

**New York State Interagency Task Force**  
**on**  
**Human Trafficking**

*A report by the Interagency Task Force*  
*Implementation of the 2007 law*

**Task Force Co-chairs**

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## Executive Summary

On June 6, 2007, New York State passed its first law against human trafficking, joining the steadily growing number of states to recognize that “slavery” still exists in this country in the form of sex and labor trafficking.

Lauded by advocates as one of the most comprehensive human trafficking laws in the nation, this historic anti-trafficking legislation empowers New York State to prosecute traffickers, protect and assist victims, and coordinate its efforts to fight human trafficking.

New York’s Human Trafficking Law criminalized sex trafficking and labor trafficking, and modified existing laws to strengthen the State’s criminal justice response to traffickers and sex tourism (see Section II.A., New state crimes). It established services and assistance for human trafficking victims, making New York one of only a handful of states to do so (see Section II.B., New services and assistance). It also created an Interagency Task Force on Human Trafficking to coordinate the implementation of the new law and the State’s efforts to combat human trafficking (see Section II.C., New Interagency Task Force on Human Trafficking).

### New York’s Human Trafficking Law

- Criminalizes sex and labor trafficking
- Toughens penalties
- Establishes services for victims

The Human Trafficking Law charged the Task Force with reporting to the Governor and the Legislature on progress in implementing the new law. Now, one year later, the Task Force is pleased to report considerable progress. Its accomplishments to date include, but are not limited to:

- Establishing a victim services program (see Section II.B., New services and assistance).
- Providing statewide training on human trafficking to law enforcement personnel, prosecutors, and service providers (see Section III.B., Statewide training and outreach programs).
- Establishing collaboration between various government agencies, law enforcement, and nongovernmental entities.
- Conducting awareness-raising activities statewide (see Section III.C. Public awareness efforts).

Much has been accomplished, but much remains to be done. This report includes a brief list of goals for the second year (see Section IV., Going forward).

## A Snapshot of the First Year's Experiences

Since the law took effect on November 1, 2007, our experience makes abundantly clear that there is no “typical” victim or case.

As of July 3, 2008, 36 persons have been confirmed by the Division of Criminal Justice Services (DCJS) in consultation with the Office of Temporary and Disability Assistance (OTDA) as victims of human trafficking for purposes of accessing services and assistance.

Most (27 of 36) of the confirmed victims are female, and they range in age from 16 to 52 and come from disparate locations. Six are United States citizens. Thirty are foreign born. Of the foreign-born victims, eleven are from Asia, eighteen are from Latin America, and one is from South America.

Nineteen of the victims were trafficked for prostitution. Seventeen of the victims were trafficked for labor. Trafficking occurred in restaurants, massage parlors, hotels, and on a farm. Twenty-eight of the victims (representing five cases) were trafficked upstate; the remaining eight (six cases) were trafficked downstate.

### Victims Identified

- 36 in total
- 27 women
- 30 foreign born
- 6 U.S. citizens

The 36 confirmed victims are eligible for various forms of government services and assistance. With resources provided through State human trafficking program funds, as well as other funding streams, the victims have been afforded services such as:

- Case management
- Housing
- Nutritional assistance
- Provision of personal care items
- Health care
- Mental health counseling
- Job placement assistance
- Transportation
- Language interpretation and translation services
- Assistance in establishing permanent residence in the U.S

New York State is beginning to make prosecutorial inroads with its new statute; the first indictment under the new statute was announced June 18, 2008 by the Queens County District Attorney. In that case, a 22-year-old man was accused of using intimidation and threats of murder to force a teenage girl to perform sex acts for approximately a dozen customers a day. Several other cases are under investigation.

## **Recommendations for 2008-2009**

Given the experiences of this first year, the Interagency Task Force on Human Trafficking proposes the following to improve New York State's response to human trafficking:

- Expand training of and coordination between state law enforcement agencies, U.S. Customs and Immigration Enforcement (ICE), service providers, and non-law enforcement agencies likely to encounter human trafficking victims;
- Expand outreach and public awareness efforts;
- Establish a statewide directory of service providers capable of serving human trafficking victims;
- Improve the delivery of services for U.S. citizen, eligible alien and child human trafficking victims who do not qualify for the full range of Response to Human Trafficking Program-funded services;
- Expand safe housing options for human trafficking victims;
- Promote federal legislation to facilitate the ability of foreign-born human trafficking victims to obtain lawful immigration status and federal assistance;
- Enhance law enforcement strategies directed toward persons who exploit prostitutes and employ forced labor in New York State; and
- Explore the development of prostitution diversion courts.

# I. Introduction

## A. The human trafficking problem

Human trafficking is a contemporary form of slavery and a tragic human rights abuse that affects people around the globe. Victims are trafficked into the United States from all over the world, within U.S. borders, and within other countries. They are frequently found enslaved in prostitution, massage parlors and escort services, erotic dancing establishments, pornography, and sweatshops/factories. Human trafficking has even been found to exist in legitimate industries such as agriculture, construction, domestic work, hotels, restaurants, and many other enterprises. Some are forced, tricked, or coerced into marriage; others into begging and peddling.

### Human Trafficking victims have been found in:

- Brothels
- Massage parlors
- Escort services
- Sweatshops
- Restaurants

Trafficking takes on seemingly endless variations and occurs in every type of community – urban, rural, and suburban. Oftentimes, it is an insidious blight on the community. Victims are frequently isolated, instilled with fear of authorities and reluctant to report their victimization to law enforcement.

Consequently, the scope of the problem is difficult to define. We do know, however, that it is an enormous problem that exacts a terrible toll on its victims.

Human trafficking victims often suffer physical and psychological abuse at the hands of their traffickers, resulting in health problems, mental illness, and addiction. The need for assistance and treatment among victims is great.

Human trafficking was largely unrecognized by either federal or state governments until Congress enacted the Trafficking Victims Protection Act of 2000 (TVPA). The TVPA marked the first comprehensive national effort to address human trafficking, and provided for enhanced penalties for human trafficking crimes and special service programs to provide assistance to victims.

At the time, the U.S. Department of State estimated that 800,000 people were trafficked across international borders each year for sex and labor purposes.<sup>1</sup> As alarming as that figure was, it was under-representative of the magnitude of the problem because it did not include victims trafficked within nations' borders or victims whose experiences do not fit the federal definition of human trafficking.

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<sup>1</sup> Trafficking in Persons Report: June 2007, available at <http://www.state.gov/documents/organization/82902.pdf> (accessed June 1, 2008).

Federal trafficking prosecutions have not kept pace with estimates of human trafficking prevalence in the U.S.<sup>2</sup> and victim assistance under the TVPA is limited and can be difficult to obtain.<sup>3</sup>

While the TVPA ensured that foreign-born victims without immigration status could access assistance like their US-born counter parts, this help can be difficult to obtain: Between FFY 2001 and FFY 2007, only 1,379 victims received assistance under the TVPA<sup>4</sup>. One human trafficking victim in upstate New York, served by OTDA prior to enactment of the Human Trafficking Law, waited 18 months before receiving assistance under the TVPA.

Despite its shortcomings, TVPA was a watershed development in addressing what is now viewed not solely as a national problem, but a state and local problem as well. Meanwhile, states -- including New York -- lacked the statutory authority and victim-service programs to fill that void.

The challenge to government was clear. We had a crime we could not measure, a victim base that feared the potential protectors more than the perpetrators and a daunting and unmet need for services.

New York responded to this challenge with one of the most comprehensive anti-trafficking laws in the nation -- a potent law that includes both law enforcement and victim services components.

## **B. How New York State dealt with the problem pre-2007**

New York State's laws, prior to the enactment of the Human Trafficking Law were inadequate, despite the fact that New York State's human trafficking problem is one of the worst in the nation.<sup>5</sup> With its long international border, major ports of entry and diverse population, New York remains fertile ground for traffickers. U.S. Department of Justice figures suggest that human trafficking occurs more frequently in New York than in most other states; only California, Florida, and Texas outrank New York in the number of federal human trafficking cases opened between 2001 and 2005.<sup>6</sup>

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2 USDOJ, Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2006, available at <http://www.usdoj.gov/ag/annualreports/tr2006/agreporhumantrafficking2006.pdf> (accessed June 1, 2008).

3 USDHHS, Administration for Children and Families, The Campaign to Rescue and Restore Victims of Human Trafficking, Human Trafficking Fact Sheet, available at [http://www.acf.hhs.gov/trafficking/about/fact\\_human2004.pdf](http://www.acf.hhs.gov/trafficking/about/fact_human2004.pdf) (accessed June 1, 2008).

4 Deputy Director, USDHHS, Administration for Children and Families, Office of Refugee Resettlement, Anti-trafficking in Persons Office, personal communication, Apr. 21, 2008.

5 USDOJ, Office of Justice Programs, Bureau of Justice Statistics Data Brief: Federal Prosecution of Human Trafficking, 2001-2005 (Oct. 2006), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/fpht05.pdf> (accessed June 1, 2008).

6 USDOJ, Office of Justice Programs, Bureau of Justice Statistics Data Brief: Federal Prosecution of Human Trafficking, 2001-2005 (Oct. 2006), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/fpht05.pdf> (accessed June 1, 2008).

Trafficking-related crimes often were defined too narrowly to cover the methods of inducement and control used by traffickers. Furthermore, the State was limited in its ability to assist human trafficking victims without immigration status during the often lengthy period of time preceding approval for federal government assistance, when victims are vulnerable to re-victimization.

Pre-2007 New York laws were inadequate to deal with either the problem in New York, or the shortfalls in the federal Trafficking Victims Protection Act.

The lack of a comprehensive human trafficking law in New York State meant that many state and local law enforcement agencies and prosecutors, state government agencies, and service providers likely never received training on recognizing human trafficking.

Consequently, sex trafficking victims were often treated as criminals. Labor trafficking victims without immigration status were subject to deportation, with no inquiry into the circumstances of their “employment.” Many human trafficking victims were likely never identified at all. Thus, it was essential for New York State to take legislative action to fill the gaps in prosecutions and assistance left by the TVPA, and to address the State’s slave trade. To its credit, New York took those steps in June 2007.



## II. The 2007 Reform: A New Paradigm

In June of 2007, the New York State Legislature unanimously passed one of the most comprehensive human trafficking laws of any U.S. state, effective November 1, 2007. This landmark legislation recognizes that those trafficked for prostitution and labor are victims of crime, and encourages them to be treated as such and not as criminals or illegal immigrants. It represents a multi-faceted and multi-disciplinary approach to fighting human trafficking. This law addresses human trafficking in three main ways by:

- 1) Establishing new crimes that specify the methods of inducement and control used by traffickers to exploit their victims;
- 2) Providing services to human trafficking victims who are unable to obtain assistance elsewhere due to their immigration status; and
- 3) Creating an interagency task force to coordinate the implementation of the new law and the State's efforts to combat human trafficking.

### A. New state crimes

The Human Trafficking Law (chapter 74 of the laws of 2007) established the crimes of sex trafficking and labor trafficking in New York State, and modified existing Penal Law provisions to strengthen the State's response. The new law specifies the methods of advancing or profiting from prostitution, as well as compelling, inducing, enticing, harboring, or transporting a person to engage in labor, that constitute the New York State crimes of sex trafficking and labor trafficking, respectively. (See Appendix A for the complete text of the Human Trafficking Law, which is also available at [www.criminaljustice.state.ny.us/pio/humantrafficking/humantrafficking](http://www.criminaljustice.state.ny.us/pio/humantrafficking/humantrafficking)).

#### 1. Sex Trafficking

Section 230.34 of the N.Y.S. Penal Law provides that a person is guilty of sex trafficking, a class B nonviolent felony carrying a maximum sentence of 25 years imprisonment, if he/she intentionally advances or profits from prostitution by using one of the means specified.

