



**HUMAN TRAFFICKING IN CALIFORNIA**  
TOOLKIT FOR JUDICIAL OFFICERS

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Prepared by the Center for Families, Children & the Courts.

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## ACKNOWLEDGEMENTS

This toolkit was made possible with the coordination, support, and assistance of the following people and organizations:

- Bobbie Welling
- Christine Cleary
- The Judicial Council of California's Collaborative Justice Courts Advisory Committee
- State Court Collaborative
- National Association of Women Judges
- National Center for Youth Law
- District Attorney George Gascón, San Francisco District Attorney's Office
- California Child Welfare Council's CSEC Action Team
- Santa Barbara County's Commercially Sexually Exploited Children (CSEC) Program
- Los Angeles County STAR Court

## SELF-SURVEY: HOW MUCH DO YOU KNOW ABOUT HUMAN TRAFFICKING?

The following self-survey was created by Strategies for Youth, Connecting Cops & Kids on the economics of CSEC. How much do you know about human trafficking and the sexual exploitation of youth?

1. Drug trafficking is the first major criminal activity in the United States.  
What is the second? \_\_\_\_\_
2. Why is the trafficking of humans becoming more prevalent than the trafficking of drugs?  
\_\_\_\_\_
3. The annual global income of human trafficking is estimated to be:  
a. \$290 million      b. \$32 billion      c. \$39 million
4. Approximately how many American children or youth can be classified as “sex trafficked” each year?  
a. 100,000      b. 250,000      c. 50,000
5. United States businesses that profit from Commercial Sexual Exploitation of Children include:  
a. Internet companies      d. Massage parlors      g. Media  
b. Mobile phone providers      e. Spas      h. All of the above  
c. Airlines, busses, and railroads      f. Hotels and motels
6. One study in Atlanta, Georgia found that pimps can gross how much on average (weekly)?  
a. \$11,780      b. \$23,000      c. \$32,833
7. What percentage of income does an exploiter keep when the “employee” is a child or youth?  
a. 50%      b. 20%      c. 80%      d. 100%
8. Excluding prostitution-related offenses, for what criminal charges do police most often arrest youth who are commercially sexually exploited? \_\_\_\_\_  
—
9. What are some ways pimps “launder” the money they earn from selling children and youth?  
a. Massage parlors      c. Car dealerships      e. All of the above  
b. Clubs and restaurants      d. Car rental companies
10. What recent economic change gave the biggest boost to human trafficking?  
a. The recession      b. The economic recovery      c. The Affordable Health Care Act

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<sup>1</sup> For answers to quiz, see [http://calswec.berkeley.edu/sites/default/files/uploads/economics\\_of\\_csec\\_quiz\\_answer\\_key.pdf](http://calswec.berkeley.edu/sites/default/files/uploads/economics_of_csec_quiz_answer_key.pdf).

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## I. INTRODUCTION

The growing awareness of human trafficking has spurred questions about what trafficking cases look like and how to best approach victims in the court context. There are several types of human trafficking, including domestic servitude, forced labor, and sex trafficking.<sup>2</sup> This toolkit focuses on sex trafficking, in which someone is coerced (either physically or emotionally), forced, or deceived into prostitution or maintained in prostitution through coercion, including by pimps. Victims of sex trafficking are often sold via the Internet and escort services, in strip clubs, in brothels posing as massage parlors or other legitimate businesses, or on the street as prostitutes. The average age that girls are first exploited is 12 to 14, and the average age that boys and transgender youth are exploited is 11 to 13.<sup>3</sup>

Human trafficking cases present themselves in many complicated and unassuming ways in courtrooms. With state and federal trafficking laws being strengthened recently, more victims and offenders are appearing in court than ever before. And because sex trafficking has become an increasingly “hot topic” in the media, judicial officers and other justice stakeholders have asked for guidance on how best to deal with these cases. This toolkit is one of several responses to those requests.

This toolkit contains information that is useful and relevant to judicial officers who may come across the variety of cases in which a sex trafficking victim may be a party or witness. To start, the summaries of the AOC Briefing *Human Trafficking Cases in California’s Courts: Successful Practices in the Emerging Field of Human Trafficking* and the Child Welfare Council’s report *Ending the Commercial Sexual Exploitation of Children: A Call for Multisystem Collaboration in California* provide overviews of the definitions of trafficking and the scope of the problem, primarily in juvenile delinquency and child welfare.

Chapter IV contains a legislative history detailing the federal and state laws related to human trafficking to date, particularly sex trafficking. Chapter V discusses ethical considerations for judicial officers, such as being an advocate for a trafficking victim without compromising neutrality. In cases that involve a possible victim, several types of hearings may be necessary.

Chapter VI discusses trafficking-related 402 hearings that may come up, particularly related to the CASE Act (Proposition 35). Chapter VII discusses the importance of screenings and assessments to identify trafficking victims, as well as instruments that are currently available for law enforcement, child welfare, and probation departments. Chapter VIII discusses examples of trafficking case-related protocols. The next chapter presents several bench cards that judicial officers may find useful, such as commonly used terminology in pimping and trafficking,

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<sup>2</sup> For a detailed description of each type of trafficking, see the AOC Briefing, *Human Trafficking Cases in California’s Courts: Successful Practices in the Emerging Field of Human Trafficking* (Dec. 2012), [www.courts.ca.gov/documents/AOCBrief\\_Human\\_Trafficking.pdf](http://www.courts.ca.gov/documents/AOCBrief_Human_Trafficking.pdf) (as of Oct. 1, 2016).

<sup>3</sup> H. J. Clawson, N. Dutch, A. Solomon, & G. Goldblatt Grace, *Human Trafficking Into and Within the United States: A Review of the Literature* (2009), <http://aspe.hhs.gov/hsp/07/humantrafficking/litrev/> (as of Oct. 1, 2016).

immigration and visa issues in cases where there may be a trafficking victim, and what to do if a trafficking victim is a dependent or ward.

Chapter X lists the organizations that provide services for victims, and Chapter XI offers promising practices for presiding judges to utilize their leadership to organize collaborative methods to combat trafficking. The subsequent chapters present a hypothetical trafficking case, an analysis of the overlap between child welfare and juvenile justice, available services to trafficking victims, and a review of girls' court, a promising collaborative justice approach to treating young, female trafficking victims that may otherwise enter the juvenile delinquency system. Further chapters describe organizations that provide funding for trafficking-related services or research and sample training modules for jurisdictions that would like to implement such training.

As the area of human trafficking continues to emerge and evolve, the judicial branch and all of its stakeholders continue to work toward evolving with it to effectively punish traffickers and support victims. One such evolution was the passage of Assembly Bill 1322, which decriminalized prostitution for minors under the age of 18 and mandated services rather than criminalization in juvenile delinquency court. This law was signed by the California Governor as this toolkit was nearing completion. It remains uncertain how this law will impact minor trafficking victims, as well as their traffickers. However, it is important to note that adults over the age of 18 may also be victims of sex trafficking; simply turning 18 does not turn someone from a victim to a consenting prostitute.

**As the area of human trafficking continues to emerge and evolve, the judicial branch and all of its stakeholders continue to work toward evolving with it to effectively punish traffickers and support victims.**

Although this toolkit addresses sex trafficking primarily, many topics covered may also be relevant to labor trafficking, which is also a serious, emerging, and unaddressed problem in California and around the country. The toolkit attempts to cover the most common questions raised by judges who have trafficking cases. It is not an exhaustive discussion, as the law and the social science regarding human trafficking is still evolving. This toolkit discusses best practices in this emerging field. However, the authors recognize that not all jurisdictions have access to the same resources at this time and that some of the best practices may be goals.

The print version of this toolkit was completed in 2017. The most current version of this toolkit can be found at [www.courts.ca.gov](http://www.courts.ca.gov).

## II. SUMMARY: HUMAN TRAFFICKING CASES IN CALIFORNIA'S COURTS: SUCCESSFUL PRACTICES IN THE EMERGING FIELD OF HUMAN TRAFFICKING

This is a summary of the AOC Briefing, *Human Trafficking Cases in California's Courts*.<sup>4</sup>

The issue of human trafficking is emerging and has only relatively recently been identified as an epidemic. Thus, best practices for identifying victims, for treating victims, and for prosecuting offenders are still being researched and discovered. It is easy for traffickers to evade law enforcement since often the victim is in the open while the trafficker is hidden, and the risk of conviction is low; even if convicted, many traffickers face minimal sentencing. Although data are difficult to ascertain, at any given time approximately 12.2 million people are estimated to be victims of human trafficking around the world and 50,000 people are estimated to be trafficked into the United States from other countries. Within the United States, up to about 325,000 youth have been sold into sex slavery or are at risk for sexual exploitation. Human trafficking cases present themselves in many complicated and unassuming ways in juvenile delinquency and criminal courtrooms. With state and federal trafficking laws being strengthened recently, more victims and offenders are appearing in court than ever before.

Human trafficking is defined broadly as controlling a person through force, fraud, or psychological or physical coercion to use the person for forced labor or sexual exploitation.

The first federal law dealing with human trafficking in the United States was passed in 2000 as the Trafficking Victims Protection Act of 2000. The California Trafficking Victims Protection Act (2006) established human trafficking for forced labor or services as a felony crime in California for the first time. Since the California Trafficking Victims Protection Act, more than a dozen laws have been passed in California related to human trafficking. The most common forms that occur in the United States are sex trafficking, domestic servitude, and forced labor. Victims of human trafficking in California come from a variety of different countries as well as from within the state or even within a county. Although international trafficking victims are widely discussed in the literature and the media, much trafficking is national or regional, done by those whose nationality is the same as their victims.

Trafficking victims have certain commonalities that make them vulnerable to exploitation, including poverty, history of sexual or physical abuse, a lack of family or family support, young age, and limited education. Traffickers can be foreign nationals and United States citizens, males and females, family members, intimate partners, acquaintances, and strangers. Traffickers approach and obtain victims in many ways. Victims of trafficking can be initially lured by false promises of jobs; however, for many domestic victims, traffickers lure already vulnerable victims with flattery and a false sense of unconditional love that victims may crave. Once

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<sup>4</sup> A. Bacharach, *Human Trafficking Cases in California's Courts: Successful Practices in the Emerging Field of Human Trafficking* (Dec. 2012), Judicial Council of California. Retrieved from [www.courts.ca.gov/documents/AOCBrief\\_Human\\_Traficking.pdf](http://www.courts.ca.gov/documents/AOCBrief_Human_Traficking.pdf) (as of Oct. 1, 2016).

baited, traffickers create a dependent relationship with extreme power differentials in which the trafficker has economic and psychological power to keep the victim as a commodity and keep the profits. Traffickers convince victims to distrust outsiders, particularly law enforcement, and victims are kept unaware of their rights. Cultural beliefs may also be used to keep them in line, such as shame to their family if they leave. Researchers recently identified five main themes that keep victims entrapped: (1) fear (of violence, retaliation, deportation, law enforcement, and family repercussions); (2) lack of knowledge about alternatives (available services, victim rights); (3) isolation (from transportation, language, lack of social support); (4) confinement (physical and psychological); and (5) shame.

Some of the barriers to identifying victims include a lack of public awareness about trafficking, a lack of awareness and training among law enforcement and other professionals who may have direct contact with victims, difficulty in distinguishing between smuggling and trafficking, and insufficient resources to investigate potential trafficking cases. Another reason it may be difficult to identify victims, particularly international victims, is their common distrust of people in

**When trafficking victims are involved in illegal activities such as prostitution or are undocumented, it is often difficult to differentiate between being a criminal and being a victim.**

seemingly powerful positions. In some countries from where victims originate, law enforcement officers may be the “clients” of sexually exploited girls and young women, creating mistrust of any law enforcement officer. When trafficking victims are involved in illegal activities such as prostitution or are undocumented, it is often difficult to differentiate between being a criminal and being a victim. Researchers have recognized red flags to look for: situational indicators such as frequent movement, many people living together, and people living in the same location where they work; story indicators such as how a person came to the United States, whether they have a copy of their documentation, and whether they are paid for their work; and demeanor, such as whether a person seems fearful or answers questions evasively. A screening tool for victimization is available for law enforcement, social service organizations, and health care providers and has been identified as a successful practice for identifying victims.

Although dependent youth and foster youth are often at risk for victimization, many trafficking issues arise in delinquency court or as a crossover or dual status case. It is often difficult to distinguish between victimization and criminalization, especially in sex trafficking cases. Although prosecuting the trafficker is a primary goal in trafficking cases, successful practices include restoring victims’ human rights and dignity and providing culturally competent trauma-based and other necessary services as an equal and independent goal, according to researchers and victim advocates.

Collaborative approaches to treating victims as victims rather than as criminals have been identified as successful practices. Victim-centered approaches to prosecution ensure that victims are treated as victims and not as criminals, and that they have access to adequate services, assistance, and benefits. Attorneys and judicial officers have stated that sometimes incarceration may be the only alternative available to keep a youth safe. Since many young victims do not self-identify as victims and have a sense of dependence on and even protection of the trafficker, some feel that a locked facility in which a victim can receive necessary services and guidance and, more importantly, be isolated from the trafficker, is the best option.

Judicial officers and attorneys have noted several limitations and challenges to prosecuting under Penal Code 236.1, enacted under the Trafficking Victims Protection Act. Because of the perceived lack of strength in the trafficking laws, prosecutors in California have successfully prosecuted traffickers using serious felony statutes such as kidnapping, extortion, and sexual assault statutes in addition to or in lieu of the trafficking statute. Due to trafficking cases being tried under other charges, researchers have been unable to collect accurate data on trafficking cases in California and around the country. Since the victim is required to assist the case (i.e., testify) in order to receive services, what makes for a good prosecution does not always serve the safety needs of the victim.

As laws related to domestic violence have evolved over the last few decades, so have laws related to human trafficking. However, the current laws surrounding human trafficking have often criminalized and penalized victims while providing leniency for traffickers, who receive substantially greater penalties for trafficking guns and drugs. There is a need for more information and study on this emerging topic. Several reports have noted a need for (1) comprehensive data on trafficking cases; (2) training and education for law enforcement, prosecutors, and judges on identifying trafficking victims and prosecuting or hearing trafficking cases; and (3) increased public awareness in communities about trafficking.

### III. SUMMARY: IMPROVING CALIFORNIA'S MULTI-SYSTEM RESPONSE TO COMMERCIALLY SEXUALLY EXPLOITED CHILDREN: RESOURCES FOR COUNTIES

This is the executive summary of the 2013 California Child Welfare Council paper, *Improving California's Multi-System Response to Commercially Sexually Exploited Children: Resources for Counties*.<sup>5</sup>

Within the United States, California has emerged as a magnet for commercial sexual exploitation (CSE) of children (CSEC). The FBI has determined that three of the nation's thirteen High Intensity Child Prostitution areas are located in California: the San Francisco, Los Angeles, and San Diego metropolitan areas. Child sex trafficking, child pornography, and child sex tourism are all forms of CSEC. Frequently, victims are exploited through more than one form of abuse, and they cycle through the stages of exploitation many times before they are able to leave their exploitative relationships. To address this problem, California must develop a comprehensive and collaborative response to ensure CSE victims are identified and receive the services they need to overcome trauma and live healthy, productive lives.

The children who fall prey to exploiters are frequently those with prior involvement with the child welfare system, such as through child abuse report investigations and placement in foster care. Other victims should have received Child Welfare services and protections but never gained access to the system, and are instead treated like criminals and funneled into the juvenile justice system.

**The children who fall prey to exploiters are frequently those with prior involvement with the child welfare system, such as through child abuse report investigations and placement in foster care.**

The chapters in this report cover the horrors children experience through commercial sexual exploitation, the prevalence and scope of CSEC, the need for child-serving systems to identify CSEC and children at risk of CSE, models and approaches for addressing the needs of CSEC, strategies for preventing CSE, the response by the international community, and recommendations for a collaborative and comprehensive response to CSE in California.

There are many difficulties and barriers to identifying victims of commercial sexual exploitation. Paramount is inadequate education and awareness among agencies, organizations, and providers who come into contact with CSEC. Additionally, many CSEC are not able to see themselves as victims; and either rationalize or actively deny that they are being exploited. The concealed nature of this crime also acts as a barrier to identifying and rescuing CSEC.

<sup>5</sup> Child Welfare Council Commercially Sexually Exploited Children (CSEC) Action Team, *Improving California's Multi-System Response to Commercially Sexually Exploited Children: Resources for Counties* (2015), [www.chhs.ca.gov/Pages/GeneralInformation.aspx](http://www.chhs.ca.gov/Pages/GeneralInformation.aspx) (as of Oct. 1, 2016).

California, however, still lags behind the efforts of other states in the United States that have established policies and practices to prevent domestic minor sex trafficking, decriminalize prostitution for minors, rescue and restore victims through enhanced identification, and provide specialized placement and trauma-informed services.

California is at a crossroads. CSE of children is an epidemic spreading at an exponential rate across the state. To combat its growth, this report makes recommendations in each of the five areas discussed above. Successfully implementing these recommendations requires a comprehensive and collaborative approach.

As a result of this report, a CSEC Action Team was convened to plan, develop, and oversee action steps needed to improve California's response to the growing number of children being sold for sex each night. The CSEC Action Team is charged with facilitating a collaborative and comprehensive process for prioritizing, sequencing, and overseeing implementation of the recommendations adopted by the Child Welfare Council and includes leaders representing state and local government agencies, CSEC service providers, youth advocates, court representatives, and CSEC survivors.

## IV. LEGISLATIVE HISTORY

This chapter details federal and state legislation related to human trafficking that has been passed as of the time of this writing. As this issue gains awareness, additional legislation may be proposed.

### Federal Legislation

Legislation dating back a century addressed human trafficking, although it is rarely used in that context. In 1910, the Mann Act was passed, which made it a crime to transport minors or coerce adults to travel across state lines for the purpose of engaging in commercial sex. The Mann Act was amended in 1978 and 1986. The Racketeering Influenced Corrupt Organizations Act (RICO) of 1970 also includes human trafficking as a racketeering offense.

The most used federal legislation today is the Trafficking Victims Protection Act of 2000, which initially allowed the federal government to better prosecute traffickers and protect victims. The 2000 act made human trafficking a crime and strengthened prison sentences for convicted traffickers. It also allocated federal and state aid to victims, as well as provided access to T visas for victims, which grant temporary resident status. This act has been reauthorized in 2003, 2005, 2008, and 2013.

The Reauthorization Act of 2013 added provisions to ensure that United States citizens do not purchase products made by victims of trafficking, and that prevent child marriage. It also strengthens collaboration with state and local law enforcement agencies to ease charging and prosecuting traffickers. The number of federal prosecutions against traffickers has increased substantially since the passage of the Trafficking Victims Protection Act of 2000 (TVPA).

The PROTECT Act of 2003 (Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today) created enhanced penalties for anyone engaging in sex tourism with children, both within the United States and other countries; established the Amber Alert System and other means of alerting the public to missing, abducted, or exploited children; and created grants for transitional housing for children who are victims of sexual assault. In 2009, the Customs and Facilitations and Trade Enforcement Act was amended to include prohibiting the import of goods made by victims of human trafficking.

In 2014, Congress passed the Preventing Sex Trafficking and Strengthening Families Act, which provides various changes to existing law regarding child welfare, foster parenting, and adoption incentive payments. In addition, the act requires data collection and reporting by states regarding sex trafficking, including the identification of children who may be at high risk of becoming sex trafficking victims, particularly current and former foster children.

The Girls Count Act was passed in 2015, which authorized the Secretary of State and the United States Agency for International Development (United StatesAID) to support programs that focus on registering all births and that build the capacity of developing countries' legal and policy frameworks to prevent discrimination against girls, particularly in gaining access to

passports, property rights, inheritances, and economic opportunities. Finally, in a commemoration of the 150th anniversary of the Emancipation Proclamation, the Obama administration created the *Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States*.<sup>6</sup> This plan was a collaborative effort that brought together federal agencies to assist all victims of human trafficking.

## California Legislation

A great deal of legislation has been introduced in California in order to take steps to combat the crime of human trafficking. Recent legislative actions fall into four categories: penalty provisions, asset forfeiture, civil nuisance, and victim resources. Other recent legislation deals with supply chain issues, contracts, and training for law enforcement. Below is a nonexhaustive list of California legislation as of this writing.

### Penalty provisions for traffickers

Laws have been enacted to increase fines for trafficking and direct those fines to victim service providers.

- **PROPOSITION 35 (2012)**

The California Against Sexual Exploitation Act, enacted by voters, imposed higher penalties and fines than previously mandated, used to fund victim services; removed barriers to prosecute child sex traffickers; mandated training for law enforcement officers; required convicted sex traffickers to register as sex offenders; required all sex offenders to disclose Internet accounts;<sup>7</sup> and protected victims in court proceedings.

- **ASSEMBLY BILL 12 (2011)**

The Abolition of Child Commerce, Exploitation, and Sexual Slavery Act required individuals convicted of procuring sexual services from a minor prostitute to pay an additional fine (up to \$25,000) to fund programs for sexually exploited children.

- **SENATE BILL 285 (2011)**

Made it a misdemeanor for any person to knowingly provide fraudulent certificates, transcripts, or diplomas to any person who has not completed proper training set forth in the transcripts as required by the California Massage Therapy Council or a local city.

- **ASSEMBLY BILL 1844 (2010)**

Provided that any person who commits human trafficking involving a commercial sex act where the victim of human trafficking was under 18 years of age shall be punished by a fine of not more than \$100,000 to be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund services for victims of human trafficking.

- **ASSEMBLY BILL 17 (2009)**

The amendments to the California Control of Profits of Organized Crime Act increased the maximum amount of additional authorized fines to \$20,000 for any person convicted of procuring a child under 16 years of age.

<sup>6</sup> United States Office for Victims of Crime, *Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States, 2013-2017*, [www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf](http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf) (as of Oct. 1, 2016).

<sup>7</sup> The provision to disclose Internet accounts was subsequently blocked by the Ninth Circuit Court of Appeals.

- **ASSEMBLY BILL 22 (2005)**

The California Trafficking Victims Protection Act established human trafficking as a felony under Penal Code section 236.1; provided for mandatory restitution to the victim; directed the Attorney General to give human trafficking high priority along with other crimes; allowed a trafficking victim to bring a civil action against his/her trafficker; provided for human trafficking victim–caseworker privilege; and established a state-wide task force, the California Alliance to Combat Trafficking and Slavery (CA ACTS) to analyze California’s response to human trafficking and produce a final report.

## Asset forfeiture

The legislature has found asset forfeiture to be an effective way to punish and deter criminal activities and organized crime. To this end, the Legislature has fought human trafficking by using the same tool. In its most basic form, criminal forfeiture allows prosecutors to ask the court to freeze all proceeds from the crime and, if the person is convicted, to have those proceeds forfeited.

- **ASSEMBLY BILL 160 (2015)**

The California Control of Profits of Organized Crime Act provided the procedure for the forfeiture of property and proceeds acquired through a pattern of criminal profiteering activity. This act also included pimping and pandering.

- **ASSEMBLY BILL 2466 (2012)**

Allowed a court to order the preservation of the assets and property of criminal defendants charged with human trafficking.

- **SENATE BILL 1133 (2012)**

Expanded the scope of property subject to forfeiture in human trafficking cases and provides a formula to redirect those resources to community groups that aid victims of human trafficking.

- **ASSEMBLY BILL 90 (2011)**

Expanded the definition of criminal profiteering to include abduction or procurement by fraudulent inducement for prostitution.

- **ASSEMBLY BILL 17 (2009)**

Expanded the definition of criminal profiteering to include abduction or procurement by fraudulent inducement for prostitution.

## Civil nuisance abatement

City attorneys have found nuisance abatement to be an effective tool to hold property owners accountable for crimes committed on their property. As a result, the Legislature has strengthened nuisance abatement statutes.

- **ASSEMBLY BILL 2212 (2012)**

Expanded red light abatement law to include instances of human trafficking.

- **SENATE BILL 677 (2010)**

Authorized real property used to facilitate acts of human trafficking to be declared and treated as a nuisance, allowing the property to be seized.

## Victim resources

A recurrent concern expressed by anti-human trafficking advocates is the lack of resources available to victims. The absence of adequate funding for victim outreach, protection, and rehabilitation inhibits the prosecution of human trafficking because victims are unable or unwilling to come forward. The Legislature has taken a multifaceted approach to providing victims with much needed support and resources.

- **ASSEMBLY BILL 1276 (2016)**  
Authorized a minor 15 years of age or younger to testify by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant or defendants, and attorneys if the testimony will involve the recitation of the facts of an alleged offense of human trafficking.
- **ASSEMBLY BILL 1684 (2016)**  
Authorized the Department of Fair Employment and Housing to receive, investigate, conciliate, mediate, and prosecute complaints alleging, and bring civil actions for, a victim of human trafficking. Also required that civil damages awarded in such action to be awarded to the victim of human trafficking.
- **ASSEMBLY BILL 1702 (2016)**  
Allowed courts to deny reunification to parents or guardians who knowingly participated in, or permitted, the sexual exploitation of a child who is brought into the child welfare system.
- **ASSEMBLY BILL 1761 (2016)**  
Created an affirmative defense against a charge of a crime that a person was coerced to commit as a direct result of being a human trafficking victim. Also granted a person who prevails on that affirmative defense the right to have all records in the case sealed and to be released from all penalties and disabilities.
- **ASSEMBLY BILL 2221 (2016)**  
Required that a minor who is a victim of the human trafficking be provided with assistance from the local county Victim Witness Assistance Center if the minor so desires that assistance.
- **ASSEMBLY BILL 2498 (2016)**  
Increased protections of victims' privacy by authorizing the withholding of the names and images of a victim of human trafficking and that victim's immediate family from disclosure pursuant to the California Public Records Act until the investigation or any subsequent prosecution is complete. Also prohibited law enforcement agencies from disclosing the names, addresses, and images of victims of human trafficking and their immediate family and required them to orally inform the person who alleges to be the victim of human trafficking of his or her right to have his or her name, addresses, and images, and the names, addresses, and images of his or her immediate family members withheld and kept confidential.
- **ASSEMBLY BILL 15 (2015)**  
Extended the statute of limitations to file a human trafficking case from 2 to 10 years.

- **ASSEMBLY BILL 418 (2015)**  
 Enabled tenants to terminate leases by notifying a landlord that he or she or a household member is a victim of domestic violence and authorizes the use of a tenant’s security deposit to be used to pay rent. AB 418 also reduced the time limit for a tenant to give notice of intent to vacate under these provisions from 30 days to 14 days.
- **ASSEMBLY BILL 1140 (2015)**  
 Expanded the term “authorized representative” to the existing law for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund to mean any person designated by law or any person who has written authorization by the victim or derivative victim, excluding a medical or mental health provider who has provided services to the victim or derivative victim.
- **ASSEMBLY BILL 1475 (2015)**  
 Authorized each county to establish an interagency sexual assault response team (SART) program for the purpose of providing a forum for interagency cooperation and coordination to effectively address the problem of sexual assault. The members of the team would be representatives of specified public and private agencies and organizations. The bill required each SART to, among other things, evaluate the effectiveness of individual agency and interagency protocols and systems by conducting case reviews involving sexual assault.
- **SENATE BILL 823 (2016)**  
 Provided record sealing for victims of human trafficking.
- **SENATE BILL 1064 (2016)**  
 Indefinitely extended Alameda County’s pilot program providing trafficked minors support services instead of being arrested and imprisoned for a crime of prostitution. Also expanded the definition of a “commercially sexually exploited minor” to include, among others, a minor who has been adjudged a dependent of the juvenile court because he or she is a commercially sexually exploited child.
- **SENATE BILL 1129 (2016)**  
 Deleted mandatory minimum terms of incarceration imposed for engaging in prohibited acts relating to prostitution.
- **SENATE BILL 1322 (2016)**  
 Decriminalized prostitution charges for minors and requires law enforcement, as mandated reporters, to report any suspected allegations of commercial sexual exploitation to the county child welfare department.
- **SENATE BILL 674 (2015)**  
 Required local and state law enforcement agencies to sign certifications for qualified immigrant crime victims when they have been helpful to the investigation of a crime such as sexual assault, domestic violence, and human trafficking. These certifications are prerequisites to obtaining T or U visas.
- **SENATE BILL 794 (2015)**  
 Required all county child welfare and probation agencies to create protocols to identify, report, document, and serve CSEC and at-risk youth. Also added the definition of sex trafficking to Penal Code, clarifying that child sex trafficking must be reported as child abuse.

- **SENATE BILL 855 (2015)**

Amended the Welfare and Institutions Code section 300 to clarify that under existing law, commercially sexually exploited children (CSEC) whose parents or guardians failed or were unable to protect them may fall within the description of 300(b) and be adjudged as dependents of the juvenile court. Also amended the Welfare and Institutions Code to establish a state-funded county CSEC Program to be administered by the California Department of Social Services that counties may opt in to participate.

- **ASSEMBLY BILL 319 (2014)**

Prohibited an agency from requiring a landlord to terminate a tenancy or fail to renew a tenancy based upon an act against a tenant or a tenant's household member that constitutes domestic violence, sexual assault, stalking, human trafficking, and abuse of an elder or dependent adult, or based upon the number of calls made by a person to the emergency telephone system relating to the tenant or a member of the tenant's household being a victim of an act constituting domestic violence, sexual assault, stalking, human trafficking, and abuse of an elder or dependent adult.

- **ASSEMBLY BILL 1610 (2014)**

Authorized a defendant or the people to apply for an order that a witness be examined conditionally when the defendant has been charged with human trafficking and there is evidence that the victim or material witness has been or is being dissuaded by the defendant or a person acting on behalf of the defendant, by intimidation or physical threat, from cooperating with the prosecutor or testifying at trial. The bill also allowed a court to examine a victim or material witness conditionally if the court finds there is a reasonable basis to believe that the witness will not attend the trial because he or she is under the direct control of the defendant or another person involved in human trafficking and, by virtue of this relationship, the defendant or other person seeks to prevent the witness or victim from testifying.

- **ASSEMBLY BILL 1623 (2014)**

Authorized any city, county, or community-based organization to establish a multiagency, multidisciplinary family justice center to assist victims of domestic violence, sexual assault, elder or dependent adult abuse, and human trafficking. The bill also specified additional confidentiality provisions related to information disclosed by a victim.

