

# Sex Trafficking: A Gender Based Civil Rights Violation

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## BACKGROUND

The trafficking of persons has frequently been described as a “modern” or “Twenty-First Century” form of slavery. Enactment of the Victims of Trafficking and Violence Protection Act of 2000 (known as the Trafficking Victims Protection Act of 2000, TVPA)<sup>4</sup> provided the government with tools to address the problem of human trafficking, both domestically and worldwide. This Act authorized the establishment of the Department of State’s Office to Monitor and Combat Trafficking in Persons (G/TIP or J/TIP) and the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons to assist in the coordination of anti-trafficking efforts.

J/TIP directs the United States’ efforts to develop and implement strategies to combat human trafficking by partnering with foreign governments. It also seeks to uphold the “3P” paradigm of protecting victims, preventing trafficking, and prosecuting traffickers through its pursuit of policies, partnerships and practices.<sup>5</sup> According to J/TIP, partnerships between federal, state, local and international law enforcement, government agencies, and non-governmental organizations have resulted in the effective implementation of strategies to combat human trafficking internationally and domestically. In addition, the President’s Interagency Task Force to Monitor and Combat Trafficking,<sup>6</sup> a cabinet-level entity, coordinates federal efforts to combat human trafficking. More than a dozen different federal agencies, which have a role in anti-trafficking efforts, have participated on this task force in the past decade. Both J/TIP and the President’s Interagency Task Force assist in the coordination of anti-trafficking efforts.

According to the Department of State, the U.S. government considers trafficking in persons to include all of the criminal conduct involved in forced labor and sex trafficking. Under the TVPA, trafficking in persons does not require actual movement of the victim.<sup>7</sup> It is the many forms of enslavement that lay at the heart of human trafficking. Individuals may be trafficking victims regardless of whether they once consented, participated in a crime as a direct result of being

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<sup>4</sup> Victims of Trafficking and Violence Protection Act of 2000, 22 U.S.C. § 7101 et seq. (2012) (as amended by the Trafficking Victims Protection Reauthorization Act of 2003, the Trafficking Victims Protection Reauthorization Act of 2005, and the Trafficking Victims Protection Reauthorization Act of 2008).

<sup>5</sup> See, U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, website, “About Us,” available at <http://www.state.gov/j/tip/about/index.htm>.

<sup>6</sup> 22 U.S.C. 7103. In 2003, a Senior Policy Operating Group was formed to “follow up on [Interagency Task Force] initiatives and to implement U.S. Government anti-trafficking policies and guidelines.” See U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, “Fact Sheet,” March 9, 2009, available at <http://www.state.gov/g/tip/rls/fs/2009/120224.htm>.

<sup>7</sup> 22 U.S.C. § 7101(10) (2012).

trafficked, were transported in the exploitative situation, or were simply born into a state of servitude.<sup>8</sup>

The TVPA recognizes that victims of human trafficking are overwhelmingly targeted on account of their gender. According to the Bureau of Justice Statistics, of the more than 2,500 human trafficking cases investigated between 2008 and 2010, four-fifths of the cases involved sex trafficking and 94 percent of the victims were female.<sup>9</sup> Sex trafficking occurs when a victim is coerced, forced, or deceived into prostitution. It can also occur when women and girls are forced to continue in prostitution through the use of debt bondage where the victims are forced to “pay off” their debt to the trafficker before they can be set free. The debt is purportedly incurred through the transportation, recruitment, or even “sale” of the victims.<sup>10</sup>

On April 13, 2012, the U.S. Commission on Civil Rights held a briefing to examine the federal government’s response to this issue of human trafficking from a gender-based discrimination perspective. The Commission considers this to be a human rights<sup>11</sup> issue as well as a civil rights concern given the Commission’s historic mandate on issues of discrimination.

The Commission sought and invited ten speakers to the briefing, including field experts and a survivor of sex trafficking, who provided a distinct and diverse array of viewpoints.

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<sup>8</sup> See U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, website, “What is Modern Slavery?” available at <http://www.state.gov/j/tip/what/index.htm>.

<sup>9</sup> 22 U.S.C. § 7101(a) (“The purposes of this chapter are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children”); 22 U.S.C. § 7101(b)(4) (“Traffickers primarily target women and girls”). In its most recent report, the Bureau of Justice Statistics found that in confirmed instances of human trafficking more than 90% of victims were female. Duren Banks & Tracey Kyckelhahn, *Characteristics of Suspected Human Trafficking Incidents, 2008-2010*, Bureau of Justice Statistics (Apr. 2011) at 6, available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cshti0810.pdf>.

<sup>10</sup> See U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, website, “What is Modern Slavery?” available at <http://www.state.gov/j/tip/what/index.htm>.

<sup>11</sup> Human rights are rights inherent to all human beings, irrespective of nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. Everyone is equally entitled to their own human rights without discrimination. These rights are all interrelated, interdependent and indivisible. Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law.

## SUMMARY OF PROCEEDINGS

At the briefing, the speakers were divided into three panels. Panel One consisted of a representative from a federal agency who spoke about the agency's efforts to combat sex trafficking and assist trafficking victims and a representative from the National Association of Attorneys General, who spoke about federal coordination and assistance to state and local efforts to address human trafficking. Panels Two and Three consisted of representatives from academia and nongovernmental organizations (NGOs) who discussed sex trafficking as a form of gender discrimination, federal efforts to eliminate sex trafficking, and ways to improve those efforts. One panelist spoke about her experience as a sex trafficking survivor.

The panelists fielded questions from the Commissioners dealing with the following issues: (1) definitions of trafficking; (2) how and why trafficking victims are identified; (3) the relationship between organized crime and human trafficking; (4) the legalization of prostitution and its impact on the demand for commercial sex which adults initiate with underage partners; (5) the amount and nature of law enforcement resources dedicated to sex trafficking and the need for additional investment; (6) federal efforts to eliminate sex trafficking; and (7) recommendations to enhance human trafficking enforcement.

### Panel One Presentations

*Maggie Wynne, Director, Division of Anti-Trafficking in Persons, Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health and Human Services*

Miss Wynne stated that the U.S. Department of Health and Human Services (HHS) is required by the Trafficking Victims Protection Act of 2000 (TVPA) to: (1) provide certification of foreign victims of trafficking, so that trafficking victims are afforded the same benefits and services as are refugees, under any federal and state program; (2) establish and carry out programs to increase public awareness of the dangers of trafficking and the protections that are available for victims of trafficking; (3) train appropriate agency personnel in identifying victims of severe forms of trafficking and providing training for the protection of such victims; and (4) provide training to State and local officials to improve the identification and protection of such victims. In addition, HHS is authorized to provide services to assist potential foreign victims of trafficking in achieving certification.<sup>12</sup>

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<sup>12</sup> Maggie Wynne, testimony, Briefing before the U.S. Commission on Civil Rights on Sex Trafficking: A Gender-Based Violation of Civil Rights, Washington, DC, Apr. 13, 2012, transcript, p. 10, (hereafter cited as *Briefing*)

Miss Wynne said that the most important role of the Office of Refugee Resettlement (ORR) is the certification of trafficking victims. When the U.S. Citizenship and Immigration Services notifies ORR that it has made a bona fide T visa<sup>13</sup> determination or granted T nonimmigrant status to a victim of trafficking, ORR can issue the recipient a Certification or an Eligibility Letter to notify adult and child victims of their eligibility to access benefits and services they may need to recover from their experiences, allowing them to rebuild their lives in the United States. Similarly, when Immigration and Customs Enforcement notifies ORR that it has granted continued presence<sup>14</sup> to a victim of trafficking, who is assisting with a law enforcement investigation, ORR can act to get that victim connected to any necessary health care and social services. Miss Wynne stated that those benefits and services available to foreign victims of trafficking are the same as those available to refugees who arrive with the hope of finding employment, education, and a new life in America.<sup>15</sup>

Miss Wynne noted that unaccompanied child victims may be eligible for the Federal Unaccompanied Refugee Minors Program, which provides specialized, culturally-appropriate foster care in licensed-care settings according to the victims' individual needs.<sup>16</sup> She further noted that there are many federal and state health, nutrition, and social services programs available to potential recipients, regardless of their immigration status. Miss Wynne stated that ORR funds the National Human Trafficking Victim Assistance Program, which supports comprehensive case management services to foreign victims of trafficking and potential victims seeking certification in any location in the United States. Currently, ORR funds three grantees that are responsible for providing case management, referrals, and emergency assistance to victims of human trafficking and certain family members.<sup>17</sup>

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Transcript), available at [http://www.usccr.gov/calendar/trnscrpt/Sex-Trafficking-Briefing-Transcript\\_Final-8-2-13.pdf](http://www.usccr.gov/calendar/trnscrpt/Sex-Trafficking-Briefing-Transcript_Final-8-2-13.pdf).

<sup>13</sup> A T visa is a type of visa allowing certain victims of human trafficking and immediate family members to remain and work temporarily in the United States if they agree to assist law enforcement in testifying against the perpetrators. A more detailed description of the eligibility requirements can be found at the U.S. Citizenship and Immigration Services website at <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>.

<sup>14</sup> "Continued presence" is a type of temporary immigration status offered to individuals who have been determined to be victims of trafficking. A more detailed description of the eligibility requirements can be found at <http://www.dhs.gov/xlibrary/assets/ht-uscis-continued-presence.pdf>.

<sup>15</sup> Wynne Testimony, *Briefing Transcript*, p. 11.

<sup>16</sup> See U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, website, "About Unaccompanied Refugee Minors," available at <http://www.acf.hhs.gov/programs/orr/programs/urm/about>.

<sup>17</sup> Wynne Testimony, *Briefing Transcript*, pp. 12-13.

Miss Wynne spoke about ORR's efforts to improve victim identification and public awareness in human trafficking. She noted that the Division of Anti-Trafficking in Persons (ATIP) leads the Rescue and Restore Victims of Human Trafficking Campaign, which has established Rescue and Restore coalitions in many cities, regions, and states. These community action groups are comprised of NGO leaders, academics, students, law enforcement agents and others. Miss Wynne indicated that the Rescue and Restore Regional Program serves as a focal point for regional anti-trafficking efforts; and that ORR funds 11 regional partners who oversee a local anti-trafficking network. Miss Wynne also noted that ORR funds a National Human Trafficking Resource Center, which houses a national toll-free hotline for the human trafficking field in the United States.<sup>18</sup>

Miss Wynne stated that in addition to the training provided by its grantees, HHS directly provides training to its own staff, state and local officials, and entities receiving HHS funding. Each year, ATIP hosts several web-based trainings on human trafficking, which have at times focused on sex trafficking. Each of the 10 ACF Regional Offices throughout the United States has established an anti-trafficking point of contact. In addition, many of these regional offices are represented on local rescue and restore coalitions or DOJ anti-trafficking task forces.<sup>19</sup>

Miss Wynne concluded that by engaging in the aforementioned and other opportunities, HHS is expanding the capacity of potential intermediaries making them more knowledgeable about the trafficking of persons and how they can assist individuals who have been or may be exploited in commercial sex or forced labor.<sup>20</sup>

***Greg Zoeller, Attorney General, State of Indiana and Representative, National Association of Attorneys General***

Attorney General Zoeller stated that in August 2012, the National Association of Attorneys General (NAAG) adopted human trafficking as its national initiative and each attorney general was to go through his or her own statutes to see how he or she could contribute efforts to the cause. NAAG created the Pillars of Hope, which focused on four main pillars dealing with the challenges in the efforts of addressing human trafficking. They include: (1) gather more data that will track state arrests and prosecutions; (2) raise awareness to reduce the demand; (3) promote strong state statutes and forceful state prosecutions; and (4) mobilize communities to increase care for

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<sup>18</sup> Ibid., 13-14. The hotline is available 24 hours a day, seven days a week at 1-888-373-7888.

<sup>19</sup> Ibid., 15.

<sup>20</sup> Ibid.

victims.<sup>21</sup> The goals go beyond cracking down on sex trafficking and aspire to end the demand for commercial sex.<sup>22</sup>

Attorney General Zoeller noted that when he and his staff looked through their statutes, they found some serious weaknesses. To address these weaknesses, Attorney General Zoeller wanted to be able to pass legislation before the 2012 Super Bowl game, in Indianapolis, to ensure that they were prepared to respond to human trafficking issues that would take place during this event.<sup>23</sup> Attorney General Zoeller is the co-chair of the Indiana anti-trafficking task force called the Indiana Protection for Abused and Trafficked Humans (IPATH). In preparation for the Super Bowl, Attorney General Zoeller indicated that his office and IPATH were responsible for training more than 3,400 individuals by holding 60 different human trafficking training sessions, performing 46 community outreach awareness activities, and distributing 2,700 copies educational materials. In addition to the aforementioned activities, post-game activities included making 68 commercial sex arrests, identifying two human trafficking victims, and identifying two potential trafficking victims who worked with Indiana law enforcement.<sup>24</sup>

Attorney General Zoeller noted that two weeks after the Super Bowl, a prosecutor in Marion County was the first to use Indiana's new statute on human trafficking. Attorney General Zoeller spoke about a victim who was a 14-year-old runaway from a troubled home. He talked about how the mother was determined to find her daughter and ultimately tracked her down in Indianapolis. Attorney General Zoeller indicated that typically, if the victim is not recovered, within a few years she will have been trafficked and prostituted into different cities. He noted that by the time she is age 18, or in some states age 16, she would likely have been arrested for prostitution because many law enforcement officers do not recognize that she is a victim of human trafficking and not a criminal. He further noted that by the time the victim is age 24, she would have spent a decade as a

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<sup>21</sup> More information on the Pillars of Hope campaign is available at <http://www.naag.org/giving-a-voice-to-the-voiceless-pillars-of-hope-presidential-initiative-to-tackle-human-trafficking.php>.

<sup>22</sup> Greg Zoeller, Attorney General, State of Indiana, and Member of the National Association of Attorneys General, Testimony, *Briefing Transcript*, pp. 16-17.

<sup>23</sup> For example, in Indiana, Backpage.com ads, one of many internet sites advertising escorts that are associated with prostitution and human trafficking, spiked from 17 Indianapolis escort ads on January 12 to 129 Indianapolis ads on February 3. It is well documented that an increased demand for commercial sex indicates increased risk for human trafficking. *Contra* Kate Mogulescu, "The Super Bowl and Sex Trafficking," *The New York Times*, Jan. 31, 2014 ("No data actually support the notion that increased sex trafficking accompanies the Super Bowl") and Maggie McNeill, "The Mythical Invasion of the Super Bowl Hookers," *Reason*, Jan. 26, 2014, available at <http://reason.com/archives/2014/01/26/the-mythical-invasion-of-the-super-bowl>.

<sup>24</sup> Zoeller Testimony, *Briefing Transcript*, pp. 17-18.

prostitute and, in all likelihood, by age 34 she would be dead since epidemiologists have concluded that the average age of death of persons used in commercial sex is 34.<sup>25</sup>

Attorney General Zoeller concluded that had the above scenario played out, it would be hard to determine at what point the victim actually stopped being a victim of human trafficking and chose to be in this “profession.” He noted that for the better part of her life, society would have treated her as a criminal, possibly violating her civil rights sometime during her lifetime.<sup>26</sup>

## Discussion

Chairman Castro indicated that the premise for holding this briefing is that sex trafficking victims are targeted based on gender. He asked the panelists for their perspectives on how trafficking victims are identified.<sup>27</sup> Both Miss Wynne and Attorney General Zoeller agreed that whether foreign or domestic, all victims are targeted for exploitation.<sup>28</sup> Miss Wynne indicated that the cases that come through her office deal with foreign victims of trafficking and involve child victims. To lure victims, traffickers offer alleged job opportunities, romance, relationships or schooling. Once the victims are brought here, they become dependent on the trafficker because they are here illegally and are unaware of the laws that can provide them protection. In essence, traffickers assess the vulnerabilities of those being exploited.<sup>29</sup> Attorney General Zoeller indicated that on the domestic front, trafficking victims are often runaways who come from either abusive or dysfunctional homes. He said that 83 percent of sex trafficking victims in the United States are citizens and that the average age at which they are first used in commercial sex is between 12 and 14.<sup>30</sup>

Commissioner Achtenberg asked Attorney General Zoeller to describe the relationship between organized crime and human trafficking. Attorney General Zoeller stated that the connection between the two is the opportunity to make money. He noted that there is little risk involved in transporting victims from city to city and if someone does get arrested, usually it is the prostitutes and not others involved in the criminal enterprise who go to jail. Attorney General Zoeller indicated

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<sup>25</sup> Ibid., 18-19. See John J. Potterat, Devon D. Brewer, Stephen Q. Muth, Richard B. Rothenberg, Donald E. Woodhouse, John B. Muth, Heather K. Stites and Stuart Brody, “Mortality in a Long-term Open Cohort of Prostitute Women,” *American Journal of Epidemiology*, Vol. 159, Issue 8, pp. 778-785 (2004), available at <http://aje.oxfordjournals.org/content/159/8/778.full>.

<sup>26</sup> Zoeller Testimony, *Briefing Transcript*, p. 20.

<sup>27</sup> *Briefing Transcript*, pp. 20-21.

<sup>28</sup> Ibid., 21-23.

<sup>29</sup> Ibid., 21.

<sup>30</sup> Ibid., 22.

that he is starting to see more and more trafficking networks going beyond his own state and that is why he is anxious to work with the federal government, the U.S. Department of Justice in particular, to address the larger-scale criminal operation.<sup>31</sup>

Commissioner Gaziano asked Attorney General Zoeller and Miss Wynne what percentage of prostitutes in a given jurisdiction become part of an interstate network and what the estimates are for foreign trafficking victims, respectively. Attorney General Zoeller responded that good statistics do not exist and this critical lack of information is identified as an issue in NAAG's 2011-2012 key initiative, Pillars of Hope. He also noted that the FBI does not include human trafficking as a major crime category.<sup>32</sup> Commissioner Heriot agreed that reliable trafficking numbers would be beneficial.<sup>33</sup>

Miss Wynne stated that HHS does not collect statistics on the scope of trafficking or a percentage of victims. She noted that she can only report on the background of the victims who have received certification or eligibility letters. According to Miss Wynne, of the 564 victims of trafficking who received a certification or eligibility letter in the last reporting year, 45 percent were male, 75 percent were victims of labor trafficking, 19 percent were exploited through sex trafficking, and 6 percent were victims of both sex and labor trafficking. Miss Wynne noted that females made up 95 percent of victims of sex trafficking or victims of both labor and sex trafficking.<sup>34</sup>

Attorney General Zoeller said that although he has not focused much on the international side of trafficking, he does know that many women operating out of Indiana's "so-called" 24-hour Asian massage parlors are victims. He noted that these women rarely self-identify as victims and are often afraid to cooperate with law enforcement. The trafficker may be threatening her family members back home or may be controlling them through fear of beatings or by withholding their passport or identity documents. Because these women rarely go to the government for help, Attorney General Zoeller suggested that the ones who come to HHS for help may just be the tip of the iceberg.<sup>35</sup>

Commissioner Kladney asked Attorney General Zoeller how much law enforcement is dedicated to sex trafficking. Attorney General Zoeller said that there is an active vice squad in almost every major metropolitan area. He spoke about how vice units are trained to arrest the prostitute and

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<sup>31</sup> Ibid., 23-24.

<sup>32</sup> Ibid., 25-26; NAAG, 2012 Presidential Initiative, *Pillars of Hope: Attorneys General Unite Against Human Trafficking*, Jun. 23, 2011, available at <http://www.naag.org/attorneys-general-unite-to-fight-human-trafficking.php>.

<sup>33</sup> *Briefing Transcript*, p. 34.

<sup>34</sup> Ibid., 26-28. The 564 victims of trafficking include people from both the United States and other countries. In the previous year, 55 percent of trafficking victims were male.

<sup>35</sup> Ibid., 28-29.

“shake her down” to see if she will give information about somebody higher up in the organization. He said that he found it very frustrating that trafficked women are still categorized as prostitutes rather than victims. Commissioner Kladney asked Attorney General Zoeller if the Super Bowl training took into account that these women, especially the young girls, were actually victims. Commissioner Kladney also inquired as to whether Attorney General Zoeller or the Attorneys General of America have any proposals regarding treating these women like victims as opposed to criminals. Attorney General Zoeller stated that he was going to make an effort to have Indiana legislators address laws as they relate to prostitution, noting that there has to be a different treatment and view of prostitution.<sup>36</sup>

Commissioner Heriot noted that throughout the presentations the term “human trafficking” has been used in many ways, which prompted her to ask for a definition of trafficking.<sup>37</sup> Miss Wynne said that there are federal and state laws defining human trafficking and that the United Nations has its own definition. She noted that with respect to children and labor trafficking, there is force, fraud, or coercion involved. According to Miss Wynne, the federal definition of trafficking includes the recruiting, harboring, transporting, transferring, providing, or obtaining of individuals for labor or services through force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery. The definition she provided for adult sex trafficking included harboring, transporting, providing, or obtaining a person for a commercial sex act through force, fraud, or coercion.<sup>38</sup> She noted that the definition of sex trafficking is not the same for a minor and that any minor induced to perform a commercial sex act is a victim of trafficking under federal law. Commissioner Heriot inquired as to what would fall under coercion that does not already fall under force or fraud. In response, Ms. Wynne said as far as she knows force is not defined; but coercion is defined as the threat or actual imposition of physical restraint or physical harm, either to the individual or to someone connected with the individual. Commissioner Gaziano noted that coercion also involves the threatened abuse of the law or legal process.<sup>39</sup>

Commissioner Heriot also queried why Attorney General Zoeller had to push legislation addressing human trafficking through before the Super Bowl. Attorney General Zoeller said that the Super Bowl acts as a magnet for prostitution activity. He noted that they followed backpage.com, where the majority of requests for prostitutes originate, and noticed an incredible spike of people looking for prostitutes. For example, on January 12<sup>th</sup>, there were 12 Backpage ads, but the day before the Super Bowl on February 3<sup>rd</sup>, there were 129 ads. Attorney General Zoeller noted that Indiana

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<sup>36</sup> Ibid., 29-34.

<sup>37</sup> Ibid., 34-36.

<sup>38</sup> Ibid., 36-37.

<sup>39</sup> Ibid., 38-39.

wanted to be prepared for both the good as well as the bad things that come into his state with such a large event.<sup>40</sup>

Commissioner Kladney said that he did not believe that underage individuals choose to go into the field of prostitution. Attorney General Zoeller said that by legal definition they cannot choose to do so.<sup>41</sup> Commissioner Kladney then asked Miss Wynne if any of HHS's NGOs and other organizations have had problems providing foreign language assistance for victims of international trafficking. Miss Wynne responded that she could not speak at length to this question, but indicated that several NGOs work with specific ethnic communities. She also noted that the National Human Trafficking Resource Center has access to a language line that they find very useful in responding to calls in languages that cannot be interpreted internally.<sup>42</sup>

When Attorney General Zoeller and Miss Wynne were asked what recommendations would they want the Commission to put forward to Congress to enhance human trafficking enforcement, Miss Wynne declined to comment; while Attorney General Zoeller responded that he would like the federal government to provide a few pilot programs, until an immigration bill is passed, under the auspices of which Indiana could have immigrants come into its state to work and the state would be responsible for assuring that those individuals exit.<sup>43</sup>

Commissioner Achtenberg asked Attorney General Zoeller if he had any recommendation as to how the FBI's crime statistics could be of greater assistance in providing information on the interstate trafficking of women. Attorney General Zoeller indicated that he has worked closely with the Justice Department and he is one of three attorneys general who serve on the Executive Working Group, which also includes three U.S. attorneys and three district attorneys. He noted that different states and the federal government all take different approaches to counting victims and therefore there are no consistent or useful statistics available. He indicated that there should be separate tracking for foreign and domestic trafficking, because many underage sex trafficking victims are domestic runaways.<sup>44</sup>

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<sup>40</sup> Ibid., 40.

<sup>41</sup> Ibid., 42-43.

<sup>42</sup> Ibid., 43.

<sup>43</sup> Ibid., 45-47.

<sup>44</sup> Ibid., 48.

## Panel Two Presentations

### *Bridgette Carr, Professor and Director, Human Trafficking Clinic, University of Michigan Law School*

Professor Carr spoke on the legal services the Human Trafficking Clinic at the University of Michigan Law School provides to victims of both sex and labor trafficking. She noted that current criminal justice practice in the United States fails to identify and protect victims of sex trafficking. Professor Carr said that law enforcement is well-versed in arresting and jailing criminals; but as a nation, unless we create a new model which supports victims rather than treating them as criminals, we will not be able to improve upon our response to and protection of victims.<sup>45</sup>

Professor Carr spoke about a case involving a 16-year-old girl who was brought to Michigan and allegedly exploited by an adult male trafficker. A family member found a picture of the girl in an online ad and called the local police. The police found the teen in a motel with an 18-year-old victim and the trafficker; all three were put in handcuffs. The 16-year-old was detained in a juvenile facility for three weeks and the 18-year-old was put in the county jail. According to Professor Carr, at no time was either young woman provided services for victims of human trafficking. Professor Carr noted that because of her experience with the criminal justice system, the 16-year-old did not want to participate in the prosecution of her trafficker. Despite health problems, efforts to squash the subpoena, and efforts to negotiate alternatives to in-person testimony with the local prosecution, the 16-year-old was forced to travel back to Michigan and participate in her trafficker's prosecution against her will.<sup>46</sup>

Professor Carr spoke about an instance in which a 14-year-old girl was apprehended after being sold for sex. Because under Michigan law a child under 16 years of age cannot be charged with prostitution, the 14-year-old was charged with possession of tobacco as a minor. In an effort to help, Professor Carr contacted the girl's public defender offering the resources of the clinic as well as information about shelters and programs to assist the 14-year-old. The girl's case was being transferred back to her city of former residence. According to Professor Carr, the former residence was a squatter house located in the city where the girl had first been recruited and sold by her trafficker. Professor Carr noted that the approach of the criminal justice system towards trafficked children is tragic, and ignoring a victim after his or her 18<sup>th</sup> birthday is both irrational and unacceptable.<sup>47</sup>

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<sup>45</sup> Bridgette Carr Testimony, *Briefing Transcript*, pp. 52-53.

<sup>46</sup> *Ibid.*, 53-54.

<sup>47</sup> *Ibid.*, 54-55.

Professor Carr spoke of yet another example where a woman was brutalized by her trafficker and sold for sex in multiple states. In one of the states where the woman was arrested and charged with prostitution, her trafficker hired a lawyer for her; however, the lawyer never spoke with the woman, only with her trafficker. The next day the trafficker took the woman to another state and sold her again. Professor Carr said that the woman finally escaped and came to the Human Trafficking Clinic seeking help. In trying to assist the woman in resolving the prostitution charge, the Clinic discovered that the woman's lawyer had entered a guilty plea on her behalf without her permission. Even though the woman is now in school, she is terrified that when she applies for a job, it will require a background check and her prostitution conviction will appear. Professor Carr and the Clinic have spent more than a year trying to expunge or vacate this conviction.<sup>48</sup>

Professor Carr noted that although arresting, detaining, and jailing victims of sex trafficking is unacceptable, it is happening throughout the nation. When organizations are looking for victims of human trafficking, Professor Carr tells them to go to the jails and talk to the adults and children who were apprehended for prostitution. She spoke about a project that began in March 2011 whereby women and men who are arrested for prostitution are interviewed to see if they are victims of human trafficking. Within the first six months, the project had represented 139 individuals, more than 40 individuals had disclosed trafficking histories, and an additional 35 individuals were identified as being at extremely high risk for trafficking. Professor Carr stated although advocates and victim service providers are not surprised by these statistics, the criminal justice system has not yet acknowledged this reality.<sup>49</sup>

Professor Carr stated that society must acknowledge that federal human trafficking law is insufficient to combat the problem and protect victims. She also said that state laws on prostitution and child welfare must be updated to protect human trafficking victims; resources should be used to help, rather than harm, victims; and access to comprehensive and independent legal services to all victims of human trafficking should be provided. She noted that the goals of a prosecution are often in conflict with those of the victim.<sup>50</sup>

### ***Salvador Cicero, Member, Cook County Anti-Trafficking Task Force***

Mr. Cicero said that Cook County, Illinois, has been designated as one of the biggest hot spots for both national and international trafficking.<sup>51</sup> He added that Illinois has a very good state human trafficking law because the people involved in creating the law were former prosecutors who

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<sup>48</sup> Ibid., 55-56.

<sup>49</sup> Ibid., 56-57.

<sup>50</sup> Ibid., 57-58.

<sup>51</sup> Salvador Cicero Testimony, *Briefing Transcript*, p. 60.

already had the experience. In 2010, when Illinois passed the Safe Children Act,<sup>52</sup> it became one of the first states to put forth comprehensive legislation to address the human trafficking of children under the age of 18. Among other provisions, the Act ensured that innocent children who are lured or coerced into prostitution will now be immune from criminal prosecution and will be placed in the child protection system instead of the criminal justice system. The Act also removed references to “juvenile prostitutes” in Illinois’ criminal code. This landmark legislation provided police and prosecutors with the tools they needed to aggressively tackle human trafficking. For example, the law allowed the same legal tools used to fight groups selling drugs to be used against groups who traffic children. The Act also allowed officer-safety recordings to protect undercover officers during dangerous sex trafficking investigations. Additionally, it allowed law enforcement to impound any vehicle used for a variety of human trafficking and prostitution-related crimes. Mr. Cicero noted, however, that there needs to be a change of culture within law enforcement. He also pointed out that people needed to be educated in the area of trafficking. He thinks that the sex trafficking is related to broader problems in the field of gender relations, and he would like to see public schools do more to address these larger issues.<sup>53</sup>

Mr. Cicero agreed with previous speakers about the lack of services available for individuals who have been rescued from trafficking. He described the first victim that he rescued from trafficking as a 24 year old female who had been prostituted for 10 years and had no marketable job skills. Mr. Cicero found her a job, but she eventually ended up back on the streets. He acknowledges that while he failed miserably in this case, he learned from it.

Mr. Cicero spoke about how he contacted law enforcement, community representatives, the Salvation Army, and grantees receiving federal funds to inquire about services for trafficking victims. He was told there was not enough space for victims or services were not offered to victims. Mr. Cicero, as a result of a phone call from the Illinois State Guardian, participated in a meeting at the Cook County Juvenile Justice Center and the Salvation Army, the FBI, the Chicago Police, county courts, the Department of Children and Family Services, and several advocates like himself attended. The Cook County Anti-Trafficking Task Force was created and included local trafficking experts. The task force adopted the Partnership to Rescue Our Minors from Sexual Exploitation (PROMISE) program. This program is being run for the Salvation Army. The task force has obtained federal funding, operates a shelter and reinsertion program, and is revising a state anti-trafficking law.<sup>54</sup>

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<sup>52</sup> Public Act 96-1464.

<sup>53</sup> Cicero Testimony, *Briefing Transcript*, pp. 60-62.

<sup>54</sup> Statement of Salvador Cicero submitted to the U.S. Commission on Civil Rights, pp. 102-103.

Mr. Cicero spoke about the difficulty of using victims as witnesses to prosecute trafficking cases. He talked about the need to use wiretaps as an alternative evidence gathering tactic although as a defense attorney this is something that he has always been opposed to. He noted that this activity has been very effective in helping victims.<sup>55</sup>

***Merrill Matthews, Texas State Advisory Committee to the U.S. Commission on Civil Rights***

According to Dr. Matthews, Texas is at the forefront of human trafficking, both in numbers and in an attempt to address the problem. U.S. Department of Justice reports have identified El Paso and Houston as two of the major human trafficking cities. Dr. Matthews noted that Interstate 10, which goes from Houston through San Antonio to El Paso, apparently facilitates traffickers' ability to transport victims across the state. He stated that the attorney general estimates that one out of every five human trafficking victims travel through Texas; nearly 20 percent of all human trafficking victims that have been rescued were done so in Texas; and 38 percent of all calls to the National Trafficking Resource Center hotline were dialed from Texas.<sup>56</sup>

Dr. Matthews noted that in 2003, Texas was one of the first states to pass legislation on human trafficking. In 2008, as a follow-up, the attorney general produced a 92-page report which created a human trafficking prevention task force to look at some of the efforts to address this issue, identify the problem, and try to find resources.<sup>57</sup> In 2011, the Human Trafficking Prevention Task Force issued a report with recommendations,<sup>58</sup> which in Matthews' view turned out to be timely because Texas hosted the Super Bowl that year. Dr. Matthews spoke about the number of conferences that were held before the Super Bowl to try to create awareness of human trafficking, particularly because a number of people would rent out their houses as a way to make money and might not realize that their rented-out houses would be used as sites for trafficking. Dr. Matthews noted that the human trafficking problem was not as bad as expected at that time.<sup>59</sup>

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<sup>55</sup> Cicero Testimony, *Briefing Transcript*, pp. 63-64.

<sup>56</sup> Merrill Matthews Testimony, *Briefing Transcript*, pp. 65-66.

<sup>57</sup> Ibid., 66. See "The Texas Response to Human Trafficking," available at [https://www.oag.state.tx.us/AG\\_Publications/pdfs/human\\_trafficking\\_2008.pdf](https://www.oag.state.tx.us/AG_Publications/pdfs/human_trafficking_2008.pdf).

<sup>58</sup> The entire report is available online at [https://www.texasattorneygeneral.gov/files/agency/human\\_trafficking.pdf](https://www.texasattorneygeneral.gov/files/agency/human_trafficking.pdf). Among the recommendations were calls for improved data collection concerning trafficking; heightened penalties for crimes related to underage prostitution which, among; removing the requirement that prosecutors have to prove force, fraud, and coercion in cases involving the trafficking of minors; and increasing the statute of limitations for victim lawsuits.

<sup>59</sup> Matthews Testimony, *Briefing Transcript*, pp. 66-67. See n 20, *supra*, for discussion of popular press articles claiming that these concerns have been exaggerated.

Dr. Matthews said that four areas in Texas received federal assistance through the Trafficking Victims Protection Act. The sheriff's department in one of those areas has been coordinating with other organizations to try to identify and provide assistance to the human trafficking victims in that area. Dr. Matthews said that he knew major cities would also be receiving federal funds so the task force called a number of medium-sized cities to ask if there were any efforts going on to identify human trafficking. The task force found that mid-sized cities appeared much less well-positioned to respond to trafficking.<sup>60</sup>

***Karen Hughes, Lieutenant, Las Vegas Metropolitan Police Department***

Lieutenant Hughes said that she oversees one of the largest teams of detectives in law enforcement that does vice-related investigations. She has two teams whose sole task is investigating sex trafficking cases. One team, the Innocence Lost Task Force, deals with children under the age of 18 and has been in existence since the mid-part of the last decade.<sup>61</sup> Law enforcement in Las Vegas, however, has been involved in domestic minor sex trafficking since 1994. The other task force, the Southern Nevada Human Trafficking Task Force, which Lieutenant Hughes formed three years ago, focuses on adult women who are also victims. Many of these women first become victimized between 12 and 14 years of age.<sup>62</sup>

Lieutenant Hughes said that trafficking victims are found on the streets (or "in a circuit") and they do not stay in cities very long, especially when law enforcement efforts are beefed up. Traffickers are more prevalent in areas where they can profit from their victims. She stated that Las Vegas is the prime area for traffickers to bring their victims and exploit them through a variety of venues, in particular hotels. Her biggest challenge is the internet because it provides many opportunities to traffickers to advertise escorts and escort services. She noted that there needs to be tougher laws with more restrictions on the escort business with regard to how they are allowed to operate.<sup>63</sup>

According to Lieutenant Hughes, coercion, force, and fraud come into play because of the demanding nightly quotas that victims are expected to meet. She said that these quotas drive the violence that is behind the sex trafficking industry. Theft also is a significant part of the trafficking industry. Lieutenant Hughes noted that the victims are trained to be thieves and they are put in these roles so that they themselves cannot turn on the traffickers. In other words, if these women become criminals, they are less likely to step forward and say, "I am a victim." Lieutenant Hughes said that

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<sup>60</sup> Ibid., 67-69.

<sup>61</sup> Karen Hughes Testimony, *Briefing Transcript*, pp. 69-70, 72.

<sup>62</sup> Ibid., 73.

<sup>63</sup> Ibid., 70-71.

threats and violence are very much a part of the manipulation that traffickers use against their victims.<sup>64</sup>

Lieutenant Hughes acknowledged that within the last five years, she has been able to change the mindset and the culture within her unit. She said that her detectives are victim advocates, something that is very unusual in law enforcement.<sup>65</sup>

Lieutenant Hughes stated that she is working with their Attorney General gathering statistics on trafficking. Those statistics are being shared with northern Nevada.<sup>66</sup> According to Lieutenant Hughes, in 2011, there were 131 victims under the age of 18 and approximately 74 percent of those victims were from Las Vegas. She noted that this percentage is extremely high; traditionally the percentage has been roughly 50 percent. Lieutenant Hughes said that traffickers are coming into Las Vegas and recruiting young women and young men right out of their high schools.<sup>67</sup>

Lieutenant Hughes further stated that gang affiliation is also a huge component of sex trafficking. She pointed to the need to work collaboratively with federal law enforcement and began working with the Internal Revenue Service about three years ago. The trafficking industry is all based on money. She said that assets should be seized from traffickers and put into victim services.<sup>68</sup>

## **Discussion**

Chairman Castro asked Lieutenant Hughes if African Americans are being disproportionately targeted for victimization. Lieutenant Hughes said that last year she began working with the local clergy, particularly in minority communities. She noted that groups of clergy and pastors are now providing parenting forums because pimps are canvassing bus stops in expensive cars, such as Jaguars or Mercedes, and this is appealing to young girls that come from homes with limited resources.<sup>69</sup>

Commissioner Kladney noted that Lieutenant Hughes originally told him that the clergy, along with a school nurse actually approached her. He asked that she relate that story because he thought it showed how motivation can empower a community. In response, Lieutenant Hughes related an

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<sup>64</sup> Ibid., 71-72.

<sup>65</sup> Ibid., 74.

<sup>66</sup> Ibid., 72.

<sup>67</sup> Ibid., 74.

<sup>68</sup> Ibid., 75.