The Human Trafficking Law recognizes the relationship between promoting prostitution and sex trafficking: The crime of sex trafficking is located in Article 230 of the Penal Law, the same article that contains the crimes of promoting prostitution, prostitution, and patronizing a prostitute. The use of the words "advances" and "profits"

Sex trafficking in New York State now carries a maximum sentence of 25 years in prison.

in the sex trafficking statute are derived from the definition of promoting prostitution in §230.15 of the Penal Law. Thus, in New York State, sex trafficking is promoting prostitution by using one of the following means enumerated in Penal Law §230.34:

- Unlawfully providing a drug to a person patronized in prostitution, with the intent to impair his/her judgment. The drug need not be a controlled substance.
- Making material false statements, misstatements, or omissions to induce or maintain a patronized person to engage in, or continue to engage in, prostitution activity.
- Withholding, destroying, or confiscating another person’s actual or purported government identification document, with the intent to impair his/her freedom of movement.
- Requiring that prostitution be performed to retire, repay, or service a real or purported debt.
- Using force. Traffickers often control their victims with physical and sexual abuse.
- Engaging in any scheme, plan, or pattern to induce a patronized person to engage in, or continue to engage in, prostitution activity by instilling a fear in that person that, if he/she does not comply with the actor’s demand, the actor or someone else will perform one or more acts. These threats and acts may be carried out, not only against the sex trafficking victim, but against his/her family, friends, or others -- with the indirect effect of perpetuating the victim’s bondage. They include:
  - Causing physical injury, serious physical injury, or death to a person.
  - Causing damage to the property of someone other than the actor.
  - Engaging in any other conduct constituting a felony or unlawful imprisonment in the second degree, as defined in Penal Law §135.05.
  - Accusing a person of a crime or causing criminal charges or deportation proceedings to be instituted against him/her.
  - Exposing a secret or publicizing an asserted fact, whether true or false, tending to subject a person to hatred, contempt, or ridicule.
- Testifying or providing information, or withholding testimony or information, with respect to another’s legal claim or defense.
- Exercising or failing to exercise official duties as a public servant in a manner that affects some person adversely.

#### Sex Trafficking “Means”

- Drugging the victim with a controlled or uncontrolled substance
- Lying to the victim
- Confiscating government ID
- “Debt bondage”
- Physical force
- Instilling fear

- Performing an act calculated to harm a patronized person materially with respect to his/her health, safety, or immigration status.

Prosecution of traffickers and identification of sex trafficking victims will occur more frequently when more law enforcement, prosecutors, service providers, and the general public recognize persons patronized in prostitution as potential victims of sex trafficking, and when law enforcement and prosecutors screen for human trafficking in arrests for prostitution and prostitution-related crimes.

## **2. Attacking sex trafficking by reducing the demand for prostitution**

New York State's Human Trafficking Law recognizes that the demand for prostitution drives the sex trafficking industry. It addresses this demand in two ways: First, the law increases the lowest level crime of patronizing a prostitute from a class B to a class A misdemeanor, subjecting the patron to a maximum sentence of one year in jail, if convicted.

New York's Human Trafficking Law recognizes that the demand for prostitution drives the supply of victims.

Increasing the penalty for patronizing a prostitute in the third degree codifies the judgment of the Legislature that patronizing a prostitute is a crime that can be deterred by increasing the penalty for that offense. However, patronizing offenses are currently underused by law enforcement personnel and prosecutors, who arrest and prosecute those patronized far more often than their patrons.<sup>7</sup> Thus, law enforcement has yet to give full effect to this critical component of New York State's anti-trafficking efforts.

Second, the Human Trafficking Law amended §230.25 of the Penal Law to clarify that advancing or profiting from prostitution by operating a sex tour business is a form of promoting prostitution. Sex tour businesses typically transport patrons from the United States to other countries, such as the Philippines, Thailand, or the Dominican Republic, for purposes of paying for sex in these countries. This provision acknowledges that sex tour businesses operating in New York State increase global sex trafficking activity and that New York State must act as a responsible global citizen to fight sex trafficking as effectively as possible. New York is one of only five states to criminalize the operation of sex tour businesses (the others are Alaska, Hawaii, Missouri and Washington).

Patronizing offenses are currently underused by law enforcement personnel and prosecutors, who tend to arrest and prosecute those patronized far more often than their patrons.

<sup>7</sup> DCJS criminal history records show that since 2002 police have made 43% more arrests for prostitution than for patronizing a prostitute. Defendants charged with prostitution are convicted at a 752% greater rate than those convicted of patronizing prostitutes.

### 3. Labor Trafficking

Section 135.35 of the Penal Law provides that a person is guilty of labor trafficking, a class D nonviolent felony carrying a maximum sentence of seven years imprisonment, if he/she compels or induces a person to engage in labor, or recruits, entices, harbors, or transports a person to engage in labor, by intentionally using one of the means specified. The means specified in the labor trafficking statute closely track the means specified in the sex trafficking statute, with some important distinctions. The means specified in §135.35 of the Penal Law include:

- Unlawfully providing a controlled substance to a person, with the intent to impair his/her judgment.
- Forcing the victim to work in order to pay off a real or purported debt.
- Withholding, destroying, or confiscating another person's actual or purported government identification document, with the intent to impair that person's freedom of movement.
- Using force. Traffickers often control their victims with physical and sexual abuse.<sup>8</sup>
- Engaging in any scheme, plan, or pattern to compel or induce a person to engage in, or continue to engage in, labor by instilling a fear in that person that, if he/she does not comply with the actor's demand, the actor or someone else will perform one or more act, including:
  - Causing physical injury, serious physical injury, or death to a person. That person can be the labor trafficking victim or others.
  - Causing damage to the property of someone other than the actor. Here, too, that someone can be the victim or others.
  - Engaging in any other conduct constituting a felony or unlawful imprisonment.
  - Accusing a person of a crime or causing criminal charges or deportation proceedings to be instituted against him/her.

#### Labor Trafficking "Means"

- Drugging the victim with a controlled substance
- "Debt bondage"
- Confiscating government ID
- Physical force
- Instilling fear

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<sup>8</sup> U.S. Department of Health and Human Services, Administration for Children and Families, The Campaign to Rescue and Restore Victims of Human Trafficking, Resources: Common Health Issues Seen in Victims of Human Trafficking, available at [http://www.acf.hhs.gov/trafficking/campaign\\_kits/tool\\_kit\\_health/health\\_problems.pdf](http://www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_health/health_problems.pdf) (accessed June 1, 2008).

- Exposing a secret or publicizing an asserted fact, whether true or false, tending to subject a person to hatred, contempt, or ridicule. This threat may be applied to labor trafficking victims or others.
- Testifying or providing information, or withholding testimony or information, with respect to another's legal claim or defense.
- Exercising or failing to exercise official duties as a public servant in a manner that affects some person adversely.

Again, New York State's Human Trafficking Law does not require movement of the victim, and labor trafficking victims may be U.S. citizens, or foreign-born persons with or without immigration status in the U.S. The statute protects victims who are trafficked anywhere in the State, including in low-wage industry venues, such as domestic work, sweatshops/factories, agriculture, hotels,<sup>9</sup> restaurants,<sup>10</sup> construction,<sup>11</sup> and nail and hair salons.<sup>12</sup>

One of the difficulties in recognizing labor trafficking is that the work performed by victims is usually legal, unlike the prostitution performed in sex trafficking. Therefore, sex trafficking may be more likely than labor trafficking to be the subject of law enforcement attention. Some manifestations of labor trafficking, such as domestic work, can be very well hidden and extremely difficult to discover. Thus, outreach and public awareness initiatives are critical to uncovering labor trafficking.

#### **4. Other Criminal Provisions for Combating Human Trafficking**

Sections 230.36 and 135.36 of the Penal Law preclude the liability of human trafficking victims as accomplices to their traffickers in the prosecution of human trafficking crimes. Consequently, convictions for sex trafficking and labor trafficking may be obtained from the uncorroborated testimony of victims.

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9 USDHHS, Administration for Children and Families, The Campaign to Rescue and Restore Victims of Human Trafficking, Fact Sheet: Child Victims of Human Trafficking, available at [http://www.acf.hhs.gov/trafficking/campaign\\_kits/tool\\_kit\\_social/child\\_victims.pdf](http://www.acf.hhs.gov/trafficking/campaign_kits/tool_kit_social/child_victims.pdf) (accessed June 1, 2008)

10 Id.

11 USDHHS, Administration for Children and Families, The Campaign to Rescue and Restore Victims of Human Trafficking, Fact Sheet: Labor Trafficking, available at [http://www.acf.hhs.gov/trafficking/about/fact\\_labor.pdf](http://www.acf.hhs.gov/trafficking/about/fact_labor.pdf) (accessed June 1, 2008).

12 Donohue, Three charged in hair salon human trafficking ring (Sep. 6, 2007), available at [http://www.nj.com/news/index.ssf/2007/09/three\\_charged\\_in\\_human\\_traffic.html](http://www.nj.com/news/index.ssf/2007/09/three_charged_in_human_traffic.html) (accessed June 1, 2008).

Additionally, the Human Trafficking Law amended §460.10 of the Penal Law to make sex trafficking and labor trafficking predicate crimes for enterprise corruption charges, and amended §700.05(8)(b) of the Criminal Procedure Law to include sex trafficking and labor trafficking as crimes for which eavesdropping and electronic surveillance warrants can be obtained.

Convictions for sex trafficking and labor trafficking may be obtained from uncorroborated witness testimony.

Finally, amendments to §168-a(2)(a)(i) of the Correction Law designate sex trafficking and attempted sex trafficking as offenses for which a conviction requires registration as a sex offender in New York State.

## **B. New services and assistance**

Human trafficking victims are historically reluctant to come forward for a wide variety of reasons, including the fact that they fear arrest or deportation and because they are often dependent on the perpetrator for support, housing and other necessities for survival. However, neither federal nor state services in place prior to the Human Trafficking Law adequately addressed this problem.

Human trafficking victims are often reluctant to come forward, fearing law enforcement even more than their abuser. The new law should help to alleviate that fear.

To help address these gaps in assistance, the Human Trafficking Law provides for services to human trafficking victims who are unable to obtain assistance elsewhere due to their immigration status. These services include, but are not limited to:

- Case management services
- Emergency temporary housing assistance
- Health care
- Mental health counseling
- Drug addiction screening and treatment
- Language interpretation and translation services
- English language instruction
- Job training and placement assistance
- Post-employment services to promote job retention
- Services to assist human trafficking victims and their family members to establish permanent residence in the U.S.

OTDA provides, through contracts with service providers, services to adult human trafficking victims and certain of their family members who are unable to obtain assistance elsewhere due to their immigration status.

The Human Trafficking law provides a host of critical services that previously were unavailable to victims.

U.S. citizens, “eligible aliens”<sup>13</sup> and most minors, regardless of immigration status, are not eligible for services from these providers. Local departments of social services throughout the state, however, provide services to human trafficking victims in these categories.

In order to access the services and assistance made available under the Human Trafficking Law, a person must be “confirmed” as a victim of human trafficking in accordance with §483-cc of Article 10-D of the Social Services Law.<sup>14</sup> U.S. citizens, eligible aliens, and children need not be confirmed as victims of human trafficking under §483-cc to access the assistance already available to them at local departments of social services. However, OTDA facilitates their referral to local departments of social services.

That process begins with a referral from a law enforcement agency or district attorneys’ office to DCJS and OTDA (see Appendix B for a copy of the referral form). DCJS, in consultation with OTDA and the referring agency, determines whether the individual appears to meet the criteria for certification as a “victim of a severe form of trafficking in persons,” as defined by the TVPA, or otherwise appears to be eligible for any federal, state or local benefits. Once a victim is confirmed, OTDA is responsible for assisting the victim in obtaining services for which they are eligible.

### **C. New Interagency Task Force on Human Trafficking**

Recognizing that the battle against human trafficking is a multi-agency and multi-disciplinary effort, the new law created an interagency task force. The task force is co-chaired by the commissioners of DCJS and OTDA, and includes eight other State agencies:

- Crime Victims Board
- Department of Health
- Department of Labor
- Division of State Police
- Office of Alcoholism and Substance Abuse Services
- Office of Children and Family Services
- Office of Mental Health
- Office for the Prevention of Domestic Violence

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<sup>13</sup> The term “eligible alien,” as used in this document, means only those aliens (e.g., legal permanent residents) who are eligible for assistance at local departments of social services (NYS Social Services Law § 122). Local departments of social services decide eligibility in all applications for assistance.

<sup>14</sup> “Confirmation” must be distinguished from “certification.” “Confirmation” is limited to New York State and involves an assessment of whether a person is a victim of human trafficking under State law for purposes of receiving the services and assistance made available under the NYS Human Trafficking Law (NYS Social Services Law, Article 10-D, § 483-cc). In contrast, “certification” is a federal determination involving an assessment of whether a person is “a victim of a severe form of trafficking in persons” under the TVPA (PL 106-386 § 107[e][i][I]).

The statutory duties of the task force include:

- Collecting and organizing data on the nature and extent of human trafficking in New York State;
- Identifying federal, state, and local service programs for human trafficking victims;
- Developing recommendations for preventing human trafficking, protecting and assisting victims, and prosecuting traffickers;
- Establishing interagency protocols, and collaboration among government agencies, law enforcement agencies, and nongovernmental agencies;
- Evaluating and recommending strategies to increase public awareness of human trafficking;
- Evaluating training programs on human trafficking and making recommendations for improving them; and
- Evaluating the progress of New York State in preventing human trafficking, protecting and assisting victims, and prosecuting traffickers.