- **ASSEMBLY BILL 2035 (2014)**

Required the training for an administrator of a group home facility, licensed foster parent, or relative or nonrelative extended family member caregiver to include instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to a sexually exploited and trafficked minor in out-of-home care.

- **SENATE BILL 939 (2014)**

Added human trafficking, pimping, and pandering to the list of crimes to which certain jurisdictional requirements apply, thus allowing prosecutors to file multiple charges during a single trial against defendants who have committed human trafficking-related offenses in multiple jurisdictions.

**ASSEMBLY BILL 694 (2013)**

Prohibited the admissibility of evidence that a victim of human trafficking has engaged in any commercial sexual act as a result of being a victim of human trafficking in order to prove the victim's criminal liability for any conduct related to that activity.

- **SENATE BILL 612 (2013)**  
 Specified the type of documentation needed for a tenant to provide to a landlord to terminate a lease early due to victimization. Also prohibited landlords from disclosing any information provided.
- **ASSEMBLY BILL 1899 (2012)**  
 Gave students who are noncitizen victims of trafficking the same exemption from nonresident tuition and eligibility to apply for and participate in state and institutional financial aid programs as students who are granted refugee status. This applies to the California State University and the California Community Colleges. The bill also requested the University of California to adopt similar policies.
- **ASSEMBLY BILL 1956 (2012)**  
 Expanded the California Voluntary Tattoo Removal Program to serve individuals between the ages of 14 and 24 who were tattooed for identification in human trafficking or prostitution.
- **ASSEMBLY BILL 2040 (2012)**  
 Allowed a person who was adjudicated as a ward of the court following a conviction for an act of prostitution to have his or her record sealed or expunged without having to show rehabilitation or the absence of a subsequent conviction for a crime involving moral turpitude.
- **SENATE BILL 1091 (2012)**  
 Added human trafficking to the list of crimes for which a prosecuting witness may have up to two support persons while testifying.
- **SENATE BILL 1193 (2012)**  
 Required businesses, transit hubs, and other locations that are most likely sites of sex and labor trafficking to post notices publicizing human trafficking resources.
- **ASSEMBLY BILL 764 (2011)**  
 Allowed an individual taxpayer to contribute a portion of their tax return to the Child Victims of Human Trafficking Fund.
- **SENATE BILL 557 (2011)**  
 Authorized the cities of San Diego and Anaheim, and the counties of Alameda and Sonoma, until January 1, 2014, to establish family justice centers (FJCs) to assist victims of domestic violence, sexual assault, elder abuse, human trafficking, and other victims of abuse and crime.
- **ASSEMBLY BILL 499 (2008)**  
 Authorized the Alameda County District Attorney to create a pilot project to develop a model addressing the needs and effective treatment of commercially sexually exploited minors who have been arrested or detained by local law enforcement. (Pilot was extended by AB 799 in 2011.)
- **ASSEMBLY BILL 2810 (2008)**  
 Required law enforcement agencies to use due diligence to identify victims of human trafficking, and allows any person who claims to have been forced to commit prostitution because they are a victim of human trafficking to have their name and address kept confidential.

- **SENATE BILL 1569 (2006)**

The Access to Benefits for Human Trafficking and Other Serious Crime Victims Act allowed noncitizen human trafficking victims to access state-funded social services such as cash assistance, employment assistance, and other social services for up to one year. After one year, the act allows these services to continue if the victim attempts to remain in the United States legally.

## Other legislation

Other legislative efforts have been made to combat labor trafficking and to provide education to first responders.

- **SENATE BILL 477 (2014)**

The California Foreign Labor Recruitment Law required contractors who hire foreign labor to register with the California Labor Commissioner and prevents foreign labor contractors from charging workers recruitment fees. It also required full disclosure of employment conditions.

- **SENATE BILL 1165 (2014)**

Required the Instructional Quality Commission to consider including a distinct category on sexual abuse and sex trafficking prevention education, and authorized school districts to provide sexual abuse and sex trafficking prevention education.

- **SENATE BILL 861 (2011)**

Prohibited a scrutinized company from entering into a contract with a state agency for goods or services.

- **SENATE BILL 657 (2010)**

Established the California Transparency in Supply Chains Act of 2010 to encourage corporate disclosure of efforts to eliminate human trafficking from supply chains. This law requires large businesses in California to disclose any policies they have put in place to address human trafficking in their supply chains. While the legislation gave the California Department of Justice enforcement authority over this requirement, no funding accompanied this authority.

- **ASSEMBLY BILL 1278 (2008)**

Prohibited any provision of a contract that siphons future wages in exchange for the costs of transporting an individual to the United States.

- **SENATE BILL 180 (2006)**

The Human Trafficking Collaboration and Training Act required the Commission on Peace Officer Standards and Training (POST) to establish a training course and guidelines for law enforcement in responding to human trafficking. POST produced a two-hour training DVD and curriculum and recently updated it for distribution to all California law enforcement agencies.

## V. JUDICIAL ETHICAL CONSIDERATIONS

There are underlying ethical concerns for judges and court practitioners handling cases where human trafficking may be an issue. The Human Trafficking and State Courts Collaborative has indicated some of the concerns that judges may face:<sup>8</sup>

- Acting or appearing to act as an advocate for a human trafficking victim within the context of a criminal prosecution, and not compromising their neutrality.
- Undermining the prosecutors. For example, if the judge identifies a criminal case specifically as a trafficking case, even though the case was filed under an alternative charge, the judge could undermine the prosecutor's credibility. This could occur even if a trafficking flag was added to an automated case record system, which could indicate that the judge questions the decision of the prosecutor.

**A judge may be subject to disqualification in situations where preexisting attitudes, relationships, or statements appear to compromise neutrality.**

- Offering support to a potential trafficking victim in cases where trafficking could have occurred but the victims are not part of the legal proceedings. An example might be code violation cases. Even raising the possibility that human trafficking is involved may affect the court and compromise the judge's neutrality.
- Any actions that might disqualify or support a motion to recuse the judge. Examples of this could include ex parte discussions, independent investigation of the facts in the case, or any actions that might give rise to a reasonable belief that the judge has predetermined a particular result.
- Actions that give an appearance of bias.
- Being perceived as interfering with the attorney-client relationship.

Once a victim is acknowledged, there are several actions that judges may want to take that can raise ethical concerns. Some examples that the collaborative identified are as follows:

- Taking steps to promote safety for a suspected trafficking victim;
- Asking questions of the prosecutor or attorney for a party to a case;
- Asking questions of a party, victim, witness, prosecutor, or defense attorney in open court or in chambers;
- Meeting with a party, victim, witness, prosecutor, or defense attorney privately in chambers.
- Asking questions aimed at revealing signs that the person may be a trafficking victim without giving rise to an appearance that the judge has already decided that the person is a trafficking victim;

<sup>8</sup> S. Weller, E. Lee, & D. L. Marks, "Ethical Issues for Judges and Court Practitioners in Human Trafficking-Involved Cases," in *A Guide to Human Trafficking for State Courts* (2014), [www.hiccourts.org/wp-content/uploads/00\\_EntireGuide\\_140726\\_v02.pdf](http://www.hiccourts.org/wp-content/uploads/00_EntireGuide_140726_v02.pdf) (as of Oct. 1, 2016).

- Assisting an unrepresented party, victim, or witness who appears to be a trafficking victim;
- Assisting a person charged with a crime who might have a defense of coercion due to victimization by a trafficker;
- Slowing down the process in situations that may raise red flags, such as an older male posting bail for or seeking guardianship over a younger female; and
- Taking leadership to assure that all participants in the courtroom, including prosecutors, defense attorneys, and other court officers, have a common understanding of the role that the judge will play in handling cases involving issues of human trafficking.

When trying to decide whether a specific circumstance raises ethical concerns, the collaborative notes an important reminder that a judge may be subject to disqualification in situations where preexisting attitudes, relationships, or statements appear to compromise neutrality.

In addressing ethical challenges in emerging legal issues, the American Bar Association also noted the importance of neutrality and impartiality and not taking on the role of an advocate; however, it also clarified that judges can be involved in advocacy for new laws addressing human trafficking, as well as for appropriate assistance programs for victims.<sup>9</sup>

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<sup>9</sup> M. N. Greenstein, "Ethical Challenges When Addressing Emerging Legal Issues" (2013), [www.americanbar.org/publications/judges\\_journal/2013/winter/ethical\\_challenges\\_when\\_addressing\\_emerging\\_legal\\_issues.html](http://www.americanbar.org/publications/judges_journal/2013/winter/ethical_challenges_when_addressing_emerging_legal_issues.html) (as of Oct. 1, 2016).

## VI. MOTIONS IN LIMINE AND 402 HEARINGS IN CRIMINAL TRIALS

Presiding over a human trafficking criminal trial presents uniquely challenging issues for the trial court. There are still many questions about how the CASE Act, passed in 2012, is to be applied. The law continues to be in flux as changes and amendments to existing human trafficking Penal and Evidence Code provisions are made. This chapter is designed to flag potential issues that might arise in the context of a criminal trial. These issues may be raised by motions in limine filed before or during trial, as well as during 402 hearings where the trial court is asked to determine foundational or other preliminary facts before ruling on the admissibility of certain evidence.

Common issues that may come up for judges during a trafficking case include limiting the admissibility of evidence; allowing expert testimony; minimizing secondary trauma and maximizing security in the courtroom; securing victims' or witnesses' return to court; determining Fifth Amendment issues; ruling on the admissibility of sexually explicit material; recognizing case worker privilege; using government assistance, benefits, services, and immigration relief; accessing juvenile court files; and allowing trafficking victimization as an affirmative defense. Each issue is discussed below.

### **Limiting the Admissibility of Evidence of Commercial Sex Acts and Sexual History of a Victim of Human Trafficking**

Evidence Code section 1161 states that evidence that a trafficking victim has engaged in any commercial sexual act as a result of being a victim of human trafficking is inadmissible to prove the victim's criminal liability for the commercial sexual act, and that evidence of sexual history or history of any commercial sexual act of a victim of human trafficking is inadmissible to attack the victim's credibility.

### **Common issues that may come up for judges during a trafficking case include the following:**

- Limiting the admissibility of evidence;
- Allowing expert testimony;
- Minimizing secondary trauma and maximizing security in the courtroom;
- Securing victims' or witnesses' return to court;
- Determining Fifth Amendment issues;
- Ruling on the admissibility of sexually explicit material;
- Recognizing case worker privilege; using government assistance, benefits, services, and immigration relief;
- Accessing juvenile court files; and
- Allowing trafficking victimization as an affirmative defense.

The broad nature of this evidence exclusion provision is likely to present challenges for a trial court in ruling whether evidence is admissible and whether certain areas of cross-examination of a victim of human trafficking should be permitted. It is likely that a trial court will have to undergo a potentially extensive 402 hearing to make the initial determination as to whether the victim/witness is a victim of human trafficking, as defined in section 236.1 of the Penal Code, and once that preliminary determination of fact is made, decide whether the potential exclusion of impeachment evidence conflicts with any other existing statutory provisions, case law, or constitutional rights of the defendant.

Issues concerning the trafficking victim's credibility are likely to be an important point in pretrial and motions in limine before the court. In cases involving the charge of human trafficking, the prosecutor must prove that the defendant deprived or violated the personal liberty of another with the intent to obtain forced labor or services as stated in Penal Code section 236.1. In the case where the trafficking victim is a minor, the prosecution must prove that the defendant caused, induced, or persuaded the minor to engage in a commercial sex act, with the intent to effect or maintain a violation of the above listed offense. Evidence preclusion rules such as Evidence Code section 1161(b) might require extensive 402 hearings so the trial court can make preliminary fact determinations. Are there prior commercial sex acts or sexual history of the victim that are off-limits for cross-examination because the complaining witness has been deemed a victim of human trafficking? Are those limited to commercial sex acts or evidence of sexual history during the time in which the victim was a victim of human trafficking, or are those excluded without limitation as long as the victim is found to be presently a victim of human trafficking?

From a defendant's perspective, evidence of past commercial sex acts or the sexual history of the victim might be relevant to defeat the claim that the victim was forced or induced into performing commercial sex acts. The defense may argue that the witness was an independent contractor who offered sexual services for commercial gain to others independently or that the witness was jointly working with the defendant for profit. The trial court may be asked to weigh the constitutional right of a defendant to confront the witness against a statutorily created evidence preclusion statute.

Complications may also arise when a defendant is charged with both human trafficking and rape or a sexual assault crime. Rape shield laws may directly conflict with evidentiary provisions precluding the use of prior commercial sex acts and the sexual history of a human trafficking victim during cross-examination under Evidence Code section 1161(b).<sup>10</sup> In addition, courts have previously held that a victim's prior participation in prostitution is conduct involving moral turpitude that may be used for impeachment under *People v. Wheeler*.<sup>11</sup> This appears to be in direct conflict with Evidence Code section 1161(b).

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<sup>10</sup> See *People v. Casas* (1986) 181 Cal.App.3d 889; Evid. Code, §§ 782, 1103(c)(1).

<sup>11</sup> *People v. Wheeler* (1992) 56 Cal.App.4th 703, 708-709 (Cal. App. 1st Dist. 1992).

There are only a handful of published opinions that discuss this new Evidence Code provision, and those cases mainly discuss only the first section dealing with proving liability. The court has held that this section applies only where there is a specific causal connection between a person's status as a victim of human trafficking and the commission of the commercial sex act at issue. In *Aarica S.*,<sup>12</sup> the court stressed the language of the Evidence Code, which required that the minor has the burden of proof to show that she committed the commercial sex act "as a result of being a victim," which she failed to do. The court also found that Evidence Code section 1161(a) requires that the defendant or moving party (in this case the minor) bears the burden of proof in establishing that she or he is a victim of human trafficking. The court upheld the trial court's finding that the evidence proffered by the minor is insufficient to show that she was a victim of human trafficking. The court further found that this Evidence Code section does not create an affirmative defense that can be used at trial.<sup>13</sup>

The court recently held that Evidence Code section 1161(a) applies to uncompensated sexual conduct as well as to juvenile court proceedings, and that the legislative intent of the CASE Act was to include uncompensated sexual conduct under this code section.<sup>14</sup> The court also noted that given recent amendments to Penal Code sections 647(h) and 653.22, which exclude minors from being prosecuted under the prostitution and loitering statutes as of January 1, 2017,<sup>15</sup> the question of whether section 1161(a) applies to criminal proceedings is now largely academic.<sup>16</sup>

### **Allowing Expert Testimony Regarding the Effect of Human Trafficking on Human Trafficking Victims**

Evidence Code section 1107.5 allows for the testimony of an expert witness who may provide testimony regarding the effects of human trafficking on human trafficking victims, including the nature and effect of physical, emotional, or mental abuse on the beliefs, perception, or behavior of human trafficking victims.<sup>17</sup> The section states that expert testimony is admissible by either the prosecution or the defense regarding the effects of human trafficking on human trafficking victims, and that the expert testimony is sufficient for admission if the proponent of the evidence establishes its relevancy and the proper qualifications of the expert witness.

The parties might use a human trafficking expert to explain the dynamics of human trafficking so that a jury may better understand the effect that human trafficking has on a victim and why he or she may have stayed with the trafficker. Human trafficking victims are often facing immense challenges in their own lives that may dictate many aspects of the procedure and flow in a trial. Issues of homelessness, truancy, juvenile and adult criminal contacts, and a history of

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<sup>12</sup> *In re Aarica S.* (2014) 223 Cal.App.4th 1480, 1488–1489 (Cal. App. 2d Dist. 2014).

<sup>13</sup> *In re M.D.* (2014) 231 Cal.App.4th 993, 1001 (Cal. App. 1st Dist. 2014).

<sup>14</sup> *In re N.C.* (Cal. App.1st Dist. 2016) 209 Cal.Rptr.3d 357.

<sup>15</sup> Sen. Bill 1322.

<sup>16</sup> *Ibid.*

<sup>17</sup> Assem. Bill 1761 went into effect on Jan. 1, 2017.

dependency system involvement may present special challenges for a judge handling a criminal trial with this type of witness. Minor trafficking victims, referred to as CSEC (commercially sexually exploited children) have often been subject to unfathomable physical and emotional abuse while being trafficked. They may be unwilling to participate in the court process, have a genuine fear of retribution from their trafficker, and may present as hostile and uncooperative witnesses. Unlike other victims of sexual assault, human trafficking victims are often estranged from their parents and family members and initially have very little community support. They may feel intense loyalty to the person who trafficked them. After living on the streets and being commercially exploited for years, they may appear to be older and more sophisticated than they really are.

The dynamics of human trafficking and the effects on a victim, such as trauma bonding and remaining with an abuser, may be appropriate areas of expert testimony as this subject is one that is normally beyond the common experience of a juror. Expert testimony may also be needed to explain the use of common street terms such as “being in the life,” “the rules of the game,” “daddy,” “a fresh or clean girl,” or “bottom bitch.”<sup>18</sup> Photographic evidence of sexually explicit scenarios and suggestive and coded texts or e-mails may call for a human trafficking expert to explain what the terms really mean and what the pictures are supposed to depict. A human trafficking expert might be called upon to describe various pimping styles, the hierarchy on the street, methods that traffickers use to recruit and enslave trafficking victims, and the trauma bonds that are created by the trafficking relationship. Expert witness testimony may also be needed in cases where there is alleged gang involvement. Gangs are engaging in the trafficking of human beings more frequently because the trade is highly profitable and is a crime that has a lower risk of detection than drugs. In a case where evidence from cell tower data and cell phone downloads is being introduced, a phone expert may be called as an expert witness.

A question may be raised concerning whether the human trafficking expert may render an opinion concerning whether the witness is a victim of human trafficking and whether the court should rule on that first before allowing the testimony to go to a jury. This may become an issue when the defendant raises his or her victimization by a trafficker as an affirmative defense pursuant to Penal Code section 236.23 or when one of the parties is seeking to exclude evidence on the grounds that the witness was a victim of human trafficking (e.g., sealed records, prior sexual history, or specific commercial sex acts). In certain circumstances, an expert may provide an opinion on the ultimate issue to be decided by the trier of fact as long as the opinion is otherwise admissible.<sup>19</sup> However, such an opinion is inadmissible if it invades the province of the jury to decide the case.<sup>20</sup>

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<sup>18</sup> See bench card on “Trafficking-Related Commonly Used Terms” in Chapter IX.

<sup>19</sup> Evid. Code, § 805.

<sup>20</sup> *People v. Frederick* (2006) 142 Cal.App.4th 400, 412 (Cal. App. 2d Dist. 2006).

## Minimizing Secondary Trauma and Maximizing Security in the Courtroom

The act of being controlled by a trafficker, coupled with the complex nature of the relationship with the trafficker, creates a valid psychological barrier for many human trafficking victims when testifying in court. This “trauma bond” might have been created by promises of love and affection (the Romeo pimp) or through threats of violence and force (the Guerilla pimp) or a combination of the two. In either case, the court process may evoke powerful and mixed emotions in a victim, affecting his or her demeanor and attitude in court or determining whether he or she can even come to court. Posttraumatic stress is also often noted in human trafficking victims based on repeated sexual abuse, as well as other factors commonly seen in the power and control cycle in domestic violence cases such as isolation, threats to family, and economic dependence. The trial court process itself may amplify the trauma already experienced by a human trafficking victim, thereby affecting the victim’s demeanor and behavior in court.

The trial court may be asked to assist in providing a safe environment, physically and emotionally, when a trafficking victim testifies. These measures may involve balancing the Sixth Amendment rights of a defendant against statutory and evidence preclusion statutes and efforts by the court to reduce secondary trauma.<sup>21</sup>

The following are some steps a court may take to minimize the secondary trauma associated with court proceedings and to provide a safe environment for the witnesses who testify:

### Closed-circuit testimony

For a minor 15 years or younger, the court may order testimony to take place in another place and outside the presence of the judge, jury, or defendant(s) and communicated to the courtroom by means of closed-circuit television.<sup>22</sup> The court must find that an alleged sexual offense was committed on or with the minor. It must be established by clear and convincing evidence that the impact on the minor would result in the child suffering serious emotional distress so that the child would be unavailable as a witness; that the defendant threatened serious bodily injury to the child or the child’s family, or threatened removal of the child from the child’s family, or threatened dissolution of the child’s family in order to prevent the minor from testifying; or that the defendant or his counsel behaved during the trial or hearing in a way that caused the minor to be unable to continue in his or her testimony. For minors over 15 years of age, the court may have the discretion to order that testimony be transmitted via closed-circuit television if compelling circumstances require it. One court has found that under these kinds of circumstances, allowing the use of remote testimony does not violate the confrontation clause of the Sixth Amendment.<sup>23</sup>

<sup>21</sup> Assem. Bill 1276 (effective Jan. 1, 2017) adds human trafficking as a qualifying crime to Pen. Code, § 1347(b) and raises the age of these minors who may testify remotely or by CCTV to 15.

<sup>22</sup> Pen. Code, § 1347.

<sup>23</sup> *People v. Lujan* (2012) 211 Cal.App.4th 1499, 1506–1509 (Cal. App. 2d Dist. 2012). In *Lujan* a child witness was permitted to testify remotely even though the statute provided just for remote testimony for a direct victim only.

## Seating arrangements

The trial court may also allow the victim to testify without physically facing the defendant. Courts have held that this type of seating arrangement does not violate the confrontation rights of a defendant, deciding that the modified seating arrangement allowing the child witness to avoid physically facing the accused resulted in the most minimal interference of the appellant's right to confront his accuser and was justified by the state's interest in protecting the child witness and obtaining accurate testimony.<sup>24</sup> Before ordering special seating of the witness, who remains in the courtroom but is prevented from seeing the defendant in court, the trial court should make detailed factual findings concerning the effect the testimony would have on the minor witness if made to testify at trial. This type of seating arrangement may be used at the preliminary hearing, especially when a minor victim/witness expresses unease at testifying in front of the defendant; the threshold showing of need is minimal. At a preliminary hearing, courts have held that the defendant has no right to confront the witness because the right to confrontation is a trial right.<sup>25</sup> The trial court does not need to make *Craig* factual findings to justify altered seating arrangements of a minor victim who was permitted to testify in court without physically facing the defendant.

## Caseworker support

A human trafficking victim may also have a human trafficking caseworker present in the courtroom and throughout the proceedings for support. Communications between a human trafficking caseworker and victim are generally privileged. However, the court may compel disclosure if it determines that the probative value of the communication outweighs the effect of the disclosure on the victim.<sup>26</sup> The caseworker must have received specialized training in human trafficking in order to be deemed a qualified caseworker. A prosecuting witness who is a victim of human trafficking may have up to two support persons in court with them and one may accompany them to the witness stand.<sup>27</sup>

## Power dynamics

The trial court should be aware of the dynamic of power and control underlying the trafficking victim and trafficker relationship. This dynamic may be inadvertently enhanced by the courtroom process, re-creating underlying feelings of fear and trauma. An example might be when a court brings a minor victim of trafficking who is being held in juvenile court into the courtroom in handcuffs and the designated jail jumpsuit, while the out-of-custody defendant who is charged with human trafficking is seated at counsel table in a business suit during the preliminary hearing.

<sup>24</sup> *People v. Sharp* (1994) 19 Cal.4th 1772 at 1783.

<sup>25</sup> *People v. Gonzalez* (2012) 54 Cal.4th 1234, 1266–1267.

<sup>26</sup> Evid. Code, § 1038.1.

<sup>27</sup> Pen. Code, § 868.5.

## Court language

The language used by the court and the parties in describing the human trafficking victim's conduct in court is also important. When possible and if appropriate, care should be taken not to refer to a trafficking victim as a "prostitute," as that is an emotionally loaded term. The trafficking victim or witness may not identify himself or herself as a prostitute since she was forced into committing commercial sex acts by the traffickers. The word itself may provoke feelings of deep shame and embarrassment in a victim. Similarly, it could also be argued that it is inappropriate to refer to a defendant accused of trafficking as a "pimp." Using neutral terms such as CSEC (commercially sexually exploited child) may reduce the level of secondary trauma that comes from being in court.

## Closed courtroom

On the prosecutor's motion, the trial court can close the courtroom when a witness is a minor and an alleged victim of a sex offense.<sup>28</sup> There must be reason to believe that testimony before the general public would likely cause serious psychological harm to the witness and there are no available alternative procedures. The trial court must make specific findings regarding necessity, and it is advisable to conduct an evidentiary hearing.<sup>29</sup>

## Removal of court attendees

A spectator may be removed from the courtroom if he or she is actively intimidating a minor witness in a way that would restrict the witness's testimony and there are no alternative means of providing for the testimony. This section may not be used to exclude members of the press or the defendant.<sup>30</sup>

## Trial scheduling

Criminal cases that involve minors who are victims or material witnesses are given priority in the order of trials over all other criminal and civil cases that do not involve the death penalty.<sup>31</sup> Courts are encouraged to designate a safe room in or near the courtroom for minors under 16 years of age involved in the judicial system to provide them with a nonthreatening environment while they wait to testify. The trial court may also adjust the court schedule to accommodate a minor trafficking victim's schedule (e.g., when school is not in session). The trial court may be asked to secure the entrance of the building when the victim is coming to and leaving court. The trial court may open up the courtroom early for the prosecution to set up the victim on the witness stand.

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<sup>28</sup> Pen. Code, § 868.7(a)(1).

<sup>29</sup> *People v. Baldwin* (2006) 142 Cal.App.4th 1416, 1421-1422.

<sup>30</sup> Pen. Code, § 686.

<sup>31</sup> Pen. Code, § 1048(b).

## Securing a Human Trafficking Victim's or Witness's Return to Court

A particular challenge for the trial court in human trafficking cases is securing the victim's appearance in court. A large percentage of trafficking victims are minors, and of these minors, many are runaways, homeless youth, or have had multiple placements in the foster care system. It is not unusual for trafficking victims to be moved from place to place by the trafficker to avoid detection from law enforcement authorities. A victim may have no ties to the community where the trial is being held. Although there are limited circumstances where a court may detain a minor victim of trafficking for being in contempt of court for failing to appear or testify, similar to domestic violence cases, the use of these statutes is discouraged.

There are some steps a court may take to minimize a victim's risk of flight or failure to appear for court. The court might consider accommodations such as offering an altered court schedule to allow a minor witness to testify after school, securing the entrance into the building when the victim is coming to and leaving court, or opening the courtroom early for the prosecution to set up the victim on the stand. The prosecutor may be able to arrange for a human trafficking advocate or local community-based organization to work with the victim and provide case management, including logistical assistance with the trial.

If the minor witness has an open juvenile court proceeding, the witness may obtain assistance from an assigned social worker or probation officer. Alternatively, if the minor witness is needed to testify in another jurisdiction, having an established human trafficking protocol that allows for contact between the assigned probation officer and social worker and their counterparts in the other jurisdiction can be very helpful. If the witness is undocumented and has been given "continued presence" through the Department of Homeland Security, most Immigration and Customs Enforcement (ICE) units have a designated victim/witness assistance coordinator who can assist the witness with trial logistics and expenses.

An adult witness may be required to post a bond that can be forfeited for a nonappearance. A witness who refuses to testify may be found in criminal contempt of court.

If a minor victim refuses to testify, the court may order that witness into the custody of a probation officer or an appropriate child welfare agency.<sup>32</sup> However, if the minor is under the age of 16, the court must first refer the matter to Juvenile Probation for placement report. If placed, the trial court must place the minor in the least restrictive setting available. A court may place a witness in a secure facility only if it can be shown that the minor is likely to flee the jurisdiction of the court. For a minor victim witness, the trial court may issue a civil warrant and find the minor in civil contempt of court.<sup>33</sup>

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<sup>32</sup> Pen. Code, § 1332(b).

<sup>33</sup> Code Civ. Proc., §§ 1209, 1219.5, 1993.

## Determining Fifth Amendment Issues

Trafficking victims may also have Fifth Amendment issues related to their testimony. It is not unusual for a trafficker to require a human trafficking victim to recruit other victims to work for the trafficker. In these situations, the trafficking victim is often referred to as the “bottom girl” and she recruits others in order to receive more favorable treatment from the trafficker or to avoid threats of or actual extreme physical abuse. She may be involved in pimping and pandering at the direction of the trafficker. A trafficking victim may have been involved in other crimes such as petty theft, stealing a vehicle, or robbing a potential customer during the course of her involvement as a victim of human trafficking, all allegedly at the direction of the trafficker. A minor victim of trafficking may appear on the juvenile delinquency calendar charged with a nontrafficking offense, and her identification as a human trafficking victim may occur later after she became a ward. Sometimes the trafficking experienced by a victim is disclosed only after probation or child welfare agencies become involved. A trafficking victim may first disclose that he or she committed crimes relating to being trafficked while on the witness stand. The trial court should anticipate that disclosure of these situations might occur and be ready to appoint counsel to represent the victim/witness before further testimony is elicited.

A 402 hearing will be required to determine whether the victim/witness has a valid right to assert the privilege against self-incrimination. Whenever a witness invokes this privilege, the person claiming the privilege has the burden of showing that the proffered evidence might tend to incriminate him, and the proffered evidence is inadmissible unless it clearly appears to the court that the proffered evidence cannot possibly have a tendency to incriminate the person claiming the privilege.<sup>34</sup> To assert this privilege, the witness (as long as it is not the defendant), must present sworn testimony concerning the claim of privilege. This is done outside the presence of the jury in a pretestimonial hearing.<sup>35</sup>

In a felony case, if a witness asserts the privilege against self-incrimination, the prosecutor can immunize the witness under Penal Code section 1324. Once immunized, the witness must testify. In a misdemeanor case, the witness cannot be compelled to testify even with immunity. The witness must voluntarily give up the privilege against self-incrimination.<sup>36</sup>

A determination of whether a victim/witness of human trafficking has a legitimate Fifth Amendment right has been made more complicated by recent legislation making it no longer a crime for minors who are charged under prostitution or loitering statutes,<sup>37</sup> for human trafficking victims to avoid conviction for nonviolent and nonserious felonies committed at the behest of their traffickers,<sup>38</sup> and for victims of human trafficking to vacate past convictions

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<sup>34</sup> Evid. Code, §§ 404, 940.

<sup>35</sup> *People v. Ford* (1988) 45 Cal.3d 431, 441.

<sup>36</sup> M. B. Simons, “Simmons California Evidence Manual” (2015 ed.) pp. 62–64.

<sup>37</sup> Sen. Bill 1322.