<sup>69</sup> *Briefing Transcript*, pp. 76-77.

incident that occurred about two years prior where she received a phone call from one of her peers within the Federal Bureau of Investigation who thought that his daughter was involved in sex or human trafficking. She asked him some basic questions about branding, tattooing, names, and boyfriends, all of the things that law enforcement use to identify the possibility of trafficking. She noted that all of the answers to her questions pointed to prostitution. Although the daughter had not been arrested yet, she was 18 and considered an adult. Although it is believed that most youth involved in this activity come from dysfunctional homes, Lieutenant Hughes stressed that many of the victims in Las Vegas come from very functional homes, as was the case of this peer's daughter. Lieutenant Hughes, along with her staff and the daughter's parents, worked towards identifying, incarcerating, and convicting the pimp. The daughter is now out of "the Game" but she is bitter, hates her parents and is in love with her pimp. She does not identify herself as a victim. Lieutenant Hughes said now that mother serves as a resource and helps to educate the public when she speaks to groups in Las Vegas.<sup>70</sup>

Commissioner Gaziano noted that while some counties in Nevada have legalized commercial sex, Las Vegas is not one of those jurisdictions. He asked Lieutenant Hughes and others whether a legal outlet for those wanting commercial underage sex would reduce the black market for commercial sex with teens and children.<sup>71</sup> Lieutenant Hughes adamantly stated that she is not a supporter of, nor would she ever entertain the discussion of, legalizing prostitution because of the physical and internal scars of victims.<sup>72</sup>

Commissioner Gaziano asked why Lieutenant Hughes thought that legalizing prostitution would not decrease the demand for commercial underage sex. Lieutenant Hughes said that juveniles and minors will always be a part of the demand for sex and she hopes that there will never be a law to legalize prostitution.<sup>73</sup> Mr. Cicero noted that framing prostitution as trafficking is dangerous because they are two different things. According to Mr. Cicero, nearly every country in the Western hemisphere has legalized prostitution and the Dominican Republic has regulated areas where the women who are prostitutes have housing. He also noted that in places like Mexico and Argentina if you are a prostitute you have to be registered. Mr. Cicero thinks that there is value in regulating prostitution, but said whether that helps in the trafficking area is a different question.<sup>74</sup> Professor Carr thinks that the buying of sex in the United States has been decriminalized and she went on to state that the risk of being arrested when you are a buyer of sex is extremely low. Professor Carr

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<sup>70</sup> Ibid., 78-79.

<sup>71</sup> Ibid., 80-81.

<sup>72</sup> Ibid., 81-82.

<sup>73</sup> Ibid., 84.

<sup>74</sup> Ibid., 84-87.

stated that we need to move past the position that unless the victim testifies, we have no evidence of prostitution. The cell phone with phone numbers of buyers, as well as computer IP addresses of buyers, can be used as evidence.<sup>75</sup> Dr. Matthews noted that decriminalizing prostitution would take some of the profit motive away and it may reduce violence but it would not necessarily reduce the incidence of prostitution.<sup>76</sup>

Chairman Castro asked what the federal government is doing now that it could be doing better; and what is it not doing that it should be doing. Mr. Cicero said that a joint task force with the U.S. attorney and the state attorney was created and when they do their investigations they figure out whether a case will be charged under state or federal law. Last year under this system, they rescued approximately 40 victims in one operation. However, Mr. Cicero noted that helping the victims is not going very well. He said that the National Immigrant Justice Center, based out of Chicago, was one of those organizations that were doing wonderful work for victims, but they lost their funding. He said that local people feel that the federal mandates are great, but there is a lack of funding.<sup>77</sup> Professor Carr stated that she thinks the human trafficking hotline is a fantastic resource and that they just received their 50,000<sup>th</sup> call. She thinks that at the federal level, lawyers could be made available for victims in cases involving U.S. citizens, just as they are for cases involving foreign national victims, because those citizens have a variety of legal needs including possible criminal liability. She noted that in light of the fact that the regulation of prostitution is left to the states, there is a limit to what the federal government can do on this issue.<sup>78</sup>

Commissioner Kladney said that 15 of the 17 counties in Nevada have legalized prostitution. He noted that pimps are still involved in legalized prostitution. Commissioner Kladney said that the women go to work for 25 days a month and they go home for five days. Their pimps are waiting at home for the money and violence still exists. He asked the panelists to comment on this. Mr. Cicero said that in countries such as Mexico, the law only allows the prostitution of oneself if you are over the age of 18 because you have the legal capacity to choose. He noted that pimping is outlawed in Mexico, so prosecutions would be for proxenetism.<sup>79</sup> Mr. Cicero said that the culture of pimping, the means of coercion, is not physical anymore. A cell phone, as well as voodoo, can and has been used as a means of force.<sup>80</sup>

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<sup>75</sup> Ibid., 87-88.

<sup>76</sup> Ibid., 89-90.

<sup>77</sup> Ibid., 92.

<sup>78</sup> Ibid., 93-94.

<sup>79</sup> Ibid., 94-95. Mexico does have a trafficking law as well.

<sup>80</sup> Ibid., 96.

Commissioner Kladney asked Lieutenant Hughes how many people were on her teams, if she needed more resources, and what kinds of resources were lacking. Lieutenant Hughes stated that in addition to the two previously mentioned teams that are dedicated to investigating sex trafficking cases, she has three additional teams. She noted that she needs simple things that would be beneficial for victims, such as a pair of eyeglasses for a victim whose vision is off or a kennel carrier for a victim who needs to be reunited with his/her family back in New York but the victim will not get on the plane without his/her animal. Lieutenant Hughes talked about the need for training, safe houses to harbor their victims, and funding to do long-term investigations.<sup>81</sup> Professor Carr agreed with Lieutenant Hughes about the need for safe houses to harbor victims. She further noted that until other options are available, the only choices that law enforcement have for placement of victims are jail or the streets.<sup>82</sup> Mr. Cicero said that in Illinois, the Department of Children and Family Services now has the legal authority to house under-aged rescued victims, and the change in law is working very well.<sup>83</sup>

Commissioner Heriot asked Lieutenant Hughes how often the testimony of a prostitute is needed in order to successfully prosecute a pimp. Lieutenant Hughes said that she does not feel that it is absolutely necessary for a victim to testify against his/her trafficker.<sup>84</sup> Commissioner Heriot asked Lieutenant Hughes to provide the number of cases in which she is positive that a person under investigation is guilty of pandering but the lack of testimony does not allow the case to be successfully prosecuted. Lieutenant Hughes said that it happens often, but she did not have those statistics readily available. According to Lieutenant Hughes, victims are reluctant to testify because they do not receive the necessary resources, help, or services that would allow them to feel comfortable doing so.<sup>85</sup>

Commissioner Kladney asked if there were any model statutes being drafted for prosecuting panders. Mr. Cicero said that anti-slavery laws have been used to prosecute people successfully. Mr. Cicero is not aware of any model law at the state level, but he thinks such a law would be a great idea.<sup>86</sup> Professor Carr said that the Department of Justice and the Polaris Project both have model human trafficking laws. Those model laws, however, are based on the federal law and do not include much that is needed concerning prostitution, according to Professor Carr. Professor Carr

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<sup>81</sup> Ibid., 98-99.

<sup>82</sup> Ibid., 99-100.

<sup>83</sup> Ibid., 100.

<sup>84</sup> Ibid., 101-103.

<sup>85</sup> Ibid., 103-104.

<sup>86</sup> Ibid., 106-107.

noted that spotlights are not shown on innovative approaches to prosecuting cases and the work of Lieutenant Hughes needs to be spotlighted.<sup>87</sup>

Commissioner Kladney asked Professor Carr if she has thought about having her clinic work on a model statute. Professor Carr responded that she has been working with the state of Michigan to improve its human trafficking laws. She said that she could write some effective laws, but the problem is that those laws need to be enacted; and the prosecutors, district attorneys, and law enforcement would need to use them. She noted that there are already some strong laws on the books.<sup>88</sup> As an example, Professor Carr pointed out a sex trafficking case in which the victims did not want to participate, so the prosecutor brought the case based on tattoos because it is against the law to tattoo individuals under the age of 18. Professor Carr said the outcome of the case was numerous charges of aggravated assault and that the system could use more approaches such as this. Mr. Cicero said that creating good statutes is an issue of political will.<sup>89</sup>

Commissioner Gaziano spoke to Professor Carr's statement that commercial sex acts should be decriminalized. He said that while doing this may be fair and just, he believes that decriminalizing only half of the transaction does not take away the pimp's economic incentive and more young girls may be induced into the service. He then asked Professor Carr if she thought decriminalizing only half the transaction will change those who provide the service. Professor Carr responded she does not believe that decriminalizing the selling of sex will ever happen in the United States,<sup>90</sup> but would like the informal decriminalization that exists for buying to be extended to selling.<sup>91</sup> In response to Commissioner Gaziano's comment about his interest in international laws governing sex, Professor Carr said that Amsterdam has complete legalization and some evidence shows that victimization did increase.<sup>92</sup> She said that in Sweden the act is still illegal, but the sellers are decriminalized and victimization is decreasing. Professor Carr thinks there is an opportunity for states and cities to be leaders and innovators on this issue. She said that if either Amsterdam's or Sweden's model is used, it will be extremely important to track the data to see if the model is working.

Commissioner Heriot asked Professor Carr for clarification on her response to Commissioner Gaziano's question and what she meant by "victimization." Professor Carr responded that she was referring to human trafficking when she used the word victimization. Professor Carr said that in a

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<sup>87</sup> Ibid., 107-108.

<sup>88</sup> Ibid., 109-110.

<sup>89</sup> Ibid., 111.

<sup>90</sup> Ibid., 112.

<sup>91</sup> Ibid., 114.

<sup>92</sup> Ibid., 112, 115.

study that evaluated the question of whether sex trafficking decreased in light of the decriminalization of the selling of sex in Sweden, the response was yes.<sup>93</sup> Mr. Cicero added that Save the Children Sweden created the materials that he referred to for Nicaragua and El Salvador. He said that the Swedish experience is based on the idea that the person who has been exploited will not be punished; instead, the buyer will be punished. Mr. Cicero noted that the Swedes educate their public about not engaging in human trafficking and the penalty for buying sex.<sup>94</sup>

Commissioner Achtenberg asked Dr. Matthews to speak to the improvements that Texas has made in the arena of law enforcement. She also asked him if he could offer any observations about ways in which federal law and federal administration of the law could be improved for the benefit of Texas and victims of trafficking. Dr. Matthews said that in 2009, legislation that addressed some of the issues of decriminalizing sexual activity for children under 18 years of age was passed, but before that, minors arrested for illegal sexual activity were required to prove that they were coerced in order to be exonerated.<sup>95</sup> The legislation also requires the posting of notices of the national human trafficking hotline in overnight lodgings and other places where such crimes occur. Dr. Matthews noted that enough still has not been done, and that law enforcement lacks the real amount of resources that it needs to do its job. He pointed out that most of the efforts that have been achieved are the result of a federal grant as opposed to initiations from various cities and counties. Dr. Matthews does not think that addressing human trafficking is a big concern of smaller counties and middle-sized towns.<sup>96</sup>

Commissioner Kladney asked Dr. Matthews about the Texas border towns and the problem in trafficking. Dr. Matthews said that the Justice Department seems to think that Texas has addressed the trafficking problem somewhat, but the governor said that there is still a huge problem of people crossing the border. Dr. Matthews noted that Texas does not have a very good handle on illegal immigration and that they are now attempting to use drones and other methods to try to reduce some of the immigration and that a fair amount of trafficking is the result of people who are being brought across the border, but hard numbers do not exist.<sup>97</sup>

Commissioner Kladney asked if there is a lot of sex trafficking and Dr. Matthews acknowledged that there is. Dr. Matthews stated that when raids have taken place, illegal immigrants are normally the ones who are brought into custody. Dr. Matthews said that he is surprised at the amount of

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<sup>93</sup> Ibid., 116.

<sup>94</sup> Ibid., 117-118.

<sup>95</sup> Ibid., 119.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

activity coming out of Houston, particularly because of its lack of proximity to the border. Lieutenant Hughes said that Las Vegas has illegal neighborhood brothels that cater specifically to clients of minority communities.<sup>98</sup> She noted that the young women and girls are being trafficked and smuggled into Clark County through border towns and the traffickers and smugglers are using the illegal neighborhood brothels, as young women and girls are brought into Clark County.<sup>99</sup>

Chairman Castro noted that the Bureau of Justice Statistics indicated that 94 percent of sex trafficking victims that they have encountered are women. Chairman Castro asked the panelists about a possible correlation between gender and victimization in the area of sex trafficking. Professor Carr said she thinks it is what the buyer wants, whether it is a preference for a certain ethnicity, age, or sex act.<sup>100</sup>

### **Panel Three Presentations**

#### ***Mary Ellison, Director of Policy, Polaris Project***

Ms. Ellison said that sex trafficking is clearly a violation of gender-based civil and human rights that enslaves women and girls in commercial sex and that in her view is rooted in gender-based discrimination. She stated that from an international human rights perspective, sex trafficking is a form of slavery and involuntary servitude, resulting in human rights violations. She believes women and girls should be afforded the right to security of person, effective remedies, equal protection of the laws, freedom from slavery, torture, and discrimination. She noted that the United States government has an obligation to promote and protect these rights and to exercise due diligence in prosecuting the perpetrators, protecting trafficked persons, and preventing human trafficking and modern-day slavery.<sup>101</sup>

According to Ms. Ellison, the Polaris Project currently serves 130 individuals: 118 females, 10 males, and one transgender person. She noted that 72 percent of the clients in the New Jersey office are sex trafficking victims, but not all of them are women and some of the women are labor trafficked. Ms. Ellison believes that labor trafficking is also a gender-based civil and human rights violation that enslaves women and girls in domestic servitude, hotels, restaurants, strip clubs, farms, and factories. In the District of Columbia, the Polaris Project serves 65 clients: 60 women and 5 men. Of these 65 clients, 22 are being sex trafficked. Ms. Ellison said that trafficking also enslaves

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<sup>98</sup> Ibid., 124.

<sup>99</sup> Ibid.

<sup>100</sup> Ibid., 122-123.

<sup>101</sup> Mary Ellison Testimony, *Briefing Transcript*, p. 127.

men and boys, particularly gay and transgender individuals, in commercial sex and is in her view rooted in discrimination on the basis of sexual orientation and is rooted also in social exclusion.<sup>102</sup>

According to Ms. Ellison, the Department of Health and Human Services has issued 541 letters certifying that individuals are entitled to benefits under the Trafficking Victims Protection Act. She said that 78 percent of those victims were labor trafficked, both males and females; and 12 percent were sex trafficked, all of whom were females.<sup>103</sup>

In closing, Ms. Ellison pointed out that January has been declared National Slavery and Human Trafficking Prevention Month. She said everyone needs to broaden his or her vision to look at human trafficking as a human rights abuse that affects women, men, boys and girls.<sup>104</sup>

***Amy Rassen, Senior Advisor, the SAGE Project, Inc.***

Ms. Rassen said that the SAGE Project was started by a survivor of sex trafficking and is unique in that many of the staff are survivors of commercial sexual exploitation.<sup>105</sup> Ms. Rassen stated that according to the United Nations, people are reported to be trafficked from 127 countries into 137 other countries. She noted that 40 percent of all victims are sexually exploited, others work in conditions of slavery and 98 percent of the victims are women and girls.<sup>106</sup>

Ms. Rassen noted that her presentation would focus on domestic sex trafficking of minors, which she feels is under-researched and largely overlooked. She reiterated that the FBI estimates that the average age of entry into the commercial sexual exploitation industry is 12; and experts at Shared Hope International estimate that 100,000 American juveniles are victimized through prostitution each year. According to the National Center for Missing and Exploited Children, one in five girls and one in ten boys in America will be sexually victimized before reaching age 18. According to Rassen, childhood sexual victimization is linked very closely with vulnerability to being trafficked.<sup>107</sup>

Ms. Rassen spoke about two trends within the domestic minor trafficking population. The first trend is early sexual abuse, which is very dominant, and the second trend is exposure to either or both the

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<sup>102</sup> Ibid., 128-130.

<sup>103</sup> Ibid., 130-131.

<sup>104</sup> Ibid., 131.

<sup>105</sup> Amy Rassen Testimony, *Briefing Transcript*, p. 131. SAGE is an acronym for Standing Against Global Exploitation.

<sup>106</sup> Ibid., 132.

<sup>107</sup> Ibid., 133-134.

juvenile justice and foster care systems, which are smoke signals for where victims or those at greatest risk of victimization can be found. Others at particularly high risk include youth who: (1) are runaways; (2) experience high poverty rates or domestic violence; and/or (3) possess poor academic skills. Ms. Rassen noted that traffickers are not only those individuals identified earlier, but also include parents, other family members, and sexual predators reaching out to girls on the internet.<sup>108</sup>

Ms. Rassen stated that the government has taken a strong stance in attempting to wipe out human trafficking through the Trafficked Victims Protection Reauthorization Act, the President's Inter-Agency Task Force to Monitor and Combat Trafficking in Persons, and through leadership within various federal agencies, such as the Office of Victims of Crime within the Department of Justice.<sup>109</sup> Ms. Rassen noted that the federal government can, for example, fund more programs to keep kids off the streets and protect them from online perpetrators via stronger Internet safety laws. She further noted that the government can also ensure access to safe, supportive housing as viable alternatives to incarceration. In her opinion, continued funding of the systems that support and monitor foster parent programs in particular is needed, as is additional support for youth as they age out of the child welfare system, something that states are considering, too.<sup>110</sup>

***Rhacel Parrenas, Professor and Chair, Sociology Department, University of Southern California***

Professor Parrenas spoke about how the Department of State in its Trafficking in Persons (TIP) report has labeled a group of migrant Filipina hostesses in Japan as sex-trafficked. According to her, this labeling has affected their migration and led to a 90 percent decline in the number seeking hostess jobs. Professor Parrenas said that when labeled, there were approximately 80,000 Filipina hostesses going to Japan per annum and since 2006, only 8,000 are going per annum.<sup>111</sup> She said that while many would consider the decline in numbers as a victory in the war on trafficking, she sees the drastic decline as a threat to hostesses' empowerment as women. Professor Parrenas said that the hostesses felt that the labeling has imposed unwarranted infringement on their liberty to migrate and work, placing their individual freedom at risk.<sup>112</sup>

Professor Parrenas spoke about how the false assumption that the hostesses had not been willing to come to Japan and were duped and forced to be in that situation resulted of the conflation of

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<sup>108</sup> Ibid., 134-136.

<sup>109</sup> Ibid., 136.

<sup>110</sup> Statement of Amy Rassen submitted to the U.S. Commission on Civil Rights, p.77.

<sup>111</sup> Rhacel Parrenas Testimony, *Briefing Transcript*, p. 137.

<sup>112</sup> Ibid., 138, 140.

prostitution and sex trafficking. Most never engaged in prostitution, but instead flirted with male customers via banter. They generally did not come to Japan against their will. She noted that this false assumption that hostesses are prostitutes is not based on empirical research and even the Government Accountability Office has critiqued the TIP report for being based on scant information.<sup>113</sup>

Professor Parrenas claims that the absence of due diligence on the part of the U.S. Department of State and the organizations to which they provide funding to help Filipina hostesses and the false claims of their sex trafficking violated their civil rights by: (1) eliminating the hostesses' jobs, forcing their return to a life of abject poverty in the Philippines; (2) making false claims of their trafficking; and (3) ironically, leaving them more vulnerable to what is labeled as severe forms of trafficking.<sup>114</sup>

Professor Parrenas said that claims based on scant information, the conflation of sex work and sex trafficking, and the use of one person's experience to generalize about an entire group's experience only results in the misunderstanding of the problem.<sup>115</sup>

***Tina Frundt, Founder/Executive Director, Courtney's House***

Ms. Frundt spoke about being a survivor of sex trafficking in the United States and as the founder of Courtney's House. She said that her original trafficking situation began in Chicago, Illinois, when she was in foster care.<sup>116</sup> Ms. Frundt said that at the age of 15, when she could no longer take what was happening to her, she went to the police for help and her help came in the form of being charged and sentenced to one year in juvenile detention. But before she served the year in the juvenile facility in Chicago, she spent time, at age 14, in Cook County jail.<sup>117</sup> While at the juvenile facility, Ms. Frundt tried to get help and instead was placed into prostitution rehabilitation, where she was found to be noncompliant with the drug component of that program, as it required her to write a drug statement in which she could not admit truthfully to drug usage in which she had never engaged. Ms. Frundt stated that because she denied taking

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<sup>113</sup> Ibid., 139.

<sup>114</sup> Ibid., 140-141.

<sup>115</sup> Ibid., 142.

<sup>116</sup> Tina Frundt Testimony, *Briefing Transcript*, p. 143.

<sup>117</sup> Ibid., 146. Ms. Frundt said she lied about her age and said she was an adult because the trafficker told her to and she had a fake ID that listed her as being 26 years of age. Ibid.

drugs, she was placed in Cook County Mental Health facility for 30 days and was heavily drugged.<sup>118</sup>

Ms. Frundt indicated that Courtney House services both boys and girls because she noticed that although there were many boys being trafficked, there were fewer services available to them. Courtney House works with youth ages 12 to 18 and provides support groups for ages 18 to 21. Ms. Frundt said that Courtney House does not provide housing at this time but does provide drop-in center services. She said there is no one size fits all set of services for survivors of sex trafficking because each person is trafficked in a different way.<sup>119</sup>

Ms. Frundt stated that Courtney House is currently trying to open a group home and has a For Survivor By Survivor hotline where 63 percent of their children call in for services.<sup>120</sup> Ms. Frundt noted this figure is based on street outreach done in Maryland, the District of Columbia, and Virginia and at local malls. She said they go out from 2:00 a.m. to 7:00 a.m. telling victims what types of services are available and providing assistance to victims to get them out of their situation immediately. Courtney House has more than 20 cases with whom they are currently working. Ms. Frundt said that 100 percent of its boys are in the foster care system and all were trafficked when they were between six and nine years of age. She stated that all the boys are in the system due to family-controlled trafficking and they may identify as gay and/or transgender. Ms. Frundt noted that many of the boys are sent to mental health facilities for gender identification issues.<sup>121</sup>

## Discussion

Commissioner Achtenberg asked Ms. Rassen and Ms. Ellison to speak about the services that they offer to survivors of sexual exploitation and also the services they would like to offer if the resources were available.<sup>122</sup> Ms. Rassen replied that their services are fairly comprehensive, due in part to partnerships with the federal government. Ms. Rassen said that her organization provides services to girls and women. Key services include counseling, case management, life skills classes, support and education groups, and acupuncture, as well as presentations at high schools and training law enforcement personnel, teachers, social workers and others on identifying the signs of a victim of trafficking. She noted anyone who has been trafficked is

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<sup>118</sup> Ibid., 146-147.

<sup>119</sup> Ibid., 143-144.

<sup>120</sup> Ibid., 144.

<sup>121</sup> Ibid., 145.

<sup>122</sup> *Briefing Transcript*, pp. 148-149.

considered a trauma victim. She said there is no point to providing only housing or mental health services; rather, the trauma has to be addressed so that the victim can move on to complete education and job training. Ms. Rassen's organization also goes out into the community jails and detention centers in San Francisco to form relationships with both children and adults. Upon release, they are connected to SAGE for resources and support. She noted that recently the San Francisco Sheriff's Department funded a position located at the San Francisco adult reentry center, thus enabling even easier access to SAGE for released victims.<sup>123</sup> In an effort to impact the demand side of people being victims of sex trafficking, SAGE runs a "Johns School" as a diversion program, in partnership with the District Attorney's Office. Men picked up by the police for solicitation spend one day in a classroom setting experiencing the impact of their behavior on the women solicited, their own families and the community at large. It was noted that studies show limited recidivism among the men who attend the Johns Schools.

Ms. Ellison responded that her organization has client services in the District of Columbia and Newark, New Jersey. She said they provide comprehensive case management which includes intake with their clients and identifying their needs, which range from social service to counseling to medical needs to housing, employment, job retention, and education. Ms. Ellison said that one of the challenges for her organization is finding housing for their survivors. While her organization receives funding from the Departments of Justice and Health and Human Services, some of the Health and Human Services' funding is used towards housing. She states that many times she has to use shelters or hotels—a situation that is not particularly constructive for sex trafficking victims, because it can often trigger the trauma that they have experienced if they were sex trafficked in a hotel setting.<sup>124</sup> Ms. Ellison noted that since December 2007, her organization has received 50,000 calls on the National Human Trafficking Resource Center Hotline from every state and territory in the United States, as well as from international locations. Based on these calls, housing, legal services, and comprehensive case management has been identified as the top three needs. She noted that there are fewer than 100 beds available specifically for trafficked children.<sup>125</sup> Ms. Rassen also noted that housing is a concern for her organization. She said that SAGE sees about 400 people a year, roughly 150 to 200 are children and the balance are adults. She agreed with Ms. Frundt's statement that a cookie-cutter approach will not work because although victims' experiences may sound the same, they are not.<sup>126</sup>

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<sup>123</sup> Ibid., 149-150.

<sup>124</sup> Ibid., 151.

<sup>125</sup> Ibid., 152-153.

<sup>126</sup> Ibid., 153.

Commissioner Gaziano noted that Ms. Rassen's written statement cited to experts at Shared Hope International estimating that 100,000 American juveniles are victimized through prostitution each year. He said that a different writing, citing the same study, estimated 100,000 to 300,000 minors at risk for being exploited. He said that he did not know how individuals are being defined as at risk. Commissioner Gaziano asked Ms. Rassen and Professor Parrenas if they agreed with Attorney General Zoeller about the state of statistics and if they could comment on the aforementioned number of minors at risk for being exploited. Professor Parrenas responded that she believes many scholars would agree with her that a great deal of the general knowledge about human trafficking or sex trafficking is based mostly on speculation.<sup>127</sup> She said that even the United Nation's Office of Drugs and Crime, which is responsible for human trafficking, basically admits on its website that a lot of what it says is speculation. Professor Parrenas noted that the crime occurs underground and you can only guess at what is going on. When one or two cases are found, they are used to speculate what is happening.

Professor Parrenas pointed out that as a scholar who has been really involved in labor and migration studies for more than a decade, she does not really see much of what is commonly viewed as human trafficking as involuntary, but rather as labor and migration. She noted that not acknowledging that a lot of these people want to do sex work is what is missing in the discussion of sex trafficking.<sup>128</sup> Ms. Frundt acknowledged that the statistics are not correct on girls because it is difficult to distinguish trafficked children from runaways and other populations that look like trafficked children, but are not. The statistics are also nonexistent on boys, and she announced that Courtney House will be releasing its own collection of research on them.<sup>129</sup>

Ms. Rassen stated that human trafficking numbers are an extrapolation from different variables. She said there are no mechanisms for tracking human trafficking, and only grantees of ORR and HHS have access to the national tracking system.<sup>130</sup> Ms. Ellison said that people have tried to collect numbers on human trafficking and a few years ago, Northeastern University in Massachusetts undertook a study to try to count the number of human trafficking victims. She said that within human trafficking there is both sex trafficking and labor trafficking; and each of these types of trafficking occur in different venues. Ms. Ellison said that within the sex trafficking arena, there are brothels, massage parlors, street prostitution, strip clubs, and truck stops; while on the labor trafficking side, the venues include hotels, restaurants, factories, farms,

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<sup>127</sup> Ibid., 156.

<sup>128</sup> Ibid., 158.

<sup>129</sup> Ibid., 159.

<sup>130</sup> Ibid.

and construction sites.<sup>131</sup> Because of the nature of human trafficking, Ms. Ellison stated that data is missing in many of these categories.<sup>132</sup> Commissioner Gaziano commented that there are other analogous crimes, such as drugs, where you have a transaction that neither side wants to report, but there seems to be reliable statistics. Even after Ms. Ellison talked about why sex trafficking data is hard to collect, Commissioner Gaziano still wondered if data on sex trafficking is just not being collected.<sup>133</sup>

Ms. Ellison noted that as of January 1, 2013, when reporting crime statistics to the uniform crime reports, states must also report human trafficking as an offense.<sup>134</sup> Commissioner Gaziano asked if there would be uniform definitions because individual state laws, as well as federal laws, are different. Ms. Ellison responded that the Uniform Law Commission was in the process of drafting a uniform state statute on human trafficking due to the differences in state definitions.<sup>135</sup>

Chairman Castro asked Ms. Rassen to speak about the impact technology has had on sex trafficking. Ms. Rassen said that she thinks technology has played a big part in the recruitment of girls and women. She stated that approximately one in seven children, 10 to 17 years of age, have been solicited for sex on the internet.<sup>136</sup> Ms. Rassen said not only has the internet been dangerous in this regard for girls, but for anyone who is being solicited. She suggested that the federal government address the use of the internet for solicitation and pairing up with predators. Ms. Rassen further suggested that the federal government become involved in the tactics and strategies that the fashion and media industry use in advertising because being hot and sexy leads 12- and 14-year-olds down the wrong path.<sup>137</sup> She also spoke about the need to allocate more funds into the foster care system.<sup>138</sup> She said that more after-school programs are needed to keep children off the streets. She feels that the TVPA needs to be reauthorized.

Chairman Castro asked if there were any recommendations for the federal government. Ms. Frundt suggested that the federal government address the demand side of sex trafficking, the men buying sex with children from traffickers.<sup>139</sup> Ms. Ellison discussed the need for

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<sup>131</sup> Ibid., 160-161.

<sup>132</sup> Ibid., 162-164.

<sup>133</sup> Ibid., 164.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid., 165.

<sup>136</sup> Ibid., 166.

<sup>137</sup> Ibid., 167.

<sup>138</sup> Ibid., 167-168.

<sup>139</sup> Ibid., 168.

collaboration across government agencies, similar to the broadcasting of the President's Interagency Task Force on Human Trafficking where many of the secretaries from all government agencies were present and talking about their plans to address trafficking.<sup>140</sup> Ms. Ellison also mentioned funding and used the Department of Justice as an example of an agency that has seen a 600 percent increase in the number of cases that they plan to prosecute, but neither their funding nor the funding of other service providers has increased. Ms. Ellison noted the need for more training, in particular for government officials who may be interacting with trafficking situations.<sup>141</sup> Professor Parrenas spoke of the need for more funding for scholars doing research on vulnerable populations.<sup>142</sup>

Commissioner Heriot asked Professor Parrenas to explain how the Filipinas are able to finance their moves to Japan. Professor Parrenas stated that the majority of Filipino migrants are domestic workers and they go to more than 160 countries. She explained that the women and men are evenly divided among domestic workers, but two-thirds of all the women are domestic workers.<sup>143</sup> Professor Parrenas said a domestic worker has to pay \$12,000 U.S. to go to Italy; \$8,000 to go to Canada; \$5,000 to go to Taiwan; and \$3,000 to go to Hong Kong,<sup>144</sup> but that it would cost nothing to go to Jordan or Saudi Arabia because these are "undesirable locations."<sup>145</sup> She added that it usually does not cost anything to go to Japan, but the women who do so are required to train as a dancer or singer and they incur debt this way. Commissioner Heriot inquired as to who pays for their transportation. Professor Parrenas said the labor migrant broker from the Philippines, along with migrant brokers from Japan, ensures that the labor rights of the migrant are protected and the women become indebted to them for a certain time period.<sup>146</sup> When the women arrive in Japan, they are paid only a quarter of their wages; the remaining wages are paid to their brokers.<sup>147</sup> Professor Parrenas noted that this kind of labor migration is not just particular to the Filipinas, but globally for all migrant workers.<sup>148</sup>

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<sup>140</sup> Ibid.

<sup>141</sup> Ibid., 170.

<sup>142</sup> Ibid.

<sup>143</sup> *Briefing Transcript*, p. 174

<sup>144</sup> Ibid.

<sup>145</sup> Ibid., 174-175.

<sup>146</sup> Ibid., 175.

<sup>147</sup> Ibid.

<sup>148</sup> Ibid., 176.

Commissioner Gaziano asked the panelists to distinguish between prostitution and sex trafficking. He also asked for a “guesstimate” of the proportion of the commercial sex market that is prostitution and the proportion that is sex trafficking. Ms. Ellison replied that for a legal definition one could cite to the TVPA, as well as state laws. Ms. Ellison noted that under federal law, prostitution exists if an adult voluntarily engages in a commercial sex act, and there is no force, fraud, or coercion.<sup>149</sup> Sex trafficking exists if force, fraud, and coercion are used. If one is under 18 years of age, force, fraud, and coercion does not have to exist for the act to be considered sex trafficking. Ms. Ellison stated that not all prostitution is sex trafficking, but she also said that she did not know what the percentages were nor did she have any empirical evidence for guessing a number. According to Ms. Ellison, prostitution inherently has an element of gender-based discrimination, simply because it is a woman’s body that is for sale.<sup>150</sup>

Ms. Ellison said society should better regulate prostitution so there would not be abuse and to ensure that individuals know what their rights are and have access to health care.<sup>151</sup> Conversely, Ms. Ellison said, on the opposite side of the argument, unless prostitution is abolished and this phenomenon of people buying and selling sex is undone, we cannot ever change the dynamics around prostitution or sex trafficking.<sup>152</sup> Ms. Frundt said that most survivors and most people involved in prostitution started at a much younger age, but she does not know the exact number. She said that what one is taught as a child carries over into adulthood. She stated that anytime one has a pimp that takes all of one’s money, puts one on a website, and one gets nothing, that becomes a control mechanism.<sup>153</sup> She said that one’s own mindset does not understand it because this is what one has been accustomed to for one’s entire life. Ms. Frundt noted that if you legalized prostitution, pimps will still think of a way to be involved and make money, because they think like marketers.<sup>154</sup> Ms. Rassen agreed with Ms. Frundt that adults involved in trafficking do not feel exploited and think what they are doing is their choice, even though they have been beaten and raped. Ms. Rassen thinks that high-end escorts are a few of the only individuals who are able to make some kind of choice. She noted, however, that the individuals they see at SAGE are driven by events they have experienced and how they feel about themselves; they are not really able to make rational life choices.<sup>155</sup>

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<sup>149</sup> Ibid., 178.

<sup>150</sup> Ibid., 179

<sup>151</sup> Ibid.

<sup>152</sup> Ibid., 180.

<sup>153</sup> Ibid.

<sup>154</sup> Ibid., 181.

<sup>155</sup> Ibid., 182

Commissioner Kladney asked Professor Parrenas to elaborate on the four-or five-century-old process that brokers for labor have used. He wanted to know how much the employer pays the broker. Professor Parrenas noted that the amount of the payment depends on the country, but in Japan the employer does not pay the broker. Professor Parrenas spoke about Taiwan and how the broker receives three months of wages for domestic and factory workers.<sup>156</sup> Previously, Professor Parrenas called attention to the conditions of legal servitude that most migrant workers today face, even in the United States; and how these workers ought to be allowed to quit their jobs once they arrive at their destination and go to work for other employers. She noted that H-1B visa workers, who also pay a broker, are bound to their employer just as migrant workers are.<sup>157</sup> Professor Parrenas said the question is how to utilize the labor of migrant workers, reward them for that labor, but ensure that the risk of abuse is minimized.<sup>158</sup> Professor Parrenas stated that workers should be able to change employers if they find themselves in abusive situations. Commissioner Kladney asked Professor Parrenas who would enforce this and what mechanism she proposes. Professor Parrenas noted that she has not proposed a mechanism, but she feels that workers should be able to go their embassies to find a way to become free of their debt. Further, she expressed that direct employment should be a possibility, as it would minimize the need for migrant brokers.<sup>159</sup> Professor Parrenas said that both migrant brokers and employers can be abusive and the fact that workers will not quit because they owe money to the migrant broker is a worldwide problem.<sup>160</sup>

Commissioner Kladney inquired as to whether there is someone out there working on trying to create a better system. Ms. Ellison said that Polaris Project is a member of a national anti-trafficking coalition called the Alliance to End Slavery and Trafficking, which is a 12-member organization based in the United States. She said that one of the issues the coalition has been working on is foreign labor recruiters. Ms. Ellison said that exploitation and trafficking is definitely occurring just as Professor Parrenas stated.<sup>161</sup> Ms. Ellison said they get calls from workers about exploitation and trafficking occurring with the H-2A, H-2B, A-3, G-5 and J-1 visa

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<sup>156</sup> Ibid., 183.

<sup>157</sup> Ibid., 184. An H-1B visa is a non-immigrant visa that allows U.S. companies to employ foreign workers in specialty occupations that require theoretical or technical expertise in specialized fields such as in architecture, engineering, mathematics, science, and medicine.

<sup>158</sup> Ibid., 185.

<sup>159</sup> Ibid., 186.

<sup>160</sup> Ibid., 186-187.

<sup>161</sup> Ibid., 187.

programs.<sup>162</sup> Ms. Ellison said that Polaris Project developed a policy proposal that was part of the original House version of the Trafficking Victims Protection Reauthorization Act, HR 2830.<sup>163</sup> She noted, however, that the bill has been replaced by one that does not include the Project's provision. Ms. Ellison said that Polaris Project is now moving forward to make that provision a stand-alone bill.<sup>164</sup> The Polaris Project's proposal creates a registry system. Although the Department of Labor is already tracking labor recruiters, Ms. Ellis feels that there needs to be more pressure requiring them to register in this system. Employers would be able to use the registry to determine if a labor broker is registered and whether or not they are abiding by the law. The proposal incorporates penalties and other protections.

Commissioner Kladney asked Professor Parrenas if she thought a broader proposal was needed. Professor Parrenas reiterated her previous statement that she does not believe that legal servitude is human trafficking; and she noted that many migrant workers knowingly agree to the contract.<sup>165</sup> Professor Parrenas said that many times labor brokers will add on extra contingencies that are not part of the contract, but it becomes an unspoken agreement. She contended that workers put themselves in these vulnerable positions because they think servitude is better than poverty. Professor Parrenas stated that there are a lot of local organizations that try to educate various migrant groups globally, but she said there is not much in terms of a global alliance. Professor Parrenas agreed that advocacy work on behalf of migrant workers is better than no regulation.

Commissioner Kladney asked Professor Parrenas if she thought a lot of people in the Pot Pang and Thailand are trafficked, especially the children of the Pot Pang. In response, Professor

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<sup>162</sup> Ibid., 188. The H-2A visa allows a foreign national entry into the United States for temporary or seasonal agricultural work. The H-2B working visa is a nonimmigrant visa which allows foreign nationals to enter into the United States temporarily and to engage in nonagricultural employment which is seasonal, intermittent, a peak load need, or a one-time occurrence. The A-3 nonimmigrant visa allows the personal attendants, employees or servants of the principal A-1 or A-2 visa holders and the immediate family members of principal A-3 visa holders to enter into the United States. The G-5 visa is a nonimmigrant visa which allows attendants, servants or personal employees of principal G-1, G-2, G-3 and G-4 visa holders to enter into United States to render services to the principal G visa holder. The immediate family members of principal G-5 visa holders also qualify for G-5 visa.

The J-1 visa is a non-immigrant visa issued by the United States to exchange visitors participating in programs that promote cultural exchange, especially to obtain medical or business training within the United States. All applicants must meet eligibility criteria and be sponsored either by a private sector or government program.

<sup>163</sup> Ibid., 188.

<sup>164</sup> Ibid.

<sup>165</sup> Ibid., 189.