The task force meets on a quarterly basis. To fulfill its mandate, the task force established two subcommittees -- one to focus on criminal justice issues and another to focus on victim services, with both relying on the expertise of other agencies.

The Criminal Justice Subcommittee is chaired by DCJS and includes the following members:

- Department of Labor (N.Y.S.)
- Division of State Police (N.Y.S.)
- Office of Children and Family Services (N.Y.S.)
- Erie County Sheriff's Office
- New York City Criminal Justice Coordinator's Office
- New York City Police Department
- New York County District Attorney
- New York-New Jersey Regional Center for Public Safety Innovation
- Office of the New York State Attorney General
- New York State District Attorneys Association
- Office of Court Administration (N.Y.S.)
- Suffolk County Police Department
- U.S. Attorney's Office, Northern District of New York
- U.S. Attorney's Office, Western District of New York
- U.S. Immigration and Customs Enforcement (ICE)
- New York State Association of Chiefs of Police
- Office for the Prevention of Domestic Violence (N.Y.S.)



The Services Subcommittee is chaired by OTDA and includes the following New York State partners:

- Crime Victims Board
- Department of Health
- Department of Labor
- Office of Alcoholism and Substance Abuse Services
- Office of Children and Family Services
- Office of Mental Health
- Office for the Prevention of Domestic Violence
- Department of Agriculture and Markets
- Division of Housing and Community Renewal
- Office of Mental Retardation and Developmental Disabilities

### III. Implementing the New Law

Implementing the new law required a coordinated effort by various agencies to ensure that the services promised under the legislation are available, that law enforcement and service providers are adequately trained and that victims and their advocates are aware of the protections and benefits provided through this historic legislation. The following describes efforts underway by the task force agencies to implement the Human Trafficking Law.

#### A. Response to Human Trafficking Program -- (RHTP)

OTDA established the Response to Human Trafficking Program (RHTP) to respond to the needs of human trafficking victims. This program offers desperately needed services to adult human trafficking victims without immigration status, and certain of their family members, who are unable to obtain such services under most federal, state, and local service programs.<sup>15</sup>

Implementing the new law required a concerted effort by myriad stakeholder agencies.

The RHTP provides these services through regional case management agencies under contract with OTDA. These case management agencies offer services modeled after the assistance currently available to persons eligible for public assistance. The RHTP also provides U.S. citizen, eligible alien, and child human trafficking victims with facilitated referrals for assistance from local departments of social services.

##### 1. Adult human trafficking victims without immigration status and certain family members

Through a competitive bid process, OTDA entered into contracts with six organizations to provide case management and other services to confirmed adult human trafficking victims without immigration status and certain of their family members in eight statewide regions<sup>16</sup> (see Appendix C for a map of regions):

- Western New York (Region 1): International Institute of Buffalo.
- Central New York, Southern Tier, and Mohawk Valley (Regions 2, 3, and 4, respectively): Catholic Charities of the Roman Catholic Diocese of Syracuse.
- Capital Region (Region 5): U.S. Committee for Refugees and Immigrants, Albany Field Office.
- Lower Hudson Valley (Region 6): My Sister's Place.
- Long Island (Region 7): Catholic Charities, Diocese of Rockville Centre.
- Metropolitan New York City (Region 8): Safe Horizon, Inc.

<sup>15</sup> The U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement provides limited funding for this group of human trafficking victims through a contract with the U.S. Conference of Catholic Bishops.

<sup>16</sup> OTDA received applications for only six Response to Human Trafficking Program (RHTP) regions. For this reason, five case management agencies cover one RHTP region each and one case management agency covers three regions.

In cases where an RHTP case management agency cannot provide services directly, the case management agency provides services through subcontracts/agreements with, or referrals to, other service providers. The RHTP contract term is 18 months, renewable for up to three 12-month terms.

- Services provided under the RHTP include all those authorized by the Human Trafficking Law:
- Case management services: Case management involves assessing client needs, developing service plans, and providing needed services, directly or indirectly through partnerships with service providers. As a condition of funding, RHTP case management agencies must provide case management services to all human trafficking victims served under the RHTP.
- Emergency temporary housing assistance
- Health care: Health care under the RHTP includes a comprehensive medical screening, as well as prescription medication. Treatment is limited to services and costs that would be allowed under Medicaid.
- Mental health counseling
- Drug addiction screening and treatment
- Language interpretation and translation services
- English language instruction
- Job training and placement assistance
- Post-employment services to promote job retention
- Services to assist human trafficking victims and their family members to establish permanent residence in the U.S. Such services include immigration application assistance and related legal services.

Additionally, the RHTP makes the following services available to confirmed human trafficking victims:

- Nutritional assistance
- Transitional and long-term housing
- Services to meet other identified needs<sup>17</sup>

The RHTP received funds totaling \$441,000 for State Fiscal Year 2008-2009. RHTP case management agencies currently receive \$289 for case management services per human trafficking victim per month, for up to six months,<sup>18</sup> for a maximum of \$1,734.

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17 RHTP case management agencies must receive written approval from OTDA before receiving cost reimbursement for other identified needs, such as clothing or transportation.

18 Some service providers/advocates have suggested that six months is an insufficient period of time for case management services to human trafficking victims. However, because human trafficking victims without immigration status may apply for federal certification (as distinguished from State confirmation) under the Trafficking Victims Protection Act of 2000 (PL 106-386), the RHTP offers these victims (and certain of their family members) services for a six-month period, in anticipation that many of them will eventually obtain certification. Once certified, these victims become eligible to receive services and assistance as if they were refugees, through local departments of social services and refugee service providers.

RHTP case management agencies receive actual cost reimbursement for all other services provided to victims under the RHTP, up to a \$10,754 aggregate cap for all services. However, if costs for any given service exceed OTDA's anticipated average amount<sup>19</sup> by 20 percent or more, RHTP case management agencies must justify this cost and receive OTDA approval to bill OTDA for this cost.

OTDA is working closely with federal authorities to ensure that RHTP funds do not supplant federal funding available through certification for foreign-born victims, without immigration status.

RHTP case management agencies are prohibited, under the terms of their contracts, from using RHTP funds to supplant existing funding. Thus, RHTP funds do not duplicate other funds that may be available to adult human trafficking victims without immigration status.

One of the challenges of implementing the Human Trafficking Law has been the efficient coordination of service delivery over a large geographic region that includes one of the most densely populated cities in the world, as well as underserved rural areas. Establishing a statewide directory of service providers capable of serving human trafficking victims with linguistic and cultural sensitivity would facilitate greater coordination of assistance to these victims, especially after regular business hours and throughout the vast rural reaches of New York State.

Interagency Task Force on Human Trafficking members have identified a number of federal, state, and local service providers that offer assistance to human trafficking victims or have the capacity to offer such assistance. OTDA is compiling this information and plans to release a statewide services directory in the fall of 2008.

Another challenge is ensuring federal immigration assistance is provided to foreign-born victims. Section 483-dd of the NYS Social Services Law requires state and local law enforcement agencies and district attorneys' offices, upon the request of a victim of sex trafficking or labor trafficking under the Penal Law (or his/her representative), to provide that person with U.S. Citizenship and Immigration Services (USCIS) Form I-914, Supplement B – Declaration of Law Enforcement Officer for Victim of Trafficking in Persons ("I-914B"). This form assists human trafficking victims who are without immigration status and who are present in the U.S. because of trafficking to obtain immigration and other federally-funded assistance from the U.S. government.

However, federal immigration authorities currently give more weight to this document when submitted by federal law enforcement personnel.<sup>20</sup> For this reason, OTDA has made part of its federal

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<sup>19</sup> OTDA arrived at anticipated average amounts for individual RHTP services by analyzing data provided by victim service organizations and public assistance data.

<sup>20</sup> 67 Fed. Reg. 21 (Jan. 31, 2002); 8 USC 214.11; USCIS, Interoffice Memorandum HQOPRD 70/6.2 (Apr. 15, 2004).

legislative agenda a proposal to amend the Trafficking Victims Protection Act of 2000<sup>21</sup> so that an I-914B submitted by state or local law enforcement is considered equal to an I-914B submitted by federal law enforcement.

## **2. United States citizen, eligible alien, and child human trafficking victims**

U.S. citizen, eligible alien, and most child human trafficking victims are precluded from RHTP-funded services because they can apply for public assistance benefits which are similar to the services available through the RHTP. Indeed, the services described above were modeled after the assistance currently provided at local departments of social services.

The OTDA Anti-trafficking Program Coordinator, who manages the RHTP, provides facilitated referrals to local social services districts for U.S. citizen, eligible alien, and child human trafficking victims. OTDA and the Office of Children and Family Services (OCFS) are working jointly to explore non-residential services that may be provided to unaccompanied minors who have been trafficked and confirmed under the N.Y.S. human trafficking law and are not otherwise eligible for services. In all instances involving a minor, OTDA is committed to working closely with the local districts to ensure that appropriate services are provided.

Additionally, OTDA and OCFS have drafted a formal protocol governing local department of social services procedures in these cases that will be issued shortly and OTDA is planning to train local departments of social services on serving human trafficking victims during the fall of 2008 (see Section III.B., Statewide training and outreach program).

The Task Force also plans to develop a set of recommendations for improving service delivery at local departments of social services and for facilitating US citizen, eligible alien, and child human trafficking victim access to assistance available at local departments of social services.

The Task Force will work with local social service departments to improve the delivery of service to victims of human trafficking.

## **3. Safe housing for trafficking victims**

Human trafficking victims can be vulnerable to re-victimization; they require safe housing that protects their person, confidentiality, and privacy. Domestic violence shelters, which can sometimes provide safe haven for female human trafficking victims, are governed by statutes and regulations that were not designed with the specific nature of trafficking victims in mind, and have restrictions that can prevent victims from seeking their shelter.

The Office for the Prevention of Domestic Violence (OPDV), in partnership with OCFS and OTDA, are already in the process of reviewing and updating existing domestic violence shelter regulations and will examine whether amendments might be made to provide greater access to female human trafficking victims. Task Force members also are examining means of providing safe housing to male human trafficking victims, who have even fewer housing options available to them.<sup>22</sup>

Additionally, OCFS and other Task Force members are examining how to best provide housing to child human trafficking victims, who pose particular problems where shelter is concerned.

Child victims of human trafficking can be treated as either juvenile delinquents or as subjects of child protective matters under the current law. The decision on how to classify these children and on whether or not to treat them as victims is made at the local level. Child victims who are classified as subjects of child protective matters are cared for by local departments of social services. Children who are charged and adjudicated as juvenile delinquents are sometimes remanded to the custody of OCFS in a juvenile justice facility.

OCFS and other Task Force members are working to develop alternative housing for child human trafficking victims. OCFS is also considering how best to provide housing and services to child human trafficking victims without immigration status, as federal law currently prohibits the utilization of State funds to provide foster care services to such victims.<sup>23</sup> OCFS is developing safe, service-oriented housing for sexually exploited and abused girls who are in OCFS custody. Finally, OCFS is seeking to remove an agency regulation requirement that Child Protective Services staff inform federal immigration authorities when they encounter someone without immigration status. This amendment will help promote the treatment of trafficked children without immigration status as victims.

## **B. Statewide training and outreach program**

The Interagency Task Force co-chairs-- DCJS and OTDA -- have conducted extensive human trafficking training and outreach to law enforcement, service providers and others in the past year. Other Task Force members have also been training staff and raising awareness about human trafficking in their respective agencies and service provider networks.

While much training and outreach has occurred during the first year, much more is needed before the potential for this new law is realized.

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22 Typically, men cannot access domestic violence shelters.

23 OCFS has proposed legislation to clarify the definition of “destitute children” in New York State to establish a mechanism for assisting child human trafficking victims who are not victims of child abuse or maltreatment under State law. Local Departments of Social Services are required to assist destitute children in New York State, regardless of their immigration status. However, the current law does not provide for any process for Local Departments of Social Services to employ to legally take custody of these children and pursue permanency for them. In addition, current state and federal law prohibit the use of state or federal funds for residential services for undocumented children. The proposed legislation would establish a process for taking these children into custody, promote permanency for them and make the statutory changes necessary to allow state funds to be spent on foster care expenses of undocumented children.

OTDA's training and outreach efforts include:

- Retaining a nationally-renowned expert on human trafficking to train State agency staff,<sup>24</sup> Response to Human Trafficking Program case management agencies, and law enforcement personnel.
- Contracting with a nationally renowned victim service organization-- Safe Horizon Inc. -- to train service providers and law enforcement in a series of regional trainings offered statewide during the spring of 2008.
- Participating in numerous DCJS-sponsored trainings and delivering agency-specific trainings to individual state government agencies, including the Office of Alcoholism and Substance Abuse Services, the Office of Court Administration, and the Office of Mental Retardation and Developmental Disabilities.