<sup>38</sup> Assem. Bill 1761.

of crimes they committed while under coercion by their trafficker.<sup>39</sup> Preliminary determinations of fact for the trial court might include whether the witness is qualified for any of these protections and whether that eliminates any potential criminal exposure for the conduct by the witness.

### **Ruling on the Admissibility of Sexually Explicit Material**

Human trafficking cases may involve the use of graphic and sexually laden content, such as photographs, texts, and e-mails. It is not unusual in these types of cases for a trafficking victim to have posted sexually suggestive photographs on the Internet or for a trafficker to have posted potentially incriminating photographs or made incriminating statements on social media relating to pimping and pandering or the trafficking itself. Depending on the nature and content of the proffered evidence, one side may be seeking to exclude the evidence due to its alleged inflammatory and prejudicial nature. The court is likely to engage in a 352 analysis to determine the admissibility of the evidence. The credibility of the witness involved is not a factor in this balancing test.

### **Recognizing Case Worker/Advocate Privilege**

Evidence Code section 1038 sets forth that human trafficking victims have a privilege to refuse to disclose and to prevent their caseworker from discussing a confidential communication between the victim and a human trafficking caseworker. The privilege exists whether or not the victim is a party to the action.

A 402 hearing may be required to determine whether the caseworker is a qualified support person per the statute. For the communication to be privileged, it must be made in the course of the trafficking victim–caseworker relationship.<sup>40</sup> Following a 402 hearing, the trial court may compel disclosure of information received by the human trafficking caseworker if the court determines that the probative value of the information outweighs the effect of disclosure of the information on the victim, the counseling relationship, and the counseling services.<sup>41</sup>

### **Using Government Assistance, Monetary Benefits, Relocation Services, and Immigration Relief for Victims of Human Trafficking**

Also potentially relevant to the issue of the credibility of a human trafficking victim is the question of whether the victim has been made any promises or received any benefits as a result of being a witness for the prosecution. Traffickers prey on vulnerable victims, including those who are homeless, impoverished, or without documentation. Consequently, the provision of any monetary or in-kind benefits to trafficking victims in exchange for their testimony might arguably affect their credibility at trial.

For undocumented victims, some may have been given “continued presence” in the United States upon the certification that they are a victim of substantial human trafficking and are

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<sup>39</sup> Sen. Bill 823.

<sup>40</sup> Evid. Code, § 1038.2(b).

<sup>41</sup> Evid. Code, § 1038.1.

cooperating with law enforcement. This allows them to stay in the United States while they are cooperating. Similarly, some undocumented victims may be seeking permanent status in the United States through the application for and the receipt of a “T” or “U” visa. The granting of the T and U visas may enable a trafficking victim to bring family members to the United States for permanent status. Undocumented minor victims of trafficking may also be eligible to apply for a Special Immigrant Status Petition that allows them to stay here in the United States.<sup>42</sup>

The application process for these benefits will normally require the witness to make statements that he or she was a victim of substantial human trafficking and agree to continue to cooperate with law enforcement. The granting of continued presence and a T or U visa may also qualify the witness for general assistance from local, state, or federal government service agencies. Victims of human trafficking are also eligible to receive benefits from the Victim Compensation Board. The defense is likely to argue that these payments and receipt of such benefits are proper areas of cross-examination to explore to impeach the credibility of the witness. They are likely to argue that any inconsistent statements made by the victim witness in these out-of-court proceedings are relevant to impeach the credibility of the victim/witness or to show bias and a motive to testify favorably for the prosecution.

Fear of retribution as a result of their testimony is not unusual for trafficking victims. When there are serious security concerns for a victim of trafficking, the prosecutor or law enforcement agency may have provided some type of witness protection for the witness. For witnesses who have been relocated through a government-sponsored witness protection program, it would appear that the nature of the benefits received, including general assistance and housing, are proper areas to explore on cross-examination. Also included in the inquiry might be whether family members such as children have been included in the benefits package. In order to qualify for such relocation services, a victim/witness may have had to certify or make statements concerning the underlying offense and whether he or she was a victim of human trafficking. These statements, including any inconsistent statements, may also arguably be used by the defense for impeachment purposes.

### **Accessing Juvenile Court Files of Trafficking Victim/Witness**

Given that a large percentage of trafficking victims have been involved in the foster care system or juvenile court proceedings, it is likely that a minor victim of trafficking may have a juvenile court file and that the juvenile court file may contain useful and relevant information to the parties depending on the facts and circumstances of the human trafficking case.

In cases where the human trafficking victim has a juvenile court file, both parties may seek access to any juvenile court files that the victim/witness has, including dependency and delinquency records. Although the prosecutor has more access to those files than a defense attorney, unless the defendant is seeking access to his or her own juvenile court records, a juvenile court order is still needed in order to copy information in those files for use in the adult criminal proceedings. Welfare and Institutions Code section 827 governs the sealing of juvenile records

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<sup>42</sup> See the “Immigration Issues” bench card in Chapter IX for more information.

that have been expunged and may preclude discovery altogether of any of those records. The trial court must ensure that the requirements of filing a Welfare and Institutions Code section 827 petition be followed and that a juvenile court make the first determination of whether contents of the file may be turned over to parties in the criminal trial.

A review of the juvenile court file includes Probation and Child Welfare Agency files. The supervising judge of juvenile court or specially designated juvenile judge must do the review. The parties should allow time for the review by the juvenile court rather than wait until the eve of trial to file the 827 petition, as the review may take some time. If one of the parties objects to the 827 petition, a juvenile court will hold a hearing on the petition. The juvenile court will determine what is relevant for disclosure versus what is not from the perspective of the juvenile court. The files may contain confidential information such as psychological evaluations of the minor, and there may be objections to the release of these types of confidential materials or other items in the file. After the 827 petition is decided and materials from the juvenile court file are released to the petitioner, the parties still must go before the trial judge and obtain an order permitting the use of the information at trial.

### **Allowing Human Trafficking Victimization as an Affirmative Defense at Trial**

The Penal Code was recently amended to add section 236.23, which allows, in a nonserious and nonviolent felony, a victim of human trafficking to assert an affirmative defense that he or she was coerced into committing the crime as a direct result of being a victim of human trafficking and had a reasonable fear of harm.<sup>43</sup> If the defendant is successful in asserting an affirmative defense, the court shall be ordered to seal all records in the case, except as specified, and to be released from all penalties and disabilities, as provided. The defendant has the ability to state that he or she has never been arrested on applications for employment, financial aid, welfare, housing, or loan applications. The defendant shall also have, without limitation, all the rights and benefits of employment, financial aid, welfare, or other financial loans, despite any failure or refusal to disclose the existence of or information concerning the arrest or charge related to those events. The defendant cannot be later charged or convicted of perjury or giving a false statement because he or she did not disclose the charge, arrest, indictment, trial, or other proceedings.

There is a question of whether the trial court must hold a 402 hearing to make a threshold determination of whether there is enough evidence to allow the defense to put on this affirmative defense. The case law is also unclear as to what level of proof is needed for the court or jury to make the factual finding that the defendant was coerced into committing the charged offense as a direct result of being a human trafficking victim at the time of the offense and had a reasonable fear of harm. There also may be the unusual circumstance where both the victim/witnesses at trial and the defendant are alleging that they are victims of human trafficking and may simultaneously invoke the evidence preclusion portions of Evidence Code sections 1161(b) and 236.23(a).

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<sup>43</sup> Assem. Bill 1761.

## VII. SCREENINGS AND ASSESSMENTS

Since the passage of the Trafficking Victims Protection Act (TVPA) in 2000,<sup>44</sup> trafficking in persons has been considered a federal crime. But reliable screening tools and procedures for identifying victims are only starting to become available. Only a fraction of trafficking victims have been identified because victims are commonly hidden and living in fear.<sup>45</sup> Oftentimes when victims come into contact with law enforcement, they are revictimized by being treated as criminals instead of victims, denying them crucial support and services. This inability to identify a victim is a disservice to law enforcement as well, as the victims can be a valuable resource in police investigations and serve as witnesses against their traffickers.<sup>46</sup>

Many trafficking victims do not self-identify due to a lack of knowledge about the crime itself and the control that is involved in trafficking situations. This makes it important for first responders and the courts to properly identify victims and provide assistance. The best way to do this is with validated screening and assessment instruments used by adequately trained first responders.

A screening is part of a triage process that generally occurs at the point of intake into the system. However, first responders can be trained to screen for indicators of trafficking victimization at any point. Screening instruments are brief questionnaires and can be completed by nonclinical staff. The screening instrument may be used to make initial decisions regarding a youth's placement and immediate treatment needs, including the need for further evaluation, or an assessment. An assessment is an in-depth evaluation of a victim's needs. Assessment instruments are generally longer and more comprehensive than screening tools and may include an evaluation of a person's risks, strengths, needs, and abilities. Assessments are typically conducted by a licensed clinician because of the training necessary to administer many assessment instruments and to make a diagnosis. Because of the long-term trauma trafficking victims often endure, screening and assessment instruments should be both trauma-informed and strengths-based. Service providers, law enforcement, and other professionals who may come in contact with trafficking victims should be trained to identify sexual exploitation and administer a screening tool. By utilizing these screening instruments, first responders can identify whether a person is a likely trafficking victim or at risk for becoming one, and determine the need for a comprehensive assessment.

It is important to use screening and assessment instruments that adhere to the following guidelines:

- The instrument has been developed for the population for whom it is being used;
- The instrument is standardized, meaning it is administered to everyone in the same way;

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<sup>44</sup> The TVPA has been reauthorized by Congress four times since 2000: 2003, 2005, 2008, and 2013.

<sup>45</sup> Vera Institute of Justice, *Out of the Shadows: A Tool for the Identification of Victims of Human Trafficking* (2014), [www.vera.org/sites/default/files/resources/downloads/human-trafficking-identification-tool-summary-v2.pdf](http://www.vera.org/sites/default/files/resources/downloads/human-trafficking-identification-tool-summary-v2.pdf) (as of Oct. 1, 2016).

<sup>46</sup> *Ibid.*

- The instrument should have established evidence for its ability to provide valid and reliable information; and
- The instrument should be administered in accordance with its procedures and manual by people sufficiently trained to use that instrument.

The California Child Welfare Council's CSEC Action Team has created a matrix of screening tools, which can be found in Appendix A of this toolkit. The information in that matrix was carefully collected and assembled to include all known screening tools that are being used across the country. The CSEC Action Team is also in the process of creating its own screening tool to recommend using in California. The one that is currently recommended is the tool created by the Vera Institute, which is one of the few validated tools available.

Since 2006, the Vera Institute of Justice has been working on developing reliable and effective trafficking victim identification practices in order to make identifying human trafficking victims easier. In June 2014, Vera published a screening tool to be used by law enforcement and victim service providers who come in contact with a victim of human trafficking.<sup>47</sup> The screening tool is a 30-topic questionnaire that is designed to uncover red flags for human trafficking, such as sexual exploitation, abusive labor practices, violence, fraud, force, and coercion. It has a short version and a long version and has been shown to be reliable in predicting both sex and labor trafficking in women and men. This instrument can be found at [www.vera.org/pubs/special/human-trafficking-identification-tool](http://www.vera.org/pubs/special/human-trafficking-identification-tool).

**Screening instruments are brief questionnaires and can be completed by nonclinical staff. An assessment is an in-depth evaluation of a victim's needs. Service providers, law enforcement, and other professionals who may come in contact with trafficking victims should be trained to identify sexual exploitation and administer a screening tool.**

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<sup>47</sup> *Ibid.*

## VIII. PROTOCOLS

Protocols are used to standardize and coordinate procedures for specific activities such as collaborating and sharing data among agencies, screening and assessing youth who may be at risk for trafficking, or streamlining enforcement and prosecution. According to *Human Trafficking and the State Courts Collaborative*,

Creating forums such as coalitions and collaboratives with protocols aimed at providing streamlined care helps to build a strong network to support victims. Building multidisciplinary teams is one way to coordinate across systems. Including child welfare, probation, attorneys, service providers and the judge establishes efficient communication pathways.<sup>48</sup>

Having protocols can improve safety and decrease trauma as well. For example, protocols can be written to standardize courthouse safety procedures as well as to help prosecutors, defense attorneys, and guardian ad litem identify trafficking victims before they have to testify in open court. In addition, the State Courts Collaborative recommended that the California District Attorneys Association encourage the development of protocols to coordinate the prosecution of human trafficking cases with local law enforcement and United States Attorneys' Offices. The collaborative also stated that a "coordinated enforcement approach against traffickers can be most efficiently accomplished with these established guidelines in place."

**Having protocols can improve safety and decrease trauma.**

Some examples of trafficking case-related protocols to consider include the following:<sup>49</sup>

- What will be said in open court?
- What case information will be shared among stakeholders?
- What kinds of training will be provided to all court room staff?
- How can courtroom and courthouse safety be improved?
- How will cases be referred?
- What kind of policies and procedures for interagency collaboration are needed?
- What kinds of services will be available and delivered to trafficking survivors who appear in court?

A judicial mandate may sometimes be necessary to ensure that all stakeholders understand and follow the protocols.

The California Child Welfare Council's CSEC Action Team has created a model interagency protocol. In addition, Santa Barbara County has provided its interagency protocol as a sample. These can be found in Appendix B.

<sup>48</sup> M. Goodman & J. Laurence, "Child Trafficking Victims and the State Courts," in *A Guide to Human Trafficking for State Courts* (2014), [www.hicourts.org/wp-content/uploads/00\\_EntireGuide\\_140726\\_v02.pdf](http://www.hicourts.org/wp-content/uploads/00_EntireGuide_140726_v02.pdf) (as of Oct. 1, 2016).

<sup>49</sup> *Ibid.*

## IX. BENCH CARDS

The following pages contain bench cards on the following topics:

1. Trafficking-Related Commonly Used Terms
2. Trafficking-Related Acronyms
3. Immigration Issues
4. How to Identify and Handle Trafficking Victims In The Courtroom
5. What to Do if a Victim is a Dependent or Ward
6. Important Victim Services

## BENCH CARD: TRAFFICKING-RELATED COMMONLY USED TERMS

Below are commonly used terms in the sex trafficking industry. Many terms are defined by the Trafficking Victims Protection Act (TVPA).

**Automatic:** A term denoting the victim’s “automatic” routine when her pimp is out of town, in jail, or otherwise not in direct contact with those he is prostituting. Victims are expected to comply with the rules and often do so out of fear of punishment or because they have been psychologically manipulated into a sense of loyalty or love. All money generated on “automatic” is turned over to the pimp.<sup>50</sup>

**Bonded Labor:** One form of coercion is the use of a bond or debt. United States law prohibits the use of a debt or other threats of financial harm as a form of coercion. Some workers inherit debt. Others fall victim to traffickers or recruiters who unlawfully exploit an initial debt assumed as a term of employment.<sup>51</sup>

**Bottom:** A female appointed by the trafficker/pimp to supervise the others and report rule violations. Operating as his “right hand,” the Bottom may help instruct victims, collect money, book hotel rooms, post ads, or inflict punishments on other girls.<sup>52</sup>

**Branding:** A tattoo or carving on a victim that indicates ownership by a trafficker/pimp/ gang.

**Brothel (or Cathouse or Whorehouse):** These establishments may be apartments, houses, trailers, or any facility where sex is sold on the premises. It could be in a rural area or upscale neighborhood. Most brothels have security measures to prevent attacks by other criminals or provide warning if law enforcement is nearby. Victims may be kept in this location for extended periods of times or rotated to other locations every few days.<sup>53</sup>

**Caught a Case:** When a pimp or a victim has been arrested and charged with a crime.

**Chattel Slavery:** One person assumes complete legal ownership over another. Chattel slavery is the only type where the slave is considered the legal property of the slaveholder, and it exists today primarily in Mauritania and other parts of Northern Africa. (Slavery is technically illegal in these countries, but law enforcement there often returns escaped slaves to their slaveholders based on the asserted ownership just as if the practice was legal.) This is the type of slavery that existed in the antebellum American South.<sup>54</sup>

**Child Soldiers:** Involves the unlawful recruitment or use of children through force, fraud, or coercion as combatants or for labor or sexual exploitation by armed forces. Perpetrators may be government forces, paramilitary organizations, or rebel groups. Some children are made to work as porters, cooks, guards, servants, messengers, or spies. Young girls can be forced to marry or have sex with male combatants.

<sup>50</sup> L. Smith, *Renting Lucy: A Story of America’s Prostituted Children* (Shared Hope International 2010).

<sup>51</sup> U.S. Department of State, *Trafficking in Persons Report* (2012), [www.state.gov/j/tip/rls/tiprpt/2012/](http://www.state.gov/j/tip/rls/tiprpt/2012/) (as of Oct. 1, 2016).

<sup>52</sup> Smith, *supra*, note 50.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

**Child Trafficking:** Forms of child trafficking include trafficking for purposes of sexual exploitation, labor trafficking, removal of organs, illicit international adoption, trafficking for early marriage, recruitment as child soldiers, use in begging, and recruitment of athletes.

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**Choosing Up:** The process by which a different pimp takes ownership of a victim. Victims may be instructed to keep their eyes on the ground at all times. According to traditional pimping rules, when a victim makes eye contact with another pimp (accidentally or on purpose), she is “choosing” him to be her pimp. If the original pimp wants the victim back, he must pay a fee to the new pimp. When this occurs, he will force the victim to work harder to replace the money lost in the transaction.<sup>55</sup>

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**Circuit:** A series of cities among which prostituted people are moved. The term can also refer to a chain of states by which victims are moved through a series of locations from one part of the country to another.

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**Coercion:** Under the TVPA, coercion is defined as (a) threats of serious harm or physical restraint; (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (c) the abuse or threatened abuse of the legal process.

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**Commercial Sex Act:** Under the TVPA, commercial sex act means any sex act on account of which anything of value is given to or received by any person.

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**Commercial Sexual Exploitation of Children (CSEC):** Remuneration in cash or kind to the child or a third person in exchange for sex acts with a minor. The child is treated as a commercial object. CSEC includes the prostitution of children, child pornography, child sex tourism, and other forms of transactional sex where a child engages in sexual activities to have key needs fulfilled, such as food, shelter, or access to education. It includes forms of transactional sex where the sexual abuse of children is not stopped or reported by household members due to benefits derived by the household from the perpetrator.

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**Continued Presence:** Victims of human trafficking who lack legal status but are assisting law enforcement as potential witnesses are permitted to remain in the country for the course of the criminal investigation. Victims can receive temporary immigration status through continued presence.

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**Contract Slavery:** A modern form of slavery where a worker is tricked into slavery through the use of a false employment contract. Slaveholders create contracts to lure individuals with promises of employment, but once they arrive at the workplace, they are forced to work for no pay and cannot leave. The false contract is used to avoid criminal charges and to prove that a “debt” is owed to the slaveholder.

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**Daddy:** The term a pimp will often demand his victim to call him.

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**Date:** The exchange when prostitution takes place, or the activity of prostitution. A victim is said to be “with a date” or “dating.”

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<sup>55</sup> Smith, *supra*, note 50.

**Debt Bondage Slavery (or bonded labor):** An illegal practice in which traffickers tell their victims that they owe money (often relating to the victims' living expenses and transport into the country) and that they must pledge their personal services either for labor or commercial sex to repay the debt.

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**Department of Justice Office of Victims of Crimes (OVC):** The OVC provides funds to programs and organizations that assist victims of trafficking.

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**Department of State's Office to Monitor and Combat Trafficking in Persons (TIP Office):** This office was created by the TVPA in 2000 and partners with foreign governments and civil society to develop and implement effective strategies for confronting modern-day slavery/trafficking.

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**Domestic Trafficking:** A term that refers to trafficking of United States citizens within the United States, such as sex trafficking of persons by a pimp.

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**Escort Service:** An organization that sends a victim to a buyer's location (an outcall) or arranges for the buyer to come to a house or apartment (an in-call). This may be the workplace of a single woman or a small brothel. Some escort services are networked with others and can assemble large numbers of women for parties and conventions.

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**Exit Fee:** The money a pimp will demand from a victim who is thinking about trying to leave. It will be an exorbitant sum to discourage her from leaving. Most pimps never let their victims leave freely.

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**Exploitation:** Treatment of the trafficking victim, which includes rape, torture, starvation, humiliation, and drugging during transport, both for the pleasure of the traffickers and to break the victims to make them more submissive upon sale.

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**Family/Folks:** The term used to describe all individuals under the control of the same pimp. The pimp/trafficker plays the role of father (or "Daddy") while the group fulfills the need for a "family."

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**Finesse Pimp/Romeo Pimp:** A pimp who controls others primarily through psychological manipulation. Although he may shower his victims with affection and gifts (especially during the recruitment phase), the threat of violence is always present.

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**Forced Labor:** This term is sometimes referred to as labor trafficking and encompasses the range of activities—recruiting, harboring, transporting, providing, or obtaining—involved when a person uses force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means to compel someone to work. Migrants are particularly vulnerable to this form of human trafficking. Female victims of forced labor, especially women and girls in domestic servitude, are very often sexually exploited as well.

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**Gorilla (or Guerilla) Pimp:** A pimp who controls his victims almost entirely through physical violence, fear, and coercion.

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**Grooming:** Generally, grooming is a phased, gradual process used by perpetrators to sexually exploit children and young people. It can take place over varying periods of time from a few days to several years. It can also take different forms and be more or less violent. Although the process of grooming someone may come in stages, each case is unique in its development.

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**Human Trafficking:** The illegal trading, either nationally or internationally, of human beings, through abduction, for the purpose of commercial sexual exploitation or forced labor; a modern-day form of slavery.

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**Involuntary Domestic Servitude:** Forced labor that involves domestic workers in private residences. These victims are often socially isolated, which is conducive to exploitation because authorities cannot inspect private property as easily as formal workplaces.

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**Involuntary (or Forced) Labor Slavery:** Labor performed by one person against his or her will for the benefit of another person due to force, threats, intimidation, or other similar means of coercion and compulsion directed against him or her.

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**Involuntary Servitude:** Includes a condition of servitude induced by means of (a) 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; or (b) the abuse or threatened abuse of the legal process.

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**“John” (aka Buyer or Trick):** A slang term for an individual who pays for or trades something of value for sexual acts.

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**Kiddie Stroll:** An area known for prostitution that features younger victims.

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**Lot Lizard:** Derogatory term for a person who is being prostituted at truck stops.

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**Madam:** An older woman who manages a brothel, escort service, or other prostitution establishment. She may work alone or in collaboration with other traffickers.

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**Migrant Labor:** Work done by people who travel from place to place for employment. Migrant laborers today are commonly immigrants, sometimes illegal, and often exploited by their employer. Most migrant labor is in agriculture, and the workers move around the country to harvest crops during different growing seasons. They are usually paid little for work, sometimes crossing the line into slavery when they are paid nothing and unable to leave.

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**Movement:** Movement from countries of origin through transit countries into destination countries. In the case of internal trafficking, the same country acts as origin, transit, and destination.

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**Out of Pocket:** When a victim is not under the control of a pimp, but is working on a pimp-controlled track, which leaves her vulnerable to physical violence, threats, and harassment in order to make her choose a pimp. This can also refer to a victim who is not obeying the pimp’s rules.

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**Peonage:** Holding someone against her or his will in order to pay off a debt.

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**Pimp:** A person who controls and manages prostitutes, scheduling their “dates” and profiting from their earnings. This relationship between the pimp and his or her prostitutes is usually psychological and physically abusive. Prostituted women are sometimes kidnapped off the street by pimps at a young age or lured through the Internet. Pimps are often involved in other illegal industries and activities such as drug dealing or organized crime.

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**Pimp Circle:** When several pimps encircle a victim to intimidate through verbal and physical threats in order to discipline the victim or force her to choose up.

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**Quota:** A set amount of money that a trafficking victim must make each night before she can come home. If the victim returns without meeting the quota, she is typically beaten and sent back out on the street to earn the rest. Quotas vary according to geographic region, local events, etc.

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**Reckless Eyeballing:** A term that refers to the act of the victim looking around instead of keeping their eyes on the ground. Eyeballing is against the rules and could lead an untrained victim to “choose up” by mistake.

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**Renegade:** A person involved in prostitution without a pimp.

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**Seasoning:** A combination of psychological manipulation, intimidation, gang rape, sodomy, beatings, deprivation of food or sleep, isolation from friends or family and other sources of support, and threatening or holding hostage of a victim’s children, which is designed to break down a victim’s resistance and ensure compliance.

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**Servile or Forced Marriage:** A marriage where the woman has been forced or coerced into marriage against her will. The woman is forced to work, and frequently physically and sexually abused. In some cases, the woman has been sold into the marriage.

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**Sex Trafficking:** Sex trafficking is a modern-day form of slavery and is defined by the TVPA as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act in which the commercial sex act is induced by force, fraud, or coercion or in which the person induced to perform such an act has not attained 18 years of age.

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**Squaring Up:** Victims attempting to escape or exit prostitution.

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**Stable:** A group of victims who are under the control of a single pimp.

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**Staying in Pocket:** A slang term for the practice of forbidding prostituted women from observing street or establishment names or general surroundings during “dates” in order to keep them isolated.

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**T visa:** A type of visa allowing survivors of human trafficking to remain in the United States if they agree to assist law enforcement in testifying against perpetrators. Aside from a willingness to testify, the visa is available to people who would suffer extreme hardship if deported to their native countries.

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**The Game/The Life:** The subculture of prostitution, complete with rules, a hierarchy of authority, and language. Referring to the act of pimping as “the game” gives the illusion that it can be a fun and easy to make money when the reality is much worse. Women and girls will say they have been “in the life” if they have been involved in prostitution for a while.

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**Track (aka Stroll or Blade):** An area of town known for prostitution activity. This can be the area around a group of strip clubs, pornography stores, or a particular stretch of street.

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**Trade Up/Trade Down:** To move a victim like merchandise between pimps. A pimp may trade one girl for another or trade with some exchange of money.

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**Trafficking Victims Protection Act 2000 (TVPA):** The TVPA was the first comprehensive federal law to address human trafficking. The law provided a three-pronged approach to combating human trafficking: prevention through public awareness programs and a monitoring and sanctions program led by the Department of State; protection through a visa and services for foreign national victims; and prosecution through new federal crimes. This legislation was reauthorized in 2003, 2005, and 2008.

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**Trick:** Committing the act of prostitution, or the person buying it. A victim is said to be “turning a trick” or “with a trick.”

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**Turn Out:** To be forced into prostitution or a person newly involved in prostitution.

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**Underground Commercial Sex Economy (UCSE):** The illegal financial system associated with the sale of human beings for sexual purposes.

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**Wifeys/Wife-in-Law/Sister Wife:** What women and girls under the control of the same pimp call each other.

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## BENCH CARD: TRAFFICKING-RELATED ACRONYMS

Below are some of the more widely used acronyms for organizations and terms used in the area of human trafficking.

**3P:** Protection, Prevention, Prosecution

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**CSEC:** Commercial Sexual Exploitation of Children

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**DHS:** Department of Homeland Security

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**DOJ:** Department of Justice

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**HHS:** United States Department of Health and Human Services

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**ICE:** United States Immigration and Customs Enforcement

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**NGO:** Nongovernmental organization

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**NHTRC:** National Human Trafficking Resource Center

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**OAS:** Organization of American States

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**ORR:** Office of Refugee Resettlement

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**OVC:** Department of Justice Office of Victims of Crimes

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**PITF:** Interagency Task Force to Monitor and Combat Human Trafficking

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**TIP Office:** Department of State's Office to Monitor and Combat Trafficking in Persons

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**TIP Report:** Trafficking in Persons Report

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**TVPA:** Trafficking Victims Protection Act of 2000 (reauthorized in 2003, 2005, and 2008)

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**UNODC:** United Nations Office on Drugs and Crime

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## BENCH CARD: IMMIGRATION ISSUES

Many victims of sex trafficking are domestic citizens. Some, however, have been brought to the United States from other countries, often under false pretenses; unaccompanied immigrant children are also vulnerable to becoming victims of human trafficking. There are few remedies for international victims. This bench card will assist judicial officers in identifying immigrant victims of human trafficking, including unaccompanied immigrant children, and what steps they can take to protect them.

Identifying human trafficking cases is often a difficult task. The responsibility falls on law enforcement, prosecutors, probation officers, judges, and defense attorneys who represent potential trafficking victims who have been charged as criminals. During the investigation and prosecution of child welfare and juvenile delinquency cases, justice system officials must be aware of human trafficking issues, especially as juvenile detention facilities can serve as a fertile recruiting ground for traffickers and even some foster parents have been involved in trafficking. Traffickers have also tried to acquire guardianships over juvenile trafficking victims.<sup>56</sup>

It is important to note that potential human trafficking cases are oftentimes prosecuted under lesser charges that are easier to substantiate and carry similar penalties. Criminal offenses such as compelling prostitution, promoting prostitution, kidnapping, unlawful imprisonment, family violence, and assault may be used as substitutes for a human trafficking charge. For this reason, it may be difficult to identify victims since no one in the justice system may be looking for a trafficking victim in those cases.<sup>57</sup>

In 2000, the Victims of Trafficking and Violence Prevention Act (TVPA) created the T and U nonimmigrant visas. These visas provide temporary legal status to victims of trafficking and enumerated crimes who are willing to assist with investigations or prosecutions of criminal activity. These visas and other programs listed below are available to trafficking victims.

### T Nonimmigrant Status (T Visa)

The T visa allows eligible victims of trafficking to remain in the United States legally if they provide reasonable assistance with the investigation and prosecution of the traffickers. The individual is eligible for a T visa if he or she meets the following requirements:<sup>58</sup>

- Is or has been a victim of severe trafficking;
- Physically present in the United States or its territories as a result of human trafficking;

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<sup>56</sup> Human Trafficking and the State Courts Collaborative, *Immigration Rights of Victims of Human Trafficking* (2014). Retrieved from [www.htcourts.org/wp-content/uploads/Immigration-Rights-of-Victims-of-Human-Trafficking.pdf?InformationCard=Immigration-Rights-Victims-HT](http://www.htcourts.org/wp-content/uploads/Immigration-Rights-of-Victims-of-Human-Trafficking.pdf?InformationCard=Immigration-Rights-Victims-HT) (as of Oct. 1, 2016).

<sup>57</sup> *Ibid.*

<sup>58</sup> Victims of Trafficking and Violence Protection Act of 2000, Pub.L. No. 106-386 (Oct. 28, 2000).

- Is 18 years old or above and is assisting law enforcement in the investigation or prosecution of the trafficker; and
- Would suffer extreme hardships that involve unusual and severe harm upon removal.

