on behalf of a trafficking victim. In intersection cases, a victim may benefit from a civil protection order. Causes of action exist at the federal and state levels, and in any given case, a different combination of these may be appropriate. Just like any complex civil litigation, strategy and timing are essential to effective representation. This chapter is not intended to be a comprehensive exploration of those issues. Several other extensive, more appropriate resources are available to assist you if you decide to litigate a case on behalf of a victim of trafficking.¹³ Please see Chapter 4 for information regarding additional, similarly helpful resources.

Please note that most of these claims may be brought in the same lawsuit. It is not necessary to file, for example, one case for wages and another for assault. One single case might have a dozen or more different causes of action. Statutes of limitation for some of these causes of action run fast, however, so it is best to determine if your client is eligible for this range of remedies quickly.

¹³One popular resource is Daniel Werner & Kathleen Kim, *Civil Litigation on Behalf of Victims of Trafficking* (S. Poverty Law Ctr. 3d ed.) (2008), available at http://library.lls.edu/atlast/HumanTraffickingManual_web.pdf.

The Trafficking Victims Protection Reauthorization Act and State Law Trafficking Claims

The Trafficking Victims Protection Reauthorization Act of 2003 provides a specific mechanism to allow many trafficking victims to file civil lawsuits.¹⁴

The claim must allege one of three kinds of harm: (1) forced labor, (2) trafficking into servitude or (3) sex trafficking by force, fraud, or coercion, or of children under 18.¹⁵ The 2003 TVPRA does not specify remedies but permits victims of forced labor, trafficking into servitude, or sex trafficking to seek damages generally. Punitive damages in such cases can be extensive, so this claim may provide a valuable opportunity for compensation if the underlying elements of the claim are all present. As of the writing of this guide (Summer 2009), there is no statute of limitations for filing a claim under the 2003 TVPRA.

In addition to federal claims, you may want to explore state anti-trafficking laws in your jurisdiction. Most states have criminal code provisions making trafficking a felony.¹⁶ Some states may also provide benefits and services for human trafficking victims while federal TVPRA claims are pending, and some have created causes of action for a civil case to recover penalties,

actual damages, and statutory damages.¹⁷ For more information, please see Chapter 4.

Employment Law Claims

Trafficking victims are often forced or otherwise coerced into slave labor, including involuntary servitude in private homes, restaurants and sweatshops, among other places. State and federal employment law protections may provide victims with much-needed economic resources, in addition to penalizing the trafficker financially. Trafficking victims may have access to employment protections from one or more of three sources: (1) federal and state wage and hour laws; (2) federal and state laws such as anti-discrimination and anti-harassment in employment; and (3) tort remedies.

Federal and State Wage and Hour Claims:

The federal Fair Labor Standards Act (FLSA)¹⁸ and analogous state wage and hour laws provide several possible economic remedies for a victim who was denied or deprived compensation for work performed. The FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in federal, state, and local governments.¹⁹ Covered “nonexempt”²⁰ workers are entitled to a federally-established minimum wage.²¹

¹⁴Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), Pub. L. No. 108-193, 117 Stat. 2875, (codified in scattered sections of 8, 18 and 22 U.S.C.).

¹⁵18 U.S.C. § 1595 (2008).

¹⁶Center for Women Policy Studies, US PACT [Policy Advocacy to Combat Trafficking], *Fact Sheet on State Anti-Trafficking Laws* (December 2007), <http://www.centerwomenpolicy.org/programs/trafficking/facts/documents/FactSheetonStateAntiTraffickingLawsDecember2007.rev9208.pdf>.

¹⁷To find out more about the available state remedies in your jurisdiction, see Center for Women Policy Studies, US PACT [Policy Advocacy to Combat Trafficking], *State Laws/Map of the United States*, available at http://www.centerwomenpolicy.org/programs/trafficking/map/default_flash.asp.

¹⁸Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201-219 (2000); *see also* 29 C.F.R. §§ 500-794.

¹⁹For current information and overview regarding the Fair Labor Standards Act, *see* U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division at <http://www.dol.gov/esa/whd/flsa/> (last visited September 9, 2008).

²⁰29 U.S.C. § 213(a)(1) (2004) and § 213(a)(17) (2004) provide an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional, outside sales employees, and certain computer employees. All other employees (including most trafficked employees) are “nonexempt,” and are therefore subject to the terms of the FLSA.

²¹29 U.S.C. § 206 (2007).

Many states and localities also have minimum wage laws. In cases where an employee is subject to both local and federal minimum wage laws, the employee is entitled to the higher minimum wage.²²

Covered nonexempt employees must receive overtime pay (at least 150% of regular pay) for hours worked over 40 per workweek.²³

Importantly, FLSA applies to employees regardless of their immigration status.²⁴ This is important because many trafficking victims are undocumented immigrants. Moreover, courts have held that it is illegal under FLSA to report a worker to the Department of Homeland Security as retaliation for a wage and hour complaint.²⁵

An employer who violates FLSA is liable to the employee for the unpaid wages and an additional equal amount as liquidated damages.²⁶ If the employee is successful in her FLSA claim, she can also be awarded reasonable attorneys' fees and costs to be paid by the defendant.²⁷ As a result, there should be experienced attorneys interested in working with you to bring these claims. Some large firms are willing to take such cases on a *pro bono* basis and donate the recovered fees to the non-profit organization which is primarily serving the client.

Federal and State Anti-Discrimination in Employment Claims:

When a human trafficking victim experiences sexual harassment or sexual assault at work, either inside the building or on premises controlled by the employer (who is often also their trafficker), she may be able to avail herself of protections under state and federal anti-discrimination laws if her employer fails to take action regarding the assault or retaliates against her for reporting it.

Title VII of the Civil Rights Act of 1964 (Title VII), as amended, prohibits discrimination against an employee in hiring, in the terms and conditions of employment, and in firing based on sex (including pregnancy), race, national origin, religion and color, for employers with 15 or more employees.²⁸ Courts have also recognized that sexual harassment is a prohibited form of sex discrimination.²⁹ An employer can be held liable if it failed to exercise reasonable care to prevent and correct the behavior, and the employee did not unreasonably fail to take advantage of corrective opportunities provided by the employer.³⁰

Sexual assault may also constitute sexual harassment when the perpetrator is a supervisor or otherwise an agent of the employer, and commits an act of rape or sexual assault on the job. Rape may create a sufficiently severe or pervasive hostile environment to hold an employer liable for the

²²29 U.S.C. § 218 (2006).

²³29 U.S.C. § 207 (2006).

²⁴*See, e.g., Montoya, et al. v. S.C.C.P. Painting Contractors, Inc., et al.*, 530 F.Supp.2d 746 (D. Md. 2008); *E.E.O.C. v. City of Joliet*, 239 F.R.D. 490 (2006); *Galaviz-Zamora, et al. v. Brady Farms, Inc.*, 230 F.R.D. 499 (W.D. Mich. 2005).

²⁵*See, e.g., Singh v. Jutla & C.C.&R's Oil, Inc.*, 214 F.Supp.2d 1056 (N.D. Cal. 2002); *Contreras v. Corinthian Vigor Insurance Brokerage, Inc.*, 25 F. Supp. 2d 1053 (N.D. Cal. 1998).

²⁶29 U.S.C. § 216(b) (2008).

²⁷29 U.S.C. § 216(e) (2008).

²⁸42 U.S.C. § 2000e (2006).

²⁹*See, e.g., Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998).

³⁰*Id.*

resulting damages.³¹ It may also constitute sexual harassment when the perpetrator is a co-worker or non-employee such as a customer, and the employer knew or should have known of abuse that involved the workplace and failed to take prompt and appropriate remedial action.³² Sexual harassment laws apply to all employees, regardless of the relationship between the perpetrator and the victim.³³

Importantly, like FLSA, Title VII applies to employees regardless of their immigration status.³⁴ Because lawsuits filed under Title VII provide for attorney's fees and substantial damages, it is often possible to find lawyers who will undertake these cases, if the considerable demands of a Title VII case are beyond your own resources.

Civil Rights Act of 1866 and 1870, 42 U.S.C. §§ 1981, 1983: Claims for race and national origin discrimination may also be brought under the Civil Rights Acts of 1866 and 1870. Known more broadly as section 1981 and section 1983 claims, these sections were specifically created to prevent race discrimination by private actors, but they have been applied to address discrimination based upon

national origin. Section 1981 protects the rights of all persons to enter into and enforce contracts. Amended in 1991,³⁵ the law also provides expanded remedies for intentional discrimination. Importantly, there is no minimum size requirement, thus small businesses and companies may be sued.

Intentional Torts: Assault and Battery

In many intersection cases, there has been battery, assault, or sexual assault. One strategy in a lawsuit may be to include these intentional torts as claims within the lawsuit, for at least three reasons. First, the harms were done and including them more fully captures the harm done to the victim than a case that only seeks payment of wages. Second, these claims can yield significant damages for physical and emotional harm and punitive damages. Third, this may be the best option for sex trafficking cases or more subtle cases of labor trafficking when it may not be possible to recover wages.

The statutes of limitations for intentional torts vary by state. Therefore, these claims must be monitored carefully so that they are not lost.

³¹See, e.g., *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986) (sexual assault by supervisor with whom employee had a prior social relationship); *Little v. Windermere Relocation, Inc.*, 265 F.3d 903, 911 (9th Cir. 2001) (serial rape on one occasion during business trip); *Tomka v. Seiler Corp.*, 66 F.3d 1295, 1305 (2d Cir. 1995); *Brock v. United States*, 64 F.3d 1421, 1423 (9th Cir. 1995) (every rape committed in the employment setting is also discrimination based on the employee's sex); *Jones v. United States Gypsum*, 81 FEP Cases (BNA) 1695 (N.D. Iowa 2000).

³²See, e.g., *Little v. Windermere Relocation, Inc.*, 265 F.3d 903 (9th Cir. 2001) (rape by client); *Hall v. Gus Constr. Co.*, 842 F.2d 1010, 1012 (8th Cir. 1988) (unwanted touching and offensive comments by co-workers); *Menchaca v. Rose Records, Inc.*, 67 Fair Empl. Prac. Cases (BNA) 1334 (N.D. Ill. 1995) (harassment by employer's customer); *Otis v. Wyse*, 1994 WL 566943 (D. Kan. 1994) (harassment by co-worker); *Powell v. Las Vegas Hilton Corp.*, 841 F. Supp. 1024, 1025-1026 (D. Nev. 1992) (harassment by employer's customer); see also 29 C.F.R. § 1604.11 (d) & (e) (EEOC guidelines confirming employers' liability for sexual harassment by co-workers and customers).

³³See, e.g., *Fuller v. City of Oakland*, 47 F.3d 1523 (9th Cir. 1995) (holding city liable for failing to take steps to stop a police officer from harassing another officer after she ended their relationship); *Excel v. Bosley*, 165 F.3d 635 (8th Cir. 1999) (finding that sexual harassment at work by employee's ex-husband violated Title VII).

³⁴Most but not all remedies apply to workers regardless of immigration status. Compare *Galaviz-Zamora, et al v. Brady Farms, Inc.*, 230 F.R.D. 499 (W.D. Mich. 2005) (holding that immigration status is not relevant to claims for wages already earned) with *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137 (2002) (holding that undocumented workers are not entitled to backpay for time that they have not actually been working).

³⁵Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1071 (1991).

Contractual and Quasi-Contractual Claims

A civil lawsuit may also raise contractual and quasi-contractual claims. These are important where either the promised wage was significantly higher than the minimum wage, or where the market value of the labor was significantly higher than the minimum wage.

A claim based on breach of contract simply needs to allege the basic elements of any contract case: formation of a contract, breach of contract, and harm. In a trafficking case, contracts are often fraudulently made by the trafficker but accepted in good faith by the worker. Courts will enforce such a contract when breached and when your client has suffered harm. No liquidated or punitive damages are available, however, under a pure contract claim. Generally, a contract claim seeks only compensatory damages.

A claim based upon unjust enrichment is a quasi-contractual claim recognizing that sometimes people are hired without an explicit wage being set but with an understanding that they will be paid appropriately for their services. In your lawsuit, you could seek redress for unjust enrichment when the trafficker wrongly benefits from the labor of your client. In such a case, the money sought would be equivalent to the prevailing wage for such labor, which will almost always be higher than the minimum wage and is therefore worth including in case a particular job is found not to fall within the FLSA's protections.

Similar to unjust enrichment is the principle of *quantum meruit* which allows the worker to seek compensation for work performed.

Civil Protection Orders

Domestic violence attorneys are already well aware of the utility of civil protection orders (variously known as CPOs, PFAs, peace orders, or restraining orders, depending on the jurisdiction). Civil protection orders for victims of domestic violence are available in every state, and jurisdictions have begun to enact statutes creating CPOs specifically for victims of sexual assault and stalking.³⁶

Clearly, the same factors that would encourage a client to seek a CPO in any domestic violence, sexual assault, stalking or harassment case also may exist in a case that intersects with human trafficking. The CPO may be a valuable tool, especially in the short term, to assist with some of your client's immediate needs and to facilitate future legal actions. The majority of states have "catch-all" provisions in their CPO statutes that can be used for relief above and beyond the basic "stay-away" provisions. This can be extremely useful when the trafficker has control of your client's passport or immigration documents, or if your client left photos or documents behind which might help her with one of her civil claims (e.g. a marriage certificate, or an original contract). Clients also may have fled in fear and simply left behind personal items that are not replaceable (phone book, gifts, items with sentimental value). Where possible, the CPO should seek return of all of those items, especially anything that could make the client's immigration or other civil case easier.

Immigration Remedies

There are a variety of immigration remedies that may be available to victims of domestic violence and human trafficking who are non-U.S. citizen

³⁶For additional information about civil protection order statutes, see the Statutory Summary Charts section of the ABA Commission on Domestic Violence website, at www.abanet.org/domviol (last visited Apr. 13, 2009).

(and generally non-LPR³⁷) victims. The remedy crafted specifically for trafficking victims is the T visa. The options that exist specifically for domestic violence victims are the Violence Against Women Act (VAWA) self-petition, the battered spouse waiver, and VAWA cancellation of removal. Other options may be the U visa for victims of crime (including domestic violence, trafficking, and other crimes) and asylum.

There are other forms of permission to remain in the U.S., such as continued presence (for trafficking victims assisting a law enforcement agency with the investigation or prosecution of a trafficking case) or the S visa (sometimes called the “snitch visa” for victims or witnesses assisting law enforcement with the investigation or prosecution of organized crime), but these do not confer long-term legal status. These options are initiated by the government only and may enable your client to remain here temporarily with employment authorization while a case is being pursued against a trafficker. Depending on the particular facts of your client’s situation, she may be eligible for several of these options. In most cases, it is possible for your client to pursue multiple remedies concurrently.

Please bear in mind that children may have their own immigration remedies, some of which are the same as those described in this guide and some of which are child-specific. For more information on representing trafficking victims who are minors, or who were minors during their victimization, refer to Eva Klain & Amanda Kloer, Amer. Bar Ass’n, *Meeting the Legal Needs of Child Trafficking Victims: An Introduction for Children’s Attorneys & Advocates* (2008).

VAWA Self-Petition: In the normal course of events, a U.S. citizen or lawful permanent resident (LPR) may petition for a spouse or child to gain lawful permanent residency. However, in abusive relationships, the abuser often refuses (or “forgets”) to complete (or even begin) this process, because he is aware that gaining immigration status removes one of the spouse’s sources of vulnerability and dependence.

CASE STUDY

The story of Charu (described in the Introduction), who married her abuser/trafficker, is an example of a case where a trafficking victim also could be eligible to file a VAWA self-petition. Because her abuser/trafficker was a U.S. citizen, and they were married, Charu would be able to file an application for her green card at the same time that she files her VAWA self-petition. This may make the VAWA self-petition the remedy of choice for Charu, despite her eligibility for other kinds of relief. It might be advisable to concurrently pursue a T visa or continued presence, however, if Charu is in need of public benefits or specialized social services reserved for trafficking victims.

The Violence Against Women Act of 1994 (amended in 2000, and again in 2005)³⁸ recognized this problem and provided a route for abused spouses and children to petition for themselves and not be reliant upon the abuser to file the petition.

³⁷Victims who are lawful permanent residents (LPRs) may not need any further immigration remedies that are specific to their victimization; they will be eligible for U.S. citizenship within three to five years and can apply independently. However, if the client may have obtained her status fraudulently (perhaps due to the abuse) or if she has family members in her home country that she would like to bring to the U.S., she may need to renounce her LPR status and apply for one of the remedies described here to correct the fraud or to more expeditiously bring the family members to the U.S.

³⁸Violence Against Women Act, Pub. L. No. 103-322, 108 Stat. 1902 (1994), *amended by* the Battered Immigrant Women Protection Act, Pub. L. No. 106-386, 114 Stat. 1518 (2000), *and* the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-62, 119 Stat. 1990 (2005).

The spouse must show that:

- 1 The abuser is a U.S. citizen or LPR;
- 2 There is/was a valid good faith marriage, i.e., not entered into solely for immigration purposes;
- 3 There was physical or emotional abuse;
- 4 The petitioner resided with the abuser; and
- 5 The petitioner is a person of good moral character.

An approved petition will generally lead to an employment authorization document (or “work permit”), limited eligibility for federally-funded public benefits, and eventual (in some cases more immediate) eligibility to adjust to LPR status and then citizenship. Petitioners can include their children as derivative beneficiaries, and there are provisions relating to self-petitions based on the abuse of one’s children. The government is not permitted to divulge information about a petition to an abuser, and the government cannot rely solely on information from the abuser in taking action against a victim. There are several excellent resources that detail this well-established remedy. See the list of resources in Chapter 4.

Battered Spouse Waiver: Sometimes the LPR or citizen abuser will petition for the spouse to gain LPR status. If the application is approved during the first two years of the marriage, the spouse receives conditional residency, which is valid for two years.³⁹ At the end of two years, the couple petitions *jointly* to “remove the conditions” and make the residency permanent. However, abusers often use

this requirement as a tactic to assert their power and control over their spouse by refusing to file the joint petition or to follow through with the process.