DCJS' training and outreach efforts include:

- Advising all New York State law enforcement agencies of the provisions in the Human Trafficking Law by letter shortly before the law took effect on November 1, 2007 (see Appendix D).
- Training law enforcement on human trafficking and the Human Trafficking Law since September of 2007. DCJS has trained numerous agencies (Department of Labor, Office of Alcoholism and Substance Abuse Services, and the Office of Mental Retardation and Developmental Disabilities), in addition to staff from the Unified Court System's Office of Court Administration, state prosecutors through the New York Prosecutors Training Institute, Inc. (NYPTI), and the Syracuse Area Domestic and Sexual Violence Coalition.
- Distributing a 50-minute training DVD on the Human Trafficking Law to all 62 district attorneys in New York State. The DVD has also been posted to eJusticeNY, a secure DCJS website for law enforcement agencies, to reach as many law enforcement agencies as possible.

DCJS' efforts to train prosecutors have included individual meetings and Continuing Legal Education programs at district attorneys' offices statewide to discuss the implementation of the Human Trafficking Law, and how the investigation of prostitution activity can lead to the identification of human trafficking victims and the prosecution of traffickers. These training efforts include the identification of law enforcement strategies to uncover human trafficking, including:

- Screening defendants charged with prostitution activity to identify sex trafficking victims;
- Monitoring websites that advertise sexual services, such as [www.bestgfe.com](http://www.bestgfe.com), [www.utopiaguide.com](http://www.utopiaguide.com), and the erotic services section of [www.craigslist.com](http://www.craigslist.com);
- Addressing the demand for prostitution by focusing enforcement efforts on patrons/persons who pay for sex;

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<sup>24</sup> Staff from the Crime Victims Board, Department of Health, OCFS, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, and OPDV attended OTDA's State agency staff training.

- Adopting a “no plea” policy in promoting prostitution cases;
- Screening patrons/persons who pay for sex for information on possible human trafficking;
- Encouraging law enforcement to consider labor trafficking charges in a prostitution investigation; and
- Establishing contacts between state and federal law enforcement to ensure that victims of labor trafficking under both federal and state law are identified.

Sex and labor trafficking cases can be prosecuted under organized crime statutes.

The training emphasizes the investigatory tools available to law enforcement under the Human Trafficking Law, including eavesdropping and video surveillance warrants for sex trafficking and labor trafficking investigations, and using sex trafficking and labor trafficking as bases for organized crime charges.

In addition to the statewide training efforts of OTDA and DCJS, all of the other Interagency Task Force members have engaged their staff and service provider networks in training on human trafficking and/or the Human Trafficking Law.

Training is essential for state law enforcement, ICE, service providers, and non-law enforcement agencies likely to encounter human trafficking victims as these groups play a key role in identifying and providing services to human trafficking victims, prosecuting traffickers, and preventing human trafficking. Agencies that have received training have been very active in producing leads for law enforcement and in assisting victims.

Finally, in order to obtain direct comment from the human trafficking service provider/advocate

The Task Force cannot overstate the importance of training for law enforcement, service providers, and government agency staff.

community, the NYS Interagency Task Force on Human Trafficking (“Task Force”) hosted a public hearing in December of 2007 to capture the recommendations of this community for strengthening the State’s human trafficking response. The Task Force received oral testimony from 20 organizations at the hearing (see <http://www.otda.state.ny.us/main/bria/> for a transcript of the hearing). Written testimony was submitted by another seven organizations that could not attend the hearing.

The Task Force also plans to form an Advocacy Subcommittee to afford the advocate community an opportunity for greater input in the implementation of the human trafficking law. The Advocacy Subcommittee will compliment the Task Force’s existing Criminal Justice and Services Subcommittees (see section II.C.).

### **C. Public awareness efforts**

The task force co-chairs (DCJS and OTDA) have conducted and participated in public awareness initiatives around the State to increase the recognition of human trafficking activities and identification of victims. The Task Force plans to expand its public awareness efforts in 2008-2009.



OTDA's public awareness efforts for 2007-2008 include:

- Training OTDA's N.Y.S. Citizenship Hotline<sup>25</sup> operators to address calls about human trafficking;
- Regularly providing information about human trafficking to the Albanian, Arabic, Asian, Chinese, Haitian, Hispanic, North African and French-speaking African, Polish, Russian, Slavic, and former Soviet republic communities through OTDA's Bureau of Refugee and Immigrant Assistance, Immigrant Community Liaison Unit (ICLU);
- Publishing an informational brochure on human trafficking for the general public (see Appendix E) and posting the brochure on the OTDA website (<http://www.otda.state.ny.us/main/bria/>);
- Speaking on New York State's human trafficking response at a New York Service Network for Trafficked Persons meeting in New York City in February of 2008;
- Speaking on New York State's human trafficking response at the Empire State Coalition's Rescue and Restore Coalition meeting in Nassau County in March of 2008;
- Participating in a human trafficking awareness-raising event in New York City, sponsored by Rivers in the Desert Advocacy Center and co-sponsored by several community groups, in March of 2008;
- Speaking on New York State's human trafficking response at the Arizona Refugee Resettlement Program Conference in April of 2008;
- Speaking on a human trafficking panel at the NYS Coalition Against Domestic Violence conference in New York City in April of 2008;
- Speaking on New York State's human trafficking response at the Freedom Network for Trafficked Persons conference in Georgia in April of 2008;
- Speaking on New York State's human trafficking response at the Third Annual Unaccompanied Alien Children Conference in Illinois in April of 2008; and
- Speaking on New York State's human trafficking response at Niagara University's Human Trafficking Conference in May of 2008.

DCJS has engaged in similar outreach initiatives to raise public awareness, with the goal of encouraging law enforcement personnel and members of the public to identify human trafficking victims.

Accomplishing this goal requires a shift in paradigm: At first glance, human trafficking victims may appear to be prostitutes, runaways, or illegal U.S. entrants, and shifting this perception to the view that such persons also may be victims of crime in need of assistance requires significant outreach. To this end, DCJS focuses its public awareness efforts on fostering this paradigm shift, and encouraging law enforcement personnel, service providers, and the general public to work together to identify and assist human trafficking victims.

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<sup>25</sup> The NYS Citizenship Hotline is a multilingual service that provides information about immigration matters and referrals to callers. For more information, call 800-566-7636.

DCJS' outreach activities for 2007-2008 include:

- Publishing information regarding human trafficking on DCJS' website at [www.criminaljustice.state.ny.us/pio/humantrafficking.htm](http://www.criminaljustice.state.ny.us/pio/humantrafficking.htm);
- Providing media interviews and publishing an article on the human trafficking law by DCJS Commissioner Denise E. O'Donnell in the New York Law Journal (see Appendix F) in December of 2007;
- Participating in a human trafficking awareness-raising event to announce the availability of information on human trafficking at all Northway (I-87) rest stops, sponsored by Soroptimist International, in January of 2008;
- Participating in a human trafficking awareness-raising event in New York City, sponsored by Rivers in the Desert Advocacy Center and co-sponsored by several community groups, in March of 2008;
- Speaking on a human trafficking panel at the N.Y.S. Coalition Against Domestic Violence conference in New York City in April of 2008;
- Participating in a Sexual Assault Awareness Month event highlighting human trafficking, sponsored by the N.Y.S. Coalition Against Sexual Assault and co-sponsored by certain New York State legislators, in April of 2008;
- Speaking at a United Nations' panel sponsored by the United States Mission to the United Nations, "How New York Implemented The Nation's Toughest Trafficking Law," in May 2008;
- Creating a 30-minute television program on human trafficking that is expected to air on several public access stations over the next several months.

The Task Force plans to evaluate its own and other approaches to raising public awareness about human trafficking during 2008-2009. It also plans to convene a workgroup during 2008-2009 to review Task Force members' human trafficking literature for accuracy and clarity.

Effective prosecution of human trafficking cases requires a new way of thinking, and a willingness to view prostitutes and "under-the-table" workers as potential victims and not simply law-breakers.

#### **D. Activities of the Task Force Members**

Efforts to implement the new law by the Task Force co-chairs, DCJS and OTDA, were augmented by the activities of the other Task Force partners. All of them made valuable contributions, as outlined below.

## **1. New York State Crime Victims Board**

The Crime Victims Board (CVB) has taken a number of steps to implement the Human Trafficking Law, including modifying regulations to create a rebuttable presumption that human trafficking victims have suffered physical injury for purposes of establishing their eligibility for crime victims compensation. CVB has also notified its victim assistance providers of procedures to follow upon encountering a human trafficking victim applicant for crime victims compensation (see Appendix G for CVB advisory bulletin), and is training its victim assistance providers to request and collect restitution payable to human trafficking victims.

CVB now accepts a notice of confirmation from OTDA, in lieu of a law enforcement attestation, to verify a human trafficking victim's status as a crime victim and requires its victim assistance providers to indicate on applications when an applicant is also a human trafficking victim.<sup>26</sup>

CVB staff attended the human trafficking training for state agency staff offered by the Office of Temporary and Disability Assistance (OTDA) in January of 2008, and served as co-presenter at every OTDA-sponsored regional training for service providers and law enforcement. CVB continues to encourage its staff and victim assistance providers to participate in trainings to increase their understanding of human trafficking, and CVB plans to use its website, National Crime Victims' Rights Week in April each year, and other outreach opportunities to raise public awareness.

## **2. New York State Department of Health**

The Department of Health (DOH) currently serves federally-certified human trafficking victims through its Refugee Health Program. This program's statewide providers offer federally-funded health assessments to persons certified as victims of a severe form of trafficking in persons under federal law. The Refugee Health Program collects health and other data from these victims. DOH plans to survey its staff to ascertain the level of human trafficking awareness among other programs, as well as the nature and extent of DOH program contact with human trafficking victims.

DOH staff attended the human trafficking training for state agency staff offered by OTDA in January of 2008, and made OTDA and DCJS training opportunities available to local health departments. DOH has plans for further staff training, using a domestic violence/child abuse training model in order to emphasize the importance of maintaining the safety of victims and staff. DOH also has plans to train local health departments to recognize and report human trafficking, while maintaining victim and staff safety, through the New York State Association of County Health Officials. Additionally, DOH is helping to facilitate OTDA-sponsored training for the Onondaga Migrant Health Coalition, slated for fall of 2008.

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<sup>26</sup> Since the Human Trafficking Law took effect on November 1, 2007, CVB has received one claim for crime victims compensation from a human trafficking victim.

### **3. New York State Department of Labor**

The Department of Labor (DOL) arranged for DCJS to train all of its Labor Standards investigators to recognize human trafficking by January of 2008. These investigators have also been trained on use of Interpretalk, so that they can quickly access interpreters in any language over the telephone. Subsequently, these investigators uncovered a sex trafficking case in upstate New York in February of 2008. DOL involved DCJS, OTDA, and appropriate law enforcement agencies in the case, which collaborated with DOL to organize a rescue and assistance initiative for the human trafficking victim involved.

Additionally, DOL's Bureau of Immigrant Workers' Rights and Labor on Wheels program, which provides outreach to immigrant communities around the State, plans to include human trafficking in its outreach efforts and DOL labor law investigators plan to screen for possible human trafficking during investigations of low-wage industry venues and to offer service referrals to suspected victims.

### **4. New York State Division of State Police**

The Division of State Police prepared and distributed a legal bulletin providing an overview of the Human Trafficking Law, and law enforcement agencies' obligations under this law, to all State Police personnel. Additionally, the State Police arranged for DCJS to train sworn personnel statewide on the Human Trafficking Law. The State Police designated the Crime Victim Specialist in each State Police Troop as a liaison on human trafficking cases, and is developing an accelerated training program on the Human Trafficking Law for Senior Investigators in the Bureau of Criminal Investigation in every State Police Troop. These Senior Investigators will also act as liaisons on human trafficking.

Furthermore, the State Police have posted on their intranet a referral form for law enforcement agencies, district attorneys' offices, and sworn personnel to use in making notifications under §483-cc of Article 10-D of the Social Services Law (see Appendix B).

### **5. New York State Office of Alcoholism and Substance Abuse Services**

The Office of Alcoholism and Substance Abuse Services (OASAS) has widely disseminated information on human trafficking, including OTDA's human trafficking brochure (see Appendix E), to its service provider network.<sup>27</sup>

Additionally, OASAS has arranged for DCJS and OTDA to train OASAS community-based service provider staff, particularly staff working with immigrant communities in New York City and on

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27 OASAS also plans to distribute the brochure under development at the NYS Office of Mental Health, once it is complete.