### **U Non-immigrant Status (U Visa)**

The U visa is a nonimmigrant visa available to undocumented individuals, including trafficking victims, who meet certain requirements:<sup>59</sup>

- They are a victim of qualifying criminal activity and suffered severe physical or mental abuse as a consequence of the crime;
- They have information about the criminal activity and have been, are being, or are likely to be helpful in the investigation or prosecution of the criminal activity;
- They have certification from a federal, state, or local judge, prosecutor, law enforcement officer, or other justice system official who is involved in investigating or prosecuting the criminal activity that the individual has been, is being, or is likely to be of assistance in the investigation or prosecution of the criminal activity; and
- They meet the requirements of admissibility.

The holder of a U visa has certain rights, which include the following:<sup>60</sup>

- May remain in the United States for four years, unless extended;
- May apply for other immigration benefits or status for which he or she may qualify;
- May apply for permanent residency after three years of continuous residence in U visa status; and
- May apply for certain qualifying family members to acquire U visa status as well.

### **Continued Presence**

Authorized under the Trafficking Victims Protection Act (TVPA), Continued Presence is a temporary immigration status available to trafficking victims that allows the victims to remain in the United States during the investigation into the trafficking-related crime. Continued Presence is initially granted for one year and may be renewed in one-year increments.

### **VAWA Self-Petitioner and Human Trafficking**

Because a victim's immigration status is often tied to her or his abuser, immigrant victims of domestic abuse may choose to remain in the abusive relationship. The Violence Against Women Act (VAWA) provides immigration relief to these victims of domestic violence, female or male. VAWA removes control from the abuser and allows the victim to self-petition and submit his or her own application without the abuser's knowledge or consent. Those who qualify for VAWA self-petitioning include the following:

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<sup>59</sup> Human Trafficking and the State Courts Collaborative, *supra*, note 56.

<sup>60</sup> *Ibid.*

- An abused spouse of a United States citizen or lawful permanent resident. A child may be included as a derivative beneficiary.
- The abused child of a United States citizen or lawful permanent resident.
- The abused parents of a United States citizen.

Some benefits of meeting the basic VAWA eligibility requirements include (1) self-petitioning, which means the victim does not need a sponsor; (2) the victim's self-petition will not be adversely affected if the abuser's immigration status changes after filing; (3) the victim can work in the United States; and (4) the victim can adjust status to lawful permanent resident.<sup>61</sup>

### **Unaccompanied Immigrant Children and Special Immigrant Juvenile Status**

There has been a steady increase in the number of unaccompanied immigrant children entering the United States from Central America, and this trend is expected to also increase the number of filings in state juvenile courts on behalf of these children seeking court findings to support applications for Special Immigrant Juvenile Status (SIJS).<sup>62</sup> Unaccompanied Alien Children are those under 18 years of age who do not have lawful immigration status and who have no parent or legal guardian in the United States. These children are a high-risk population, making them vulnerable for abuse and becoming victims of crime or human trafficking. Federal immigration law provides immigration protections that might allow these children to remain in the United States on a temporary basis. This protection comes primarily through Special Immigrant Juvenile Status (SIJS). If granted, SIJS allows the minor to apply for Lawful Permanent Resident (LPR) status, which is more permanent residency status.<sup>63</sup> The decision of whether to allow a UAC to remain in the United States is determined by Homeland Security's Citizenship and Immigration Services.

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<sup>61</sup> National Center for State Courts, *Guide for State Courts in Cases Involving Unaccompanied Immigrant Children* (2015). Retrieved from [www.sji.gov/wp/wp-content/uploads/15-167\\_NCSC\\_UICGuide\\_FULL-web.pdf](http://www.sji.gov/wp/wp-content/uploads/15-167_NCSC_UICGuide_FULL-web.pdf) (as of Oct. 1, 2016).

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*

## BENCH CARD: HOW TO IDENTIFY AND HANDLE TRAFFICKING VICTIMS IN THE COURTROOM

Trafficking victims can come before the court in various circumstances, including as a witness or a defendant. This bench card will assist judicial officers in identifying cases that may involve human trafficking and what steps to take to protect the individual. Judges should be aware of potential trafficking victims in the courtroom because other justice stakeholders may have failed to identify red flags, so the judge may be the last hope for a victim. In addition, a judicial order may be necessary for a victim to receive state-funded services.<sup>64</sup>

Often, attorneys are unaware of sex trafficking red flags and go through their cases so quickly that those flags can be missed. It is important for judges to use their leadership to ask questions about red flags, screenings, and service needs. Judges can also use their bailiffs and court reporters as a good resource to notice interactions in the courtroom, particularly when the judge cannot be in the courtroom.<sup>65</sup> In many cases, the trafficker or someone associated with the trafficker may be in the courtroom. Thus, judges should use discretion in calling or continuing cases to determine what steps should be taken to protect a potential victim. In juvenile cases, the trafficker may be waiting just outside. One option a juvenile judge may have for trafficking victims is to treat a delinquency case as a dependency case, thereby making the victim eligible for services for which he or she may otherwise be ineligible. Another option is to transfer the minor to a diversion program or collaborative court that specializes in exploitation, such as a girls' court or CSEC Court (Commercial Sexual Exploitation of Children).

Trafficking victims may come to the court as a defendant or minor in various case types. Common case types that include trafficking victims include prostitution, drug sales, petty theft, peddling, assault, and code or status violations. Runaways, truants, youth in group homes, and foster youth are at high risk of becoming trafficking victims. Gang cases may be high risk for trafficking victims since gangs often supplement their earnings through human trafficking. In the dependency court, child abuse and neglect, family violence, and guardianship cases can also have trafficking victims; there have been cases in which the trafficker applies for guardianship. It is important to note that since minors under the age of 18 cannot consent to sex, all prostitution or solicitation cases with minors should be considered as human trafficking cases.

Recognizing red flags or indicators of trafficking is a first step in handling trafficking victims in the courtroom. Some of those indicators include the following:<sup>66</sup>

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<sup>64</sup> Human Trafficking and the State Courts Collaborative, *Identifying Cases That May Involve Human Trafficking* (2013). Retrieved from [www.htcourts.org/wp-content/uploads/Identifying\\_Cases\\_Involving\\_HT\\_v01.pdf?InformationCard=Identifying-Cases-That-Involve-HT](http://www.htcourts.org/wp-content/uploads/Identifying_Cases_Involving_HT_v01.pdf?InformationCard=Identifying-Cases-That-Involve-HT) (as of Oct. 1, 2016).

<sup>65</sup> The Blue Campaign, *What Can You Do: Recognizing and Supporting Victims in the Courtroom* (n.d.). Retrieved from [www.dhs.gov/sites/default/files/publications/blue-campaign/BC%20inserts%20Judicial.pdf](http://www.dhs.gov/sites/default/files/publications/blue-campaign/BC%20inserts%20Judicial.pdf) (as of Oct. 1, 2016).

<sup>66</sup> Human Trafficking and the State Courts Collaborative, *supra*, note 64.

- Behaviors that indicate a mindset of fear, distrust, denial, or conflicting loyalties, particularly if it seems there is someone in the room who may control his or her actions and words;
- Responses to questions that indicate coaching or coercion;
- Symptoms of posttraumatic stress disorder, trauma, phobias, panic attacks, or anxiety, including, but not limited to, sleep or eating disorders, emotional detachment, disorientation or confusion, or substance abuse (traffickers often use drugs to control their victims);
- Signs of physical abuse or denial of food, water, sleep, or medical care;
- Exposure to STDs and other infectious diseases; and
- Reproductive health issues such as urinary tract infections, pelvic pain, and forced abortions.

It is important to note that sex trafficking victims rarely self-identify as victims. They often view their trafficker or pimp as a loving boyfriend, spouse, or parent who loves them and has their best interests at heart. The safety of the potential or identified victim should always be the highest priority. Confidentiality is essential in keeping trafficking victims safe. Judges should be careful about putting on the record information about the name or location of service providers and details about the victim defendant's past or current trafficking experiences. In addition, limits to confidentiality should be clear to everyone, including the victim defendant.<sup>67</sup> It is also important for judges to recognize potential culture or language barriers that victims may face.

Judges have several options when handling potential trafficking victims in the courtroom:<sup>68</sup>

- Do not accept a guilty plea where the defendant may have committed the crime due to being a trafficking victim;
- Recognize cases in which the prosecutor's proof may indicate that the crime was committed due to force, fraud, or coercion, negating criminal intent;
- Continue the case to allow the defendant to enter proof that the crime was committed as a result of force, fraud, or coercion, negating criminal intent or other essential elements of the crime; and
- Continue the case to allow the defendant to raise an affirmative defense.

<sup>67</sup> Center for Court Innovation, *Responding to Sex Trafficking in Your Jurisdiction* (2015). Retrieved from [www.courtinnovation.org/sites/default/files/documents/RespondingtoSexTrafficking.pdf.pdf](http://www.courtinnovation.org/sites/default/files/documents/RespondingtoSexTrafficking.pdf.pdf) (as of Oct. 1, 2016).

<sup>68</sup> Human Trafficking and the State Courts Collaborative, *Human Trafficking Victims as Criminal Defendants* (2013). Retrieved from [www.htcourts.org/wp-content/uploads/HT\\_Victims\\_asCriminalDefendants\\_v01.pdf?InformationCard=HT-Victims-as-Criminal-Defendants](http://www.htcourts.org/wp-content/uploads/HT_Victims_asCriminalDefendants_v01.pdf?InformationCard=HT-Victims-as-Criminal-Defendants) (as of Oct. 1, 2016).

Judges also want to ensure that victims have procedural fairness and trauma-informed care. Here are ways that judges can do this:<sup>69</sup>

- Offer court staff training on prostitution, human trafficking, and trauma;
- Examine how the court and attorneys communicate information about a victim defendant's case to ensure that it is understandable;
- Make eye contact with the defendant, address him or her directly, and offer an opportunity to speak during the proceedings;
- Use plain language during proceedings; and
- Limit on-the-record discussions about a victim defendant's victimization and barriers to compliance, always assuming that an exploiter or trafficker is in or near the courtroom.

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<sup>69</sup> Center for Court Innovation, *supra*, note 67.

## BENCH CARD: WHAT TO DO IF A VICTIM IS A DEPENDENT OR WARD

Cases that involve human trafficking and a dependent or ward require extra steps to protect the youth. The information contained on this bench card is directed at helping juvenile court judges identify this type of situation and what steps need to be taken to protect the youth involved.

There is evidence that trafficking victims in delinquency court often have a history of CPS involvement,<sup>70</sup> and there is a strong correlation between childhood sexual abuse and sex trafficking.<sup>71</sup> Those who are most at risk for exploitation most commonly have experienced disadvantages that bring them to the child welfare system, including poverty, a breakdown of family relationships, abuse, and poor educational experiences. However, child protection regulations and protocols may be outdated and may not be equipped to respond to child trafficking.<sup>72</sup> Thus, the child welfare system and dependency courts must take trafficking-related issues into consideration from a child welfare perspective, focusing on prevention as an equally important effort as intervention to stop exploitation and abuse.<sup>73</sup> Safety issues should also be taken into consideration. Judges should be aware that the trafficker might be in the courtroom or waiting for the victim upon release under the guise of an “uncle” or other guardian. Additional safety issues that judges should consider include the following:<sup>74</sup>

- Family members or other caretakers can sometimes be the trafficker, and if they are present in the courtroom the trafficking victim may be unwilling to answer certain questions.
- Juvenile trafficking victims who plead guilty to a crime such as prostitution and are then placed with a family member could be in danger of the trafficker gaining more control over the victim.
- There is evidence behind the importance of having a protocol in place with prosecutors, defense attorneys, and guardians ad litem to identify a possible trafficking victim before the victim has to testify in court, and to provide services and housing.<sup>75</sup>
- If it becomes apparent that a trafficking situation appears to be present, the judge may want to recess in order to determine what steps, if any, need to be taken to keep the possible trafficking victim safe.

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<sup>70</sup> T. K. Logan, R. Walker, & G. Hunt, “Understanding Human Trafficking in the United States” (2009) 10(1) *Trauma, Violence, and Abuse*, 3-30.

<sup>71</sup> K. Walker, “Stopping Victimization of Vulnerable Children in California” (2012) 31(1) *Youth Law News*. Retrieved from <http://youthlaw.org/publication/stopping-victimization-of-vulnerable-children-in-california/> (as of Oct. 1, 2016).

<sup>72</sup> C. Smolenski, M. Skelly, & H. Davidson, “Challenges in Identifying Child Trafficking Cases,” in *Human Trafficking and Exploitation of Children and Youth in the United States: Outcome Document* (2011), [www.luc.edu/media/lucedu/chrc/pdfs/Conference\\_Outcome\\_Document\\_2011.pdf](http://www.luc.edu/media/lucedu/chrc/pdfs/Conference_Outcome_Document_2011.pdf) (as of Oct. 1, 2016).

<sup>73</sup> *Ibid.*

<sup>74</sup> Human Trafficking and the State Courts Collaborative, *Dealing with Human Trafficking Victims in a Juvenile Case* (2013). Retrieved from [www.htcourts.org/wp-content/uploads/HT\\_Victims\\_inJuvenileCases\\_vo2.pdf?InformationCard=Dealing-With-HT-Victims-Juvenile](http://www.htcourts.org/wp-content/uploads/HT_Victims_inJuvenileCases_vo2.pdf?InformationCard=Dealing-With-HT-Victims-Juvenile) (as of Oct. 1, 2016).

<sup>75</sup> I. Brodie, M. Melrose, J. Pearce, & C. Warrington, *Providing Safe and Supported Accommodation for Young People who are in the Care System and who are at Risk of, or Experiencing, Sexual Exploitation or Trafficking for Sexual Exploitation.*, University of Bedfordshire. Retrieved from [www.beds.ac.uk/\\_data/assets/pdf\\_file/0008/120788/SafeAccommodationreport\\_finalOct2011IB\\_1.pdf](http://www.beds.ac.uk/_data/assets/pdf_file/0008/120788/SafeAccommodationreport_finalOct2011IB_1.pdf) (as of Oct. 1, 2016).

Other considerations that may have implications for dependent youth include mental, physical, and reproductive health problems; severe trauma; behavioral difficulties; substance abuse; and disengagement from education.<sup>76</sup> These issues may impact placements. However, stable placements, stability of relationships, and ongoing support from caring adults must remain key concerns for trafficking victims.

It is important for judges to consider the safe accommodation and housing needs of youth at risk of or victims of sexual exploitation and trafficking. Trafficking victims and at-risk youth are at continued risk from traffickers in placement or foster care settings, especially in places such as group homes where traffickers are known to hunt for victims. In addition, frequent changes in placements or accommodation have been shown to be risky or unsafe for those already at risk.<sup>77</sup> Foster parents, group home staff, and others working with dependent youth should have training in preventing human trafficking and trauma-based care.

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<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

## BENCH CARD: IMPORTANT VICTIM SERVICES

Judges should familiarize themselves with local resources to assist trafficking victims. Trauma services in particular are crucial for trafficking victims. Researchers have also emphasized the importance of a coordinated multi-agency response, but have also stressed that an effective response will depend on individual responders' training and understanding of the nature of exploitation and trafficking, as well as their ability to listen to the victim and approach them where they are at their level of healing.<sup>78</sup> It is also important to note that trafficking victims have had to endure extreme circumstances and that their skills, strengths, and determination that kept them alive should not be overlooked. Further, in addition to the needs that they have, they have internal resources that they have developed.<sup>79</sup>

Providers have identified six components of promising services and strategies for victims:<sup>80</sup>

1. Safety planning for victims and for professionals serving them;
2. Collaboration across multiple systems and agencies;
3. Trust and relationship building to foster consistency;
4. Culturally competent and appropriate services;
5. Trauma-informed services; and
6. Survivor involvement in program and service development and implementation.

Other specific services that trafficking victims may need include the following:

**Appropriate placements.** The safe accommodation and housing needs of youth at risk of or victims of sexual exploitation should be considered in the context of widespread problems faced by young people seeking accommodation.<sup>81</sup> Trafficking victims and at-risk youth are at continued risk from traffickers in placement or foster care settings, especially in places such as group homes where traffickers are known to hunt for victims. In addition, frequent changes in placements or accommodation have been shown to be risky or unsafe for those already at risk.<sup>82</sup> Foster parents, group home staff, and others working with dependent youth should have training in preventing human trafficking and trauma-based care. It is important to note that running away, or going "AWOL," is a normal, albeit frustrating, part of the healing process for trafficking victims.

**Specialized healthcare.** Trafficking victims experience complex trauma resulting from physical and sexual abuse, isolation, and psychological coercion and manipulation often

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<sup>78</sup> *Ibid.*

<sup>79</sup> American Psychological Association, *Report on the Task Force on Trafficking of Women and Girls* (2014). Retrieved from [www.apa.org/pi/women/programs/trafficking/report.pdf](http://www.apa.org/pi/women/programs/trafficking/report.pdf) (as of Oct. 1, 2016).

<sup>80</sup> As cited in California Child Welfare Council, *Ending the Commercial Sexual Exploitation of Children: A Call for Multi-System Collaboration in California* (2013).

Retrieved from [http://youthlaw.org/wp-content/uploads/2015/01/Ending-CSEC-A-Call-for-Multi-System\\_Collaboration-in-CA.pdf](http://youthlaw.org/wp-content/uploads/2015/01/Ending-CSEC-A-Call-for-Multi-System_Collaboration-in-CA.pdf) (as of Oct. 1, 2016).

<sup>81</sup> Brodie, Melrose, Pearce, & Warrington, *supra*, note 75.

<sup>82</sup> *Ibid.*

used by traffickers. These conditions, as well as poor diet and hygiene, can also lead to long-term health problems such as broken bones, contusions, dental problems (e.g., loss of teeth), and burns or brandings.<sup>83</sup> Victims are also at high risk of sexually transmitted infections and diseases, as well as reproductive health issues resulting from forced or unsafe abortions. Mental health care is also often necessary to deal with issues such as posttraumatic stress disorder, depression, addiction, and anxiety.<sup>84, 85</sup> Substance abuse treatment may also be necessary, as traffickers often use drugs and addiction to keep victims under control or victims may turn to drugs as a way of dealing with the trauma or self-medicating.

**Access to education.** Trafficking victims may have educational setbacks or may be missing a lot of school. School may be difficult due to the trauma and psychological issues that victimization can cause. However, even though many youth have experienced difficulties with schools, they remain enthusiastic about and aspire to complete school and feel that education is important.<sup>86</sup> Access to education and job training are essential strategies for trafficking victims to rebuild their lives.<sup>87</sup>

**Continuum of Care.** An essential element to healing and success is keeping victims connected with service professionals with an “open door” policy, even while they continue to be involved with traffickers. Not unlike domestic violence, victims are often hesitant to leave or may return to the trafficker or abuser several times before leaving for good. Part of a continuum of care should include a comprehensive, strengths-based program that focuses on restoring supportive relationships, reducing traumatic distress, reducing risky behaviors, and increasing self-care.<sup>88</sup> Legal services, life skills training, job training, financial management, and child care are also integral to healing and success.

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<sup>83</sup> T. Dovydaitytė, “Human Trafficking: The Role of the Health Care Provider” (2011) 5(5) *Journal of Midwifery & Women’s Health*. Retrieved from [www.ncbi.nlm.nih.gov/pmc/articles/PMC3125713/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3125713/) (as of Oct. 1, 2016).

<sup>84</sup> *Ibid.*

<sup>85</sup> E. Miller, M. R. Decker, J. G. Silverman, & A. Raj, “Migration, Sexual Exploitation, and Women’s Health: A Case Report from a Community Mental Health Center” (2007) 12(5) *Violence Against Women*. Retrieved from <https://healtrafficking.files.wordpress.com/2015/03/violence-against-women-2007-miller-486-97.pdf> (as of Oct. 1, 2016).

<sup>86</sup> L. M. Williams, “Community Responsibility for Runaway and Thrownaway Youth—Commentary” (2011) 2(1) *Journal of Applied Research on Children*. Retrieved from <http://digitalcommons.library.tmc.edu/cgi/viewcontent.cgi?article=1037&context=childrenatrisk> (as of Oct. 1, 2016).

<sup>87</sup> American Psychological Association, *supra*, note 79.

<sup>88</sup> E. M. Saewyc & L. D. Edinburgh, “Restoring Healthy Developmental Trajectories for Sexually Exploited Young Runaway Girls: Fostering Protective Factors and Reducing Risk Behaviors” (2010) 46(2) *Journal of Adolescent Health*. Retrieved from [www.ncbi.nlm.nih.gov/pmc/articles/PMC4690725](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4690725) (as of Oct. 1, 2016).

## X. ORGANIZATIONS PROVIDING SERVICES FOR VICTIMS

Domestic sex trafficking of minors is a growing problem in the United States. California, in particular, has three of the nation's thirteen High Intensity Child Prostitution areas: San Francisco, Los Angeles, and San Diego. With the growing number of children being trafficked for sex, there is also a growing need to provide the care and services these young survivors need to rebuild their lives. This chapter will detail organizations that work with trafficking victims.

The following NGOs offer support specifically for victims of human trafficking in California. This is not an exhaustive list, and not all services are available in all jurisdictions. The Judicial Council does not endorse, have any responsibility for, or exercise control over these organizations' and agencies' views, services, and information.

### Southern California

#### **Angel's Flight, Los Angeles**

Main: 213-413-2311; Hotline: 800-833-2498

Population Served: 10–17 years of age, males and females

Type of Program: Emergency shelter (21-days stay)

Services Offered: Case management, counseling, education services, housing, referral services for food, clothing, and recreational outings

#### **Asian Pacific American Legal Center, Los Angeles**

<https://www.advancingjustice-la.org/>

Main: 213-977-7500

Provides legal representation, help in securing permanent housing/work, and aid in acquiring permanent residency for immigrants who were trafficked here for domestic work and sexual servitude.

#### **Bilateral Safety Corridor Coalition, San Diego/National City**

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

Main: 619-336-0770; Hotline: 619-666-2757, available 24 hours a day.

Works with the San Diego North County Anti-Trafficking Task Force. Provides crisis intervention, help in reintegrating into daily life, as well as services such as shelter, legal aide, medical services, and counseling for victims of human trafficking.

#### **Children of the Night, Los Angeles and international**

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

Main: 818-908-4474; Hotline: 800-551-1300

Children of the Night is a privately funded nonprofit organization established in 1979 and dedicated to rescuing America's children from the ravages of prostitution.

### **Coalition to Abolish Slavery & Trafficking, Los Angeles and international**

<http://www.castla.org/homepage>

Main: 213-365-1906

To assist persons trafficked for the purpose of forced labor and slavery-like practices and to work toward ending all instances of such human rights violations.

### **Community Services Programs, Santa Ana**

<http://cspinc.org>

Main: 949-250-0488

Works with the Orange County Human Trafficking Task Force and provides victim assistance and services to all victims of crime.

### **Journey Out (formerly known as The Mary Magdalene Project), Los Angeles**

<http://journeyout.org/>

Main: 818-988-4970

Provides critical non-faith-based services to trafficked individuals in the Los Angeles area. Their programming also includes youth prevention and intervention programs, emergency support and crisis counseling services, street outreach, and harm reduction programs.

### **Los Angeles Youth Network**

<http://layn.org/>

Main: 323-467-8466

The Los Angeles Youth Network's mission is to empower abused, neglected, and homeless adolescents to become self-sufficient. We do this by providing street outreach, food, emergency shelter, a transitional living program, and educational enrichment programs in a safe and nurturing environment.

### **Project Hope Los Angeles – Dream Center**

<http://www.dreamcenter.org/dream-center/human-trafficking/>

Main: 213-273-7045; Hotline: 877-632-7234

The Dream Center's purpose is to reconnect isolated people to God and a community of support by providing human services that address immediate and long-term needs in the areas of homelessness, hunger, poverty, addiction, education, and human trafficking.

### **Safe House Riverside**

<http://operationsafehouse.org/safehouse-riverside/>

Main: 951-351-4418

In business for over 24 years and with shelters in Riverside and Thousand Palms, Operation Safe House is well equipped to handle runaway, homeless, and other youth in crisis. Teens who don't know where else to go are always welcome at our shelters—all they have to do is show up.

### **Safe House of the Desert**

<http://safehouseofthedesert.com/about/>

Main: 951-351-4418

(See Safe House Riverside)

### **Saving Innocence, Los Angeles**

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

Main: 323-379-4232; Hotline: 888-373-7888

Saving Innocence's vision is to end the commercial sexual exploitation of children and restore the cultural values of innocence and human worth. Its mission is to rescue and restore child victims of sex trafficking through strategic partnerships with local law enforcement, social service providers, and schools, while mobilizing communities to prevent abuse and increase neighborhood safety.

## **Northern California\***

### **API Legal Outreach**

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

San Francisco: 415-567-6255

Oakland: 510-251-2846

Provides comprehensive and culturally appropriate legal representation to all victims of human trafficking and other victims of crime.

### **Asian Women's Shelter, San Francisco**

<http://sfaws.org/home.aspx>

Main: 415-751-7110; Hotline: 877-751-0880, available 24 hours a day

Provides a shelter program, case management, and access to health and legal services for female victims of trafficking.

### **Bay Area Women Against Rape, Oakland**

<http://bawar.org>

Main: 510-430-1298; Hotline: 510-845-7273, available 24 hours a day

Works with the East Bay Human Trafficking Task Force. Provides counseling, advocacy, and referrals to victims of human trafficking.

### **Bridget's Dream, Sacramento**

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

Main: 916-235-3690

Bridget's Dream is a Christian organization founded in 2011 to respond to the devastating epidemic of sexual exploitation in our region and beyond. It provides trauma-informed support to victims and their families.

### **Community Solutions, Morgan Hill**

<http://communitysolutions.org>

Main: 408-779-2113; Hotline: 877-363-7238, available 24 hours a day

Works with the San Jose/South Bay Human Trafficking Task Force. Provides a 24-hour crisis line, counseling, legal advocacy, court accompaniment, and confidential shelter for male and female minor victims of human trafficking.

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\* The San Francisco Collaborative on Human Trafficking maintains a regularly updated list of Northern California service providers at <http://sfcaht.org/by-category-of-service.html>.

### **Corbett Group Homes, Inc. (RISE House), San Jose**

<http://www.corbettgrouphomes.org/index.html>

Main: 408-202-4856

This is a CSEC-specific therapeutic residential program in San Mateo County designed in the modality of empowering youth to evolve from victims to survivors and into leaders. The program is dedicated to commercially sexually exploited children. The youth accepted into the RISE house will be from the foster care system and/or from the juvenile justice system.

### **Courage World, Sacramento**

<http://courageworldwide.org/courage-house/courage-house-norcal/>

Main: 916-316-6029

Courage World is an international, nonprofit organization that is building homes for children rescued out of sex trafficking around the world. Courage World is located in Northern California.

### **Courage Worldwide, Rocklin**

<http://courageworldwide.org>

Main: 916-517-1616

Works with the Sacramento Innocence Lost Task Force and others. Provides in-house shelter and support for female minors aged 11–17 who are victims of commercial sex exploitation.

### **Freedom House, Burlingame**

<http://www.freedomhousesf.org/aboutus/>

Main: 650-488-0831

Located in the San Francisco Bay Area, Freedom House works closely with law enforcement and community partners to identify survivors of human trafficking and to provide them with the care and services they need to rebuild their lives. In August 2010, Freedom House launched **The Monarch**, the first safe house in Northern California for adult female survivors of human trafficking.

### **Marjaree Mason Center, Fresno**

<http://mmcenter.org>

Main: 559-237-4706; Hotline: 800-640-0333, available 24 hours a day

Works with the Fresno Coalition Against Human Trafficking. Provides in-house shelter, educational assistance, crisis support, and counseling for female and minor victims of human trafficking.

### **Mujeres Unidas y Activas**

<http://mujeresunidas.net/services/human-trafficking-project/>

San Francisco: 415-621-8140

Oakland: 510-261-3398

Provides case management, social services support/victim advocacy to victims of human trafficking.

### **My Sister's House, Sacramento**

<http://my-sisters-house.org>

Main: 916-930-0626; Hotline: 916-428-3271, available 24 hours a day

Provides in-house shelter, counseling, basic provisions, and help finding gainful employment. Although it is oriented towards serving the needs of Asian and Pacific Islander women, My Sister's House will not turn anyone away.

### **Narika**

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

Helpline: 1-800-215-7308

Provides social services support/victim advocacy to victims of human trafficking and domestic violence.

### **Opening Doors, Sacramento**

<http://openingdoorsinc.com>

Main: 916-492-2591

Provides assistance in finding safe shelter, health care, legal assistance, educational opportunities, business loans, and employment for victims of human trafficking.

## **National**

### **Polaris**

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

Main: 888-373-7888

Polaris provides 24/7 emergency response to life-threatening situations, intensive case management, and counselling to ease the effects of trauma. It also provides support groups, arts therapy programs, and job training/placement assistance.

### **National Human Trafficking Resource Center (NHTRC) Hotline**

Main: 888-3737-888

The NHTRC is a national, toll-free hotline, available to answer calls from anywhere in the country, 24 hours a day, every day of the year. The NHTRC is a program of Polaris Project, a nonprofit, nongovernmental organization working exclusively on the issue of human trafficking. Call 888-3737-888 to report a tip, to connect with antitrafficking services in your area, or to request training and technical assistance, general information, or specific antitrafficking resources.

### **National Association of Women Judges Program Guide on Trafficking in Persons**

[https://www.nawj.org/uploads/files/programs/trafficking/trafficking\\_in\\_persons\\_modern\\_day\\_slavery\\_a\\_program\\_manual.pdf](https://www.nawj.org/uploads/files/programs/trafficking/trafficking_in_persons_modern_day_slavery_a_program_manual.pdf)

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\* The San Francisco Collaborative on Human Trafficking maintains a regularly updated list of Northern California service providers at <http://sfcaht.org/by-category-of-service.html>.

## XI. PROMISING PRACTICES FOR PRESIDING JUDGES

Strong judicial leadership is key to successful case outcomes, particularly those involving human trafficking and prostitution. The role of the judge extends beyond the bench, and other duties may include establishing a trauma-informed courtroom, enhancing interagency collaboration, and incorporating procedural justice principles.