Parrenas responded that those people comprise two or three different groups of workers.<sup>166</sup> Professor Parrenas noted, again, that the women who end up in Japan are not prostitutes and Commissioner Kladney agreed with her. Professor Parrenas said the women in Japan provide commercial flirtation and are quite different from the people who engage in prostitution in the Philippines that cater to foreigners.<sup>167</sup> Professor Parrenas asserted that the prostitutes are both above and below 18 years of age. She said that child prostitution in the Philippines is a problem caused by severe poverty.<sup>168</sup>

Chairman Castro asked Ms. Ellison to elaborate on the challenges that the transgender community faces when it comes to the issue of sex trafficking. Ms. Ellison said that an additional layer of vulnerability exists for gay, lesbian, and transgender children and it is more difficult to make sure that they are identified and provided assistance.<sup>169</sup> In conclusion, Ms. Ellison noted that individuals working within the system who come in contact with gay, lesbian and transgender individuals need to understand what their situation is and to treat them with respect, regardless of their gender identity or sexual orientation.<sup>170</sup>

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<sup>166</sup> Ibid., 191.

<sup>167</sup> Ibid.

<sup>168</sup> Ibid., 192.

<sup>169</sup> Ibid., 194.

<sup>170</sup> Ibid.

## FINDINGS AND RECOMMENDATIONS

### Findings

1. The Federal Bureau of Investigation (hereafter “the FBI”) does not list trafficking as a major crime category.<sup>1</sup>
2. Definitions of what is “sex trafficking” differ among United States executive agencies and state and local law enforcement authorities.
3. The U.S. Department of Health and Human Services (hereafter “HHS”) does not collect statistics on the scope of trafficking or a percentage of victims.<sup>2</sup>
4. State and federal definitions of a victim’s age differ, making it difficult to collect and track accurate data on the prevalence of sex trafficking of minors versus adults.<sup>3</sup>
5. The United States fails to identify and protect victims of sex trafficking and treats them as criminals rather than as victims.<sup>4</sup>
6. Detaining and jailing victims of sex trafficking is unacceptable and is happening throughout the nation.<sup>5</sup>
7. The goals of a prosecution are often in conflict with those of the needs of addressing the issues faced by a trafficking victim.<sup>6</sup>
8. The biggest challenge to combatting sex trafficking is the internet. It caters to escorts and escort services.<sup>7</sup>

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<sup>1</sup> Greg Zoeller, Attorney General, State of Indiana, and Member of the National Association of Attorneys General, Testimony, *Briefing Transcript*, pp. 25-26.

<sup>2</sup> Maggie Wynne, Director, Division of Anti-Trafficking in Persons, U.S. Department of Health and Human Services, Testimony, *Briefing Transcript*, p. 27.

<sup>3</sup> Zoeller Testimony, *Briefing Transcript*, pp. 48-49.

<sup>4</sup> Bridgette Carr, Professor and Director, Human Trafficking Clinic, University of Michigan Law School and Member, Michigan Human Trafficking Task Force, Testimony, *Briefing Transcript*, pp. 52-53.

<sup>5</sup> *Ibid.*, 56-57.

<sup>6</sup> *Ibid.*, 57-58.

<sup>7</sup> Karen Hughes, Lieutenant, Las Vegas Metropolitan Police Department, Testimony, *Briefing Transcript*, pp. 69-70, 72.

9. The buying of sex in the United States has been decriminalized in practice as evidenced by the low risk of being arrested when you are a buyer of sex.<sup>8</sup>
10. Some jurisdictions abroad have begun efforts to decriminalize the commercial sex acts of those who are trafficked.
11. The funding for programs that combat sex trafficking is extremely low, contributing to a return by the victim to trafficking.<sup>9</sup>
12. Statistics on the numbers of women victimized by sex trafficking in the United States are not collected well or consistently in a centralized manner.<sup>10</sup>
13. Statistics show that women are overwhelmingly the victims of sexual harassment in the workplace. Like sexual harassment, the Bureau of Justice Statistics indicated that 94 percent of sex trafficking victims that they have tracked are women.<sup>11</sup>
14. Testimony showed that sex trafficking is clearly a violation of gender-based civil and human rights that enslaves women and girls in commercial sex and is rooted in gender-based discrimination.<sup>12</sup>
15. Labor trafficking is also a gender-based civil and human rights violation that enslaves women and girls in domestic servitude, hotels and restaurants, strip club, farms, and factories.<sup>13</sup>
16. Testimony showed that sex trafficking also enslaves men and boys, particularly gay and transgender individuals, in commercial sex and is rooted in discrimination on the basis of sexual orientation and is rooted also in social exclusion.<sup>14</sup>
17. Of the 541 letters certified by the U.S. Department of Health and Human Services of individuals entitled to benefits under the Trafficking Victims Protection Act, 78 percent of those

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<sup>8</sup> Carr Testimony, *Briefing Transcript*, p. 87.

<sup>9</sup> Hughes & Carr Testimony, *Briefing Transcript*, pp. 97-100.

<sup>10</sup> Zoeller Testimony, *Briefing Report*, pp. 12, 14; Wynne testimony, *Briefing report*, p. 12; Tina Frundt, Founder and Executive Director, Courtney's House, Testimony, *Briefing report*, p. 32; Mary Ellison, Director of Policy, Polaris Project, Testimony, *Briefing report*, p. 33.

<sup>11</sup> Chairman Castro's observation during the briefing, *Briefing Transcript*, p. 121

<sup>12</sup> Ellison Testimony, *Briefing Transcript*, p. 127.

<sup>13</sup> *Ibid.*, 127-128.

<sup>14</sup> *Ibid.*, 128-130.

victims were labor trafficked, both males and females; and 12 percent were sex trafficked, all whom were females.<sup>15</sup>

18. According to panelist testimony, the United Nations statistics showed people are reported to be trafficked from 127 countries into 137 other countries. It was noted that 40 percent of all victims are sexually exploited, others work in conditions of slavery and 98 percent of the victims are women and girls.<sup>16</sup>
19. The FBI estimates that the average age of entry into the commercial sexual exploitation industry is 12.<sup>17</sup>
20. Experts at Shared Hope International estimate that 100,000 American juveniles are victimized through prostitution each year.<sup>18</sup>
21. According to the National Center for Missing and Exploited Children, one in five girls and one in ten boys in America will be sexually victimized before they turn age 18. It is a known fact that sexual victimization is linked very closely with youth who have been trafficked.<sup>19</sup>
22. Testimony revealed two primary trends within the domestic minor trafficking population. The first trend is early sexual abuse, which is very dominant; and the second trend is exposure to either or both the juvenile justice and foster care systems, which are red flags for where you can find victims or those at greatest risk of victimization. Other predictors include runaways, high poverty rates, domestic violence and poor academic skills.
23. It was noted that traffickers are not only those individuals identified earlier, but also include parents, other family members, and sexual predators reaching out to girls on the internet.<sup>20</sup>
24. Although there were a great number of boys being trafficked, there were fewer services available to them.<sup>21</sup>

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<sup>15</sup> Ibid., 130-131.

<sup>16</sup> Amy Rassen, Senior Advisor, the SAGE Project, Inc., Testimony, *Briefing Transcript*, p. 132.

<sup>17</sup> Ibid., 133-134.

<sup>18</sup> Ibid., 134.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid., 134-136.

<sup>21</sup> Frundt, Testimony, *Briefing Transcript*, pp. 143-144.

25. Trafficking victims are considered trauma victims.<sup>22</sup>
26. At the time of the briefing, based on the 50,000 calls received on the National Human Trafficking Resources Center Hotline since December 2007, housing, legal services, and comprehensive case management were identified as the top three needs. The calls originate around the country and its territories as well as international locations. Despite the volume, there are less than 100 beds available specifically earmarked for trafficked children.<sup>23</sup>
27. Testimony revealed that an additional layer of vulnerability exists for gay and lesbian children and it is more difficult to make certain that they are identified and assisted.<sup>24</sup>
28. Alternative screening and interviewing methods are being employed to more accurately identify sex trafficking victims going through the criminal justice system.<sup>25</sup>
29. Some jurisdictions have begun to learn how to establish cooperative, constructive relationships with sex trafficking survivors in order to: 1) aid in prosecutions of traffickers and those who purchase commercial sex services; and 2) facilitate survivors access to rehabilitative services.
30. Testimony indicated that an intensive, multifaceted approach to rehabilitative services for survivors of sex trafficking can be successful.
31. Sex trafficking is not exclusively an international issue, but a domestic issue as well.
32. Events like the Super Bowl act as a magnet for prostitution and trafficking activity.<sup>26</sup>
33. State and Federal governments take different approaches to counting trafficking victims and therefore there are no consistent statistics available.<sup>27</sup>
34. Gang affiliation is a major component of sex trafficking.<sup>28</sup>

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<sup>22</sup> Rassen Testimony, *Briefing Transcript*, p. 149.

<sup>23</sup> Ellison Testimony, *Briefing Transcript*, pp. 151-153.

<sup>24</sup> Ellison testimony in response to Chairman's Castro's request to elaborate on the challenges faced by the transgender community, *Briefing Transcript*, pp. 191-192.

<sup>25</sup> Carr Testimony, *Briefing Transcript*, pp. 57-58.

<sup>26</sup> Discussion of briefing testimony, *Briefing Report*, p. 9.

<sup>27</sup> Zoeller Testimony, *Briefing Report*, p. 10.

<sup>28</sup> Hughes Testimony, *Briefing Report*, p. 16.

35. The U.S. Citizenship and Immigration Service has the authority to issue T visas to non-U.S. citizen survivors of sex trafficking in order to help them rehabilitate their lives in this country.

## Recommendations

1. The FBI should list trafficking as a major crime category.
2. HHS should collect statistics on the scope of trafficking, including a percentage of victims.
3. There should be different categories created and used to track the victims of sex trafficking, because as it stands now, the majority of the women that are moved around the country are domestic runaways but no accurate data collection mechanism exists to identify, track and assist these victims.<sup>29</sup>
4. Tougher laws with more restrictions on the escort business, in particular with how they are allowed to operate, need to be enacted and enforced.<sup>30</sup>
5. State laws on prostitution and child welfare must be updated to protect human trafficking victims; resources should be used to help, rather than harm, victims; and access to comprehensive and independent legal services to all victims of human trafficking should be provided.<sup>31</sup> An example of a comprehensive overhaul of sex trafficking laws was signed into law in 2010 by Illinois Governor Pat Quinn. The Illinois Safe Children's Act drastically changed the way Illinois law enforcement addresses the human trafficking of children under the age of 18.<sup>32</sup>
6. State and federal entities need to increase collaboration along the lines of programs like the Cook County Anti-Trafficking Task Force.<sup>33</sup>
7. There should be an increase in funds for programs such as after-rescue care.<sup>34</sup> Congress (or states) should fund comprehensive case management support services for victims of human trafficking. These services should include consideration of victim's legal, medical, and education needs.

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<sup>29</sup> Zoeller Testimony, *Briefing Transcript*, pp. 48-49.

<sup>30</sup> Hughes Testimony, *Briefing Transcript*, p. 71.

<sup>31</sup> Carr Testimony, *Briefing Transcript*, p. 71-72.

<sup>32</sup> Cicero written statement, *Briefing Report*, pp. 103-104.

<sup>33</sup> Cicero Testimony, *Briefing Transcript*, pp. 59-61; Cicero written statement, *Briefing Report*, pp. 102-104.

<sup>34</sup> *Ibid.*, p. 103.

8. Funds that are allocated to communities<sup>35</sup> to fight sex trafficking should be increased so that social service and law enforcement professionals can create different “tools” such as training, safe houses to harbor sex trafficking victims, and funding to conduct long-term investigations.<sup>36</sup>
9. Lawyers should be made available for sex trafficking victims at the federal level in cases involving U.S. citizens, just as they are for cases involving foreign national victims, because those citizens have a variety of legal needs, such as facing criminal liability.
10. While the regulation of prostitution is left to the states,<sup>37</sup> state and federal governments should collaborate. One panelist pointed out that “in practice, one of the most effective tools at the state level is the cross designation with federal prosecutors. This cross-designation is an administrative decision that has allowed prosecutors to communicate much more efficiently and to charge either federally or locally, as well as to better direct the investigations.”<sup>38</sup> Other suggestions include:
  - a. Public education: teaching the public how to recognize the risk that family members may become trafficking victims, so as to encourage families of at-risk youth to minimize the likelihood of victimization.
  - b. Legal reform: decriminalizing the commercial sex activities of both juvenile and adult survivors; increasing legal defenses available to survivors who are charged with trafficking-related crimes such as prostitution or solicitation; facilitating expunging of criminal convictions related to their status as trafficking victims; giving particular attention to the needs of minors who, by operation of law, are not capable of consenting to sexual acts; increasing prosecutions of perpetrators/pimps; and increasing availability of seizure and forfeiture of perpetrators’ assets in order to provide assistance for the survivors of their crimes.
  - c. Training for law enforcement: encouraging cooperative, rather than adversarial, relationships with those who have been trafficked, including building strong linkages with organizations which provide recovery assistance for survivors.
  - d. Services for survivors: refinement of multidisciplinary services for survivors to address their safety, physical health, mental health, and needs for legal assistance, job skills training, child care, and the individual circumstances particular to each

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<sup>35</sup> This is especially important in middle-size cities, where trafficking occurs but law enforcement agencies do not have adequate funding to address the problem.

<sup>36</sup> Hughes & Carr Testimony, *Briefing Transcript*, pp. 97-100.

<sup>37</sup> Carr Testimony, *Briefing Transcript*, pp. 93-94.

<sup>38</sup> Cicero written statement, *Briefing Report*, pp. 104-105.

- survivor's situation; and outreach to those in juvenile or adult detention facilities to find women in need of assistance.
11. The federal government should seek to implement the Pillars of Hope promulgated by the National Association of Attorneys General: (1) gather more data that will track state arrests and prosecutions; (2) raise awareness to reduce the demand<sup>39</sup>; (3) promote strong state statutes and forceful state prosecutions of traffickers<sup>40</sup>; and (mobilize communities to increase care for victims.<sup>41</sup>
  12. There should be separate tracking of foreign and domestic trafficking because many underage sex trafficking victims are domestic runaways.<sup>42</sup>
  13. Assets of traffickers should be seized as the result of prosecutions, and used to fund victims' services.<sup>43</sup>
  14. A model state law on trafficking should be developed.
  15. The federal government should develop standard definitions of "sex trafficking" and related terms with input from involved federal agencies, state and local law enforcement entities, and the advocacy and scholarly sectors. Once created, state and local law enforcement agencies should be encouraged to utilize those definitions.
  16. The federal government should develop a standardized methodology for collecting statistics related to sex trafficking from state and local law enforcement agencies. This development should take place with input from involved federal agencies, state and local law enforcement entities, and the advocacy and scholarly sectors.
  17. Create immigration policies that allow people to come out of the shadows or end unhealthy relationships with visa-sponsor employers. For example, the federal government should consider easing access to the T Visa program for the benefit for survivors of sex trafficking.
  18. The federal government should increase funding for its Federal Unaccompanied Refugee Minors Program so that as many foreign youth who are survivors of sex trafficking in this

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<sup>39</sup> Congress should fund public service announcements that teach people to look "beneath the surface" to identify victims of human trafficking in their daily routines.

<sup>40</sup> Examine and strengthen the uniform state statute on human trafficking.

<sup>41</sup> Zoeller Testimony, *Briefing Report*, pp. 9-10.

<sup>42</sup> *Ibid.*, 14.

<sup>43</sup> Hughes Testimony, *Briefing Report*, p. 20.

country as possible may be afforded a meaningful opportunity for a stable life in the United States.

19. Use the data collected from uniform crime reports, which started on January 1, 2013, to identify patterns and suggest policy responses.
20. Train prosecutors' offices to limit the use of victims as witnesses, and assure victims are comfortable to participate in the legal process when necessary.

## COMMISSIONERS' STATEMENTS AND REBUTTALS

### Statement of Chairman Martin R. Castro joined by Commissioner Michael Yaki

**"Our fight against human trafficking is one of the great human rights causes of our time, and the United States will continue to lead it .... The change we seek will not come easy, but we can draw strength from the movements of the past. For we know that every life saved — in the words of that great Proclamation — is 'an act of justice'; worthy of 'the considerate judgment of mankind, and the gracious favor of Almighty God'." - President Barack Obama**

Current-day slavery takes many forms. I requested that the U.S. Commission on Civil Rights examine the issue of sex trafficking as a form of gender discrimination because I truly believe, and the evidence we gathered bears out, that women and girls are targeted as sex workers because of their gender. Indeed, 94% of the victims of sex trafficking are women.<sup>1</sup> I was also motivated to present this issue to the Commission after reading an article that appeared in the Michigan Quadrangle<sup>2</sup> regarding the impressive work of The University of Michigan Law School's Human Trafficking Clinic led by Bridgette Carr. I'm proud of the work of my alma mater and pleased that Ms. Carr was able to participate in our briefing and contribute to the work we present in this Report.

However, I also want to make clear that women and girls are not the only victims of sex trafficking. As the evidence presented by our panelists indicates, sex traffickers also enslave men and boys. As authors Sheryl WuDunn and Nicholas D. Kristof have written:

“[S]ex trafficking and mass rape should no more be seen as women's issues than slavery was a black issue or the Holocaust was a Jewish issue. These are all humanitarian concerns, transcending any one race, gender, or creed.”<sup>3</sup>

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<sup>1</sup> Mary Ellison, Director of Policy, Polaris Project, Testimony, *Briefing Transcript*, p. 127, available at [http://www.usccr.gov/calendar/trnsrpt/Sex-Trafficking-Briefing-Transcript\\_Final-8-2-13.pdf](http://www.usccr.gov/calendar/trnsrpt/Sex-Trafficking-Briefing-Transcript_Final-8-2-13.pdf).

<sup>2</sup> The Face of Modern-Day Slavery by Katie Vloet, The Law Quadrangle, Spring Edition, available at <http://www.law.umich.edu/quadrangle/spring2011/specialfeatures/Pages/TheFaceofModernDaySlavery.aspx>.

<sup>3</sup> *Half the Sky: Turning Oppression into Opportunity for Women*, by Sheryl WuDunn and Nicholas D. Kristof, pp. 233- 234.

However, that fact does remain that gender is a great determinant in whether one may become a victim of sex trafficking. We have chosen to examine the practice of trapping women and girls into a life of sex slavery. And it is extremely important that the United States Commission on Civil Rights has so determined.

I am extremely pleased that this Report contains some very clear, strong and practical findings and recommendations distilled from the evidence presented to the Commission by panels of experts. We hope that not only the President and Congress act on our recommendations, but that state and local governments also find in our Report and recommendations a blueprint of best practices from other jurisdictions also fighting the good fight against human trafficking.

But, before I go further, I want to emphasize that trafficking is not merely an international issue, but a truly *domestic* one as well—likely occurring at this moment not far from where you are reading this Report. Also, it is not just an occasional issue, such as occurs during a big sporting event like the Super Bowl, rather it is also an issue that plagues our communities every single day of the year. It ensnares immigrants, legal permanent residents, and yes, U.S. citizens, too.

Most people don't really understand "trafficking", and I believe it is due in large measure to its name. "Trafficking" erroneously evokes a requirement that people are being transported from one place to another—which is not the case. We should call it what it is: Slavery, pure and simple. We must eradicate it worldwide and the United States must set the example by taking the lead in stamping out this modern day form of slavery through the creation of a new abolitionist movement for the 21st century. What would such a movement look like? Well, the building blocks are already there. We saw them represented among the panelists for this briefing: non-profits, law schools, local law enforcement, and federal agencies. They, along with faith-based organizations and international NGOs can—and do—form the structure of the modern day "underground" railroad, seeking to wrest the victims of sex trafficking from the hands of their profiteers and victimizers and taking them to safety and freedom. However, what I believe is truly lacking in turning the current network of anti- trafficking organizations and efforts into a real "abolition movement", is the attention and engagement of everyday people. As I said earlier, most people are not even aware of what "trafficking" is, let alone the levels by which it pervades our communities. We must continue to educate, elucidate and advocate on this issue if we ever hope to create a ground-swell movement to eradicate present- day slavery.

I hope that the work of this Commission plays some role in educating Americans about this form of slavery, which feeds on many, but especially on our women and girls. This report is not the first time under my Chairmanship that the Commission has touched on the issue of current-day slavery—and it won't be the last. In January of 2013 we celebrated the 150th Anniversary of the Emancipation Proclamation in collaboration with President Lincoln's Cottage. We

commissioned papers from experts and created an anthology issued around a symposium at the Cottage.<sup>4</sup> One of our contributors and panelists was U.S. Ambassador-at-Large for Human Trafficking, Luis C. De Baca, who has been a true leader nationally and internationally on this issue.

As Ambassador de Baca stated:

“Viewing the movement to eradicate slavery through a long lens, from the origins of abolitionism, to the worst moments of the Civil War, to where we have arrived today, it’s clear that we’ve come a very long way.

And yet, not everything has changed. We know this from the voices of those who lived and died to see the moment when the vision of Emancipation became a reality — whether they lived and died as slaves, as abolitionists, or as soldiers fighting to preserve our Union.

...[S]lavery — then as now — is not movements or policies. It's people. It's the exploitation of men, women, and children who are mothers and fathers, sons and daughters. In the past, slavery's victims were born into bondage. Today, traffickers prey on the vulnerabilities of those seeking a better life.”<sup>5</sup>

Furthermore, with next year's 150th anniversary of the ratification of the 13th Amendment to the U.S. Constitution, I have every expectation that we will continue to shine this Commission's important and historic light on the issue of human trafficking as we commemorate the passage of the provision in our Constitution forever banning slavery in our Union.

Yet, this is not enough. We must continue to put a human face on this issue of modern day slavery. To share statistics, such as the fact that there are 27 million people in the world today in bondage—more than at any other time in human history—is not enough. Americans must come to realize that it could be the girl next door, or their own son or daughter who could be the next victim. People must realize that the victims of sex trafficking are not just the poor or immigrants or people of color, but victims are of all classes, colors and creeds. We must also understand that

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<sup>4</sup> *Emancipation at 150: The Impact of the Emancipation Proclamation*, a project jointly produced by President Lincoln’s Cottage and the United States Commission on Civil Rights, available at [http://lincolncottage.org/wp-content/uploads/2013/08/USCCR-Anthology-FNL\\_PDF.pdf](http://lincolncottage.org/wp-content/uploads/2013/08/USCCR-Anthology-FNL_PDF.pdf).

<sup>5</sup> *Id.* at pp. 17-18.

the victims are not the criminals here. As has been done in some progressive jurisdictions, like my home state of Illinois and county of Cook, we must not prosecute the victims, rather we must prosecute the persecutors and those who profit from this crime of slavery. As President Abraham Lincoln so aptly put it:

"Those who deny freedom to others deserve it not for themselves, and, under a just God, cannot long retain it."--Abraham Lincoln, letter to H.L. Pierce, April 6, 1859. From the series Great Ideas of Western Man.

Let us hope, that in the not-to-distant future, through the combined efforts of us all, human trafficking in all its forms, in every part of the world, including right here at home, is as dead an institution as is the plantation system that enslaved our fellow men, women and children, but was eradicated 150 years ago.

## Statement of Commissioner Roberta Achtenberg with the concurrences of Chairman Martin R. Castro and Commissioner Michael Yaki

### I. Sex trafficking in the United States is a serious and pervasive form of modern day slavery.

Sex trafficking is one of the most disturbing and insidious, yet least visible, societal crises that plagues America today. While some prefer to couch the issue in less stark terms, sex trafficking is nothing less than modern day slavery.<sup>6</sup> Enormous financial gain is available to the international and domestic organized criminal enterprises which lure women and girls into physical and psychological captivity and orchestrate their brutal sexual exploitation.<sup>7</sup> The clandestine nature of this abuse means that clear statistics on its incidence are difficult to ascertain.<sup>8</sup> Nevertheless, its pervasiveness is obvious.<sup>9</sup> Girls<sup>10</sup> and young women from all social

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<sup>6</sup> *Sex Trafficking: A Gender-Based Violation of Civil Rights*, U.S. Commission on Civil Rights, September 2014, p. 1, 22, available at [www.usccr.gov](http://www.usccr.gov) (Report). See also: *OJP Fact Sheet: Human Trafficking*, U.S. Department of Justice Office Justice Programs, December 2011, available at [http://ojp.gov/newsroom/factsheets/ojpfs\\_humantrafficking.html](http://ojp.gov/newsroom/factsheets/ojpfs_humantrafficking.html); *Can You Walk Away?: A Special Exhibit at President Lincoln's Cottage*, materials available at <http://lincolncottage.org/canyouwalkaway.html>; and *President Barack Obama, Presidential Proclamation – National Slavery and Human Trafficking Prevention Month*, January 4, 2010, available at <http://www.whitehouse.gov/the-press-office/presidential-proclamation-national-slavery-and-human-trafficking-prevention-month>.

<sup>7</sup> For example, “[g]ang affiliation is a major component of sex trafficking.” *Finding 34, Report*, p. 38.

<sup>8</sup> See, e.g., *Findings 1 through 4 and 12, 20, 21, and 33, Report* pp. 35-38.

<sup>9</sup> The Polaris Project reports that

[h]uman trafficking victims have been identified in cities, suburbs, and rural areas in all 50 states and in Washington, D.C. They are forced to work or provide commercial sex against their will in legal and legitimate business settings as well as underground markets. Some victims are hidden behind locked doors in brothels and factories. In other cases, victims are in plain view and may interact with community members, but the widespread lack of awareness and understanding of trafficking leads to low levels of victim identification by the people who most often encounter them. For example, women and girls in sex trafficking situations, especially U.S. citizens, are often misidentified as "willing" participants in the sex trade who make a free choice each day to be there. *Human Trafficking: The Victims*, Polaris Project, available at <http://www.polarisproject.org/human-trafficking/overview/the-victims>.

<sup>10</sup> The FBI estimates that the average age of entry into the commercial sexual exploitation industry is 12 to 14. See, e.g., *Finding 19, Report* p. 37, and *Recommendations 15, 16, Report* p. 41.

strata are being lured and trapped into lives of constant abuse, rape, and other forms of sexual exploitation.<sup>11</sup> Many of those enmeshed do not escape. Everyone's child is a potential victim.

## II. Sex trafficking in the United States is a function of organized crime with both international and domestic implications.

It is painfully clear that ensnaring victims either within the U.S. or from abroad into a life of sexual slavery in this country is a low-risk, high-reward, and highly mobile enterprise for organized networks of traffickers.

The Commission found that “[g]ang affiliation is a major component of sex trafficking.”<sup>12</sup> The depth and breadth of the issue, however, goes far beyond mere gang involvement.<sup>13</sup>

Transnational trafficking by organized crime of girls and women into the United States for the purpose of sexual exploitation is a serious issue with global ramifications<sup>14</sup> recognized by the

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<sup>11</sup> Harris, Kamala D., *The State of Human Trafficking in California*, California Department of Justice, 2012, p. 5 and 21, available at <http://oag.ca.gov/sites/all/files/agweb/pdfs/ht/human-trafficking-2012.pdf>, citing *The Victims*, Polaris Project, available at

<http://polarisproject.org/human-trafficking/overview/the-victims>; and Clayton, Ellen Wright, Krugman, Richard D., and Simon, Patti, eds., *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States*, “Chapter 3: Risk Factors for and Consequences of Commercial Sexual Exploitation and Sex Trafficking of Minors,” Institute of Medicine and National Research Council of The National Academies, 2013, available at [http://www.nap.edu/download.php?record\\_id=18358#](http://www.nap.edu/download.php?record_id=18358#).

<sup>12</sup> Finding 34, Report p. 42.

<sup>13</sup> See generally Journal of Trafficking Organized Crime and Security, available at <http://www.brownwalker.com/ojs/index.php/JTOCS>.

<sup>14</sup> See, e.g., *Syndicated: Organized Crime and Human Trafficking*, The Trafficking Research Project, available at <http://thetraffickingresearchproject.wordpress.com/2013/07/26/syndicated-organized-crime-and-human-trafficking/>; Oppong, Steward Harrison, *Human Trafficking Through Organized Crime*, International Journal of Humanities and Social Science, Vol. 2, No. 20, October 2012, available at [http://www.ijhssnet.com/journals/Vol\\_2\\_No\\_20\\_Special\\_Issue\\_October\\_2012/4.pdf](http://www.ijhssnet.com/journals/Vol_2_No_20_Special_Issue_October_2012/4.pdf); Forster, Bruce A., *Human Trafficking: A Transnational Organized Crime Activity*, American International Journal or Contemporary Research, Vol. 3, No. 1, January 2013, available at [http://www.aijernet.com/journals/Vol\\_3\\_No\\_1\\_January\\_2013/1.pdf](http://www.aijernet.com/journals/Vol_3_No_1_January_2013/1.pdf); *Human Trafficking: Organized Crime and the Multibillion Dollar Sale of People*, United Nations Office on Drugs and Crime, July 19, 2012, available at <http://www.unodc.org/unodc/en/frontpage/2012/July/human-trafficking-organized-crime-and-the-multibillion-dollar-sale-of-people.html>; and Gonzalez, Elsie, *The Nexus Between Human Trafficking and Terrorism/Organized Crime: Combating Human Trafficking By Creating a Cooperative Law Enforcement System*, Seton Hall Law eRepository, May 1, 2013, available at [http://scholarship.shu.edu/cgi/viewcontent.cgi?article=1227&context=student\\_scholarship&sei-redir=1&referer=http%3A%2F%2Fwww.google.com%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3Dsex%2520trafficking%2520organized%2520crime%26source%3Dweb%26cd%3D40%26ved%3D0CQEjAJOB4%26url%3Dhttp%2F%2Fwww.unodc.org%2Fen%2Ffrontpage%2F2012%2FJuly%2Fhuman-trafficking-organized-crime-and-the-multibillion-dollar-sale-of-people.html](http://scholarship.shu.edu/cgi/viewcontent.cgi?article=1227&context=student_scholarship&sei-redir=1&referer=http%3A%2F%2Fwww.google.com%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3Dsex%2520trafficking%2520organized%2520crime%26source%3Dweb%26cd%3D40%26ved%3D0CQEjAJOB4%26url%3Dhttp%2F%2Fwww.unodc.org%2Fen%2Ffrontpage%2F2012%2FJuly%2Fhuman-trafficking-organized-crime-and-the-multibillion-dollar-sale-of-people.html)

White House's National Security Council,<sup>15</sup> the United States Department of Justice,<sup>16</sup> the Federal Bureau of Investigation,<sup>17</sup> the National Institute of Justice,<sup>18</sup> and the U.S. House of Representatives Committee on the Judiciary's Subcommittee on Crime, Terrorism, and Homeland Security.<sup>19</sup> Among others, the White House National Security Council<sup>20</sup> and the McCain Institute for International Leadership<sup>21</sup> also have identified implications for our national security.

On the domestic front, the federal government,<sup>22</sup> the states,<sup>23</sup> and academic researchers<sup>24</sup> have long comprehended the basic societal and criminal issues which facilitate exploitation of women in the sex industry. The domestic tie to organized crime now appears to be understood, and the

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<sup>15</sup> National Security Council, *Transnational Organized Crime: A Growing Threat to National and International Security*, The White House, available at <http://www.whitehouse.gov/administration/eop/nsc/transnational-crime/threat>.

<sup>16</sup> See, e.g., The Justice Blog, *Confronting Organized Crime and Human Trafficking in a Global Society*, U.S. Department of Justice, November 6, 2012, available at <http://blogs.justice.gov/main/archives/2548>.

<sup>17</sup> See, e.g., Walker-Rodriguez, Amanda, and Hill, Rodney, *FBI Law Enforcement Bulletin: Human Sex Trafficking*, Federal Bureau of Investigation, March 2011, available at [http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/march\\_2011/human\\_sex\\_trafficking](http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/march_2011/human_sex_trafficking).

<sup>18</sup> *Human Trafficking*, National Institute of Justice Office of Justice Programs, available at <http://nij.gov/topics/crime/human-trafficking/pages/welcome.aspx>.

<sup>19</sup> See, e.g., *Domestic Minor Sex Trafficking: Hearing Before the Subcommittee on Crime, Terrorism, and Homeland Security of the Committee on the Judiciary, U.S. House of Representatives*, September 15, 2010, Serial No. 111-146, available at <http://www.gpo.gov/fdsys/pkg/CHRG-111hhrg58250/html/CHRG-111hhrg58250.htm>.

<sup>20</sup> *Transnational Organized Crime: A Growing Threat to National and International Security*, note 10 *supra*.

<sup>21</sup> *Leveraging National Security Assets to Fight Human Trafficking*, The McCain Institute for International Leadership, available at <http://mccaininstitute.org/leveraging-national-security-assets-to-fight-human-trafficking>.

<sup>22</sup> See, e.g., *Domestic Human Trafficking: An Internal Issue*, Human Smuggling and Trafficking Center, December 2008, available at <http://www.state.gov/documents/organization/113612.pdf>; and *Domestic Minor Sex Trafficking: Hearing Before the Subcommittee on Crime, Terrorism, and Homeland Security of the Committee on the Judiciary, U.S. House of Representatives*, note \_\_ *supra*.

<sup>23</sup> See, e.g., *The State of Human Trafficking in California*, California Department of Justice, note 6 *supra*.

<sup>24</sup> See, e.g., Raymond, Janice G., Hughes, Donna M., and Gomez, Carol J., *Sex Trafficking of Women in the United States: International and Domestic Trends*, Coalition Against Trafficking in Women, March 2001, available at [http://bibliobase.sera.mais.pt:8008/BiblioNET/upload/PDF3/01913\\_sex\\_traff\\_us.pdf](http://bibliobase.sera.mais.pt:8008/BiblioNET/upload/PDF3/01913_sex_traff_us.pdf).

federal government initiated one of its first prosecutions of sex trafficking as an organized crime offense when it charged members of the Gambino Crime Family Associates with sex trafficking and also sex trafficking of a minor in 2010.<sup>25</sup>

Nonetheless, sex trafficking remains overall a low-risk criminal proposition for the traffickers. Even when traffickers are detected and arrested, there are a great many barriers to successful prosecution.<sup>26</sup> Purchasing the sexual services of trafficked people also is a low-risk criminal activity for customers.<sup>27</sup>

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<sup>25</sup> *Manhattan U.S. Attorney Charges 14 Gambino Crime Family Associates with Racketeering, Murder, Sex Trafficking, and Other Crimes*, U.S. Attorney's Office, Southern District of New York, April 20, 2010, available at <http://www.fbi.gov/newyork/press-releases/2010/nyfo042010.htm>.

<sup>26</sup> Shared Hope International ([sharedhope.org](http://sharedhope.org)), an NGO dedicated to combatting sex trafficking, published a nuanced enumeration of barriers to prosecution of sex traffickers in 2009. According to *The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children*,

[t]he federal human trafficking crime carries heavy penalties. If a trafficking crime results in a victim's death or if the crime includes kidnapping, an attempted kidnapping, aggravated sexual abuse, attempted aggravated sexual abuse, or an attempt to kill, the trafficker could be sentenced to life in prison.

Traffickers of children under the age of 14 or of any minor through force, fraud, or coercion for the purposes of commercial sex acts can be imprisoned for not less than 15 years, up to life. If the victim was a child between the age of 14 and 18 and the sex trafficking did not involve force, fraud, or coercion, the trafficker can be sentenced to not less than 10 years, up to life in prison. These federal sentences surpass most state sentences for sexual servitude, commercial sexual exploitation, human trafficking, or other state laws under which a trafficker of children could be charged. However, the deterrence value of the TVPA's heavy sentences is not being fully utilized as state law enforcement and prosecutors continue to apply more familiar laws — commercial sexual exploitation of children (CSEC) and other sexual abuse laws — many of which carry lesser penalties.

Nonetheless, the deterrence of the harsh sentencing guidelines may not be enough alone to overcome the lucrative and low-risk nature of the crime. The sex trafficking of American children is still considered by some criminals to be low risk, as first responders are not receiving the training and awareness needed to identify a situation of sex trafficking. As a result, a trafficker of domestic minors is often not identified as such or may plead to lesser charges. Interviews with prosecutors revealed that child victim-friendly trial mechanisms, such as using closed circuit television for testimony to avoid the in-court confrontation of a child and her trafficker, are not being utilized. One reason is tactical: prosecutors feel the jury will connect with the victim better if they see her in person. In addition, the constitutionality of this mechanism is an open question in light of the decision in *Crawford v. Washington*, a federal court decision holding that testimonial statements made outside of court proceedings are not admissible unless the person who made the

Two additional factors drive the viability of sex trafficking enterprises in this country: the high rewards of success and the ease with which the business ventures can be moved to capitalize upon shifting demand. The financial rewards for sex trafficking are large indeed for those who profit from the exploitation. The yearly global revenue from sex trafficking is estimated to be approximately \$32 billion USD,<sup>28</sup> and the annual domestic revenue is significant. A 2014 study of eight cities by the Urban Institute, performed under the auspices of a grant from the National Institute of Justice, concluded that profits in 2007 from the underground commercial sex

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statement is unavailable for testimony at the trial and the defense has had a prior opportunity to cross-examine the declarant. One study done on child sexual exploitation cases from 1998 to 2005 found prosecutors tended to plea bargain the CSEC cases to avoid putting the child victim through the trial. While the plea bargain tendencies may be intended to protect the child victim, some argue that this may also in fact not be beneficial for the child victim who can be empowered through the trial process if done with the proper support and counseling.

Further complicating the situation, when cases of domestic minor sex trafficking are mislabeled as prostitution of minors, then traditional state pimping and pandering laws are often used. These laws can have significantly lower punishments. For example, in Salt Lake City, plea deals with traffickers/pimps of minors varied but the average length of a sentence was just six months.

Lastly, a recent study of federal prosecutions of commercial sexual exploitation of children cases across the country from 1998 to 2005 disturbingly revealed nearly 60% of CSEC cases involving prostitution of a minor presented to the U.S. Attorney's Offices were declined for prosecution. Admittedly, the caseload of federal prosecutors more than doubled in the eight-year timeframe of the study; however the 60% declination rate is still high when compared to other federal offenses, such as drug trafficking (15% declined) and weapons charges (26% declined). Though this number has been reportedly cut in recent years with the increased involvement of several entities within the U.S. Department of Justice, state law enforcement in most assessed locations reported frustration with investigating the cases of domestic minor sex trafficking which were subsequently declined.

(original citations omitted.)

Smith, Linda A., Vardaman, Samantha Healy, and Snow, Melissa A., *The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children*, Shared Hope International, May 2009, pp. 12 -13, available at [http://sharedhope.org/wp-content/uploads/2012/09/SHI\\_National\\_Report\\_on\\_DMST\\_2009.pdf](http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf).

<sup>27</sup> See, e.g., *Finding 9, Report* p. 40 and *Carr, Report* p. 24.