CASE STUDY

Josephine was living in California when she met the U.S. citizen who would become her husband.⁴⁰ He filed for her green card after their marriage, and she was granted conditional residence. A year into their marriage, he became violent toward her. To finance his drug use, he forced Josephine to take over the daily operations of his small convenience store, and confiscated the profits. For her 14-hour days, she earned no money, and he used the store’s security cameras to make sure she was not engaging in conversations with the customers. When she did, he beat her. He told her he would have immigration officials arrest and deport her if she ever left him, and he refused to file the paperwork necessary to make her conditional residency permanent. Josephine is a trafficking victim whose most immediate immigration relief is through a battered spouse waiver, although she also may be eligible for other immigration remedies.

There is a waiver of the joint filing requirement for domestic violence victims, generally referred to as the “battered spouse waiver.” It permits abused spouses to petition to remove the conditions independently. A similar provision exists where a

³⁹The two year conditionality is a result of the Immigration Marriage Fraud Act, which responded to concerns over immigration fraud by requiring that all marriage-based residency cases granted while the marriage was less than two years old would be required to undergo a second review two years after the first review. The same legislation created a waiver of this requirement for victims of domestic violence, the first immigration remedy created specifically for domestic violence victims. Immigration Marriage Fraud Amendments of 1986, Pub. L. No. 99-639, 100 Stat. 3537 (codified as amended at 8 U.S.C. §§ 1154, 1184, 1186a (1994)).

⁴⁰See *supra* note 1.

good faith marriage nonetheless ends in divorce. Children of victims who have conditional residency may qualify to be included in this petition.

The battered spouse waiver was the first immigration remedy crafted for domestic violence victims. It was included in the Immigration Marriage Fraud Amendments of 1986.⁴¹ It is a written petition that confers LPR status, and the petitioner needs to show that:

- 1 There is/was a valid good faith marriage, i.e., not entered into solely for immigration purposes;
- 2 There was physical or emotional abuse;⁴² and
- 3 The petitioner is currently a conditional resident.

There are several excellent resources that detail this remedy. See Chapter 4 for further information.

VAWA Cancellation of Removal: For victims who are in removal (also known as deportation) proceedings, a special remedy called VAWA cancellation of removal may be their best option. The “cancellation” refers to cancellation of the removal proceedings and the granting of lawful permanent residence. The victim must prove to the immigration judge that:

- 1 The abuser is a U.S. citizen or LPR;
- 2 There is/was a valid good faith marriage, i.e., not entered into solely for immigration purposes;
- 3 There was physical or emotional abuse which occurred in the U.S.;
- 4 The victim has at least three years of physical presence in the U.S.; and
- 5 The victim and/or her parents or child(ren) would suffer extreme hardship from her deportation.

CASE STUDY

In the example of Thuy and Thang (described in the Introduction), Thuy was forced to work for her abusive spouse as soon as she arrived in the U.S. Thang, her husband, left her to live with, and work for, others. Thuy may not be eligible for a VAWA self-petition, since she did not live with her spouse. However, if Thang does marry her, and if she has been in the U.S. for three years, VAWA cancellation of removal might be an option for her, especially if law enforcement is unable to recognize that her experience constituted trafficking or if she is unwilling to report Thang to law enforcement. Many trafficking victims in intersection cases are unwilling to make reports to law enforcement because they are related to the trafficker and reporting them would bring great shame and humiliation to the family. If Thuy is not already in removal proceedings, she would have to present herself to DHS to request being placed in removal proceedings in order to apply.

This remedy is less commonly used than others because denial leads to deportation. Victims may be eligible for employment authorization (“work permit”) during the removal proceedings which can last for several months to several years. A non-abused parent can file for cancellation as the parent of an abused child. However, a child cannot be included in the parent’s application but can apply for cancellation directly if s/he was also abused (note that several studies show that witnessing abuse of the parent causes injury to the child). Alternatively, once the parent’s application is approved, children can be granted parole which will last until the child is granted lawful permanent

⁴¹See *supra* note 39.

⁴²Although the regulations contain a requirement for a psychological evaluation for applications based on emotional cruelty, that requirement was eliminated and is *not* required by USCIS.

residency through another process (for example, the parent can file a family-based petition for the child).

T Visa: The Trafficking Victims Protection Act (TVPA) of 2000⁴³ provided an avenue for lawful immigration status for trafficking victims. Applicants must prove that they are:

- 1 A victim of a severe form of trafficking in persons;⁴⁴
- 2 Physically present in the U.S. on account of the trafficking;
- 3 Cooperating or have cooperated—or made reasonable efforts to cooperate—with law enforcement in the investigation of the trafficking; and
- 4 Likely to suffer extreme hardship if removed.

The T visa provides legal immigration status for four years, work authorization, and the opportunity to apply for lawful permanent residence. Certain close family members also can be included in the application as derivatives.⁴⁵

CASE STUDY

Hope came to the U.S. to be with her boyfriend, a man who had been violent toward her in their home country, but who she believed had changed.⁴⁶ When she arrived, however, the violence persisted with the added humiliation of it happening in public because they shared their living space with some of his friends. Hope's boyfriend found her a job at the upscale market where he was a manager,

but he confiscated all of her earnings. He kept her passport and told her how the police in America beat immigrants when they arrest them. After two months, Hope realized things would never improve and that she had to leave him. Hope may be eligible for a T visa if she is willing to file a report against her abuser (either to local police or federal authorities).

The T visa may be superior to other immigration options for two reasons. First, T visa recipients also are eligible for a wide range of specialized social services and benefits. Second, the victim's cooperation need not be certified by law enforcement (unlike the U visa, as explained later); instead, the victim may show the ways in which she attempted to cooperate, for example, by making reports to different law enforcement agencies about the trafficking. Minors are not subject to the cooperation requirement to get a visa, but may need to at the adjustment of status stage. For more information about filing T visas for minors, refer to the list of resources in Chapter 4.

This is a relatively new remedy, and many nuances of eligibility remain. Adjustment of Status regulations have recently been published, so the path to lawful permanent residence and citizenship is still being clarified for T visa holders. A report to law enforcement *is* required (except for minors), but a certification of cooperation is *not* required; secondary evidence of cooperation is acceptable. There is a filing deadline (with possible exceptions) only for cases where the victimization ended before October 2000; victimizations that

⁴³TVPA, *supra* note 5.

⁴⁴Defined as “(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” 22 U.S.C. § 7102(8) (2008).

⁴⁵Victims over the age of 21 may include their spouse and/or children on their applications. Victims under the age of 21 may include their spouse, children, parents and/or unmarried siblings. 8 U.S.C. § 1101(a)(15)(T)(ii) (2009).

⁴⁶*See supra* note 1.

occurred or lasted after that date have no application deadline. Applicants are eligible for social services and benefits, and can include their spouse and/or child(ren) in the application. Unlike previously described remedies, minor victims can also include their parents and unmarried siblings in the T visa application.

U Visa: A U visa is a special visa for victims of certain criminal activities—including domestic violence and human trafficking—who cooperate with law enforcement in the investigation or prosecution of those crimes. The visa lasts for four years and a recipient may apply for a work permit. Certain close family members also may be included in the application.⁴⁷

CASE STUDY

Maryam was living undocumented in the U.S. when she began a romantic relationship with a U.S. citizen who refused to marry her and became emotionally and psychologically abusive.⁴⁸ She was working but he made her put all her earnings in a joint bank account, for which he had the only ATM card, and he spent all of her money. She was frustrated by this but was raised to believe that a woman should support the man and provide whatever he needs. She felt that she needed to prove her value to him so that he would marry her. One day, he threw the telephone hard at her head when he thought she was talking to a man. Bleeding, she fled from their apartment, and a passerby called the police. The police took a report, and the abuser was arrested but never prosecuted. Maryam is eligible for a U visa on the basis of the assault, despite the fact that it was never prosecuted. She also may have a T visa option, but it is a more

challenging case factually, particularly since she had friends and stayed not through force, but from hope and culturally-based beliefs that were manipulated by her abuser. Law enforcement and immigration officials do not always understand the more subtle forms of coercion that are based in cultural beliefs and practices.

Unlike all of the other immigration remedies discussed here, a U visa petitioner *must* submit a certification from law enforcement. Chapter Three addresses this requirement in more detail.

As long as the victim never refused reasonable requests for cooperation from law enforcement, there is no requirement that the case results in an investigation or prosecution; however, in practice, it is easier to get certifications where there has been, at the very least, a criminal investigation.

This is a new remedy; the regulations were recently published as of the publication of this guide, so there are many unanswered questions. Practitioners may need to devote considerable time to convincing law enforcement to set up a certification process. The victim may have any relationship to the trafficker or no relationship at all, making this the remedy of choice for domestic violence victims who were not married to their abusers; whose abusers are neither U.S. citizens nor LPRs; or where the abuse does not amount to trafficking. Unlike the T visa, the U visa does not require a showing of hardship upon removal. Approved U visa holders may be eligible to become lawful permanent residents after three years, but relevant regulations have just been published and the process is still slow and confusing. Applicants can include their spouse and/or child(ren), and

⁴⁷As with the T visa, victims over the age of 21 may include their spouse and/or child(ren) on their applications. Victims under the age of 21 may include their parent(s), spouse, child(ren) and/or unmarried siblings under the age of 21. 8 U.S.C. § 1101(a)(15)(U)(ii) (2006).

⁴⁸See *supra* note 1.

minor victims can also include their parents and unmarried siblings.

Asylum: Asylum may be available for someone who is “outside of his or her country of nationality who is unable or unwilling to return because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”⁴⁹

CASE STUDY

Edith came to the U.S. on a student visa.⁵⁰ She fell in love with a fellow student from her country and moved in with him after a few months, although she knew her family would strongly disapprove. Threatening to tell her family if she left him, he started beating her when they fought. When money grew short, he forced her to work as a dancer in a topless bar where he was the bouncer. On two occasions, he acted as her pimp and forced her to have sex with the bar’s customers. She finally fled and, with help from a domestic violence services agency, filed criminal charges against him. Edith may have an asylum claim based on her fear of persecution by him or her own family if she were returned to her home country. He might be deportable, if convicted, which would add to her fear. Her asylum claim might also be based on the persecution she might face for having done commercial sex work, or for living with a man outside of marriage.

A victim may have a fear of return because of several of these factors, but in cases involving domestic violence, the category “membership in a particular social group” is of great interest. “Social group” claims are typically articulated with gender or sex as the immutable core of inter-related characteristics that help to more precisely define the persecuted social group. For example, arguing in support of asylum on the basis of domestic violence persecution in the prominent case *Matter of R-A*,⁵¹ the Department of Homeland Security itself argued:

It would . . . be inaccurate to say that the social group is broadly defined by gender, the marital relationship, by her inability to leave the relationship or nationality. Rather, it is the space occupied by the intersection of these factors – married women in Guatemala who are unable to leave the relationship – that is the targeted characteristic.⁵²

A woman who took steps to denounce her abuser might have a claim based upon her assertion (or the imputed assertion) of a political opinion in doing so. A woman may fear severe ostracism or physical harm from her family or community as the result of protesting an abusive marriage or divorcing. A woman trafficked into prostitution might likewise fear harm if forced to return. Abuse directed at your client because of her race, religion or ethnicity presents another potential ground for asylum. These grounds may all exist within the same case.

⁴⁹8 U.S.C. § 1101(a)(42)(A) (2006).

⁵⁰See *supra* note 1.

⁵¹*Matter of R-A*, 23 I & N Dec. 694 (BIA 2005) (interim decision).

⁵²Dep’t of Homeland Sec.’s Position on Respondent’s Eligibility for Relief, Feb. 19, 2004, at 27 (“DHS Alvarado Brief”), available at http://cgrs.uchastings.edu/documents/legal/dhs_brief_ra.pdf (last visited May 8, 2008). The DHS Alvarado Brief constitutes an authoritative interpretation of a statute, signed by the general counsel of the agency charged with the execution of that statute, and as such, should be accorded considerable deference. After briefing, the Attorney General remanded the case to the BIA in January 2005 where it sat until Sept. 2008, when Attorney General Mukasey certified the case to himself and ordered the BIA to reconsider it without waiting for further regulations. On Dec. 4, 2008 the BIA granted a joint motion to remand the case back to the Immigration Court for the development of additional facts.

An applicant for asylum must prove that:

- 1 She was a victim of past persecution⁵³ or that she has a well-founded fear of future persecution;
- 2 The persecution is/was/will be committed either by the government or by persons or groups that the government is unable or unwilling to control;
- 3 The persecution is on account of the race, religion, nationality, political opinion, or membership in a particular social group (including family group or gender) of the applicant; and
- 4 The application was filed within *one year* of arriving in the United States (limited exceptions exist where a change in circumstances materially affects your client's situation, or where exceptional circumstances prevented your client from filing within one year).⁵⁴

Victims can include a spouse and unmarried children in the application, and if granted, are eligible for a range of public benefits. Asylees are eligible to work immediately and can apply for LPR status one year after the grant of asylum. Applicants who are denied are referred to the immigration court if they have no other lawful status; if denied by the immigration court, the client will face deportation (but may be able to appeal). Asylum based on family groups or social groups defined by domestic violence or trafficking are cutting edge claims; there is little binding case law to support these claims, and that case law needs to be navigated very carefully to avoid undermining the claim. Please see Chapter 4 for additional information.

Additional Considerations: To gain legal immigration status, your client needs to be *admissible* to the U.S. The Immigration and Nationality Act defines grounds of inadmissibility, including entry without inspection, having a significant communicable illness (like HIV), misrepresenting one's intentions to an immigration official, or commission of a crime.

Fortunately, in many (but not all) cases, waivers of inadmissibility are available, or the grounds of inadmissibility may not apply to your client, for reasons related to the abuse she has suffered. If a client presents any of these issues, we recommend consulting with a more experienced practitioner.

Companion Criminal Remedies

In addition to the civil claims listed in this guide, civil attorneys should be aware of certain criminal actions which provide for civil remedies as well.

Racketeer Influenced and Corrupt Organizations (RICO) Act: RICO makes it a crime to participate in an enterprise that affects interstate commerce and involves a pattern of racketeering.⁵⁵ Some prostitution and sex trafficking networks are, therefore, being prosecuted under the RICO statute. RICO includes civil remedy provisions under 18 USC § 1694, which allow for an injured party to seek threefold damages suffered as a result of the RICO violation, as well as costs including reasonable attorney fees. The statute specifically addresses injuries to business or property.

Civil or Criminal Forfeiture: Defendants may be subject to civil or criminal forfeiture of any property used or intended to be used to commit or promote

⁵³Persecution is "harm or suffering inflicted upon an individual to punish that individual for possessing a belief or characteristic that the entity inflicting the harm or suffering seeks to overcome." It may be "broad enough to include governmental measures that compel an individual to engage in conduct that is not physically painful or harmful but is abhorrent to that individual's deepest beliefs. . . . [such as] requiring a person to renounce his or her religious beliefs." *Matter of Kasinga*, 21 I & N Dec. 357, 365 (BIA 1996).

⁵⁴Children are no longer subject to the one-year filing deadline. William Wilberforce Trafficking Victims Protection Reauthorization Act § 235 8 U.S.C. 1158(a)(2)(E). 2008.

⁵⁵18 U.S.C. § 1962 (2007).

commission of any offense. Forfeiture may include loss of property or businesses used as fronts for trafficking enterprises, or any property traceable to gross profits or other proceeds. The Mann Act also allows victims of sexual abuse, sexual exploitation, and Mann Act violations to recover actual damages and the cost of any lawsuit (including reasonable attorney fees).⁵⁶

State criminal statutes may include forfeiture provisions as well, and will often specify how the assets acquired may be used. In some circumstances, forfeiture funds may be available to your client.

Restitution as Part of Sentencing: A federal court can order restitution for a victim of trafficking, slavery or peonage as part of criminal sentencing. When a defendant is convicted of a trafficking crime, the court is required to order restitution for the victim.⁵⁷ When a defendant is convicted of a non-trafficking crime that includes a scheme, conspiracy, or a pattern of criminal activity, a federal court can, and in certain situations, must, order restitution.⁵⁸

Restitution to victims of trafficking is often part of sentencing in state as well as federal court. For example, under the New Jersey human trafficking statute, victim restitution can be ordered for the greater of the gross income or value of the victim's labor or services.⁵⁹

When there is a criminal case, it is important to develop and maintain regular contact and interaction with the criminal prosecutor (and crime victim compensation and services personnel) in your client's case. Prosecutors can recommend that a defendant's sentence include, for example, payment of a victim's medical or counseling expenses.

Victim Assistance Services: Your client may also be able to access victim-assistance services available through the criminal or civil court or an outside agency. Often, such services include access to a victim compensation fund. Check whether your jurisdiction has explicitly, or in practice, added human trafficking to the list of offenses that entitle victims to compensation. For example, Iowa includes trafficking in its victim compensation provisions.⁶⁰

Litigation Practice Pointers

Reducing Trauma: Some practices to reduce re-victimization and trauma during the litigation process include:

- Avoid unnecessary interviews by various professionals involved in the criminal and civil cases involving your client;
- Evaluate your client's ability to testify in front of the defendant and court;
- Discuss your client's rights as a crime victim;
- Help your client prepare a victim impact statement for use during sentencing;
- Consider motions for protective orders that may prevent improper questioning or bullying of your client as a witness; and
- Collaborate with a mental health provider or other support person to ensure support after difficult experiences.

Bring Both State and Federal Claims: Since FLSA establishes only minimum standards for states, an employee may be able to benefit from additional protections provided under state law. Thus, it is

⁵⁶Pub. L. No. 105-314, § 605, 112 Stat. 2974 (1998).

⁵⁷18 U.S.C. § 1593 (2008).

⁵⁸See 18 U.S.C. § 3663 and § 3663A (2008) (ordering mandatory restitution for victims of certain crimes, such as violence and consumer tampering).

⁵⁹N.J. Stat. Ann. § 2C:13-8 (2005).

⁶⁰Iowa Code Ann. §§ 915.80 - 915.94 (2008).

important to allege violations of both FLSA and more expansive state laws if they apply to maximize remedies. Similarly, every state in the U.S. has its own anti-discrimination in employment laws, as to many local jurisdictions. It is important to become familiar with these state laws which often provide increased protections, and also have different statutes of limitations and administrative filing requirements.

Immigration Status: Courts in many states are reaching the conclusion that immigration status (past or present) is irrelevant to discrimination, wage and contract claims. The case law on this point is clear.⁶¹ However, your client may feel much more confident going into the process if you already have been able to help her secure legal immigration status (even if it is temporary) in the U.S. If it seems possible to at least file for immigration relief before any statutes of limitation expire, then perhaps that would help your client. Simultaneously, you can reassure the client that you will fight to keep her past and present immigration status out of the proceedings, from discovery through trial. Excellent sample briefs arguing in support of protective orders on the question of immigration status are available from organizations that have confronted this issue, should it arise in your case. Refer to Chapter 4 for more information.