### Establishing Trauma-informed Services for the Courtroom

Creating a trauma-informed courtroom is an effective response to prostitution and human trafficking. A trauma-informed approach helps produce better case outcomes for several reasons:

- It leads to more successful interviews of victims and witnesses;
- It increases the likelihood of cooperation with law enforcement; and
- It helps structure the search for evidence to present a trauma-informed story in court to the judge and jury.<sup>89</sup>

A trauma-informed courtroom takes into account the extensive impact that trauma has on victims and the potential road to recovery, recognizes the signs and symptoms of trauma in clients and others involved in the system, and responds appropriately by integrating knowledge about trauma into policies, procedures, practices, and settings. Priority is on the victim's safety and security, and protecting against any policy or practice that may retraumatize the victims.<sup>90</sup>

**The role of the judge extends beyond the bench, and other duties may include the following:**

- Establishing a trauma-informed courtroom;
- Enhancing interagency collaboration; and
- Incorporating procedural justice principles.

### Enhancing Interagency Collaboration

Judges can take a leadership role in convening all of the court's partners such as child welfare, juvenile justice agencies, treatment providers, interpreters, social service providers, and law enforcement. Gathering all stakeholders to the table is necessary for ensuring communication, consistency, and continuing education about the court and issues related to human trafficking.<sup>91</sup> In addition, there should be regular stakeholder meetings, organized by the courts, which could serve as an opportunity to clarify the court's expectations of everyone's roles, troubleshoot policies and protocols, build partnerships for addressing human trafficking cases, and

<sup>89</sup> U.S. Department of Justice, Office for Victims of Crime, *Using a Trauma-Informed Approach*, [www.ovcttac.gov/taskforceguide/eguide/4-supporting-victims/41-using-a-trauma-informed-approach/](http://www.ovcttac.gov/taskforceguide/eguide/4-supporting-victims/41-using-a-trauma-informed-approach/) (as of Oct. 1, 2016).

<sup>90</sup> *Ibid.*

<sup>91</sup> J. A. Martin, S. Weller, A. Lederach, J. Yoder, & D. Price, *Trends in State Courts: Addressing Human Trafficking in the Collaborative Courts* (2013) National Center for State Courts. Retrieved from [www.ncsc.org/~media/Microsites/Files/Future%20Trends%202013/06202013-Addressing-Human-Trafficking-in-the-State-Courts.ashx](http://www.ncsc.org/~media/Microsites/Files/Future%20Trends%202013/06202013-Addressing-Human-Trafficking-in-the-State-Courts.ashx) (as of Oct. 1, 2016).

promote ongoing communication.<sup>92</sup> These meetings should be inclusive and should focus on a few select and achievable goals.<sup>93</sup> Collaborative meetings can also help to reinforce outreach to communities that are underserved and developing preventive education models.<sup>94</sup>

## Incorporating Procedural Justice Principles

In addition to providing a trauma-informed courtroom to the trafficking victims, incorporating the principles of procedural justice in the courtroom creates a humane response to victim defendants. Procedural justice is the perceived fairness of court procedures and interpersonal treatment while a case is being processed. Underlying procedural justice is the concept that the justice system must be continually demonstrating its legitimacy to the public it serves.<sup>95</sup> There are several procedural justice principles:

- Voice: People want to have a chance to tell their side of the story in their own words.
- Neutrality: People view the judge as being unbiased, neutral, and principled decision makers.
- Respect: Court staff, judges, and other legal authorities represent the state. People want to feel that their problems will be taken seriously by the judge and that they are treated with dignity and respect.
- Understanding: Comprehension of the legal process and how decisions are made is important.
- Helpfulness: Perception that court players are interested in their personal situation to the extent that the law permits is needed.<sup>96</sup>
- Additional strategies for addressing human trafficking in courts have been identified by the Center for Public Policy Studies (CPPS), Center for Court Innovation (CCI), and the National Judicial College (NJC) and include the following:<sup>97</sup>
- Increased awareness and understanding about the challenges confronting state courts dealing with human trafficking victims and their families;
- The development of an assessment tool that addresses the impact of human trafficking victims in state courts;
- State and local court capacity augmentation to enhance court services affecting human trafficking-related case-processing demands; and
- Collaboration with national, state, and local partners to address the impact of human trafficking case processing in the state courts.

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<sup>92</sup> Center for Court Innovation, *supra*, note 67.

<sup>93</sup> Martin, Weller, Lederach, Yoder, & Price, *supra*, note 91.

<sup>94</sup> Center for Court Innovation, *supra*, note 67.

<sup>95</sup> E. Gold & M. Bradley, *The Case for Procedural Justice: Fairness as a Crime Prevention Tool* (2013) U.S. Department of Justice, Community Oriented Policing Services. Retrieved from [http://cops.usdoj.gov/html/dispatch/09-2013/fairness\\_as\\_a\\_crime\\_prevention\\_tool.asp](http://cops.usdoj.gov/html/dispatch/09-2013/fairness_as_a_crime_prevention_tool.asp) (as of Oct. 1, 2016).

<sup>96</sup> *Ibid.*

<sup>97</sup> Martin, Weller, Lederach, Yoder, & Price, *supra*, note 91.

## XII. HYPOTHETICAL CASE

Crystal, age 15, is a declared dependent child who was removed from her home due to the substance abuse of her mother. In addition, prior child abuse reports indicate the possible sexual abuse of Crystal.

Crystal was placed in a group home in Orange County. She has a history of running away from the group home, and she has a relationship with an older girl, Jennifer, who also resides there and has a similar history of running away. After one occasion of running away and being gone for one week, Crystal reported that she was with her boyfriend. She has had her hair and nails done and she has new jewelry and a new cell phone. Staff at the group home notice that she receives lots of text messages. Over the holidays, Crystal and Jennifer run away together. A protective custody warrant is issued by the dependency court in Orange County for Crystal and Jennifer.

After the new year, Crystal and Jennifer, accompanied by an older adult male whose name is Ken, are arrested for prostitution at a hotel in Oakland. Ken is also arrested. Crystal tells the arresting police officer that Jennifer is her sister, and she refers to Ken as her uncle. She tells the officer her name is Brittany, that she is 19 years old, and that she has no ID. Crystal is placed in the Alameda County jail.

**The district attorney then finds out that Crystal is scared of Ken and doesn't want to testify because she heard he killed a girl. Crystal is receiving services from community advocates. The DA informs the court that Crystal is reluctant to testify and that the delinquency judge is about to release Crystal to CPS in Orange County.**

Over the weekend, Crystal decides she wants to leave jail and she snitches on Ken and says that he is her pimp. She provides correct information about Jennifer's identity. The DA files a juvenile court petition rather than an adult court case. Crystal is transferred to juvenile hall, and the court conducts a detention hearing. Ken is arrested.

At the detention hearing, the public defender moves to release Crystal to her mother's custody. The DA objects and requests release and transfer back to Orange County to the custody of CPS. CPS is willing to transport Crystal back to Orange County CPS. The proceeding is continued to the next day to obtain more information from Orange County CPS.

In the criminal proceeding against Ken, Ken was arraigned on charges of Penal Code sections 266 (pimping), 236 (false imprisonment), and 261.5 (statutory rape). Bail was set at \$100,000. Ken was released after posting bail. The district attorney then finds out that Crystal is scared of

Ken and doesn't want to testify because she heard he killed a girl. Crystal is receiving services from community advocates. The DA informs the court that Crystal is reluctant to testify and that the delinquency judge is about to release Crystal to CPS in Orange County.

Subsequently, the juvenile DA informs the delinquency judge that Ken is a suspect in the murder of a prostitute currently under investigation in Alameda County and that Crystal is a material witness to the homicide.

### **XIII. THE OVERLAP BETWEEN CHILD WELFARE AND JUVENILE JUSTICE: A CASE STUDY**

- Minor PG was born into a family with a long child welfare history. Her two older siblings were detained by CPS because of parental neglect and alcohol abuse. The parents did not reunify with the older siblings and ultimately parental rights over those siblings were terminated.
- In the first 10 years of PG's life, she lived with her mother. During that time, there were eight calls to the child abuse hotline calls alleging neglect, and physical and emotional abuse. All were deemed inconclusive or unfounded.
- Shortly after her 10th birthday, PG was detained from her mother because of her mother's daily use of alcohol and marijuana and physical abuse. Over the next two years, PG was in four different foster homes and in one relative placement. She was returned to her mother twice and AWOLed 10 times from these various placements.
- At age 12, she was going back and forth between her mother's home and living on the streets. Within weeks, she was arrested for making criminal threats and assault with a deadly weapon against her mother. Shortly after her arrest, PG described herself as "addicted to the streets" and told a probation officer, "Put me in a locked facility. That is the only place I will stay."
- After the petition was sustained, a psychologist recommended that she be placed in a Level 14 treatment facility. She was not accepted in the local treatment facility because she was considered to be too young (age 12). She was placed in an unlocked group home and AWOLed within weeks.
- A couple months later, she was found and reported being kidnapped. She was in custody for several months and ultimately returned to her mother. She AWOLed within weeks. When found shortly thereafter she again reported having been kidnapped, chained in an apartment, and commercially sexually exploited. Law enforcement officers reported that her trafficker was a second striker, was armed, and presented a great risk to PG. PG was charged with prostitution.
- She spent more than a year in a locked treatment facility and reportedly made tremendous improvements. Her report card reflected six As, one B, and two Cs. She participated in counseling and started joint sessions with her mother. She was very engaged in treatment, optimistic about her academic future, and made efforts to be a survivor-leader to other CSEC girls.
- She went to a less restrictive facility (a six-bed group home) and she continued to excel academically and as a survivor-leader. She repeatedly indicated that she wanted to return to live with her mother. For her 15th birthday, she visited her mother's home and refused to return to placement. Within a month, her mother reported that she left the home and is currently living with a new trafficker.
- She returned to the six-bed group home shortly thereafter and denied any exploitation during her last AWOL. She did reasonably well in placement for the next nine months, although she often referred to being tired of living in a group home. Counseling with her mother and other reunification efforts occurred but progress was inconsistent because of her mother's volatility and absences.

- Shortly before her 16th birthday, she again left placement. Although she was in touch with several members of her STAR team (advocates, probation officers, attorneys), she refused to return to placement for more than one year. She was pregnant and had a baby shortly after her 17th birthday. Eventually, when the baby was one month old, she reported to court (January 2015). We allowed her to live with an older sister, with her infant, and her progress has been poor. There have been at least a couple of referrals to the child abuse hotline regarding her care of the infant, but no formal services are being offered by DCFS at this point. She appears to be resistant to services at this point.

## XIV. GIRLS' COURT

Over the last two decades, there has been a rise in the number of girls in the delinquency system.<sup>98</sup> Nationally, girls comprise nearly one-third of youth in the justice system.<sup>99</sup> In California, they comprise 27 percent of juvenile arrests.<sup>100</sup> The increase may be attributed to changes in sentencing laws and law enforcement policies that have criminalized and increased penalties for low-level infractions such as substance use and domestic violence.<sup>101</sup> As one example, the majority of charges against girls for domestic assault were from “non-serious mutually combative situations with parents.”<sup>102</sup> The charges that girls face may be directly linked to their exposure to violence and victimization in their homes. Girls are also more likely than boys to be arrested for “survival crimes,” such as shoplifting, survival sex, and running away, that are often attempts to escape abusive situations in the home, and they are more likely than boys to be charged for things such as truancy, substance use, and aggressive behavior that stem from being victimized themselves.<sup>103</sup> In fact, girls in custody are more likely than boys in custody to be in detention for status offenses and technical violations.<sup>104</sup> One set of researchers described this as a sort of “double jeopardy”:

**Girls involved in juvenile justice, and particularly those who have been victims of trafficking, are often fleeing serious problems and victimization.**

[G]irls' involvement in the justice system may be directly driven by their experiences of victimization'... . In a vicious cycle, involvement in [the justice system] is, in turn, related to a higher likelihood of revictimization for girls, particularly by increasing their risk of sexual assault and exposure to violence.<sup>105</sup>

<sup>98</sup> American Bar Association and National Bar Association, *Justice by Gender: The Lack of Appropriate Prevention, Diversion, and Treatment Alternatives for Girls in the Justice System* (2001), [www.americanbar.org/content/dam/aba/publishing/criminal\\_justice\\_section\\_newsletter/crimjust\\_juvjus\\_justicebygenderweb.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_juvjus_justicebygenderweb.authcheckdam.pdf) (as of Oct. 1, 2016).

<sup>99</sup> L. Watson & P. Edelman, *Improving the Juvenile Justice System for Girls: Lessons from the States* (2012), Georgetown Center on Poverty, Inequality, and Public Policy. Retrieved from [www.law.georgetown.edu/academics/centers-institutes/povertyinequality/upload/jds\\_v1r4\\_web\\_singles.pdf](http://www.law.georgetown.edu/academics/centers-institutes/povertyinequality/upload/jds_v1r4_web_singles.pdf) (as of Oct. 1, 2016).

<sup>100</sup> California Department of Justice, Criminal Justice Statistics Center, *Juvenile Justice in California* (2014). Retrieved from <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/misc/jj14/preface.pdf> (as of Oct. 1, 2016).

<sup>101</sup> P. K. Kerig & J. D. Ford, *Trauma among Girls in the Juvenile Justice System* (2014), National Child Traumatic Stress Network, Juvenile Justice Consortium. Retrieved from [www.nctsn.org/sites/default/files/assets/pdfs/trauma\\_among\\_girls\\_in\\_the\\_jj\\_system\\_2014.pdf](http://www.nctsn.org/sites/default/files/assets/pdfs/trauma_among_girls_in_the_jj_system_2014.pdf) (as of Oct. 1, 2016).

<sup>102</sup> L. Acoca, “Investing in Girls: A 21<sup>st</sup> Century Strategy” (1999) 6(1), *Juvenile Justice*, pp. 3–13.

<sup>103</sup> P. K. Kerig & S. R. Schindler, “Engendering the Evidence Base: A Critical Review of the Conceptual and Empirical Foundations of Gender-Responsive Interventions for Girls’ Delinquency” (2013) 2(3) *Laws*, 244–282.

<sup>104</sup> As cited in J. C. Day, M. A. Zahn, & L. P. Tichavsky, “What Works for Whom? The Effects of Gender Responsive Programming on Girls and Boys in Secure Detention” (2015) 52(1), *Journal of Research in Crime and Delinquency*, pp. 93–129.

<sup>105</sup> Kerig & Ford, *supra*, note 101.

Although girls tend to be low risk, they often have high needs.<sup>106</sup> Researchers have found that girls involved in juvenile justice, and particularly those who have been victims of trafficking, are often fleeing serious problems and victimization.<sup>107</sup> Girls in the delinquency system often have histories of physical, emotional, and sexual abuse and neglect, have family problems, and are dominated by older males.<sup>108</sup>, <sup>109</sup> Indeed, researchers have found that the role of trauma, sexual abuse, and physical abuse is a significant contributor to female delinquency.<sup>110</sup> Girls in the juvenile justice system are also twice as likely as boys in the system to have five or more adverse childhood experiences (ACEs),<sup>111</sup> which are strongly correlated with complex trauma, as well as risky behaviors, chronic health conditions, low life potential, and early death.<sup>112</sup> As the number of ACEs increases, so does the risk for any of these outcomes.

Further, girls react differently than boys to these types of traumatic events. Girls are more likely than boys to have clinical diagnoses of depression, posttraumatic stress disorder, and anxiety.<sup>113</sup> Girls in the justice system also often have high incidences of mother-daughter conflict and more dysfunctional families than do boys.<sup>114</sup> Girls are also more likely than boys to run away and internalize their trauma. Once on the street, they become increasingly vulnerable to exploitation.<sup>115</sup>

Traditional juvenile justice structures are designed to meet the needs of boys.<sup>116</sup> These structures and policies can easily trigger posttraumatic reactions, which, not unlike the double jeopardy situation noted above, may cause girls to “act out their distress in ways that appear disorganized, disobedient, or out of control, and thus bring further sanctions upon them.”<sup>117</sup>

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<sup>106</sup> W. Heipt, “Girls’ Court: A Gender Responsive Juvenile Court Alternative” (2015) 13(3), *Seattle Journal for Social Justice*. Retrieved from <http://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1777&context=sjsj> (as of Oct. 1, 2016).

<sup>107</sup> M. A. Zahn et al., “Causes and Correlates of Girls’ Delinquency” (2010), U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. Retrieved from [www.ncjrs.gov/pdffiles1/ojjdp/226358.pdf](http://www.ncjrs.gov/pdffiles1/ojjdp/226358.pdf) (as of Oct. 1, 2016).

<sup>108</sup> Heipt, *supra*, note 106.

<sup>109</sup> M. S. Saar, R. Epstein, L. Rosenthal, & Y. Vafa, *The Sexual Abuse to Prison Pipeline: The Girls’ Story* (2015), Georgetown University Law Center, Center for Poverty and Inequality. Retrieved from [http://rights4girls.org/wp-content/uploads/r4g/2015/02/2015\\_COP\\_sexual-abuse\\_layout\\_web-1.pdf](http://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf) (as of Oct. 1, 2016).

<sup>110</sup> As cited in J. C. Day, M. A. Zahn, & L. P. Tichavsky, “What Works for Whom? The Effects of Gender Responsive Programming on Girls and Boys in Secure Detention” (2015) 52(1), *Journal of Research in Crime and Delinquency*, pp. 93–129.

<sup>111</sup> Saar, Epstein, Rosenthal, & Vafa, *supra*, note 109.

<sup>112</sup> Centers for Disease Control and Prevention, “About Adverse Childhood Experiences,” [www.cdc.gov/violenceprevention/acestudy/about\\_ace.html](http://www.cdc.gov/violenceprevention/acestudy/about_ace.html) (as of Oct. 1, 2016).

<sup>113</sup> K. M. McCabe, A. E. Lansing, A. Garland, & R. Hough, “Gender Differences in Psychopathology, Functional Impairment, and Familial Risk Factors Among Adjudicated Delinquents” (2002) 41, *Journal of the American Academy of Child and Adolescent Psychiatry*, pp. 860–867.

<sup>114</sup> American Bar Association and National Bar Association, *supra*, note 98.

<sup>115</sup> T. Carroll, “Gender and Juvenile Justice: New Courts, Programs Address Needs of Girls” (2009), National Center for Youth Law. Retrieved from <http://youthlaw.org/publication/gender-and-juvenile-justice-new-courts-programs-address-needs-of-girls/> (as of Oct. 1, 2016).

<sup>116</sup> Heipt, *supra*, note 106.

<sup>117</sup> Kerig & Ford, *supra*, note 101.

## What is a Girls' Court?

As court stakeholders recognized that the nature and causes of girls' delinquency are different from those of boys, they began to consider creative approaches to dealing with the differences. Researchers have found that gender-responsive approaches in juvenile justice work best for girls with histories of trauma and who have high levels of depression, anxiety, anger, irritability, and substance abuse.<sup>118</sup> Moreover, as attention to the importance of gender-specific responses for these girls and public awareness of exploitation increased, resources and laws for girls also increased. The 1992 reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP) required states to assess gender-specific services for youth. However, it was not until the 2000s when laws began to reflect the growing epidemic of exploitation and human trafficking.<sup>119</sup> The first girls' court in the United States opened in 2004 in New Mexico. The same year, Hawaii opened its girls' court. The first girls' court in California opened in San Mateo County in 2006. As of this writing, there are seven girls' courts or CSEC courts in California. There is also one boys' court.\*

**Researchers have found that gender-responsive approaches in juvenile justice work best for girls with histories of trauma and who have high levels of depression, anxiety, anger, irritability, and substance abuse.**

Girls' courts are juvenile courts that have a dedicated calendar and judge for young female offenders who may be exploited or have suffered from trauma or are at risk for these things. Some girls' courts are for any at-risk girl who enters the juvenile delinquency system while others are specifically for girls at risk of being involved with CSEC (Commercial Sexually Exploited Children). Three of the nine girls' courts in California are specifically for CSEC survivors. The goal of a girls' court is to have an alternative track for female offenders that recognizes their unique and gender-specific risks and needs. This track, like other collaborative courts, is meant to build on their strengths and reconnect them with healthy relationships and behaviors.<sup>120</sup> The court focuses on providing services rather than on convictions or detentions.

Each girls' court may operate slightly differently from one another, but all follow collaborative justice principles of combining judicial supervision, often on a weekly or biweekly basis, with intensive social and treatment services to at-risk girls or girls who have been victimized or

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\* The Center for Families, Children, & the Courts maintains a roster of collaborative courts in California. Court data are voluntarily provided, so the roster is a living document that changes regularly as the agency learns of courts opening and closing around the state.

<sup>118</sup> J. C. Day, M. A. Zahn, & L. P. Tichavsky, "What Works for Whom? The Effects of Gender Responsive Programming on Girls and Boys in Secure Detention" (2015) 52(1) *Journal of Research in Crime and Delinquency*, pp. 93–129.

<sup>119</sup> See Chapter IV of this toolkit for a complete legislative history of human trafficking laws.

<sup>120</sup> Heipt, *supra*, note 106.

exploited. These collaborative justice principles include a multidisciplinary, nonadversarial team approach with involvement from justice system representatives, mental health providers, specialized trauma services, educational advocates, and other support systems in the community. Many girls' courts offer evening and Saturday programs for girls to have group therapy or to discuss things from self-worth and body image to the legal system and court process.

Like all collaborative courts, girls' courts use a continuum of sanctions for repeat offenses or not adhering to program rules. However, courts are also aware that exploitation is similar to domestic violence and thus girls may "AWOL" and return to their exploiter several times before leaving for good. Some courts use detention as a sanction more than other courts, depending on the jurisdiction's philosophy, politics, and culture. Although there is a movement to expand Safe Harbor laws, in which exploited youth are always treated as victims rather than criminals, concerns about minors' safety in an unlocked facility remain. California is also one of the few states that permits the court to expunge the record of exploited minors. Some girls' courts in California expunge records of girls who successfully complete the program as a matter of course.

Since juvenile court was designed for boys, as noted above, girls' courts may be better than traditional juvenile courts to serve girls impacted by trauma, such as trafficking victims. Girls' courts address the specific trauma that girls in the juvenile system encounter, as well as the female-specific reactions to that trauma.

### **Success of Girls' Court**

With the relative novelty of girls' courts, there has been only one published study to date. An evaluation of Honolulu's girls' court found positive results and encouraged replication.<sup>121</sup> The researchers found that the Honolulu girls' court significantly reduced overall recidivism compared to a matched comparison group. The court also resulted in fewer incidents of running away between before starting the court program and after. Those who did run away spent significantly less time on the run than they did before starting the court program. Although secure confinement was used by the program, the amount of times it was used dropped between pre and postcourt, and the number of days in secure confinement also dropped. In interviews and focus groups, participants also reported positive outcomes. For example, they talked about making connections with others who have had similar experiences and engaging in healthier behaviors. In that Honolulu court, parental participation was mandatory, and this created strain on parents who had to modify or quit their jobs to comply with the requirements.

The Orange County, California, girls' court is unique in that it is part of the dependency system rather than the delinquency system. Administrators for this court found that participants had increased placement stability, fewer runaway incidents, and increased school success.<sup>122</sup> The

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<sup>121</sup> J. Davidson, L. Pasko, & M. Chesney-Lind, "She's Way too Good to Lose": An Evaluation of Honolulu's Girls Court" (2011) 21(4), *Women & Criminal Justice*, pp. 308–327.

<sup>122</sup> Superior Court of California, County of Orange, *Collaborative Courts 2015 Annual Report*, [http://www.occourts.org/directory/collaborative-courts/reports/2015\\_Annual\\_Report.pdf](http://www.occourts.org/directory/collaborative-courts/reports/2015_Annual_Report.pdf).

number of placements after entering the program decreased by almost 42 percent compared to the number prior to entering the program. In the same time period, the number of girls who went “AWOL” decreased by 57 percent. The average GPA of the participants also increased from 2.36 to 2.52, with 58 percent of the girls improving their GPA.

The Second Judicial District Court in New Mexico offers the Program for the Empowerment of Girls (PEG). Although it has not been formally evaluated, the program manager has reported low recidivism rates among girls who have participated in the program. They prefer to measure the program’s success in a positive, rather than negative, way. The program manager reported that the participants tend to stay in their educational programs, counseling, and substance use treatment.<sup>123</sup> This program takes into account the reality that many of the mothers of the participants have also been traumatized and victimized and mandates parental participation with wraparound services and family treatment. Parents can be held accountable and sanctioned for their daughter’s noncompliance with the program. This judicial purview is not the same in every state, however.

Despite the dearth in research on girls’ courts specifically, there is some evidence that gender-specific court responses in general have a positive effect. For example, gender-specific programs have shown positive outcomes in the areas of education, employment, interpersonal relationships, self-esteem, self-efficacy, self-awareness, body image, and social development.<sup>124</sup> These are all things that empower girls and that have been shown to be particularly problematic for trafficking victims. However, researchers have also noted that having good services is more important than having gender-specific services.<sup>125</sup> Good programs that are not gender-specific seem to be effective in reducing recidivism for both boys and girls.<sup>126</sup>

Many girls’ courts offer girls’ groups to their participants as part of their service provision, such as Girls Circle and Girl Power. Researchers exploring the impact of these girls’ groups found that although these groups do not necessarily affect recidivism, participation increased the likelihood of girls subsequently completing an evidence-based program. Participants also reported improvements in their interpersonal relationships.<sup>127</sup>

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<sup>123</sup> Telephone interview with Cindy Salazar, Special Programs Manager, 2nd Judicial Circuit, N.M., Program for the Empowerment of Girls in Albuquerque, N.M. (Sept. 2016).

<sup>124</sup> M. A. Zahn, J. C. Day, S. F. Mihalic, & L. Tichavsky, “Determining What Works for Girls in the Juvenile Justice System” (2009) 55(2) *Crime & Delinquency*, pp. 266–293.

<sup>125</sup> R. Maniglia, *Juvenile Female Offenders: A Status of the States Report* (1998), U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. Retrieved from [www.ojjdp.gov/pubs/gender/contents.html](http://www.ojjdp.gov/pubs/gender/contents.html) (as of Oct. 1, 2016).

<sup>126</sup> Zahn, Day, Mihalic, & Tichavsky, *supra*, note 124.

<sup>127</sup> S. C. Walker & A. Muno, *Washington State Girls Group Evaluation* (2011), University of Washington Department of Psychiatry and Behavioral Sciences. Retrieved from [www.courts.wa.gov/programs\\_orgs/gjc/documents/WashingtonStateGirlsGroupEvaluation.pdf](http://www.courts.wa.gov/programs_orgs/gjc/documents/WashingtonStateGirlsGroupEvaluation.pdf) (as of Oct. 1, 2016).

## Developing a Girls' Court

The results of the Honolulu court pointed to some lessons in developing a girls' court. Qualitative data from that evaluation indicated that firm graduation requirements and aftercare would be helpful. A major obstacle to developing the girls' court was finding probation officers who were willing to adhere to a unique approach and to gender-specific modalities.

Additional models have emerged for creating gender-responsive, trauma-informed programs:

They should be holistic, targeting girls' needs in multiple areas of life; safe, through building trust and using trauma-informed principles; strength-based, encouraging the development of confidence and competencies; relational, recognizing the ways the female development hinges on positive relationships; and culturally responsive by addressing girls' needs and risks in the context of diversity and related to culture, race, ethnicity, religion, class, and sexual orientation. In addition, unique concerns related to girls' sexual health—including the needs of girls who are pregnant or are already mothers—require special attention and accommodations.<sup>128</sup>

Others have highlighted the critical need for providing trauma-informed and culturally competent care. Judges have recognized how common it is for girls in their courtrooms to have been traumatized and are concerned about appropriate treatment for these traumatized girls.<sup>129</sup>

Several researchers have also noted the importance of including a mother-daughter relationship component in any girls' programming. For example, troubled relationships between girls and their mothers may impact antisocial behavior in girls,<sup>130</sup> and girls are more likely to experience conflict with their mothers than are boys.<sup>131</sup> Some have found that conducting mother-daughter groups had a powerful impact on the quality of both mothers' and daughters' interactions.<sup>132</sup> The importance of any family or other relationships in a girl's life must be acknowledged. It is preferable for any important and positive adult to be involved in the program to strengthen those relationships since these adults will likely be in the girl's life and can help with continued success after leaving.<sup>133</sup>

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<sup>128</sup> As cited in P. K. Kerig & J. D. Ford, *Trauma Among Girls in the Juvenile Justice System* (2014), National Child Traumatic Stress Network, Juvenile Justice Consortium. Retrieved from [www.nctsn.org/sites/default/files/assets/pdfs/trauma\\_among\\_girls\\_in\\_the\\_jj\\_system\\_2014.pdf](http://www.nctsn.org/sites/default/files/assets/pdfs/trauma_among_girls_in_the_jj_system_2014.pdf) (as of Oct. 1, 2016).

<sup>129</sup> Heipt, *supra*, note 106.

<sup>130</sup> L. Pakaslahti, I. Spoo, R. Asplun-Peltola, & L. Keitikangas-Javinen, "Parents' Social Problem Strategies in Families with Aggressive and Non-Aggressive Girls" (1998) 24 *Aggressive Behavior*, pp. 37–51.

<sup>131</sup> R. X. Liu, "Parent-Youth Conflict and School Delinquency/Cigarette Use" (2004) 74 *Sociological Inquiry*, pp. 271–297.

<sup>132</sup> D. J. Pepler, M. M. Walsh, & K. S. Levene, "Interventions for Aggressive Girls: Tailoring and Measuring the Fit" (2004). In M. Moretti, C. Odgers, & M. Jackson (Eds.), *Girls and Aggression: Contributing Factors and Intervention Principles. Perspectives in Law and Psychology* (Vol. 19), pp. 131–146. New York: Kluwer Academic/Plenum Publishers.

<sup>133</sup> Heipt, *supra*, note 106.

Any program for girls must address physical and sexual abuse and neglect, and must respond to mental health problems such as depression, anxiety, and posttraumatic stress disorder. Family-centered programming can be helpful when dependable and trustworthy family members are available, particularly since a lack of family supervision and ineffective parenting practices are integral factors in girls' exploitation.<sup>134</sup>

**Judges have recognized how common it is for girls in their courtrooms to have been traumatized and are concerned about appropriate treatment for these traumatized girls.**

An additional consideration for developing a girls' court is staffing. Since girls' trauma is often created by men, girls' court participants may be more open to beginning treatment from female staff on the court: from the judge, to the attorneys, to the probation officers, to the treatment providers. Later, it could be useful to have male treatment providers because participants can learn how to have relationships with men who do not want anything from them.<sup>135</sup>

One of the successful girls' courts in California is the STAR Court in Los Angeles (Succeeding Through Achievement and Resilience). That court has provided a sample protocol/handbook, available in Appendix C.