<sup>28</sup> International Labour Office, *ILO Action Against Trafficking in Human Beings*, International Labour Organization, 2008, p. 1, available at [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_090356.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_090356.pdf).

economy ranged from \$39.9 million in Denver, CO to \$290 million in Atlanta, GA.<sup>29</sup>

At least two types of situations highlight the portability of trafficked sex workers. First, the National Football League's annual Super Bowl has come to be regarded as a magnet for sex traffickers and their victims and customers.<sup>30</sup> A March 2014 study by the Arizona State University School of Social Work's Office of Sex Trafficking Intervention Research concluded that while there is nothing unique about the Super Bowl itself that causes a spike in nearby sex trafficking, the game demonstrates that large public events will attract criminal offenders, including sex traffickers, in large numbers.<sup>31</sup> Cindy McCain is working to have stronger anti-trafficking laws passed in her home state of Arizona before it hosts the 2015 NFL Super Bowl<sup>32</sup> despite a reported lack of cooperation from the National Football League.<sup>33</sup>

A second situation which demonstrates the portability of trafficked sex workers occurs when an area undergoes rapid increases in population and economic well-being. Currently, the surge in population and pay brought about by North Dakota's recently-booming oil fields are thought to be luring sex traffickers and their victims to the state in search of a new customer base.<sup>34</sup> The

<sup>29</sup> The other cities studied, and the estimated profits from their underground commercial sex economies, were: 1) Dallas, TX: \$98.8 million; 2) Miami, FL: \$235 million; 3) San Diego, CA: \$96.6 million; 4) Seattle, WA: \$112 million; and 5) Washington, D.C.: \$103 million.

Dank, Meredith, Khan, Bilal, Downey, Mitchell P., Kotonias, Cybele, Mayer, Deborah, Owens, Colleen, Pacifici, Laura, and Yu, Lily, *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities*, "Table 3.1," The Urban Institute, March 2014, p. 22, available at <http://www.urban.org/UploadedPDF/413047-Underground-Commercial-Sex-Economy.pdf>. (Note: Analysis of Kansas City, MO was "dropped from estimation" because available data did not fit study criteria. See p. 30.)

<sup>30</sup> See, e.g., *Finding 32, Report* p. 38.

<sup>31</sup> Roe-Sepowitz, Dominique, Gallagher, James, and Hickie, Kristine, *Exploring Sex Trafficking and Prostitution Demand During the Super Bowl 2014*, Arizona School of Social Work Office of Sex Trafficking Intervention Research, March 2014, available at [http://mccaininstitute.org/applications/Super\\_Bowl\\_2014\\_Sex\\_Trafficking\\_Research\\_Full\\_Report\\_ASU\\_MI-1BW\\_%281%29.PDF](http://mccaininstitute.org/applications/Super_Bowl_2014_Sex_Trafficking_Research_Full_Report_ASU_MI-1BW_%281%29.PDF).

<sup>32</sup> Coe, Jackee, *Cindy McCain: Address Human Trafficking Before 2015 Super Bowl*, *azcentral 12 News*, *The Arizona Republic*, September 12, 2013, available at [http://www.azcentral.com/community/glendale/articles/20130912cindy-mccain-address-human-trafficking-before-super-bowl.html?nclick\\_check=1](http://www.azcentral.com/community/glendale/articles/20130912cindy-mccain-address-human-trafficking-before-super-bowl.html?nclick_check=1).

<sup>33</sup> McCalmont, Lucy, *Cindy McCain: NFL No Help on Sex Trafficking*, *Politico*, November 20, 2013, available at <http://www.politico.com/story/2013/11/women-rule-event-100119.html>.

<sup>34</sup> See, e.g., Boyce, Dan, *Booming Oil Fields May Be Giving Sex Trafficking A Boost*, *National Public Radio*, February 1, 2014, available at <http://www.npr.org/2014/02/01/265698046/booming-oil-fields-may-be-giving-sex-trafficking-a-boost>; Lymm, Katherine, *North Dakota Oil Patch Sex Trafficking A Growing, "Horrific" Problem*, *Agent Says*, *TwinCities.com*, May 6, 2014, available at [http://www.twincities.com/nation/ci\\_25705650/north-](http://www.twincities.com/nation/ci_25705650/north-)

U.S. Attorney for North Dakota responded with efforts including social work trainings and an August 2014 public conference on the problem.<sup>35</sup>

### **III. Gay, lesbian, bisexual and transgender youth are particularly vulnerable to being sexually trafficked.**

The Commission found that “sex trafficking also enslaves men and boys, particularly gay and transgender individuals, in commercial sex and is rooted in discrimination on the basis of sexual orientation and is rooted also in social exclusion.”<sup>36</sup> The Commission further found that “[a]n additional layer of vulnerability exists for gay and lesbian children and it is more difficult to make certain that they are identified and assisted”<sup>37</sup> and that “[a]lthough there were many boys being trafficked, there were fewer services available to them.”<sup>38</sup>

Research confirms that the LGBT youth experience a disproportionate rate of homelessness and of family rejection which underlie their disproportionate risk of becoming sex-trafficked. The U.S. Department of Health and Human Services found that

[a]lthough LGBTQ individuals only account for three to five percent of the population, they account for up to 40 percent of the runaway and homeless youth population. It is estimated that 26 percent of LGBTQ adolescents are rejected by their families and put out of their homes for no other reason than being open about who they are. Once on the streets, they face a significant chance of becoming victims of human trafficking. More people are enslaved today than at any point in human history, and LGBTQ youth are being trapped in sexual slavery at alarming levels.<sup>39</sup>

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[dakota-oil-patch-sex-trafficking-growing-horrific](http://america.aljazeera.com/watch/shows/america-tonight/articles/2014/4/28/the-dark-side-of-the-oil-boom-human-trafficking-in-the-heartland.html); and Ernst, Aaron, *The Dark Side of the Oil Boom: Human Trafficking in the Heartland*, Aljazeera America, April 28, 2014, available at <http://america.aljazeera.com/watch/shows/america-tonight/articles/2014/4/28/the-dark-side-of-the-oil-boom-human-trafficking-in-the-heartland.html>.

<sup>35</sup> *Crime and Human Trafficking Conference Announced*, SFGate, July 8, 2014, available at <http://www.sfgate.com/news/crime/article/Crime-and-human-trafficking-conference-announced-5605868.php>.

<sup>36</sup> *Finding 16, Report* p. 40.

<sup>37</sup> *Finding 27, Report* p. 38. See also Institute of Medicine and National Research Council of The National Academies *Report*, pp. 88 – 90, at note 6 *supra*.

<sup>38</sup> *Finding 24, Report* p. 42.

<sup>39</sup> Bean, Lonnie James, *LGBTQ Youth at High Risk of Becoming Human Trafficking Victims*, U.S. Department of Health & Human Services Administration for Children & Families, June 26, 2013, available at <http://www.acf.hhs.gov/blog/2013/06/lgbtq-youth-at-high-risk-of-becoming-human-trafficking-victims>. See also

A 2012 study by The Williams Institute of the UCLA School of Law found an even more alarming statistic on family rejection rates that cause the homelessness of LGBT youth: a full 43%.<sup>40</sup> Regardless of exact percentages and the raw numbers of at-risk or trafficked LGBT youth which they represent, it is clear that targeted intervention is needed.

The Family Acceptance Project at San Francisco State University, under the direction of veteran researcher Caitlin Ryan, seeks to assist families with building and maintaining healthy relationships with their LGBT teens to reduce the risk of parental rejection, youth abscondence, and ultimately teen homelessness and sex trafficking victimization.<sup>41</sup> Creating family climates in which LGBT youth will be allowed to stay – and in which they will choose to remain – obviates immediate risk to LGBT youth. The federal government therefore should maximize funding of programs such as the Family Acceptance Project which seek to stop problems before they start.

**IV. Survivors of sex trafficking are victims, rather than criminals, and must be treated as such. The development and enactment of model statutes can go far toward shifting this paradigm.**

Our legal systems, overall, treat juveniles and adults who have been sexually trafficked as criminals rather than as victims. It is well past time to “create [a] new [criminal justice] model which supports victims rather than treating them as criminals.”<sup>42</sup>

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Corliss, Heather L., Goodenow, Carole S., Nichols, Lauren, and Austin, S. Bryn, *High Burden of Homelessness Among Sexual-Minority Adolescents: Findings From A Representative Massachusetts High School Sample*, American Journal of Public Health 101(9), September 2011, p. 1683, available at [http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3154237/?\\_escaped\\_fragment\\_=po=1.45631](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3154237/?_escaped_fragment_=po=1.45631).

<sup>40</sup> Durso, Laura E. and Gates, Gary J., *Serving Our Youth: Findings from a National Survey of Service Providers Working with Lesbian, Gay, Bisexual and Transgender Youth Who Are Homeless or At Risk of Becoming Homeless*, The Palette Fund, TrueColors Fund, and The Williams Institute of the UCLA School of Law, 2012, p. 4, available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf>.

<sup>41</sup> See, e.g., Ryan, Caitlin, *Supportive Families, Healthy Children: Helping Families with Lesbian, Gay, Bisexual & Transgender Children*, Family Acceptance Project, San Francisco State University, 2009, available at [http://familyproject.sfsu.edu/files/FAP\\_English%20Booklet\\_pst.pdf](http://familyproject.sfsu.edu/files/FAP_English%20Booklet_pst.pdf).

<sup>42</sup> Statement of panelist Bridgette Carr, *Report* p. 11.

The Commission recommended that we engage in:

Legal reform: decriminalizing the commercial sex activities of both juvenile and adult survivors; increasing legal defenses available to survivors who are charged with trafficking-related crimes such as prostitution or solicitation; facilitating expungement of criminal convictions related to their status as trafficking victims; giving particular attention to the needs of minors who, by operation of law, are not capable of consenting to sexual acts; increasing prosecutions of

In order to fully appreciate the need to decriminalize the behaviors of sex-trafficked people, we need to understand that they are trauma victims<sup>43</sup> who likely experienced sexual trauma and/or other stressful life circumstances before being sexually trafficked. In essence, they were often “set up” for an increased risk of being trafficked simply by events in their lives over which they had either no control at all, or at best, very little.

For example, juveniles who are lured into sex trafficking were often victimized sexually prior to being trafficked. Their abusers may have been family members or friends. Many juveniles who are lured into sex trafficking are particularly vulnerable due to factors such as poverty, and foster care or juvenile justice system involvement.<sup>44</sup> These experiences leave these children more vulnerable to being trafficked.<sup>45</sup>

Sadly, once juveniles who have been sex-trafficked are in a juvenile justice system, not only are they criminalized, but they also suffer due to lost opportunities for education and therapeutic services.<sup>46</sup>

Adult survivors of sex trafficking, whether they were first trafficked as children, youth, or adults, are also trauma survivors. Traffickers subjugate women through many forms of physical and psychological control<sup>47</sup> which place them in fear of being arrested or killed.

All of this, obviously, highlights the need for statutory reform for the benefit of both adult and juvenile survivors of sex trafficking. Model statutes from states and localities, as well as from the advocacy sector, may be most informative. Indiana and Illinois are among the states that have attempted to improve their statutes.<sup>48</sup>

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perpetrators/pimps; and increasing availability of seizure and forfeiture of perpetrators' assets in order to provide assistance for the survivors of their crimes.

*Recommendation 10(b), Report, p. 44.*

<sup>43</sup> *Finding 25, Report p. 41 and Finding 28, Report p. 42.*

<sup>44</sup> *See, e.g., testimony of Amy Rassen, Report, p. 28.*

<sup>45</sup> *See, e.g., Finding 22, Report, p. 41. See also Institute of Medicine and National Research Council of The National Academies Report, at note 6 supra.*

<sup>46</sup> *See, e.g., testimony of Bridgette Carr, Report, p. 11.*

<sup>47</sup> *See, e.g., testimony of Karen Hughes, Report, p. 18.*

<sup>48</sup> *See, e.g., Recommendation 5, Report, p. 43.*

**V. Recovery services for sex trafficking survivors are necessary, and in need of expansion through the continued coordinated efforts of government and the advocacy sector.**

The necessity of ensuring the availability of an array of professional services in sufficient quantity to meet survivors' needs for reintegration into a violence-free life of self-determination cannot be overstated. Once we understand that we must treat people who have been sex-trafficked as survivors rather than as criminals, this becomes not only obvious, but irrefutable. This is our obligation as a society.

Services must be offered not only to the trafficking survivors who find their way, either independently or with the assistance of law enforcement or social services, to the doors of those available to help. Service providers should affirmatively reach out to prospective clients in jails and juvenile detention facilities to seek out sex trafficking survivors whom they may have but a brief moment to try to engage in a recovery plan.<sup>49</sup>

Although the Commission found that there are identified factors which increase an individual's risk of becoming trafficked,<sup>50</sup> not all survivors of sex trafficking fit the same profile. Survivors' needs are multifaceted, complex, and highly individualized.<sup>51</sup> Therefore, as the Commission heard very clearly from its nongovernmental organization (NGO) panelists Tina Frundt of Courtney's House, Mary Ellison of the Polaris Project, and Amy Rassen of the SAGE Project, so must be the reintegration services offered to them.

Survivors may need both short-term and long-term housing, physical and mental health services,<sup>52</sup> income, education, child care, and more. Therefore, multidisciplinary teams must provide survivors' services. Survivors may need case managers,<sup>53</sup> lawyers, social workers,

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<sup>49</sup> See testimony of Amy Rassen, *Report*, p. 27, and statement of Amy Rassen, *Briefing Transcript*, p. 149, l. 3 – 12.

<sup>50</sup> *Finding 26, Report*, p. 42.

<sup>51</sup> See, e.g., Laskowski, Emily Jane, *A Recommendation Report in Assessing the Needs of Victims of Domestic Minor Human Trafficking*, Indiana University School of Public and Environmental Affairs and Hutton Honor College, April 9, 2011, available at [http://www.indiana.edu/~spea/pubs/undergrad-honors/volumn-6/Laskowski\\_Emily\\_Recommendation%20Report%20in%20Assessing%20the%20Needs%20of%20Victims%20of%20Domestic%20Minor%20Human%20Trafficking%20-%20Faculty%20David%20Welch.pdf](http://www.indiana.edu/~spea/pubs/undergrad-honors/volumn-6/Laskowski_Emily_Recommendation%20Report%20in%20Assessing%20the%20Needs%20of%20Victims%20of%20Domestic%20Minor%20Human%20Trafficking%20-%20Faculty%20David%20Welch.pdf).

<sup>52</sup> See, e.g., Clawson, Heather J. and Grace, Lisa Goldblatt, *Finding a Path To Recovery: Residential Facilities for Minor Victims of Domestic Sex Trafficking*, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, available at <http://aspe.hhs.gov/hsp/07/humantrafficking/ResFac/ib.pdf>.

<sup>53</sup> See, e.g., Clawson, Heather J. and Dutch, Nicole, *Case Management and the Victim of Human Trafficking: A Critical Service for Client Success*, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, available at <http://aspe.hhs.gov/hsp/07/humantrafficking/casemgmt/ib.pdf>.

therapists with various types of expertise, teachers, public benefits specialists, parenting trainers, and others. Survivors' services may best be provided in a multidisciplinary milieu and must be designed very carefully so as not to risk re-traumatization.<sup>54</sup>

The SAGE Project of San Francisco, whose then-Senior Advisor Amy Rassen testified before the Commission in this matter,<sup>55</sup> stands out in the NGO advocacy sector as a premier provider of services to survivors of sex trafficking. The SAGE Project offers a particularly comprehensive array of services designed to facilitate trauma and addiction recovery. Services of particular note include in-custody counseling for survivors in juvenile detention facilities, an Integrative Medical Clinic which provides both care and education, an Early Intervention Prostitution Program, and a First Offender Prostitution Program. The SAGE Project also participates in the Cross Bay Collaborative to Combat Human Trafficking and provides training and technical support to other NGOs.<sup>56</sup>

## **VI. Congress should pass, and the President should sign, the federal Stop Exploitation Through Trafficking Act of 2014.**

Congress is currently considering the bipartisan Stop Exploitation Through Trafficking Act of 2014 (SETTA), which is based upon Minnesota's Safe Harbor for Sexually Exploited Youth Act. Senator Amy Klobuchar (D-MN) introduced S. 1733 on November 19, 2013.<sup>57</sup> Representative Erik Paulson (R-MN) introduced H.R. 3610 on November 23, 2013.<sup>58</sup> The House Committee on the Judiciary, on May 13, 2014, reported favorably upon the bill and recommended passage.<sup>59</sup>

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<sup>54</sup> See, e.g., testimony of Amy Rassen, *Briefing Transcript*, p. 147, l. 21 – p. 149 l. 2.

<sup>55</sup> See testimony of Amy Rassen, *Report*, p. 27 and written statement of Amy Rassen at *Report*, p. 125

<sup>56</sup> See The SAGE Project at <http://sagesf.org/>.

<sup>57</sup> See, e.g., *News Release: Klobuchar, Cornyn, Heitkamp, Kirk Introduce Bipartisan Legislation to Crack Down on Sex Trafficking*, November 19, 2013, available at

<http://www.klobuchar.senate.gov/public/2013/11/klobuchar-cornyn-heitkamp-kirk-introduce-bipartisan-legislation-to-crack-down-on-sex-trafficking>; and S. 1733 – Stop Exploitation Through Trafficking Act of 2013, available at <https://beta.congress.gov/113/bills/s1733/BILLS-113s1733is.pdf>.

<sup>58</sup> H.R. 3610, Stop Exploitation Through Trafficking Act, available at <https://beta.congress.gov/113/bills/hr3610/BILLS-113hr3610eh.pdf>.

<sup>59</sup> Report to Accompany H.R. 3610, Stop Exploitation Through Trafficking Act of 2014, U.S. House of Representatives Committee on the Judiciary, Rept. 113-447 Part 1, available at <https://beta.congress.gov/113/crpt/hrpt447/CRPT-113hrpt447-pt1.pdf>.

The House passed H.R. 3610 shortly thereafter on May 20, 2014.<sup>60</sup> S. 1773 remains in the Senate Committee on the Judiciary at the time of this writing.<sup>61</sup>

SETTA, in brief, would require each state to treat minors sold for commercial sex acts as victims of sex trafficking, to discourage prostitution prosecutions of minor trafficking victims, and to consider instead referral of such minors to child welfare services. SETTA also seeks to make juvenile survivors of sex trafficking eligible for services through Job Corps, to require the U.S. Attorney to create a National Strategy for Combating Human Trafficking, and to increase the Attorney General's reporting obligations. The Congressional Budget Office "estimates that enacting the legislation ... would not effect spending or revenues."<sup>62</sup>

Experts in the advocacy sector support enactment of SETTA. NGOs in favor of SETTA's passage include the McCain Institute's Humanitarian Action Program,<sup>63</sup> Freedom Network USA,<sup>64</sup> Shared Hope International,<sup>65</sup> the Polaris Project,<sup>66</sup> and the National Conference of State Legislators.<sup>67</sup>

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<sup>60</sup> See, e.g., H.R. 3610: Stop Exploitation Through Trafficking Act of 2014, Status, available at <https://www.govtrack.us/congress/bills/113/hr3610>.

<sup>61</sup> See, e.g., S. 1733: Stop Exploitation Through Trafficking Act of 2013, Actions, available at <https://beta.congress.gov/bill/113th-congress/senate-bill/1733>.

<sup>62</sup> *H.R. 3610: Stop Exploitation Through Trafficking Act of 2014 Cost Estimate*, Congressional Budget Office, May 14, 2014, available at <http://www.cbo.gov/sites/default/files/cbofiles/attachments/hr3610.pdf>.

<sup>63</sup> *Sold Into Sex Slavery: Lawmakers Work to End Underground Sex Trafficking*, The McCain Institute for International Leadership, CNN, May 20, 2014, available at <http://mccaininstitute.org/newsroom/current-news/sold-into-sex-slavery-lawmakers-work-to-end-underground-sex-trafficking>.

<sup>64</sup> *Stop Exploitation Through Trafficking Act of 2014 To Be Introduced by Sen. Klobuchar*, Freedom Network USA, available at <http://freedomnetworkusa.org/wp-content/uploads/2012/05/Stop-Exploitation-through-Trafficking-Act-Leave-Behind.pdf>.

<sup>65</sup> *Take Action – Federal Legislation S. 1733*, Shared Hope International, available at <http://sharedhope.org/what-we-do/bring-justice/legislative-action-center/take-action-federal-legislation-h-r-3610-s-1733/>.

<sup>66</sup> The Polaris Project's support is conditional, as it believes that SETTA does not go far enough to protect children. Polaris states that the bill "begins to address the problem" but that it

could do more to encourage states to provide immunity to children for trafficking crimes they were forced to commit, as well as recognize that prostitution is not the only offense children are forced to commit in a trafficking situation. Following these recommendations would bring the federal law closer to the standards set almost a year ago by the Uniform Law Commission and the American Bar Association. We also hope that both legal protections and specialized services would be available for all child victims of trafficking, and not only children who experience sex trafficking.

*Human Trafficking Legislation Fact Sheet*, Polaris Project, p. 3, available at

Congress should enact and the President should sign a version of SETTA which reasonably balances all interests at stake, including that of free speech.

## VII. Conclusion

Federal, state, and local governments must continue to work with NGOs to ensure that adequate funding for survivors' services is available.<sup>68</sup> It is clear that existing service providers cannot meet the current need. The need for services only will increase as more and more jurisdictions come to view sex trafficking victims as survivors rather than demean them as criminals. Therefore, questions are becoming more pressing with the passage of time. Federal, state, and local governments and NGOs must be working together now to refine and expand upon successful service models and to put additional service capacity into place across the country. Codification of SETTA will likely speed this process. Until such time as SETTA may become

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[http://www.polarisproject.org/storage/documents/05-20-14\\_Human\\_Trafficking\\_Legislation\\_Fact\\_Sheet-Final.pdf](http://www.polarisproject.org/storage/documents/05-20-14_Human_Trafficking_Legislation_Fact_Sheet-Final.pdf).

On other hand, the ACLU opposes the bill as currently drafted. It believes that the required scrutiny of advertisers could cause unintended, serious consequences for freedom of online or printed speech for sellers and buyers in legitimate commerce. The ACLU posits that

the bill, rather than narrowly targeting websites that knowingly advertise these despicable practices [of trafficking], ... would allow police to criminally pursue a website that has no idea it is hosting, and has procedures in place to prevent, ads featuring criminal activity. It does so because the "intent standard" – what a prosecutor has to prove the defendant knew – is vague.

This would create two big problems.

First, as noted, this would create an effective notice-and-takedown regime, where sites just remove content wholesale when notified of a potential problem. Second, and perhaps worse, websites could start making themselves "willfully blind." That is, given the lack of clarity in what the sites have to know to be prosecuted, they would stop prescreening ads to look for criminal activity. In other words, the bill would unintentionally discourage good corporate citizenship and potentially make the problem worse. ...

Lawmaking is messy stuff, and mistakes like this happen. Working to combat coerced or underage prostitution is incredibly important; however, legislation must be carefully drafted to be sure to protect our free speech rights online.

Hopefully, the bill can be fixed. If not, you'll be hearing a lot more from us.

<https://www.aclu.org/blog/free-speech/anti-backpagecom-bill-will-shut-down-free-speech>.

<sup>67</sup> *Anti-Backpage.com Bill Will Shut Down Free Speech*, American Civil Liberties Union, May 20, 2014, available at [http://www.ncsl.org/documents/sclaw/Klobuchar\\_Letter\\_July2014.pdf](http://www.ncsl.org/documents/sclaw/Klobuchar_Letter_July2014.pdf).

<sup>68</sup> See, e.g., *Recommendation 7, Report*, p. 43 and *Recommendation 8, Report*, p. 44.

law, states which have not yet done so should improve their statutes in the manner in which Minnesota, Illinois and Indiana have done. The pain faced by current victims and future survivors of sex trafficking must be ameliorated through all available means. Our nation's victimized children and adults deserve no less.

## Statement and Rebuttal of Commissioner Gail Heriot

Organized efforts to prevent human trafficking are not new. Beginning in 1807, pursuant to the Abolition of the Slave Trade Act, the British Navy undertook a blockade of the Atlantic slave trade.<sup>69</sup> Over the years, its West Africa Squadron was able to capture over 1500 slave ships destined for the Americas, freeing approximately 150,000 and rendering this horrific commerce essentially unprofitable. We all owe a debt to the courage and resolve of these officers and sailors, some of whom lost their lives carrying out their mission.<sup>70</sup> Their efforts were crucial in the war against slavery.

That particular variety of trafficking in human flesh has been wiped out. But you can still find other examples of the trade if you are willing to keep your eyes open. Indeed, in some corners of the globe, it is all too common. Just this past April, Boko Haram kidnapped 276 Nigerian schoolgirls for the supposed crime of having become too educated. Shortly thereafter, its leader announced they would be sold. As of this writing, there has been no word on their fate. Similarly, information has begun to trickle in suggesting that ISIS (the Islamic State of Iraq and Syria) is selling Yazidi and Christian women as slaves in Mosul.<sup>71</sup>

I believe we as Americans have a special duty to ensure that human beings are not bought and sold in the marketplace. This is not simply because we once tolerated slavery; almost all parts of the world did at one time or another. Nor is it because the United States was the last nation to renounce slavery, since it was not by any means.<sup>72</sup> But partly because we are a freedom loving

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<sup>69</sup> 47 Geo. 3, Sess. 1, ch. 36 (1807). At the same time, the United States had banned the slave trade. See An Act Prohibiting Importation of Slaves, 2 Stat. 426 (1807) (taking effect January 1, 1808, the first day such a ban was permissible under the U.S Constitution).

<sup>70</sup> Bernard Edwards, **ROYAL NAVY VERSUS THE SLAVES TRADERS: ENFORCING ABOLITION AT SEA 1808-1898** (2007); W.E.F. Ward, **THE ROYAL NAVY AND THE SLAVERS: SUPPRESSION OF THE ATLANTIC SLAVE TRADE** (1969).

<sup>71</sup> Aminu Abubakar & Josh Levs, *"I Will Sell Them," Boko Haram Leader Says of Kidnapped Nigerian Girls*, CNN (May 6, 2014). Slavery was not outlawed in Northern Nigeria until 1936, and it has never been entirely eliminated. Suzanne Miers, *THE END OF SLAVERY IN AFRICA* (1988). See also Mariz Tadros, *Who Will Condemn the Sexual Enslavement of Iraq's Minority Women?: Slavery and Rape Are Being Used as Weapons of War by Isis against Yazidi and Christian Women, Yet Rights Activists Are Silent*, theguardian.com (August 15, 2014).

<sup>72</sup> According to Wikipedia, Brazil abolished slavery with a series of partial measures beginning in 1871 and ending in 1888, while Cuba acted in 1886. Other countries lagged behind even those examples. China acted in 1906, while Thailand (then Siam) joined the list of countries where slavery is prohibited in 1912. Afghanistan, Iran, Iraq,

people and partly because the United States is the most powerful nation on the planet, we are in a special situation, just as Great Britain was in the nineteenth century.<sup>73</sup>

The difficulty is always in the details. When dealing with slavery outside our borders, under what circumstances should we rely upon diplomacy to achieve our goals? When are targeted economic sanctions the right tool? When do we resort, as Great Britain did, to sending in the military to rescue the victims? Within our borders, how do we best deploy our resources to root out the human subjugation that hides in the shadows?<sup>74</sup> How do we avoid exaggerating the prevalence of the problem and thus unduly alarming our citizens?

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Morocco and Nepal all abolished slavery in the 1920s. Qatar and Bhutan acted in the 1950s; Niger, Saudi Arabia, the United Arab Emirates, and Yemen in the 1960s; Oman in 1970 and Mauritania in 1981.

<sup>73</sup> Cf. John F. Kennedy, Inaugural Address (January 20, 1961) (“Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and the success of liberty”).

<sup>74</sup> If we are talking about the horrific ordeal of Amanda Berry, Georgina De Jesus and Michelle Knight, calling them “sex slaves” is hardly an exaggeration (although the term “sex trafficking” does not fit their particular situation since no commercial transaction was involved). They were abducted and forced to live for approximately a decade with Ariel Castro, who repeatedly subjected them to rape. They did not leave his home during that period and were frequently chained to the wall. Greg Botelho, *Michelle Knight Recalls Being Castro’s “Punching Bag,” Being Thankful for Life*, CNN (May 14, 2014), available at <http://www.cnn.com/2014/05/06/us/michelle-knight-interview/>. Using a milder term is arguably a disservice to the cause of truth and candor. And while cases like theirs are mercifully rare, they are not the only cases from within the borders of this country for which the term “slavery” is appropriate. Most of these others cases, however, differ from the Berry-DeJesus-Knight case in that they appear to involve organized, commercial activity and tend to victimize immigrant women who are especially vulnerable to such treatment. Determining the extent of that kind of activity is tough.

At the other extreme, in the absence of special circumstances, it is a misuse of the English language to call a prostitute, who is aware she has the power to flee, but does not, a “sex slave” or any kind of “slave” at all. Lawmakers may decide that they want to deny her the choice to engage in prostitution—either by criminalizing her conduct or by denying her the legal capacity to bind herself to that choice (and thereby opening the door for her to sue her customer or her panderer for battery) or by other means. But to deny that she has actually made a choice or to argue that a choice is a choice only if it is made from among some highly desirable alternatives is incorrect. Calling her a “slave” collapses a complex issue of public policy into an emotionally-charged slogan.

This is not to say that every woman engaged in prostitution has acted voluntarily. Many have been physically coerced; others have been lured into it by false statements or promises. Lawmakers will likely wish to treat such cases differently from those cases in which force or fraud are not at issue. (Note, however, that not all coercion or fraud, however minimal, constitutes a legal defense to other crimes, and presumably not all coercion or fraud would vitiate consent in the prostitution context.) Alternatively, lawmakers may conclude that separating the cases of coercion and fraud from other cases is too difficult and that all cases of prostitution should therefore be treated as if they are the product of coercion or fraud. But if that’s what we’re doing we need to be upfront about it and not hide it underneath emotionally charged slavery rhetoric.

Alas, this briefing was too unfocused to be of much assistance in developing the right policies. The terms “enslavement,”<sup>75</sup> “slavery,” “sex slaves,” “human trafficking,” and “sex trafficking”<sup>76</sup> got tossed around a lot. But at one moment we were talking about importing immigrant women to live as sex slaves; at the next we were talking about troubled teens who run away from home and wind up ensnared in prostitution; and then finally we were talking about adult prostitutes,

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<sup>75</sup> See, e.g., Tr. at 6 (“In my personal estimation, the term ‘human trafficking’ does not significantly address the inhumanity of this crime. I think when you look at this, you see that this is truly the enslavement and exploitation of persons.”) (remarks of the Chairman). I agree with Chairman Castro that when talking about slavery, “slavery” should be the preferred term and not “human trafficking.”

<sup>76</sup> I am not certain what accounts for the popularity of the terms “human trafficking” and “sex trafficking.” Both are frequently misused terms. We would understand each other a lot better if we stopped using them and adopted terms whose meaning is less susceptible to misunderstanding. Unfortunately, much of their misuse is intentional, so I don’t hold out much hope for greater clarity.

Merriam-Webster defines “traffic” in relevant part this way: “1 a: import and export trade b: the business of bartering or buying and selling c: illegal or disreputable usually commercial activity ... 2 a: communication or dealings especially between individuals or groups b: exchange ....” “Human trafficking” is thus the buying and selling of human beings, and many people understand it in exactly that sense: as a synonym for the slave trade.

Some people would like to use it as a synonym for slavery itself, too. And it’s easy to see why they would be tempted to do so. From the standpoint of law enforcement, there isn’t that much need to make a distinction between the slave trade and slavery today. By contrast, the British Navy did have such a need, since its control of the seas gave it a decent shot at eliminating that trade, while eliminating slavery itself would have required an armed invasion of Argentina, Brazil, Cuba, Peru, the United States and Venezuela, among many other countries. But today, focusing exclusively on trafficking rather on slavery itself seems odd. If members of Boko Haram were to enslave the kidnapped girls themselves rather than sell them to others, that would not alter the seriousness of the problem. Yet it would not literally be “human trafficking.” Some try to get around this semantic difficulty by arguing that if the victim is moved from place to place, she has been “trafficked” regardless of whether there has been a purchase or a sale. But such gymnastics are wholly unnecessary. Why not just call slavery “slavery”? It shouldn’t matter if the slave is nailed to the ground or on a fast-moving train.

But the problems with the terms “human trafficking” and “sex trafficking” go far beyond this. As suggested in the text above, the latter is now routinely used to describe the procurement of adults and of teenaged runaways for prostitution. This is not an illogical use of the word in that sex is being sold, but it leads to confusion. The former term—human trafficking—is now used to describe certain kinds of labor arrangements that I discuss *infra* at 21-29. This also leads to confusion.

Prostitution is a problem, to be sure. It is a problem whether we are discussing the prostitution of adults or the prostitution of teenaged runaways. But prostitution is not the same problem as slavery or even sexual slavery. And the prostitution of adults is a different problem from the prostitution of children. They require different solutions. Lumping them together with slavery or even sexual slavery does more harm than good.

Similarly, onerous labor arrangements can also be a problem. But they are not necessarily the same thing as the procurement of labor through coercion or fraud. See *infra* at \_\_\_\_\_. We need a vocabulary that allows us to make important distinctions and avoid confusion.

many (though not all) of whom have chosen their way of life. Each one of these things is a problem, but each is a different problem with a different set of solutions or lack of a solution.<sup>77</sup> Running them together only makes sense if one's motive is to benefit from the emotional response that terms like "modern slavery" and "human trafficking" tend to produce.<sup>78</sup> But if

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<sup>77</sup> Among those who work closely with the problem of prostitution, making further distinctions is likely necessary. For example, among adult prostitutes, there are prostitutes whose core problem is drug addiction and who would not be engaged in the trade if they were not drug dependent. There are prostitutes whose core problem is mental illness. Some prostitutes have only a very transient attachment to the trade and will give it up as soon as they find a decent place to sleep and a little help with the necessities of life. Some get lured into prostitution as teenage runaways and would give it up if they had some marketable skills that could earn them a comparable income. Then there are those who are thrill seekers who actually enjoy the job. A few even make a good living at it.

<sup>78</sup> Part of the problem is understandable. If one has a worthy cause—like helping women escape prostitution—that cause will need to be funded. And it's easier to get funding to "combat sex trafficking" than it is to "help prostitutes." But employing such language can make it more difficult for the ones who are combatting real sex slavery to raise funds for their activities.

In this regard I was impressed by blogger Laura Leigh Parker, who has been active in counter-human trafficking efforts in Southeast Asia. She wrote:

The words we use when we communicate, *especially* when talking about Christian ministries when we're raising funds to support them, are extremely important. Take, for example, the overuse {and misuse} of the term "human trafficking." Honestly, two years ago, I was fairly confused about it, too. I painted most of the global sex industry with general "trafficking/slavery" terminology, especially, I'm afraid, in those first support-raising newsletters we hammered our unsuspecting friends with. But, two years and a couple months into life and work in South East Asia, I am beginning to understand a little more.

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It is true that as I type this, there are young girls and women {and some boys} who are physically locked behind closed doors, who are threatened with their family's safety, and who are paying off debts by servicing men in brothels. Estimates are, in fact, that there are about 4.5 million women and children forced, by coercion or abuse, into the sex industry today.

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But, here's the thing we are learning in our {very meager} two years working in the counter-trafficking community of NGO's here in Asia— fighting human trafficking and reaching out to prostitutes is not the same thing.

And while obviously there is a fuzzy margin of gray between the two, we often see "ministry to bar girls" pegged under the "fighting human trafficking" banner— an example of unintentionally irresponsible communication, in my opinion. Because there are *40 million* prostitutes, working mostly by *choice*, compared to the {much smaller} *4.5 million trafficked victims*, trapped in the sex industry by *force*.

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And, so, who really cares what we call what? Why do the semantics really matter anyway? It's all ministry helping women who are poor, undervalued and often abused, right? What does it matter what we call it in

one's desire is to set effective public policy, they need to be disentangled. Not all prostitution is slavery; indeed, it may be that only a small sliver of commercial sex can be usefully analogized to slavery. Given that large numbers of prostitutes operate independently without panderers, it would be difficult to characterize prostitution as inherently rooted in subjugation. The promiscuous use of the word "slavery" will only water down our commitment to deal with actual slavery. And terms like "sex trafficking" and "human trafficking" tend to obscure more than they enlighten, because there is little agreement on what they mean.<sup>79</sup>

None of this is to say that all prostitution is "just prostitution." Some is induced by force or fraud. Some involves under-aged girls, rather than adults. Sometimes force or fraud is used on under-age girls. These are deadly serious problems.

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our newsletters and ministry-pitches?

Well, it does matter. *Greatly*. Because we have seen firsthand the subtle damage that can be done by Westerners who barge into red light districts assuming they are fighting modern day slavery and who raise funds under that belief, but then teach English to prostitutes who are working in the industry by choice. And while it is good that awareness is being raised for the issue of slavery, and *while it is absolutely a loving thing to reach out to those working in the sex industry* {especially by providing them with other work opportunities}, it is not the same thing as rescuing victims of trafficking or slowing down the economic machine that makes the sale of flesh so lucrative.

And I wonder if the funds, efforts and organizations that do effectively fight modern day slavery become diluted by the myriad of well-intentioned people that jump on the bandwagon under its name.

Laura Leigh Parker, *Human Trafficking vs. Prostitution: Why It Matters What We Call It*, [lauraleighparker.com](http://lauraleighparker.com) (June 23, 2012) (boldface deleted).

<sup>79</sup> The confusion over the word "trafficking" has also been noted in the United Kingdom by Nick Davies of the Guardian:

The sex trafficking story is a model of misinformation. It began to take shape in the mid 1990s, when the collapse of economies in the old Warsaw Pact countries saw the working flats of London flooded with young women from eastern Europe. Soon, there were rumours and media reports that attached a new word to these women. They had been "trafficked."

And, from the outset, that word was a problem. On a strict definition, eventually expressed in international law by the 2000 Palermo protocol, sex trafficking involves the use of force, fraud or coercion to transport an unwilling victim into sexual exploitation. This image of sex slavery soon provoked real public anxiety.

But a much looser definition, subsequently adopted by the UK's 2003 Sexual Offences Act, uses the word to describe the movement of all sex workers, including willing professionals who are simply travelling in search of a better income. This wider meaning has injected public debate with confusion and disproportionate anxiety.

Nick Davies, *Prostitution and Trafficking: The Anatomy of a Moral Panic*, **THE GUARDIAN** (October 19, 2009).