Concurrent Criminal Case: The existence of a criminal case may require that your civil action be stayed, once filed. For example, the TVPRA of 2005 specifically states that a civil matter based on similar facts to a criminal proceeding *shall* be stayed.⁶² Other claims can be stayed or allowed at the discretion of the court. Because an admission or finding of guilt in a criminal case is admissible in a civil case, it is usually to your advantage to stay the proceedings until the criminal case is concluded. If, however, the case is moving forward slowly,

and your client is in urgent need of compensation, it may be possible to proceed with at least some of her claims. Keep in close contact with the law enforcement officials working on the criminal case so that the civil case does not inadvertently disrupt their case in ways that are preventable.

Filing Multiple Claims: As noted above, most of these claims can be filed within the same lawsuit. (This is true of any claim with a private right of action.) As long as you can include in the pleadings sufficient factual allegations to withstand a motion for summary judgment, you can include the claims. Consider a broad mix to cover the different kinds of damages available to your client and to ensure that if one part of your case is weak, a claim is alleged that will play to the strengths of your case.

There may be strategic reasons, however, to include some claims but not others. For instance, you may strongly want a jury trial if you believe jurors would be sympathetic to a human trafficking case and if you are seeking punitive damages. However, if your client is an immigrant, and you fear your jury may be biased as a result, then a bench trial may be preferable. Another consideration is whether you want to litigate in state or federal court. Think about your jury pool, the reputations of the judges who might preside over the case, and the time and expense of federal litigation versus state litigation. You can include state and federal claims in one case, but if you file in state court and include a federal claim, the defendant(s) can remove the case to federal court.

Negotiations and Settlements: Prior to, or in lieu of, filing a civil claim, you may wish to enter negotiations with the trafficker to obtain compensation or other relief for your client. Negotiations can be formal or informal, but it is a good practice to initiate the negotiation in writing,

⁶¹See, e.g., *E.E.O.C. v. City of Joliet*, 239 F.R.D. 490 (N.D. Ill., 2006); *Galaviz-Zamora, et al. v. Brady Farms, Inc.*, 230 F.R.D. 499 (W.D. Mich. 2005); and *Flores v Amigon*, 233 F. Supp. 2d 462, 463 (E.D.N.Y. 2002).

⁶²18 U.S.C. § 1595(b)(1) (2008).

laying out the allegations in a letter clearly marked “for negotiation purposes only” (so that the letter cannot be used to impeach your client in any related civil proceeding), and making the request for relief. The letter should advise that, as this is a legal matter that could result in a lawsuit, the trafficker may wish to consult an attorney.

Negotiations with traffickers rarely result in settlements that come close to approaching the full amount of money that your client is owed. However, they are completed more quickly, do not require face-to-face interactions between your client and her trafficker, and can be concluded in complete secrecy. These can be important considerations for clients who fear retaliation from their family, community or the trafficker.

If you do reach an agreement with the trafficker, get that agreement in writing. We advise never putting a confidentiality clause into the agreement, unless the negotiation falls apart without it. If the other party insists upon such a clause, it should be carefully limited so that the client is able to talk to her loved ones, therapist or other support persons about what happened to her without fear of being sued for breach of contract. Sometimes it is possible to limit the clause to not disclosing the amount of the settlement.

Tax considerations are important to the structuring of the agreement. Generally, any money your client receives through a settlement will be taxable as income. However, if there was physical abuse in the relationship, you can try to structure the settlement agreement as compensation for that abuse; money paid to settle a physical abuse claim is not taxable as

income. Finally, if the settlement primarily covers unpaid wages, then the employer is still responsible for payroll taxes and FICA.

Diplomatic Immunity: Unfortunately, when a trafficker is a diplomat, diplomatic immunity provisions may affect a client’s ability to pursue certain remedies. The basic rule is that diplomats have full civil and criminal immunity under the Vienna Convention on Diplomatic Relations *if* they raise immunity as an affirmative defense. This basic rule may not apply, however, if the trafficking situation involved commercial activities, such as the diplomat running a catering business from his or her home.⁶³ It is also vital to realize that not everyone who calls themselves a diplomat is entitled to immunity. There are much lower levels of protection for non-diplomatic embassy staff and consular staff, for example. Inquiries can be made at the Department of State Office of Protocol to ascertain if the diplomat is immune. The only certain way to find this out is to sue the diplomat and see what proof is offered as an affirmative defense. The Department of State can request that the trafficker’s home country rescind or waive immunity, but that is a very long process and unlikely to be successful in all but the most egregious cases. Significant media attention may be required to prompt the State Department to act. However, the threat of media attention or reports to the government that employs the diplomat can sometimes encourage a diplomat to agree to a settlement. These cases are difficult and require a careful analysis of the politics of the situation.

⁶³Many advocates contend that hiring a domestic servant also constitutes a commercial activity. Circuits are split on this issue. A suit brought under the Vienna Convention disagreed with that view, although a suit brought under the Foreign Sovereign Immunities Act, *did* recognize domestic work as a commercial activity. *Compare Tabion v. Mufti*, 73 F.3d 535 (4th Cir. 1996), (holding that employing a domestic servant is not “commercial activity” under the Vienna Convention) *with Park v. Shin*, (holding that a domestic servant falls within the commercial activities exception) 313 F.3d 1138 (9th Cir. 2002). The arguments for the commercial activities exception to apply are arguably weaker in the context of an intersections case where there is not likely to be any formal hiring process or contractual employment relationship.

CHAPTER THREE

Practice Pointers for Effective Representation

Comprehensive Client Care

Human trafficking cases can be very complex, with multiple legal remedies and social services available. Similar to domestic violence victims, trafficking victims benefit from a holistic approach that identifies and addresses all of their needs. Trafficking victims may have just recently escaped and have no safe place to stay, or may already have built a new life. New clients should be screened for their complete legal and social needs. Ideally, an attorney will have a close partnership with a social service agency and in some cases, an in-house case manager that can provide case management services. Domestic violence attorneys may need to expand their list of potential partners to comprehensively serve trafficking victims.

It is critical that all of the providers working with a specific trafficking victim communicate often about their roles and any common challenges. Defense attorneys for the traffickers may contact the immigration attorney or other providers seeking information. It is important to inform all who are assisting the victim of such tactics so that they are ready to respond appropriately. It is important for all to know who the client's representative or advocate is for purposes of any criminal prosecution, and what exactly that person's role is. This is likely to be either the attorney filing any civil claims for back wages or damages or the immigration attorney. For trafficked immigrants, it is critical that the immigration attorney be involved in any communication with law enforcement since most trafficking-related immigration remedies require,

or are greatly supported by, reports from law enforcement. Clients will be bewildered by the various government agencies involved and legal cases contemplated. Social service providers need to have enough context to respond to the client's concerns and assist in clarifying the process.

Safety Planning: As with domestic violence clients, the first step with trafficking clients is to develop a safety plan. The process is very similar for both client groups, but trafficking victims may have some additional issues to consider. Traffickers may be part of a larger network, even an organized crime ring. If so, safety issues may be more urgent and may require relocating the client to another city or state. The involvement of law enforcement may be necessary to adequately protect both the victim and the provider. Trafficking victims may need to avoid the trafficker's or victim's ethnic group (which may be the same or different) or certain parts of town that are well-known to the trafficker. Always ask the client if she has a cell phone or bank account or other documents that might be traceable by the trafficker. Finally, be sure to conduct safety planning for your own agency and other providers working with the client. Address the safety of personnel, property, and data.

Housing: Domestic violence shelters may or may not have received training on human trafficking. They have probably encountered intersection cases before, but may not be aware of it. Many shelters have requirements and rules that may not be appropriate for trafficking victims. Particular attention should be paid to policies that restrict

privacy (required participation in group therapy or other disclosures) or relate to employment. Trafficking victims may be witnesses for a federal or state criminal prosecution of the traffickers, and discussing the case in a group setting could cause problems with the case. Additionally, trafficking victims may have experienced very different forms of abuse which would not be easily understood by other members of the group. Trafficking victims may have debt that led, in part, to their vulnerability to the trafficker. They may be completely focused on working to repay that debt. Policies that restrict their ability to work and repay their debt (curfews, mandatory meeting times, mandatory classes, mandatory savings plans) may not be appropriate and may put them in danger. Alternatively, trafficked immigrants may not be permitted to work immediately. As with battered immigrant women, trafficked immigrants may have to prepare and submit a thorough application and wait for approval before being issued employment authorization (commonly referred to as a “work permit”). This may take months or years. Emergency, temporary, and transitional housing programs which require proof of legal status or legal employment could be problematic.

Medical Care: Trafficking victims generally receive little to no medical care during their enslavement. They may have been exposed to dangerous chemicals or viruses, or they may suffer from long-term conditions like heart disease that have gone untreated. A trafficking victim should be taken for a thorough medical exam as soon as possible. The client should be asked about prior illnesses, pains, or problems that were not treated (or not thoroughly treated) before and during her victimization, including dental problems.

Mental Health Care: All trafficking victims should be offered mental health care. Depending on the client’s background and experience, she may not be comfortable with American mental health care. Clients should not be forced to attend counseling

sessions, but the advocate may need to think carefully about how to explain and introduce the option. Terms like “counseling” and “therapy” may not be understood or accepted by some clients. Instead, it may be helpful to offer to introduce the client to someone who is a “very good listener.” It might also be important to emphasize that this person (if your state provides a mental health provider privilege) will be able to keep everything a secret and that the case manager cannot (if your state does not have a trafficking advocate privilege). Privilege is an important issue to consider when selecting a mental health provider for trafficking clients. Because a federal and/or state prosecution is possible, it is important that the client discusses the details of the trafficking experience only within the context of a privileged relationship. Thus, a case manager with no privilege should not discuss the trafficking experience with the client.

Education: Trafficking victims may have limited previous education. Identifying appropriate educational resources will empower the victim and help her to find new employment opportunities after completing her studies. Trafficked immigrants may not be immediately eligible for financial aid but may become eligible once they secure immigration status (grants of asylum, T visas and continued presence all lead to eligibility for federally-funded financial aid). All minors should be accepted, regardless of their immigration status, by publicly funded schools up to grade 12. Trafficked immigrants may also benefit from English classes. All trafficking victims are likely to benefit from basic job skills or computer skills classes.

Employment: Most trafficking victims are eager to work. Working without authorization is not legal, and if the workplace is raided by Immigration and Customs Enforcement (ICE), the client could be detained and put into deportation proceedings. It is important that all undocumented clients are provided with multiple copies of their lawyer’s business card and a letter stating that the client is

a trafficking victim pursuing a T visa (or whatever immigration remedy is being sought) to be presented to ICE or other law enforcement agents if detained. This will generally reduce the chance of a client being transported to a distant facility or immediately removed (deported).

Access to Benefits: Trafficking victims often have difficulty accessing the benefits that they need. U.S. citizens and lawful permanent residents (LPRs) face challenges proving their eligibility if the trafficker confiscated their documents. This is compounded by challenges faced by some trafficking victims who have been enslaved for so long that they do not know their birth names or ages. Once identity documents are obtained, victims will find that the services often are limited, and the waiting lines are long. Clients may benefit from food stamps, subsidized housing, and free medical care for the uninsured. Cash benefits are rare and generally reserved for mothers with young children, the elderly, and individuals with disabilities.

Trafficked, undocumented immigrants generally are not immediately eligible for any federally-funded public benefits. They must first obtain recognition as a trafficking victim from the Office of Refugee Resettlement within the Department of Health and Human Services (HHS). In order to obtain such recognition, a victim can file for a T visa, or be granted continued presence. For further information, please consult the resources listed in Chapter 4.

Working with Law Enforcement

Domestic violence attorneys may have some experience in working with law enforcement, but most legal remedies traditionally pursued by domestic violence attorneys do not require any on-going interaction with law enforcement. Trafficking cases, however, are different. Law enforcement is much more present, either because the victim needs assistance from law enforcement in order to access benefits or legal remedies or because the client has

been charged with a criminal incident related to the trafficking. Attorneys working with trafficking victims need to be prepared for this increased interaction with law enforcement and be prepared to act strategically. The key roles of the attorney in a trafficking case, however, are the same as in a domestic violence case: closely follow any criminal cases, facilitate communication between law enforcement and the client, and advocate for your client's interests at all times. There are, however, a few key differences.

First, the stakes may be higher in trafficking cases. Domestic violence is a matter of state and local law, and can often be minimized by law enforcement. Prosecutions are few and the penalties handed down in the rare convictions are, in all but the most horrific cases, comparatively light. Human trafficking, on the other hand, is a federal crime. It has been highlighted as a human rights focus of the U.S. government. Significant resources have been dedicated to identifying and prosecuting traffickers. The penalties are steep. Under the TVPA, traffickers can be sentenced to 20 years to life for trafficking crimes. Additionally, many states are implementing trafficking laws that include a state crime of trafficking.

Second, both the T and U visas *require* your client to engage with the criminal justice system. The familiar immigration remedies for domestic violence victims (VAWA self-petition and cancellation, battered spouse waiver, and asylum) are certainly strengthened by corroboration from law enforcement, but do not require it.

Third, there may be additional safety concerns in a trafficking case. The trafficker(s) may be part of a criminal network or may simply have powerful connections in your client's community or home country. Both of these scenarios greatly raise the risk of retaliation against your client and her family members, as well as any advocates and attorneys working with her. The client, and even members of her family, may be eligible for asylum simply

because of the fear of retaliation. Every effort, therefore, needs to be made to protect your client during the investigation and the prosecution. It is also wise to conduct safety planning for your office.

Note, however, that involvement with law enforcement may *not* be necessary. Trafficking victims may be able to achieve all of their objectives with the traditional civil remedies available to domestic violence victims. Clients may be uninterested in the criminal justice system, wanting only to get away safely and to move on. Generally, U.S. citizens have that option. Trafficked immigrants, however, often must work with law enforcement in order to secure immigration remedies, reunite with family, and access social services. Clients should carefully consider their priorities and understand the pros and cons of all available resources and remedies before deciding to contact law enforcement.

Timing: If your client has not yet reported the crime to law enforcement, there are some benefits to taking time before making the initial approach. In particular, a traumatized client may be receiving counseling that will help her tell her story to you and later to law enforcement in a more effective, coherent way. Some clients are not able to discuss the trafficking situation for several months regardless of the benefits available. Time also allows you to develop a more nuanced understanding of your client's situation; the average trafficking case takes two or three multi-hour interviews before even the broad parameters of the story are known and settled. It may take even longer if you are using an interpreter to communicate with your client.

With the T visa particularly, although your client may be eager to secure immigration relief due to safety and other concerns, it ultimately will benefit the client to develop the case thoughtfully and accurately to avoid inconsistencies and errors that could prolong adjudication of her application down the road. There is no deadline for filing a T visa application.⁶⁴

With the U visa, however, there may be significantly more risks associated with delayed reporting. Although there is no statute of limitations, the requirement that law enforcement certify the victim's cooperation means that in practical terms, reports must be made in such a timeframe that law enforcement is likely to actually investigate or at least document the crime. As domestic violence attorneys already know, the likelihood of domestic violence charges being investigated, let alone prosecuted, diminishes with each passing day. There are also specific criminal statutes of limitation affecting law enforcement's ability to prosecute. Therefore, if the U visa is your client's best route to immigration status, you may not have the luxury of working with a therapist for a significant period of time to help the client tell her story in the most effective way. The practicalities of launching an investigation may demand a much quicker response.

This time also should be used to investigate to which law enforcement agency the report could be made.⁶⁵ Some agencies, offices, and individuals are more likely to investigate trafficking cases. Some are known to be more victim-centered in their approach. Contact local or national trafficking advocates to research your options. Determine the client's priorities. Does the client want to see a prosecution go forward, or is she just willing to do whatever is necessary to bring her children to

⁶⁴A one year filing deadline exists for trafficking cases which occurred before the passage of the TVPA, with limited exceptions. However, the deadline was not in the statute and the regulations are thus arguably *ultra vires*. Alternatively, advocates can argue the trafficking continued past the October 2000 date, e.g. threats made to family members subsequent to the victim's escape.

⁶⁵Reports can be made to a variety of agencies including: Department of Justice, Criminal Section, Civil Rights Division; Federal Bureau of Investigation; Department of Homeland Security, Immigration and Customs Enforcement; Department of Labor; the local U.S. Attorney; and state and local law enforcement.

the U.S.? If the former, find the agent who is most interested and experienced in trafficking cases.

There are good faith ways to make the report while assuring your client that law enforcement will display sensitivity in handling the report. For example, the Department of Justice Trafficking in Persons Hotline will keep the client's identity protected during the phases of an investigation prior to determining whether they will bring a criminal case forward or not. Many local law enforcement agencies have been well-trained on these issues and can be valuable allies in supporting victims during a trafficking investigation. See Chapter 4 for additional information.

Finally, you should work to control the timing of the various interviews and other related appointments. In some cases, clients benefit from scheduling an appointment with their therapist or other support person immediately after a law enforcement interview. Communication among all providers working with a client is especially important during an active law enforcement investigation, when a client is likely to be re-traumatized to some degree.

The Trafficking Victim as Victim-Witness: In the criminal case, your client transforms—often unfortunately so—from “client” who has agency over her case to “witness” who has little control over the process. The civil lawyer's role in this process is to advocate for the client's interests, to help the client maintain some agency during the process, and to help the client make sense of the often bewildering process (particularly for traumatized clients).

Specifically, the lawyer can be an invaluable advocate helping to communicate the client's interests to law enforcement. Does your client have fears about making the abuser deportable? Does she

fear retaliation against herself or her family? Will your client be devastated if the abuser is allowed to serve merely a few hours of community service in return for a guilty plea? Being able to help law enforcement understand the client's goals may help to obtain a better outcome for your client.

In interviews with law enforcement, your presence also may be reassuring to the client. Although the interviewer will prefer fewer interruptions, you may be able to help clarify where you see a misunderstanding, or ask for a break to speak with your client when you sense she is unable to talk about the most traumatic aspects of her case. You may need to ask for more time (weeks) to allow your client to start processing the trauma with a therapist. Your understanding of the case and your relationship with the client are a tremendous asset to the law enforcement investigation, so you must not be shy about embracing this role.