## **Conclusion**

There is an abundance of research showing that gender-specific programming is beneficial for girls who have been victimized or who have trauma.<sup>136</sup>, <sup>137</sup> Girls' courts are beginning to show promising results compared to traditional juvenile delinquency courts for these girls. Much more research is needed on how best and how well girls' courts work to reduce not only recidivism, but also trauma and victimization outcomes. Since trauma and victimization tend to be generational, it would be interesting to see how girls' courts impact not only the participants themselves, but also the children of the participants.

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<sup>134</sup> Zahn et al., *supra*, note 107.

<sup>135</sup> As cited in W. Heipt, *supra*, note 106.

<sup>136</sup> Day, Zahn, & Tichavsky, *supra*, note 118.

<sup>137</sup> Zahn, Day, Mihalic, & Tichavsky, *supra*, note 124.

## **XV. ORGANIZATIONS PROVIDING GRANT FUNDING**

Funding is available to service providers engaged in offering enhanced and quality services to victims of human trafficking, as defined by the Trafficking Victims Protection Act (TVPA) of 2000. Funding is a necessary piece that allows community service partners the ability to respond to human trafficking victims by offering high-quality services that address the needs of the trafficking victim. There are many different agencies—statewide, federal, public, and private—that offer this type of funding:

### **United States Dept. of Health & Human Services: Administration for Children and Families**

<http://www.acf.hhs.gov/grants>

### **Bureau of Justice Assistance**

<https://www.bja.gov/funding.aspx#3>

### **Department of Justice**

<http://www.justice.gov/business/>

### **National Institute of Justice**

<http://www.nij.gov/funding/Pages/welcome.aspx#findafundingopportunity>

### **Office of Justice Programs**

<http://ojp.gov/funding/funding.htm>

### **Office of Juvenile Justice and Delinquency Prevention (OJJDP)**

<http://www.ojjdp.gov/funding/funding.html>

### **Office for Victims of Crime (OVC)**

<http://ovc.ncjrs.gov/Solicitation.aspx#>

<http://ovc.ncjrs.gov/ResourceByState.aspx?state=ca#tabs1>

### **United Nations Office on Drugs and Crime (UNODC)**

<https://www.unodc.org/unodc/en/human-trafficking-fund/2014-call-for-proposals-small-grants-facility.html>  
(grant resource for NGOs)

### **California Governor's Office of Emergency Services**

<http://www.caloes.ca.gov/cal-oes-divisions/grants-management/search-for-grants>

### **Motorola Solutions**

<http://responsibility.motorolasolutions.com/index.php/solutions-for-community/como2-foundation/>  
(grants for community safety)

### **Foundation Center**

<http://foundationcenter.org/findfunders/> (tool to search for funders, grants, etc.)

### **Bill & Melinda Gates Foundation**

<http://www.gatesfoundation.org/How-We-Work/General-Information/Grant-Seeking-Resources>  
(grant-seeking resources provided by the Gates foundation)

### **United States Government Grants**

<http://www.grants.gov/web/grants/home>.

[html;jsessionid=T2tXT7qTXoZgvrzBxnj1yv24rn9HnMv81jLhlgbjqr1vRz1hSmvR](http://www.grants.gov/web/grants/home)

## XVI. TRAINING MODULE

The most comprehensive training curriculum available for judicial officers comes from the National Judicial College (NJC). A summary of that training module, taken directly from the National Judicial College's Instructor Guide, is listed here.<sup>138</sup> The training module contains pertinent information on what judges need to know in understanding human trafficking in the United States. This training module is designed as an introductory overview of human trafficking and will assist judicial officers in understanding the complexities of the crime and victimization of human trafficking. The curriculum can be used to create your own teaching course. Judicial officers are encouraged to refer to the National Judicial College for further information.

### Overview

This curriculum will assist judges in understanding the Trafficking Victims Protection Act (TVPA), human trafficking in the United States, state laws regarding human trafficking, perpetrators and victims, immigration issues, penalties, sentencing issues, restitution, and forfeiture. With its partners, NJC developed the curriculum to be presented in three to five hours, depending upon the faculty member's pace. Faculty members may customize the material for other time frames. The curriculum provides a variety of interactive teaching methods to promote higher retention rates. Faculty members can review the resource materials included with the curriculum to give them additional background and information. NJC designed the curriculum for use at a national conference, but a presenter can modify it for state or local judicial conferences. PowerPoint slides from a number of previous state-specific presentations are also available as supporting documents for each module through the NJC.

### Overall Learning Objectives

At the conclusion of the entire curriculum, participants should be able to do the following:

- Define "human trafficking;"
- Analyze human trafficking statutes;
- Apply human trafficking statutes to case studies;
- Identify the prevalence of the crime in the United States;
- Differentiate the ways in which domestic victims are trafficked versus international victims;
- Identify state statutory schemes for human trafficking;
- Summarize methods of human traffickers;
- Identify types of human traffickers;
- Describe processes of domestic sex traffickers;
- Identify international recruitment methods of victims;

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<sup>138</sup> National Judicial College, *Human Trafficking: What Judges Need to Know* (2014), [www.htcourts.org/wp-content/uploads/HT-Instructor-Guide.pdf?TrainingMaterials=What-Judges-Need-to-Know-Instructor-Guide](http://www.htcourts.org/wp-content/uploads/HT-Instructor-Guide.pdf?TrainingMaterials=What-Judges-Need-to-Know-Instructor-Guide) (as of Oct. 1, 2016).

- Differentiate how traffickers target domestic victims;
- Define why victims do not escape;
- Identify ways that immigrant victims enter the country;
- Differentiate different types of “aliens”;
- Summarize different types of immigration remedies available to victims;
- Identify the federal penalties for peonage, slavery, forced labor, and trafficking;
- Summarize sentencing factors that require consideration;
- Locate resources for assessing the risk offenders; and
- Identify common state restitution and forfeiture statutory schemes.

### **Module 1: Trafficking Victims Protection Act (TVPA)**

This module includes a variety of learning activities, including lecture, large group discussions, small group discussions (if preferred), quizzes, and case studies. This module is the largest of the curriculum. It sets forth the federal statutory structure for human trafficking cases and provides the opportunity for the participants to apply them to case studies. This module takes between one and two hours.

### **Module 2: Human Trafficking in the United States**

This module includes lectures and a quiz. In this module, the participants will be able to explore the difference between deportability and inadmissibility. Also, they will learn about permanent bars to naturalization. This module takes between one and two hours.

### **Module 3: State Laws Regarding Human Trafficking**

This module includes a lecture. In this module, the participants will explore the differing state statutory structures for the crime of human trafficking. This module takes between 7 and 12 minutes.

### **Module 4: Human Traffickers: Understanding the Perpetrators**

This module includes lectures and a quiz. It assists the participants in understanding the perpetrators of the crime of human trafficking. This module takes between 15 and 30 minutes.

### **Module 5: Understanding Human Trafficking Victims and Recruitment Methods**

This module includes lectures, large group discussions, and small group discussions (if preferred). It helps the participants to understand international and domestic recruitment methods, as well as to define why law enforcement and prosecution do not charge more cases and why the trafficking victims do not escape. This module takes between 30 and 60 minutes.

### **Module 6: Immigration and Human Trafficking Victims**

This module includes lectures and a quiz. It assists the participants in understanding different ways that people enter the United States and immigration remedies available to certain classes of human trafficking victims (e.g., continued presence and T, U, and S visas). This module takes between 20 and 30 minutes.

## **Module 7: Penalties, Sentencing Issues, Restitution, and Forfeiture**

This module includes lectures, a large or small group discussion, and a case study. It assists the participants in understanding the federal penalties for human trafficking-related crimes, appropriate sentencing factors, different screening instruments for assessing the trafficker, and restitution and forfeiture requirements under federal law. This module takes between 30 and 60 minutes.

## XVII. FURTHER READING

Readers may also want to review the following documents for further information about this topic:

- The California Child Welfare Council’s CSEC toolkit, which contains a model interagency protocol framework and a memorandum of understanding template for CSEC programs.<sup>139</sup>
- The Center for Court Innovation’s *Identifying and Responding to Sex Trafficking: A Guide for the Courts*, which provides judges and court staff with concrete steps to enhance their ability to respond effectively and sensitively to these difficult cases.<sup>140</sup>
- The Center for Court Innovation’s planning toolkit for responding to sex trafficking.<sup>141</sup>
- The National Association of Women Court Judges’ “Trafficking in Persons” program manual.<sup>142</sup>

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<sup>139</sup> California Child Welfare Council, *Improving California’s Multi-System Response to Commercially Sexually Exploited Children: Resources for Counties*, <http://www.chhs.ca.gov/Child%20Welfare/Improving-CA-Multi-System-Response-to-CSEC-v2.pdf> (as of Oct. 1, 2016).

<sup>140</sup> Center for Court Innovation, *Identifying and Responding to Sex Trafficking: A Guide for the Courts*, [www.courtinnovation.org/sites/default/files/documents/DV\\_SJI\\_Risk%20Need\\_.pdf](http://www.courtinnovation.org/sites/default/files/documents/DV_SJI_Risk%20Need_.pdf) (as of Oct. 1, 2016).

<sup>141</sup> Center for Court Innovation, *supra*, note 67.

<sup>142</sup> R. F. Minarik, A. Pacht, & E. Lee, *Trafficking in Persons—Modern Day Slavery: A Program Manual* (2015), National Association of Women Judges. Retrieved from [www.htcourts.org/wp-content/uploads/150410\\_NAWJ\\_ModernDaySlavery\\_vo8-FINAL.pdf](http://www.htcourts.org/wp-content/uploads/150410_NAWJ_ModernDaySlavery_vo8-FINAL.pdf) (as of Oct. 1, 2016).

## XVIII. FREQUENTLY ASKED QUESTIONS

### 1. How do I know if one of my cases involves a sex trafficking victim?

Identifying a trafficking victim can be difficult. Furthermore, trafficking victims may not self-identify as a victim. Indicators of a potential human trafficking victim that may help court personnel and other justice partners include a variety of behaviors that reveal a mindset of fear, distrust, denial, and conflicting loyalties. For example, trafficking victims may (1) have general feelings of helplessness, shame, guilt, self-blame, and humiliation; (2) suffer from shock and denial or display symptoms of posttraumatic stress disorder, phobias, panic attacks, anxiety, and depression; (3) suffer from sleep or eating disorders; (4) become addicted to drugs and alcohol as a way to cope with or escape their situation or as a method of control used by their traffickers; (5) become emotionally numb, detached, and disassociated from the physical and psychological trauma and display flat affect; or (6) experience “trauma bonding” with the trafficker, positively identifying with the trafficker and believing that, despite repeated abuse, the trafficker is a loving boyfriend, spouse, or parent.

Researchers have recognized red flags to look for when identifying victims of commercial sexual exploitation:

- Situational indicators, such as frequent movement, many people living together, and people living in the same location where they work;
- Story indicators such as how a person came to the United States, whether they have a copy of their documentation, and whether they are paid for their work; and
- Demeanor, such as whether a person seems fearful or answers questions evasively.

*For additional information, see “BENCH CARD: How to Identify and Handle Trafficking Victims in the Courtroom” in Chapter IX of this toolkit.*

### 2. What should I do if I suspect a case may involve a trafficking victim?

Judges need to be aware of issues relating to the safety and protection of trafficking victims—particularly those who are charged with crimes committed on behalf of or at the direction of a trafficker—and may want to take steps to protect someone who shows signs of being a trafficking victim. Here are some issues that judges may keep in mind:

- There are indicators of trafficking and screening tools used by service providers, probation officers, and others (see Chapter VII of this toolkit).
- The trafficker may be in the courtroom, especially, but not exclusively, if the trafficker is a family member or other caretaker, so a trafficking victim may be reluctant to answer certain questions.
- A guilty plea by a juvenile trafficking victim charged with a crime, such as prostitution, coupled with a placement with a family member, may give the trafficker more control over the victim.
- There may be a need for a protocol with prosecutors, defense attorneys, and guardians ad litem to identify a potential trafficking victim before the victim has to testify in court.

- The judge may want to recess or continue a trial if a trafficking situation appears to be present, to determine what steps, if any, need to be taken to protect a possible trafficking victim.
- Judges should be aware of local resources to assist trafficking victims.

Juvenile judges may have the option or mandate, depending on state and county, to treat a delinquency case as a dependency case if it appears that the delinquent behavior was committed due to coercion by a trafficker or was the result of victimization. Some states have options for certain juveniles charged with prostitution to be classified as sexually exploited juveniles and sent to diversion programs rather than being convicted of prostitution.

*For additional information, see “BENCH CARD: How to Identify and Handle Trafficking Victims in the Courtroom” in Chapter IX of this toolkit.*

### **3. What is my role as a judge in seeking and ordering resources for trafficking victims?**

Generally, service providers, researchers, and advocates have identified six components of services and strategies that should be included in any integrated strategy to serve CSEC:

- Safety planning for both clients and the staff serving them;
- Collaboration across the multiple systems and agencies;
- Trust and relationship building to foster consistency;
- Culturally competent and appropriate service provision;
- Trauma-informed programming; and
- CSEC survivor involvement in the development and implementation of programming.

A recurrent concern expressed by anti-human trafficking advocates is the lack of resources available to victims. The absence of adequate funding for victim outreach, protection, and rehabilitation inhibits the prosecution of human trafficking because victims are unable or unwilling to come forward. The Legislature has taken a multifaceted approach to providing victims with much needed support and resources.

*For additional information on legislative history, see Chapter IV of this toolkit.*

### **4. How do I make sure that 402 hearings are being used appropriately?**

With the passage of the CASE Act in November 2012 and changes and amendments to existing human trafficking Penal and Evidence Codes being made, presiding over a human trafficking criminal trial can be somewhat challenging. There are many common issues that may come up either before or during trial and in hearings. Some of these are listed below and should be flagged as potential issues:

- Limiting the admissibility of evidence of commercial sex acts and sexual history of a victim of human trafficking;
- Allowing expert testimony regarding the effect of human trafficking on human trafficking victims;
- Minimizing secondary trauma and maximizing security in the courtroom;
- Securing a human trafficking victim’s or witness’s return to court;

- Determining Fifth Amendment issues;
- Ruling on the admissibility of sexually explicit material;
- Recognizing case worker/advocate privilege;
- Using government assistance, monetary benefits, relocation services, and immigration relief for victims of human trafficking;
- Accessing juvenile court files of trafficking victim/witness; and
- Allowing human trafficking victimization as an affirmative defense at trial.

*For additional information on hearings, see Chapter VI of this toolkit.*

### **5. Where can I find other human trafficking or girls' courts?**

A list of all collaborative courts in California, including human trafficking and girls' courts, is available from a roster that is maintained by the Judicial Council of California, Center for Families, Children & the Courts. To obtain a list of these courts, contact Dr. Amy Bacharach at amy.bacharach@jud.ca.gov.

*For an overview of a girls' court, see Chapter XIV of this toolkit.*

### **6. What ethical concerns may judges encounter when handling a human trafficking case?**

There are underlying ethical concerns for judges and court practitioners handling cases where human trafficking may be an issue. The Human Trafficking and State Courts Collaborative has indicated some of the concerns that judges may face:<sup>143</sup>

- Acting or appearing to act as an advocate for a human trafficking victim within the context of a criminal prosecution, and not compromising their neutrality.
- Undermining the prosecutors. For example, if the judge identifies a criminal case specifically as a trafficking case, even though the case was filed under an alternative charge, the judge could undermine the prosecutor's credibility. This could occur even if a trafficking flag was added to an automated case record system, which could indicate that the judge questions the decision of the prosecutor.
- Offering support to a potential trafficking victim in cases where trafficking could have occurred but the victims are not part of the legal proceedings. An example might be code violation cases. Even by raising the possibility that human trafficking is involved may affect the court and compromise the judge's neutrality.
- Any actions that might disqualify or support a motion to recuse the judge. Examples of this could include ex parte discussions, independent investigation of the facts in the case, or any actions that might give rise to a reasonable belief that the judge has predetermined a particular result.
- Actions that give an appearance of bias.
- By being perceived as interfering with the attorney-client relationship.

*For more information, see Chapter V of this toolkit.*

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<sup>143</sup> Weller, Lee, & Marks, *supra*, note 8.

## APPENDIX A: MATRIX OF KNOWN TRAFFICKING SCREENING TOOLS

Matrix of Screening Tools to Identify Commercially Sexually Exploited Children  
Available at [www.cwda.org/sites/main/files/file-attachments/wcc-matrix.pdf](http://www.cwda.org/sites/main/files/file-attachments/wcc-matrix.pdf)

	Organization	Tool Name	Validated	Length	Source of Information	Domain/System Specific	Guide to Action; Potential Use for Prevention	Format/ Mode	Open- or Closed-Ended	Intended Populations	Appropriate for Minors	Sexual Exploitation/ Trafficking	Labor Trafficking
1	WestCoast Children's Clinic	Commercial Sexual Exploitation Identification Tool	In process	10 key indicators plus 48 guiding questions	Any	Any	Yes	Checklist of indicators	Closed	Minors and young adults	Yes	Yes	No
2	Shared Hope International	Intervene	No	42 questions at intake plus 55 questions to explore or confirm possible trafficking	Self-disclosure by victim	Any	No	Structured interview	Open	Minors	Yes	Yes	No
3	Vera Institute of Justice	Trafficking Victim Identification Tool (TVIT)	Yes	75 questions (long form) or 55 questions (short form), some questions are only asked as follow up if client answers "yes" to a previous item.	Self-disclosure by victim	Any	No	Structured interview	Mixed	Adult and minors	Only with significant modifications to questions and to language	Yes	Yes
4	Loyola University Chicago Center for the Human Rights for Children & Int'l Org for Adolescents (IOFA)	Rapid Screening Tool (RST) for Child Trafficking	No	12 questions	Self-disclosure by victim	Any	No	Structured interview	Open	Minors	Yes	Yes	Yes
5	Loyola University Chicago Center for the Human Rights for Children & Int'l Org for Adolescents (IOFA)	Comprehensive Screening and Safety Tool (CSST) for Child Trafficking	No	33 questions	Self-disclosure by victim	Any	No	Structured interview	Open	Minors	Yes	Yes	Yes
6	Asian Health Services and Banitay Sret (also used by Native American Health Center)	CSEC Screening Procedure and Guideline	No	1 question	Self-disclosure by victim	Any	No	Verbal interview question	Open	Minors	Yes	Yes	No
7	Polaris Project & National Human Trafficking Resource Center (NHTRC)	Comprehensive Human Trafficking Assessment	No	142 questions	Self-disclosure by victim	Any	No	Unstructured interview (suggested questions)	Open	Not specified	Only with significant modifications to questions and to language	Yes	Yes
8	State of MD – Department of Juvenile Services (DJS) (Neil Mallon)	Detention Screening Interview: Tier One	No	17 questions	Self-disclosure by victim; observation	Juvenile Justice	Yes	Semistructured interview	Mixed	Minors	Yes	Yes	No
9	State of WA	Portland State University CSEC Screening Interview	No	25 questions	Self-disclosure by victim; observation	Juvenile Justice	Yes	Semistructured interview	Mixed	Minors	Yes	Yes	No
10	State of CT – Department of Children and Families (DCF)	None	—	—	In-depth case review and/or psychological assessment	Child welfare	No	In-depth case review and/or psychological assessment	---	Dependents of the state	Yes	Yes	Not specified
11	Barnardo's	SERAF (sexual exploitation risk assessment framework)	No	42 items	Any	Any	Yes	Checklist of indicators, presence or absence	Closed	Minors and young adults	Yes	Yes	No
12	Covenant House, NY	Human Trafficking Interview and Assessment Measure (HTIAM-14)	Yes	37 questions	Youth self-disclosure	Any	No	Structured interview	Mixed	Minors and young adults	Some items	Yes	Yes
13	San Luis Obispo	CSEC Screening Tool	No	22 questions	Any	Any	Yes	Checklist of indicators	Closed	Minors	Yes	Yes	No
14	United States Department of Human Services (also Ohio Human Trafficking Task Force)	United States Department of Health and Human Services (HHS) Human Trafficking Screening Tool	No	14 questions	Self-disclosure	Healthcare but flexible for use elsewhere	No	Semistructured interview	Open	Not specified	No	Yes	Yes
15	Florida Department of Juvenile Justice	Human Trafficking Screening	No	60 questions	Self-disclosure	Any	No	Semistructured interview	Mixed	Minors	Yes	Yes	Yes

Matrix of Screening Tools to Identify Commercially Sexually Exploited Children  
Available at [www.cwda.org/sites/main/files/file-attachments/wcc-matrix.pdf](http://www.cwda.org/sites/main/files/file-attachments/wcc-matrix.pdf)

	Organization	Notes	References	URLs
1	WestCoast Children's Clinic	Development of the CSE-IT addressed shortcomings of other tools: meets key criteria for multisystem prospective screening tool, including reasonable length, relies on all sources of information, does not rely on self-disclosure, is not domain specific and can be used across systems, provides a guide to action, is closed-ended, avoids a structured interview, is appropriate for minors. Lengthy, assumes the victim identifies as such and is seeking help.	The CSE-IT is an open domain tool for use in service delivery systems that serve children and youth. The copyright is held by WestCoast Children's Clinic to ensure that it remains free to use. For permission to use or for information, please contact Danna Basson at dbasson@westcoastcc.org.	
2	Shared Hope International		None	Paper copy only; Shared Hope requires you are trained 4-8 hours; they provide training for a fee. <a href="https://www.ngfrs.gov/pdf/files/nij/grants/224391.pdf">https://www.ngfrs.gov/pdf/files/nij/grants/224391.pdf</a>
3	Vera Institute of Justice	Addresses transnational trafficking/smuggling; authors note the tool is not as effective with minor victims of sex trafficking as it is with other populations; some items irrelevant and wording not appropriate for minors; identifies the situation as "work."	Weiner and Hala, Oct 2008. Measuring Human Trafficking. Lessons from NYC	
4	Loyola University Chicago Center for the Human Rights for Children & Intl. Org. for Adolescents (IOFA)	Tool is missing key indicators; no definitions or explanations offered for items; some wording is too general to be useful (e.g., child appears to be bought or sold).	Watts et al. 2011. Building the Child Welfare Response to Trafficking	<a href="http://www.luc.edu/chrc/pdfs/Building_Child_Welfare_Response_to_Child_Trafficking.pdf">http://www.luc.edu/chrc/pdfs/Building_Child_Welfare_Response_to_Child_Trafficking.pdf</a>
5	Loyola University Chicago Center for the Human Rights for Children & Intl Org for Adolescents (IOFA)	Requires knowledge or suspicion of exploitation, so not useful for identification; unrealistic indicators, e.g. victim refers to self as "slave"; assumes victim identifies as such and is seeking help.	Watts et al. 2011. Building the Child Welfare Response to Trafficking	<a href="http://www.luc.edu/chrc/pdfs/Building_Child_Welfare_Response_to_Child_Trafficking.pdf">http://www.luc.edu/chrc/pdfs/Building_Child_Welfare_Response_to_Child_Trafficking.pdf</a>
6	Asian Health Services and Bantay Srei (also used by Native American Health Center)	Direct, short, easy to implement in intake process, but not comprehensive and requires self-disclosure	None	
7	Polaris Project & National Human Trafficking Resource Center (NHTRC)	Needs to be tailored to the program where it is implemented; many items with inappropriate language (e.g., "commercial sex act"); many invasive questions are irrelevant for screening purposes; assumes victim is seeking help.	None	<a href="http://www.traffickingresourcecenter.org/resources/comprehensive-human-trafficking-assessment-tool">http://www.traffickingresourcecenter.org/resources/comprehensive-human-trafficking-assessment-tool</a>
8	State of MD – Department of Juvenile Services (DJS) (Neil Mallon)	Tool is missing many key indicators. (Note: very similar to tool developed by Portland State Univ.)	Neil Mallon, MSW, LCSW – C-CANS Training Specialist, the Institute for Innovation and Implementation, Univ. of MD School of Social Work	
9	State of WA	Tool is missing many key indicators. (Note: very similar to tool used in MD-DJS)	Salisbury EJ, Dabney JD, Russell K. 2015. Diverting Victims of Commercial Sexual Exploitation From Juvenile Detention: Development of the InterCSECI Screening Protocol. Journal of Interpersonal Violence. 30(7):1247-76	
10	State of CT – Department of Children and Families (DCF)	In-depth, but not prospective since it uses case history files; not feasible for large caseload.	Phone conversation with Tammy Sneed, Director of Girls Services, CT Department of Children and Families. 1/13/2014	
11	Barnardo's	Incorporates many sources of information but missing several key indicators.	Sam Clutton, Jan Coles. 2007. Sexual Exploitation Risk Assessment Framework. Barnardo's Cymru, Wales, United Kingdom.	<a href="http://www.barnardos.org.uk/barnardo_s_cymru_sexual_exploitation_risk_assessment_framework_report_-_english_version.pdf">http://www.barnardos.org.uk/barnardo_s_cymru_sexual_exploitation_risk_assessment_framework_report_-_english_version.pdf</a>
12	Covenant House, NY	Unlike other interviews noted above, question wording is largely nonjudgmental; questions can be read verbatim with mature youth, especially youth seeking help. A few items and wording issues do not pertain to minors. Only 2 of the 37 items pertain to sexual exploitation, so missing some key indicators.	Jayne Bigelson. May 2013. Homelessness, Survival Sex, and Human Trafficking: As Experienced by the Youth of Covenant House New York.	<a href="http://www.covenanthouse.org/sites/default/files/ort/attachments/Covenant-House-Trafficking-Study.pdf">http://www.covenanthouse.org/sites/default/files/ort/attachments/Covenant-House-Trafficking-Study.pdf</a>
13	San Luis Obispo	A strength of the tool is that it allows for any sources of information, not reliant on self-disclosure; provides sample questions for arriving at the information. A challenge is that it is missing some key indicators that providers have noted are important for identifying CSEC.		<a href="http://www.cnda.org/downloads/tools/csec/SIO-CSEC-Screening-Tool.pdf">http://www.cnda.org/downloads/tools/csec/SIO-CSEC-Screening-Tool.pdf</a> <a href="http://www.cwda.org/online-resource/calsave-csec-toolkit">http://www.cwda.org/online-resource/calsave-csec-toolkit</a>
14	U.S. Department of Human Services (also Ohio Human Trafficking Task Force)	Wording is in many instances inappropriate. Very general, open ended questions.		<a href="http://www.acf.hhs.gov/sites/default/files/ort/screening_questions_to_assess_whether_a_person_is_a_trafficking_victim_o.pdf">http://www.acf.hhs.gov/sites/default/files/ort/screening_questions_to_assess_whether_a_person_is_a_trafficking_victim_o.pdf</a>
15	Florida Department of Juvenile Justice	A strength of this tool is that it groups items into domains, which facilitates information integration and identification of a potential problem. Challenges include: some items are irrelevant yet missing other key indicators; some items do not match the domain (e.g., the Unsafe Living Environment domain does contain questions that address unsafe living environment); relies on self-disclosure.		

## **APPENDIX B: MODEL INTERAGENCY PROTOCOLS**

This appendix contains two examples of interagency protocols: The Child Welfare Council's CSEC Action Team sample and the draft Santa Barbara County CSEC Interagency Protocol. Other counties may have protocols that could be modeled.

## Child Welfare Council’s CSEC Action Team Model Interagency Protocol Framework

The Model Interagency Protocol Framework (“Model Framework”) incorporates the legal requirements of the CSEC Program as set forth in statute, including the required participants and the mandatory multidisciplinary approach. It also provides further guidance that counties may utilize on promising practices for serving commercially sexually exploited children (“CSEC”) based on research both within and outside of California. It is expected that this guidance, although not required by law, will be beneficial for both the systems and the youth they serve.

The Model Framework below provides details on creating a Steering Committee, forming Multidisciplinary Teams (“MDT”) for each identified victim of commercial sexual exploitation, and preparing county agencies and their partners to better serve CSEC through a coordinated manner.

### Model Interagency Protocol Framework

#### **I. Participants**

##### a. Required:

- i. Child Welfare
- ii. Probation
- iii. Mental Health
- iv. Public Health
- v. Juvenile Court
- vi. Substance abuse

##### b. Suggested:

- i. Education
- ii. Children’s Dependency Attorneys
- iii. District Attorney
- iv. Public Defender
- v. Law enforcement
- vi. Survivors
- vii. CSEC-trained advocates/case managers
- viii. Community-based organizations
- ix. Court Appointed Special Advocates (CASAs)
- x. Direct service providers



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The California Department of Social Services (CDSS) provided funding for the development of these documents as samples of promising practice. The opinions expressed herein are solely those of the authors and not of CDSS.



## II. Purpose

Establish a coordinated, interagency response among county agencies and partners to ensure commercially sexually exploited children (“CSEC”) and children at risk for exploitation are identified and served through a multidisciplinary teaming approach.

## III. Guiding Principles

- a. Commercial Sexual Exploitation:
  - i. Must be understood as abuse and reported as such<sup>1</sup>
  - ii. Should not be criminalized
- b. Responses to CSEC should be:
  - i. Victim-centered<sup>2</sup>
  - ii. Trauma-informed<sup>3</sup>
  - iii. Strengths-based
  - iv. Culturally, linguistically, and LGBTQ competent and affirming
  - v. Committed to efforts that engage CSEC early and often
  - vi. Multidisciplinary, individualized, flexible, and timely
  - vii. Data and outcome driven
- c. Agency Policies & Procedures should:
  - i. Ensure and track effective cross-system collaboration at the system and individual-case level
  - ii. Incorporate mechanisms to identify and assess CSEC at key decision points
  - iii. Address the unique physical and emotional safety considerations of CSEC
  - iv. Address unique physical and emotional safety considerations, including vicarious trauma of staff, caregivers, and other relevant support persons

## IV. General Structure and Responsibilities For All Agencies

As stated above, the structure defined below combines both required and suggested participants and responsibilities. For example, in order to participate in the CSEC Program, a county must develop an interagency protocol led by five required entities: child welfare, probation, mental health, public health, and the juvenile courts.<sup>4</sup> The CSEC Action Team recommends that the required and suggested agencies form a steering committee to develop the protocol as well as fulfill additional responsibilities (not required) to ensure the program is effectively administered in the county. Similarly, the law requires counties participating in the CSEC Program to utilize a multidisciplinary approach, but does not delineate specific requirements of the MDT approach. This Model Framework suggests that an MDT be formed for each individual child and that additional parties be included in the teams.