I have strong doubts that the U.S. Commission on Civil Rights or any other federal commission can ever contribute usefully to a solution to the problem of ordinary prostitution by consenting adults. Every possible public policy toward it seems to have been tried by some government at some point in history (and if Herodotus was correct about the Babylonians, that includes making prostitutes temple priestesses).<sup>80</sup> As far as I can see, none has ever produced wholly satisfactory results. I would leave it to localities to decide which among the many imperfect responses to the problem that they would like to go with.

I will therefore not comment on what I refer to as “ordinary prostitution” (i.e. prostitution by consenting adults). Neither will I treat the broad subject matter of this briefing systematically. Given the limited information I have, I can offer only a few scattered thoughts on some of the varied issues that were touched on during the briefing.

***How common are sexual slavery, forced prostitution, teenage and child prostitution and adult prostitution?***

That is really several questions instead of one. And the easy answer to each of them is that I don’t know. Nor does it seem that anybody has a good handle on these questions.

But there is one thing that I do know: There is something in the human soul that likes to be titillated by stories of sex and particularly of illicit sex. As a result, we often overestimate how much of it is going on. Sometimes this tendency snowballs into a full-scale panic.<sup>81</sup>

In the late 19th century, Great Britain was swept by hysteria over “white slavery,” a term then in vogue for forced prostitution. Muckraking editor W.T. Stead, head of London’s leading newspaper, the *Pall Mall Gazette*, printed an exposé series entitled “*The Maiden Tribute of Modern Babylon*,” which included the lurid story of Eliza Armstrong, a 13-year-old girl, who had been “purchased” for five pounds from her alcoholic mother for the purpose of prostitution.

The articles were a sensation. Crowds gathered in front of the newspaper offices to fight for copies. Political leaders feared riots. The story confirmed what activists in the social purity movement (as well as Stead himself) had been claiming for years: British women and girls were being forced into a life of prostitution. Special “white slavery” legislation had already been pending in Parliament, but the Eliza Armstrong case convinced legislators that immediate action was necessary. Only after the law was passed did the facts of the Armstrong case begin to

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<sup>80</sup> Herodotus, **THE HISTORIES** 1.199 (Godley, trans. 1920).

<sup>81</sup> See Statement of Commissioner Gail Heriot, Sexual Assault in the Military, Report of the U.S. Commission on Civil Rights at 161 (2013)(discussing misuse of statistics in an effort to depict a false epidemic in the military).

unravel. The alcoholic mother who sold the girl had been told that her daughter was going to be a maid to an old gentleman (and may or may not have understood this as a euphemism). The “purchaser” had been Stead himself, who did not actually violate the girl. The case was a hoax, and added nothing to what readers already knew about the likelihood that anyone was being forced into prostitution.<sup>82</sup>

Nevertheless, Stead and the members of the social purity movement were sincere in their belief that forced prostitution was a problem. And I suspect they were not wholly wrong. Such things need not be widespread before they must be taken seriously. But it was not as common as they believed. Intentionally or not, they were leading the public into an unnecessary panic. Women were being made to live in fear.

The hysteria spread to the United States in the early 20th century, where again, Progressive reformers were not wholly wrong. Women had been forced into prostitution in this country too, although the fear that many women could be snatched off the streets at any moment and forced into prostitution was sensationalized and overblown. “White Slavery” was one of “the” politically correct issues of the day, much as hate crimes have been for the last decade or so.<sup>83</sup> Clergymen preached against it. Artists depicted it. And it sold lots and lots of newspapers. But not as many women were being forced into prostitution as one would think from reading those reports.<sup>84</sup>

Misplaced fear is not a good thing. My grandmother had to work hard to graduate from high school in the little farm town where she was born. And she was talented. She applied for admission and was accepted to Radcliffe College, then the sister school to Harvard College (and now part of Harvard University).<sup>85</sup> But in the end, her parents wouldn’t let her go. They thought

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<sup>82</sup> Alison Plowden, **THE CASE OF ELIZA ARMSTRONG: “A CHILD OF 13 BOUGHT FOR £5”** (1974). Stead wound up being convicted of “abduction” for having taken young Eliza without her father’s permission.

<sup>83</sup> Compare Jack Levin & Jack McDevitt, **HATE CRIMES: THE RISING TIDE OF BIGOTRY AND BLOODSHED** ix (1993) (“It has become nearly impossible to keep track of the shocking rise in brutal attacks directed at individuals because they are black, Latino, Asian, white, disabled, women, or gay. Almost daily, the newspapers report new and even more grotesque abominations.... As ugly as this situation is now, it is likely to worsen throughout the remainder of the decade and into the next century as the forces of bigotry continue to gain momentum.”) with James B. Jacobs & Kimberly Potter, **HATE CRIMES: CRIMINAL LAW & IDENTITY POLITICS** 46 (1998) (demonstrating that the claim of a hate crime epidemic “lacks any empirical basis”).

<sup>84</sup> In more modern times, Hollywood, realizing the fears of the early 20<sup>th</sup> century had been exaggerated, turned the “white slavery” scare into entertainment—like the 1967 madcap comedy movie, *Thoroughly Modern Millie*, starring Julie Andrews and Mary Tyler Moore as young flappers who escape the clutches of their abductors. *Thoroughly Modern Millie* was updated and made into a Broadway musical in 2000, with alterations to the story line to make it more appealing to modern audiences. In my great-grandmothers’ day, however, not many people were laughing.

<sup>85</sup> As part of Harvard University, it is now known as the Radcliffe Institute for Advanced Study.

life in a big city—Cambridge, Massachusetts—was too dangerous for a young woman. She had to stay on the farm with them until she married. She never forgot it. For her, people who exaggerate dangers are not heroes. They are the reason she spent her adult life milking cows. And while milking cows can be a wonderful life for those who choose it, it was not the life she had wanted for herself.<sup>86</sup>

Congress hurriedly passed the White-Slave Traffic Act (Mann Act) in 1910. Its wording was shockingly vague. A person could be guilty of a federal crime if he transported a woman across state lines “for immoral purposes.” This covered not just forced prostitution but Labor Day weekend jaunts to the beach with a woman to whom the accused was not married. Immoral? Maybe. Worthy of calling out the FBI? For most Americans, probably then and now, the answer would be “no.”

In just a few years, federal prosecutors had learned to appreciate the statute’s vagueness, and began to prosecute certain individuals for driving a woman across a state line for a lovers’ tryst. Among those arrested for Mann Act violations were Charlie Chaplin, Frank Lloyd Wright, University of Chicago sociologist William I. Thomas, and African American athlete Jack Johnson. Flamboyant WWII double agent Dusan Popov (the man who was said to have warned the United States about an impending attack on Pearl Harbor) was reportedly threatened by J. Edgar Hoover with a Mann Act prosecution if he did not leave the country immediately. And the Mann Act was sometimes used to prosecute fundamentalist Mormon polygamists, since federal law does not actually prohibit the practice of polygamy. This is not what members of Congress thought they were prohibiting. But it is what they wrote, so it is what we got.

Are we still over-estimating the extent of sexual slavery, forced prostitution, prostitution by runaway teens and/or adult prostitution? I am not in a position to give definitive answers to those questions. But certainly nothing in this briefing gave me any reason to believe that these problems were as widespread as some want us to believe. This is not to suggest that our witnesses were not testifying in good faith. They did not claim to have definitive answers and were likely doing the best they could in a world with limited information.<sup>87</sup> And it is certainly

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<sup>86</sup> Efforts to describe college campuses as infected with a “rape culture” similarly serve to frighten those who are unfamiliar with the imperfect but hardly criminal culture that dominates college campuses. See, e.g., Caroline Kitchens, *It’s Time to End ‘Rape Culture’ Hysteria*, *TIME* (March 20, 2014), available at <http://time.com/30545/its-time-to-end-rape-culture-hysteria/>. See also Heather MacDonald, *Meretricious Meets Meddlesome*, *CITY JOURNAL* (Winter 2014); Heather MacDonald, *The Campus Rape Myth*, *CITY JOURNAL* (Winter 2008)(criticizing exaggerated claims that there is a “rape epidemic” on college campuses.).

<sup>87</sup> On the other hand, it is important to recognize that there are fraudsters out there. The case of Somaly Mam, the internationally acclaimed Cambodian advocate for victims of forced prostitution, is almost mesmerizing in this regard. Did she falsely claim in her autobiography to have been forced into prostitution as a child because she desperately wanted to put herself in a position to help real victims? Or was this just a matter of her own vanity and

not to suggest that these problems are unimportant if they happen to be less widespread than what has been claimed. That is very far from the case. But a proper response to the problems is easier when the scope of the problem can be accurately ascertained.

In the meantime, the damage that can be done to young minds by falsely suggesting that there are large numbers of women and children being held captive for sex all over the country is important too. For that reason alone, getting cool-headed estimates of the problem—*by persons whose living depends neither on funding to combat the problem nor on selling newspapers and magazines*—should be a priority. In the end, we will likely have to live with some uncertainty, but, if so, we need to recognize that erring on the side of over-estimation is not costless.

We have some experience as a result of the Trafficking Victims Protection Act of 2000,<sup>88</sup> which created T-visas for victims of “severe” forms of labor or sex trafficking (and for their close relatives).<sup>89</sup> Congress received testimony on the issue prior to the statute’s passage. A Department of State staff member, Theresa Loar, the Director of the President’s Interagency Council on Women, told the Subcommittee on International Operations and Human Rights of the

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desire to sell books? Did she coach young women who had never been the victims of forced prostitution to misrepresent themselves on major television broadcasts, because she thought it would help her raise funds for the real victims? If so, why not use a real victim instead? Just why would she pursue such self-destructive behavior?

In a major exposé of the scandal, Simon Marks reported in *Newsweek*:

Mam has raised millions with a hectic schedule of meetings all over the globe with the good, the great and the super-rich—from the U.N.’s Ban Ki-moon to the pope. One day she will be speaking at the White House, and the next day she’ll be enthralling schoolchildren in a remote corner of Cambodia.

Mam claims to have rescued thousands of girls and women from sex trafficking, a dangerous and formidable feat. Her story becomes even more inspiring when you hear her shocking tale of being sold into sexual slavery. In 2005, she published her autobiography, *The Road of Lost Innocence*, which became an international best-seller. Mam was one of *Time*’s 100 most influential people in 2009 and has over 400,000 followers on Twitter.

She has done so much for so many, does it matter that key parts of her story aren’t true?

Simon Marks, *Somaly Mam: The Holy Saint (and Sinner) of Sex Trafficking*, **NEWSWEEK** (May 21, 2014).

<sup>88</sup> Trafficking Victims Protection Act, Pub. L. 106-386, 114 Stat. 1464 (2000).

<sup>89</sup> Severe forms of trafficking are defined as “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” 22 U.S.C. 1702(9).

The statute also provides for U-visas for victims of other crimes (and their close relatives). 8 U.S.C. 1101(a)(15)(U).

House Committee on International Relations that about 50,000 women and children were pouring into the country as labor or sex slaves each year.<sup>90</sup> Rep. Christopher H. Smith (R-N.J.), the bill's chief sponsor, vowed to do something to stem this "tidal wave" of victims. Eventually, his bipartisan effort passed the House and Senate as part of the Victims of Trafficking and Violence Protection Act of 2000, with the 50,000 figure making its way into the Act's findings. President Clinton signed it into law on October 28, 2000.

But it turned out the Department of State had gotten that 50,000 estimate from a CIA analyst, who in turn had estimated the number mainly by reviewing clippings from foreign newspapers. According to the Washington Post's anonymous source within the CIA, the 50,000 figure was "unscientific," which, given how things turned out, may have been an understatement.<sup>91</sup>

The figure began to melt rapidly. Congress capped the number of T-visas available in any given year to 5,000 each year, despite its finding that there are about 50,000 victims each year. But at no time has the number actually given out been more than a few hundred.<sup>92</sup> To be fair, these things happen in the shadows, so no one would have expected 50,000 applications a year even if the estimate had been dead on. But as Ronald Weitner, a professor of sociology at George Washington University, pointed out, "The discrepancy between the alleged number of victims per year and the number of cases they've been able to make is so huge that it's got to raise major questions." An expert in criminology and trafficking, Weitzer drew the same tentative lesson from the data that I am inclined to draw, "[The discrepancy] suggests that this problem is being blown way out of proportion."<sup>93</sup>

A few years after the passage of the Act, the CIA revised its figure downwards to 14,500 to 17,500 each year, and the new figures made their way into a 2004 Department of State report.<sup>94</sup> But Attorney General Alberto Gonzales stated in 2006 that even these figures may be

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<sup>90</sup> Trafficking of Women and Children in the International Sex Trade, Hearing Before the Subcommittee on International Relations and Human Rights of the Committee on International Relations, House of Representatives, 106<sup>th</sup> Cong., September 14, 1999 at 13. A Justice Department official testified that the number might have been 100,000 each year.

<sup>91</sup> Jerry Markon, *Human Trafficking Evokes Outrage, Little Evidence: U.S. Estimates Thousands of Victims, But Efforts to Find Them Fall Short*, WASHINGTON POST (September 23, 2007).

<sup>92</sup> U.S. Department of State, *Nonimmigrant Visa Statistics*, available at <http://travel.state.gov/content/visas/english/law-and-policy/statistics/non-immigrant-visas.html> (last accessed July 17, 2014).

<sup>93</sup> Markon, *supra* n.23.

<sup>94</sup> U.S. Department of State, *Trafficking in Persons Report: June 2004* at 24, available at <http://www.state.gov/documents/organization/34158.pdf>.

overstated.<sup>95</sup>

The Trafficking Victims Protection Act provides funding for programs to root and assist the victims of trafficking. If so few are being found relative to estimates, it is not because nobody has been looking for them. It is more likely that the estimates were overstated.

Meanwhile the Trafficking Victims Protection Act has been re-authorized and refunded four times—each time expanding the law in multiple ways. For example, the Trafficking Victims Protection Reauthorization Act of 2003 created a private right of action in federal court for victims along with other changes.<sup>96</sup> The Trafficking Victims Protection Reauthorization Act of 2005 added, among other things, grants to state and local government for enforcement and further victim assistance.<sup>97</sup> The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 redefined various trafficking crimes to make prosecution easier and made further changes.<sup>98</sup> The Trafficking Victims Protection Reauthorization Act of 2013 (Title XII of the Violence Against Women Reauthorization Act of 2013) provides, among other things, resources to support holistic support for survivors.<sup>99</sup>

Since I have a hard time estimating the number of women and children brought into the country for the purpose of sexual subjugation, I will refrain from taking this a step further and trying to estimate the number of teenage runaways who get lured into prostitution or the number of any other kind of prostitute. That would only take me further outside my areas of expertise.

### **Are State Legislatures Responding Appropriately?**

Again, my answer is the same: Since I don't have a good handle on the scope of the problem generally, it is hard to have a clear position. But, again, I do know one thing: Legislating in haste is usually a bad idea.

The Criminal Law Amendment Act of 1885 in Great Britain was not all bad.<sup>100</sup> But just as it contained needed reforms (like raising the age of consent from 13 to 16), it also contained a number of missteps (like criminalizing all “gross indecency” between men whether in public or in private and providing for summary proceedings of various sorts).

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<sup>95</sup> Markon, *supra* n.23.

<sup>96</sup> Pub. L. 108-193, 117 Stat. 2875 (2003).

<sup>97</sup> Pub. L. 109-164, 119 Stat. 3558 (2005).

<sup>98</sup> Pub. L. 110-457, 122 Stat. 5044 (2008).

<sup>99</sup> Pub. L. 113-4, 127 Stat. 54 (2013).

<sup>100</sup> 48-49 Vict. ch. 69.

Similarly, the White-Slave Traffic Act (Mann Act) was not all bad.<sup>101</sup> It gave federal authorities the ability to intervene to stop women who were coerced or defrauded into crossing state lines to engage in prostitution. But it also defined the prohibited conduct too broadly, thus vesting federal authorities with too much enforcement discretion—discretion they eventually abused.<sup>102</sup> Legislate in haste; repent at leisure.

I was struck by the testimony of Greg Zoeller, Attorney General of Indiana. In 2012, the Super Bowl was held in Indianapolis. So-called experts predicted to him that the 2012 Super Bowl would be like all previous Super Bowls with staggering levels of “sex trafficking” and prostitution of both the child and adult varieties. When you think about, it seems obvious, doesn’t it? About 70,000 attendees, most of them testosterone-driven men, are descending on a city for a thrill-filled weekend. They have money in their pockets, and they’re away from the civilizing influences of home and hearth. We are lucky it wasn’t worse than it was. Why would any city want to host such an event?

Zoeller took them seriously (as I believe his duty required him to do). The problem is that the whole notion that hordes of prostitutes descend on the Super Bowl each year appears to be something of a myth. As NFL spokesman Brian McCarthy put it in 2011, “This is urban legend that is pure pulp fiction.”<sup>103</sup>

Said Phoenix police Sergeant Tommy Thompson after the 2008 Super Bowl: “We may have had certain precincts that were going gangbusters looking for prostitutes, but they were picking up your everyday street prostitutes. They didn’t notice any sort of glitch in the number of prostitution arrests leading up to the Super Bowl.”<sup>104</sup>

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<sup>101</sup> 36 Stat. 825 (1910).

<sup>102</sup> See *supra* at 10.

<sup>103</sup> Pete Kotz, *The Super Bowl Prostitution Hoax*, **THE VILLAGE VOICE** (February 1, 2012). See also Global Alliance Against Traffic in Women, *What is the Cost of a Rumor? A Guide to Sorting Out the Myths and the Facts Sports Events and Trafficking* (2011).

<sup>104</sup> *Id.* Writing for the New York Times, Kate Mogulescu, founder and supervising attorney of the Trafficking Victims Advocacy Project at the Legal Aid Society, wrote:

No data actually support the notion that increased sex trafficking accompanies the Super Bowl. The Global Alliance Against Traffic in Women, a network of nongovernmental organizations, published a report in 2011 examining the record on sex trafficking related to World Cup soccer games, the Olympics and the Super Bowl. It found that, “despite massive media attention, law enforcement measures and efforts by prostitution abolitionist groups, there is no empirical evidence that trafficking for prostitution increases around large sporting events.”

Tampa police spokeswoman Andrea Davis after the 2009 Super Bowl: “We didn't see a huge influx in prostitutes coming into Tampa. The arrests were not a lot higher. They were almost the same.”<sup>105</sup>

Zoeller described how it was recommended to him at an August 2011 meeting of the National Association of Attorneys General (of which he was a member) that he look into the adequacy of Indiana’s human trafficking laws. Upon his return to Indiana, he quickly began that process and ultimately concluded that changes were in order.<sup>106</sup> Because the Super Bowl was coming up in just a few months and the legislature’s meeting was set for January, things had to be done fast. He testified:

So within three weeks -- and if you have ever dealt with legislation, you will know it is a Herculean task -- but within three weeks they passed the bill that we had recommended, well in time for the Super Bowl.<sup>107</sup>

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Even with this lack of evidence, the myth has taken hold through sheer force of repetition, playing on desires to rescue trafficking victims and appear tough on crime. Whether the game is in Dallas, Indianapolis or New Orleans, the pattern is the same: Each Super Bowl host state forms a trafficking task force to “respond” to the issue; the task force issues a foreboding statement; the National Football League pledges to work with local law enforcement to address trafficking; and news conference after news conference is held. The actual number of traffickers investigated or prosecuted hovers around zero.

Kate Mogulescu, *The Super Bowl and Sex Trafficking*, **THE NEW YORK TIMES** (January 31, 2014).

<sup>105</sup> Kotz, *supra* at n.35.

<sup>106</sup> In addition, Zoeller arranged for extensive training sessions:

During the Super Bowl and in preparation, I'll say the pre-game warmup, we trained over 3,400 people, 60 different human trafficking trainings, 46 community outreach awareness activities, 45 efforts in passing out brochures, hundreds of efforts throughout the network of Super Bowl participants.

We distributed 2,700-plus educational materials. We worked with law enforcement and others in this effort. And, as a post-game wrap-up, we had 68 commercial sex arrests, 2 human trafficking victims that were identified and recovered, 2 other potential trafficking victims who had been identified that are working with our law enforcement.

Tr. at 18. Zoeller did not explain what he meant by “human trafficking victims” or especially what he meant by “potential trafficking victims.” Enough time had passed between the Indianapolis Super Bowl and his testimony that it ordinarily would have been possible to decide whether a particular person was or was not underage or the victim of force, coercion or fraud.

<sup>107</sup> Tr. at 17-18 (testimony of Attorney General Greg Zoeller).

This worried me. When statutes are passed in a hurry, they are frequently ill-considered. It should be done only when really necessary.

The most significant change was the addition of the following provision:

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than sixteen (16) years of age with the intent of:

(1) engaging the child in:

(A) forced labor; or

(B) involuntary servitude; or

(2) inducing or causing the child to:

(A) engage in prostitution; or

(B) Participate in sexual conduct ...;

commits promotion of human trafficking of a minor, a Class B felony. It is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or to participate in sexual conduct.

Sounds good, right? And most of it probably is. But read literally, it makes it a Class B felony for a mother to force a child to make his bed or wash the dishes after a family dinner.<sup>108</sup> It is not a good thing to have a criminal code drafted in such a sloppy way.

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<sup>108</sup> A recent appellate case, *U.S. v. Toviave*, (\_\_\_ F. 3d. \_\_\_, 6<sup>th</sup> Cir. 2014), suggests that some ambitious prosecutors have read a federal forced labor statute in the way that I describe. Defendant Toviave was accused of violating 18 U.S.C. 1589, the federal statute making forced labor a crime, for making four young relatives of his from Togo cook, clean, do laundry, and babysit for his girlfriend and relatives. Toviave was also accused of physically abusing these children if they did not complete their chores – deplorable conduct that makes these children’s situation very different from that of children in happy, loving households where parents use more appropriate disciplinary methods to make sure that housework gets done. Nonetheless, this case illustrates the problem with sloppy drafting of forced labor statutes.

Perhaps unknown to Gen. Zoeller, there are those who argue in good faith that parental abuse of children should be equated with slavery at least under certain circumstances. Akhil Amar and Daniel Widawsky have argued, for example, that the Thirteenth Amendment, which prohibits slavery, should provide federal remedies for children who have been abused.

The idea that the Thirteenth Amendment might apply to child abuse will no doubt strike many readers as novel, if not farfetched. We ask these readers for patience and remind them that, for example, only a generation ago, the ideas that abortion and pornography implicate equality rights for women—ideas now widely held—were seen by many as similarly novel and farfetched.

Akhil Amar & Daniel Widawsky, *Child Abuse As Slavery: A Thirteenth Amendment Response to DeShaney*, 105 *HARV. L. REV.* 1359, 1360 (1992). Might an Indiana prosecutor who is sympathetic to the arguments of Amar & Widawsky also be inclined to interpret the new Indiana statute to cover the owner of a chain restaurant franchise who

***Should Teenage Runaways Who Become Ensnared in Prostitution Be Treated as Criminals or Victims?***

Thus far, I have been unable to supply definitive answers to any of the questions I have posed. This one is no exception. But I do feel like I can offer some food for thought.

First of all, the question presents a false dichotomy. The real question should be: ***Should they be treated as criminals, victims or something else?*** The most obvious middle course is the juvenile justice system, which I briefly describe below. Second, this question does not need to be and probably shouldn't be considered in isolation. Prostitution is not the only crime that troubled teens are lured into. They get lured into drug use, drug dealing, burglary, armed robbery and worse. And sometimes they don't need to be lured. They get there all on their own. Prostitution should not be treated as sui generis.<sup>109</sup>

Consider the hypothetical case of George, a sixteen-year-old runaway from a dysfunctional family in Chicago. George hitchhiked his way to a truck stop outside St. Louis, but with no money for food, he was starting to wonder if he'd done the right thing. As he sat outside the truck stop diner, a seemingly kind stranger offered to buy him breakfast. One thing lead to another and George's new friend ultimately recruited him into a ring of methamphetamine manufacturers and dealers operating out of truck stops throughout the Midwest. "It's easy and

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insists that his teenage son wait tables on weekends? Even if the restaurateur's actions violate the labor code, is it clear that the Indiana legislature would have wanted to make his conduct a Class B felony?

<sup>109</sup> Commissioner Achtenberg takes this one step further and asks whether adults who become ensnared in prostitution should be treated as criminals or victims. Since it is unclear to me how Commissioner Achtenberg is defining "sex-trafficked people," I am not precisely sure which persons she would classify as victims rather than criminals. But my response is the same no matter what her answer: It is not clear to me why prostitution should be treated differently from other crimes with regard to force, coercion or fraud. If one recasts my hypothetical in the text above to make sixteen-year-old George into eighteen-year-old George, it will illustrate my point. How much force, coercion or fraud is necessary for us to want to regard a methamphetamine manufacturer into a victim rather than a criminal? If the answer is different from what is necessary in the case of prostitution, what is the explanation for the difference? The overall system needs to be reasonably coherent.

Commissioner Achtenberg also points out that some prostitutes began working in the profession at a very young age—sometimes astonishingly young. But this is also true of drug dealers, pickpockets, armed robbers, murderers and even pimps. Again, therefore, my response is simply that none of this should be analyzed in isolation. If a woman who decides to become a prostitute at age fifteen is a victim rather than a criminal if she is still plying her trade at age twenty-five, it is unclear why the same would not be true for a burglar. If it should not be true, we need an explanation as to why.

One can always take the position that prostitution should be legalized. But if one does, then one must be prepared to explain why procuring prostitution should not also be legal. The policy needs to be coherent.

risk free,” he told George. “If you help out for three months in our lab, you’ll earn \$20,000 and be able to go anywhere you want in the country with money in your pocket.” And it was easy at first. But after three months, George wanted to cash out and go to Hawaii, but the friend told him he must keep at it at least for another three months to get his money. Before that time was up, police raided the lab and George was arrested. Is he a criminal or a victim?

In an earlier day, the answer may have been “criminal.”<sup>110</sup> George may have been tried in an ordinary court and housed with adult prisoners if convicted. But Progressive Era reforms in the very late 19<sup>th</sup> and early 20<sup>th</sup> centuries created the juvenile justice systems that separated adult from youthful offenders. Under this system, a youthful offender is designated neither criminal nor victim; he is adjudged a “juvenile delinquent.”

While the criminal justice system might be said to have punishment as its ultimate end, the juvenile justice system is aimed primarily or perhaps even exclusively at reform. Thus, for example, while a criminal record can last forever, a juvenile record is generally confidential and is ordinarily expunged once the minor becomes an adult.

There are circumstances under which a juvenile can be tried as an adult, particularly for very serious crimes. And reasonable persons disagree as to when circumstances should permit that. But most everyone agrees these days with the basic Progressive Era insight that juvenile offenders should under ordinary circumstances be treated differently from adult offenders—that

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<sup>110</sup> In deciding what to do about George’s conduct, a court must decide first whether he has committed any crime at all. Was he coerced into doing what he did? If a gun had been held to his head, presumably many people would take the position that he committed no crime at all. Should it be enough to get him off the hook if he committed the crime because otherwise he feared that he would go hungry? I suspect most people would say no if George were an adult, but some may have more sympathy for him in this regard the younger he is. Reasonable minds will differ on where the line should be drawn between criminally culpable and coerced conduct. My point is simply that what constitutes “coercion” as a defense to a charge of prostitution should not be unrelated to what constitutes “coercion” as a defense to other crimes. If George wasn’t coerced, was he defrauded? It was not true that his conduct was risk free, and it was not true he would only have to help at the lab for only three months. He was lied to. If fraud of this sort is not be a defense to George’s crime (and I assume it is not), how about this: What if his “friend” had been a beautiful woman who falsely claimed she loved him, but that she needed cash from the methamphetamine sale in order to pay surgery necessary to save her life? What if he foolishly believed her lie? What if it is true?

I don’t claim to have the one and only “correct” approach to questions of coercion and fraud. Deciding what should constitute sufficient coercion or fraud to completely or partially vitiate a teenager’s (or an adult’s) moral or legal culpability is a question best left to those who have been mulling over the question longer than I have. But I am disturbed by the notion that prostitution is so different from other crimes that it is unnecessary to think about it in the broad context of criminal activity and moral culpability.

they have diminished moral capacity and that the emphasis should be on reform.<sup>111</sup> But teens are not without moral capacity at all. Treating them as if they are is likely to be counterproductive—to result in more delinquent activity like George's and hence more shattered young lives.<sup>112</sup>

I fear not enough effort is being undertaken to reconcile the treatment of prostitution with the treatment of other crimes. But while the law has never been a perfectly seamless web, in the real world precious little is really in a category by itself. Reforms that are undertaken in isolation are by definition ill-considered. If one hasn't thought through how the same line of thinking would be applied in similar but not identical circumstances, then one hasn't thought through the issue.

*Of course*, the men (or women) who induce teenagers to engage in prostitution are wrongdoers.<sup>113</sup> *Of course*, they should be punished—regardless of how happy the teenager was to comply. That is an easy case. But it doesn't necessarily follow from that the best way to deal

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<sup>111</sup> They can and do disagree as to the details. Compare Steven Drizin, *Juveniles Deserve Jury Trials*, **CHICAGO TRIBUNE**, December 22, 1999 to Steven Fry, *Jury Trials for Youths May Strain Local Court*, **KANSAS CITY STAR**, June 21, 2008.

<sup>112</sup> Sometimes it is indeed true that victims, particularly very young, inexperienced ones, suffer from false consciousness and thus fail to realize how they have been taken advantage of. But it is always disconcerting when it is thought necessary to persuade someone that they have been victimized. When individuals take responsibility for their own choices, they are usually at least partially right. Efforts to force a story to fit a "pure victim" narrative may be every bit as culpably misleading as the panderer's inducements they seek to punish. The Guardian reported this statement by a public defender who specializes in representing defendants charged with prostitution:

So no one comes into criminal court or to my office or to meet with any member of my team and says, "I'm a victim of trafficking, thank goodness the NYPD arrested me, because I've just been looking for assistance, and I don't know where to look." That's not what happens.

But what we learned by listening to our clients' experiences is that many of them have experienced trafficking, and many of them, even more than that, have experienced severe marginalization, exposure to violence ... and that's an area that's of real concern to us as well.

Jessica Valenti, *Inside Human Trafficking: Don't Call it "Modern Day Slavery," Fix It Already*, **THE GUARDIAN** (April 25, 2014).

<sup>113</sup> Everyone seems to agree that it is common for teenage runaways who are induced to engage in prostitution to view themselves as in league with the inducer rather than as his victim. Call it youthful lack of judgment. Or call it Stockholm syndrome. Either way, it is something that has to be dealt with. When it comes to prosecuting the panderer, it is not clear which approach to the teenager's criminal liability is best. If the teenager identifies with her panderer, she may not be willing to testify against him. What is more likely to persuade her to do so? The threat that she may be in trouble with the law if she does not? Or an assurance that no legal blame will fall upon her no matter what? Is the former kind of pressure appropriate? If it isn't, are we prepared to live with the consequences of not being able to prosecute the panderer? It is tempting to want to wish away this problem by insisting that there are always other ways to prove the panderer's guilt beyond a reasonable doubt. But I am unconvinced.

with the teenager's conduct is always to declare her merely a victim. A thirteen-year-old who knows she will be beaten black and blue if she doesn't do as her panderer says is at one end of the spectrum. A seventeen-year-old who is enthusiastic about her newly found "profession" and who has passed up many opportunities to escape the influence of her panderer is at the other end.

As Commissioner Achtenberg points out in her statement, Congress currently has before it proposed legislation entitled "Stop Exploitation Through Trafficking Act" or "SETTA". If passed, it would (among other things) withhold a portion of a state's federal funding under the Omnibus Crime Control and Safe Streets Act of 1968 if that state does not follow the federal government's preferred policy as to juvenile prostitution. SETTA would give states three years to pass legislation treating a juvenile who has engaged in prostitution or other commercial sex as "a victim of a severe form of trafficking in persons." The state legislation would have to discourage prosecution and instead to encourage delivering up the juvenile to child protection services.

I oppose SETTA. I see no good reason to for a "one size fits all" approach in this area. If treating all of those minors who engage in prostitution (rather than just those minors who are forced, coerced or defrauded into it) seems like a good idea, then let those states that think so take the lead and adopt the policy. If others are impressed with the results, they will follow. There is no need for enforced uniformity here.

### ***How Should International Labor Trafficking Be Treated Under the Law?***

I would also like to comment briefly on the tendency to view the complexities of so-called "international labor trafficking" as something inherently sinister. This is a tricky area. There is plenty of opportunity for fraudulent or coercive behavior in these transactions. But there is also opportunity for gain by the most vulnerable of the world's people, trapped in poverty. If we make it too difficult for labor brokers to function in various places around the world, we will have inflicted serious harm on those we are seeking to protect.

Bear in mind that almost all of us "traffic" in labor at one time or another. I get paid to be a law professor.<sup>114</sup> If I ever lose that job, I would be unlikely to find another in the San Diego area

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<sup>114</sup> Note also my contract is not "at will" on my part. I sign a contract that requires me to remain with the University of San Diego for the year. The reason is clear: It is very difficult for universities to engage someone to teach a class halfway through the semester. For similar reasons, movie stars sign contracts to complete a film and sailors sign on for entire voyages. To be sure, if I were to breach my contract, I probably could not be ordered by a court to perform against my will. But at least in theory and sometimes in practice, I can be made to pay damages if, for example, I quit suddenly and the University has to pay someone to finish teaching my classes at a cost higher than what I was being paid. That is fair. Fortunately for me, if I ever need to breach my contract, I can pay appropriate damages. Those with fewer resources than I have may find employers less willing to invest in that employee's

where I live, so there is a good chance I would have to move. Fortunately for me, I have a little money in the bank to tide me over and finance my move, whether it is 1000 miles to Dallas or 8000 to Delhi. I am lucky.

My ancestors were not as lucky. They didn't have money in the bank. Indeed, I'm not sure they had ever heard of a bank. But they had heard of the New World, and they wanted to come. The problem of how to finance a long voyage from a land of poverty to a land of opportunity is an old one. The seventeenth century British isles had a lot of willing workers, but not a lot of work or even food.<sup>115</sup> The American colonies were crying out for them. It was a match made in heaven. But the logistics of getting from Point A to Point B only seem easy to us because we are looking at them from a distance of hundreds of years. In reality, it required smart thinking and a willingness to take a risk. Who would pay for their passage? And who would pay for their food during the long passage? Where would they sleep before their first paycheck? What would they eat? They didn't have savings. Nor did they have credit.

One of the most logical ways for aspiring immigrants to get credit was to commit themselves to labor through a written indenture, which could be sold by a labor broker to the highest bidder upon arrival in the New World. Put differently, their best option was to become indentured servants—typically for terms of three to seven years.<sup>116</sup> No Old World bank could take the risk

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training, because the employee may leave thus making it impossible for the employer to recoup its investment. See Christopher T. Wonnell, *The Contractual Dispowerment of Employees*, 46 **STAN. L. REV.** 87 (1993).

<sup>115</sup> For example, a study of Scots-Irish immigrants found that the five waves of immigration from Northern Ireland all occurred during periods of famine and disease. James G. Leyburn, **THE SCOTCH-IRISH: A SOCIAL HISTORY** 184 (1962). In England, those who chose to emigrate as indentured servants tended to be from fatherless households, which had neither the funds nor the connections to land an apprenticeship for their children. See Farley Grubb, *Fatherless and Friendless: Factors Influencing the Flow of English Emigrant Servants*, 52 **J. ECON. HIST.** 85, 95 (1992). As harsh as conditions were in the New World, they were better than what these emigrants would have faced by staying home. See also Stanley Lebergott, **THE AMERICANS: AN ECONOMIC RECORD** 27 (1984)("[T]he life prospect faced by most Europeans [was bleak]. They could not own land. Nor could they even hope that their children might. In the New World, however, it was possible to buy a small farm after working and savings for a year or two.").

All in all, these migrants were hardly irrational for choosing to come to the New World as indentured servants, despite high mortality rate and all the other risks. See, e.g., Edwin J. Perkins, **THE ECONOMY OF COLONIAL AMERICA** 91 (2d ed. 1988) ("The indenture system was, for up to 90 percent of its participants, a market-driven, unexploitative arrangement that financed the movement of thousands of willing migrants to the colonies ....").

<sup>116</sup> Somewhere between one-half and two-thirds of all white immigrants to the American colonies from the mid-17<sup>th</sup> century to the Revolutionary War came as indentured servants—either voluntarily or as convicts. Convicts were only about 10% of the total number of indentured servants. Abbot Emerson Smith, **COLONISTS IN BONDAGE: WHITE SERVITUDE AND CONVICT LABOR IN AMERICA, 1607-1776** 336 (1947); Edwin J. Perkins, **THE ECONOMY OF COLONIAL AMERICA** 93 (2d ed. 1988).

of lending money to these would-be immigrants. There would be no way to assure its repayment once they got to America. The debtor could disappear into the interior, never to be located by the bank again.<sup>117</sup> But while an Old World bank couldn't take the risk, a seventeenth-century Massachusetts Bay farmer in need of assistance could. In addition to providing room, board and work, he could keep a sharp eye on his investment. His neighbors had a stake in helping him do so, since they often had indentured servants too. The system worked imperfectly, but well enough to bring a lot of people to America who otherwise could not have gotten here.<sup>118</sup>

No one should be under any illusion about the potential for abuse here. Stories abound of seventeenth century Englishmen being kidnapped and thrown onto a ship headed for America.<sup>119</sup> I suspect these stories are often true. And there were other problems too. In the seventeenth century, recruiters usually knew a good deal more about what life is going to be like in the New World than did the potential recruit. They therefore were in a position to mislead the recruit in order to persuade him to make the move. "*The streets are paved with gold in the New World*" — or so many were told. In addition, once the servant arrived at his destination, his employer had an incentive to squeeze as much work out of him as possible. Indeed, an employer who was also a slaveholder had good reason to assign an indentured servant to the more hazardous jobs, since the death of an indentured servant, particularly one whose indenture was about to expire, was less harmful financially to the employer than the death of a healthy slave.<sup>120</sup>

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<sup>117</sup> David W. Galenson, *The Rise and Fall of Indentured Servitude in the Americas: An Economic Analysis*, 44 **J. ECON. HIST.** 1, 3 (1984) ("Existing English capital market institutions were patently inadequate to cope with the problem, considering difficulties that included the high transactions costs entailed in making loans to individuals and enforcing them at a distance of 3,000 miles.").

<sup>118</sup> Christopher T. Wonnell, *The Contractual Dispowerment of Employees*, 46 **STAN. L. REV.** 87 (1993) (discussing advantages and disadvantages for the worker of indentured servitudes compared with a free labor system).

<sup>119</sup> For some ugly examples, see John van der Zee, **BOUND OVER: INDENTURED SERVITUDE AND AMERICAN CONSCIENCE** 67-227 (1985).