Your role is also to advocate for law enforcement to understand the case in its entirety. As noted above, a prosecutor experienced in domestic violence cases may not be on the lookout for signs of human trafficking. You can argue the case to him or her so that the investigation covers what is important to your client.

You also may need to ensure that your client's rights, as a victim, are being protected. The U.S. Department of Justice's *Attorney General Guidelines for Victim and Witness Assistance* outlines crime victim rights fairly clearly.⁶⁶ Notably, the client is entitled to notification about the status of the case, assistance in accessing services and protection from the perpetrator. The client also has the right to attend the trial or to prepare a victim impact statement. The client will likely benefit from assistance in preparing a victim impact statement, which can affect sentencing.

⁶⁶U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime; *Attorney General Guidelines for Victim and Witness Assistance* (2005), available at <http://www.usdoj.gov/olp/final.pdf>.

Finally, where your client is pursuing a T or U visa, your role is certainly to advocate for law enforcement to certify your client's cooperation. For the T visa, the lawyer can document the client's efforts to cooperate if law enforcement is unwilling to provide an official certification. Some law enforcement agencies have excellent systems in place to certify. Many others will require education about the certification purpose and process, and will need follow-up from you to get the certification done. For the latter, drafting the form itself, and/or talking with local service providers, the victim advocate, prosecutor, detective, or responding officer may help.

Standards for Cooperation: Ongoing Cooperation, Reasonable Requests: When considering whether or not to certify your client, law enforcement can consider whether your client has cooperated on an ongoing basis. A client who files a police report but then refuses to speak with a detective is unlikely to be certified. Likewise, a client who refuses to testify may, possibly, be deemed to have stopped cooperating. If an official certifies your client, and at a later date the client stops cooperating, the official has the ability to revoke the certification, so the "ongoing" character of the cooperation is very important.

This requirement is tempered, however, by the requirement that a law enforcement request be *reasonable*. Clearly a request that puts the client or her family in danger, or a request for testimony in another state without any provision for transporting the client, could be unreasonable. The context matters greatly, and the lawyer must ensure that the client continues to be seen in the best possible light, explaining why a specific request is not possible while seeking ways to continue to be helpful generally. Specifically, the client's physical and mental state should be considered. Where a client has suffered psychological trauma, and interaction with law enforcement is interfering with her recovery, even an interview request may be seen as unreasonable.

When Law Enforcement Resists Identifying a Crime as Trafficking: Intersection cases are opportunities to bring many criminal statutes to bear in the effort to hold traffickers accountable. However, too frequently, law enforcement sees these cases as "either/or." Prosecutors who specialize in domestic violence may have only a cursory understanding of human trafficking, and of the breadth of the related federal criminal statute. Sadly, law enforcement agents also may be unwilling to "turn over" a case to another agency for prosecution and may choose to sit on it instead; or it may be determined that jurisdiction rests with the agency that is least interested in pursuing trafficking cases (especially intersection cases which are particularly hard to prosecute). This pigeon-holing and turf mentality precludes the fullest possible prosecution of the case.

It is entirely appropriate for you to encourage law enforcement to think about all the crimes embedded in an intersection case, emphasizing that the more charges that can be filed, the greater the leverage the prosecutor has during any plea negotiations.

The Trafficking Victim as Defendant: Some trafficking victims are discovered only after they have been charged with a crime. Generally the crime is related to the trafficking. Domestic violence attorneys may have experienced this with clients who, for example, turned to theft to feed themselves and their children. Trafficking victims may have been forced into theft, prostitution, drugs, fraud or any number of crimes. It is crucial that the attorney defending the client in the criminal case be made aware of the circumstances surrounding the criminal acts. It might be beneficial to report the trafficking crime quickly to an experienced and victim-centered law enforcement agency. The agent investigating the trafficking also should contact the prosecutor's office to possibly convince the prosecutor to reduce or drop the charges.

This conflict is often seen with sex trafficking victims who are arrested on prostitution-related charges. Increasingly, local law enforcement agencies are screening for trafficking victims, but not all do. For all trafficking victims, the arrest makes it more difficult to find appropriate services and support, and further erodes their self-confidence and belief in the system. The trafficker has likely been telling the victim that no one will believe her, that she is a bad person and will be arrested and (if applicable) deported if she calls the police or tries to escape. This arrest has reinforced these threats. In any case, additional psychological support will likely be necessary. Individuals seeking immigration relief will have to disclose and explain this criminal history in the context of their immigration application, although a waiver will likely be available.⁶⁷

Working with Media: Opportunities and Cautions

Human trafficking is an atrocious crime, and as such, has generated vast media interest. Organizations known to focus on human trafficking are often inundated with requests to interview “victims,” requests to go on rescue operations, and so forth. As with any kind of legal representation, media can be strategically useful, but only after careful analysis with the client about the risks and benefits.

The risks of working with media include direct retaliation to the client and/or her loved ones by the trafficker. This is especially true in the internet age when even a local media outlet’s story will be commented upon, blogged about and emailed instantaneously around the world. The dangers also may include condemnation in the home country

for bringing shame to a fellow national (where the trafficker is from the same country), or harassment of the client if she wins large money judgments in court, regardless of whether she ever collects money on those judgments. A client may also be re-traumatized by the telling or viewing of her story.

Apart from personal risks to your client, a separate but significant risk is the loss of control over the story; once an interview has been done, your client usually has little to no control over the editing process. Comments may be taken out of context, or key facts confused, which could then complicate ongoing civil, criminal or immigration cases. Finally, prosecutors understandably shy away from media during an investigation or prosecution for fear that the victim will make inconsistent statements that can then be used to attack credibility during a trial.

On the other hand, the benefits to engaging with the media can be considerable, depending on the circumstances. First, working with the media may help the victim to have more agency in holding her abusers accountable by publicly shaming them. Media exposure can also bring pressure to settle ongoing litigation or pressure traffickers to honor court judgments. In the specific case of traffickers who are diplomats with diplomatic immunity, media pressure (or the threat of it) may be the *only* way to start a negotiation process. Finally, many victims voice a hope that by telling their story, they can shed light on a terrible crime and prevent the victimization of others. This can also be therapeutic. In any case, it is likely that positive, responsible media coverage will generate interest in the case in ways that make an investigation by law enforcement and/or an immigration application even more compelling.⁶⁸

⁶⁷The process is not yet entirely clear as adjustment of status regulations have just been published for the T and U visas as of the writing of this guide.

⁶⁸Any solid media coverage of a client’s case could be submitted in support of an immigration application.

For some clients, no matter how great the benefits, her fear of speaking publicly about her experiences will rule out working with the media. For others, the time may not be right. For yet others, it is difficult to convince them *not* to talk to the media. There is no hard and fast rule for or against working with media, and we recommend simply helping your client think through all the options, the risks and the benefits, and documenting your advice for the client to reflect upon later. Clients should also be encouraged to consider what limitations they want to place on the media coverage (disguised face or voice, use of a false name) and have signed agreements from media outlets specifying these limitations.

CHAPTER FOUR

Resources for Attorneys & Advocates

This guide is meant to serve as a basic introduction to the variety of issues you will encounter and need to be aware of when assisting victims of human trafficking. Comprehensive resources relating to the topics outlined in this guide already exist and are constantly being updated to reflect changes in law. We hope the following information will be useful to you in locating these additional resources.

Additional Resources

Additional resources are available at www.abanet.org/domviol/tip.

Useful Organizations

There are many local and national organizations that have resources for attorneys representing human trafficking victims. Some of these organizations are:

- ASISTA: www.asistaonline.org
- Center for Gender and Refugee Studies: www.cgrs.uchastings.edu/
- Center for Women Policy Studies, US PACT [Policy Advocacy to Combat Trafficking], National Institute on State Policy on Trafficking of Women and Girls: www.centerwomenpolicy.org/programs/trafficking/default.asp
- The Freedom Network USA: www.freedomnetworkusa.org
- The Legal Aid Foundation of Los Angeles: www.lafla.org
- Humantrafficking.org: www.humantrafficking.org
- The Immigrant Legal Resource Center: www.ilrc.org
- Legal Momentum's Immigrant Women Program: www.legalmomentum.org
- The National Network to End Domestic Violence: www.nnedv.org
- The U.S. State Department Office to Monitor and Combat Trafficking in Persons: www.state.gov/g/tip
- National Employment Law Project: www.nelp.org
- National Employment Law Project's Immigrant Worker Project: www.nelp.org/iwp
- National Immigration Law Center: www.nilc.org
- Legal Aid Society, Employment Law Center: www.las-elc.org
- U.S. Committee for Refugees and Immigrants, National Children's Center Resource Library: www.refugees.org/article.aspx?id=1556&subm=75&area=Participate&ssm=118

Print Manuals

Ayuda. *Assisting Battered Immigrants and Their Children to File Immigration Claims Under the Violence Against Women Act: A Manual for Immigration and Domestic Violence Attorneys and Advocates* (5th Ed.), available upon request at www.ayuda.com/pages/page.cfm?id=41&pid=6&eid=11

Center for Applied Legal Studies, Georgetown University Law Center, *Asylum Case Research Guide*, available at www.ll.georgetown.edu/guides/CALSAsylumLawResearchGuide.cfm

Florida Coalition Against Domestic Violence, *Domestic and Sexual Violence Advocate Handbook on Human Trafficking: Collaborating to End Modern-Day Slavery* (2nd Ed.) (2004), available at www.fcadv.org/downloads/legal/Human%20Trafficking%20Handbook%20for%20advocates%20English.pdf

Regina Germain, Amer. Immigr. Law. Ass'n, *Asylum Primer: A Practical Guide to U.S. Asylum Law and Procedure* (5th Ed.) (2007).

Immigrant Legal Resource Center and the Catholic Legal Immigration Network, Inc., *The VAWA Manual: Immigration Relief for Abused Immigrants* (5th Ed.) (2008), available for purchase at www.cliniclegal.org/Publications/GuidesHandbooks.html

Daniel Werner & Kathleen Kim, *Civil Litigation on Behalf of Victims of Trafficking* (S. Poverty Law Ctr. 3d ed.) (2008), available at http://library.lls.edu/atlast/HumanTraffickingManual_web.pdf

Eva Klain & Amanda Kloer, Amer. Bar Ass'n, *Meeting the Legal Needs of Child Trafficking Victims: An Introduction for Children's Attorneys & Advocates* (2008), available upon request at www.abanet.org/domviol

U.S. Conference of Catholic Bishops, Migration and Refugee Services, Catholic Legal Immigration Network and the Legal Aid Foundation of Los Angeles, *A Guide for Legal Advocates Providing Services to Victims of Human Trafficking* (Nov. 2004), available at www.cliniclegal.org/Publications/Freepublications/HumanTrafficking.pdf



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COMMENTS



Services Available To Victims of Human Trafficking

A RESOURCE GUIDE FOR SOCIAL SERVICE PROVIDERS

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The background of the page features a teal-tinted photograph of a woman's face and hand. She is looking directly at the camera with a serious expression. Her hand is raised, with fingers slightly spread, positioned in front of her face. The image is overlaid with a grid pattern.

Introduction

The Trafficking Victims Protection Act of 2000 (TVPA) authorizes the U.S. Department of Health and Human Services to certify foreign victims of a severe form of trafficking in persons, making these individuals eligible for federally funded benefits and services to the same extent as refugees. Victims of human trafficking are subjected to force, fraud, or coercion for the purpose of commercial sex or labor; they can be young children, teenagers, men, and women. There are many benefits and services available for foreign trafficking victims, including Refugee Cash and Medical Assistance, the Matching Grant Program, the Public Housing Program, and Job Corps. In addition, there are many community resources available for them. Trafficking victims generally are not able to obtain these resources by themselves; they need social services providers to assist them in accessing benefits and services so that they can achieve self-sufficiency, become survivors of human trafficking, and rebuild their lives in the United States.

Social services providers play an important role in helping victims of human trafficking restore their lives. The needs of trafficking victims tend to be complex, often involving interactions with multi-jurisdictional law enforcement personnel, lawyers, and an array of benefit providers. Also, service providers must consider the varying levels of trauma the victim has endured and the victim's cultural background when addressing his or her needs. This booklet can guide service providers in helping their clients access services. It briefly describes the many community and State-funded resources available for victims. In addition, it outlines the types of Federal benefits and services available to trafficking victims in various immigration categories.

Resources for Pre-Certified Victims

Pre-certified victims are persons who are neither U.S. citizens nor Lawful Permanent Residents (“foreign victims”) and who have not yet received a Certification Letter from the U.S. Department of Health and Human Services (HHS) allowing them to access federally funded benefits and services to the same extent as refugees. There are many resources available to pre-certified victims, and many nongovernmental organizations (NGOs) are very knowledgeable and helpful in using community resources to assist victims.

Community Resources

Here are some of the local resources NGOs can use for victims:

- **Food:** Food pantries; soup kitchens; faith-based food programs; supermarkets/restaurants/bakeries providing day-old, slightly damaged, or leftover food items to charitable organizations
- **Shelter:** Domestic violence/women’s shelters; runaway and homeless youth shelters; transitional housing programs; shelters for undocumented immigrants (usually for men); and faith-based housing programs, such as the Catholic Worker Movement that provides housing opportunities in many U.S. communities (<http://www.catholicworker.org/communities/commllistall.cfm>); some faith-based organizations donate rent money or identify church members who can offer temporary housing; temporary shelter in seminaries, convents, or school dorms; State foster care for eligible children; state or local housing and community development agencies can provide lists of affordable housing projects and identify non-profit organizations that manage affordable housing
- **Clothing and Goods:** Local chapters of national organizations providing clothing and goods (Goodwill, Salvation Army, St. Vincent de Paul, AMVETS Thrift Stores); many nonprofits operating thrift stores offer free clothing giveaways; professional clothing donation services, such as local Dress for Success® affiliates (http://www.dressforsuccess.org/dfs_affiliates.aspx) or The Women’s Alliance (<http://www.thewomensalliance.org/>); similar locally operated programs can be found through Internet search engines; some churches, schools, and hospitals operate clothing drives/clothing banks; refugee resettlement agencies provide donated goods; yard sales are excellent sources for inexpensive used clothing and household goods; many department stores give away damaged and out-of-season clothing to charitable organizations; community dry cleaners may operate clothing donation drop-off sites; hotels may donate old furniture when renovating or they may be willing to provide shampoo and other toiletries; sexual assault crisis center clothing collections; churches, businesses, and civic organizations may be willing to donate gift cards for grocery stores or discount department stores

- **Medical:** Community health centers; migrant health clinics; city clinics; homeless clinics; free clinics at universities or in communities; health fairs at community hospitals (for preventive services); county mental health clinics; health programs operated out of NGOs; substance abuse services; maternal and child health programs; parenting classes
- **Legal:** Legal aid clinics/agencies/foundations; law school clinics; *pro bono* services offered by law firms; employment law centers; community-based legal providers, such as those serving particular ethnic communities; immigration rights clinics; nonprofit organizations providing legal assistance to immigrants; faith-based immigration relief organizations, such as the Catholic Legal Immigrant Network, Inc. (CLINIC), which provides support services to diocesan and other affiliated immigration programs, with field offices in 48 States (for a listing of CLINIC members, go to <http://cliniclegal.org/> and click on the icon “Public Directory Clinic Members”)
- **Job Training Programs:** Local affiliates of Goodwill Industries offer job training programs (<http://www.goodwill.org/goodwill-for-you/jobs-and-careers/>); CareerOneStop (<http://www.careeronestop.org/>) lists local contacts for apprenticeships and employment assistance; vocational training and job placement assistance are offered by community colleges and immigrant or refugee assistance organizations
- **Education Services:** GED assistance and general educational assistance programs at local adult education centers; immigrant community organizations; city/neighborhood community centers; ESL (English as a second language) classes held at churches, schools, libraries, community colleges; translation/interpreting services (written/live language assistance; native tongue literacy)
- **Transportation:** Clients enrolled in education programs can sometimes qualify for lower fares for public transportation, such as the subway, bus, or train, with a student ID; voluntary driver programs (often operated out of churches); car and bike donation programs
- **Crime Victim Compensation:** Clients can usually apply at the city or county levels; funds can be used to pay for many of the above services, including relocation costs for safety reasons (see U.S. Department of Justice programs discussed later in this booklet)
- **Other Assistance:** Battered immigrant women’s programs; sexual assault coalitions; rape crisis centers; ethnic community organizations; faith-based organizations

These are only some of the many community resources service providers can use to assist trafficking victims. Service providers are often very creative in using these resources to meet victims' needs. For instance, service providers may ask a local dentist to provide free or low-cost dental services; get onto a donation list for a local department store to receive "out-of-season" clothing; work with a local church to find temporary housing or to identify a member of the church who can provide transportation; ask a local church to place a notice seeking specific donations from parishioners in its church bulletin; develop a car donation program or work with a local nonprofit that operates a car donation program; or approach a local law firm to provide *pro bono* legal services.



State-Funded Assistance

States are considering and enacting anti-trafficking legislation, which often includes restitution to victims of this crime. For example, NY and CA have passed laws that provide State-funded services to pre-certified victims of human trafficking:

- **New York State** enacted legislation that provides services for pre-certified trafficking victims (Chapter 74 of the Laws of 2007). State-funded services include case management, emergency temporary housing, health care (including mental health), drug addiction screening and treatment, language and translation services, and job training. To learn about services for human trafficking victims in New York State, contact the New York State Bureau of Refugee and Immigrant Assistance at 1-518-402-3096 or <http://otda.ny.gov/programs/bria/trafficking.asp>.
- **California** enacted legislation in 2006 (SB 1569) to expand protections for trafficking survivors, including temporary and immediate access to services prior to Federal Certification. The California Department of Social Services' Human Trafficking Fact Sheet (January 2008) provides an overview of State-funded services available to pre-certified victims as well as links to receive additional information and to apply for benefits or services through the County Welfare Department (<http://www.cdss.ca.gov/refugeeprogram/PG1726.htm>). In December 2006, the California Department of Social Services issued pre- and post-implementation letters to county welfare departments with information and instructions to implement SB 1569 (<http://www.dss.cahwnet.gov/getinfo/acl06/pdf/06-60.pdf> and http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin07/pdf/I-41_07.pdf), and has since also provided Special Notices with additional guidance.