- a. Steering Committee
  - i. Purpose: Provide ongoing oversight and support to ensure the county agencies and partners effectively collaborate to better identify and serve CSEC and youth at risk of becoming CSEC.

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<sup>1</sup> Cal. Penal Code §§ 11164-11174.3.

<sup>2</sup> See Appendix (attached).

<sup>3</sup> See Appendix (attached).

<sup>4</sup> Cal. Welf. & Inst. Code § 16524.8

ii. Responsibilities:

1. Develop Interagency Protocol (“Protocol”)<sup>5</sup>.
2. Provide input to the county on how to utilize CSEC Program funding<sup>6</sup>
3. Implement the Protocol, oversee implementation, and revise as needed
4. Collect and analyze aggregate data related to the Protocol<sup>7</sup>
5. Assess the sufficiency of CSEC specific resources in the county
6. Identify training needed (e.g. basic identification and awareness training and training on responsibilities under the interagency protocol) and ensure necessary training occurs
7. Provide annual report to state on the number of children served, the services received, promising practices, and any identified gaps in services and resources<sup>8</sup>

iii. Membership:

1. Required:<sup>9</sup>
  - a. Child Welfare – Lead
  - b. Probation
  - c. Mental Health
  - d. Public Health
  - e. Juvenile Courts
  - f. Suggested to include both dependency and delinquency
2. Suggested:
  - a. Children’s Dependency Attorneys
  - b. District Attorney
  - c. Public Defender
  - d. Survivor mentors/advocates
  - e. County Counsel
  - f. Direct legal and service providers
  - g. Education
  - h. Law enforcement
  - i. Staff/administrative support<sup>10</sup>

iv. General Participant Responsibilities:

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<sup>5</sup> Cal. Welf. & Inst. Code § 16524.8 (requiring that a county electing to participate in the CSEC program develop an interagency protocol. The interagency protocol for serving commercially sexually exploited children must be developed by “a team led by a representative of the county human services department and shall include representatives from...the county probation department, the county mental health department, the county public health department, the juvenile court in the county. The team may include, but shall not be limited to, representatives from local education agencies, local law enforcement, survivors of sexual exploitation and trafficking, and other providers as necessary.”).

<sup>6</sup> Cal. Welf. & Inst. Code § 16524.7(d)(1); Cal. Dept. of Social Svcs., All County Letter 14-62, Sept. 3 2014, Commercially Sexually Exploited Children (CSEC) Program available at <http://www.dss.cahwnet.gov/lettersnotices/EntRes/getinfo/acl/2014/14-62.pdf>.

<sup>7</sup> Cal. Welf. & Inst. Code § 16524.10 (requiring that the state report to the legislature on the number of children served and the types of services provided); Admin. of Children Youth & Families, ACYF-CB-IM-14-03, October 23, 2014 available at <http://www.acf.hhs.gov/sites/default/files/cb/im1403.pdf>.

<sup>8</sup> *Id.*

<sup>9</sup> Cal. Welf. & Inst. Code § 16524.8(a) (mandating that Child Welfare, Probation, Mental Health, Public Health, and the Juvenile Courts be involved in developing the interagency protocol).

<sup>10</sup> Cal. Welf. & Inst. Code § 16524.7(a)(4)(D) (indicating that counties may decide to use a portion of the CSEC Program funding to hire “county staff trained and specialized to work with children who are victims of commercial sexual exploitation to support victims and their caregivers, and to provide case management to support interagency and cross-departmental response.” Additionally counties may choose to hire staff to provide administrative/staffing to support the steering committee and MDTs. Staff may provide assistance with items such as data collection, drafting reports, coordinating and scheduling meetings, and note-taking).

1. Appoint director of agency/entity/organization or designee empowered to make decisions on behalf of the entity to participate in committee<sup>11</sup>
  2. Attend regularly and participate collaboratively in committee
  3. Report on successes, barriers to providing services, and areas for improvement, including recommendations for adapting the Protocol and training needs/gaps
  4. Provide aggregate data on identified CSEC
- b. Multidisciplinary Teams (MDTs)<sup>12</sup>
- i. Purpose: Provide a multidisciplinary team with CSEC training to each identified CSEC to more effectively build on a youth's strengths and respond to his/her needs in a coordinated manner.<sup>13</sup>
  - ii. MDTs should be convened:<sup>14</sup>
    1. Upon initial identification to meet immediate needs,
    2. Post-identification at regularly scheduled intervals for case review and management,
    3. When there is a need to change the case plan or placement due to a change of circumstances such as completing high school, identification of previously unknown service need, or safety concerns, and/or
    4. In the event of a triggering event like a runaway or contact with law enforcement, as per the safety or other urgent circumstances necessitate.<sup>15</sup>
  - iii. Responsibilities:
    1. Provide individual case-by-case collaboration with multiple child-serving agencies
    2. Engage with child and family/caregiver(s), if appropriate
    3. Ensure basic needs such as food, shelter, and clothing are met
    4. Assess and address immediate and long-term needs<sup>16</sup>

<sup>11</sup> In order for the steering committee to operate efficiently and expeditiously fulfill its responsibilities, members must have decision-making authority.

<sup>12</sup> Cal. Welf. & Inst. Code § 16524.8(b) (mandating that the interagency protocol shall include “the use of a multidisciplinary team approach to provide coordinated case management, service planning, and services to children.”) (emphasis added); See Cal. Welf. & Inst. Code § 18961.7(a-b) (noting that “Notwithstanding any other provision of law, a county may establish a child abuse multidisciplinary personnel team within that county to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse or neglect made pursuant to Section 11160, 11166, or 11166.05 of the Penal Code, or for the purpose of child welfare agencies making a detention determination... ‘Child abuse multidisciplinary personnel team’ means any team of two or more persons who are trained in the prevention, identification, or treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse.”).

<sup>13</sup> Given each county's unique needs and constraints, some counties may choose to pilot the protocol in a small area of the county initially, or may choose to provide individualized MDTs to a specific subset of the identified CSEC. Note that maintaining some consistency amongst protocols throughout the state will be beneficial in that exploiters are known to move CSEC from county to county. Further, general consistency amongst county protocols will provide some level of familiarity with the process and hopefully allow children to feel protected and cared for as they interact with agencies in multiple counties.

<sup>14</sup> While initial MDTs should occur in person, follow-up MDTs may be handled over the phone if an in-person meeting is not feasible. If the MDT is convened over the phone, one team member must be with the child to ensure he/she feels supported and his/her voice is heard.

<sup>15</sup> Other events that may require the MDT to reconvene may include, but are not limited to: runaways/AWOLs, change in placement, contact with law enforcement, mental health/psychiatric crisis, major disruption at placement, threats by trafficker, etc.

<sup>16</sup> Will be defined in the “Holistic Needs of CSEC” document as part of the CSEC Practice Guidance Toolkit (forthcoming May 2015).

5. Coordinate, monitor, and adjust service plan to achieve desired outcomes for individual CSEC
  6. Advise on appropriate placement
  7. Conduct safety planning to proactively plan for triggering events
  8. Meaningfully involve youth in planning and decision-making
- iv. Membership<sup>17</sup>
1. Required:<sup>18</sup>
    - a. Child Welfare
    - b. Probation
    - c. Mental Health
    - d. Substance abuse
    - e. Public Health
  2. Suggested:
    - a. Youth<sup>19</sup>
    - b. Caregiver/placement provider
    - c. Children’s Dependency Attorneys
    - d. Education
    - e. Local CSEC Provider Agencies
    - f. Survivors/mentors
- v. General Participant Responsibilities
1. Appoint a lead agency responsible for convening the MDT
  2. Attend regularly and participate collaboratively
  3. Ensure child accesses services and supports decided upon in the MDT
- c. Mandatory Reporting<sup>20</sup>
- i. All participating agencies must comply with mandatory reporting laws as set forth in the Child Abuse and Neglect Reporting Act.<sup>21</sup>
  - ii. Mandatory reporters are required to report abuse or neglect when they *know or have reasonable suspicion* that the abuse or neglect has occurred.<sup>22</sup>
  - iii. Sexual exploitation is a form of sexual abuse and must be reported by mandated reporters. Sexual exploitation includes: “Conduct involving matter depicting a minor engaged in obscene acts...Any person who knowingly promotes, aids, or assists,

<sup>17</sup> Whereas the Steering Committee will be comprised of agency directors or their designees, the MDT will be made up of line staff, or those individuals working directly with the child. For example, the MDT members from each agency may include the case carrying social worker and probation officer, the child’s mental health clinician, a public health nurse, and the child’s substance abuse counselor—those individuals with the most information related to an individual child’s case.

<sup>18</sup> Cal. Welf. & Inst. Code § 16524.7(c)(1), (d)(2) (mandating that the multidisciplinary team include, but not limited to “Appropriate staff from county child welfare, probation, mental health, substance abuse disorder, and public health departments. Staff from a local provider of services to this population, local education agencies, and local law enforcement, and survivors of commercial sexual exploitation and trafficking may be included on the team.”)

<sup>19</sup> Youth’s participation may vary depending on the youth’s understanding of his or her exploitation. Efforts, however, must be made to include the youth at every stage of the case planning process to ensure the youth feels empowered and involved in decision-making. Meetings should be tailored based on the Stages of Change Model (See Appendix), which acknowledges where the youth is in his or her journey of leaving an exploitative relationship.

<sup>20</sup> Cal. Penal Code §§ 11164-11174.3.

<sup>21</sup> Id.

<sup>22</sup> Cal. Penal Code § 11166(a) (requiring that a mandated reporter make a report to the child abuse agency when the “mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observe a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.”).

employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct..."<sup>23</sup>

d. Agency Internal Identification and Response Protocols

i. Each county agency should create its own internal Identification and Response Protocol that aligns with the Interagency Protocol and defines steps agency staff must take to:

1. Identify CSEC and those children at risk for exploitation,
2. Respond immediately and on an ongoing basis
3. Coordinate and communicate with partner agencies and providers.<sup>24</sup>

**V. Specific Participant Roles and Responsibilities**

a. Child Welfare

- i. Lead the development of the interagency protocol (required)
- ii. Participate in the MDT (required)
- iii. Convene and serve as lead agency of steering committee
- iv. Maintain the child abuse hotline to receive CSEC referrals
- v. Develop mechanism for tracking CSEC referrals
- vi. Provide case management
- vii. Recognizing the unique challenges to engagement, establish trusting relationship with CSEC
- viii. Develop a service plan to fit CSEC needs in collaboration with other provider agencies
- ix. Connect child to crisis prevention and intervention services that meet the needs of CSEC
- x. Provide aggregate child welfare data on identified CSEC to steering committee including, but not limited to, the current status of each youth, (e.g. placement type, AWOL, etc.), the placement type, and services received
- xi. Provide court reports pertaining to victim's case as needed

b. Probation

- i. Participate in the development of the interagency protocol (required)
- ii. Participate in MDT (required)
- iii. Participate in Steering Committee
- iv. Develop mechanism for tracking CSEC
- v. Perform juvenile intake investigations and make recommendations for appropriate action if CSEC has an open case or has been arrested
  1. Investigate and evaluate circumstances of victim's exploitation, including interviewing offender(s), parents, relatives, collateral sources, witnesses, victims, and law enforcement

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<sup>23</sup> Cal. Penal Code § 11165.1(c)(1-3).

<sup>24</sup> Further guidance on Internal Identification and Response Protocols will be provided as part of the CSEC Practice Guidance Toolkit (forthcoming March 2015).

- vi. Provide case management
  - vii. Recognizing the unique challenges to engagement, establish trusting relationship with CSEC
  - viii. Develop a service plan to fit CSEC needs in collaboration with other provider agencies
  - ix. Connect child to crisis prevention and intervention services
  - x. Provide court reports pertaining to victim's case as needed
- c. Mental Health
- i. Participate in the development of the interagency protocol (required)
  - ii. Participate in MDT (required)
  - iii. Participate in Steering Committee
  - iv. Develop mechanism for tracking CSEC
  - v. Perform assessment of CSEC victim's mental health and recommend services
  - vi. Coordinate specialized mental health services for victim
  - vii. Provide guidance about mental health supports in placement that may be particularly helpful for CSEC (e.g. respite, mobile crisis response)
- d. Public Health
- i. Participate in the development of the interagency protocol (required)
  - ii. Participate in MDT (required)
  - iii. Participate in Steering Committee
  - iv. Develop mechanism for tracking CSEC
  - v. Perform medical evaluation of CSEC victim
  - vi. Coordinate appropriate response and services specific to CSEC
  - vii. Provide information related to reproductive and sexual health including access to contraceptives, HIV prophylaxis, and treatment for STIs/STDs to CSEC
- e. Substance Abuse
- i. Participate in MDT (required)
  - ii. Participate in Steering Committee
  - iii. Participate in the development of the interagency protocol
  - iv. Develop mechanism for tracking CSEC
  - v. Perform substance abuse assessment of CSEC recognizing that some exploited children use substances as a coping mechanism
- f. Juvenile Court
- i. Participate in the development of the interagency protocol (required)
  - ii. Appoint dependency and delinquency court representatives to Steering Committee
  - iii. Develop mechanism for tracking CSEC
  - iv. Ensure coordinated response for CSEC

- g. Education<sup>25</sup>
  - i. Participate in Steering Committee
  - ii. Participate in the development of the interagency protocol
  - iii. Participate in MDT
  - iv. Develop mechanism for tracking CSEC
  - v. Assess CSEC’s educational needs, recognizing that these children may be behind in school or school may be a trigger because they were recruited from school
  - vi. Coordinate appropriate response to meet victim’s educational needs, including but not limited to, assisting in enrolling youth, addressing truancy issues, ensuring credits have been gathered and applied, etc.
- h. Children’s Dependency Attorneys
  - i. Participate in Steering Committee
  - ii. Participate in the development of the interagency protocol
  - iii. Participate in MDT (may be attorney or representative including an investigator)
  - iv. Develop mechanism for tracking CSEC
  - v. Recognizing the unique challenges to engagement, establish trusting relationship with CSEC
  - vi. Maintain frequent communication with client to ensure frequently changing needs are addressed as the child moves through the stages of exploitation
- i. District Attorney
  - i. Participate in Steering Committee
  - ii. Participate in the development of the interagency protocol
  - iii. Develop mechanism for tracking CSEC
- j. Public Defender
  - i. Participate in Steering Committee
  - ii. Participate in the development of the interagency protocol
  - iii. Develop mechanism for tracking CSEC
  - iv. Recognizing the unique challenges to engagement, establish trusting relationship with CSEC
  - v. Maintain frequent communication with client to ensure frequently changing needs are addressed as the child moves through the stages of exploitation
- k. Survivors
  - i. Participate in Steering Committee
  - ii. Participate in the development of the interagency protocol
  - iii. Participate in MDT as appropriate/when desired by youth
  - iv. Provide advocacy and mentorship as needed to the youth
  - v. Engage youth and develop relationship with key adults outside of the public agencies

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<sup>25</sup> Include the County Office of Education, Foster Youth Services Program, and the AB 490 liaison from each school district with a significant population of foster/probation youth.

- I. Direct Service Providers/Civil Legal Advocates
  - i. Participate in Steering Committee
  - ii. Participate in the development of the interagency protocol
  - iii. Participate in MDT as appropriate/when desired by youth
  - iv. Develop mechanism for tracking CSEC
  - v. Assess the holistic legal needs of the client
- m. Law Enforcement
  - i. Participate in Steering Committee
  - ii. Participate in the development of the interagency protocol
  - iii. Develop mechanism for tracking CSEC
  - iv. Promptly report known or suspected child abuse/neglect to the child abuse hotline
- n. County Counsel
  - i. Participate in Steering Committee
  - ii. Participate in the development of the interagency protocol
  - iii. Ensure compliance with all state and federal information sharing, confidentiality and self-incrimination protections

**SANTA BARBARA COUNTY'S CSEC INTERAGENCY PROTOCOL: DRAFT**

*This protocol is a "living" document with ongoing revisions.*

**Memorandum of Understanding**

Between

SANTA BARBARA COUNTY CHILD WELFARE SERVICES  
Herein referred to as "CWS"

AND

SANTA BARBARA COUNTY PROBATION DEPARTMENT  
Herein referred to as "Probation"

AND

SANTA BARBARA COUNTY ALCOHOL, DRUG, AND MENTAL HEALTH SERVICES  
Herein referred to as "ADMHS"

AND

SANTA BARBARA COUNTY JUVENILE COURT  
Herein referred to as "Juvenile Court"

AND

SANTA BARBARA COUNTY PUBLIC HEALTH DEPARTMENT  
Herein referred to as "PHD"

AND

SANTA BARBARA COUNTY DISTRICT ATTORNEY  
Herein referred to as "DA"

AND

SANTA BARBARA COUNTY SHERIFF  
Herein referred to as "Sheriff"

AND

SANTA BARBARA POLICE DEPARTMENT  
Herein referred to as "SBPD"

AND

LOMPOC POLICE DEPARTMENT  
Herein referred to as "LPD"

AND

SANTA MARIA POLICE DEPARTMENT  
Herein referred to as "SMPD"

AND

SANTA BARBARA COUNTY EDUCATION OFFICE  
Herein referred to as "SBCEO"

AND

SANTA BARBARA RAPE CRISIS CENTER  
Herein referred to as "SBRCC"

AND

NOAH'S ANCHORAGE YOUTH SHELTER  
Herein referred to as "Noah's Anchorage"

AND

FAMILY CARE NETWORK  
Herein referred to as "Family Care Network"

FOR

**SANTA BARBARA COUNTY**  
**COMMERCIALLY SEXUALLY EXPLOITED CHILDREN (CSEC) PROGRAM**  
**Interagency Protocol**

WHEREAS, an individual who is commercially sexually exploited child (CSEC) or sexually trafficked, as described in Section 236.1 of the California Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the California Penal Code, and whose parent or guardian failed to, or was unable to protect the child, is a commercially sexually exploited child and may be served through the Santa Barbara County child welfare system pursuant to California Welfare and Institutions Code Section 300(b)(2); and

WHEREAS, Santa Barbara County Child Welfare Services elected to participate in the CSEC Program as described in Section 16524.7 of California Welfare and Institutions Code in order to more effectively serve CSEC by utilizing a multidisciplinary approach for case management, service planning, and the provision of services, and

WHEREAS, the parties to this Memorandum of Understanding (MOU), have developed the following MOU to guide Santa Barbara County's approach to serving CSEC; and

WHEREAS, the MOU reflects the commitment of Santa Barbara County and the parties to the following guiding principles:

A. Commercial Sexual Exploitation of Children

1. Must be understood as child abuse and reported as such, and
2. Should not be criminalized.

B. Responses to CSEC should be:

1. Victim-centered,
2. Trauma-informed,
3. Strengths-based,
4. Developmentally appropriate,
5. Culturally, linguistically, and LGBTQ competent and affirming,
6. Committed to active efforts that engage CSEC early and often,
7. Multidisciplinary, individualized, flexible, and timely, and
8. Data and outcome driven.

C. Agency Policies & Procedures should:

1. Ensure and track cross-system collaboration at the system and individual case level,
2. Incorporate mechanisms to identify and assess CSEC at key decision points,
3. Address the unique physical and emotional safety considerations of CSEC, and
4. Address unique physical and emotional safety considerations, including vicarious trauma of staff, caregivers, and other relevant support persons.

WHEREAS, the parties agree to form a CSEC Steering Committee to provide ongoing oversight and support to ensure the county agencies and partners effectively collaborate to better identify and serve victims of commercial sexual exploitation and children at risk of becoming exploited through the MOU; and

WHEREAS, the parties agree to form a multidisciplinary team (MDT), pursuant to California Welfare and Institutions Code Section 16524.7(d)(2) for CSEC, to build on a youth's strengths and respond to his/her needs in a coordinated manner; and

WHEREAS, California Welfare and Institutions Code Sections 18960-18964 states a county may establish a child abuse multidisciplinary personnel team (MDT) within the county to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse or neglect pursuant to California Penal Code Section 11160, 11166, or 11166.05, or for the purposes of child welfare agencies making a detention determination; and

WHEREAS, the parties agree that the information they receive from other parties concerning a child that is obtained during the identification and assessment process or during a multidisciplinary team meeting shall be used solely for prevention, identification, and treatment purposes and shall otherwise be confidential and retained in the files of the entity performing the screening or assessment. Such information shall not be subject to subpoena or other court process for use in any other proceeding or for any other purpose pursuant to California Welfare and Institutions Code Section 18961.7(c); and

WHEREAS, the parties, as defined by law, must comply with mandatory reporting guidelines as defined by California Penal Code Sections 11164 – 11174.3 and report known or suspected child abuse and neglect, which includes sexual exploitation; and

WHEREAS, this MOU defines the mutually agreed upon responsibilities of each of the parties under the CSEC Program pursuant to California Welfare and Institutions Code Section 16524.7. This MOU is not intended to establish legal duties or otherwise alter the respective responsibilities of the parties; and

NOW, THEREFORE, the parties of this MOU set forth the following as the terms and conditions of their understanding:

## **I. Steering Committee**

**A. Purpose.** In order to ensure Santa Barbara County effectively implements the CSEC Program, the parties agree to form a Steering Committee. The purpose of the Steering Committee is to provide oversight and leadership and to ensure that the Interagency Protocol is operating effectively. The Steering Committee is responsible for:

- a) Developing the Interagency CSEC MOU (hereinafter MOU),
- b) Implementing the MOU,
- c) Overseeing implementation of the MOU,
- d) Collecting and analyzing aggregate data related to the CSEC population,
- e) Revising the MOU as needed on an ongoing bases,
- f) Assessing the sufficiency of CSEC-specific resources in the county,
- g) Identifying necessary training and ensuring that it is completed, and
- h) Providing an annual report to the State in compliance with State and Federal requirements.

**B. Steering Committee Membership & Responsibilities:** The following parties agree to participate in the Steering Committee and fulfill the responsibilities defined in the MOU:

- a) Child Welfare Services
- b) Probation Department

- c) Public Health Department
- d) Juvenile Court
- e) Alcohol, Drug, and Mental Health Services
- f) District Attorney/Victim Witness
- g) Community Partners
- h) Appoint director or designee empowered to make decisions on behalf of the party to participate,
- i) Attend regularly scheduled meetings and participate collaboratively in committee,
- j) Report on successes, barriers to providing services, and areas for improvement, including recommendations for adapting the MOU and training needs/gaps, and
- k) Provide aggregate data on identified CSEC including the numbers identified and the services accessed by those youth

**C. Child Welfare Services Steering Committee Responsibilities: Child Welfare Services will be responsible for.**

- a) Convening and serving as lead agency of steering committee,
- b) Providing staff to coordinate the steering committee, and
- c) Gathering aggregate data from the MDTs to present and analyze with Steering Committee.

**II. Confidentiality**

1. The CSEC Task Force and all identified members agree to maintain confidentiality of all records pursuant to WIC Section 827 and 10850-10853, the CDSS MPP, Division 19-000, and all other provisions of law and regulations promulgated thereunder relating to privacy and confidentiality, as each may now exist or be hereafter amended.
2. The CSEC Task Force and all identified members agree to maintain the confidentiality of all records with respect to Juvenile Court matters, in accordance with WIC Section 827, all applicable statutes, case law, and in accordance to Santa Barbara County Juvenile Court Policy regarding confidentiality, as it now exists or may hereafter be amended.
3. No access, disclosure or release of information regarding a youth who is the subject of Juvenile Court proceedings shall be permitted except as authorized. If authorization is in doubt, no such information shall be released without the written approval of a Judge of the Juvenile Court.
4. The CSEC Task Force and all identified members agree to obtain prior written approval of the Juvenile Court before allowing any youth under the age of eighteen (18) years old and to make their best efforts to obtain prior written approval for youth over the age of eighteen (18) years old to be interviewed, photographed or recorded by any publication or organization or to appear on any radio, television or internet broadcast or make any other public appearance. Such approval shall be requested through child's social worker.
5. The CSEC Task Force and all identified members agree that CSEC information and statements obtained via the identification, assessment and MDT processes will be maintained, disclosed and used only as stated within this MOU and in accordance with all applicable state and federal laws and regulations.

6. The CSEC Task Force and all identified members agree to inform every member of the youth's MDT's who receives information or records on children and families served under this MOU shall be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records. Further, all MDT members shall be required to complete a CSEC Confidentiality Agreement form.
7. The CSEC Task Force and all identified members agree to comply with mandatory reporting guidelines as defined by CPC Sections 11164-11174.3 and report known or suspected child abuse and neglect, which includes sexual exploitation. Said reporting requirements shall be extended to non-required parties; however, nothing in this MOU shall be intended or have the effect of increasing or expanding the scope of mandatory reporting requirements as set forth in CPC Sections 11164-11174.3 with respect to judicial officers.
8. Youth provided services under this MOU shall be informed that all information obtained is confidential, with the following exceptions: Incidences of abuse or neglect that are reportable to the Child Abuse Registry; and information will be shared with members of the CSEC Task Force in order to develop an appropriate plan for services, including medical and psychological care; and information shared among the CSEC Task Force and all identified members during assessment may be shared with other agencies/programs to ensure the youth's safety and the safety of others and/or to coordinate care; and information may be shared with the Juvenile Court in order to better assess the youth's safety and intervention needs; and the CSEC Task Force and all identified members will use its screening to complete psychosocial assessments and identify and report to DSS/Law Enforcement any instance of sexual exploitation in accordance with mandated reporting laws; and the CSEC Task Force and all identified members will maintain records of its screening results as well as any information collected and statements made during the screening including information regarding sexual exploitation.

### **III. Identification of Risk Factors**

Identifying Commercial Sexually Exploited and At-Risk Youth Identification In order to understand the scope and nature of the problem in Santa Barbara County and provide appropriate services, professionals will screen youth and assess their related needs on an ongoing basis. The following risk factors have been identified as the most prevalent for youth in Santa Barbara County:

- Child Welfare history
- Probation history
- Cutting / Self-Harm
- Developmental delays
- Drug or substance use
- Entertainment and Modeling Profession (interest or participation)
- Gang affiliation
- High number of moves in placement
- History of Criminal Record/ Arrest History/ Probation
- History of pregnancy or child birth
- Knows someone who has had sex for drugs, shelter, goods, or money.

- Lack of permanency – No adult or mentor they trust in their life
- Lesbian, Gay, Bi-Sexual, Transgender, Questioning, Queer, Intersex (LGBTQQI)
- Low Attendance / Truancy
- Low self-esteem
- Migrant workers
- Multiple incidents of running away
- Poor School Performance
- Suicidal thoughts
- Tattoos

#### **IV. Process for Screening and Identifying Commercial Sexual Exploitation**

**A. Phase 1:** The following parties are participating in the WestCoast Children's Clinic Commercial Sexual Exploitation Identification Tool (CSE-IT) pilot project. These parties are responsible for screening youth over the age of 10 to identify whether they have been commercially sexually exploited, are being commercially sexually exploited, or are at risk of becoming commercially sexually exploited:

- a) Child Welfare Services staff in the following units:
  - i. Assessment and Investigations
  - ii. Court and Family Drug Treatment Court
  - iii. Ongoing
  - iv. Transitional Services
  - v. Permanent Placement
- b) Probation Department
  - i. Juvenile Hall Intake Officers
- c) Alcohol, Drug, Mental Health Services
  - i. RISE<sup>1</sup> program clinicians
- d) Noah's Anchorage Youth Shelter
  - i. Residential program clinicians
  - ii. Shelter staff

**B. Phase II.** Upon completion of the pilot phase, the parties named above, as well as additional Santa Barbara County organizations serving CSEC, will develop a plan to expand the use of the CSE-IT Screening Tool.

**C. Protocol to Initiate Screening.** The parties must screen for sexual exploitation under the following circumstances:

- a) Child Welfare Department:
  - i. All children age 10 and above who are:
    - a. Identified as possible CSEC at the hotline
    - b. Identified by investigations or ongoing staff as possible CSEC
    - c. Absent from placement
    - d. Chronically on the run
    - e. Living in the same home in which another child has been identified as CSE

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<sup>1</sup> RISE will include females aged 10-19 and their families; specifically targeting our underserved African-American, Asian/Pacific Islander, Latino, Native American/Tribal, and the LGBTQ girls who are "at" and "in" risk of commercial sexual exploitation (sex trafficking) in each region of Santa Barbara County. This program is funded through a Mental Health Service Act grant.

- b) Probation Department
  - i. Probation is the lead agency in screening and identifying you at risk or victims of CSEC, domestic minor sex trafficking, or youth labor trafficking in open delinquency cases. Cases identified as at risk through the CSEC screening process will be staffed internally and referred to the CSEC Task Force.
- c) Alcohol Drug and Mental Health Services
  - i. County Mental Health providers conduct the initial screening, then recommend and coordinate trauma informed mental health services to youth identified as CSEC, domestic minor sex trafficking, or youth labor trafficking victims or youth identified as being at high risk for CSEC, domestic minor sex trafficking, or youth labor trafficking.
- d) Noah's Anchorage
  - i. Will screen all youth ages 10 and over in the shelter program. Screening of youth that may be open to CWS or Probation will be coordinated with those agencies to ensure that screenings are not duplicated.

#### **D. Screening Tool**

The following parties are participating in the WestCoast Children's Clinic Commercial Sexual Exploitation Identification Tool (CSF-IT) pilot project.

- a. Child Welfare Services
  - i. Assessment & Investigations Unit
  - ii. On going Unit
  - iii. Permanency Unit
  - iv. Transitional Services Unit
- b. Probation Department
  - i. Juvenile Institution Officers
  - ii. Juvenile Probation Supervision
  - iii. Juvenile Court Intake Officers
  - iv. Probation Officer's assigned to: CSEC Court
- c. Mental Health Department
  - i. RISE Clinician's
- d. Noah's Anchorage
  - i. Shelter Staff

WestCoast Children's Clinic will provide training for the departments and community based agencies as noted above, who will be utilizing the Pilot Screening Tool. This screening tool will be used amongst local agencies to identify CSE or at-risk youth, and be utilized to inform and improve service delivery. The agencies that complete the tool will need to determine the level of risk the youth is at based on the number total from the questions that were answered by the screener. The screener at the agency can refer the youth to services in the community that will meet their needs or continue providing services for them. There are certain questions on the Screening Tool that if marked yes, will require an immediate Suspected Child Abuse Report (SCAR) to Child Welfare Services.