Long Island, to encourage increased awareness of human trafficking among OASAS' service population and to encourage the identification of human trafficking victims among this population by OASAS staff. OASAS is exploring how to capture demographic information on human trafficking victims in its client data system.

## **6. New York State Office of Children and Family Services**

OCFS has worked very closely with OTDA to develop a protocol which will be issued shortly to facilitate child human trafficking victim contact with local departments of social services. This protocol details methods currently available to local departments of social services to assist child human trafficking victims. OCFS has also designated two regional staff, one in New York City and one in Buffalo, to support child welfare staff at local departments of social services in human trafficking cases. These staff attended OTDA and DCJS trainings, including OTDA's state agency staff training offered in January of 2008.

In collaboration with OPDV, OCFS shared training opportunities, the service provider/advocate public hearing announcement, and a referral form for law enforcement agencies and district attorneys' offices to use in making notifications under §483-cc of Article 10-D of the Social Services Law (see Appendix B) with all residential and non-residential domestic violence programs in the State.

Additionally, OCFS is developing safe housing for sexually exploited and abused girls who are in OCFS custody, and exploring other safe housing and assistance options for child human trafficking victims. OCFS has adopted a policy of treating these children as victims, despite any criminal or juvenile delinquent charges filed against them as a result of the trafficking.<sup>28</sup> As previously noted, OCFS has also proposed legislation to clarify the definition of "destitute children" in New York State to establish a mechanism for assisting child human trafficking victims who are not victims of child abuse or maltreatment under State law, and is seeking to remove an agency regulation requirement that Child Protective Services staff inform federal immigration authorities when they encounter someone without immigration status.

## **7. New York State Office of Mental Health**

The Office of Mental Health (OMH) is developing a brochure to raise awareness about human trafficking among its programs' service providers. The brochure will provide an overview of human trafficking, information on identifying and communicating with victims, and sample interview questions. OMH staff also attended the human trafficking training for state agency staff offered by OTDA in January of 2008 and has plans for additional staff training.

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<sup>28</sup> Currently, criminal or juvenile delinquent charges affect the type of assistance available to children at local departments of social services.

## **8. New York State Office of Mental Retardation and Developmental Disabilities**

The Office of Mental Retardation and Developmental Disabilities (OMRDD) attended the human trafficking training for state agency staff offered by OTDA in January of 2008, and OMRDD staff attended an agency-specific training provided by DCJS and OTDA in the spring of 2008. Additionally, OMRDD prepared and distributed an article on human trafficking to OMRDD's service coordinators.

OMRDD plans to offer its staff additional human trafficking training opportunities, including a segment on human trafficking during its annual staff training, and plans to post information about the Human Trafficking Law at Developmental Disabilities Services Offices statewide.

## **9. New York State Office for the Prevention of Domestic Violence**

All Office for the Prevention of Domestic Violence (OPDV) training staff attended the human trafficking training for state agency staff offered by OTDA in January of 2008. These training staff, who themselves train service providers and law enforcement personnel, have incorporated a human trafficking component into OPDV's training curriculum for law enforcement personnel and plan to incorporate human trafficking into all other OPDV training curricula.

Additionally, in collaboration with OCFS, OPDV shared training opportunities, the service provider/advocate public hearing announcement, and a referral form for law enforcement agencies and district attorneys' offices to use in making notifications under §483-cc of Article 10-D of the NYS Social Services Law (see Appendix B) with all residential and non-residential domestic violence programs in the State.

OPDV, along with other Task Force members, is also examining domestic violence shelter statutes and regulations to determine whether amendments could provide greater safe housing access to female human trafficking victims,<sup>29</sup> who are often prevented from using domestic violence shelters by the current legal construct.

Furthermore, OPDV is preparing a brief guide to human trafficking for its service provider network, and plans to make Response to Human Trafficking Program contact information available from OPDV training staff, from the State's domestic violence and sexual assault hotlines, and from its website.

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29 Typically, men cannot access domestic violence shelters.

## IV. Going Forward

### A. Priorities

Although the battle against human trafficking has advanced considerably in the past year, this effort is still in its infancy as the Interagency Task Force pursues a tripartite mission: preventing human trafficking; protecting and assisting victims; and prosecuting and punishing traffickers.

The major and immediate objectives for the Task Force include:

- **Expanding statewide training**

to and coordination with state law enforcement agencies, ICE, service providers, and non-law enforcement agencies likely to encounter human trafficking victims. Training is essential for law enforcement, service providers, and faith-based organizations as these groups play a key role in the identification and provision of assistance to human trafficking victims, the prosecution of traffickers, and the prevention of future human trafficking.

#### Immediate goals

*Expand training*

*Expand outreach and public awareness*

*Establish directory of service providers*

*Improve service delivery*

*Expand housing options*

*Promote immigration assistance*

*Reduce demand*

*Explore development of prostitution diversion courts*

- **Expanding outreach and public awareness efforts.** Public awareness is paramount to changing the perception that trafficking victims are criminals and not “real victims.”
- **Establishing a statewide directory of service providers.** One of the challenges of implementing the Human Trafficking Law has been the efficient coordination of service delivery over a large geographic region that includes one of the most densely populated cities in the world, as well as underserved rural areas. Establishing a statewide directory of service providers capable of serving human trafficking victims with linguistic and cultural sensitivity would facilitate greater coordination of assistance to these victims, especially after regular business hours and throughout the vast rural reaches of New York State.
- **Improving the delivery of services for U.S. citizen, eligible alien and child human trafficking victims who do not qualify for the full range of “Response to Human Trafficking Program (RHTP)”- funded services.** The Task Force plans to develop a set of recommendations for improving service delivery at local departments of social services and for facilitating U.S. citizen,

eligible alien, and child human trafficking victim access to assistance available at local departments of social services.

- **Expanding safe housing options.** Providing safe housing to human trafficking victims has been a particularly difficult endeavor: Human trafficking victims can be vulnerable to re-victimization and require safe housing that protects them and respects their privacy/ confidentiality interests.<sup>30</sup> Unfortunately, domestic violence shelters, which might otherwise provide safe haven for female human trafficking victims, are governed by a restrictive legal environment that often prevent these victims from seeking their shelter.
- **Promoting federal immigration assistance.** Section 483-dd of the Social Services Law requires state and local law enforcement agencies and district attorneys' offices to provide, upon request, a trafficking victim with U.S. Citizenship and Immigration Services (USCIS) Form I-914, Supplement B – Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (“I-914B”). This form assists human trafficking victims who are without immigration status and who are present in the U.S. because of trafficking to obtain immigration and other federally funded assistance from the U.S. government. Because federal immigration authorities currently give more weight to this document when submitted by federal law enforcement personnel, OTDA has made part of its federal legislative agenda a proposal to amend the Trafficking Victims Protection Act of 2000 so that an I-914B submitted by state or local law enforcement is considered equal to an I-914B submitted by federal law enforcement.
- **Enhancing law enforcement strategies directed toward persons who exploit prostitutes and employ forced labor in New York State.** Stemming the demand for prostitution, as well as goods produced with forced labor, will reduce human trafficking. Similarly, it follows that making New York State less hospitable to traffickers will reduce the influx of human trafficking victims.
- **Explore the development of prostitution diversion courts.** Two downstate courts, the Midtown Community Court and Queens Criminal Court, provide special services to prostitution defendants in recognition that they may be victims of sex trafficking. Programs like these have the potential to dramatically reduce the harm -- legal and otherwise -- suffered by sex trafficking victims. These programs acknowledge the victimhood of sex trafficking victims arrested for prostitution and offer them help, rather than prosecution.

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<sup>30</sup> The NYS Interagency Task Force on Human Trafficking is exploring how best to observe the heightened confidentiality needs of human trafficking victims in housing and in the provision of services.





# APPENDIX A

## HUMAN TRAFFICKING

LAWS OF NEW YORK, 2007  
CHAPTER 74

EXPLANATION--Matter in **italics** is new; matter in brackets [-] is old law to be omitted.

AN ACT to amend the penal law, the criminal procedure law, the correction law, the social services law and the executive law, in relation to human trafficking; to repeal section 230.03 of the penal law relating to patronizing a prostitute in the fourth degree; and providing for the repeal of certain provisions upon expiration thereof

Became a law June 6, 2007, with the approval of the Governor.  
Passed by a majority vote, three-fifths being present.

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Subdivision 1 of section 230.25 of the penal law, as amended by chapter 627 of the laws of 1978, is amended to read as follows:

1. Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes, **or a business that sells travel-related services knowing that such services include or are intended to facilitate travel for the purpose of patronizing a prostitute, including to a foreign jurisdiction and regardless of the legality of prostitution in said foreign jurisdiction;** or

§ 2. The penal law is amended by adding two new sections 230.34 and 230.36 to read as follows:

**§ 230.34 Sex trafficking.**

**A person is guilty of sex trafficking if he or she intentionally advances or profits from prostitution by:**

**1. unlawfully providing to a person who is patronized, with intent to impair said person's judgment: (a) a narcotic drug or a narcotic preparation; (b) concentrated cannabis as defined in paragraph (a) of subdivision four of section thirty-three hundred two of the public health law; (c) methadone; or (d) gamma-hydroxybutyrate (GHB) or flunitrazepan, also known as Rohypnol;**

**2. making material false statements, misstatements, or omissions to induce or maintain the person being patronized to engage in or continue to engage in prostitution activity;**

**3. withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document of another person with intent to impair said person's freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat;**

4. requiring that prostitution be performed to retire, repay, or service a real or purported debt;  
5. using force or engaging in any scheme, plan or pattern to compel or induce the person being patronized to engage in or continue to engage in prostitution activity by means of instilling a fear in the person being patronized that, if the demand is not complied with, the actor or another will do one or more of the following:  
(a) cause physical injury, serious physical injury, or death to a person; or  
(b) cause damage to property, other than the property of the actor; or  
(c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this chapter; or  
(d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or  
(e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule;  
or  
(f) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or  
(g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or  
(h) perform any other act which would not in itself materially benefit the actor but which is calculated to harm the person who is patronized materially with respect to his or her health, safety, or immigration status.

Sex trafficking is a class B felony

§ 230.36 Sex trafficking; accomplice.

In a prosecution for sex trafficking, a person from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

§ 3. The penal law is amended by adding two new sections 135.35 and 135.36 to read as follows:

§ 135.35 Labor trafficking.

A person is guilty of labor trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person by means of intentionally:

1. unlawfully providing a controlled substance to such person with intent to impair said person's judgment;
2. requiring that the labor be performed to retire, repay, or service a real or purported debt that the actor has caused by a systematic ongoing course of conduct with intent to defraud such person;
3. withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported govern-

ment identification document, of another person with intent to impair said person's freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat;

4. using force or engaging in any scheme, plan or pattern to compel or induce such person to engage in or continue to engage in labor activity by means of instilling a fear in such person that, if the demand is not complied with, the actor or another will do one or more of the following:

(a) cause physical injury, serious physical injury, or death to a person; or

(b) cause damage to property, other than the property of the actor; or

(c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this chapter; or

(d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against such person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or

(e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

(f) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

Labor trafficking is a class D felony.

§ 135.36 Labor trafficking; accomplice.

In a prosecution for labor trafficking, a person who has been compelled or induced or recruited, enticed, harbored or transported to engage in labor shall not be deemed to be an accomplice.

§ 4. Section 230.03 of the penal law is REPEALED.

§ 5. Section 230.04 of the penal law, as added by chapter 627 of the laws of 1978, is amended to read as follows:

§ 230.04 Patronizing a prostitute in the third degree.

A person is guilty of patronizing a prostitute in the third degree when [~~being over twenty one years of age,~~] he or she patronizes a prostitute [~~and the person patronized is less than seventeen years of age~~].

Patronizing a prostitute in the third degree is a class A misdemeanor.

§ 6. Section 230.07 of the penal law, as added by chapter 627 of the laws of 1978, is amended to read as follows:

§ 230.07 Patronizing a prostitute; defense.

In any prosecution for patronizing a prostitute in the first[~~7~~] or second [~~or third~~] degrees, it is a defense that the defendant did not have reasonable grounds to believe that the person was less than the age

specified.