<sup>120</sup> It is important to neither minimize nor exaggerate the adversity suffered by indentured servants. Dr. Russell Menard, professor of history at the University of Minnesota and a leading expert in the social and economic history of the North American colonies, has written: "Servants could not sue at common law, but they could protest ill-treatment and receive a hearing in the courts. Cases in this period are few, but the provincial court seems to have taken seriously its obligation to enforce the terms of indentures and protect servants' rights. No instances of serious mistreatment of servants appear in the records in the late 1630s and early 1640s. Servants were worked long and hard, but they were seldom abused." Russell R. Menard, *From Servant to Freeholder: Status Mobility and Property Accumulation in Seventeenth-Century Maryland*, 30 **WM. & MARY Q.** 37, 48 (1973) (citations omitted). This is not to say that disobedient servants would not be punished, sometimes cruelly. One Maryland statute prohibited employers from administering more than 10 lashes without permission from a court. Robert J. Steinfeld, **THE INVENTION OF FREE LABOR: THE EMPLOYMENT RELATION IN ENGLISH AND AMERICAN LAW AND CULTURE, 1350-1870** 45-46 (1991).

Seventeenth-century law and practices dealt with this as was thought best at the time—including by having indentures be specific, limited as to time and in writing. But no doubt abuses occurred.

Note that the labor recruiter was the first performer and was hence vulnerable too. He had secured passage for the indentured servant. If the indentured servant jumped ship when the ship arrived in Boston Harbor, his recruiter (or whoever financed his trip) would likely never see a return on his investment. Similarly, once the employer paid for the indenture, he became vulnerable. If the servant ran away, did a poor job, got sick or died, the employer lost his investment. Employers could not threaten indentured servants with firing, because that was what the servant wanted.

It's almost 400 years later, but some of the fundamentals of human existence don't change easily. These days, a higher proportion of the world's residents can finance their own trips.<sup>121</sup> Alternatively, some have relatives who have gone before them who can help. Like many modern Americans, they are lucky. But the world's population is much higher, so the number of persons from poverty-stricken parts of the world seeking to immigrate to more prosperous lands is probably larger than ever. Many face the same problems that that my destitute ancestors did: How do I connect with someone who will want to hire me? Who is going to finance the trip?

Again, sometimes the only practical alternative for an aspiring immigrant is to incur a debt to a labor broker who may then pass that debt on to an employer (or the labor broker may remain the immigrant's legal employer, who then lends out the immigrant to the individual or enterprise for whom the immigrant actually labors). In such cases, the immigrant will almost always have to promise to remain with the employer until the debt is worked off. These arrangements seldom look exactly like the indentured servitudes of the seventeenth century. But in terms of their economic structure, they are essentially modern-day variations on a theme.

There is plenty of reason to regulate closely these variations on the indentured servant theme (and to try to come up with ways to make it easier on the immigrant). Some countries may choose to forbid them entirely. But if it is U.S. policy to prevent all these variations not just here in America but also abroad, an important method by which the world's most impoverished people can lift themselves out of poverty will be lost.<sup>122</sup> The credit necessary to finance

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<sup>121</sup> David W. Galenson, *The Rise and Fall of Indentured Servitude in the Americas: An Economic Analysis*, 44 **J. ECON. HIST.** 1, 3 (1984).

<sup>122</sup> The Thirteenth Amendment to the U.S. Constitution states, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction" and that "Congress shall have power to enforce this article by appropriate legislation." The language was modeled roughly after the Northwest Ordinance of 1787, which had outlawed

immigration has to come from somewhere. This problem cannot be wished away by good intentions.<sup>123</sup>

Our briefing was specifically on “sex trafficking,” so there was not much opportunity to discuss the international labor question more generally. But the testimony of Dr. Rhacel Parreñas, professor of sociology at the University of Southern California, nevertheless touched on what I am describing in discussing a diplomatic issue that arose between the United States and Japan. According to Dr. Parreñas, the designation of Filipina hostesses in Japan as sex-trafficked by the U.S. Department of State was well meaning, but ultimately heavy-handed and counter-productive:

“Sex trafficking” became an issue that I had to address when migrant Filipina hostesses in Japan, a group of labor migrants who I had been studying, were labeled by the U.S. Department of State as sex trafficked people. As the 2005 TIP Report states, “A significant number of the 71,084 Philippine women who entered Japan as overseas performance artists in 2004 are believed to have been women trafficked into the sex trade” (178). Justifying claims of their trafficking, they were described in the 2004 TIP Report as “victims... stripped of their passports and travel documents and forced into situations of sexual exploitation or bonded servitude...” (14). I should qualify that the labeling as trafficked persons of 80,000 plus migrant Filipina hostesses in 2005 made them the largest group of trafficked people worldwide or 10 percent of the 800,000 estimated trafficked persons in the world.

The label of sex trafficked persons is one that has directly affected the migration of Filipina hostesses. It has led to a drastic reduction in their numbers. Since 2006, their annual entry has hovered at around 8,000. Many would consider this drastic decline as a victory in the war on trafficking. It marks their successful rescue. But I care to differ. As

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slavery in the Northwest Territory and which had been incorporated into the law of the various states there once they entered the union. Interestingly, it was not thought to outlaw all voluntarily entered indentures of reasonable duration. See, e.g., Ohio Const. of 1802, art. VIII, § 2. At the time, such arrangements were likely thought to be necessary in order for those without funds to finance not just immigration but occupational training.

<sup>123</sup> In this country, plantation owners in the Jim Crow South often did their best to prevent labor agents from recruiting African Americans to the industrial North, where there was a strong need for workers. See David E. Bernstein, **ONLY ONE PLACE OF REDRESS: AFRICAN AMERICANS, LABOR REGULATIONS, AND THE COURTS FROM RECONSTRUCTION TO THE NEW DEAL** (2001). It is an aspect of history that gets little attention today. Instead we tend to concentrate on the segregation of buses, trains, hotels, restaurants, and schools. To be sure, the humiliation of “separate but equal” public accommodations was serious. The clearly unequal access to public education was even more serious. But the seldom remarked-upon efforts to prevent migration may have been as great an obstacle to African American advancement at the time, perhaps even greater. There is no more effective way to “keep ‘em down on the plantation” than to ban labor recruiters.

a gender and migration scholar, I actually see this drastic decline as nothing but a threat to the empowerment of migrant women and an end to the gains they have made in migration, including their acquired role as breadwinners of the family. The curtailment of their migration signals not their rescue but instead their domination, specifically their job elimination and their forcible unemployment. We need to listen to Filipina hostesses in Japan and figure out why many of them asked me, in reaction to their labeling as sex trafficked persons by the U.S. government, “Why is your government making our lives difficult?”<sup>124</sup>

Dr. Parreñas described the hostesses as “women who basically engage in the sexual titillation of their clients, but not necessarily by physical contact but by flirting.” Tr. at 139. She warned of the “false assumption that these women had not been willing to be there, but were somehow duped and forced to be in that situation.”

She further lamented that “a lot of our knowledge on sex trafficking” is “actually not based on empirical research.” Dr. Parreñas is not guilty of this herself. She spent three months working in a Tokyo nightclub among Filipina hostesses as part of her fieldwork.<sup>125</sup> This was her conclusion:

Without question, the absence of due diligence on the part of the U.S. Department of State and the organizations they have funded to help Filipina hostesses and the false claim of their sex trafficking has violated their civil rights. ... [I]t eliminated their jobs, forcing their return to a life of abject poverty in the Philippines.<sup>126</sup>

Several things may have influenced the Department of State’s decision to label these women as “sex trafficked.” But a major factor was that these women had to commit to work for one particular employer for the length of their work visa.<sup>127</sup> To be sure, this is hardly a thing to be celebrated. In a more perfect world, it would be nice for them to be free to switch employers at will. But here in the real world, things are complex. The person who finances the trip must be able to recoup the investment made in the migrant’s transportation or else the funds that are

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<sup>124</sup> See *infra* at 133 (written remarks of Dr. Rhacel Parreñas).

<sup>126</sup> Tr. at 140.

<sup>127</sup> See **THE FORCE OF DOMESTICITY**, *supra* note 56, at 144-48 describes complex transactions used by Filipina entertainers to come to Japan. For example, the legal employer of the entertainers is the Japanese promoter, not the club at which she works. Her wages (but not her tips) are withheld until the end of her term in Japan.

being available will dry up. Commitments of this sort are not the exception in international migration. For immigrants without the means to finance their journeys, they are the rule.<sup>128</sup>

As Dr. Parreñas described, the designation of Filipina hostesses as victims of sex trafficking made them worse off, not better off. “Japan now requires Filipina hostesses to go through two years and not just six months of singing and dancing lessons to qualify” for a visa. Most women in these situations cannot afford that. Those who can afford it now have greater debt prior to their migrations, thus aggravating their indenture.

Those who cannot afford an extra year and a half of singing/dancing education must come up with a Plan B. Dr. Parreñas notes that there has been a spike in the number of marriage visa applications. Some of these are probably based on false marriages. Some may be based on actual marriages to men the women have never laid eyes on. Either way, these women may be undertaking greater risks than they did as hostesses.<sup>129</sup> Others, of course, simply remain at home in hopeless poverty. Many would likely have preferred the deal my ancestors got—the option to sign onto an indenture of limited duration. Given that transportation costs are far less today than they were in the seventeenth century, these indentures ought to be of a very short term (as they were in the case of the Filipina hostesses). But just because we may not wish to have such arrangements in this country does not mean that we should endeavor to wipe them out globally.

### ***Conclusion***

I have been unable to offer definitive answers to any of the questions I have posed. In addition, there are many questions I did not pose at all, because I did not feel I could contribute anything by doing so.

But my overall impression is that the core case of slavery, sexual or otherwise, is uncontroversial among Americans: We oppose it without reservation. A large number of human beings have selflessly dedicated themselves to eliminating slavery. They have enlisted the help of long-established organizations and formed new ones. Individuals, foundations and governments have funded these efforts. And their work has been successful in some instances.

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<sup>128</sup> Even here in the United States (though for different reasons), workers from abroad with H-1B visas who are temporarily employed in specialty occupations may only “accept new employment upon the filing by the prospective employer of a new petition on behalf of such nonimmigrant as provided under subsection (a). Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, such authorization shall cease.” 8 U.S.C. 1184(m)(1)(as amended by the American Competitiveness in the Twenty-First Century Act of 2000, which was enacted in part to help H-1B visa holders change jobs more easily.)

<sup>129</sup> Tr. at 141.

Our unanimity in supporting these efforts, however, is part of the problem. No organized groups see it as their role to urge us to avoid exaggerating the prevalence of slavery. There is (mercifully) no “pro-slavery lobby” in this country. Our unanimity has thus led to mission creep. We are geared up to fight the dragons of slavery. When too few dragons show up for the battle, we use our dragon slaying equipment to fight entirely different beasts. But if we are going to be successful, we need to use the right weapons for the right battle. I urge greater caution.

## **PANELISTS' WRITTEN STATEMENTS**

*Note: Statements are unedited by the Commission and are the sole work of the author.*

### **Maggie Wynne, Director, Division of Anti-Trafficking in Persons, U.S. Department of Health and Human Services**

#### **Federal Efforts to Eliminate Sex Trafficking and Assist Trafficking Victims**

##### **Statement of Maggie Wynne**

##### **Director, Division of Anti-Trafficking in Persons**

##### **U.S. Department of Health and Human Services**

##### **before the United States Commission on Civil Rights**

April 13, 2012

Chairman Castro, Vice Chairman Thernstrom, and Commissioners, my name is Maggie Wynne and I am the Director of the Division of Anti-Trafficking in Persons (ATIP) in the Office of Refugee Resettlement (ORR) within the Administration for Children and Families (HHS), an agency in the U.S. Department of Health and Human Services (HHS). I appreciate the opportunity to provide you a description of HHS' work to identify and assist victims of human trafficking, including sex trafficking.

#### **TVPA Requirements**

HHS is required by the Trafficking Victims Protection Act of 2000 (TVPA), as amended, to conduct the following activities:

- Provide certification of adult foreign victims of trafficking and determine the eligibility of child foreign victims, making them eligible for benefits and services under any Federal or State program to the same extent as an alien admitted to the United States as a refugee;
- Participate in the President's Interagency Task Force to Monitor and Combat Trafficking (PITF) and the Senior Policy Operating Group (SPOG);
- Establish and carry out programs to increase public awareness of the dangers of trafficking and the protections that are available for victims of trafficking;
- Consult and cooperate with the Department of Justice when it conducts a biennial conference addressing trafficking in persons and commercial sex acts that occur in the United States; and
- Train appropriate HHS personnel in identifying victims of severe forms of trafficking and providing for the protection of such victims, and provide training to State and local officials to improve the identification and protection of such victims.

In addition, HHS is authorized to provide services to assist potential victims of trafficking in achieving certification and to assist minor dependent children of victims of severe forms of trafficking in persons or potential victims of trafficking.

The Secretary of HHS delegated responsibility for certification, eligibility determinations, and public awareness activities to the Assistant Secretary for Children and Families who further delegated them to the Director of ORR.

### **Victim Assistance and Services**

#### **Certification and Eligibility**

The most important role that HHS has is the first responsibility listed. Through formal and informal interagency agreements, HHS, DOJ and the Department of Homeland Security (DHS) coordinate to ensure that, when law enforcement has identified an alien in the United States who is victim of trafficking, ORR receives the necessary information to provide that victim access to benefits and services. When ORR receives a notification from the U.S. Citizenship and Immigration Services (USCIS) that it has made a bona fide T visa determination or granted T nonimmigrant status to a victim of trafficking, we have the information we need to issue a Certification Letter or an Eligibility Letter, which are the means by which we notify adult and child victims, respectively, of their eligibility to access the benefits and services they may need to recover from their experience and rebuild their lives in the United States.

Similarly, when the Law Enforcement Parole Unit within U.S. Immigration and Customs Enforcement (ICE)/Homeland Security Investigations notifies us that it has granted continued presence (CP) to a victim of trafficking who is assisting a law enforcement investigation, ORR can act to get that victim connected to needed health care and social services.

The benefits and services available to foreign victims of trafficking are the same ones available to refugees who arrive with the hope of finding employment, education, and a new life in America. And these, in turn, are largely the same ones available to U.S. citizens and most lawful permanent residents. The benefit programs, many of which are time-limited, include the following:

- Temporary Assistance for Needy Family (TANF), Supplemental Security Income (SSI), or - for those who are ineligible for these programs – Refugee Cash Assistance;
- Medicaid, the State Children’s Health Insurance Program (SCHIP), or - for those who are ineligible for these programs – Refugee Medical Assistance;
- Supplemental Nutrition Assistance Program (SNAP), formerly the food stamp program;
- Refugee Social Services and Targeted Assistance;

- Matching Grant Program;
- Public Housing Program or Tenant-Based Vouchers;
- Title IV Federal Student Financial Aid; and
- One-Stop Career Center services or Job Corps.

Unaccompanied child victims may be eligible for the Unaccompanied Refugee Minors (URM) Program, which provides specialized, culturally appropriate foster care or other licensed-care settings according to children's individual needs.

There are also many Federal and State health, nutrition, and social service programs that do not consider a potential recipient's immigration status a condition for eligibility.

### **ORR Trafficking Victim Assistance Program**

In addition, ORR funds the National Human Trafficking Victim Assistance Program, which supports comprehensive case management services to foreign victims of trafficking and potential victims seeking certification in any location in the United States. The three grantees provide case management to assist victims of trafficking to become certified, and other necessary services after certification, through a network of sub-awardees throughout the country.

These grants ensure the provision of case management, referrals, and emergency assistance (such as food, clothing, and shelter) to victims of human trafficking and certain family members. They help them gain access to housing, employability services, mental health screening and therapy, medical care, and some legal services, enabling them to live free of violence and exploitation.

### **Victim Identification and Public Awareness**

#### ***Rescue & Restore Campaign***

ATIP leads the HHS *Rescue & Restore Victims of Human Trafficking* public awareness campaign, which established Rescue and Restore coalitions in 24 cities, regions and States. These community action groups, which have grown in number over the years, are comprised of nongovernmental organization (NGO) leaders, academics, students, law enforcement agents, and other key stakeholders who are committed to addressing the problem of human trafficking in their own communities.

ATIP offers free materials to Rescue and Restore coalitions and other campaign partners to assist them in their education and awareness-raising activities. With the tag line of "Look Beneath the Surface," these posters, brochures, videos, and pocket assessment cards encourage intermediaries who encounter victims of trafficking to recognize clues and ask the right questions because they may be the only outsiders with the chance to reach out and help victims.

Materials and other information are available for download or order on our website at [www.acf.hhs.gov/trafficking](http://www.acf.hhs.gov/trafficking).

### **Rescue and Restore Regional Program**

The Rescue and Restore Regional Program serves as the focal point for regional public awareness campaign activities and intensification of local outreach to identify victims of human trafficking. Each of the 11 ATIP-funded Rescue and Restore Regional partners oversees and builds the capacity of a local anti-trafficking network, sub-awarding 60 percent of grant funds to grassroots organizations that identify and work with victims. By acting as a focal point for regional anti-trafficking efforts, *Rescue and Restore* Regional partners encourage a cohesive and collaborative approach in the fight against modern-day slavery.

### **National Human Trafficking Resource Center**

The National Human Trafficking Resource Center (NHTRC) is a national, toll-free hotline for the human trafficking field in the United States and is reached by calling **1-888-3737-888** or emailing [NHTRC@PolarisProject.org](mailto:NHTRC@PolarisProject.org). The NHTRC operates 24 hours a day, seven days a week, every day of the year. The NHTRC works to improve the national response to protect victims of human trafficking by providing callers with a range of comprehensive services, including crisis intervention, urgent and non-urgent referrals, tip reporting, and comprehensive anti-trafficking resources and technical assistance for the anti-trafficking field and those who wish to get involved. The NHTRC maintains a national database of organizations and individuals working in the anti-trafficking field, as well as a library of available anti-trafficking resources and materials.

### **Training**

In addition to the training provided by our grantees, HHS directly provides training to its own staff, state and local officials, and entities receiving HHS funding.

ATIP hosts several Web-based trainings each year, including the following trainings related to sex trafficking during the last two fiscal years:

- “Reducing Demand for Commercial Sex,” by San Francisco-based anti-trafficking organization Standing Against Global Exploitation Project (SAGE);
- “How to Assist American Indian Sex Trafficking Victims,” by the Executive Director of the Minnesota Indian Women’s Resource Center;
- “Domestic Minor Sex Trafficking: How to Identify and Respond to America’s Prostituted Youth,” by Shared Hope International; and
- “Runaway and Homeless Youth Programs: Resources for Conducting Outreach and Providing Services to Trafficked Children and Youth,” by the ACF Family and Youth

Services Bureau (FYSB) and the Runaway and Homeless Youth Training and Technical Assistance Center (RHYTTAC).

Participants included social service providers, federal and local law enforcement, academic researchers, state officials, and representatives from international entities.

In addition, each of the 10 ACF Regional Offices throughout the United States has established an Anti-Trafficking Point of Contact. The objective of this partnership with ATIP is to increase the integration of trafficking-related trainings within existing regional health and human service programs, and to build the capacity of communities to assist trafficking victims. Many of the Regional Offices have hosted internal or public human trafficking trainings or events, and are often represented on local Rescue and Restore coalitions or DOJ anti-trafficking task forces. As one example, in FY 2011, the ACF Region V office joined the Illinois Rescue and Restore Coalition to host a Chicago Alliance Against Sexual Exploitation (CAASE) “Train the Trainer” seminar on youth prevention curriculum “Empowering Young Men to End Sexual Exploitation.”

The HHS Indian Health Service (IHS) provided two internal presentations on human trafficking among Native populations: the first to the staff of the IHS Office of Clinical Preventive Services (OCPS), which included clinicians and policy makers in IHS; and the second as part of the IHS Chief Medical Officer’s Rounds, with availability to those medical providers within all of IHS that could join the WebEx.

In September 2010, two work groups within the Centers for Disease Control and Prevention (CDC) — the Violence against Women Workgroup (of the Division of Violence Prevention) and the CDC-wide Health and Human Rights Workgroup — sponsored a day-long symposium entitled “A Symposium on Human Trafficking: The Role of Public Health.” The symposium, attended by over 100 CDC staff, provided a foundational overview of the issue of human trafficking in the U.S. — particularly sex trafficking — and served as a forum for exploring the public health implications of human trafficking; research and data collection on human trafficking; current responses to human trafficking; and the potential role of the public health sector in the prevention of human trafficking.

Through these and other opportunities, HHS is expanding the capacity of potential intermediaries throughout the country to understand better trafficking in persons and how they can assist persons who have been or may be exploited in commercial sex or forced labor.

**Bridgette Carr, Professor and Director, Human Trafficking Clinic, University of Michigan Law School and Member, Michigan Human Trafficking Task Force**

**Bridgette Carr Testimony**

Good morning. My name is Bridgette Carr. I am a Clinical Assistant Professor at the University of Michigan Law School and Director of the Human Trafficking Clinic. I appreciate the opportunity to discuss this important issue.

In the Human Trafficking Clinic, my students and I provide a variety of legal services to victims of both sex and labor trafficking. Our clients are men, women, and children; foreign nationals and U.S. citizens. We see firsthand the impact of U.S. law and policy on sex trafficking victims and the view is dire. Current criminal justice practice in the United States, at all levels within the system, fails to identify and protect victims of sex trafficking. The clients we serve exemplify the need for a paradigm shift in sex trafficking cases.

The passage of the Trafficking Victims Protection Act in 2000<sup>1</sup> and its subsequent reauthorizations were crucial steps in the fight against human trafficking. This Act recognized that adults who are being prostituted and all children under the age of 18 who are being induced to perform commercial sex acts are victims of human trafficking.<sup>2</sup> However, this designation is not enough. Simply defining new categories of victims does not overcome decades of criminalizing individuals in the commercial sex industry. Law enforcement is well versed in arresting and jailing criminals. But as a nation, we cannot improve upon our response to and our protection of victims of sex trafficking unless we create a new model which supports *victims* rather than treating them as *criminals*.

The examples I will share with you today are all cases involving sex trafficking in which females are the victims; however, sex trafficking also affects men and boys. Sexual abuse is not isolated to sex trafficking since the majority of our labor trafficking cases also involve sexual abuse. In all of my examples, names and identifying information have been changed to protect the victims.

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<sup>1</sup> Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended at 22 U.S.C. §§ 2151n, 2152d, 7101-7110).

<sup>2</sup> See 22 U.S.C.A. § 7102(8) (West 2012) (“The term “severe forms of trafficking in persons” means . . . sex trafficking in which a 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....”).

Sally was a 16-year-old girl brought to Michigan and exploited by an adult male trafficker. A family member, worried about Sally's absence, found a picture of Sally in an online ad. Based on the phone number in the ad, the family member called the local police. The police went to the motel and found Sally, an 18-year-old victim named Brenda, and the trafficker. All three were forced to drop to the floor and were put in handcuffs. Sally was detained in a juvenile facility for three weeks, while Brenda, who turned 18 approximately four weeks prior, was put in the county jail. At no time while being held were Brenda or Sally ever provided services as victims of human trafficking nor were they treated as victims. Sally subsequently did not want to participate in the prosecution of her trafficker since her experience with the criminal justice system had not been kind to her. In fact, her experience confirmed what traffickers often tell their victims – "if you try to leave me or get help you will be arrested." Sally had health issues that made returning to Michigan for the trial problematic and despite our efforts to quash the subpoena and negotiate alternatives to in-person testimony with the local prosecutor, Sally was forced to travel back to Michigan and participate in the prosecution against her will.

My next example involves a 14-year-old girl who was recently apprehended after being sold for sex. In Michigan, a child under 16 years of age cannot be charged with prostitution, so this child was instead held under a possession of tobacco by a minor charge. A member of law enforcement who was outraged by her treatment told me of her case and I immediately tried to reach out to help her. I called her public defender, offering the resources of the clinic as well as information about shelters and programs to assist the young girl. Sadly, the public defender told me that the girl's case was being transferred back to the child's city of former residence and that she didn't even know where the child was physically located anymore. I was stunned. The child's former residence was a squatter house located in the city where she had first been recruited and sold by her trafficker. I have never been able to find this child to offer her our assistance.

The exploitation of children by traffickers is heartbreaking and the approach of our criminal justice system towards these same children is often tragic. However, adults must not be forgotten since ignoring a victim after his or her eighteenth birthday is both irrational and unacceptable. In particular, adults who are able to escape their traffickers are often haunted by criminal convictions that occurred during their trafficking and, in many states, there is no avenue for a victim of sex trafficking with one or more convictions of prostitution to expunge or vacate the convictions.

In the Clinic, we are currently serving a woman, I will call her Emily, who was brutalized by her trafficker and sold for sex in multiple states. In one state, Emily was arrested by law enforcement and charged with prostitution. Emily's trafficker hired a lawyer for her. The lawyer never spoke with Emily, only with her trafficker. The next day Emily's trafficker took her to another state and sold her again. After Emily finally escaped, she found our clinic and we began to help her. When she first came to us, she was not sure of the resolution of the prostitution charge; sadly, we discovered the attorney had pled guilty without her permission. Emily is now in school and has

hopes of finding a job in her chosen profession. However, she is terrified that when she applies for a job it will require a background check and her prostitution conviction will appear. Traffickers know how difficult it is to vacate or expunge prostitution convictions such as this. We have spent over a year trying to expunge or vacate this conviction, but so far we have been unsuccessful. Thankfully, Emily has a support network to help her wait out this legal process. However, I worry that without such a network, Emily would still be at great risk of being exploited again because of her inability to pass a background check.

Arresting, detaining, and jailing victims of sex trafficking is unacceptable; however it is happening all over this nation. Communities across the country are working to create an accurate picture of the prevalence of human trafficking. Significant time and effort is spent trying to identify the number of victims in any given community, but rarely do these efforts focus on the most obvious locations: jails and juvenile detention centers. For every political leader or community member who asks “where do we find the victims” or “we want to help victims of human trafficking, but don’t have any in our community,” I answer “go to your jails and talk to the adults and children who were apprehended for prostitution.” One amazing lawyer is doing just that.

Kate Mogulescu is a Staff Attorney at the Legal Aid Society in New York. She leads the Trafficking Victims Legal Defense & Advocacy Project. This project is “the first effort by a public defender office to address the problem of systemic criminalization of victims of trafficking and exploitation.”<sup>3</sup> Kate, along with a social worker, screens cases in which individuals have been charged with prostitution to see if the individual is a victim of human trafficking.<sup>4</sup> The project began in March of last year and within the first six months, 139 individuals were represented of which over 40 disclosed trafficking histories and an additional 35 were identified as being at extremely high risk for trafficking.<sup>5</sup> While this data is unsurprising to advocates and victim service providers working on this issue, this reality is not yet acknowledged by our criminal justice system.

So, what must be done?

- We must acknowledge that a federal human trafficking law is insufficient to combat the problem and protect victims, especially in areas of law reserved to the states. For

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<sup>3</sup> Kate Mogulescu, Legal Aid Society Criminal Defense Practice, Testimony Before the Council of the City of New York Committee on Women's Issues and the Committee on Public Safety: Oversight: Combating Sex Trafficking in NYC: Examining Law Enforcement Efforts—Prevention and Prosecution 4 (Oct. 19, 2004).

<sup>4</sup> In addition to the screening clients are also connected to support services when available and appropriate.

<sup>5</sup> Kate Mogulescu, *supra* note 3.

example, state laws on prostitution and child welfare must be updated to protect victims of human trafficking.

- We must use our resources to help, rather than harm, victims. Communities already pay a price for sex trafficking by incarcerating victims rather than funding comprehensive support services.
- We must recognize that human trafficking is universal, rather than foreign or exotic - it touches our daily lives in unexpected places. Many of today's laws and policies go far, but not far enough to respond to the various and unique issues victims face each day. The IRS's recent exclusion of restitution awards from taxable gross income for human trafficking victims is a perfect example of the type of victim-centered policies needed in a unique and unexpected place.
- We must provide access to comprehensive and independent legal services to all victims of human trafficking. Prosecutors do not represent victims and the goals of a prosecution are often in conflict with a victim's goals. Victims of human trafficking have a variety of legal needs and must have their own lawyer.

I thank you once again for the opportunity to come before you today, and I welcome your questions.

## **Salvador Cicero, Cook County Anti-Trafficking Task Force**

### REMARKS OF SALVADOR A. CICERO BEFORE THE U.S. COMMISSION ON CIVIL RIGHTS

#### Sex Trafficking: A Gender-Based Violation of Civil Rights

I want to begin by thanking the Commissioners for organizing this event. Recognizing that trafficking human beings is a basic civil rights issue is essential to the continued success of all efforts to combat this phenomena. As we approach the topic of Trafficking in Persons (“TIP”), one finds that there is still quite a bit of misunderstanding as to what it means: both as a crime and as a human rights violation. It is precisely this type of meetings that helps dispel misinformation and creates new avenues to talk about new and inventive ways to combat the enslavement and exploitation of human beings.

Today, I hope to share with the Commission some behind the scenes type stories regarding our experience in Cook County, Illinois. I am certainly aware that you can find reports and studies on-line regarding the TIP issues (and certainly don’t need to bring us to D.C. to find any of these). I have, however, included a couple of Law Review Articles, to share with you some of the lessons I have learned in these almost 14 years working with trafficked individuals in our hemisphere. I have also provided reports on the latest efforts and successes from our Task Force in Cook County.

Let me begin by telling you that I began my anti-trafficking merely by accident. By dealing with phenomena as it presented itself. Thereafter, during my tenure at the Foreign Ministry in Mexico, I was assigned the topic, because, frankly, at the time no-one wanted to deal with it and I was low man on the totem pole. I am very happy to see that much has changed since those days, almost ten years ago.

One must understand that the trafficking issue arises as a result of many dynamics. No one is likely to sit in the back of a room and say: “Hey, let’s traffic some women or some kids.” The Enslavement and subsequent exploitation of people is the result of a profitable criminal undertaking. It arises out of opportunity and is fueled by undervaluing human life and dignity. In fact, I think one of the most effective concepts that have been brought to this subject is to approach it as an organized crime phenomenon. That being said, the enslavement of human beings shakes people to the core. It is an unforgivable conduct that any lay person can agree is de-humanizing, striping people of their most basic rights as humans. That is why we always speak of this topic as a human rights –a civil rights- violation. As such, we find ourselves scrambling to find victims, to rescue them and to restore them –to the extent possible- to some normalcy. But restoring them to normalcy is a lot harder said than done.

If I had, at this point, one thing to ask this commission, it is to emphasize the need for after-rescue care. What people seem to focus on is the horrible exploitation that people suffer while enslaved. As such, finding and rescuing victims is the logical beginning of any effort to combat TIP. However, little is known about the post-rescue success of programs. How do these rescued women, men and children re-insert themselves into society? I will share with you some stories that illustrate my point.

I also think it is essential that we address this problem more directly in our society, in our schools. That we get it out in the open. In the same manner that we never talked about racism in our society, it was not until we began having open conversations about it that we began to deal with it. We must directly address the issues that enable traffickers to exist.

In Chicago, I have personally observed a couple of curious manifestations of the problem. The first was back in 1998, when I had opportunity to meet a man who had been enslaved for over a year in a Chinatown restaurant. Back then I worked at the Mexican Consulate, in the Citizen Services Department. At the time, when this gentleman arrived, we did not know what to do or how to help him (much less that this was a trafficking case). He did not know where exactly the restaurant was. He came to the Consulate through a reporter who had heard about his story and written a short piece in a Spanish language newspaper called "Exito," and had brought him for help.

This gentleman had arrived in the U.S. as an undocumented immigrant. He had hired a "coyote" (smuggler) to bring him to the U.S. Instead, he found himself being forced to work in the back of a restaurant, chained at the ankles. He suffered great injuries to his feet because of constant exposure to harsh chemicals and the shackles around his legs. He in fact did not know he was in Chicago. He had no clue where in the U.S. he was.

After he was able to run away (an atypical form of liberation in most trafficking cases), he turned to strangers to find help. When he finally came to the office, had nowhere to house him and we offered to send him back to his family. From the information he was able to provide, it seemed the mafias running Chinatown found it cheaper to bring unsuspecting immigrant from Mexico and enslave them, than to bring them across the Pacific. We contacted the police and nothing ever came of the case.

Another anecdote involves gay youth in Chicago. About three years ago I was invited to speak at the Center on Halsted (COH). The center is a gay-youth advocacy center near Lincoln Park, in the Northern part of the city. The Center provides assistance to transgender and gay youth and a variety of resources. I spoke to a group of about 30 young men and women about the trafficking phenomenon. After I finished my presentation, a Mexican-American young man approached me and told me that he had experienced some of what I had described. He recounted that when he told his parents about his sexual preferences, his father threw him out of the house. When his friends' parents found out about what had happened, and the reasons, no one would take him in.

At fifteen years and from a middle class background, he had nowhere to turn and no street smarts of any kind. He found himself living in the streets and sleeping in parks. After a while an older man picked him up at a park and offered him a place to stay. He soon began being forced to make pornographic films. He thereafter ran away with another one of the actors and was rescued by a COH volunteer police officer, who was out looking for gay youth living in the streets. No one was ever prosecuted in his case either.

I tell you of these stories, because they illustrate the varied dynamics that one may encounter when facing this phenomena. I purposely chose men to illustrate that TIP does not occur only in one context or social sphere. That being said, I find the sexual exploitation of young women a very prevalent issue in the hemisphere and, of course, Illinois. We certainly have observed the trafficking of women in the sexual context in Chicago and I have primarily seen many women who are poor being victimized. But I have also encountered middle-class, educated Au pairs who have been exploited. Traffickers simply look for opportunity and vulnerability in their victims. So, knowing that the trafficking phenomena arises in a variety of ways, in Chicago, our Task Force made a very early decision to focus our efforts on rescuing children found in the prostitution context.

Back in 2005, I was working for the American Bar Association (ABA) as Director of the Ecuador Anti-trafficking Project. I received a call from the Illinois State Guardian, Mrs. Ortega-Piron, whom I knew from my days at the Consulate. Apparently, child protection authorities they had encountered some trafficked teens who were being prostituted and were trying to figure out what to do with this emerging issue. There was no legal authority to hold children found being prostituted; there was no place to house them; there were being treated as criminals by police authorities; and, there was limited communication with federal authorities, who at the time were themselves formalizing systems to deal with the trafficking phenomena. So, a meeting was called at the Cook County Juvenile Justice Ctr. and the Salvation Army, the FBI, the Chicago Police, County Courts, the Department of Children and Family Services, and a couple of interested people, like myself and Frank Massolini, attended.

The group continued to meet monthly and we added many of the local trafficking experts (many that we were using at the ABA Project). Our first educational partner was Dominican University. Their faculty and students gave our task force ideas and special energy, as well as space to work and train volunteers. Soon thereafter we had volunteers from DePaul and Loyola Universities. Others followed from there and eventually, the task force adopted the "PROMISE" model (Partnership to Rescue Our Minors from Sexual Exploitation"). Seven years later, Frank Massolini runs PROMISE as a program for the Salvation Army, we have obtained federal funding, have a shelter and reinsertion program (Anne's house), and are revising a State anti-trafficking Law.

As I mentioned before, early on in our Task Force, we decided to focus on the sexual exploitation of cChildren. This is to mean that, with very limited resources, we decided, as a

group, we would focus on what we, at the time, thought would be the most pressing within a number of equally important issues. This is how PROMISE was born.

So I guess the biggest lesson is that, for local action to be successful, all you really need is that special interest and commitment to the issue. One needs to recognize that resources are limited and focus one's efforts in an area where true impact can be felt. Seven years later, there is a wide institutional support for PROMISE and many individuals continue to volunteer their time to this very worthy enterprise. Today, the mission of the PROMISE Program is to combat the sex trafficking of children through awareness, prevention, intervention, and service delivery. Our task force is now comprised of 33 member organizations representing law enforcement, social services, medical and mental health care, academia and legal professionals.

Since we began executing the model in Chicago in January 2005, the Task Force's major accomplishments include:

- (1) training over 10,000 first responders in 5 major cities across the country with the use of a comprehensive CSEC (commercial sexual exploitation of children) curriculum developed under a \$1M grant awarded by the Department of Justice;
- (2) Implementing a prevention education curriculum to over 125 students in high risk secondary schools in Chicago;
- (3) under the direction of law enforcement, piloting ACT (Active Communities Against Trafficking) which is designed to train community leaders in the Pullman and Roseland communities to report specific patterns of human trafficking; and
- (4) Opening Anne's House, the first home in Illinois designed to provide comprehensive services for girls who have experienced commercial sexual exploitation/sex trafficking. Services such as individual and group therapy, life skills training, medical care assistance, educational and vocational planning and tutoring, recreational activities and spiritual guidance and support are provided in a safe, nurturing environment to girls and young women between the ages of 12 to 21.

Many volunteer members of our Task Force have also spun out and created their own organizations. One of them -Rachel Durschlag- began as a student volunteer. She was working on her masters at the University of Chicago when she began working as a PROMISE volunteer and has since graduation created the Chicago Alliance Against Sexual Exploitation (CAASE). CAASE is certainly played a central role in the creation of local initiatives against trafficking, but more importantly they have been instrumental in pushing anti-trafficking legislation in Illinois.

In terms of legislation, as you are aware, on August 20<sup>th</sup>, 2010, Governor Pat Quinn signed the Illinois Safe Children's Act, a bill that drastically changed the way Illinois law enforcement

addresses the human trafficking of children under the age of 18. The Law was originally drafted by the Cook County State's Attorney's Office, House Bill 6462 provided new protections to children caught up in the sex trade and will also give law enforcement new tools to investigate and prosecute the criminal rings that prostitute juveniles.

The Illinois Safe Children's Act made the following changes in the criminal code:

Provided for the transfer of jurisdiction over children who are arrested for prostitution from the criminal system to the child protection system, with special provisions to facilitate their placement in temporary protective custody if necessary.

The Act limited the affirmative defense that pimps or traffickers "believed" that the prostituted child was at least 18 years old to only those pimps and traffickers who had no reasonable opportunity actually to see the victim (in accordance with federal law and constitutional requirements of due process).

It Made crimes that penalize the commercial sexual exploitation of children applicable to all minors under 18 as child victims, in conformity with Illinois' human trafficking law and federal law.

It removed the terms related to "juvenile prostitutes" in the criminal code, in recognition of the fact that children have no capacity to consent to their own commercial sexual exploitation and thus are not prostitutes but rather are victims of a serious sexual offense.

It increased fees and expanded the vehicle impounding provisions currently in place for the crime of "Soliciting for a Prostitute" (11-15), to other related crimes of commercial sexual exploitation, including the exploitation of minors, and uses the money for victim services and police officers.

It supported the criminal investigations of these organized crime rings by adding the related offenses of human trafficking and juvenile pimping crimes to the list of offenses subject to court-ordered interceptions as defined by existing law. In this way, under judge supervision, the same legal tools used to fight groups selling drugs can be used against groups selling children.