For Data Collection purposes, local Community Partners completing the Screening Tool will be asked to submit a copy of screenings, not resulting in a SCAR, to the Department of Social Services, who will track the data. DSS will be responsible for tracking all data that is collected

by the individual stake holders. The youth's name must be redacted by the agency submitting the Screening Tool due to confidentiality. The information required for Data Collection will include: the age of the youth, gender, zip code in which they reside, risk level assessed, services provided, name of agencies the youth is referred, if the youth is identified as being a CSEC victim, and whether a SCAR is made to Child Welfare Services. These items will be available to document as an attachment to the Screening Tool.

The redacted copy of the Screening Tool for Data Collection will be sent via fax or mail to:

Mark S. Contois, MSW  
CWS Division Chief, DSS  
2125 S. Centerpointe Parkway  
Santa Maria, CA 93455-1338  
(805) 346-7418 (FAX)

## V. Assessment

- A. The above parties agree that an assessment of an exploited youth's needs and strengths must take place upon identification and on an ongoing basis. Further, the parties agree that it is in the youth's best interest to limit unnecessary and duplicative assessments. Accordingly, the parties will coordinate to ensure that assessments are streamlined and limited when appropriate.
  - a) The following parties are responsible for assessing children and youth who been identified as victims of or at risk of commercial sexual exploitation:
    - i. Alcohol, Drug, and Mental Health Services
      1. Clinicians from the RISE program
      2. Clinicians assigned to Juvenile Hall
      3. Clinicians from the Children's Clinic

## VI. First Responder Protocol

In addition to routine screening, CSEC may be identified through contact with law enforcement and other mandated reporters such as schools, medical facilities, youth shelters and clinics. The First Responder Protocol will serve to guide law enforcement, County agencies, and community-based partners on appropriate steps to take within the first 72 hours of interfacing with an indentified or suspected CSEC. The parties agree that children who are suspected or identified victims of sexual exploitation **and where an imminent risk to safety is present**, require an immediate crisis response within 2 hours and intensive services through the first 72 hours to stabilize them. As described in Section V., (Immediate Crisis MDT) of this MOU, law enforcement, CWS, and Probation will immediately consult on the appropriate responding agency or agencies for individual youth.

The goal of the First Responder Protocol is to immediately engage and stabilize the child and develop a safety plan that meets his/her needs in a coordinated manner, including;

- a) Responding to the child's location within 2 hours,
- b) Providing individual case-by-case collaboration with multiple child-serving agencies as needed,
- c) Engaging with youth and family/caregiver(s), if appropriate,
- d) Ensuring basic needs are met, such as food, shelter, and clothing,
- e) Assessing and addressing immediate medical needs,
- f) Advising on appropriate placement, and
- g) Transporting the child to designated placement.

**Roles and Responsibilities:** Each party will fulfill the following responsibilities as part of its First Responder role:

**A. Law Enforcement**

Law Enforcement Agencies in Santa Barbara County, including Sheriff, SBPD, LPC, and SMPD, will identify youth suspected or known to be commercially sexually exploited in a variety of circumstances, including patrol, conducting planned operations, or in the course of making an arrest.

As mandated reporters, law enforcement officers must report suspected child abuse, including commercial sexual exploitation, to the Child Protective Services Child Abuse Hotline (Welf. & Inst. Code, § 300 (b)(2).)

**B. Child Welfare Services**

All CWS staff will receive training in the identification and assessment of youth who are, or are at risk of becoming, commercially sexually exploited.

**CWS Hotline Staff Roles and Responsibilities:**

- a) Receive calls regarding suspected abuse and neglect and follow internal protocols.
- b) Discern whether an allegation may involve commercial sexual exploitation,
- c) If suspected or confirmed commercially sexually exploited child:
  - i. Determine if child is in imminent danger, requiring an immediate response, or a slower response is warranted
  - ii. Flag the referral as CSEC and enter the SB-CSEC Special Project Code in CWS/CMS
- d) Determine jurisdiction (CWS, Probation, or unknown):
  - i. Determine if there is current CWS involvement, e.g. open referral or dependency case.
- e) Determine if there is Probation involvement and/or open delinquency case when a CSEC youth has been identified after hours, by contacting the Juvenile Institution Officer, local law enforcement.
- f) Based on determination of jurisdiction and whether or not Law Enforcement is involved, the referral will be processed as follows:
  - i. If the child is unknown to both CWS and Probation, and the child is in imminent danger, initiate internal CWS protocol for Immediate Response.
  - ii. If there is an open CWS case, follow internal protocols for referrals on open CWS cases.
  - iii. If the child is under the jurisdiction of Probation, the Hotline or other designated CWS supervisor will contact the appropriate staff from Probation and the Law Enforcement Officer (if any). The purpose of this immediate consult is to provide relevant information across the first responder agencies to ensure that the youth's immediate safety needs are met by the most appropriate first responder agencies.
  - iv. If the Reporting Law Enforcement officer indicates that the child will be charged and taken to Juvenile Hall, CWS may open a 10 day referral, identify it as a CSEC high risk youth and consult with Probation during the investigation for appropriate screening.

**CWS Assessment and Investigations Roles and Responsibilities:**

- a) Respond to the child's location/designated area within 2 hours when:
  - i. The youth is not under the jurisdiction of any agency, is determined to be at imminent risk of harm, and there are allegations of commercial sexual exploitation.
  - ii. The youth is a dependent of the court pursuant to WIC 300, at imminent risk of harm, and there are allegations of commercial sexual exploitation
  - iii. When a CWS immediate response is determined necessary through consultation with first responder agencies (CWS, Probation, and/or LE and Victim Advocate)
  - iv. Safety concerns for the CWS worker have been addressed.
- b) Participate in the Immediate Crisis MDT (by phone or at designated area depending on situation) to:
  - i. Develop a safety plan.
  - ii. Decide on a temporary placement, if needed.
  - iii. Transport the child to placement.
  - iv. Determine the need and time frames for scheduling a medical evaluation and mental health evaluation.

**C. Probation Department**

- Any minor booked into the Juvenile Hall is assessed during the admission process.
- Should the minor be determined to meet CSEC criteria based on either the booking charge, or admission investigation process, a Suspected Child Abuse Report (SCAR) will be completed.
- The SCAR will be forwarded to both Child Welfare Services and the appropriate Law Enforcement Agency having jurisdiction over the suspected CSEC matter.
- Should the minor require any medical or therapeutic services while detained which are not available in custody, Juvenile Hall Staff will ensure transportation to those services are provided.
- Probation will collaborate with other agencies to ensure a service plan is in place prior to releasing the minor from Juvenile Hall and consider the elements of the CSEC matter in determining whether the filing of a WIC 602 petition should be requested.

**Roles and Responsibilities:**

- a) Interface with CWS Hotline or designated staff to provide probation status information.
  - Follow internal protocols
  - Respond when possible and appropriate when the youth comes within the jurisdiction of the juvenile justice system pursuant to W&IC Section 602, et seq., or is dual-jurisdiction pursuant to W&IC Section 241.1 and Probation is the lead agency.
  - Request and participate in the Immediate Crisis Response MDT to:
    - Explore temporary placement
    - Transport the child to placement
    - Conduct a safety plan
    - Schedule a comprehensive medical/mental health evaluation
    - Provide intensive supervision and support for 72 hours

#### **D. Public Health Department**

- Provide a comprehensive medical evaluation for the identified exploited child within 72 hours of identification which should include, but is not limited to:
  - Coordinating appropriate responses and services to treat the victim
  - Providing information, services, and medication related to reproductive and sexual health, including access to contraceptives, HIV prophylaxis, and treatment for STIs/STDs to youth who have been sexually exploited

#### **E. DA/Victim Witness (or other victim advocate first responder)**

- Provide a CSEC-trained advocate or survivor-mentor for the child
- Respond within two hours, when possible
- Engage the child and build rapport
- Participate in the Immediate Crisis MDT to:
  - Explore and decide on temporary placement
  - Accompany the identified youth to placement
  - Conduct a safety plan
  - Schedule a comprehensive medical/mental health evaluation with the Department of Public Health
  - Provide intensive supervision and support

#### **Engagement of the Youth**

Recognizing that commercially sexually exploited children will often cycle through the stages of exploitation many times before they are able to maintain a life outside of exploitation and also recognizing that in order to be effective, interventions and services must be victim-centered. The CSEC Task Force and all identified members, to include any and all contracted services providers will take steps to engage the youth as a participant in his or her MDT meetings with the goal of identifying strengths and to best position to meet his or her needs in culturally sensitive and trauma informed ways. The CSEC Task Force and all identified members are committed to build rapport with the youth and encourage his or her participation in developing a safety plan and deciding on placement, as appropriate to age and development.

#### **Multi-Disciplinary Response**

- A. The parties agree to provide staff to participate in MDT meetings who have been trained in the prevention, identification or treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse and commercially sexually exploited children and those at risk for such exploitation. In order to sufficiently address a commercially sexually exploited child's needs from identification through ongoing stabilization, a three-tiered multidisciplinary response, as described below, may be employed. This approach includes:
- i. Immediate Crisis MDT: which involves both a rapid response within 2 hours as well as intensive, ongoing support through the first 72 hours post-identification.<sup>2</sup>
  - ii. Initial MDT: Convening a team within 10 days to address the child's needs where immediate safety risks may not be present.<sup>3</sup>

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<sup>2</sup> Note that members of the team responding within the first 2 hours may vary from the members of the team responding throughout the first 72 hours. For instance a CWS social worker and Law Enforcement officer may respond within 2 hours when the youth needs placement, and a medical evaluation may be scheduled within 72 hours.

<sup>3</sup> Ten days is the time required to investigate allegations of child abuse and neglect that do not present imminent danger.

- iii. Ongoing MDT: Ongoing case planning and coordination to be scheduled based on individualized needs of child.
  - iv. Multi-Disciplinary Team: The parties have been trained in the prevention, identification or treatment of child abuse and neglect cases, and who are qualified to provide a broad range of services related to child abuse and neglect, including but not limited to those youth who have been identified as high risk for sexual human trafficking. Case review to identify trends, gaps in the services, resolve issues raised by the individual MDTs, and serve as a consultant to case carrying staff as needed. The Steering Committee shall serve as the Multi-Disciplinary Team.
- B. The following parties agree to participate in the MDTs pursuant to California Welfare and Institutions Code Section 16524.7 and fulfill their responsibilities as defined in the MOU:
- 1. Required:<sup>4</sup>
    - a. Child Welfare Services
    - b. Probation
    - c. Alcohol, Drug, and Mental Health Services
    - d. Public Health
  - 2. The Steering Committee is responsible for identifying non-required parties, as appropriate, to serve on the four tiers of MDTs. Together, the agencies represented on the Steering Committee will determine whether to include additional parties and which to include in order to most effectively meet the unique needs of the child. Non-required parties, may include, but are not limited to the following:
    - a. Youth
    - b. Caregiver/placement provider
    - c. Children's Dependency Attorney
    - d. Victim Advocate
    - e. Public Defender
    - f. Law enforcement
    - g. Education provider/Foster Youth Liaison
    - h. Mental Health Provider
    - i. Survivor Advocate or mentor
    - j. Legal service providers
    - k. Court Appointed Special Advocates
- C. Immediate Crisis MDT
- The purpose of the Immediate Crisis MDT is to address the immediate safety and placement needs of the child.
- 1. The following circumstances require in Immediate Consult MDT by the parties below:
    - a. An immediate Consult MDT shall be convened by phone or in person within 2 (or 24 hours when a high risk youth has been identified in the following circumstances:
    - b. Youth leaves, is missing, runs away, or is otherwise absent from placement/home/shelter
    - c. Youth's placement changes
    - d. A new issue emerges in child's life

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<sup>4</sup> Note that not all required parties will need to participate in all tiers of the response.

- e. Child's service needs change, including preparation for step-down to a lower level of care
  - f. Youth prepares to testify in court case against exploiter
  - g. Youth's behavioral health services needs change, including improvement or need for hospitalization
  - h. Contact with Law Enforcement
  - i. Violation of Probation
  - j. Change in court disposition
  - k. 90 days prior to dismissal of dependency or completion of probation terms
  - l. A member of the MDT identifies a need requiring a case review or other response
2. The following agencies will participate in the Immediate Consult MDT
    - a. Child Welfare Services
    - b. Probation Department
    - c. Mental Health Department
    - d. Victim Witness
  3. (Need to describe what will be communicated to the youth regarding information sharing, confidentiality, and access to records at the start of the meeting....)

D. Initial Multidisciplinary Team

Not all children who are suspected or identified victims of sexual exploitation or trafficking will be in imminent danger and require an Immediate Crisis response. For these non-urgent situations, the parties agree to coordinate and participate in an Initial MDT.

1. The initial MDT is a team of individuals connected to the child's life. The MDT will meaningfully involve the youth in planning and decision-making. The purpose of the MDT is to plan for the child's placement, safety, and ongoing service needs. The initial MDT will:
  - a. Assemble within 10 days,
  - b. Orient the youth and family to the multidisciplinary teaming approach,
  - c. Provide individual case-by-case collaboration with multiple child-serving agencies,
  - d. Assess and address the child's short and long-term needs,
  - e. Develop and coordinate a service plan
  - f. Develop a safety plan with the parent/guardian/caregiver that addresses the following:
    - i. Potential safety risks for the youth, the family, and/or providers,
    - ii. Identifying trauma triggers that may cause youth to engage in unsafe behavior,
    - iii. Identifying coping skills the youth can use to de-escalate,
    - iv. Actions team members will take to prevent triggers from occurring,
    - v. Documenting responsibilities of team members in the event a youth exhibits unsafe behavior (e.g. if a youth is missing from placement, the parent/care provider will notify law enforcement and the social worker and the advocate and social worker will text the youth to maintain communication).

2. An Initial MDT is an appropriate response when there is not an immediate safety risk, but when an adult suspects or identifies that a youth is commercially sexually exploited.
- E. Ongoing Multidisciplinary Team
- The parties agree that children who are identified victims of sexual exploitation or trafficking require ongoing multidisciplinary team support to monitor the youth and ensure his/her needs are adequately addressed.
1. Individualized Ongoing MDTs will be held (at what frequency?) with each youth identified as commercially sexually exploited to monitor and support the youth and his/her family as the youth stabilizes. During the Ongoing MDT, members will review the case plan and safety plan, and amend as needed.
  2. In addition to regularly scheduled Ongoing MDTs, a meeting should be called when any of the following circumstances or events occur:
    - a. The youth leaves, is missing, runs away, or is otherwise absent from placement/home/shelter,
    - b. The youth's placement changes,
    - c. The youth is preparing to testify in court case against exploiter/purchaser,
    - d. The youth's behavioral health services needs change,
    - e. A change in Court disposition,
    - f. A member of the MDT identifies a need requiring case plan review or other response.

## APPENDIX C: STAR COURT PROTOCOL/HANDBOOK

DRAFT May 6, 2016

### STAR COURT PROTOCOL LOS ANGELES SUPERIOR COURT

#### Introduction

This Handbook is to provide a description of the Los Angeles County Juvenile STAR court for participants, their families and others interested in its philosophy, goals and procedures.

The STAR court is a collaborative court in session once a week in Dept. 260 of the Los Angeles County Juvenile (Delinquency) court. On its docket are young women<sup>1</sup> who have been arrested and found to have engaged in prostitution, or who have disclosed commercial sexual exploitation after arrest on other charges. These young women have sustained criminal charges and are on, or subject to being on, probation.<sup>2</sup>

At the Disposition stage of their case, the youth have an opportunity to voluntarily participate in the STAR court program during their probation. They may do so whether they are returned to live with their parents or in another private living arrangement, or are detained in a probation facility or child welfare placement.

Depending on the nature of their offense, any prior sustained Petitions, and how well the youth does on Probation, she may or may not have judgment entered against her at the end of her Probation

The program's goal is primarily rehabilitative, and it addresses underlying family or personal issues that precipitated the child's exploitation. It does so by providing enhanced services and supervision through partnership with a multi-disciplinary team composed of the youth's lawyer, the Asst. District Attorney, a probation officer dedicated to supervision of the youth on this docket, and advocates from several community based organizations which work with sex trafficked youth on an on-going basis.

The goal is to equip the youth with tools to create and sustain a life away from exploitation and illegal activities when women are no longer under court or probation supervision.

By so doing, the court works to promote youth and public safety, to reduce recidivism, and to disrupt the pattern leading to increasing criminal activity.

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<sup>1</sup> The court's initial focus has been on girls because they comprise 95% of the youth referred by law enforcement for prostitution related crimes. However, it is recognized that boys too are sexually trafficked.

<sup>2</sup> They are under court supervision pursuant to California WIC 602, 654, 725(a), or 790 (including those under dual supervision status under WIC 300/654, WIC 300/725(a) and WIC 300/790) and are involved in (or at risk for involvement in) prostitution.

## **STAR Court's Underlying Philosophy**

In creating and sustaining this Court, we acknowledge that youth who are arrested for prostitution are victims of domestic minor sex trafficking (“DMST”) or are commercially sex trafficked children (“CSEC,”) not criminals.

These youth have experienced multiple and often on-going physical, emotional, and/or sexual abuse that has not been addressed. The resulting trauma makes it more difficult for the youth to stay in school, to stay out of trouble, and/or to complete probation successfully. This trauma also makes them more vulnerable to the efforts of adults and peers who claim to have their best-interests at heart.

Historically, CSEC youth have been prosecuted criminally in the juvenile court, resulting in detention in juvenile hall, removal from their parents’ homes to group homes, and even detention in county probation camps for up to six months. The criminalization of this behavior often prolongs the trauma and further compounds the harm already suffered by the youth. Criminalization does not stem the exploitation or delinquency or reduce recidivism.

By offering alternatives to detention and a range of comprehensive services and support through the collaborative court, the STAR court aims to educate and support the young woman’s efforts to move away from exploitation, criminal activity, and further incarceration. The goal is to return her to school, to physical health, and emotional stability so that she can make a productive, healthy, and satisfying life for herself.

## **Eligibility for the STAR Court**

The Court will supervise minors on probation who have been commercially sexually exploited and are willing to participate in the intensive services offered. Any youth who may testify against his/her trafficker in criminal proceedings is strongly encouraged to participate in order to minimize the trauma that testimony may cause. Because all of the participants are eligible for services under WIC 602, no additional costs to parents are anticipated.

## **STAR Court Supervision**

STAR Court proceedings are conducted on Tuesdays, and they go forward as any other delinquency court proceeding. Consistent with the existing juvenile court protocol, each young woman is represented by an attorney. Additional individuals may participate in the Court proceedings at the discretion of the Court and with input from the minor, attorneys and Probation. The public is not admitted to the hearings.

Youth technically come under the aegis of the STAR court only at the disposition stage of their case. If her case is not originally filed in Dept. 260, the case of an otherwise eligible youth may be transferred to Dept. 260 for disposition after adjudication by another court.

All documentation required by the Court is due by noon on the date prior to the scheduled hearing, unless otherwise specified by the Court.

Youth eligible for STAR Court supervision will have discussed their possible participation in the program with their attorney, possibly prior to the adjudication of their case, but in all cases before disposition. The court may also review the program and the criteria for participation in the program with the youth prior to the youth's addition to the docket.

Thereafter, Court appearances for the youth will be scheduled approximately every 3-5 weeks, depending on the circumstances of the case, and the child's progress.

The goal and the work of the STAR Court is to ensure that each minor involved

- has a secure place to live
- is enrolled in a school program that is appropriate for their educational needs
- has appropriate adult support that will be available to the minor after Court supervision has ended
- has access to counseling by professionals who are licensed and experienced in treating trauma victims
- is receiving appropriate medical and dental care
- is aware of the status of any legal proceedings that involve them and is prepared to meaningfully participate in those proceedings
- possesses his/her essential governmental documentation (including birth certificate, Social Security card, state identification or driver's license, immunization records, school transcripts, medical records)
- has a safe and appropriate place to live when Court jurisdiction ends

### **Disposition Hearing**

Prior to the disposition hearing, Probation is to submit the following information to the Court:

- Child's history of prostitution, if any, and the history of prostitution in the family. This should include adult cases and out-of-county cases concerning the youth;
- Any history of sexual or physical abuse;
- Whether minor's traffickers and/or customers were arrested and the status of any prosecutions against them;
- Which police agency arrested minor and, if there are prior arrests, which agencies were involved;
- Names of detectives or officers involved;
- Whether minor receives services from any community based organization ("CBO") to address trafficking issues; If so, name of CBO and any staff members minor may have a relationship with.
- Whether minor or his/her family have come to the attention of child welfare agencies and, if so, the number and nature of referrals and the resolution and current status of those proceedings.

- Complete school history including enrollment, periods on non-enrollment, grades, attendance, suspensions or disciplinary actions, IEP and date of most recent IEP.
- Any medical issues, including pregnancy<sup>3</sup>.
- Any mental health issues.

**Every disposition report shall attach the following:**

- Copy of minor’s birth certificate and SS card or #
- Copy of school transcripts and most recent grades.

Immediately before to the disposition hearing, the court will conduct an informal meeting with the Dep. Probation Officer (“DPO”), counsel, therapists, representatives from CBOs, law enforcement and appropriate family members to discuss placement options (where and when) and treatment plan.

The Court will hold the disposition hearing with minor and the representatives listed above.

Probation conditions shall include an indication to minor of consequences for violation, i.e., if AWOL, she may spend time in custody prior to re-placement. The Court will determine these consequences with input from the team.

The case plan objectives and expectations will be discussed with the minor; and the Court will tell her that her agreement to comply with the plan is a condition to supervision by the STAR court.

A written copy of her conditions of probation will be provided to the minor, DPO and members of treatment team before he/she leaves the court.

Support persons available to the minor will be identified and contact information provided to minor.

Potential visitors for the youth in home, placement or custody setting will be specified after review by the treatment team and court.

**Post – Disposition Court Supervision**

The first progress hearing is to be scheduled within approximately 4 weeks of disposition. The DPO, counsel, placement representative and appropriate family members are to be present; attendance by law enforcement, advocates, and DCFS representatives, is encouraged but optional.

The Probation Officer shall provide a report to the court concerning the youth’s most recent progress and challenges. These reports may be oral or written and accessible by all counsel.

The Probation Officer should be prepared to address:

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<sup>3</sup> Information concerning mental health and medical issues should be filed in compliance with HIPAA (i.e. under seal).

- Any safety issues;
- Minor's adjustment to placement and behavioral issues;
- Minor's enrollment and progress at school (including status of IEP implementation);
- Minor's engagement in services and supports offered by advocates, group home staff and mental health professionals;
- Implementation of treatment plan and minor's participation (including minor's progress in substance abuse counseling, Regional Center activities, etc.);
- Any medical issues and treatment;
- Whether there is a change in the young woman's mental health status;
- Whether she is on any medications; if so how she is reacting to them, and if she is taking them consistently.
- Whether additional assessments or services are needed
- Status of investigation of or litigation against her trafficker; any contact by law enforcement to initiate or follow up on that investigation or litigation.
- Whether minor has reported any inappropriate conduct by custodial personnel or anyone else with regular contact with minor at placement, school and/or CBO.
- Status of obtaining government documentation and benefits for minor (i.e. birth certificate, Social Security card, state ID card, SSI benefits)
- Status of family reunification or transitional housing, if appropriate.

Subsequent progress reports will be scheduled every 4 or so weeks for the first 3 months of supervision. Such dates will be set, to the extent possible, on a Tuesday and with the input of team members and the minor. If appropriate, DPO, counsel and/or members of the treatment team may request more frequent court contact.

Minor will continue be supervised by the treatment team and STAR court until one of the following occurs:

1. Minor safely returns to the home of parent or guardian and successfully completes conditions of probation;
2. Minor successfully completes conditions of probation and is stable in a DCFS supervised placement;
3. Minor becomes 18, emancipates from the probation system and no longer desires STAR Court intervention.

## Treatment Team's Procedures and Operation

### The Treatment Team

#### Composition

Currently the Treatment team consists of the minor's counsel, Court [or coordinating probation] officer, case-carrying probation officer, Asst District Attorney, educational and CSEC advocates<sup>4</sup>. Other professionals may participate in the treatment team meetings if appropriate. These may include law enforcement officers, and medical or mental health professionals who are treating the minor, placement representatives and CASAs. Typically, the judge does not participate in the treatment team meetings, but may participate if all members agree that it is appropriate.

#### Operation

The case-carrying probation officer has primary responsibility for supervising the youth and gathering information about her progress from caregivers, school representatives, therapists, and other service providers.

Any advocate assigned to the case keeps the probation officer informed of the advocate's contacts with the youth and any pertinent developments in the case.

The treatment team meets prior to court hearing to review the progress of each youth whose case is to be heard. The treatment team shall make recommendations to the Court regarding the minor's treatment, placement and any sanctions or incentives based upon the consensus of the team. If consensus cannot be reached, then the Probation officer shall summarize the positions of different team members and the Court will make the final decision.

If other courts are involved in minor's case (including delinquency, dependency, family law or criminal courts), the Judge may consult with those hearing officers to coordinate the care of and minimize trauma to the child. All such communications shall be disclosed to counsel as soon as practicable following the communications or prior to consultation, if possible.

The minor's treatment program will depend upon her specific needs, but may include the following:

#### **I. Placement at**

- home or parent, guardian or relative, with or without electronic monitoring by Probation;
- in a DCFS or Probation licensed and contracted foster or group home
- in a unlocked, secure facility that specializes in the care of CSEC victims; This placement may be located outside of Los Angeles County or California and must comply with the Interstate Compact on the Placement of Children (ICPC);

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<sup>4</sup> CSEC advocates are employees of community based organizations which have been contracted by Los Angeles County to provide mentoring, support and supervision of CSEC minors. Both the organizations and the advocates must be approved by Probation staff and specifically qualified to work with CSEC victims.

- in Dorothy Kirby Center, which is a locked facility co-managed by the Los Angeles County Depts. Of Mental Health and Probation;
  - in a licensed Community treatment Facility (often referred to as a “Level 14 facility”) consistent with all of the regulatory provision for such a placement, including mental health diagnosis, approval of the screening committee and subject to a voluntary placement agreement. Such facilities may be locked or unlocked, depending upon the licensing qualifications of each facility.
2. Minor will be informed that she **may not leave placement** without permission and that, if she does, she may be subject to a bench warrant, arrest and incarceration at juvenile hall. Minor will be encouraged to seek the assistance of any member of her treatment team if her placement becomes untenable.
  3. An **educational program** that is appropriate for the child and approved by the treatment team.
  4. Access to **mental health treatment** including counseling to address earlier trauma or abuse, individual and family counseling, anger management counseling, drug and alcohol dependence treatment. However, it should be noted that some participants may not be ready or willing to engage in extensive mental health treatment and failure to participate will not, in and of itself, prevent a minor from successfully completing probation.
  5. **Designated approved visitors**, including family members, advocates and mentors, who are authorized to visit minors in juvenile hall or in placement. A designated list of who the child may have contact with via telephone, in writing or on social media will also be provided. These lists may also specify individuals with whom the child shall have no contact with.
  6. **Curfew**
  7. **Drug testing provisions** (unless under WIC 654 supervision).
  8. **Search conditions** (unless under WIC 654 supervision).

The treatment program may also include provisions for DNA testing, restitution and community service depending upon the offense. The exact components of the treatment program should be agreed upon the treatment team and may be modified when appropriate.

## **IMMEDIATE NOTIFICATION TO COURT**

Members of the team must notify the court immediately (i.e. within 24 hours or on the next court day) if any of the following occur:

- Minor leaves placement without permission;
- Minor is threatened or contacted by her trafficker or someone related to him/her;
- Minor is requested to testify at a court proceeding or deposition (either by request, subpoena or court order);
- Emergency medical or mental health treatment is needed for the child;
- She is arrested or new criminal charges (either juvenile or adult) are filed against her;

- She is picked up on a bench warrant or otherwise found while AWOL;
- Continuance in the designated placement is no longer possible, based upon the request of either the minor or the placement administrators.

Notification is to be made by e-mail or fax to the Judge and the DPO. A court hearing will be scheduled, if appropriate, within a week to convene the team to discuss the issue.

## **OTHER COURT POLICIES**

### **Minor’s appearance/testimony in other criminal actions**

Every effort shall be made to inform the minor and the treatment team as soon as it appears minor may be required to testify against his/her trafficker. Then, the following preparations should be made:

- A team member will be designated to support the minor in his/her preparation for testimony and during testimony itself.
- The prosecuting DA will be contacted and apprised of the need to prepare the minor for testimony, to preserve minor’s testimony at a preliminary hearing, if possible, and to make arrangements to ensure that minor is not shackled during testimony, is able to wear clothing of his/her choice and that there is no contact between the trafficker and minor at the courthouse on the day of the proceeding.
- Status of minor’s preparation for testimony and any arrangements necessary to facilitate truthful and effective testimony will be regularly reviewed at court hearings.
- If additional arrangements need to be made to ensure the minor’s safety, the detectives, prosecuting DA and STAR court should be notified immediately.

### **Probation violations/subsequent 602 petitions**

If a minor is detained on a new petition, probation violation or bench warrant, Probation is to arrange for minor to be transported to court within statutory timeframes (2 court days from detention), regardless of the day of the week. Further hearings concerning the petition will be scheduled on a STAR court date (Tuesday).

If a new petition or probation violation is filed, and the youth is not detained, that new petition/violation will be addressed on the next scheduled court date for minor, if appropriate. The adjudication of any new petition or probation violation must be handled consistent with California law and in the Court in which the cause is filed, unless otherwise modified by agreement of the Court, counsel and the minor. The disposition or sentencing following such adjudication shall be handled in D. 260 and consistent with the guidelines above.

## **Appendices**

*[We should attach any forms that are being used by the Court, Probation and/or advocates specifically for the STAR court. I.e., sample Probation Report for Dispo hearing, progress report, sample Probation conditions form, etc. I like the draft Handbook, “Welcome to the STAR Program,” that Catherine did for the girls. Since it isn’t being used, we could maybe attach it as a “possible” handbook to give to girls. The gift card protocol can be attached. We should discuss if there are other possible attachments.]*