§ 7. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as amended by chapter 442 of the laws of 2006, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; **section 135.35 relating to labor trafficking**; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating to criminal diversion of prescription medications and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections 190.40 and 190.42 relating to criminal usury; section 190.65 relating to schemes to defraud; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55 and 220.60 relating to controlled substances; sections 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to promoting prostitution; **section 230.34 relating to sex trafficking**; sections 235.06, 235.07 and 235.21 relating to obscenity; section 263.10 relating to promoting an obscene **sexual** performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10 which constitute a felony relating to firearms and other dangerous weapons; and sections 265.14 and 265.16 relating to criminal sale of a firearm; and section 275.10, 275.20, 275.30, or 275.40 relating to unauthorized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or

§ 8. Paragraph (b) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 442 of the laws of 2006, is amended to read as follows:

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in

section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, abortion in the second degree as defined in section 125.40 of the penal law, abortion in the first degree as defined in section 125.45 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, criminal sexual act in the third degree as defined in section 130.40 of the penal law, criminal sexual act in the second degree as defined in section 130.45 of the penal law, criminal sexual act in the first degree as defined in section 130.50 of the penal law, sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, **labor trafficking as defined in section 135.35 of the penal law**, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, burglary in the first degree as defined in section 140.30 of the penal law, criminal mischief in the third degree as defined in section 145.05 of the penal law, criminal mischief in the second degree as defined in section 145.10 of the penal law, criminal mischief in the first degree as defined in section 145.12 of the penal law, criminal tampering in the first degree as defined in section 145.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, arson in the third degree as defined in section 150.10 of the penal law, arson in the second degree as defined in section 150.15 of the penal law, arson in the first degree as defined in section 150.20 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, health care fraud in the fourth degree as defined in section 177.10 of the penal law, health care fraud in the third degree as defined in section 177.15 of the penal law, health care fraud in the second degree as defined in section 177.20 of the penal law, health care fraud in the first degree as defined in section 177.25 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, robbery in the second degree as defined in section 160.10 of the penal law, robbery in the first degree as defined in section 160.15 of the penal law, unlawful use of secret scientific material as defined in section 165.07 of the penal law, criminal possession of stolen property in the fourth degree as defined in section 165.45 of the penal law, criminal possession of stolen property in the third degree as defined in section 165.50 of the penal law, criminal possession of stolen property in the second degree as defined by section 165.52 of the penal law, criminal possession of stolen property in the first degree as defined by section 165.54 of the penal law, trademark counterfeiting in the first

degree as defined in section 165.73 of the penal law, forgery in the second degree as defined in section 170.10 of the penal law, forgery in the first degree as defined in section 170.15 of the penal law, criminal possession of a forged instrument in the second degree as defined in section 170.25 of the penal law, criminal possession of a forged instrument in the first degree as defined in section 170.30 of the penal law, criminal possession of forgery devices as defined in section 170.40 of the penal law, falsifying business records in the first degree as defined in section 175.10 of the penal law, tampering with public records in the first degree as defined in section 175.25 of the penal law, offering a false instrument for filing in the first degree as defined in section 175.35 of the penal law, issuing a false certificate as defined in section 175.40 of the penal law, criminal diversion of prescription medications and prescriptions in the second degree as defined in section 178.20 of the penal law, criminal diversion of prescription medications and prescriptions in the first degree as defined in section 178.25 of the penal law, escape in the second degree as defined in section 205.10 of the penal law, escape in the first degree as defined in section 205.15 of the penal law, absconding from temporary release in the first degree as defined in section 205.17 of the penal law, promoting prison contraband in the first degree as defined in section 205.25 of the penal law, hindering prosecution in the second degree as defined in section 205.60 of the penal law, hindering prosecution in the first degree as defined in section 205.65 of the penal law, **sex trafficking as defined in section 230.34 of the penal law**, criminal possession of a weapon in the third degree as defined in subdivisions two, three, four and five of section 265.02 of the penal law, criminal possession of a weapon in the second degree as defined in section 265.03 of the penal law, criminal possession of a dangerous weapon in the first degree as defined in section 265.04 of the penal law, manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances defined as felonies in subdivisions one, two, and three of section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons as defined in subdivision two of section 265.35 of the penal law, relating to firearms and other dangerous weapons;

§ 9. Subparagraph (i) of paragraph (a) of subdivision 2 of section 168-a of the correction law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

(i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 130.20, 130.25, 130.30, 130.40, 130.45, 130.60, **230.34**, 250.50, 255.25, 255.26 and 255.27 or article two hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses, provided the victim of such kidnapping or related offense is less than seventeen years old and the offender is not the parent of the victim, or section 230.04, where the person patronized is in fact less than seventeen years of age, 230.05 or 230.06, or subdivision two of section 230.30, or section 230.32 or 230.33 of the penal law, or

§ 10. Paragraph (b) of subdivision 1 of section 168-d of the correction law, as amended by chapter 11 of the laws of 2002, is amended to read as follows:

(b) Where a defendant stands convicted of an offense defined in paragraph (b) of subdivision two of section one hundred sixty-eight-a of this article **or where the defendant was convicted of patronizing a prostitute in the third degree under section 230.04 of the penal law** and the defendant controverts an allegation that the victim of such offense was less than eighteen years of age **or, in the case of a conviction under section 230.04 of the penal law, less than seventeen years of age**, the court, without a jury, shall, prior to sentencing, conduct a hearing, and the people may prove by clear and convincing evidence that the victim was less than eighteen years of age **or less than seventeen years of age, as applicable**, by any evidence admissible under the rules applicable to a trial of the issue of guilt. The court in addition to such admissible evidence may also consider reliable hearsay evidence submitted by either party provided that it is relevant to the determination of the age of the victim. Facts concerning the age of the victim proven at trial or ascertained at the time of entry of a plea of guilty shall be deemed established by clear and convincing evidence and shall not be relitigated. At the conclusion of the hearing, or if the defendant does not controvert an allegation that the victim of the offense was less than eighteen years of age **or less than seventeen years of age, as applicable**, the court must make a finding and enter an order setting forth the age of the victim. If the court finds that the victim of such offense was under eighteen years of age **or under seventeen years of age, as applicable**, the court shall certify the defendant as a sex offender, the provisions of paragraph (a) of this subdivision shall apply and the defendant shall register with the division in accordance with the provisions of this article.

§ 11. The social services law is amended by adding a new article 10-D to read as follows:

**ARTICLE 10-D**  
**SERVICES FOR VICTIMS OF HUMAN TRAFFICKING**

**Section 483-aa. Definitions.**

**483-bb. Services for victims of human trafficking.**

**483-cc. Confirmation as a victim of human trafficking.**

**483-dd. Law enforcement assistance with respect to immigration.**

**483-ee. Establishment of interagency task force on human trafficking.**

**§ 483-aa. Definitions. The following definitions shall apply to this article:**

**(a) "Human trafficking victim" means a person who is a victim of sex trafficking as defined in section 230.34 of the penal law or a victim of labor trafficking as defined in section 135.35 of the penal law.**

**(b) "Pre-certified victim of human trafficking" is a person who has a pending application for federal certification as a victim of a severe form of trafficking in persons as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection) but has not yet obtained such certification, or a person who has reported a crime to law enforcement and it reasonably appears to law enforcement that the person is such a victim.**

**§ 483-bb. Services for victims of human trafficking. (a) The office of temporary and disability assistance may coordinate with and assist law enforcement agencies and district attorney's offices to access appropri-**



ate services for human trafficking victims.

(b) In providing such assistance, the office of temporary and disability assistance may enter into contracts with non-government organizations for providing services to pre-certified victims of human trafficking as defined in subdivision (b) of section four hundred eighty-three-aa of this article, insofar as funds are available for that purpose. Such services may include, but are not limited to, case management, emergency temporary housing, health care, mental health counseling, drug addiction screening and treatment, language interpretation and translation services, English language instruction, job training and placement assistance, post-employment services for job retention, and services to assist the individual and any of his or her family members to establish a permanent residence in New York state or the United States. Nothing in this section shall preclude the office of temporary and disability assistance, or any local social services district, from providing human trafficking victims who are United States citizens or human trafficking victims who meet the criteria pursuant to section one hundred twenty-two of this chapter with any benefits or services for which they otherwise may be eligible.

§ 483-cc. Confirmation as a victim of human trafficking. (a) As soon as practicable after a first encounter with a person who reasonably appears to a law enforcement agency or a district attorney's office to be a human trafficking victim, that agency or office shall notify the office of temporary and disability assistance and the division of criminal justice services that such person may be eligible for services under this article.

(b) Upon receipt of such a notification, the division of criminal justice services, in consultation with the office of temporary and disability assistance and the referring agency or office, shall make a preliminary assessment of whether such victim or possible victim appears to meet the criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection) or appears to be otherwise eligible for any federal, state or local benefits and services. If it is determined that the victim appears to meet such criteria, the office of temporary and disability assistance shall report the finding to the victim, and to the referring law enforcement agency or district attorney's office, and may assist that agency or office in having such victim receive services from a case management provider who may be under contract with the office of temporary and disability assistance, or from any other available source. If the victim or possible victim is under the age of eighteen, the office of temporary and disability assistance also shall notify the local department of social services in the county where the child was found.

§ 483-dd. Law enforcement assistance with respect to immigration. Upon the request of a human trafficking victim or a representative of a human trafficking victim, the state or local law enforcement agency or district attorney's office shall provide the victim with the United States Citizenship and Immigration Service (USCIS) Form I-914 Supplement B Declaration of Law Enforcement Officer for Victim of Trafficking in Persons. In order to provide persuasive evidence, the state or local law enforcement agency endorsement must contain a description of the victim-

ization upon which the application is based, including the dates the trafficking in persons occurred. The endorsement must address whether the victim had been recruited, harbored, transported, provided, or obtained specifically for either labor servitude or services or for the purposes of a commercial sex act as defined in subdivision three of section 7102 of title 22 of the United States Code.

§ 483-ee. Establishment of interagency task force on human trafficking. (a) There is established an interagency task force on trafficking in persons, which shall consist of the following members or their designees: (1) the commissioner of the division of criminal justice services; (2) the commissioner of the office of temporary and disability assistance; (3) the commissioner of health; (4) the commissioner of the office of mental health; (5) the commissioner of labor; (6) the commissioner of the office of children and family services; (7) the commissioner of the office of alcoholism and substance abuse services; (8) the chairperson of the crime victims board; (9) the executive director of the office for the prevention of domestic violence; and (10) the superintendent of the division of state police; and others as may be necessary to carry out the duties and responsibilities under this section. The task force will be co-chaired by the commissioners of the division of criminal justice services and the office of temporary and disability assistance, or their designees. It shall meet as often as is necessary and under circumstances as are appropriate to fulfilling its duties under this section.

(b) The task force shall: (1) collect and organize data on the nature and extent of trafficking in persons in the state; (2) identify available federal, state and local programs that provide services to victims of trafficking, including but not limited to case management, housing, health care, mental health counseling, drug addiction screening and treatment, language interpretation and translation services, English language instruction, job training and placement assistance, post-employment services for job retention, and services to assist the individual and any of his or her family members to establish a permanent residence in New York state or the United States; (3) consult with governmental and non-governmental organizations in developing recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims of trafficking and prosecute traffickers; (4) establish interagency protocols and collaboration between federal, state, and local law enforcement, state and governmental agencies, child welfare agencies, and non-governmental organizations; (5) evaluate approaches to increase public awareness about trafficking and make recommendations on such approaches; (6) evaluate the effectiveness of training programs on human trafficking that have been designed for law enforcement personnel, criminal defense attorneys, social service providers and non-governmental organizations, and make recommendations for improving the quality and effectiveness of such programs; and (7) measure and evaluate the progress of the state in preventing trafficking, protecting and providing assistance to victims of trafficking, and prosecuting persons engaged in trafficking.

(c) One year from the effective date of this section, or earlier if deemed appropriate, the task force shall report to the governor and the legislature on these issues, and it shall thereafter issue such reports and recommendations as it deems necessary to carry out its duties and

**responsibilities.**

§ 12. Subdivision 5 of section 621 of the executive law, as amended by chapter 620 of the laws of 1997, is amended to read as follows:

5. "Victim" shall mean (a) a person who suffers personal physical injury as a direct result of a crime; (b) a person who is the victim of either the crime of (1) unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, (2) kidnapping in the second degree as defined in section 135.20 of the penal law, ~~or~~ (3) kidnapping in the first degree as defined in section 135.25 of the penal law, **(4) labor trafficking as defined in section 135.35 of the penal law, or (5) sex trafficking as defined in section 230.34 of the penal law;** or a person who has had a frivolous lawsuit filed against them.

