

## **TRAFFICKING CONSIDERATIONS AND RECOMMENDATIONS FOR DOMESTIC VIOLENCE ADVOCATES**

The Asian & Pacific Islander Institute on Domestic Violence has focused on trafficking because many trafficked women are Asian; because advocacy for them differs from that provided to battered women; and to share what we have learned from our experience. This document offers domestic violence advocates some considerations and recommendations. It does not provide instructions, or claim to be a manual, or give guidelines about how to proceed with legal services or obtain benefits for trafficked victims.

Trafficking is defined as the recruitment, harboring, provision or transportation of individuals, using force or threats of it, coercion, fraud and/or using systems of indebtedness or debt bondage, for purposes of sexual or economic exploitation. Trafficking is distinct from human smuggling, which involves transporting individuals for a fee, typically across borders. There is no relationship between smuggler and smuggled, beyond transportation. However, the manner and circumstances of entry do not necessarily preclude someone from becoming a victim of trafficking, e.g. if a smuggler later uses threats of serious harm or physical restraint to force someone into involuntary servitude, peonage, debt bondage or slavery.

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### **Analysis**

In our view, trafficking is about:

- Violence against, and exploitation of, women
- Demands for exploitable labor which have increased with globalization
- The exploitation of female poverty (including mothers who 'sell' their children)
- The impunity of male demands for sex
- Political positions about sex trafficking are cause for heated controversy because they argue for abolishing, decriminalizing, or legalizing prostitution. It is useful to be informed about them when dealing with trafficked victims.

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### **Considerations for domestic violence programs**

Given the above analysis, domestic violence programs will need to be able to respond to trafficked victims. We have identified how working with trafficked victims differs from working with battered women, and the considerations for domestic violence service

providers/advocates. Domestic violence advocates are accustomed to working with the criminal legal system, immigration, social services, etc. Advocacy for trafficked victims challenges the way we typically interact with systems. There is debate about which programs are best equipped to serve trafficked victims, particularly as part of the services are handled by the Office of Refugee Resettlement (ORR). In the meantime, domestic violence programs are stepping in. Given how complicated these cases are, more than one domestic violence agency and its advocates will typically get involved. The considerations and recommendations below will assist programs already working with trafficked victims or thinking about doing so. Women, girls, boys and men are trafficked into the U.S., these considerations focus on women and girls, brought in as a group for sex-trafficking (although there are other instances of exploitation of women).

## **(1) Arrest**

- Trafficked victims typically get arrested; it takes time and astute questioning to determine that they are victims.
- At questioning, culturally sensitive advocates for interpretation and support should be present.
- There may be other victims in the community; public statements can have the effect of encouraging them to seek help or to flee.
- The arrest(s) will tip off the traffickers who might try to remove remaining victims from the area, or threaten them further if they go to the police.

## **Recommendations:**

- Build relationships within the police department, to identify trafficked victims.
- Sort out carefully who the victims are; it may be necessary to advocate for them to be recognized as such by the police or other government agencies.
- If your program is going to encourage unidentified victims to come forward, coordinate your strategy with the police department.

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## **(2) Custody and Release**

- Will trafficked victims be held in custody? If so, where: INS detention center or jail (adults); INS juvenile detention, Juvenile Hall, foster home, or relatives (juveniles); Child Protective Services or relatives (children).
- Once police and INS establish they are trafficked victims, not criminals, they can release them, but into whose 'custody' or care?
- The traffickers can post bond for the release of the women in custody
- Local shelter(s) may agree to accept the victims into their facility

## **Recommendations:**

- Do not agree to victim's release to a relative or family member: they can typically be the traffickers, posing as grandparents, mothers/fathers, aunts/uncles of minors; as the husband, brother/sister, etc., of adults. The victim will claim them as family members, their documents, even their names, may 'prove' this, but this is the 'relationship' they were probably trafficked in on.
- Stay in close contact with CPS if children/juveniles are released to them, especially for placement in a foster home that speaks the victim's language: this family too may be connected to the trafficker, or could be tracked down and possibly endangered by the traffickers.
- Flight risk: discuss with police and INS who might be a flight risk. What are the strategies to deal with that? Who takes 'responsibility' for ensuring they do not flee, what are the ramifications if they do?
- Information about their release must be kept confidential so the traffickers cannot find them.

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### **(3) Legal representation and the investigation process**

Victims will have multiple legal issues possibly involving immigration, criminal prosecution, access to benefits and services, juvenile law and civil suits.