Monitor your State legislature Web sites to identify any pending or enacted legislation that provides services for pre-certified victims of human trafficking.

In addition, the Polaris Project website has detailed information about state anti-trafficking laws, including those with provisions for victim assistance; visit <http://www.polarisproject.org/what-we-do/policy-advocacy/state-policy/current-laws> for more information.



Federal Assistance

Contact the following Federal resources for information about obtaining services for pre-certified victims of human trafficking:

HHS Services Grants

HHS Services Grants provide comprehensive case management services to foreign victims and potential victims of trafficking seeking HHS certification in any location in the United States. The grantees provide case management to assist a victim of trafficking to become certified, and other necessary services after Certification, through a network of nongovernmental service organization sub-awardees in locations throughout the country.

These grants ensure the provision of efficient, high-quality services to victims of human trafficking. They also streamline support to help victims of human trafficking gain timely access to shelter, legal assistance, job training, and health care, enabling them to live free of violence and exploitation.

Please contact the grantees regarding services for a client or to obtain information on how to become a sub-awardee. Below is a list of the HHS Service Grantees, contact information, and the states for which it or its partners provide services:

- U.S. Committee for Refugees and Immigrants (USCRI)
Contact information: 1-800-307-4712 or traffickingvictims@uscrdc.org
States: AK, AR, AZ, CA, CO, DC, DE, HI, IA, ID, KS, LA, MD, MO, MT, ND, NE, NM, NV, OK, OR, PA, SD, TX, UT, VA, WA, WV, and WY, plus the following territories: American Samoa, Commonwealth of Northern Mariana Islands, Federated States of Micronesia, Guam, Marshall Islands, and the Republic of Palau.
- Heartland Human Care Services
Contact information: 1-800-837-5345
States: CT, IL, IN, MA, ME, MI, MN, NH, NJ, NY, OH, RI, VT, WI
- Tapestri, Inc.
Contact information: 404-299-2185
States: AL, FL, GA, KY, MS, NC, SC, TN

National Human Trafficking Resource Center

The National Human Trafficking Resource Center (NHTRC) is a national, toll-free hotline for the human trafficking field in the United States and is reached by calling **1-888-373-7888** or e-mailing NHTRC@PolarisProject.org. The NHTRC operates 24 hours a day, seven days a week, every day of the year. The NHTRC works to improve the national response to protect victims of human trafficking in the United States by providing callers with a range of comprehensive services, including crisis intervention, urgent and non-urgent referrals, tip reporting, and comprehensive anti-trafficking resources and technical assistance for the anti-trafficking field and those who wish to get involved.

The NHTRC is able to connect community members with additional tools to raise awareness and combat human trafficking in their local areas, as well as guide service providers and law enforcement personnel in their work with potential trafficking victims. To perform these functions, the NHTRC maintains a national database of organizations and individuals working in the anti-trafficking field, as well as a library of available anti-trafficking resources and materials. To view these materials, access online trainings or report tips online, go to the NHTRC website: **<http://www.traffickingresourcecenter.org>**

Office for Victims of Crime

The U.S. Department of Justice's (USDOJ) Office of Victims of Crime (OVC) provides services for pre-certified trafficking victims (see USDOJ charts for more information). Services include housing or shelter; food; medical, mental health, and dental services; interpreter/translator services; criminal justice victim advocacy; legal services; social services advocacy; literacy education; and/or employment assistance. See **<http://www.ojp.usdoj.gov/ovc/grants/traffickingmatrix.html>** for more information about these services. In addition, OVC's Online Directory of Crime Victim Services identifies local organizations providing services for crime victims: **<http://ovc.ncjrs.gov/findvictimservices/>**.



Certification for Foreign Victims

HHS is the Federal agency authorized to certify adult foreign victims of human trafficking, which allows them access to federally funded benefits and services to the same extent as refugees. Similarly, HHS is the Federal agency authorized to provide Eligibility Letters for foreign child victims of human trafficking, which allows them access to federally funded benefits and services to the same extent as refugees. The Office of Refugee Resettlement (ORR) within HHS issues all Certification and Eligibility Letters. Trafficking victims who are U.S. citizens or Lawful Permanent Residents (LPR) ¹ do not need Certification or Letters of Eligibility to be eligible for similar benefits and services.

Steps to Obtaining Certification for Foreign Victims

According to the Trafficking Victims Protection Act of 2000 (TVPA), there are three requirements for Certification for adult victims of human trafficking:

- An individual must have been subjected to a severe form of trafficking in persons, as defined in the TVPA;
- A victim is willing to assist in every reasonable way in the investigation and prosecution of the trafficking case, or is unable to cooperate with such a request due to physical or psychological trauma; and
- The U.S. Department of Homeland Security (DHS) has granted Continued Presence (CP) to the victim, or notified the victim that his or her T visa application is *bona fide* or approved.

¹ A person who obtained Lawful Permanent Resident status prior to being trafficked is not eligible for Certification, nor is an LPR child eligible to receive a Letter of Eligibility. The U.S. Department of Homeland Security (DHS) has already granted an LPR permission to reside and work in the United States for an indefinite period. Therefore, DHS does not grant Continued Presence or a T visa to LPRs, making them ineligible for Certification. LPRs are eligible for many Federal benefits and services, although (as outlined in charts in this booklet), LPRs have a five-year waiting period before they are eligible to apply for certain benefits and services.

Foreign Victims Who Are Children

While adult trafficking victims need Certification to receive refugee benefits and services, victims who are children (under 18) need an Eligibility Letter or an interim assistance letter issued by HHS to access benefits and services to the same extent as refugees. Unlike adults, children are not required to comply with requests to assist with a law enforcement investigation or prosecution of a trafficking case, or to have Continued Presence or a T visa, to receive an Eligibility Letter or an interim assistance letter. (For the purpose of defining the types of benefits and services eligible to a potential foreign child trafficking victim, unless otherwise noted, the term 'Eligibility Letter' in this document refers to both the Eligibility Letter and the interim assistance letter).

The William Wilberforce Trafficking Victims Protection Reauthorization Act (Pub. L. 110-457), signed into law on December 23, 2008, directs HHS, upon receipt of credible information that a child may have been subjected to trafficking in persons, to make a prompt determination if the child is eligible for up to 90 days of interim assistance. Before the end of that period, HHS, in consultation with USDOJ, DHS and nongovernmental experts, will determine if the child is eligible for long-term assistance. Not later than 24 hours after a Federal, State, or local official discovers that a person who is under 18 years of age, and who is neither a U.S. citizen nor an LPR, may be a victim of trafficking in persons, the official must notify HHS to facilitate the provision of interim assistance.

To request an eligibility letter for a foreign child victim of trafficking, contact the ORR Anti-Trafficking in Persons Division a ChildTrafficking@acf.hhs.gov or (202) 205-4582, or fax your request to (202) 401-5487. An ORR Child Protection Specialist will respond after reviewing the request. You can obtain a copy of a request form at <http://www.acf.hhs.gov/trafficking>.



Continued Presence

The Department of Homeland Security's Immigration and Customs Enforcement (ICE) grants Continued Presence (CP), which is a one-year form of immigration relief that Federal law enforcement officials request on behalf of a victim of a severe form of trafficking who is also a potential witness. Continued Presence allows the victim to remain in the United States during the course of an investigation or prosecution as well as obtain an Employment Authorization Document (EAD), which provides the victim with the documentation required to work legally in the United States.

T Visa

The T visa is a non-immigrant visa that allows a foreign victim of human trafficking to remain in the United States for up to four years. The victim must apply directly to DHS for T non-immigrant status by filing an application for a T visa (also called the U.S. Citizen and Immigration Services Form I-914). Assistance from an immigration attorney or other legal service provider is often helpful in completing the application.

Since foreign trafficking victims often have complicated legal needs, it is important to connect them with an immigration attorney as soon as possible. For guidance in initiating legal assistance for victims, consult the National Human Trafficking Resource Center and/or local service providers listed in the OVC Online Directory with experience in working with trafficking victims (<http://ovc.ncjrs.gov/findvictimservices/>).

As described in the U.S. Department of Homeland Security's Instructions for Completing Form I-914, a Federal law enforcement officer endorsement is strongly advised. If a victim does not submit a Federal law enforcement endorsement as a part of his or her T visa application, then the victim must submit an explanation describing attempts to obtain the endorsement and accounting for the lack of or unavailability of the endorsement. Alternately, the victim must submit an explanation describing why he or she did not attempt to obtain the Federal law enforcement endorsement.

There are several benefits to a T visa, including:

- Legal non-immigrant status in the United States for a period of four years;
- Employment authorization;
- Possibility of adjusting status to Lawful Permanent Resident; and
- Immediate family members may obtain non-immigrant status as T visa derivatives.

Derivative T Visas

Family members (known as derivatives) of trafficking victims who have received a T visa can apply for a special T visa for derivatives. Eligible family members include the spouse, child, parent, or an unmarried minor sibling of a victim of trafficking victim who is under 21 years of age, or the spouse or child of a victim of trafficking who is 21 years of age or older. Like Certified trafficking victims, T visa derivatives are eligible for Federal benefits and services to the same extent as refugees. Also, derivatives can apply for EADs.



After Continued Presence or a T Visa Is Issued

When the U.S. Department of Homeland Security grants an adult victim Continued Presence, a T visa, or notice of a *bona fide* T visa application, DHS notifies the U.S. Department of Health and Human Services (HHS). HHS contacts the victim-witness coordinator, victim-witness control officer, or the immigration attorney (if any) to obtain the name of the service provider to issue the Certification Letter. The service provider helps the victim apply for and receive the refugee benefits and services for which he or she is eligible.

The Certification Letter

The Certification Letter indicates a victim's eligibility for federally funded benefits and services. It contains a Certification date; eligibility for benefits and services begins on the date of Certification. Certification letters do not expire, but many benefits and services are time sensitive.

Derivatives and Certification

Derivatives (family members of a victim) do not receive Certification Letters; however, Derivative T visa holders are eligible for benefits and services to the same extent as a refugee. For an individual who is already present in the United States on the date the DHS issues the Derivative T status, the period of eligibility begins on the date that DHS grants T status, as indicated on the Notice Date on the I-797, the Notice of Action of approval of the individual's Derivative T status. For the individual who enters the United States on the basis of a Derivative T visa, the period of eligibility begins on the date that the individual is admitted to the United States, as indicated by the date stamped on the individual's passport or I-94 Arrival Record.

Certification and Benefit-Granting Agencies

Adult and minor foreign trafficking victims applying for benefits at a benefit-granting agency must present a Certification or Eligibility Letter in order to apply for benefits. The victim does not need to provide any immigration documents. The victim should always retain the original Certification or Eligibility Letter. The victim may submit a photocopy of the letter to benefit-granting agencies. Benefit-granting agencies may photocopy the letter for record-keeping purposes only.

Benefit-granting agencies should call HHS' Trafficking Victim Verification Line (1-866-401-5510) at intake to verify the validity of each Certification or Eligibility Letter. These agencies should also inform HHS of the benefits for which each trafficking victim has applied.

State Refugee Coordinators

Every State, except Wyoming, has a State Refugee Coordinator and often a State Refugee Health Coordinator who oversee benefits for trafficking victims as well as refugees and other populations. Contact the State Refugee Coordinator and/or State Refugee Health Coordinator for information on benefits for trafficking victims in your State by visiting the following Web site: http://www.acf.hhs.gov/programs/orr/partners/state_partners.htm.



Federal Benefits and Services

The following is an overview of the Federal benefits and services available to trafficking victims, as well as charts regarding program eligibility for Certified, Eligible, non-U.S. citizen, U.S. citizen, and Lawful Permanent Resident victims.

In addition to having a qualifying immigration status, applicants (including derivatives) must meet certain eligibility requirements for each program, such as age, family composition, residence, and limitations on income and resources. For children granted interim assistance, the 90-day limit on the period of interim assistance may preclude or interfere with participation in programs or benefits with minimum participation periods longer than 90 days or where the benefits of the program cannot practicably be realized within that time period.

These charts provide a general overview of eligibility for services. Please contact your State Refugee Coordinator, the National Human Trafficking Resource Center—1-888-373-7888—or the appropriate Federal agency directly for additional information.

U.S. Department of Health and Human Services (HHS)

Eligibility for HHS Programs for Certified or Eligible (if Minor) Victims of Trafficking

Certified or Eligible Trafficking Victim	Temporary Assistance for Needy Families*	Medicaid	Children's Health Insurance Program	Health Resources and Services Administration Programs	Substance Abuse and Mental Health Services Administration Programs
Certified Adult	Yes	Yes	No	Yes	Yes
Minor with Eligibility Letter (Under 18)**	Yes	Yes	Yes	Yes	Yes

* Through TANF, States may only provide assistance to a financially needy family that consists of, at a minimum, a child living with his/her parent or other caretaker relative, or consists of a pregnant woman. Therefore, the adult individual must be the parent or other caretaker relative of a minor child or a pregnant woman. Conversely, the minor child must be living with his/her parent or other caretaker relative.

** Includes a child with an interim assistance letter

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for HHS Programs for Non-Certified and Non-Eligible (if Minor) Victims of Trafficking

Trafficking Victim by Immigration Category	Temporary Assistance for Needy Families*	Medicaid	Children's Health Insurance Program	Health Resources and Services Administration Programs	Substance Abuse and Mental Health Services Administration Programs**
Unlawfully Present in U.S., Adult or Minor (Under 18)***	No	No	No	Yes	Yes
Lawfully Present in U.S. (not U.S. Citizen or LPR), Adult or Minor (Under 18)****	No	No	No	Yes	Yes
Refugees, asylees, and Cuban/Haitian entrants	Yes	Yes	Yes	Yes	Yes
Lawful Permanent Resident, Adult or Minor (Under 18)	Yes, after a five-year waiting period.	Yes, after a five-year waiting period.	No for adults; yes, after a five-year waiting period for minors.	Yes	Yes
U.S. Citizen, Adult or Minor (Under 18)	Yes	Yes	No for adults; yes for minors.	Yes	Yes

* Through TANF, States may only provide assistance to a financially needy family that consists of, at a minimum, a child living with his/her parent or other caretaker relative, or consists of a pregnant woman. Therefore, the adult individual must be the parent or other caretaker relative of a minor child or a pregnant woman. Conversely, the minor child must be living with his/her parent or other caretaker relative.

** All decisions regarding eligibility for these services and types of treatment are made at the local and State levels or by the benefit-granting agency.

*** Includes persons who entered the United States without inspection or who overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

****Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

Temporary Assistance for Needy Families (TANF), Office of Family Assistance (OFA), Administration for Children and Families (ACF), HHS: TANF funds State programs that provide assistance for families with children when the parents or other caretaker relatives are unable to provide for the family's basic needs. Each State and territory decides both the benefits it will provide and the eligibility criteria for receiving financial assistance payments or other types of TANF benefits and services. In order to be eligible for TANF, the client must be a member of an eligible family that also meets other TANF programmatic eligibility requirements, such as income, resources, and residency. If a Certified adult victim (or Eligible minor) is not eligible for TANF, he or she may be eligible for ORR Refugee Cash Assistance (RCA), as long as the victim meets RCA program eligibility requirements (see the following section on ORR benefits and services). Check with your local TANF office to obtain information on eligibility for TANF assistance or other TANF benefits and services.

<http://www.acf.hhs.gov/programs/ofa/>



Medicaid, Centers for Medicare & Medicaid Services (CMS), HHS: Medicaid provides health coverage for low-income pregnant women, children, parents, adults, and those with disabilities who may have no insurance or inadequate medical insurance. Although the Federal Government establishes general guidelines for the program, each State establishes Medicaid program requirements. The local Medicaid office evaluates a Certified adult victim for eligibility for Medicaid. If the Medicaid office determines the person is not eligible for Medicaid, then the victim may be eligible for ORR Refugee Medical Assistance (RMA), as long as the victim meets RMA program eligibility requirements (see the following section on ORR benefits and services). For specific information about enrollment in Medicaid, eligibility, coverage, and services for your State, please contact your local Medicaid office: <http://www.govbenefits.gov/benefits/benefit-details/606>. For additional information on Medicaid, go to: <https://www.cms.hhs.gov/home/medicaid.asp>

Children's Health Insurance Program (CHIP), CMS, HHS: CHIP provides health coverage for children who do not qualify for Medicaid, yet do not have private insurance. Children who do not currently have health insurance may be eligible, even if parents are working. This insurance pays for doctor visits, prescription medicines, hospitalizations, and other services. The Federal Government and individual States jointly finance CHIP, and each State administers CHIP. Within broad Federal guidelines, each State determines the design of its program, eligibility groups, benefit packages, payment levels for coverage, and administrative and operating procedures. States have different eligibility rules, but in most States, uninsured children 18 years old and younger, whose families earn up to \$34,100 a year (for a family of four) are eligible. <https://www.cms.gov/home/chip.asp>; www.insurekidsnow.gov, 1-877-KIDS-NOW

Health Resources and Services Administration (HRSA), HHS: HRSA offers health care and support to uninsured, underserved, and special needs populations. HRSA issues grants to federally funded health centers that are available to anyone regardless of their ability to pay. The health centers charge patients using a sliding fee scale, based on their income. Health centers provide well-care checkups, treatment for sick patients, complete care for pregnant patients, immunizations and checkups for children, dental care, prescription drugs, as well as mental health and substance abuse care. Health centers are located in most cities and many rural areas. To find a health center, go to: http://findahealthcenter.hrsa.gov/Search_HCC.aspx; <http://www.hrsa.gov/index.html>; 1-888-ASK-HRSA

Substance Abuse and Mental Health Services Administration (SAMHSA),

HHS: SAMHSA funds services for individuals who have or are at risk for mental and substance abuse disorders. State substance abuse and mental health agencies administer these programs. All decisions regarding eligibility for services and types of treatment are made at the local and State levels or by the provider. Contact your State substance abuse and mental health agencies to find out what services are available in your area.

Substance Abuse Resources:

- For a listing of State substance abuse agencies, go to:
<http://findtreatment.samhsa.gov/ufds/abusedirectors>
- To find a substance abuse and/or mental health treatment program near you, go to: <http://findtreatment.samhsa.gov/>

Mental Health Resources:

- For a listing of State mental health agencies, go to:
<http://store.samhsa.gov/mhlocator>
- To find a mental health treatment program near you, go to:
<http://store.samhsa.gov/mhlocator>

National Suicide Prevention Lifeline:

SAMHSA's Center for Mental Health Services funds a 24-hour, toll-free, suicide prevention service available to anyone in emotional distress or suicidal crisis. **If your client needs help, call 1-800-273-TALK (8255).** Crisis counselors will locate the closest possible crisis center in your area. With more than 130 crisis centers across the country, the Lifeline's mission is to provide immediate assistance to anyone seeking mental health services. See <http://www.suicidepreventionlifeline.org/> for more information.