It allowed for officer-safety recordings to protect undercover officers during dangerous sex-trafficking investigations.

As with any working law, two years and a few prosecutions later, Illinois is now revising the Act and is making some adjustments. In preparation for this meeting, I visited the Cook County Chief of Special Prosecutions, John Robert Blakey, State's Attorney Anita Alvarez's anti-trafficking point person.

In practice, one of the most effective tools at the state level is the cross designation with federal prosecutors. This cross-designation is an administrative decision that has allowed prosecutors to

communicate much more efficiently and to charge either federally or locally, as well as to better direct the investigations.

Law Enforcement officials have also inserted NGO's (The National Immigrant Justice Center and PROMISE, of course, among others) right into the operatives, making rescue operations in real time and facilitating victim centered services from day one. The issues that need revision deal with the forfeiture of assets and how to best allocate them in order to fund services for victims.

A strategy, often used in Cook County, is to bring along other law enforcement agencies, such as health, fire or city inspectors. This strategy, replicated elsewhere in our continent, we call this the "Al Capone" strategy (I know that a Chicago reference to Al Capone may strike you as funny). What I mean by the Al Capone approach is the catch people doing many illicit activities and convicting them with the best you have got.

The victim centered approach has also acquired a live meaning in Chicago. Prosecutors were telling me that in these last years they have had to rescue the same person twice. Blakey and his team, I am happy to report, have a very positive attitude about the need to support these victims.

As we have learned, dealing with the Victim is the most challenging part of the whole rescue operation. Victims may take a long time to become mentally healthy (or, for prosecutor's purposes, viable witnesses) and often experience terrible health consequences as a result of their exploitation. So Illinois Law Enforcement has looked for avenues that require less victim testimony (such as wire taps and undercover work), that are typically found in federal investigations. There is a real commitment among the group to protecting the Victim from further trauma and to work on their behalf. This, I must say, is not always the case.

Over the years, I have had an opportunity to speak with police officers about their thoughts on the subject, test the waters, so to speak. I find that much training is needed. In fact, I have heard police officers working in trafficking cases often find their fellow officers very unsupportive. With time and the growing success of rescue operations, other officers become more accepting. I once had an officer ask me: So you are telling me that these prostitutes I have been putting behind bars for 30 year are now "victims"? This is an institutional attitude that takes training and a culture change within institutions.

On the flip side, I was recently invited to do some training in Knoxville, Tennessee by Christi Wigle of the Community Coalition Against Human Trafficking (CCAHT), where I had an opportunity to speak with members of their task force. I am very happy to tell you that after the training a couple of people contacted me. In fact, Captain Nate Allen, in charge of trafficking at the Knoxville Police department called me regarding some victims and some immigration related issues. He is one of those people helping with that culture change within police departments. I have to tell you that I have remained in touch with people I have met at every training.

Also, throughout the hemisphere anti-trafficking efforts continue to grow. I have been privileged to have participated in trainings in twenty one countries for the Organization of American States. In these years traveling throughout the hemisphere I have had the opportunity to see firsthand what countries with various levels of resources can do to combat TIP cases. One thing has been common everywhere I have been: It takes an interest in the topic to make all the difference in the world.

I feel very fortunate to have had the experiences of having ran a Country project myself, having served as a trainer and having served on the task force. In each capacity I have seen incredible individuals come up with creative ways to assist victims and resolve cases. I have seen people in Chicago be open to new things and learned never be afraid of a good idea. I think it is precisely that kind of “thinking outside the box” that has been so productive for Cook County.

So, I want to share something creative and a-typical we are doing in Chicago. I want to share with you a bit of what “Buy Art Not People” (hereinafter “Buy Art”), a not-for-profit organization started in Chicago, which uses the avenue of the arts to raise awareness and resources to combat human trafficking. Volunteers at Buy Art are striving to shape the culture around us and to do away with the behaviors and mentalities that encourage exploitation of human beings. Buy Art encourages artists to be highly aware of the message they convey with their artwork and the story they would like to tell. Members of the organization are all volunteers. The only source of funding they have is from Art related events. They operate as a clearing house to spend money on the programming.

Buy Art works alongside organizations dealing w TIP to support them with visual resources, as well as putting their work in the public eye through art events. They have also sent a team of artists in to Anne’s House to do art workshops with the rescued young women and girls. The theory is to use art and creativity to give the young women and girls a way to express themselves and therefore bring healing. The program has been very well received and in fact will be doing the same with clients of the Salvation Army’s Stop-It Initiative in the coming months.

Although I have focused my remarks on what we are doing in Chicago, I do want to take this opportunity to tell the Commission that I firmly believe that the trafficking in persons phenomena, as evinced in the sexual exploitation of women, arises as a direct result of gender discrimination. I urge to look into what can be done to change attitudes, as the root of the problem, because it will require a true cultural change. We would need a revolution, an evolution in thinking, and in educating our society about how and why this continues to happen. The “consumers,” users of sexual services of these women, are not only unaware of the consequences of their actions, but do not even stop to consider the potential enslavement of the person they are using for sexual purposes.

More men than one would care to admit do not value women as human beings and often objectify them as disposable things. I have sat at tables –in some of the finer eateries in Chicago

even- where other men, fellow attorneys, bankers, business men, talk about their trips abroad and their exploits with young women. I have had an opportunity to ask them, off to the side, if they ever stopped to think if their “weekend girlfriend” was in fact a trafficked person or how old these women were. None have (and many do not really care much for the subject). So a culture change is needed. Education is needed. And yes, enforcement is needed.

As the father of a vivacious two year old woman, I often think about the great responsibility we all have to change this world, to make it better. I believe in education and in creating practical, effective systems to deal with the trafficking phenomena. I urge you to call for more funding for education –domestic dollars for our schools- to include curricula on the subject. If Nicaragua and Ecuador have it, we should too! I also urge you to support post-rescue initiatives to assist victims re-insert themselves into society. Funding is short and agencies providing services are struggling to survive. We need to support them, if we are to truly help victims have a second chance.

Thank you again for this magnificent opportunity and for addressing the trafficking phenomena as it truly is: as a violation of our most basic right to exist.

**Merrill Matthews, Resident Scholar, Institute for Policy Innovation and  
Chairman, Texas State Advisory Committee**

## **Human Trafficking in Texas: A Bad Problem Getting Worse**

**Testimony before the U.S. Commission on Civil Rights**

**April 13, 2012**

**Prepared by**

**Merrill Matthews, Ph.D.**

**Chairman, Texas Advisory Committee**

### **Introduction**

Human trafficking is the cruel and vicious exploitation of other human beings and a violation of their civil rights. In 2010 the Texas Advisory Committee to the U.S. Commission on Civil Rights investigated human trafficking in Texas, issuing an August 2011 report, “Human Trafficking in Texas: More Resources and Resolve Needed to Stem Surge of Modern Day Slavery.” This testimony is adapted from that report.

### **What Is Human Trafficking?**

Human trafficking is the use of force or coercion to exploit a person for profit. The U.S. State Department places acts of human trafficking into two major categories:

- Sex trafficking — the procurement and use of persons by force or coercion for commercial sex.
- Involuntary servitude — the imprisonment of persons for labor services, most of whom are harbored in confining conditions or as actual slaves.<sup>1</sup>

Worldwide, an estimated 27 million persons are in bondage, meaning they are being forced into commercial acts or confined to involuntary servitude.<sup>2</sup>

Each year approximately 800,000 persons are trafficked across international borders, not including thousands of people who are trafficked within their own countries. And yet few purveyors of human trafficking are ever brought to justice.

### **The Social Impact of Human Trafficking**

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<sup>1</sup> U.S. Department of State, “Trafficking in Persons Report,” June 2007.

<sup>2</sup> United Nations, “Global Report on Human Trafficking,” February 2009.

The use of force or coercion in human trafficking can be direct and violent as well as psychological. Traffickers seek vulnerabilities in their intended victims and seek to operate in environments in which they can exploit victims with minimal threat of escape or law enforcement action.

Generally, victims come from impoverished circumstances, with the majority being from indigenous populations or ethnic minorities. Approximately 80 percent of all human trafficking victims are women and up to 50 percent are minors.<sup>3</sup>

Such persons often lack access to education and realistic employment opportunities. Victims of trafficking typically suffer from physical and mental abuse, and are often socially stigmatized. In the aftermath of human trafficking, the victims become isolated, losing ties with their former lives and families. In addition, the existence of harmful cultural and customary practices often serves to perpetuate violent practices that diminish opportunities for women and leave them vulnerable to exploitation.<sup>4</sup>

### **Human Trafficking and Border Security**

Human trafficking is a high-profit and relatively low-risk business. Traffickers in the U.S. can make between \$13,000 and \$67,000 per victim.<sup>5</sup> The high-profit level is making the problem grow. Victims are reportedly brought in from all parts of the world.<sup>6</sup>

- 5,000-7,000 people come to the U.S. from East Asia and the Pacific;
- 3,500-5,500 are from Latin America;
- 7,000-11,000 are from Europe and Eurasia.

Human trafficking has emerged as a major civil rights issue of the 21<sup>st</sup> century. In 2001 the U.S. Commission on Civil Rights reported on this growing problem.<sup>7</sup> In issuing its 2011 report, the Texas Advisory Committee sought to bring attention to:

- The extent of human trafficking in Texas;
- The available resources to combat this violation of civil and human rights; and
- The social costs to the state if this problem is not urgently addressed.

### **Human Trafficking in Texas**

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<sup>3</sup> Ibid.

<sup>4</sup> United Nations, "Human Trafficking," report on the problem, 2008.

<sup>5</sup> ILO, *A Global Alliance Against Forced Labor*, 2005.

<sup>6</sup> Ibid.

<sup>7</sup> "Modern Slavery," Civil Rights Issues, U.S. Commission on Civil Rights, June 2001.

As one of the largest border states in the United States, Texas is a major destination and transit state for human trafficking. The Texas Office for the Attorney General estimates that one out of every five human trafficking victims travels through Texas, and nearly 20 percent of all human trafficking victims rescued have been rescued in Texas. In addition, 38 percent of all calls to the National trafficking Resource Center hot line were dialed in Texas.<sup>8</sup>

The Trafficking and Violence Prevention Act of 2000 identify sharp increases in human trafficking prosecutions in four targeted Texas locations.<sup>9</sup> Between 2001 and 2006, the total number of persons prosecuted for human trafficking in Texas tripled. In the same period the number of persons prosecuted for sex slavery in Texas quadrupled.<sup>10</sup>

The U.S. Department of Justice's report on activities to combat human trafficking identified El Paso and Houston on its list of "most intense trafficking jurisdictions in the country."<sup>11</sup> The second largest trafficking bust in U.S. history occurred in Houston. More than 90 victims were rescued during the raid by law enforcement officials and referred to local service providers to assist them in their recovery process.

According to the Houston Rescue and Restore Coalition, three main factors contribute to the prevalence of human trafficking in Texas and in particular, Houston: proximity, demographics, and large migrant labor force. Houston's proximity to the Mexican border and I-10 corridor, along with its port, makes it a popular point of entry for international trafficking. At the 2006 Department of Justice National Conference on Human Trafficking, the I-10 corridor, the major east-west interstate highway in the southern United States, was identified as one of the main routes for human traffickers.<sup>12</sup>

### **Texas Laws Addressing Human Trafficking**

Federal, state and local law enforcement agencies all have specific roles in the effort to combat human trafficking

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<sup>8</sup> The Texas Response to Human Trafficking, Health and Human Services Commission Report to the 81<sup>st</sup> Legislature, October 2008.

<sup>9</sup> P.L. 106-386.

<sup>10</sup> *The Texas Response to Human Trafficking*, Health and Human Services Commission Report to the 81<sup>st</sup> Legislature, October 2008.

<sup>11</sup> U.S. Department of Justice, *Report of Activities to Combat Human Trafficking*, 2001-2006.

<sup>12</sup> *Human Trafficking: The Invisible Slave Trade*, Report of the Houston Rescue and Restore Coalition, April 2007.

At the federal level, the Trafficking Victims Protection (TVPA) provides \$95 million in assistance to local law enforcement agencies to enforce anti-trafficking provisions in the law, and it includes severe punishments for those convicted.

Texas introduced a state human trafficking law in 2003, making Washington State and Texas the first two states to enact laws criminalizing human trafficking. In the 78th Regular Session, Texas lawmakers enacted HB 2096, creating Penal Code §20A. Section 20A.01 established definitions for “forced labor or services” and “trafficking,” and §20A.02 outlined offenses and penalties.

However, the law often served to unwittingly “victimize” the victim. Persons ensnared in human trafficking are often engaged in illegal activities such as prostitution. In many circumstances the victims of human trafficking are prosecuted for the illegal activity instead of being treated as victims of a crime. Subsequent legislation attempted to address this problem.

In 2007, during the 80th Regular Session, the Texas Legislature passed legislation that required the Office of Attorney General, in consultation with the states Health and Human Services Commission to prepare a report detailing how existing laws and rules governing victims and witnesses address—or fail to address—the needs of victims.

Legislation passed in 2009 specifically addresses human trafficking issues unique to the exploitation of children. It de-criminalizes sexual activity for children under the age of 18. Prior to this legislation, minors arrested for illegal sexual activity were required to prove they were coerced in order to be exonerated. It also requires the posting of notices of the national human trafficking hotline in overnight lodging establishments that have been targeted due to previous activities.

In addition, legislation passed that created the Texas Human Trafficking Prevention Task Force to coordinate a statewide response to human trafficking. The task force has made several important protections for victims.

### **Texas Law Enforcement Resources**

To facilitate cooperation in sex trafficking cases, under the TVP the U.S. Department of Justice funds 42 local law enforcement agencies to combat human trafficking. Four of them—two at the county level and two municipal level—are in Texas.

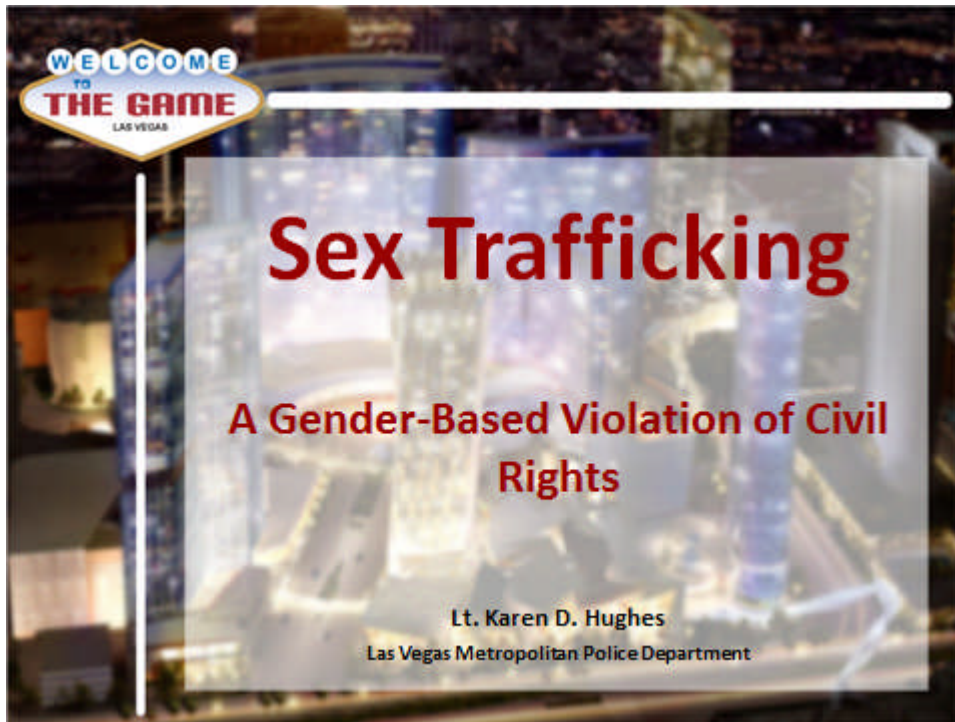
- 1) The Dallas Police Department and Fort Worth Police Department (a joint operation).
- 2) The Austin Police Department.
- 3) Bexar County Sheriff’s Department.
- 4) Harris County Sheriff’s Department.

These government bodies regularly collaborate with private, nonprofit organizations. While these organizations make a strong effort to address the human trafficking problem, they are severely limited in staff and funds.

**Too Few Resources Fighting Human Trafficking**

Tragically, the Texas Advisory Committee found that to a large extent citizens of Texas are unaware of the magnitude of human trafficking in Texas. Throughout the state there are too few resource devoted to combating human trafficking. Only four jurisdictions out of 350 local law enforcement agencies in Texas are actively engaged in fighting human trafficking. In addition, there are few social service agencies equipped to provide treatment for victims.

**Karen Hughes, Lieutenant, Las Vegas Metropolitan Police Department**





**WELCOME TO THE GAME LAS VEGAS**

## The LVMPD Investigative Approach

### Las Vegas Innocence Lost Task Force

- Focus Is On Domestic Minors < 18

### Southern Nevada Human Trafficking Task Force = Pimp Investigation Team

- Focus Is On Adult Women > 18
- Huge Time Commitments With Victim Maintenance
- Detectives Are Strong Victim Advocates



**WELCOME TO THE GAME LAS VEGAS**

## 2011 Domestic Minor Sex Trafficking Stats

129 Females - 2 Males


▪ 74% Local to LV	<u>Years of Age</u>
▪ 63% African American	• 53% Were 17
▪ 24% Caucasian	• 22% Were 16
▪ 12% Hispanic	• 18% Were 15
▪ 1% Asian or Other	• 3% Were 14
	• 4% Were 13

2122 Victims Recovered Since 1994



## What's Working For Us

- Proactively Working Pimps
  - With or Without a Victim Stepping Forward
- Partnered With IRS For Federal Asset Forfeitures
- Working And Training With Other Task Forces To Better Identify Trends and Networks
- Making The Case Personal - Ownership
- Working WITH The Community
- Working With The Media To Bring About Awareness



## Media = AWARENESS!

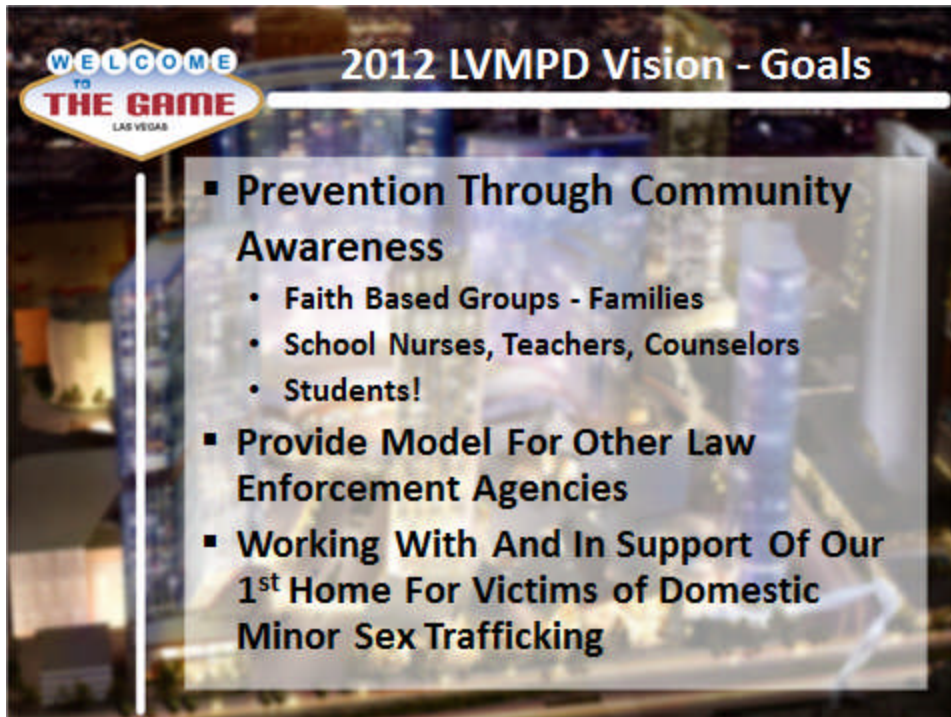
An Undercover Policing Unit Working With The Media????

- Dateline "Vegas Undercover"
- Katie Couric – CBS News "The Lost Girls"
- CNBC - The American Tax Cheat
- National Geographic – "Sex For Sale – American Escort"
- Langley Productions
- Las Vegas Review Journal – "Pimps, Metro Is Coming For You"
- Lots Of Local Print And News



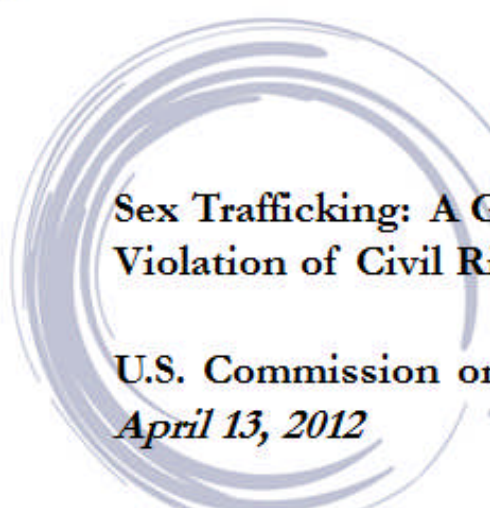
## 2012 Challenges

- The Slow Economy Will Continue To Drive Up Thefts and Violence Associated To This Subculture
- Workplace Attrition for Law Enforcement Will Limit Resources
- Enacting Stronger Laws
- Identifying Hidden Assets
  - Green Dot Cards



## 2012 LVMPD Vision - Goals


- Prevention Through Community Awareness
  - Faith Based Groups - Families
  - School Nurses, Teachers, Counselors
  - Students!
- Provide Model For Other Law Enforcement Agencies
- Working With And In Support Of Our 1<sup>st</sup> Home For Victims of Domestic Minor Sex Trafficking

**Mary Ellison, Director of Policy, Polaris Project**

**Sex Trafficking: A Gender-Based  
Violation of Civil Rights**

**U.S. Commission on Civil Rights**  
*April 13, 2012*

**Mary C. Ellison, J.D.**  
Director of Policy



**POLARIS PROJECT**  
FOR A WORLD WITHOUT SLAVERY

## “Thirteen Ways of Looking...”



Wallace Stevens (October 2, 1879 – August 2, 1955) was an [American Modernist](#) poet. He was born in [Reading, Pennsylvania](#), educated at Harvard and then New York Law School, and spent most of his life working as a lawyer for the Hartford insurance company in [Connecticut](#).

### Thirteen Ways of Looking at a Blackbird

Among twenty snowy mountains,  
The only moving thing  
Was the eye of the blackbird.

I was of three minds,  
Like a tree  
In which there are three blackbirds....

I too am of three minds...

- 1. Sex Trafficking is certainly a Gender-Based Civil (& Human) Rights Violation that enslaves women and girls in commercial sex and is rooted in gender-based discrimination.**

From an International Human Rights Perspective...

- Sex trafficking is a form of slavery and involuntary servitude resulting in grave human rights violations.
- Women and girls have the rights to security of person, an effective remedy, equal protection of the laws, and freedom from slavery, torture, and discrimination.
- The United States government, acting on its own or through the states, has an obligation to promote and protect these rights and to exercise due diligence to prosecute the perpetrators, protect trafficked persons, and prevent human trafficking and modern day slavery.

## From a Service Provider Perspective...



**– Polaris Project is currently serving 130 individuals.**

- 118 are female. 10 are male. 1 is transgender.

**In NJ (58 females)**

72% (47) of all NJ clients are sex trafficked – not all of the women are sex trafficked

15% (10) of all NJ clients are labor trafficked – including women

**In DC (60 females)**

34% (22) of all DC clients are sex trafficked – not all of the women are sex trafficked

48% (31) of all DC clients are labor trafficked – including women

## I too am of three minds...

2. **Labor Trafficking is also a Gender-Based Civil (& Human) Rights Violation that enslaves women and girls in domestic servitude, hotel and restaurants, strip clubs, farms, and factories. In other words, not all women or girls are sex trafficked.**

## New Yorker Enslaves Woman as Domestic Servant



## New Yorker Enslaves Woman as Domestic Servant

- New York woman living in a 34-room, 30,000-square-foot mansion faces a federal criminal charge related to her employment of a foreign national woman who allegedly served as a domestic servant
  - Working 17-hour days, seven days a week,
  - Being paid only \$ .05/hour, and
  - Sleeping in a walk-in closet.
- Acting on a tip received by the National Human Trafficking Resource Center, federal immigration agents last year removed the servant from the 12-acre estate 20 miles north of Albany.

## Gay Men from Kenya Sex Trafficked



DUBAI, United Arab Emirates, Jan. 10 (UPI)

Gay men from Kenya are being lured to Persian Gulf countries, where they are trafficked as sex slaves for wealthy men.

The men are lured by promises of high-paying jobs and then transported to the United Arab Emirates, Qatar and Saudi Arabia to work as sex slaves.

Because of high unemployment in Kenya, the victims easily fall prey to the trap. In some countries in the Mideast, Identify says, convicted gay men can face the death penalty. It is illegal to be openly gay in the UAE.

Qatar has no laws against human trafficking, which makes crackdowns extremely difficult.

## “Thirteen Ways of Looking...”

- My point is that we need to broaden the scope of our vision –
  - To see women and girls who are being labor trafficked and
  - To see men and boys and transgendered individuals who are being sex trafficked.
  - And of course, to continue to see women and girls who are sex trafficked.

## Federal Efforts to Eliminate Human Trafficking

- **Again, I am of three minds...**
  1. U.S. Government Perspective
  2. Service Provider Perspective
  3. International Perspective

## Again, I am of three minds...

1. **U.S. Government Perspective (FY 2010 DOJ Report to Congress)**
  - Department of Health & Human Services (HHS)
    - 541 Certification Letters issued
      - 78% of all victims certified in FY 2010 were labor trafficked (both male and female)
      - 12% sex trafficked (all female)
      - 10% combined sex and labor trafficked (all female)
      - 55% issued to males (compared to 47% in '09, 45% in '08, 30% in '07, 6% in '06)

## Again, I am of three minds...

### 1. U.S. Government Perspective (FY 2010 DOJ Report to Congress)

- Department of Health & Human Services (HHS)
  - Case Management Services
    - 1,027 individual clients received case management (29.5% increase over FY 2009)
    - 57% male
    - 43% female

## Again, I am of three minds...

### 1. U.S. Government Perspective (2011 U.S. TIP Report)

- Notable federal prosecutions included:
  - The longest sentence returned in a single-victim forced labor case - a 20-year sentence for holding a woman in domestic servitude for eight years;
  - A life sentence in a sex trafficking case;
  - Convictions of 10 defendants in a multinational organized criminal conspiracy that exploited guestworkers in 14 states; and
  - A bilateral enforcement initiative with Mexico resulting in indictments of sex trafficking networks under both U.S. and Mexican law.

Again, I am of three minds...

## **2. Service Provider Perspective**

- Victim Services and Assistance
  - Top three identified needs reported to the NHTRC
    - Housing
    - Legal Services
    - Comprehensive Case Management
- Victim-Centered Investigations and Prosecutions

Again, I am of three minds...

## **3. International Perspective**

- U.S. TIP Report Rankings
- The Trafficking Victims Protection & Reauthorization Act of 2011

## We Must Broaden our Vision

**December 30, 2011**

**President Obama declares January  
National Slavery and Human Trafficking  
Prevention Month.**

## President Obama's Proclamation

- During National Slavery and Human Trafficking Prevention Month, we stand with all those who are held in compelled service; we recognize the people, organizations and government entities that are working to combat human trafficking; and we recommit to bringing an end to this inexcusable human rights abuse.

## President Obama's Proclamation

- Human trafficking endangers the lives of millions of people around the world, and it is a crime that knows no borders.
- Trafficking networks operate both domestically and transnationally, and although abuses disproportionately affect women and girls, the victims of this ongoing global tragedy are men, women and children of all ages.

## President Obama's Proclamation

- With this knowledge, we rededicate ourselves to forging robust international partnerships that strengthen global anti-trafficking efforts, and to confronting traffickers here at home.
- The steadfast defense of human rights is an essential part of our national identity, and as long as individuals suffer the violence of slavery and human trafficking, we must continue the fight.

National Human Trafficking  
Resource Center (NHTRC)

**1-888-3737-888**

[www.TraffickingResourceCenter.org](http://www.TraffickingResourceCenter.org)

POLARIS  
PROJECT

For more information, resources, referrals, or to report a potential case of human trafficking please call us toll-free, 24 hours/day at **1.888.3737.888** or email us at **NHTRC@polarisproject.org**.



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**Amy Rassen, Senior Advisor, SAGE Project**

Testimony of Amy Rassen

Senior Advisor

The SAGE Project, Inc.

Before the US Commission on Civil Rights

April 13, 2012

**Testimony on Commercially Sexually Exploited Minors**

Good afternoon. My name is Amy Rassen, Senior Advisor at the SAGE Project, Inc. located in San Francisco, California.

I have been working in the social service field since 1968. As you might imagine, over 40 years I have encountered every kind of social problem imaginable. Yet I have never seen anything so painful to witness as human trafficking, people exploiting and enslaving other people, especially children, and the human misery that results.

So, I appreciate that I can speak to today, representing SAGE, an acronym for Standing Against Global Exploitation, a nonprofit organization based in San Francisco, with one primary aim: bringing an end to human trafficking and the commercial sexual exploitation of children and adults.

While we take our freedom for granted, slavery not only exists but flourishes worldwide, in the form of human trafficking.

With partners from all over the US and around the world, SAGE works to end human trafficking, one step at a time, through education and advocacy. In the Bay Area, we give hope to children and adults who have been exploited by human traffickers by providing comprehensive services — case management, mental health counseling, educational support groups, life skills training, vocational guidance, help them escape, recover from their trauma and, ultimately, acquire the skills and strength they need to heal and start new lives. SAGE is unique in that it is one of the few organizations in the country that was created by and for commercial sexual exploitation survivors. It is staffed by people who have been trafficked, and provides all services through a “trauma-informed lens” because anyone who has been trafficked has been traumatized. The personal knowledge and experience possessed by the SAGE staff provides the passion and expertise to reach victims and influence change locally, nationally and internationally.

I have been asked to speak to you today about the following:

Sex trafficking as a form of gender discrimination

Federal efforts to eliminate sex trafficking

Ways to improve the government's efforts

To begin with, human trafficking, or modern day slavery, is a criminal industry, second only to drug trafficking, that thrives worldwide, including in the US. Around the world, it is estimated that as many as 27 million men, women and children live in bondage.<sup>1</sup> According to the United Nations, people are reported to be trafficked from 127 countries to be exploited in 137 countries. Forty-three percent of all victims are sexually exploited; others work in conditions of slavery. Ninety-eight percent of victims are women and girls.<sup>2</sup> The latter clearly illustrates the unique way in which human trafficking and gender intersect. As Secretary Clinton said, “modern slavery disproportionately affects women and girls. And as it does so, it disrupts family networks, and it undermines the foundation of stable economies and societies.”<sup>3</sup>

Children are our future. They need us to make it possible for them to grow into healthy, educated, civic-minded citizens. So, today, I would like to focus my comments specifically on domestic minor sex trafficking, a criminal activity that desperately requires national attention. Staggering is its under-recognition. This population of victims, American children under the age of 18, is under-researched and largely overlooked.

The extent of the general lack of awareness of what is happening in our own backyards can only be described as nation-wide blindness.

## **1. Sex Trafficking of Minors as a Form of Gender Discrimination**

The crime of domestic minor sex trafficking clearly reflects the impact of gender discrimination on young girls in our society.

Simply defined, the crime of domestic minor sex trafficking is the commercial sexual exploitation of American children within US borders. According to the Trafficking of Victims Act of 2000, it is “the recruitment, harboring, transportation, provision or obtaining a person for the purpose of a commercial sex act” where the person is a lawful US citizen or permanent resident under the age of 18. Commercial sexual exploitation of children is both hidden and highly visible. We see these children in every major US city, throughout various social service and criminal justice systems and increasingly being sold on the Internet.

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<sup>1</sup> <http://www.state.gov/secretary/rm/2012/03/185905.htm>

<sup>2</sup> International Labour Organization, forced Labour Statistics Factsheet (2007)

<sup>3</sup> <http://www.state.gov/secretary/rm/2012/03/185905.htm>

But we don't really see them.

The precise scale of the problem is hidden and unknown.

It is estimated by the FBI that the average age of entry into the commercial sex industry is 12 years old. Experts at Shared Hope International estimate that 100,000 American juveniles are victimized through prostitution each year. According to the National Center for Missing and Exploited Children, 1 in 5 of all girls in America and 1 in 10 boys in America will be sexually victimized before they turn 18. We know that sexual victimization is closely linked with youth who have been trafficked.

Since 2003, the FBI's Innocence Lost Initiative has recovered over 1,800 domestic minor sex trafficking victims. This number does not include the thousands of youth who are identified and served each year by agencies across the nation such as the SAGE Project. Each year, SAGE helps approximately 200 domestic minor human trafficking victims and youth identified as high-risk from being trafficked. While significant, these numbers are small compared to the actual scale of the problem.

Who are these youth who remain invisible before our eyes and where might we find them? We see two primary trends within the domestic minor human trafficking population: early sexual abuse, and exposure to either or both the juvenile justice and foster care systems. Other trends include high rates of poverty, domestic violence, poor academic skills, and runaways. These trends act as smoke signals for where one might find victims and those at greatest risk of victimization.

She is the student who sleeps at different friend's house each night because of the fighting happening at home. She is the girl who runs away when her parents physically abuse her. She is the foster child kid who, after enduring one neglectful foster parent after the next, gets in the car with a man three times her age simply because he promises her love and a fresh start. She is the sexual abuse victim who, due to immense shame and trauma, has lost all sense of appropriate boundaries and lets adults touch her for money.

You could be standing next to a girl who is being trafficked when you are in the mall or grocery store.

In the absence of supportive families and empowering mentors, young girls fall victim to negative stereotypes and messages about their self-worth, and become easy prey for those who know how to manipulate and profit from their vulnerability. Society, through vehicles such as the media, fashion and music, sends the message to our children that pimping is cool, being sexy and "hot" is in, and the ability to compete with other girls for the attention of one man is a winning quality.

They are most clearly identified as the youth that every system has failed, starting with their family, public education and health care systems and moving on to the systems that have been put in place to help them: law enforcement, social services, foster care and juvenile justice.

Who are these traffickers? They are in the business of exploitation. All are criminals. They are pimps, many posing as boyfriends, father figures or “sugar-daddies” with promises of love, affection and a fairytale, only to be followed by physical and emotional abuse. They are drug-addicted parents, members of the family or guardians, and they are peers who are themselves caught up in the web of exploitation and violence. They are also sexual predators who identify vulnerable children in the mall, schoolyard, and clubs or, as is more and more often the case, through the Internet. We love the Internet for its ability to remove geographic boundaries and make communication seamless and instantaneous. These same qualities, however, facilitate and fuel the growth of child exploitation. Approximately 1 in 7 youth online (10 to 17 years old) have received a sexual solicitation or approach over the Internet.<sup>4</sup> And lonely, unloved children respond to solicitations. They also post information on the Internet about themselves, and then experience the painful, unintended consequences of being sexually exploited.

The current state of our child protection system makes it difficult both to protect vulnerable children from human traffickers and for a child victim to leave behind her history of exploitation when she enters adulthood. Minors picked up on prostitution charges are arrested and placed in custody for their own safety. In other words, they are criminalized and re-traumatized for their own victimization. Protective shelters are in very short supply, so there is no alternative to incarceration. Once in the criminal system, these youth are often charged and sentenced, starting not only a criminal record that will be difficult to shed when applying for a job, looking for an apartment or starting new relationships, but will add new layers of trauma that, like an onion, must be peeled back one layer at a time if they are ever to recover.

## **2. Federal Efforts to Eliminate Sex Trafficking of Domestic Minors**

The federal government has taken a strong stance to wipe out human trafficking. Three examples follow:

Federal laws, specifically the Trafficking Victims Protection Reauthorization Act (TVPA) are among our strongest tools to combat this crime. The TVPA of 2000, including subsequent reauthorizations, has defined all minors, under the age of 18, who are “recruited, transported, harbored, provided or obtained for the purpose of a commercial sex act” as victims of trafficking, including minors who are U.S. citizens or lawful permanent residents. “Payment” for the sex act can be anything of value given to or received by any person (e.g., drugs, food, jewelry, a place to

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<sup>4</sup> <http://www.missingkids.com>

stay, etc.). The framing of this law accurately portrays the complexity of domestic minor sex trafficking cases, specifically the manipulative and abusive tactics that may lead a child to believe she is selling her body out of “love” for an older man posing as a boyfriend or father figure, making it emotionally impossible for her to identify underlying force, fraud or coercion.

The President’s Interagency Task Force to Monitor and Combat Trafficking in Persons coordinates the federal government’s anti-human trafficking efforts. On March 15, 2012 the President directed his cabinet and senior advisors to find ways to “strengthen the federal government’s current work, and to expand on partnerships with civil society and the private sector, to bring more resources to bear in fighting this horrific injustice.”<sup>5</sup> This speaks volumes about the federal government’s commitment to end modern day slavery.

Leadership within federal agencies, such as the Department of Justice’s Office for Victims of Crime and Office of Juvenile Justice and Delinquency Prevention, as well as the Department of Health and Human Services have worked hard to support and promote cutting-edge evidence-based models for identifying and serving domestic minor sex trafficked victims, and building multi-disciplinary networks that bridge community-based organizations, law enforcement and social services for identification and outreach purposes. SAGE has received support from all three of these agencies for this exact purpose.

### **3. Ways to Improve the Government’s Efforts**

Much remains to be done.

Despite the strength of our federal anti-trafficking law, domestic minor sex trafficking victims are most often not recognized or treated as such upon identification. The US has historically criminalized domestic minor sex trafficking victims as child prostitutes, instead as victims of rape or sexual assault, making their only access to resources those offered through the criminal justice system. State by state, legislators have worked to pass laws that chip away at this trend of criminalization. The federal government can ensure that youth who have been victims of commercial sexual exploitation are not considered criminals. The government can also continue to train law enforcement, health professionals and community workers to recognize the signs of youth who have been exploited.

Reauthorization of the trafficking of victims act must take place and be strengthened.

Prevention is key. If the average age of entry into commercial sex exploitation is 12 to 14, we must start educating youth as young as 9 and 10 years old on the myths and realities that sustain

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<sup>5</sup> <http://www.whitehouse.gov/the-press-office/2012/03/15/statement-president-meeting-interagency-task-force-monitor-and-combat-tr>

and glorify the sex industry. This can happen in classrooms, after-school programs and AT wellness centers.