- G-28s (Notice of Representation for INS) need to be filed immediately by lawyers known to the service agency because the trafficker's lawyers will try to do so and they will be representing the trafficker's interests.
- Knowing where victims are held becomes crucial to prompt filing of G-28s.
- Victims may be eligible for immigration relief including parole status, applying for a T-visa, asylum, special immigrant juvenile status, etc.
- Victims will likely be questioned by the US Attorney's Office, INS, FBI, ORR and others; agencies that domestic violence programs do not typically have experience dealing with.
- Determine if minor witnesses need a Guardian Ad Litem (GAL).
- Consider that a prosecutor may decide against using a trafficked victim's testimony because she is not a 'good' witness, there are too many factual discrepancies or her testimony is inconsistent with that of the other witnesses.
- Question all claimed familial relationships: these claims are the common ruses to bring people into the country.

### **Recommendations:**

- Coordinated case management: Given the myriad legal issues, it is crucial that all victim advocates of all the trafficked women in a group plan and assist with case management and coordination.
- Questioning/testifying: Determine who has responsibilities for producing victim(s); providing and paying for interpreters; having their attorneys present; deciding where they will be interviewed; how transported; etc.

- Explain to the witnesses the process of questioning/ testifying, who the players are, which office they represent, what their roles are in the investigation and prosecution of the case.
- Work closely with victim's attorney(s), interpreters, and other advocates.
- Provide support for particularly grueling days of questioning, but do not inquire what was discussed.

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## **(4) Endangerment and confidentiality**

- Confidentiality is crucial to safety as endangerment levels for trafficked victims are exceedingly high. There isn't just one batterer looking for his partner but many people, with much to lose.
- If the trafficker's lawyers have filed G-28s, the whereabouts of trafficked victims does not remain confidential, posing increased dangers to them.
- A victim protection program is not suitable, because it is premised on living independently: expecting participants to blend into a new place, operate a bank account, go to work, be literate, speak and understand English, etc.
- Endangerment increases based on the complexity and extent of the case and the stage of the investigation.
- Endangerment levels depend on the traffickers: whether they are isolated individuals or part of a larger ring; if someone low or high on the hierarchy has been arrested; if they exercise their threats here or in the victim's home country; and if they are well-known in the local community.

## **Recommendations:**

- Assess each victim's level of endangerment to determine the safest location. Some questions are: [a] What is their ability to function in daily life, thus blend in, away from the attention of their community? [b] Who is looking for them, where? [c] Is the danger greater if they stay together in the same location? [d] How much of a threat is their own community? [e] Who is implicated in the trafficking enterprise or in using 'sex services'; and what is their status in their community?
- Explain the rules for contacting others clearly: trafficked women and girls develop attachments and trust towards their traffickers.
- Inter-agency collaboration is critical to avoiding misunderstandings and breaks in confidentiality. Some agencies, e.g., refugee programs do not typically deal with endangered individuals, so explicit safety planning is crucial.
- Ensure that all individuals having contact with the victims understand safety and confidentiality issues including interpreters and advocates.
- Have contingency safety plans and work with other players - law enforcement, the INS, etc. to implement them.
- Keeping trafficked victims away from their ethnic community protects them from being found, intimidated and shamed.

- Review your agency's protocols for ensuring the safety of advocates and other residents/clients.

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## **(5) Shelter Services**

- Services for trafficked women and girls typically involve several agencies: a combination of advocates based in the corresponding ethnic community and traditional domestic violence programs. This is especially so if the victims need to be kept separated for the investigation.
- Detailed case information may be unknown to the shelter staff and to other advocates, as may the language and culture.
- Trafficked residents do not fully participate in shelter programs and services because heightened danger and the nature of the investigation preclude leaving the shelter for program activities (for teens and children, that can mean not attending school during the initial weeks).
- Trafficked women and girls are not allowed to discuss their case, so non-disclosure sets them in a difficult position with other residents. This, and other exceptions generate tense dynamics between residents.
- Similarly, these differences can generate staff conflicts.

## **Recommendations:**

- Determine which services and program activities can be provided. E.g., getting proper identity documents since most trafficked individuals have forged ones with false information; haircuts and clothes that make them less identifiable by the traffickers; basic life skills (many women come from poor rural areas and may not know the basics of cooking and cleaning in a shelter setting); ESL tapes; counseling for trauma; etc.
- Decide how to handle the fact that other team members might need to know the shelter's location: particularly interpreters, bi-lingual advocates, government agents involved in the investigation or in transporting the residents.
- Establish a safety plan if traffickers locate the shelter and threaten the women and other residents.
- Develop procedures for handling exceptions to shelter rules such as length of stay; using interpreters without domestic violence training/experience; making international phone calls to families in the home country; housing minors without a related adult; giving consents for their medical care; etc.
- Regular coordination within the team of advocates and agencies, client's lawyers, and governmental agencies is crucial. Sometimes there is clearly a "lead" agency, but as the case becomes more complex, this role becomes unrealistic. If possible, have a "lead" advocate (akin to a case manager) that the government agents and the prosecutor's office deal with.