§ 13. Subdivision 1 of section 631 of the executive law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

1. No award shall be made unless the board or board member, as the case may be, finds that (a) a crime was committed, (b) such crime directly resulted in personal physical injury to or the exacerbation of a preexisting disability, or condition, or death of, the victim, and (c) criminal justice agency records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the criminal justice agency records show that such report was made more than one week after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified; provided, however, in cases involving an alleged sex offense as contained in article one hundred thirty of the penal law or incest as defined in section 255.25, 255.26 or 255.27 of the penal law **or labor trafficking as defined in section 135.35 of the penal law or sex trafficking as defined in section 230.34 of the penal law** or an offense chargeable as a family offense as described in section eight hundred twelve of the family court act or section 530.11 of the criminal procedure law, the criminal justice agency report need only be made within a reasonable time considering all the circumstances, including the victim's physical, emotional and mental condition and family situation. For the purposes of this subdivision, "criminal justice agency" shall include, but not be limited to, a police department, a district attorney's office, and any other governmental agency having responsibility for the enforcement of the criminal laws of the state provided, however, that in cases involving such sex offense a criminal justice agency shall also mean a family court, a governmental agency responsible for child and/or adult protective services pursuant to title six of article six of the social services law and/or title one of article nine-B of the social services law, and any medical facility established under the laws of the state that provides a forensic physical examination for victims of rape and sexual assault.

§ 14. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided that section 483-ee of the social services law as added by section eleven of this act shall take effect immediately and shall remain in full force and effect until September 1, 2011 when upon such date the provisions of such section shall expire and be deemed repealed. Provided, effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the timely implementation of the provisions of

article 10-D of the social services law, as added by section eleven of this act, on its effective date are authorized to be made on or before such effective date.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO  
Temporary President of the Senate

SHELDON SILVER  
Speaker of the Assembly



**APPENDIX B**  
**Law Enforcement/District Attorney Office Referral of Human Trafficking Victim**  
**FAX TO 518-485-9611**

Social Services Law §483-cc requires that this form be completed and sent to the Division of Criminal Justice Services and the Office of Temporary and Disability Assistance as soon as practicable after a first encounter with a person who reasonably appears to be a human trafficking victim.

Date Form Faxed: \_\_\_/\_\_\_/\_\_\_                      Time Form Faxed: \_\_\_:\_\_\_ a.m. / p.m. (circle one)  
 Victim's Name: \_\_\_\_\_ Victim's DOB: \_\_\_/\_\_\_/\_\_\_

Was victim trafficked from another country? YES\_\_ NO\_\_ DON'T KNOW\_\_

Penal Law crime committed against victim: Sex Trafficking/Penal Law §230.34 \_\_ Labor Trafficking/Penal Law §135.35 \_\_

Incident number: \_\_\_\_\_

Date & Jurisdiction where Penal Law crime occurred: \_\_\_\_\_

Is victim willing to assist in investigation/prosecution of trafficker(s)? YES\_\_ NO\_\_

Was victim arrested? YES\_\_ NO\_\_ Court case is pending in: \_\_\_\_\_

How may victim be contacted? \_\_\_\_\_

Referring Law Enforcement Agency/District Attorney: \_\_\_\_\_

Contact person: \_\_\_\_\_

Telephone (\_\_\_\_\_) \_\_\_\_\_ E-mail \_\_\_\_\_

Address \_\_\_\_\_

If a service provider or local social services department is involved or has been contacted, please provide name or any other contact information. \_\_\_\_\_

Please indicate the facts and circumstances regarding Penal Law crime committed against victim and the victimization upon which this referral is based. Describe any force, fraud, or coercion used and be as specific as possible. Use additional sheets if necessary. \_\_\_\_\_

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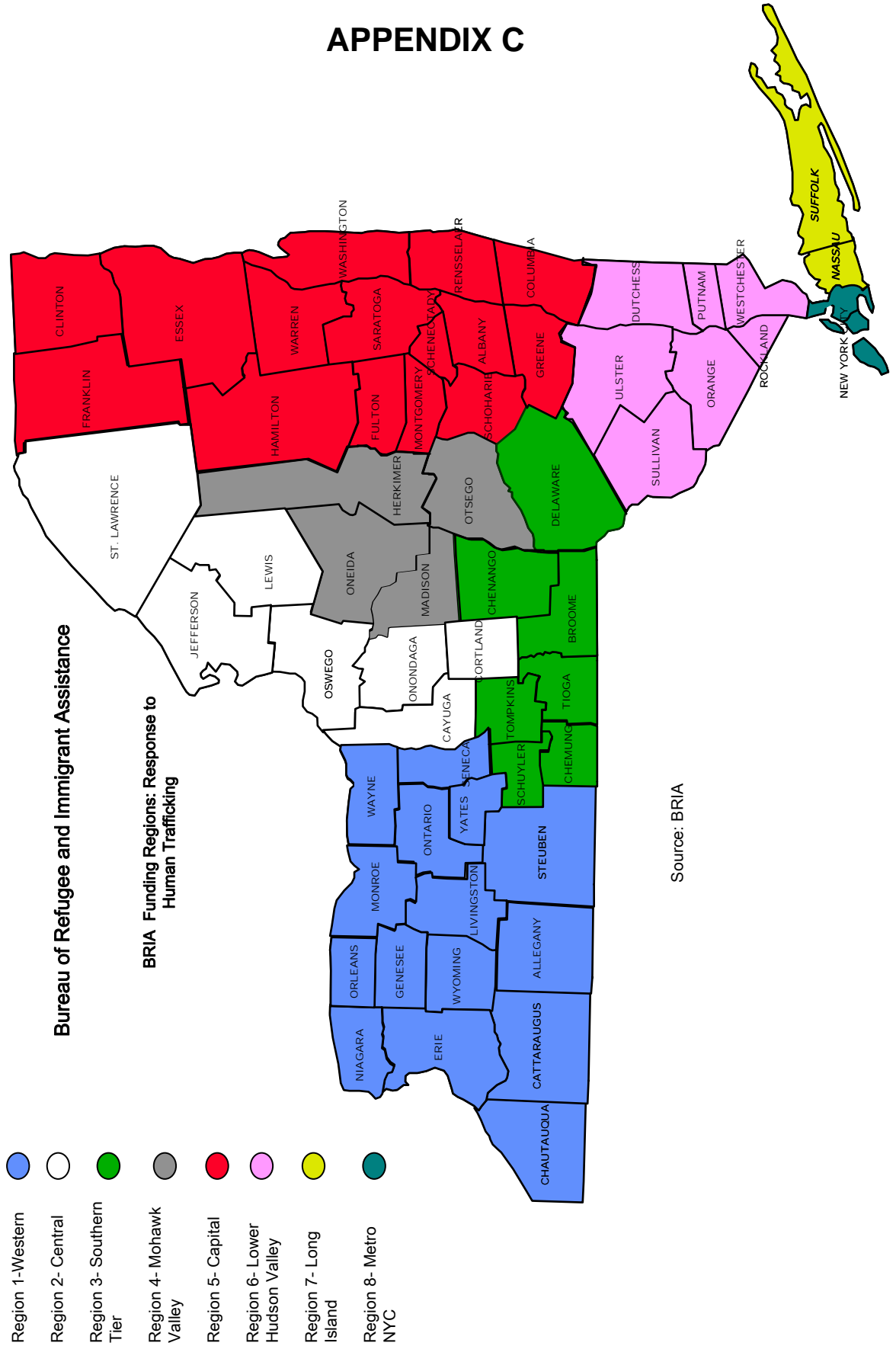
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OTDA recommendation: approve \_\_ deny \_\_ request conference \_\_



# APPENDIX C







## APPENDIX D



## MEMORANDUM

**TO:** NYS Law Enforcement and NYS District Attorney's Offices

**FROM:** Ken Franzblau, Director of Human Trafficking Prevention and Training

**DATE:** October 30, 2007

**SUBJECT:** Human Trafficking

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Effective November 1, 2007 amendments and additions to New York Penal Law and Social Services law to address human trafficking will take effect. These amendments and additions have created a comprehensive law enforcement and social service response to this crime. A copy of the bill setting forth these changes is enclosed. Penal Law changes are creation of the crimes of Sex Trafficking (Penal Law 230.34), Labor Trafficking (Penal Law 135.35), redefining Promoting Prostitution in the third degree (Penal Law 230.25), the repeal of Penal Law 230.03 and the amendment of Penal Law 230.04.

Sex Trafficking is defined as advancing or profiting from prostitution by use of one or more of the means contained in Penal Law 230.34 (1)-(5). The prohibited means of promoting prostitution set forth in Penal Law 230.34 are derived from methods that have been used in previous cases of sex trafficking from various jurisdictions. These include, but are not limited to, making false material statements, threatening to invoke deportation proceedings, using or threatening the use of force or coercion and requiring that prostitution be performed to pay off a real or purported debt. Sex Trafficking is a Class B felony.

Labor Trafficking is defined as compelling or inducing another to engage in labor or recruiting, enticing, harboring or transporting the person where labor is being compelled or induced by use of one or more of the means contained in Penal Law 135.35 (1)-(4). The prohibited means are very similar to those set forth in Penal Law 230.34(1)-(5). Labor Trafficking is a Class D felony.

Penal Law 230.03, Patronizing a Prostitute in the fourth degree, has been repealed. Penal Law 230.04 has been amended by deleting the age requirements of the patronizer and the prostituted person. The result of these two changes is that Patronizing a Prostitute in the third degree is now the lowest level patronizing offense. This is a Class A misdemeanor.

The human trafficking law also provides law enforcement with specific responsibilities assisting victims in obtaining services and with respect to immigration status. Social Services Law 483-cc requires that as soon as practicable after a first encounter with a person who reasonably appears to be a trafficking victim the law enforcement agency or district attorney's office shall notify the Division of Criminal Justice Services (DCJS) and the Office of Temporary and Disability Assistance (OTDA). A form has been created for this purpose and a copy of it is enclosed.

Social Services Law 483-dd requires that the law enforcement agency or district attorney's office shall provide USCIS Form I-914 Supplement B at the request of a trafficking victim or their representative. A copy of this form is enclosed.

DCJS strongly recommends that law enforcement collaborate early and closely with service providers in human trafficking cases. Social service organizations can offer expert assistance in cultural and language matters. They can assist with the completion of USCIS Form I-914 Supplement B. They can help make victims feel safer thereby increasing the likelihood that they will cooperate in your investigation and prosecution.

Enclosed for posting in your agency is a list of reminders and recommendations when dealing with human trafficking cases under New York's new statute.

Also enclosed is an interim list of agencies that you can contact to obtain assistance and services for human trafficking victims.

Please be advised that if there are questions regarding any aspect of the state's new human trafficking law please call me at 518-457-8413.

In an emergency situation only, occurring outside of regular business hours, please call 1-800-346-3543 for assistance.

Enclosures

## Questions You Can Ask to Determine if Someone is a Human Trafficking Victim

The following are examples of questions that you can ask someone who might be a human trafficking victim. Make sure that the person is alone when you ask these questions and tell the person that you want to help.

- Under what circumstances or conditions did you come to America? Do you or your family owe a debt to your employer or the person who brought you here? What is your relationship to the person who organized your migration to the U.S.?
- What do you do for work? Were you brought to America for one kind of job, but forced to do something else once you arrived? How did you learn about your job?
- Are you paid for working? Does anyone take the money that you earn? Are you given something instead of money, like drugs or alcohol?
- How many hours a day do you work? How many days a week do you work?
- Do you live at work or nearby? Are you free to leave work or home without permission? Does anyone go with you when you leave?
- Do you have to ask permission to eat, sleep, or use a toilet?
- Has anyone hurt or threatened you or your family?
- Do you have access to your identification documents? Did anyone take them from you?
- Are you afraid that you or your family will be deported if you try to leave work or home?

## How You Can Help

**Human trafficking is illegal.** If you suspect that someone has suffered under any of the practices or conditions described in this brochure, you can help. Human trafficking victims are eligible for protection, immigration assistance, and benefits and services under state and federal law.

Get immediate help or report a human trafficking case for investigation by calling **911**, your **local police department**, or your local **district attorney's office**.

Learn about services for human trafficking victims in New York State by contacting the **New York State Bureau of Refugee and Immigrant Assistance**:

**1-518-402-3096**

Contact the **New York State Division of Criminal Justice Services** for information about how human trafficking victims are confirmed for services in New York State:

**1-518-457-8413**

Learn about crime victims compensation for human trafficking victims in New York State by calling the **New York State Crime Victims Board**:

**1-800-247-8035**

**David A. Paterson, Governor**



**Office of Temporary & Disability Assistance**  
David A. Hansell, Commissioner

PUB — 4900 Rev (4-08)

## Human Trafficking: Contemporary Slavery



Photo by Kay Chernush for the U.S. State Department.  
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## APPENDIX E



New York State Office of Temporary and Disability Assistance

## What is Human Trafficking?

**Human trafficking is modern-day slavery.** Despite laws forbidding slavery and involuntary servitude in the United States, people are forced and manipulated into sexual slavery and labor servitude in the U.S. every day. According to the U.S. Department of State, 14,500 to 17,500 people are trafficked into the U.S. every year.