For additional SAMHSA substance abuse and mental health resources, go to: <http://www.samhsa.gov/treatment/index.aspx> or call SAMHSA's 24-Hour Toll-Free Referral Helpline at **1-800-662-HELP (1-800-662-4357).**

Eligibility for HHS Office of Refugee Resettlement (ORR) Programs for Certified or Eligible (if Minor) Victims of Trafficking (Table 1)

Certified or Eligible Trafficking Victim	Refugee Cash Assistance (RCA)*	Refugee Medical Assistance (RMA)*	Refugee Social Services and Targeted Assistance	Voluntary Agency Matching Grant Program
Certified Adult	Yes, available up to eight months from the date of Certification.	Yes, available up to eight months from the date of Certification.	Yes, available up to 60 months from the date of Certification.	Yes, enrollment must occur within 31 days of the date of Certification; only available for six months from the date of Certification.
Minor with Eligibility Letter (Under 18)**	No	Yes, available up to eight months from the date of Eligibility.	Yes, available up to 60 months from the date of Eligibility for minors 16 years of age and older who are not full-time students. Full-time students may apply if they are seeking part-time or temporary employment while a student, or full-time permanent employment upon completion of school.	Children under 18 are only eligible if they are part of a family/case where there is an employable adult; the adult/ case must enroll within 31 days of Eligibility.

* In order to be eligible for RCA and/or RMA, a Certified or Eligible victim must first be found ineligible for TANF, Supplemental Security Income (SSI), Medicaid, and Children's Health Insurance Program (CHIP).

** Includes a child with an interim assistance letter.

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for HHS/ORR Programs for Non-Certified and Non-Eligible (if Minor) Victims of Trafficking

Trafficking Victim by Immigration Category	Refugee Cash Assistance (RCA)	Refugee Medical Assistance (RMA)	Refugee Social Services and Targeted Assistance	Voluntary Agency Matching Grant Program
Unlawfully Present in U.S., Adult or Minor (Under 18)*	No	No	No	No
Lawfully Present in U.S. (Not U.S. Citizen or LPR), Adult or Minor (Under 18)**	No	No	No	No
Refugees, asylees, and Cuban/Haitian entrants	Yes, if within time limits.	Yes, if within time limits.	Yes, if within time limits.	Yes, if within time limits.
Lawful Permanent Resident, Adult or Minor (Under 18)	No	No	No	No
U.S. Citizen, Adult or Minor (Under 18)	No	No	No	No

*Includes persons who entered the United States without inspection, or who overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

**Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

Refugee Cash Assistance (RCA), Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), HHS: RCA provides cash assistance for trafficking victims who are ineligible for TANF or Supplemental Security Income (SSI). RCA benefits are available for up to eight months from the date of Certification. Recipients of Refugee Cash Assistance are required to register for employment services and participate in employability service programs, unless specifically exempted by State criteria. Minors who cannot comply with the employability service requirements such as minors in school or those without work authorization are not eligible to receive RCA. Also, a full-time student in an institution of higher education is not eligible to receive RCA.
<http://www.acf.hhs.gov/programs/orr/benefits/cma.htm>

Refugee Medical Assistance (RMA), ORR, ACF, HHS: RMA provides medical assistance for trafficking victims who are ineligible for Medicaid or Children's Health Insurance Program (CHIP). RMA benefits are available for up to eight months from the date of Certification, or the date of Eligibility if the client is a minor. Depending on the State, RMA may cover costs associated with a medical screening.
<http://www.acf.hhs.gov/programs/orr/benefits/cma.htm>

Refugee Social Services and Targeted Assistance, ORR, ACF, HHS: These programs support employability services and other services that address participants' barriers to self-sufficiency and integration and may include employment services, employability assessment, on-the-job training, English-language training, vocational training, social adjustment services, interpretation and translation services, job-related day care for children, citizenship and naturalization services, etc. Employability services are designed to enable trafficking victims and other eligible populations to obtain employment and become self-sufficient as soon as possible. Services provided by Refugee Social Services and Targeted Assistance programs differ by State. Benefits are available for up to 60 months from the date of Certification or Eligibility. Citizenship and naturalization services and referral and interpreter services are not time limited; they may be provided beyond 60 months. Minors must have work authorization in order to benefit from employment services.
http://www.acf.hhs.gov/programs/orr/programs/ref_social_prg.htm
<http://www.acf.hhs.gov/programs/orr/programs/tap.htm>

Voluntary Agency Matching Grant Program, ORR, ACF, HHS: The Voluntary Agency Matching Grant Program is an alternative to public assistance designed to enable clients to become self-sufficient within four to six months from the date of Certification or Eligibility. A network of approximately 230 local resettlement offices in 43 States provides Matching Grant services, which are provided in a comprehensive multilingual, multicultural manner. Clients must complete enrollment in Matching Grant within 31 days of the date of Certification or Eligibility. Required services are case management, maintenance assistance (cash

assistance and housing, when needed), and employment services. Matching Grant can make referrals for additional services such as English-language training, social adjustment services, health and medical services, employment training/re-certification, and support services. Matching Grant enrollees can receive Refugee Medical Assistance, but they are not eligible for Refugee Cash Assistance or TANF.
http://www.acf.hhs.gov/programs/orr/programs/match_grant_prg.htm

Eligibility for HHS Office of Refugee Resettlement (ORR) Programs for Certified or Eligible (if Minor) Victims of Trafficking (Table 2)

Certified or Eligible Trafficking Victim	ORR Medical Screenings	Unaccompanied Refugee Minors (URM) Program	Services for Survivors of Torture*
Certified Adult	Yes	No	Must meet definition of torture victim.
Minor with Eligibility Letter (Under 18)**	Yes	Yes	Must meet definition of torture victim.

* Clients are determined eligible for the Services for Torture Survivors Program in accordance with the Torture Victims Relief Act of 1998 (TVRA). To view the TVRA's definition of torture, please see the following Web site:
http://www.acf.hhs.gov/programs/orr/programs/services_survivors_torture.htm

** Includes a child with an interim assistance letter.

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for HHS/ORR Programs for Non-Certified and Non-Eligible (if Minor) Victims of Trafficking

Trafficking Victim by Immigration Category	ORR Medical Screenings	Unaccompanied Refugee Minors (URM) Program	Services for Survivors of Torture*
Unlawfully Present in U.S., Adult or Minor (Under 18)**	No	No	Must meet definition of torture victim.
Lawfully Present in U.S. (Not U.S. Citizen or LPR), Adult or Minor (Under 18)***	No	No	Must meet definition of torture victim.
Refugees, asylees, and Cuban/Haitian entrants	Yes, if within time limits.	Yes, if within time limits.	Must meet definition of torture victim.
Lawful Permanent Resident, Adult or Minor (Under 18)	No	No	Must meet definition of torture victim.
U.S. Citizen, Adult or Minor (Under 18)	No	No	Must meet definition of torture victim.

* Clients are determined eligible for the Services for Torture Survivors Program in accordance with the Torture Victims Relief Act of 1998 (TVRA). To view the TVRA's definition of torture, please see the following Web site:
http://www.acf.hhs.gov/programs/orr/programs/services_survivors_torture.htm

**Includes persons who entered the United States without inspection, or who have overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

***Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

Medical Screenings, Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), HHS: Preventive health medical screenings and assessments are available to Certified trafficked persons and Eligible minors for early diagnosis and treatment of illnesses that are contagious or are barriers to self-sufficiency. This usually includes screening for tuberculosis (TB), parasites, and hepatitis B, as well as school vaccinations. Screenings are not available in every location. To arrange for a referral for a medical screening, contact your State Refugee Coordinator or Refugee Health Coordinator via the following Web site:

http://www.acf.hhs.gov/programs/orr/partners/state_partners.htm

Unaccompanied Refugee Minors Program (URM), ORR, ACF, HHS: ORR's URM program can provide care to an unaccompanied child victim of trafficking who has received an Eligibility Letter and met established criteria for reclassification or designation as an unaccompanied refugee minor. The URM program provides specialized, culturally appropriate foster care or other licensed care settings according to children's individual needs. Legal responsibility is established, under State law, to ensure that there is a legal authority to act in place of the child's unavailable parent(s). Unaccompanied child trafficking victims receive the full range of assistance, care, and services that are available to other foster children in the State. Depending on their individual needs, children are placed in foster homes, group care, independent living, or residential treatment settings. Services include: indirect financial support for housing, food, clothing, and medical care; intensive case management; family reunification; independent living skills training; educational supports; English-language training; career/college counseling; mental health services; assistance adjusting immigration status; cultural activities; recreational opportunities; support for social integration; and retention of ethnic and religious heritage. To access the URM program for a child victim of trafficking who has received an Eligibility Letter, contact the ORR Child Protection Specialist at 202-205-4582. For more information on ORR's URM program, visit the following Web site:

http://www.acf.hhs.gov/programs/orr/programs/unaccompanied_refugee_minors.htm

Services for Survivors of Torture Program, ORR, ACF, HHS: ORR's Services for Survivors of Torture provides rehabilitative services, including treatment for the psychological and physical effects of torture; social and legal services; and research and training for health care providers outside of treatment centers or programs. Individuals eligible for services are those who suffered torture in foreign countries and are now present in the United States regardless of their immigration status. Individuals who have suffered torture only as a result of trafficking experiences in the United States do not meet the eligibility standard for this program.

http://www.acf.hhs.gov/programs/orr/programs/services_survivors_torture.htm



U.S. Department of Agriculture (USDA)

Eligibility for USDA Programs for Certified or Eligible (if Minor) Victims of Trafficking

Certified or Eligible Trafficking Victim	Child Nutrition Programs	Supplemental Nutrition Assistance Program (Food Stamp Program)*	Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
Certified Adult	No	Yes	Yes
Minor with Eligibility Letter (Under 18)**	Yes	Yes	Yes

*From October 1, 2008 forward, the Food Stamp Program will be known as the Supplemental Nutrition Assistance Program (SNAP).

** Includes a child with an interim assistance letter.

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for USDA Programs for Non-Certified and Non-Eligible (if Minor) Victims of Trafficking

Trafficking Victim by Immigration Category	Child Nutrition Programs	Supplemental Nutrition Assistance Program (Food Stamp Program)*	Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
Unlawfully Present in U.S., Adult or Minor (Under 18)**	No for adult; yes for minor.	No	Yes
Lawfully Present in U.S. (Not U.S. Citizen or LPR), Adult or Minor (Under 18)***	No for adult; yes for minor.	No	Yes
Refugees, asylees, and Cuban/Haitian entrants	No for adult; yes for minor.	Yes	Yes
Lawful Permanent Resident, Adult or Minor (Under 18)	No for adult; yes for minor.	Yes, after a five-year waiting period for adult (contact USDA for other LPR eligibility requirements); yes, no waiting period for minor.	Yes
U.S. Citizen, Adult and Minor (Under 18)	No for adult; yes for minor.	Yes	Yes

*From October 1, 2008 forward, the Food Stamp Program will be known as the Supplemental Nutrition Assistance Program (SNAP).

**Includes persons who entered the United States without inspection, or who have overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

***Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

Child Nutrition Programs, Food and Nutrition Service, USDA: Child Nutrition programs offer nutritious meals and snacks for low-income children in schools, child care institutions, and after-school care programs.

<http://www.fns.usda.gov/cnd/>

Supplemental Nutrition Assistance Program (formerly called the Food Stamp Program), Food and Nutrition Service, USDA: SNAP provides nutrition assistance to low-income individuals and families so they can buy the food needed for good health. Benefits are provided on an electronic card that is used like an ATM card at participating grocery stores. To apply for benefits, or for information about the SNAP, contact your local SNAP office at **<http://www.fns.usda.gov/snap/outreach/map.htm>** or call your State's SNAP hotline number at **<http://www.fns.usda.gov/snap/outreach/map.htm>**. An online Pre-Screening Tool is available at **<http://www.snap-step1.usda.gov/fns/>** to find out if your client could be eligible prior to applying at your local office.

Special Supplemental Nutrition Program for Women, Infants and Children (WIC), Food and Nutrition Service, USDA: WIC provides supplemental food packages for nutritionally at-risk, low-income pregnant, breastfeeding, and post-partum women; infants; and children up to five years of age. The following benefits are provided to WIC participants: supplemental nutritious foods; nutrition education and counseling at WIC clinics; and screening and referrals to other health, welfare, and social services. The following Web site has toll-free numbers for WIC State agencies: **<http://www.fns.usda.gov/wic/contacts/tollfreenumbers.htm>**.

U.S. Department of Department of Housing and Urban Development (HUD)

Eligibility for HUD Programs for Certified or Eligible (if Minor) Victims of Trafficking

Certified or Eligible Trafficking Victim	Public Housing Program	Tenant-Based Vouchers
Certified Adult	Yes	Yes
Minor with Eligibility Letter (Under 18)*	Yes	Yes

* Includes a child with an interim assistance letter.

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for HUD Programs for Non-Certified and Non-Eligible (if Minor) Victims of Trafficking

Trafficking Victim by Immigration Category	Public Housing Program	Tenant-Based Vouchers
Unlawfully Present in U.S., Adult or Minor (Under 18)*	No	No
Lawfully Present in U.S. (Not U.S. Citizen or LPR), Adult or Minor (Under 18)**	No	No
Refugees, asylees, and Cuban/Haitian entrants	Yes	Yes
Lawful Permanent Resident, Adult or Minor (Under 18)	Yes	Yes
U.S. Citizen, Adult or Minor (Under 18)	Yes	Yes

*Includes persons who entered the United States without inspection, or who have overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

**Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

Public Housing Program, HUD: This program provides safe and affordable rental housing for low-income families, the elderly and persons with disabilities.

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph

Tenant-Based Vouchers, HUD: Low-income housing agencies issue Housing Choice Vouchers to very low-income individuals and families, so that they can lease safe and affordable privately owned rental housing.

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv

U.S. Department of Department of Justice (USDOJ)

Eligibility for USDOJ Programs for Certified or Eligible (if Minor) Victims of Trafficking

Certified or Eligible Trafficking Victim	Victims of Crime (VOCA) Emergency Funds	Victim Rights and Services – Federal Victim-Witness Coordinators	Emergency Witness Assistance	Witness Security Program
Certified Adult	Yes	Yes	Yes	Yes
Minor with Eligibility Letter (Under 18)*	Yes	Yes	Yes	Yes

* Includes a child with an interim assistance letter.

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for USDOJ Programs for Non-Certified and Non-Eligible (if Minor) Victims of Trafficking

Trafficking Victim by Immigration Category	Victims of Crime (VOCA) Emergency Funds	Victim Rights and Services – Federal Victim-Witness Coordinators	Emergency Witness Assistance	Witness Security Program
Unlawfully Present in U.S., Adult or Minor (Under 18)*	Yes	Yes	Yes	Yes
Lawfully Present in U.S. (Not U.S. Citizen or LPR), Adult or Minor (Under 18)**	Yes	Yes	Yes	Yes
Lawful Permanent Resident, Adult or Minor (Under 18)	Yes	Yes	Yes	Yes
U.S. Citizen, Adult or Minor (Under 18)	Yes	Yes	Yes	Yes

*Includes persons who entered the United States without inspection, or who have overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

**Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, refugees, asylees, Cuban/Haitian Entrants and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

Victim of Crime Act (VOCA) Emergency Funds, Criminal Section, Civil Rights Division, U.S. Department of Justice (USDOJ): VOCA emergency funds, which assist victims with emergency needs when other resources are unavailable, include crisis intervention, shelter/temporary housing, food, clothing, legal assistance, transportation costs, forensic medical examinations, emergency child care, and interpreters. Similar funds are available through the Federal Bureau of Investigation (FBI), the Executive Office for United States Attorneys at USDOJ, and Immigration and Customs Enforcement (ICE) within the U.S. Department of Homeland Security (DHS).

Victims Rights and Services, Federal Victim-Witness Coordinators within Criminal Section of Civil Rights Division; FBI; U.S. Attorneys' Offices; and Other USDOJ Agencies:

Victim Witness staff ensure that victims of Federal crimes, regardless of age or citizenship, are afforded rights and services as set forth in the *Attorney General Guidelines for Victim and Witness Assistance* (May 2005), including rights afforded by the Federal Crime Victims Rights Act, such as privacy and confidentiality, restitution, notification of case status, and protection against threats and intimidation. Victim Witness staff may also provide information about and referrals for direct services such as medical assistance, mental health counseling, shelter, *pro bono* and low-cost legal services, and other essential services.

http://www.justice.gov/olp/pdf/ag_guidelines.pdf

Emergency Witness Assistance Program (EWAP) USDOJ: EWAP provides emergency funds to assist witnesses and potential witnesses on an emergency basis to ensure their well-being and availability for court proceedings or other activities related to ongoing civil or criminal cases. Services include relocation and moving expenses; emergency telephone service to maintain contact with the Government; temporary subsistence and housing; emergency needs (clothing, furniture) when the individual must be moved quickly; and child or senior care expenses. The Executive Office for U.S. Attorneys administers these funds. EWAP is usually limited to less than 30 days and less than \$4,000.

<http://www.justice.gov/oig/reports/EOUSA/e0102/index.htm>

Witness Security Program, USDOJ: The Witness Security Program provides protection and assistance to witnesses and their immediate family members before, during and after a trial. The Attorney General determines whether a witness qualifies for the Witness Security Program, based on recommendations from U.S. Attorneys. The U.S. Marshals Service moves a witness and his or her immediate family to a secure location and typically provides them with authentic documentation to assume a new identity. In addition to providing witnesses with 24-hour protection during all court proceedings, the U.S. Marshals Service assists with housing, medical care, job training, employment and subsistence funding to cover basic living expenses until witnesses achieve self sufficiency.

<http://www.usmarshals.gov/witsec/index.html>



Eligibility for USDOJ Programs for Certified or Eligible (if Minor) Victims of Trafficking

Certified or Eligible Trafficking Victim	OVC Services for Trafficking Victims Discretionary Grant	VOCA Victim Assistance	VOCA Victim Compensation
Certified Adult	No	Yes, but see below.	Subject to specific State guidelines.
Minor with Eligibility Letter (Under 18)*	No	Yes, but see below.	Subject to specific State guidelines.