## (6) Trafficked victims deal with complex traumas and oppressions

- Context of their lives include oppression, violence, ambivalence, conflict.
- Many come from abusive and oppressive environments, so they may be resigned or decide to tolerate these conditions.
- In a group of trafficked victims, there will be differing degrees of loyalty towards the traffickers, so some may be hostile witnesses.
- Like battered women, they feel attached to their pimp/trafficker.
- They may have fled equally traumatic bonds with their families.
- Amongst a group of victims, there is no automatic solidarity – in fact there is competitiveness, sexual jealousy about who was the ‘favorite’, class differences, regional differences.
- Some of the victims’ behavior is based on extreme fear for themselves, their children, and/or families in the home country. They will also be fearful of being returned home, and the attendant shame, scorn and danger.
- Sexual assaults: degrees of trauma can depend on brutality of the initial rape, who else in the family is/has been assaulted, frequency of current assaults by the traffickers and/or other men.
- Labels like ‘prostitutes’ ‘sex workers’ ‘sex slaves’ are stigmatizing terms that affect self-worth and integration into the community.
- Women may have been forced into abortions, carrying a pregnancy to term, having a hysterectomy, giving up a child for adoption.
- Trauma: pre- and post-trafficking; without trauma resolution they could end up in abusive relationships later. The extent of the rupture from parents, siblings and the familiarities of home affects levels of trauma; more so, if the home was abusive. Mental health services are often stigmatized and will be avoided for fear of being labeled crazy.
- Substance abuse problems or addictions because traffickers push them into drug use, or drug them to do the work, or because it helps to numb the pain.
- Trafficked women can feel responsible for and be blamed for bringing down the trafficker, or causing harm to their family in the home country.
- They may feel pressured to testify, and need to prepare psychologically for it.
- Events start happening fast here and in the home country – so, just as with battered women, they will experience push and pull factors about going ahead with the case.

### Recommendations:

- Support and counseling that take the above issues into account.
- Therapists who work with victims of torture or war, specialize in PTSD, are experienced in working with interpreters present, and willing (if required) to testify as expert witnesses, are recommended.

## (7) Medical records and care

- Confidentiality of medical and psychological reports: who do the records belong to, who owns them, particularly if the victim is a minor?
- Medical or psychological tests and evaluations may be ordered by the Federal Prosecutor's office to establish sexual abuse, psychological harm, pregnancy, etc. Do the records/results belong to the medical patient or to the agency who required them?
- Who signs medical consent forms for minors? Are traumatized adults, unfamiliar with the language and practices in the U.S., able to give informed consent? What if they withhold consent, can examinations still be required?
- Are treatment decisions confidential? E.g., if a trafficked victim is pregnant, what are the implications of her decision to continue or terminate pregnancy?
- Who makes treatment decisions for minors?

## BIBLIOGRAPHY

### [Bibliography of Trafficking](#)

By Yukiko Nakajima

An annotated bibliography of articles, books, legal instruments and reports regarding trafficking of persons, particularly of women and girls. The bibliography is categorized by continents from which trafficking victims are sent.

## GOVERNMENTAL RESOURCES

Trafficking in Persons and Worker Exploitation Task Force, U.S. Department of Justice and U.S. Department of Labor

- Federal laws prohibit sex trafficking and forced labor.
- Options are available for trafficked victims regardless of their immigration status.
- 1-888-428-7581. Operators have access to interpreters.
- [www.usdoj.gov/crt/crim/tpwetf.htm](http://www.usdoj.gov/crt/crim/tpwetf.htm), Trafficking Task Force
- <http://www.ojp.usdoj.gov/ovc/help/tip.htm>, Trafficking in Persons

## TECHNICAL ASSISTANCE

- The above information offers domestic violence advocates some considerations and recommendations. It does not provide instructions, or claim to be a manual, or give guidelines about how to proceed with legal services or obtain benefits for

trafficked victims. That information can be obtained by contacting the resources above.

- Please contact the Asian & Pacific Islander Institute on Domestic Violence for anti-trafficking resources in the U.S. and in Asia; questions; or Technical Assistance about the information provided.
- 415.954.9988 x315 [apidvinstitute@apiahf.org](mailto:apidvinstitute@apiahf.org).

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