**Human trafficking is a violation of human rights.** Human trafficking victims are sold and bought like commodities. They are forced to work in dangerous, unhealthy conditions for long hours without breaks, food, or pay. Human trafficking victims are made to sell their bodies on the street and in brothels. They are deprived of freedom, isolated from the outside world, beaten and abused into submission.



### **Human trafficking is not smuggling.**

While human trafficking and smuggling can appear to be similar, human trafficking involves force, fraud, or coercion, whereas smuggling does not.

### **Human trafficking is not a choice.**

A person cannot meaningfully consent to become a slave. Most human trafficking victims are desperate to escape.

## What You Should Know About Human Trafficking

### **Who is affected by human trafficking?**

Human trafficking affects men, women, and children, and people of all races and ethnicities. Human trafficking victims are trafficked into the U.S. from nearly every country in the world,\* but most often from impoverished regions with little economic opportunity, politically corrupt and disorganized areas, and places with pronounced social inequality. High demand for victims and low prosecution of traffickers allows human trafficking to persist.

### **What does human trafficking look like?**

Human trafficking victims may be forced to work in sweatshops, fields or farms, hotels, fisheries, or restaurants. They may be forced to beg or peddle, or to become domestic laborers, janitors, or construction workers. Some human trafficking victims are forced into prostitution, exotic dancing, and pornography, while others are forced into marriage. Human trafficking victims can be found in virtually any setting.

### **Where does human trafficking occur?**

Human trafficking occurs all over the world. In the U.S., human trafficking occurs in urban, suburban, and rural areas in every state. According to the U.S. Department of Justice, human trafficking occurs more frequently in New York State than in any other state, after California, Florida, and Texas.

\*While the focus of this brochure is international human trafficking, people also become domestic human trafficking victims when they are forced and manipulated into slavery and involuntary servitude in their own countries — human trafficking does not require crossing a border.

## How to Recognize a Human Trafficking Victim

**Most human trafficking victims are reluctant to identify themselves**, even if encouraged, because they live with constant fear and intimidation. However, there are signs that someone is suffering from human trafficking:

- Person appears to be watched or supervised by another, or intimidated by a companion
- Evidence of physical or sexual abuse, e.g., bruises, sexually transmitted diseases (STDs)
- Person appears to be fearful, anxious, or depressed



Photo by Kay Chernush for the U.S. State Department. Reused with permission.

- Person is unable to speak English and/or someone else insists on interpreting/translating for person
- Signs of malnutrition or dehydration, poor hygiene, or untreated medical problems
- Person has no identification documents, e.g., a passport or visa, or someone else keeps such documents
- Evidence of mental illness or disturbance, especially post-traumatic stress disorder (PTSD)
- Person has little or no pocket money

## APPENDIX F

# New York Law Journal

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## New York's Human Trafficking Law

Denise E. O'Donnell  
12-19-2007

New York's human trafficking law, the most comprehensive of its kind in the United States, took effect Nov. 1. It provides the criminal justice community with a new weapon to combat what Governor Eliot Spitzer has accurately described as "modern day slavery." It also imposes on us an obligation to carefully distinguish cases appropriate for prosecution under the new provisions, and to view from a fresh and different perspective incidents that may implicate trafficking.

Traditionally, enforcement has been problematic because police are trained to look first at the law evidently being broken, and often what they saw first was "prostitution" or a labor law violation by the employer. Only further investigation would reveal that a much different and more savage crime was at the root.

We now have the tools we need to effectively prosecute sex and labor trafficking. Still, these cases will remain challenging, largely because successful prosecution will require a trusting relationship with a victim who instinctively distrusts anyone in law enforcement. Building trust with trafficking victims will take time and effort. Many victims were trafficked by or with the cooperation of government and law enforcement officials in their home countries. Further, traffickers, even those who traffic domestic victims, often maintain control of their victims by convincing them that the consequences of getting "caught" by authorities are worse than involuntary servitude. Working closely and patiently with service providers will be necessary to build trust between law enforcement and trafficking victims.

Part of my role as co-chair (along with David A. Hansell, commissioner of the Office of Temporary and Disability Assistance) of the Interagency Task Force on Human Trafficking is to help educate the law enforcement, victim, advocacy and legal communities about the new law and its potential to both punish the purveyors of human trafficking and assist the

victims. Our law enforcement agencies must know where to look, what to look for and what questions to ask.

## **New Crimes**

At its foundation, the law contains several provisions that empower us to prosecute human traffickers, a power we largely lacked until Nov. 1. It creates the new crimes of Sex Trafficking and Labor Trafficking, increases the lowest level crime of patronizing a prostitute from a B to an A misdemeanor, and provides for benefits and services to trafficking victims. A summary of the new law follows:

- The crime of Sex Trafficking, Penal Law §230.34, is a class B felony. As its inclusion in Penal Law Article 230 indicates, this section finds its origin in the promoting prostitution sections of the Penal Law. Section 230.34 provides that a person is guilty of Sex Trafficking if he or she intentionally advances or profits from prostitution using one of the prohibited means contained in subdivisions (1) through (5).
- The prohibited means contained in subdivisions (1)-(5) include unlawfully providing to a patronized person a narcotic with the intent to impair that person's judgment; making material false statements, misstatements, or omissions to induce a person to engage in prostitution activity or to maintain them in that activity; withholding, destroying, or confiscating any actual or purported passport or other government identification document with intent to impair that person's freedom of movement; or requiring that prostitution be performed to retire, repay or service a real or purported debt.
- Penal Law 230.34 addresses the use of force or intimidation to induce someone to engage in prostitution. This section closely follows Penal Law §135.60 (coercion in the second degree). A person is liable under 230.34 if, in inducing someone to engage in prostitution, they: cause physical injury, serious physical injury, or death to a person; cause damage to property; engage in other conduct constituting a felony or a violation of Penal Law §135.05; accuse some person of a crime or causing criminal charges or deportation proceedings to be brought against someone; expose a secret or publicize an asserted fact, whether true or false, tending to subject someone to hatred, contempt, or ridicule; or provide, or withhold, information with respect to another's legal claim or defense.
- The crime of Labor Trafficking, Penal Law §135.35, is a class D felony. A person is guilty of Labor Trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors or transports such other person by specified prohibited means. The prohibited means are very similar to those contained in Penal Law §230.34. The most notable difference between these sections is that there is no labor trafficking equivalent of Penal Law §230.34(2), making material false statements, misstatements or omissions.
- The new law also addresses the demand side of the human trafficking problem by creating a deterrent to the conduct that causes sex trafficking. It repeals Penal Law

§230.03 and amends Penal Law §230.04 to eliminate the age requirements of the prostituted person and patronizer. The net result of these changes is that patronizing a prostitute in the third degree, the lowest level patronizing offense, is elevated from a class B to a class A misdemeanor.

- The demand for sex trafficking is addressed in an amendment to Penal Law §230.35, promoting prostitution in the third degree, to clarify that the operation of sex tours fall within the coverage of this section. The operation of such tours is criminal conduct even when prostitution is legal in the tour's foreign destination. This reflects the concern that sex trafficking is prevalent in jurisdictions where prostitution is tolerated.
- Other trafficking-related changes are found in Penal Law §§135.36, 230.07, 230.36, 460.10(1)(a), Criminal Procedure Law 700.05(8)(b), and Correction Law sections 168-a (2)(a)(i) and 168-d(1)(b).
- The amendments to Penal Law §§135.36 and 230.36 provide that victims of trafficking shall not be considered accomplices in the prosecution of their traffickers. Section 230.07 was amended to make the patronizing a prostitute defense consistent with the repeal of 230.03 and amendment of 230.04. The amendment to §460.10(1)(a) makes sex trafficking and labor trafficking predicate crimes for enterprise corruption.
- Criminal Procedure Law §700.05(8)(b) was amended to include Sex Trafficking and Labor Trafficking as designated offenses for purposes of eavesdropping and video surveillance warrants. The amendment to Correction Law §168-a (2)(a)(i) makes Sex Trafficking a sex offense for purposes of sex offender registration. The amendment to Correction Law §168-d(1) (b) entitles a defendant convicted of patronizing a prostitute in the third degree to a hearing to determine if the victim was less than 17 years of age.

The law further imposes upon police and prosecutors the duty to refer victims of human trafficking to the Division of Criminal Justice Services and to assist victims to obtain services and a "T visa" (created by the federal Trafficking Victims Protection Act of 2000 to victims of human trafficking).

- Specifically, Social Services Law 483-cc requires that a law enforcement agency or district attorney's office notify the Division of Criminal Justice Services and the Office of Temporary Disability and Assistance (OTDA) after a first encounter with a person who reasonably appears to be a human trafficking victim. This notification is accomplished by faxing a form created for this purpose to Division of Criminal Justice Services (all law enforcement agencies and District Attorney's offices have been provided a copy of the form and it is also available on eJusticeNY, a secure portal). Division of Criminal Justice Services and Office of Temporary Disability and Assistance must then determine whether the victim appears to meet the criteria for certification as a victim of a severe form of trafficking under federal law. The referring agency will then be notified by Office of Temporary Disability and Assistance if the victim has been confirmed as a human trafficking victim for purposes of receiving the benefits provided by the law.



- Social Services Law 483-dd requires that upon request of the victim or their representative, the referring law enforcement agency or district attorney's office complete U.S. Citizenship and Immigration Service Form I-914 Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons. This form is submitted in support of the victim's application for a T visa. The New York law applies to U.S. citizens as well as non-citizens.

Investigation of human trafficking requires a different way of looking at crime, a different approach to observation and surveillance, a different understanding of the relationship between prostitution and sex trafficking and increased attention to the role played by the demand for prostitution as our front line officers attempt to determine whether what they are dealing with is a promoting prostitution case or something far deeper and more insidious. We will be working with law enforcement personnel on both the training and enforcement end as we seek to curtail this most repugnant of crimes.

**Denise E. O'Donnell** *is commissioner of the New York State Division of Criminal Justice Services and Assistant Secretary to the Governor for Criminal Justice.*

# APPENDIX G



## NEW YORK STATE CRIME VICTIMS BOARD

# *ADVISORY BULLETIN*

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### *TRANSMITTAL NO. 2007-13*

TO: ALL FUNDED PROGRAMS  
ADVISORY COUNCIL MEMBERS

FROM: TINA M. STANFORD  
CHAIRWOMAN

SUBJECT: HUMAN TRAFFICKING

DATE: OCTOBER 29, 2007

On November 1, 2007, a new law will take effect relating to victims of human trafficking. Chapter 74 of the Laws of 2007 creates the two, new Penal Law crimes of Labor Trafficking (135.35) and Sex Trafficking (230.34).

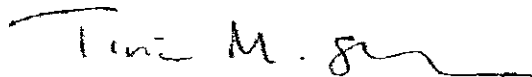
In addition, Chapter 74 amends the Crime Victims Board's (the Board) governing statute to include in its definition of "Victim," a person who is the victim of these new crimes (Executive Law, Section 621, subdiv. 5). Executive Law, Section 631, subdiv. 1, was also amended to allow for these crimes to be reported to law enforcement agencies within a reasonable time considering the circumstances, instead of the general requirement that it be reported within one week.

It is the intention of this new law to provide the victims of these new crimes with the most comprehensive array of Crime Victims Board benefits available. That is why, in anticipation of the effective date of this new law, the Board adopted a regulation (9 NYCRR 525.32) to create the rebuttable presumption a victim of these crimes has suffered a physical injury, for the purpose of establishing eligibility.

Therefore, agency staff and Victim Assistance Providers need to be aware of the following procedures in handling these types of cases. In instances where the police report or law enforcement agency documentation indicates a charge of Penal Law 135.35 and/or 230.34:

1. The report to the law enforcement agency does not necessarily need to be made within a week of the crime, but within a reasonable period of time under the circumstances, and
2. No further investigation (beyond the charge itself) is necessary to establish a physical injury has been suffered by such victims to establish eligibility. However, should agency staff suspect fraud or abuse, or if the victim him/herself admits to having no related injuries, eligibility may be denied after further investigation.
3. When assisting a trafficking victim complete the Crime Victims Board application, **Other** should be checked under section 3. **Tell us about the crime** and "trafficking victim" must be written in on the line next to **Other**.

On behalf of the Board, we look forward to working with you in our continued effort to provide the highest quality services to innocent victims of crime in New York State.



Tina M. Stanford  
Chairwoman