* Includes a child with an interim assistance letter.

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for USDOJ Programs for Non-Certified and Non-Eligible (if Minor) Victims of Trafficking

Trafficking Victim by Immigration Category	OVC Services for Trafficking Victims Discretionary Grant	VOCA Victim Assistance	VOCA Victim Compensation
Unlawfully Present in U.S., Adult or Minor (Under 18)*	Yes	Yes, but see below.	Subject to specific State guidelines.
Lawfully Present in U.S. (Not U.S. Citizen or LPR), Adult or Minor (Under 18)**	Yes	Yes, but see below.	Subject to specific State guidelines.
Lawful Permanent Resident, Adult or Minor (Under 18)	No	Yes, but see below.	Subject to specific State guidelines.
U.S. Citizen, Adult or Minor (Under 18)	No	Yes, but see below.	Subject to specific State guidelines.

*Includes persons who entered the United States without inspection, or who have overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

**Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, refugees, asylees, Cuban/Haitian Entrants and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

Services for Trafficking Victims Discretionary Grant, Office of Victims of Crime (OVC), USDOJ: OVC funds services for trafficking victims prior to HHS granting a Certification Letter to the victim. Services include housing or shelter; food; medical, mental health, and dental services; interpreter/translator services; criminal justice victim advocacy; legal services; social services advocacy; literacy education; and/or employment assistance.

<http://www.ojp.usdoj.gov/ovc/grants/traffickingmatrix.html>

Victims of Crime Act (VOCA) Victim Assistance, VOCA Formula Grants to States, USDOJ: OVC provides formula grant funding to the States to support local victim assistance programs that provide direct services to victims. Typically the State awards sub-grants to victim assistance programs to provide specialized services at the community level. Some victim assistance providers serve all crime victims; others may limit services to a specific type of victimization, such as child abuse, sexual assault, or domestic violence. While there are few VOCA-supported programs that are dedicated solely to serving human trafficking victims, many programs, such as rape crisis centers and domestic violence shelters, do provide services to human trafficking victims.

<http://www.ojp.usdoj.gov/ovc/publications/factsheets/cvf2010/intro.html>

U.S. Department of Department of Labor (DOL)

Eligibility for DOL Programs for Certified or Eligible (if Minor) Victims of Trafficking

Certified or Eligible Trafficking Victim	One-Stop Career Centers Core Services	One-Stop Career Centers Intensive Services	Job Corps
Certified Adult	Yes	Yes	Yes
Minor with Eligibility Letter (Under 18)*	Yes	Yes	Yes

* Includes a child with an interim assistance letter.

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for DOL Programs for Non-Certified and Non-Eligible (if Minor) Victims of Trafficking

Trafficking Victim by Immigration Category	One-Stop Career Centers Core Services	One-Stop Career Centers Intensive Services and Training Services	Job Corps
Unlawfully Present in U.S., Adult or Minor (Under 18)*	Yes	No	No
Lawfully Present in U.S. (Not U.S. Citizen or LPR), Adult or Minor (Under 18)**	Yes	No	No
Refugees, asylees, and Cuban/Haitian entrants	Yes	Yes	Yes
Lawful Permanent Resident, Adult or Minor (Under 18)	Yes	Yes	Yes
U.S. Citizen, Adult or Minor (Under 18)	Yes	Yes	Yes

*Includes persons who entered the United States without inspection, or who have overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

**Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

One-Stop Career Centers, DOL: With more than 2,900 delivery points nationwide, One-Stop Career Centers provide a vast network to address the human resource and employment needs of both business and job seekers in every community. The Employment and Training Administration (ETA) provides funding for One-Stop Career Centers to offer a wide array of services and delivery options to build a skilled workforce that supports current and future economic growth. Some of these services are training referrals, career counseling, job listings, and other employment services for jobseekers and employers at convenient locations throughout the United States.

Core services include resume development, job referrals, job clubs and workshops, job listings, resource rooms, and computer, phone and bank access. Intensive services include comprehensive and specialized assessments, group and individual career counseling, and case management; training services provide individualized training through State/local approved training providers.

- Call **1-877-US2-JOBS (1-877-872-5627)** or visit America's Service locator at: **<http://www.servicelocator.org>** (enter zip code information in the search tool to find local One-Stop Career Centers)
- Visit **<http://www.careeronestop.org>** to explore careers, conduct job searches, and receive tips on resume writing and interviewing techniques.

Job Corps Program, DOL: The 122 Job Corps centers help eligible economically disadvantaged youth between the ages of 16 and 24 achieve employment, earn a high school diploma or GED and/or learn a vocational trade. Students who join the program are paid a bi-weekly allowance; the longer they stay with the program, the more their allowance will be. Job Corps provides career counseling and transition support to its students for up to 12 months after they graduate from the program. **<http://www.jobcorps.gov/home.aspx>**



U.S. Social Security Administration (SSA)

Eligibility for SSA Program for Certified or Eligible (if Minor) Victims of Human Trafficking

Certified or Eligible Trafficking Victim	Supplemental Security Income
Certified Adult*	Yes
Minor with Eligibility Letter (Under 18)**	Yes

*Persons who have Continued Presence or a *bona fide* T visa application but are not yet certified by HHS, and derivative T visa holders, may apply for SSI.

** Includes a child with an interim assistance letter.

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for SSA Program for Non-Certified and Non-Eligible (if Minor) Victims of Human Trafficking

Trafficking Victim by Immigration Category	Supplemental Security Income
Unlawfully Present in U.S., Adult or Minor (Under 18)*	No
Lawfully Present in U.S. (not U.S. Citizen or LPR), Adult or Minor (Under 18)**	No
Refugees, asylees, and Cuban/Haitian entrants	Yes
Lawful Permanent Resident, Adult or Minor (Under 18)	Yes, after a five-year waiting period.
U.S. Citizen, Adult or Minor (Under 18)	Yes

*Includes persons who entered the United States without inspection, or who have overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

**Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

Supplemental Security Income (SSI), SSA: The SSI program provides monthly income to adults or children who are blind or disabled, or to low-income adults age 65 and older. Eligible applicants must meet program requirements regarding income, resources, residency, and living arrangements. The monthly payment varies up to the maximum Federal benefit rate, which may be supplemented by the State or decreased by countable income and resources. For more information about Supplemental Security Income, please visit the following Web site:

<http://www.ssa.gov/pgm/ssi.htm>

U.S. Department of Education (ED)

Eligibility for ED Program for Certified or Eligible (if Minor) Victims of Human Trafficking

Certified or Eligible Trafficking Victim	Title IV Federal Student Financial Aid
Certified Adult	Yes
Minor with Eligibility Letter (Under 18)*	Yes

* Includes a child with an interim assistance letter

If your client is not Certified or is a minor who does not have an Eligibility Letter, please see the following chart, which indicates eligibility according to immigration status:

Eligibility for ED Program for Non-Certified and Non-Eligible (if Minor) Victims of Human Trafficking

Trafficking Victim by Immigration Category	Title IV Federal Student Financial Aid
Unlawfully Present in U.S., Adult or Minor (Under 18)**	No
Lawfully Present in U.S. (Not U.S. Citizen or LPR), Adult or Minor (Under 18)***	No
Refugees, asylees, and Cuban/Haitian entrants	Yes
Lawful Permanent Resident, Adult or Minor (Under 18)	Yes*
U.S. Citizen, Adult or Minor (Under 18)	Yes

*A Lawful Permanent Resident who has an I-151, I-551, or I-551C (Permanent Resident Card) is eligible for Federal Student Financial Aid as long as the individual meets financial and other eligibility requirements.

**Includes persons who entered the United States without inspection, or who have overstayed their visas, and persons not in compliance with the terms of their visas or orders of the Immigration Court.

***Includes persons paroled for at least one year, persons whom the Government has agreed not to remove from the United States for a temporary period, and some other categories. Also includes nonimmigrants who are persons admitted to the United States on a temporary basis, such as a person on a student visa, exchange visitor visa, or temporary worker visa.

Federal Student Financial Aid, ED: Federal Student Financial Aid programs are the largest source of Federal student aid in America. These programs provide more than \$90 billion a year in grants, loans, and work-study assistance. While student aid provided by the U.S. Department of Education provides billions annually to assist students and their families, these are not the only source of student financial aid. Non-Federal financial assistance programs and requirements often vary from school to school, so check with the financial aid departments at the school the student plans to attend for information about State and institutional aid, including scholarships.

Certified victims of human trafficking as well as minors who have received an Eligibility Letter are eligible for Title IV student aid as long as they meet other eligibility requirements, such as enrollment in an eligible institution of higher learning. In addition, family members of Certified or Eligible victims who have derivative T visas, including spouses, children, or parents, may also be eligible for Title IV student aid to assist that family member in covering the cost of higher education. The following document from the U.S. Department of Education details eligibility for Title IV program assistance for victims of human trafficking and outlines how to apply for Federal financial aid: **<http://ifap.ed.gov/dpccletters/GEN0609.html>**

The following Web site provides additional information to trafficking victims and case managers on applying for Federal student financial aid: **<http://studentaid.ed.gov/PORTALSWebApp/students/english/TraffickingFaqs.jsp>**

The Free Application for Federal Student Aid (FAFSA) is the form used by all eligible and participating institutions of higher education (two and four-year colleges, universities, and career schools) for awarding Federal student aid, as well as most State and college aid. For more information about applying for Federal financial aid using the FAFSA, including Federal and State application deadlines, go to: **<http://www.fafsa.ed.gov/>**

For additional information on Federal student aid, call the Federal Student Aid Information Center at 1-800-4-FED-AID (1-800-433-3243) or go to: **<http://studentaid.ed.gov/PORTALSWebApp/students/english/funding.jsp>**

Additional Resources

Resources for Initiating Services for Certified Victims

- **HHS Service Grants**
See page 6.
- **National Human Trafficking Resource Center—1-888-3737-888**
See page 6.

Resources for Initiating Services for U.S. Citizen and Lawful Permanent Resident Victims

U.S. citizen and Lawful Permanent Resident victims cannot receive Certification or an Eligibility Letter from HHS, but they may already be eligible for many benefits and services. Contact the State and Federal agencies implementing programs identified in this booklet to initiate services for them, such as your State's Department of Social Services. You can also connect domestic victims to services through local Government health and social service agencies providing services to children and adults, including faith-based social-service providers, domestic violence/ women's shelters and safe houses, shelters for runaways and troubled teens, food pantries and other food programs, community health clinics, legal aid organizations, and mental health service providers.

The following resources also can help identify National and local organizations that can assist in initiating these types of services:

- **Child Welfare Information Gateway, Children's Bureau, Administration for Children and Families (ACF), HHS:** This is a resource clearinghouse for child welfare professionals. See the following link (<http://www.childwelfare.gov/organizations/index.cfm>) for resources and services such as National hotlines and State child abuse reporting numbers; Federal child services clearinghouses; organizations dealing with child protection/abuse, family and domestic violence, foster care, health, mental health, and substance abuse; State child welfare agency Web sites; and State foster care program managers.
<http://www.childwelfare.gov/aboutus.cfm>
- **Office for Victims of Crime, U.S. Department of Justice:** Search OVC's online directory of crime victim services for public, nonprofit, and community agencies that provide assistance and services to victims. The directory includes local, National and international agencies; a directory of crime victim services (searchable by location, type of victimization, service needed); an interactive map to search for victim services and compensation programs for victims; as well as links to National crime victim service organizations and hotline numbers for National victim-serving organizations, clearinghouses, and referral organizations. <http://ovc.ncjrs.gov/findvictimservices/>



- **2-1-1:** This resource number connects individuals to local community services, including rent assistance, food banks, affordable housing, health resources, child care, after-school programs, elderly care, financial literacy, and job training programs. 2-1-1 systems operate in 41 States, the District of Columbia, and Puerto Rico. The 24/7 number is accessible at no cost, and has multilingual capabilities. It is funded through local and State sources, including local United Ways and other nonprofits, foundations, businesses, and State and local Government. <http://www.211.org>
- **Child Protective Services (CPS):** CPS programs operate in every State, providing services for children who have been abused or neglected, regardless of immigration status. The Childhelp National Child Abuse Hotline is 1-800-4-A-CHILD; <http://www.childhelp.org/pages/hotline>



This booklet is brought to you by the U.S. Department of Health and Human Services. For information on human trafficking and the HHS Anti-Trafficking in Persons Program, visit www.acf.hhs.gov/trafficking or contact the National Human Trafficking Resource Center at 1-888-373-7888.

May 2012 edition

HOW TO WORK WITH INTERPRETERS AND ADDRESS PROBLEMS

PREPARING THE CLIENT ABOUT WORKING WITH AN INTERPRETER

1. Assess a client's English fluency/lack of proficiency objectively.

Does a victim speak English well enough to:

- a. Tell a story and answer questions?
- b. Listen to communications in English and understand them?
- c. Be understood by the court?
- d. Understand everyone in the court (considering regional accents, speed, etc)?

If client doesn't want an interpreter because she/he speaks some English; explain that limited English isn't enough to understand court proceedings.

2. Prepare client to understand court and interpretation procedures: this increases empowerment; remember the interpreter is a conduit for telling a victim's story.
3. Explain the interpretation process to the client, specifically:
 - a. The interpreter is a conduit
 - b. Speak 1-2 sentences at a time, speak clearly
 - c. The interpreter may ask you to slow down, or repeat something
 - d. Don't interrupt interpreter, let her/him finish
 - e. The interpreter will interpret everything
 - f. Don't ask the interpreter not to interpret something
 - g. Don't ask questions or raise concerns to interpreter, ask the speaker
 - h. Don't have side conversations with interpreter
4. If advocate is going to have to interpret, explain: "I'll be in a different role, I will repeat everything that's said whether it is true or not."

PRE-SESSION PREPARATION BETWEEN ADVOCATE & INTERPRETER

1. Schedule additional time for any meeting where an interpreter is needed.
2. Check with interpreter and client before interview that they do not know each other.
3. Inform the interpreter in advance about the nature of the proceeding, who is involved, special terminology or vocabulary that will be used, etc. so the interpreter is well prepared.
4. English fluency is essential for competent interpretation. Difficulty speaking and understanding English is a strong indication that the interpreter is not qualified. If you and the interpreter are having difficulty communicating in English, then you should get another interpreter.
5. Let interpreter speak briefly to LEP person to size up their communicative style and needs (i.e., 'register'); that way interpreter can make necessary adjustments to improve communication.
6. For telephonic interpretation, ask interpreter for her/his identification number.
7. For untrained community/ad hoc interpreters:
 - a. Assess if they have knowledge, skills and abilities to do the job.

b. Instruct them:

- Do interpret everything: do not omit, edit, guess, or polish what is said
- Do ask speakers to pause, slow down, repeat, clarify
- Don't answer for LEP person
- Don't explain, restate or answer questions to client, have side conversations or give advise, even if client asks you – interpret everything back

IN THE INTERVIEW

1. Speak directly to and maintain eye contact with LEP individual.
2. Use first person.
3. Use plain English, avoid jargon, do not use acronyms.
4. Speak slowly and clearly with regular pauses.
5. Speak one sentence at a time (sentence-by-sentence interpretation may seem awkward, but a rhythm is quickly established, and the interview flows smoothly).
6. Ask one question at a time.
7. Allow the interpreter to finish interpreting before speaking again.
8. Don't allow the interpreter to answer for the LEP person.
9. Don't ask interpreter to explain, restate, or not interpret something that was said.
10. If you think the interpreter is editing, adding, subtracting, or summarizing remind the interpreter to repeat everything that is said.
11. To fill out forms or review documents, ask interpreter to provide sight translation of written materials. The interpreter should only be translating the written material verbally for the LEP person. The interpreter should not be filling out the forms for the LEP person, or answering any questions about the forms. Any questions should be directed to the advocate.
12. Cues that the interpretation is not going well are:¹
 - a. Interpretation is too short or too long.
 - b. Interpreter keeps asking for information to be repeated or clarified.
 - c. Interpreter is having side conversations with client.
 - d. Client corrects or seems to disagree with interpreter.
 - e. Client starts speaking in broken English.
13. If you're having trouble understanding the interpreter's English, ask for clarification. If you're still having problems get a different interpreter.
14. Debrief with interpreter at the end about how the interview went and any concerns; this helps all parties work better together.
15. Do not ask interpreters to:
 - a. Explain procedures, forms, or services.
 - b. Take LEP individual they are interpreting for to an office, counter, or appointment.
 - c. Console, set at ease, or reassure LEP clients to help them cope with difficult testimony or proceedings.
 - d. Provide cultural explanations or information because the interpreter 'understands' the client's culture.

¹ *Working with Interpreters* (n.d.) Vera Institute of Justice

ADDRESSING PROBLEMS

Document the Problem, Take Notes On

- Inaccuracies, errors, omissions, summaries, incorrect terminology
- Gender, cultural, or class biases
- Conflicts of interest, lack of neutrality and other impediments to compliance
- Breaches of confidentiality
- Interpreters stepping out of role and giving advice, trying to influence victims

Explain How You Identified the Problem

- Based on what the client has told you
- You speak the target foreign language and have detailed notes
- You do not speak the foreign language but took notes on your concerns and then debriefed with the client to determine what went wrong
- You obtained information from client, family, or community informants
- You reviewed case transcripts of proceedings, and compared the transcripts to what the client and/or other witnesses told you

1. Problems with Quality of Interpretation

Most problems arise from using bilingual speakers untrained to interpret; these include:

- Lack of fluency.* Interpreter is not fluent in English and/or foreign language.
- Lack of accuracy.* Incomplete interpretation, interpreter cannot keep up with subject matter, is ignorant of specialized terminology, is uncomfortable with domestic or sexual violence terms, etc.
- Lack of neutrality.* Interpreter gives advice, doesn't reveal a conflict of interest.
- Breaking confidentiality.* Interpreter discusses or shares case information.
- Allowing personal and cultural bias.* Interpreter's biases filter and/or change what is said.
- Providing 'cultural interpretation.'* Explaining cultural practices, offering themselves up as cultural experts, reflecting their own or their larger ethnic community's cultural biases.
- Allowing gender bias.* Blaming victims, emphasizing traditional roles for women, admonishing them for asserting their rights.