The federal government must find some way to send a clear message to the media and fashion industries that they should rethink their advertising tactics because they are in part responsible for the frightening predicament laid before us. Pimping is not in fact cool, and being sexy and “hot” should not be “in”.

A girl who has been put out on the streets by her parents, has no support in the community – at school, in church or elsewhere - someone running away from being sexually abused at home or by a foster parent is not a bad kid. She is vulnerable to her deep need to be cared for and loved. But not one child has chosen to be prostituted.

They are a marginalized, vulnerable and desperate group with special needs. They are also every day, average kids that we see in our local towns and cities, at the malls and hanging out with our children. Domestic minor sex trafficking occurs where vulnerable children fall through the cracks. Traffickers know this.

What else can the federal government do? The federal government can, for example, fund more programs to keep kids get off the streets and protect them from online perpetrators via stronger Internet safety laws. The government can also ensure access to safe, supportive housing as viable alternatives to incarceration. Continued funding of the systems that support and monitor foster parent programs in particular is needed, as is additional support for youth as they age out of the child welfare system, something that states are considering, too. And the federal government can fund more intervention and prevention services, like SAGE, to give the children a future.

### **In Conclusion**

If human trafficking were a medical illness – a modern day smallpox or polio – it would receive wide publicity, and national and international attention, all aimed at a cure.

Human trafficking is indeed an illness, a social disease of epidemic proportions, as well as a major criminal activity. It is an old disease that only in the 21st century is emerging from a veil of obscurity and denial.

In the 20th century, despite great challenges, smallpox was eliminated; polio nearly so.

In this century the widespread epidemic of human trafficking is in great need of recognition, as well as commitment of energy and resources, interventions, treatment, and prevention. This disease must be eliminated as well.

The federal government must make sure there exists a unified approach to deal with this inhumanity.

Partnerships that reflect true collaborative efforts, education campaigns that are multi-dimensional and well funded, and intervention strategies that reflect emerging best practices, are the pillars of a comprehensive strategy.

Every system and institution working with children must be onboard to ensure that a clear message is sent: our children are not for sale, and anyone who tries to exploit them will face the consequences. It is only by taking these actions can we show our own humanity, but also ensure a safe and healthy future for all children.

I truly appreciate the opportunity to speak to this Commission and thank you for your attention.

### **Testimony before the US Civil Rights Commission on April 13, 2012**

#### **Recommendations from SAGE to Improve the Government's Efforts**

1. Despite the strength of our federal anti-trafficking law, domestic minor sex trafficking victims are most often not recognized or treated as such upon identification. The US has historically criminalized domestic minor sex trafficking victims as child prostitutes, instead as victims of rape or sexual assault, making their only access to resources those offered through the criminal justice system. State by state, legislators have worked to pass laws that chip away at this trend of criminalization. The federal government should ensure that youth who have been victims of commercial sexual exploitation are not considered criminals.
2. The government should continue to train law enforcement, health professionals and community workers to recognize the signs of youth who have been exploited.
3. Reauthorization of the trafficking of victims act must take place and be strengthened.
4. Prevention is key. If the average age of entry into commercial sex exploitation is 12 to 14, we must start educating youth as young as 9 and 10 years old on the myths and realities that sustain and glorify the sex industry. This should happen in classrooms, after-school programs and AT wellness centers.
5. The federal government must find some way to send a clear message to the media and fashion industries that they should rethink their advertising tactics because they are in part responsible for the frightening predicament laid before us. Pimping is not in fact cool, and being sexy and "hot" should not be "in".
6. The federal government should fund more programs to keep kids get off the streets.
7. The federal government should protect children them from online perpetrators via stronger Internet safety laws.

8. The government should ensure access to safe, supportive housing as viable alternatives to incarceration.
9. Continued funding of the systems that support and monitor foster parent programs in particular is needed, as is additional support for youth as they age out of the child welfare system, something that states are considering, too.
10. Fund more intervention and prevention services, like SAGE, to give the children a future.
11. Continue to support partnerships that reflect true collaborative efforts, education campaigns that are multi-dimensional and well funded, and intervention strategies that reflect emerging best practices - the pillars of a comprehensive strategy.
12. Every system and institution working with children must be onboard to ensure that a clear message is sent: our children are not for sale, and anyone who tries to exploit them will face the consequences.

## **Rhacel Parrenas, Chair, Sociology Department, University of Southern California**

My name is Rhacel Parrenas and I am a Professor of Sociology at the University of Southern California. I am speaking here as a qualitative sociologist who has done extensive research on women's labor migration from the Philippines. I have written books and numerous essays on migrant domestic workers, the families of migrant workers as well as migrant hostesses.

"Sex trafficking" became an issue that I had to address when migrant Filipina hostesses in Japan, a group of labor migrants who I had been studying, were labeled by the U.S. Department of State as sex trafficked people. As the 2005 TIP Report states, "*A significant number of the 71,084 Philippine women who entered Japan as overseas performance artists in 2004 are believed to have been women trafficked into the sex trade*" (178). Justifying claims of their trafficking, they were described in the 2004 TIP Report as "*victims... stripped of their passports and travel documents and forced into situations of sexual exploitation or bonded servitude...*" (14). I should qualify that the labeling as trafficked persons of 80,000 plus migrant Filipina hostesses in 2005 made them the largest group of trafficked people worldwide or 10 percent of the 800,000 estimated trafficked persons in the world.

The label of sex trafficked persons is one that has directly affected the migration of Filipina hostesses. It has led to a drastic reduction in their numbers. Since 2006, their annual entry has hovered at around 8,000. Many would consider this drastic decline as a victory in the war on trafficking. It marks their successful rescue. But I care to differ. As a gender and migration scholar, I actually see this drastic decline as nothing but a threat to the empowerment of migrant women and an end to the gains they have made in migration, including their acquired role as breadwinners of the family. The curtailment of their migration signals not their rescue but instead their domination, specifically their job elimination and their forcible unemployment. We need to listen to Filipina hostesses in Japan and figure out why many of them asked me, in reaction to their labeling as sex trafficked persons by the U.S. government, "Why is your government making our lives difficult?"

To make sense of this question, we need to understand the disjuncture between the goals of the U.S. anti-trafficking campaign, including organizations they fund such as Polaris Project –Japan, and the goals of the Filipina hostesses who they wish to save. Why do Filipina hostesses, for the most part, view their rescue from "sex trafficking" and the pressures imposed on the government of Japan to more tightly monitor their migration as nothing but an act of domination, an elimination of their freedom to choose their employment?

One central cause of this disjuncture is the different view of the job of hostess work that comes from outsiders, such as the U.S. government, and insiders, specifically the hostesses. To

understand this disjuncture, we first need to know what the U.S. means by sex trafficking. In TVPA, “sex trafficking” is defined as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.” This definition notably removes the factor of coercion, basically equating “commercial sex act” with exploitation. So this would make hostesses – women who engage in the sexual titillation of their clients but I should note not necessarily via physical contact but by flirting – sex trafficked persons. This makes me wonder then if the labeling of hostesses as trafficked persons comes from the conflation of sex work and sex trafficking. This conflation leads to the misunderstanding of their job – the false assumption that these women are not willing to be where they are but had somehow been duped and forced to be there.

This false assumption is likely to happen because much of our knowledge on sex trafficking – including the claims on the trafficking of Filipina hostesses in Japan – is not based on substantive research. Notably, even the US Government Accountability Office has critiqued the TIP Report for being based on scant information. I am here giving a briefing on civil rights and sex trafficking. But I am not here to say that sex trafficking is a civil rights violation but instead I want to show you that false claims of sex trafficking is a civil rights violation. I have come to realize that the civil rights of Filipina hostesses have actually been violated not by sex trafficking but by the false claims of their trafficking. False claims of their sex trafficking in the TIP Report, and the efforts to rescue them by various well-intentioned organizations, have imposed unwarranted infringement on the liberty of migrant Filipina hostesses, placing their individual freedom at risk.

Without question, the absence of due diligence in the part of the U.S. Department of State and the organizations they have funded to help Filipina hostesses and the false claims of their sex trafficking has violated the civil rights of this group. First, it has eliminated their jobs, forcing the return of Filipina hostesses to their life of abject poverty in the Philippines. What rescuers fail to consider is that Filipina hostesses are not clueless idiots when they go to Japan; often they go to Japan knowing that they will be flirting for money and knowing that they will be working in servitude with a visa that is contingent on their employment at only one club (notably a common condition of migrant work around the world). However, we should not ignore that they knowingly choose the unfreedom of servitude in Japan over the unfreedom of poverty in the Philippines. Labeling them as sex trafficked persons basically eliminates their choice of two unfreedoms and forces them to a life of unfreedom in poverty. Second, the civil rights of Filipina hostesses have been violated by the false claims of their trafficking because it has exacerbated the conditions of servitude for the few who still manage to return to Japan. To improve their ranking in the US TIP Report, Japan now requires Filipina hostesses to go through two years and not just six months of singing and dancing lessons. What this does is it increases their debt to their brokers prior to migration, aggravating their indenture. Third, false claims of their trafficking has not just violated their civil rights but has ironically left them more vulnerable to what is labeled as severe forms of trafficking. We have seen since a spike in the number of

marriage visa applications, with some local migrant advocates suspecting many of these are based on false marriages. Ironically, the Philippine Embassy in Tokyo has long said that hostesses who enter with false visas rather than contract workers are those most vulnerable to forced labor in Japan, i.e., women in this group are those more likely than contract workers to find themselves working at a place without a network of support and without the ability to quit or end their employment. Lastly, citing the dissertation research of my PhD student at Brown University Maria Hwang, the false claim of migrant Filipina hostesses as sex trafficked persons has not only denied them their jobs but have forced many to engage in prostitution in Hong Kong, which is a job many of them would actually not do if they could still perform the meeker sexual job of commercial flirtation in Japan. This unintended consequence of the U.S. war on trafficking surely gives us reason to pause and forces us to rethink how we should address the problem of human trafficking.

To conclude, we need to do our due diligence on sex trafficking. Claims based on scant information, the conflation of sex work and sex trafficking, and the use of one person's experience to generalize about an entire group's experience only results in our misunderstanding of the problem. This misunderstanding then leads to the implementation of the wrong solutions. We see this clearly in the rescue of Filipina hostesses – supposed victims of sex trafficking – but whose labeling as such does nothing but violate their civil rights. *If we respect the people we want to rescue, we would owe it to them to do our due diligence and do grounded empirical research to understand their problems. Anyone who does that with Filipina hostesses – the largest group of supposed sex traffic victims in the world – would learn that they don't want job elimination. They wish not to be rescued. Instead they want greater control of their labor and migration, including the ability to choose employers, the elimination of migrant brokers, and the recognition of their form of sex work as viable employment.*

## PANELISTS' BIOGRAPHIES

### Maggie Wynne

Maggie Wynne is Director of the Division of Anti-Trafficking in Persons in the Office of Refugee Resettlement within the U.S. Department of Health and Human Services (HHS). In that capacity she leads the HHS *Rescue & Restore Victims of Human Trafficking* campaign. HHS' goal is to identify trafficking victims and help them receive the services needed to rebuild their lives. Programs funded through the *Rescue and Restore* campaign train social service, public health, and other frontline intermediaries so they can help identify and connect victims to support services offered through the HHS/ACF Office of Refugee Resettlement. Miss Wynne manages a nationwide network of funded grantees and volunteer coalitions raising awareness and providing victim assistance. She also oversees ACF's collaboration with other Federal Government agencies on policy issues related to anti-trafficking measures.

From 2005 to 2007, Miss Wynne served as a Special Assistant to the Director of the HHS Office of Global Health Affairs (OGHA), and prior to that as a Legislative Analyst in the Office of the HHS Assistant Secretary for Legislation (ASL). At OGHA, her portfolio included the development of policies with respect to the Global Fund to Fight AIDS, Tuberculosis and Malaria, and implementation of the President's Emergency Plan for AIDS Relief. In ASL, Miss Wynne's areas of responsibility included reauthorization of national welfare reform legislation, biomedical ethics, and issues and programs within the jurisdiction of the Office of Refugee Resettlement. Prior to coming to HHS, she served for over 12 years as a legislative aide for Members of Congress, primarily covering issues within the jurisdiction of the House Committees on Energy and Commerce (health), the Judiciary, and Appropriations.

### Greg Zoeller

Greg Zoeller was elected Indiana's 42nd Attorney General in 2008. Prior to that, Greg Zoeller served as the chief deputy AG to his predecessor, Attorney General Steve Carter, making him the first attorney general to have served in the AG's Office prior to being elected.

A commitment to service marks the career of Attorney General Zoeller. With a focus on consumer protection, Greg has expanded the Do Not Call law to include cell phones, increased the legal protections for teachers in returning discipline to the classroom and protected homeowners facing foreclosures. By battling scam artists with proactive investigations, the Attorney General has made Indiana known as a state that consumer predators want to avoid.

An advocate for the most vulnerable in society, Attorney General Zoeller organizes an annual competition among lawyers and law firms called March Against Hunger that raises food donations to support Indiana's food banks.

Greg Zoeller for ten years worked as an executive assistant to Dan Quayle – first in Senator Quayle’s U.S. Senate office, and then in the Office of the Vice President of the United States. He also served in other government capacities and was in private practice for 10 years before joining the AG Carter’s office.

Having studied as an undergraduate at Purdue University and Indiana University, Greg holds “dual citizenship” as both a Boilermaker and an IU Hoosier. He earned his law degree from the Indiana University School of Law at Bloomington in 1982.

## **Bridgette Carr**

Professor Bridgette Carr directs the Human Trafficking Clinic at the University of Michigan Law School. The clinic provides comprehensive legal services to victims of human trafficking regardless of age, gender, or national origin. Her research and teaching interests focus on human trafficking, immigration, and human rights, and she is a member of the Michigan Human Trafficking Taskforce. Professor Carr co-authored a casebook, *Human Trafficking Law & Policy* that was published in 2014. Professor Carr oversees grants to combat human trafficking in the United States and abroad. In 2011, the Human Trafficking Clinic launched the nation’s only comprehensive online database of human trafficking cases. She received her BA, *cum laude*, from the University of Notre Dame and earned her JD, *cum laude*, from Michigan Law. Prior to joining the Michigan Law School faculty, she was an associate clinical professor at the University of Notre Dame Law School, where she led the Immigrant Rights Project. In 2008, she was awarded a Marshall Memorial Fellowship to study human trafficking issues in Europe.

## **Salvador Cicero**

Salvador Cicero is the Principal of The Cicero Law Firm, P.C. He currently serves as the President of the Hispanic Lawyers Association of Illinois.

Mr. Cicero is a graduate of the Matías Romero Institute for Diplomatic Studies in Mexico City (2000) and holds a Juris Doctor and a Certificate in International Trade and Development from The Ohio State University Moritz College of Law (1998). He received a B.A. in Latin American Studies at the University of New Mexico (1994). He is admitted to practice law in Illinois and the US Federal District Courts for the Northern District of Illinois (trial bar) and Eastern District of Wisconsin.

Mr. Cicero formerly served as Research Fellow of the American Bar Foundation and Director of the American Bar Association’s Project to Combat Trafficking in Persons in Ecuador. The Program was designated as an international Best Practice by the U.S. Department of State and the Organization of American States (OAS). Mr. Cicero was also a career member of the Foreign Service of Mexico.

Mr. Cicero has published various Law Review articles and other academic articles in the U.S., Colombia, Mexico and Argentina. He has lectured in programs throughout the American Hemisphere, most notably as an anti-trafficking expert for the OAS and as a trainer for United Nations' Peacekeeping Forces. He has been an invited commentator on national anti-trafficking legislation in Mexico and Ecuador.

Domestically, Mr. Cicero has been a member of the Anti-trafficking task force in Cook County, Illinois, and the Illinois Rescue and Restore Working Group. He is a well-known media commentator on legal affairs and has appeared in national media outlets such as the Univision National News, Telemundo and National Public Radio.

Among Mr. Cicero's awards and distinctions are the 2011 Martin Luther King DREAM Award for Public Service, the 2007 El Humanitario Award, the Ohio State University Alumni Association's William Oxley Thompson Award for Early Career Achievement (2004), and the American Bar Association's Silver Key (1998) and Bronze Key (1997).

## **Merrill Matthews**

Merrill Matthews, Ph.D., is a resident scholar with the Institute for Policy Innovation. He is a public policy analyst specializing in health care issues and is the author of numerous studies in health policy and other public policy issues. Dr. Matthews is past president of the Health Economics Roundtable for the National Association for Business Economics, the largest trade association of business economists.

For nine years Dr. Matthews was executive director of the Washington, DC-based Council for Affordable Health Insurance, a trade association of health insurers. He served for 10 years as the medical ethicist for the University of Texas Southwestern Medical Center's Institutional Review Board for Human Experimentation, and has contributed chapters to several books, including *Physician Assisted Suicide: Expanding the Debate*, *The 21<sup>st</sup> Century Health Care Leader* and, in 2009, *Stop Paying the Crooks* (on Medicare fraud). Dr. Matthews also serves as chairman of the Texas Advisory Committee of the U.S. Commission on Civil Rights.

He is a regular columnist for Forbes.com and has been published in numerous journals and newspapers, including the Wall Street Journal, the New York Times, Investor's Business Daily, Barron's, USA Today and the Washington Times. He was an award-winning political analyst for the USA Radio Network, and for several years had a daily one-minute commentary on Sirius-XM Radio. In 2008 the BBC invited him to star in a program on welfare reform in Great Britain, and specifically Wales.

Dr. Matthews received his Ph.D. in Humanities from the University of Texas at Dallas.

## **Karen Hughes**

Karen Hughes is a Lieutenant with the Las Vegas Metropolitan Police Department with 27 years of law enforcement experience. A supervisor for over 18 years, she is currently assigned to the Vice/Narcotics Bureau overseeing the Vice Section where she has led a dedicated and diverse group of investigators who are responsible for investigating all crimes associated to prostitution and its demand. This unit is responsible for proactive enforcement efforts in a variety of venues in the Las Vegas valley where prostitution flourishes such as escort services, adult cabarets, hotels, streets, massage parlors, in/out call through internet investigations, adult book stores, and night/pool clubs. The unit has two dedicated teams that investigate all forms of human trafficking that involve the exploitation of adult women and juveniles into the commercial sex trade. The Vice Section is actively involved with the Southern Nevada Human Trafficking Task Force and the Innocence Lost National Initiative in an effort to bring strong criminal cases against pimps and seize their assets through partnering with state and federal agencies.

## **Mary Ellison**

Mary C. Ellison currently serves as Director of Policy for Polaris Project. In addition to her years as a human rights lawyer, Ms. Ellison brings more than ten years of experience as a manager, fundraiser, trainer, and technical consultant to her work at Polaris Project. At Polaris Project, Ms. Ellison leads the work to advance state and federal policy related to the crime of human trafficking - creating protections for victims while seeking accountability for human traffickers and others that contribute to human trafficking.

Prior to joining Polaris Project, Ms. Ellison served as a staff attorney for the Advocates for Human Rights. In that capacity, she helped build a coalition to combat sex trafficking and commercial sexual exploitation in Minnesota through participation in the statewide Human Trafficking Task Force. Together with the Task Force members, Ms. Ellison played a key role in drafting, advocating for, and testifying about critical amendments to Minnesota's human trafficking law, which was unanimously passed and signed into law on May 21, 2009.

Ms. Ellison is a co-author of the *Sex Trafficking Needs Assessment for the State of Minnesota* (September, 2008); and two components of the legislation module of a *UNIFEM Global Virtual Knowledge Centre: Advocating for New Laws or the Reforming of Existing Laws and Drafting Specific Legislation on Violence Against Women and Girls – Sex Trafficking of Women and Girls*.

Ms. Ellison has worked on domestic violence legal reform in Central and Eastern Europe where she reviewed and provided commentary on the domestic violence laws of several countries. She also brings experience as a judicial law clerk, law clerk in a state public defender's office, and intern with the Refugee and Immigrant program at the Advocates for Human Rights. Ms. Ellison

earned her law degree from William Mitchell College of Law. She is admitted to practice in Minnesota. Ms. Ellison graduated cum laude from St. Olaf College with a Bachelor of Arts in Psychology and Family Studies with a concentration in Women's Studies. She also earned a Masters of Fine Arts degree in Creative Writing from Colorado State University. Ms. Ellison is a published poet and essayist and the editor of two oral history collections.

Ms. Ellison's interest in social justice and human rights was initially ignited during an educational trip to El Salvador and Nicaragua. She has also worked with inner-city youth, developmentally disabled adults, refugees and immigrants, and indigent adults and juveniles facing criminal charges, all of which inform her current work.

## **Amy Rassen**

Amy Rassen, LCSW is known as a pioneer in the field of family support and non-profit management and is one of a handful of leaders who have shaped the family support movement in the U.S. In her over 40 years of leadership in the non-profit sector, she has focused broadly in all areas of social and human services, ensuring that children, individuals and families lead the best lives possible. Most recently she has dedicated her passion and expertise to addressing human trafficking, a social problem that is staggering for its under-recognition.

Over the years, Ms. Rassen's experience has included creating and overseeing human services, mental health programs and integrated care delivery systems. She has managed a staff of up to 800; created national and statewide organizations; designed innovative, replicable, financially sustainable programs; implemented major service and research projects; raised millions of dollars annually; developed and implemented outcomes-based quality assurance programs. She has been instrumental in revamping national and state systems, and also enabling non-profits to implement strategies for organizational sustainability.

Ms. Rassen currently assumes leadership for organizations in the midst of challenging transitions. In addition, she coaches executive directors regarding board and organizational development as well as strategic planning.

Most recently, Ms. Rassen has devoted her talents to address human trafficking. Human trafficking is a modern day form of slavery: a national and international problem that is staggering in its pervasiveness, indescribable in its cruelty, and appalling in its under-recognition.

At the SAGE Project, Ms. Rassen revitalized the organization following the untimely death of its founder, Norma Hotaling. As a result of her efforts, SAGE continues to be uniquely effective in educating the public about human trafficking, initiating policies and directly supporting survivors of human trafficking and commercial sexual exploitation. SAGE is unique in that it is one of the few organizations in the country that was created by and for survivors. SAGE was recently

named the Organization of the Year at the 2012 San Francisco International Women's Day celebration.

To learn more about Ms. Rassen's background, work, board service, publications and awards please visit [www.rassenassociates.org](http://www.rassenassociates.org).

## **Rhacel Parrenas**

Rhacel Salazar Parreñas is Professor and Chair of the Sociology Department at the University of Southern California. She is known for her work on women's labor and migration. She has received more than 100 invitations to share her work at universities, government and nongovernmental institutions, and research centers throughout the United States, Europe and Asia. An award-winning author, Parreñas has co-edited three anthologies and has written four monographs as well as numerous peer-reviewed articles. Her latest book, *Illicit Flirtations: Labor, Migration and Sex Trafficking in Tokyo* (Stanford University Press, 2011), describes the experience of "indentured mobility" among migrant Filipina hostesses and bridges current discussions on human trafficking and gender and labor migration. She is currently working on a cross-national research project comparing the servitude of migrant care workers in Singapore and United Arab Emirates. Parreñas has received research funding from the Ford Foundation, Rockefeller Foundation, and National Science Foundation as well as fellowship invitations from the Center for Advanced Study in the Behavioral Sciences at Stanford University and the Institute for Advanced Study at Princeton, NJ. Her work is translated into French, Spanish, Italian, German, Polish, Portuguese, Korean, and Japanese. She is currently the North America Regional Editor for *Women's Studies International Forum*.

## **Tina Frundt**

Tina Frundt, executive director/founder of Courtney's House, has been actively raising awareness of the commercial sexual exploitation of children (CSEC) since 2000. A high profile national advocate on the issue of domestic sex trafficking and a survivor of CSEC, Ms. Frundt is deeply committed to helping other children and women who are living through experiences similar to her own. She has been featured on numerous national shows and publications, including Lisa Ling's *Show Our America* that featured a undercover look into sex trafficking "3Am Girls" on the OWN network, CNN's freedom project, and trains law enforcement and services providers around the country, she has recently won the "Frederick Douglas" award through the "Freedom Awards" that recognizes survivors of sex trafficking she is the first U.S. Citizen to win the award. She has testified before U.S. Congress about her own experiences and the need for greater protection and services for trafficked persons. She has recently started her own non-Profit, "Courtney's House" in 2008. "Courtney's House" provides services for

domestic sex trafficked youth and will open first group home for sex trafficked children ages 12yrs - 18yrs in the Washington D.C. metro area.

## **APPENDIX: RESOURCES AVAILABLE TO ASSIST VICTIMS OF SEX TRAFFICKING**

### **Federal Government Efforts to Combat Human Trafficking**

<http://www.acf.hhs.gov/programs/orr/resource/federal-government-efforts-to-combat-human-trafficking>

### **National Human Trafficking Victim Assistance Program**

<http://www.acf.hhs.gov/programs/orr/programs/anti-trafficking>

### **National Human Trafficking Resource Center**

<http://www.traffickingresourcecenter.org>

National Human Trafficking Hotline 1-888-373-7888

### **Alabama**

The Well House, Inc.

<http://www.the-wellhouse.org>

Family Connection, Inc.

<http://www.familyconnection-inc.org>

### **Alaska**

Abused Women's Aid in Crisis

<http://www.awaic.org>

Alaska Immigration Justice Project

<http://www.akijp.org>

Native American Rights Fund (NARF)

<http://www.narf.org>

Salvation Army Anchorage

<http://www.salvationarmy.org/alaska>

### **Arizona**

Arizona League To End Regional Trafficking (ALERT)

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

Catholic Charities DIGNITY Program

<http://www.catholiccharitiesaz.org>

**Arkansas**

Catholic Charities - Little Rock

<http://www.dolr.org/offices/catholiccharities/immigration.php>

**California**

Human Exploitation and Trafficking (H.E.A.T) Watch Program

<http://www.heat-watch.org>.

Narika - Asian Anti-Trafficking Collaborative

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

The SAGE Project, Inc. - Standing Against Global Exploitation

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

Operation Safehouse

<http://operationsafehouse.org>

**Colorado**

Colorado Network to End Human Trafficking (CoNEHT)

24 Hr. Hotline: 1-866-455-5075

Laboratory to Combat Human Trafficking

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

**Connecticut**

International Institute of CT

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

The Paul & Lisa Program

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

Barnaba Institute, Inc.

<http://www.barnabainstitute.org>

**Delaware**

People's Place

<http://www.peoplesplace2.com/programs-services/>

Survivors of Abuse in Recovery, Inc.

<http://www.soarinc.com>

**District of Columbia**

Polaris Project

<http://www.polarisproject.org>

Courtney's House

<http://www.courtneyshouse.org>

Restoration Ministries

<http://www.restorationministriesdc.org>

Fair Girls

<http://www.fairgirls.org>

D.C. Stop Modern Slavery

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

Shared Hope International

<http://sharedhope.org/>

**Florida**

Building Empowerment By Stopping Trafficking, Inc.

<http://www.beststoptrafficking.org>

Covenant House Florida

<http://www.covenanthousefl.org>

Broward County Sexual Assault Treatment Center

<http://www.broward.org/sexualassault>

Harbor House of Central Florida, Inc.

<http://www.harborhousefl.com>

**Georgia**

A Future. Not A Past. Campaign

<http://www.afuturenotapast.org>

Wellspring Living

<http://www.wellspringliving.org>

Savannah Working Against Human Trafficking (SWAHT)

Street Grace

<http://www.streetgrace.org>

**Hawaii**

Pacific Alliance to Stop Slavery

<http://www.traffickjamming.org>

Pacific Gateway Center

<http://www.pacificgatewaycenter.org>

Susannah Wesley Community Center

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

Women Helping Women

<http://www.whwmaui.net/>

**Idaho**

Idaho Coalition Against Sexual & Domestic Violence

<http://www.idvsa.org>

**Illinois**

The Salvation Army–STOP IT Program

<http://www.sa-stopit.org>

Anne's House

<http://salarmychicago.org/promise/annes-house/>

PROMISE

<http://salarmychicago.org/promise/about-us/>

Heartland Alliance

<http://www.heartlandalliance.org>

Chicago Alliance Against Sexual Exploitation

<http://www.caase.org>

Chicago Coalition for the Homeless

<http://www.chicagohomeless.org>

International Organization For Adolescents

<http://www.iofa-talk.blogspot.com>

National Immigrant Justice Center

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

**Indiana**

The Julian Center

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

Exodus Refugee Immigration Inc.

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

Neighborhood Christian Legal Clinic

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

National Immigrant Justice Center

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

La Plaza

<http://www.laplaza-indy.org/>

Indiana Coalition Against Sexual Assault

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

**Iowa**

Catholic Charities – Des Moines

<http://www.dmdiocese.org/catholic-charities.cfm>

Family Violence Center/Children and Families of Iowa

<http://www.cfiowa.org>

Latinas Unidas por un Nuevo Amanecer (LUNA)

<http://www.lunaiowa.org>

Lutheran Social Services

<http://www.lsiowa.org>

Youth Emergency Services and Shelter (YESS)

<http://www.yessiowa.org>

**Kansas**

Veronica's Voice

<http://www.veronicasvoice.org>

**Kentucky**

Bluegrass Rape Crisis Center

<http://www.bluegrassrapecrisis.org>

Women's Crisis Center

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

BPSOS

<http://www.bpsos.org>

P.A.T.H. - Partnership Against the Trafficking of Humans

<http://www.pathnky.org>

## **Louisiana**

Alliance of Guestworkers for Dignity

<http://www.nowcrj.org>

Covenant House - New Orleans

<http://www.covenanthouseno.org>

Trafficking Hope

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

Eden House

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

## **Maine**

Maine Coalition Against Sexual Assault

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

## **Maryland**

Casa de Maryland

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

TurnAround Inc.

<http://www.turnaroundinc.org>

## **Massachusetts**

Lutheran Social Services of New England

<http://www.lssne.org/Services-New-Americans/ILAP/Services/Trafficking.aspx>

Support to End Exploitation Now Coalition (SEEN)/Children's Advocacy Center of  
Suffolk County

<http://www.suffolkcac.org>

Roxbury Youthworks, Inc.

<http://www.roxburyyouthworks.org>

My Life My Choice

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

Project REACH/The Trauma Center

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

Germaine Lawrence

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

## **Michigan**

Alternatives for Girls

<http://www.alternativesforgirls.org>

Underground Railroad, Inc

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

Bethany Christian Services

<http://www.bethany.org>

Jewish Family Services

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

National Immigrant Justice Center

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

St. Vincent Catholic Charities

<http://www.stvcc.org>

Freedom House

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

## **Minnesota**

The Institute for Trafficked, Exploited & Missing Persons

<http://www.ITEMP.org>

Breaking Free

<http://www.breakingfree.net>

PRIDE (Prostitution to Independence, Dignity and Equality)

<http://www.thefamilypartnership.org>

Minnesota Indian Women's Resource Center

<http://www.miwrc.org>

Minnesota Indian Women's Sexual Assault Coalition

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

Advocates for Human Rights

<http://www.mnadvocates.org>

Civil Society

<http://www.civilsocietyhelps.org>

Center for Victims of Torture

<http://www.cvt.org>

Youthlink

<http://www.youthlinkmn.org>

International Institute of Minnesota

<http://www.iimn.org>

Program for Aid to Victims to Sexual Assault (PAVSA)

<http://www.pavsa.org>

## **Mississippi**

Advocates For Freedom, Six Coastal Counties

<http://www.advocatesforfreedom.com>

The Center for Violence Prevention

<http://www.mscvp.org>

Wesley House Family Justice Center

<http://www.wesleyhousemeridian.org>

## **Missouri**

International Institute of St. Louis

Veronica's Voice

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

Central Missouri Stop Human Trafficking Coalition

<http://stophumantraffickingmo.com>

**Montana**

Catholic Charities Refugee Services

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

YWCA - St. Louis Regional Sexual Assault Center

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

**Nebraska**

The Salvation Army - Wellspring Program

<http://www.givesalvationarmy.org>

**Nevada**

Hopelink

<http://link2hope.org>

Nevada Partnership for Homeless Youth

<http://www.nphy.org>

Salvation Army

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

Shade Tree

<http://www.theshadetree.org>

**New Hampshire**

New Hampshire Coalition Against Domestic and Sexual Violence

<http://www.nhcadsv.org>

**New Jersey**

Polaris Project

<http://www.polarisproject.org>

**New Mexico**

New Mexico Attorney General

<http://www.nmag.gov/consumer/publications/humantrafficking>

The Life Link

<http://thelifelink.org/>

Catholic Charities - Las Cruces

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

Catholic Charities – Albuquerque

<http://www.catholiccharitiesasf.org>

## **New York**

Girls Educational & Mentoring Services (GEMS)

<http://www.gems-girls.org/>

Safe Horizon

<http://www.safehorizon.org>

My Sisters' Place

<http://www.mspny.org>

New York Asian Women's Center

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

Restore NYC

<http://www.restorenyc.org>

City Bar Justice Center - Immigrant Women & Children Project

<http://www2.nycbar.org/citybarjusticecenter/>

International Institute of Buffalo

<http://www.iibuff.org>

## **North Carolina**

North Carolina Coalition Against Human Trafficking

<http://www.nccasa.net/nccaht>

30th Judicial District DV & SA Alliance, Inc.

<http://www.30thalliance.org>.

Legal Services of Southern Piedmont

<http://www.lssp.org>

NCCASA

<http://www.nccasa.org>

## **North Dakota**

Lutheran Social Services of North Dakota

<http://www.lssnd.org/community-outreach/new-americans/nas-overview.html>

**Ohio**

Catholic Social Services of Southwestern Ohio

<http://www.catholiccharitiesswo.org>

Cleveland Rape Crisis Center

<http://www.clevelandrapecrisis.org>

Catholic Charities of Cleveland

<http://www.clevelandcatholiccharities.org>

Collaborative to End Human Trafficking

<http://www.clevelandcatholiccharities.org>

Crime Victim Services

<http://www.CrimeVictimServices.org>

Salvation Army of Central Ohio

<http://www.centralohiorescueandrestore.org>

Community Refugee and Immigration Services (CRIS)

<http://www.cris-ohio.com/>

Central Ohio Rescue and Restore Coalition

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

Gracehaven, Inc.

<http://www.gracehaven.me>

TraffickFree

<http://www.traffickfree.com>.

Asian American Community Services

<http://www.aacsohio.org>

Catholic Social Services

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

Legal Aid Society Columbus

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

Sexual Assault Response Network of Central Ohio

<http://www.ohiohealth.com>

ASHA Ray of Hope

<http://www.asharayofhope.org>

Second Chance Toledo

<http://www.secondchancetoledo.org>

Northern Tier Anti-Human Trafficking Consortium (NTAC)

Hotline: 1-800-837-5345

End Slavery Cincinnati (ESC)

<http://www.endslaverycincinnati.org>

Salvation Army of Southwest Ohio & Northeast Kentucky

<http://www.salvationarmycincinnati.org>

## **Oklahoma**

Day Spring Villa

<http://www.dayspringvilla.com>

Safeline - OK Office of the Attorney General

Hotline: 1-800-522-7233

## **Oregon**

Oregonians Against Trafficking Humans (OATH)

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

Lutheran Community Services Northwest

<http://www.lcsnw.org>

Janus Youth Programs

<http://www.jyp.org>

Sexual Assault Resource Center (SARC)

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

## **Pennsylvania**

Covenant House Pennsylvania

<http://www.covenanthousepa.org>

Dawn's Place

<http://www.ahomefordawn.org>

Nationalities Service Center

<http://www.nscphila.org>

Freedom and Restoration for Everyone Enslaved (FREE)

<http://www.freefromht.org>

Project to End Human Trafficking

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

YWCA York - York County Task Force on Human Trafficking

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

## **Rhode Island**

Day One

<http://www.dayoneri.org>

## **South Carolina**

Lutheran Family Services Refugee and Immigration Services

<http://www.lfscarolinas.org/what-we-do/refugee-services/community-support.aspx>

## **South Dakota**

Lutheran Social Services – Sioux Falls

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

## **Tennessee**

Doctors At War

<http://www.doctorsatwar.org> T

Community Coalition Against Human Trafficking

<http://www.ccaht.org>

YWCA of Nashville & Middle Tennessee, Weaver Domestic Violence Center

<http://www.ywcanashville.com>

End Slavery in Tennessee

<http://www.endslaverytn.org>

Second Life of Chattanooga

<http://www.secondlifechattanooga.org>

Free for Life International

<http://www.freeforlifeintl.org>

A Bridge of Hope

<http://www.ABridgeofHope.org>

## **Texas**

Central Texas Coalition Against Human Trafficking

<http://www.ctcaht.org>

Houston Rescue and Restore Coalition

<http://www.houstonrr.org>

Mosaic Family Services

<http://www.mosaicservices.org>

Tahirih Justice Center

<http://www.tahirih.org>

Texas Rio Grande Legal Aid

<http://www.trla.org>

## **Utah**

Asian Association Refugee and Immigrant Center

<http://www.aau-slc.org>

YWCA - Salt Lake City

<http://www.ywca.org/site/pp.asp?c=glLUJgP9H&b=67256>

International Rescue Committee (IRC) - Salt Lake City

<http://www.theirc.org/us-program/us-salt-lake-city-ut>

## **Vermont**

Vermont Network Against Domestic and Sexual Violence

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

Vermont Coalition of Runaway & Homeless Youth Programs

<http://www.vcrhyp.org>

## **Virginia**

Courtney's House - 24 Hour Hotline: 1-888-261-3665

<http://www.courtneyshouse.org>

Homestretch

<http://www.homestretch-inc.org>

Tahirih Justice Center

<http://www.tahirth.org>

International Rescue Committee

<http://www.theirc.org>

The Gray Haven Project

<http://www.thegrayhaven.com>

Virginia Beach Justice Initiative

<http://www.vbji.org>

## **Washington**

Washington Anti-Trafficking Response Network (WARN)

<http://warn-trafficking.org/>

Lutheran Community Services Northwest

<http://www.lcsnw.org>

Youth Care

<http://www.youthcare.org>

Seattle Against Slavery

<http://www.seattleagainstsavery.org>

## **West Virginia**

West Virginia Domestic Violence Coalition

<http://www.wvcadv.org>

## **Wisconsin**

United Migrant Opportunities Services (UMOS)

<http://www.umos.org>

BASICS (Brothers and Sisters in Christ, Serving)

<http://www.BASICSinMKE.org>

International Institute of Wisconsin

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

Wisconsin Coalition Against Sexual Assault

[http://www.wcasa.org/pages/Intervention\\_Human-Trafficking.php](http://www.wcasa.org/pages/Intervention_Human-Trafficking.php)

Franciscan Peacemakers

<http://www.franpax.com>

Catholic Charities of the Archdiocese of Milwaukee, Inc.

<http://www.ccmke.org>

ARC Community Services

<http://www.arccommserve.com>