2. Other Problematic Situations

In small communities when an interpreter knows both the victim and batterer:

- Interpreter or advocate should disclose this to the court as a potential conflict of interest or bias, and allow the court to make a determination on whether a conflict or bias exists.
- Attorneys or advocates should be prepared to suggest an alternative interpreter to the court, e.g., telephonic interpretation by an interpreter from the adjoining county.

If the advocate knows the interpreter assigned to the case is a batterer:

- When advocates may have this information through confidential means (e.g., by providing services to interpreter's partner) they cannot publicly state this reason.
- Advocate can bring another interpreter to interpret if the court will agree to it.

Report the Problem to...

Advocates should report all problems to the victim's attorney. It is the attorney's role to notify the court about any interpretation issues, and raise the appropriate objections on the record. Only if client is unrepresented, should advocates report problems to others.

- *Victim's Attorney:* If the victim is represented, inform the attorney who will raise the issue with the judge.
- *Officers of the Court:* Write a note describing the issue and give it to the bailiff or court clerk who will alert the judge.
- *Interpretation Services Providers:* Inform court interpreter coordinator (if there is one), agency that provided in-person or telephonic interpreter.
- *Professional Association:* If the interpreter is on a list or is certified, notify the appropriate agency and file a complaint.

What Can Happen Next

- Judge and/or attorneys decide if there is a problem and if a new interpreter is needed.
- For conflicts of interest, the judge assesses the nature of the conflict and whether it will impede the interpreter's ability to interpret.
- Attorneys of either party may decide to take steps to exclude information or testimony marred by poor interpretation.
- Advocate can ask interpretation services agency to assign a different interpreter (for quasi-judicial setting).
- For confidentiality breaches, advocates must take steps to ensure client's safety.

When bilingual advocates are asked to interpret:

- a. Advocates must not interpret at trials, motion hearings, custody hearings, arraignments, or divorce hearings.
- b. Advocates must decline to interpret. If a judge insists that an advocate serve as the interpreter, despite the advocate's objections, the advocate should request that the objection is placed on the record.
- c. Advocates must not interpret if no attempt to find a qualified interpreter (either in-person or for telephonic interpretation) was made before the advocate is asked to interpret.
- d. Advocates must not interpret at attorney-client interviews.
- e. ONLY in the interest of a victim's immediate safety and when a qualified interpreter is not available in person or via telephone, an advocate can step in to interpret.
- f. Advocates who are interpreting must stop when they are:
 - losing the message
 - summarizing because they are unable to retain the information or interpret particular concepts or terminology
 - confused and/or confusing the client
 - finding the vocabulary being used is beyond their language ability.

Resources:

1. **Supreme Court of Ohio Advisory Committee on Interpreter Services.** *The Role of Interpreters in the Legal System.* Training video for judges and new court interpreters on the use of interpreters in the courtroom.
<http://www.supremecourt.ohio.gov/JCS/interpreterSvcs/interpreterVideo.asp>

DEMOGRAPHICS		SCREENER INFORMATION	
Age: <input type="checkbox"/> 18-25 <input type="checkbox"/> 26-40 <input type="checkbox"/> Over 40	Race/Ethnicity (Check all that apply) <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Black <input type="checkbox"/> Caucasian <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Other	Screening Agency:	
Gender: <input type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> Transgender <input type="checkbox"/> Other <input type="checkbox"/> Choose not to answer		Screener Name/Title:	
		Phone Number:	
		Date of Screening:	

VICTIM SERVICES SCREENING TOOL

For the screener: The purpose of this screening tool is to screen for Intimate Partner Abuse, Sexual Assault, and Human Trafficking to ensure that the individual is connected to all the services they are eligible for. Please complete as much of the tool as the individual chooses. If an individual chooses to not answer a question, mark the ‘Decline to Answer’ box. Please remind the individual being screened of any mandated reporting requirements you have. This tool should only be used for adults ages 18 and older.

Screener please read to the individual: This is a completely voluntary survey that we will use to identify and connect you to all the services available to you. These questions may be difficult to read or answer. You can choose to stop at any time. Please feel free to respond as you feel comfortable.

1. Do you feel safe at home or the place you are staying currently?

☐ Yes

☐ Decline to Answer

☐ No
2. Do you have a safe place to stay?

☐ Yes

☐ Decline to Answer

☐ No
3. Are you being hurt (physically, emotionally, sexually, etc.) by someone you know?

☐ No

☐ Yes, not at home

☐ Yes, at home

☐ Decline to Answer
4. Has your *partner (or ex-partner)* hurt you or ever threatened to hurt you or your family in any of the ways below? (check all that apply)

☐ Physically

☐ Financially

☐ Emotionally

☐ Threatens to disclose my sexuality

☐ Sexually

☐ Decline to Answer

☐ Controls me in other ways
5. Do you have control of your personal belongings and or/identification documents (ID, passport, etc.)?

☐ No

☐ Decline to Answer

☐ Yes
6. Is your contact with family or friends controlled, limited, or denied? (check all that apply)

☐ No

☐ Denied

☐ Controlled

☐ Decline to Answer

☐ Limited

7. Has anyone (including your partner or a recruiter) received payment for you, your work, or the promise of your work?
- ☐ No ☐ Decline to Answer
☐ **Yes**
8. Does someone other than you (employer, partner, etc.) decide: (Check all that apply)
- ☐ **Where you work** ☐ **Where you live**
☐ **When you work** ☐ **How you get to work**
☐ **How long you work** **(transportation)**
☐ **When you leave your job** ☐ Decline to Answer
9. Did someone ever: (check all that apply)
- ☐ **Withhold payment from you.** ☐ **Not pay you for all hours worked.**
☐ **Give your payment to someone else.** ☐ **Take your wages from you.**
☐ **Withhold payment to pay a debt.** ☐ Decline to Answer
10. Has your *employer* ever made threats against you, someone you love, or your family? (check all that apply)
- ☐ **Threatening deportation** ☐ **Calling CPS on you**
☐ **Threats of physical violence** ☐ **Threatening to disclose your sexuality**
☐ **Not allowing access to necessities (bathroom, food, shelter, etc.)** ☐ Decline to Answer
11. Have you ever done work or other activities that were different from what you were promised?
- ☐ No ☐ Decline to Answer
☐ **Yes**
12. Are any of the following situations occurring at work? (check all that apply)
- ☐ **I am working more than 8 hours and not being paid overtime.** ☐ **I am unable to take paid breaks.**
☐ **I am unable to quit or leave my job.** ☐ Decline to Answer
13. Have you ever experienced sexual contact (touching or non-touching) that you didn't want or that made you feel uncomfortable?
- ☐ No ☐ Decline to Answer
☐ **Yes**
14. Has anyone ever pressured you to touch them, or someone, or have any unwanted physical or sexual contact with another person?
- ☐ No ☐ Decline to Answer
☐ **Yes**
15. Has anyone pressured you to touch them or someone else sexually in exchange for safety, money, or something of value (IE: food, shelter, drugs, gifts, etc.)?
- ☐ No ☐ Decline to Answer
☐ **Yes**

TRAFFICKING INDICATORS

PLEASE NOTE: The following list of trafficking indicators is neither definitive nor static. This list should not be used for profiling purposes, but as information to assist you in identifying whether an individual may be a victim of trafficking.

Key indicators

- Someone else has possession of legal/travel documents
- Existing debt issues
- One attorney claiming to represent multiple undocumented immigrants detained at different locations
- Third party who insists on interpreting

May Be Indicators

- Victim living/working conditions
- Live on or near work premises
- Restricted or controlled communication
- Frequently moved by traffickers
- Large number of occupants for living space

Victims may lack

- Personal items/possessions
- Cell phones, calling cards, etc.
- Private space
- Financial records
- Transportation
- Knowledge about how to get around in a community

Personal/physical indicators

- Injuries from beatings or weapons
- Signs of torture (e.g., cigarette burns)
- Brands or scarring indicating ownership
- Signs of malnourishment

Workplace indicators

- Security intended to keep victims confined
- Barbed wire
- Bars on windows
- Self-contained camps
- Bouncers, guards, and/or guard dogs
- Only allowed to shop at "Company Store"

Forced Prostitution

- Large amounts of cash and condoms
- Customer logbook or receipt book (a.k.a. "trick book")
- Sparse rooms
- Men come and go frequently
- PLUS other trafficking indicators

Identifying Offenders

- Do they maintain employee records?
- Do they file social security deductions?
- Who does their payroll?
- How are employees paid?
- How do they determine employee wages?
- Who is their accountant?
- What are their hours of operation?
- Do they have a written vacation policy?
- Where do employees' children go to school?

Victim Realities

- May not identify themselves as victims
- May not speak English
- Likely to use rehearsed stories initially
- May be behaviorally dependent on trafficker
- Trauma, shame, lack of trust may deter victims from telling the full story
- Victims may be reluctant to speak to someone wearing a gun, badge, or uniform
- Victim may not want family to know of his/her circumstances
- Victim may exhibit "Stockholm Syndrome" behavior
- Empathy for traffickers
- Concerned for safety of the victim's family in the home country
- Victim Interview Considerations
- Victim should be given a choice of speaking with male or female
- Use informal conversation
- Allow victim to set length and pace
- Watch for nonverbal cues
- Do not make promises
- Do not videotape or audiotape initial conversations
- Victim services/nongovernmental organizations (NGOs) should be involved as soon as possible—even if only a slight indication of victimization
- Don't expect to get full story right away

Building Collaborative Responses to Trafficked Victims of Domestic Violence and Sexual Assault
Futures Without Violence, OVW Training

HT GOAL PLAN

CLIENT NAME: _____

OPEN: _____

CLIENT NUMBER: _____



Priorities

Housing		Financial		Legal		Professional Development		HEALTH	
<input type="checkbox"/>	Emergency	<input type="checkbox"/>	SSA Benefits	<input type="checkbox"/>	Immigration	<input type="checkbox"/>	ESL	<input type="checkbox"/>	Dental
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>	Transitional	<input type="checkbox"/>	Employment	<input type="checkbox"/>	Family	<input type="checkbox"/>	Trade/Job Training	<input type="checkbox"/>	Medical
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>	Permanent	<input type="checkbox"/>	Child Support /Alimony	<input type="checkbox"/>	Criminal	<input type="checkbox"/>	College (2 or 4 years)	<input type="checkbox"/>	Mental
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	Victim Witness	<input type="checkbox"/>	Civil	<input type="checkbox"/>	Other	<input type="checkbox"/>	Other
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	

Goal No. 1

Goal No. 2

Goal No. 3

Open Date: _____

Close Date: _____

● In Process

✓ Done

➔ Postponed

X Cancelled

Meeting Date/Time: _____ CM Initials _____ Client Initials _____

Goal 1:

Client Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Goal 2:

Client Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Goal 3:

Client Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Week: _____ Meeting Date/Time: _____ CM Initials _____ Client Initials _____

Goal 1:

Client Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Goal 2:

Client Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Goal 3:

Client Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

GOAL PLAN

ENTRY DATE: _____ EXIT DATE: _____ CLIENT NUMBER: _____

Priorities

Housing	Income	Legal	Professional Development
<input type="checkbox"/> Emergency	<input type="checkbox"/> SSA Benefits	<input type="checkbox"/> Immigration	<input type="checkbox"/> ESL
<input type="checkbox"/> Transitional	<input type="checkbox"/> Employment	<input type="checkbox"/> Family	<input type="checkbox"/> Trade/Job Training
<input type="checkbox"/> Permanent	<input type="checkbox"/> Child Support/Alimony	<input type="checkbox"/> Criminal	<input type="checkbox"/> College (2 or 4 years)
		<input type="checkbox"/> Civil	

Goal No. 1
Goal No. 2
Goal No. 3

Assigned Advocate: _____

Case Management Meeting Dates:

Week One	Week Two	Week Three	Week Four
Day: _____	Day: _____	Day: _____	Day: _____
Date: _____	Date: _____	Date: _____	Date: _____
Time: _____	Time: _____	Time: _____	Time: _____
Met?: _____	Met?: _____	Met?: _____	Met?: _____
Week Five	Week Six	Additional Meetings	
Day: _____	Day: _____	Day: _____	Day: _____
Date: _____	Date: _____	Date: _____	Date: _____
Time: _____	Time: _____	Time: _____	Time: _____
Met?: _____	Met?: _____	Met?: _____	Met?: _____

Entry Date: _____

Exit Date: _____

● In Process

✓ Done

➔ Postponed

X Cancelled

Week: _____ Meeting Date/Time: _____ CM Initials _____ Guest Initials _____

Goal 1:

Guest Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Goal 2:

Guest Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Goal 3:

Guest Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Week: _____ Meeting Date/Time: _____ CM Initials _____ Guest Initials _____

Goal 1:

Guest Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Goal 2:

Guest Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Goal 3:

Guest Action Items	Target Date	Status	Case Manager Action Items	Target Date	Status

Referrals Provided

	<i>Date Provided</i>		
Therapy		Medi- Cal <i>Y or N</i>	
		STV Internal Referral	<i>Y or N</i>
		Other referrals	
	<i>Date Provided</i>		
Legal referral (immigration, family law, etc)		Connect with Legal Coordinator	<i>Y or N</i>
		Other referrals	
		Other referrals	
	<i>Date Provided</i>		
Support Groups		Group type	
	<i>Date Provided</i>		
Other Referrals		Other referrals	
		Other referrals	
		Other referrals	
		Other referrals	
		Other referrals	

Identified Service Providers

Agency: _____	<i>HIPAA Release Signed: Y / N</i>
Phone number(s): _____	<i>Expire Date:</i> _____
Agency: _____	<i>HIPAA Release Signed: Y / N</i>
Phone number(s): _____	<i>Expire Date:</i> _____
Agency: _____	<i>HIPAA Release Signed: Y / N</i>
Phone number(s): _____	<i>Expire Date:</i> _____
Agency: _____	<i>HIPAA Release Signed: Y / N</i>
Phone number(s): _____	<i>Expire Date:</i> _____
Agency: _____	<i>HIPAA Release Signed: Y / N</i>
Phone number(s): _____	<i>Expire Date:</i> _____
Agency: _____	<i>HIPAA Release Signed: Y / N</i>
Phone number(s): _____	<i>Expire Date:</i> _____
Agency: _____	<i>HIPAA Release Signed: Y / N</i>
Phone number(s): _____	<i>Expire Date:</i> _____

Safety Planning Tips for Supporting Survivors

- 1. Help the survivor think through next steps to stay safe.**
 - If s/he is ready to escape, help create an escape plan.
 - Think about how and when to escape.
 - Think about options of where s/he can go when she first escapes, and then where she will live.
 - For example, she may go to her church, meet with a provider there and then go to shelter.
 - Questions to discuss include, “Does s/he have anyone she trusts? Any place that she can go, such as church, child’s school, friend’s house?”
- 2. Help the survivor think through what essential documents they have and can bring with them.**
 - If not, let them know that the most important thing is their immediate safety, and not worry about bringing anything.
- 3. Think through the safety of the responder/ advocate.**
 - Make a plan to meet at a location that is safe for both the survivor and advocate.
 - If possible have at least two advocates meet and bring the survivor to safety.
- 4. After escaping, help the survivor avoid potential contact with trafficker(s).**
 - For example, does their cell phone have GPS?
 - Change cell phone and email addresses.
 - Help them avoid going to neighborhoods or areas where the traffickers or their associates may find them.
- 5. Encourage them to continually update their safety plan, and get assistance from an advocate, attorney, or victim witness coordinator whom they trust.**
 - Prepare the survivor to think through what they will share with others.
 - For example, at school will she go by a new name? When she is registering for school, if they ask her visa status, how will they respond?
- 6. In shelter, what do they want to share with other residents?**
 - When they are in safe places, such as at a safe shelter or a job-training program for trafficking survivors, encourage them to try to relax, breathe, and develop normal interactions and activities.
 - Remind them that they are paving the way for a new life of freedom.

Written by Asian Women’s Shelter

Building Collaboration to Address Trafficking in Domestic Violence and Sexual Assault Cases, Family Violence Prevention Fund/ OVW Training

Tapestri

Task Force Operational Protocol

Protocols on Discovery:

Discovery of a victim by service provider:

- Assess victim safety
- If a victim is in immediate danger contact_____.
- Contact partner service provider for specific needs (shelter, food, clothing, medical)
- Notify law enforcement with victim consent

Discovery of a victim by law enforcement:

- Identification and assessment (victim vs. criminal)
- Referral for services

Custody (protocol for wellbeing of the victim and successful arrest of the trafficker):

- Intake procedure (interviewing techniques used)
- Response to adult, child, male, female, foreign born and domestic victim

Trafficker Custody and Control:

- Identification of the trafficker
- Arrest of the trafficker
- Trafficker's influence over victim

Safety & Services Considerations:

Physical safety

- Is there a safety protocol in place?
- Resources for medical and psychological care
- Resource capacities

Psychological safety:

- Victim's condition
- Condition for cooperation in an ongoing investigation

Sample Protocols

Law Enforcement:

- All trafficking related referrals from the community and partner agencies shall be made to law enforcement agency and/or point of contact within law enforcement agency
- Law enforcement agencies will investigate and follow up with tips from the community within days/hours
- Potential victims of human trafficking will be separated from his/her trafficker prior to questioning
- Law enforcement will utilize a victim centered approach when interviewing victim
- Once victim has been identified, prosecutors will interview the potential victim within days/hours of the discovery
- Service providers will be notified for emergency housing and services within hours/days
- Potential minor victims of human trafficking will receive forensic interview by a trained interviewer

Protocols for Service Providers:

- First responder for Agency Name will be Name of Case Worker designated for referrals.
- Case worker will be designated to answer hotline 24 hours a day
- In case designated case worker is unavailable, referrals will be made to secondary responder
- In case of a referral for a potential trafficking situation, where victim remains in trafficking situation and are in imminent danger, case worker will direct all referrals to designated law enforcement agency

Once a potential victim has been identified, service provider will;

- Assess the victims immediate safety
- Arrange for interpretation services if needed
- Assess the immediate and long term needs of the victim
- Provide basic education about his/her rights, protections and services available
- Acquire consent from victim to report to law enforcement
- Prioritize the victim's confidentiality
- Potential victims of human trafficking will receive emergency housing in name of shelter for a duration of number of months
- Each potential victim will receive a medical exam within number of days unless the victim objects to medical screening
- Each potential victim will receive a psychological evaluation and treatment within number of days unless victim objects to psychological evaluation and counseling