



## CSE INSTITUTE POLICY PAPER

### Why Victims of Sex Trafficking Should Not Be Forced to Engage Victim Services

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Pennsylvania’s proposed Safe Harbor legislation seeks to provide robust, comprehensive victim services for minor victims of sex trafficking.<sup>1</sup> One challenge to providing these services arises when victims resist treatment, counseling and other resources designed to assist them. It may be tempting to think that forcing victims into services is the best way to get them the help they need—but, in fact, penalizing sexual exploitation victims for refusing services is counterproductive. Instead, the best policy is to make services available *and optional* to victims—without the imposition of penalties in the event a victim chooses not to engage these resources. This paper explains why sex trafficking victims often refuse treatment and services, and why policymakers should reject the forced-services model, and instead adopt an optional-services model.

#### I. Why Sex Trafficking Victims Often Refuse Services

Similar to victims of rape (and victims of sex trafficking are often also victims of rape), victims of sex trafficking often have counterintuitive reactions to the crimes that have been committed against them—such as running away from authorities or refusing victim services when offered to them.<sup>2</sup> Victims of sex trafficking often refuse services precisely *because of the traumatic experiences they have experienced as sex trafficking victims*.

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<sup>1</sup> S. B. 851, 2015-2016 Reg. Sess. (Pa. 2015).

<sup>2</sup> As the Pennsylvania’s legislature recognized in 2012 when it passed 42 Pa.C.S. § 5920, victims of sexual trauma often do not behave as one might expect.

Trauma can drastically alter a victim's perception of reality.<sup>3</sup> Traffickers often exercise coercive control over the victim, employing threats of brutality, torture, harm to loved ones, and controlling access to food, drugs, and life necessities.<sup>4</sup> Moreover, traffickers typically convince these already-vulnerable victims that they are their protectors, boyfriends, father-figures, and refer to the stable of victims he controls as a family.<sup>5</sup> Through these tactics, victims become isolated from society, and exist in a world where a daily fight for survival is normal.<sup>6</sup> Due to these dynamics, in conjunction with prolonged exposure to the traumatic situation, it is not uncommon for a victim to develop an attachment to her trafficker during this captivity, known as Trauma Bonding.<sup>7</sup>

Victims, in turn, often blame themselves for their suffering while in this captive relationship, rather than blaming their trafficker.<sup>8</sup> As the human psyche of the victim constantly strives for control over her situation, self-blame and self-punishment become coping mechanisms that allow victims to re-frame their situation as if they are in control. They often come to believe that they are bad, stupid, and undeserving of a better life, or that they caused their situation.<sup>9</sup> "Victims are *scared*, in *survival* mode, and/or filled with immobilizing shame."<sup>10</sup>

In cases of minor sex trafficking, the psychological, emotional and physical trauma is experienced during a time in their adolescent development when forming trust and identity are crucial for a successful adulthood. As a result of this traumatic interruption in development, minor victims of sex trafficking often misperceive relationships and develop a mistrust of professionals

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<sup>3</sup> Becca C. Johnson, *Aftercare for Survivors of Human Trafficking*, 39, *Journal of the North American Association of Christians in Social Work*, 370, 376 (2012).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 377.

<sup>6</sup> Stable refers to "a group of people under the control of a single trafficker. The choice of a farming word is not accidental. Traffickers consider their victims to be no better than animals." Joe Parker, *Prostitution Terminology & Slang*, Gandberg.com (June 7, 2015, 11:49 AM), <http://genderberg.com/boards/viewtopic.php?f=10&t=1244>.

<sup>7</sup> Johnson, *supra* n 3, at p. 377.

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

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

trying to help them. As a result, victims are often unwilling to engage in victim services, and will exercise their voice through anger, lashing out and rejecting services until healthy relationships and trust can be built.

Without services, victims of sex trafficking often return to “the life” of prostitution, or experience a heightened likelihood of re-victimization.<sup>11</sup> The human psyche, due to ongoing exposure to complex trauma, will adapt to the stressful environment by shifting a victim’s sense of “normal” -- such that being victimized becomes “normal.” Given that “human beings resist changing anything that comes to feel ‘normal’...[there] is an increased likelihood that the [victim] will end up reenacting the trauma...”<sup>12</sup> Consequently, victims of sex trafficking may deny services and reenter “the life,” because their brain tells them this is “normal.”

Victims of sex trafficking also tend to deny services or run away from help due to their lack of impulse control. “Dissociative defenses that may have been life-saving at the time of the traumatic events may become chronically utilized, even under less stressful conditions so that other, more positive forms of stress management are not learned.”<sup>13</sup> In sum, victims’ tendencies to shut down, run, or refuse services are symptoms of the very trauma and abuse they have suffered. The coping mechanisms they developed to survive the past makes them reluctant to trust professionals and engage victim services. Once we understand the basis for victims’ reluctance to engage services, we can recognize that forcing victims into accepting services is not likely to be the most productive way to assist this population.

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<sup>11</sup> *Id.* at 375.

<sup>12</sup> Sandra L. Bloom, M.D., *Mental Health Aspects of IPV/DV: Survivors, Professionals, and System*, in *INTIMATE PARTNER VIOLENCE, DOMESTIC VIOLENCE, AND SPOUSAL ABUSE: A RESOURCE FOR PROFESSIONALS WORKING WITH CHILDREN AND FAMILIES* 1, 6 (Giardino, A.P. & Giardino, E.R. eds., 2010).

<sup>13</sup> *Id.* at 6.

## **II. Why Sex Trafficking Victims Should Not Be Penalized for Refusing Services**

As explained above, when sex trafficking victims refuse services, they are not simply being obstinate. Rather, their refusal is a symptom of their trauma. Penalizing them for acting out in precisely the ways they need to in order to process their sexual trauma is not only counterproductive to their ultimate recovery – it is inconsistent with how we treat other victims of abuse and it cuts against the Safe Harbor Incentives adopted in the Justice for Victims of Trafficking Act of 2015 (JVTA). For these reasons, explained further below, the best policy is to firmly reject the forced-services model to victim services, and instead adopt a supportive, robust, and *optional*-services model.

### **A. Forcing Sex Trafficking Victims into Services is Counterproductive**

Forcing sex trafficking victims to engage services is likely to prove counterproductive for two reasons. First, if victims are penalized for failing to cooperate with victim services, this dynamic places the victims services community in a position of power and control over the victim – thereby replicating the very power dynamics that shaped the victims’ experience of having been trafficked. Rather than empowering the victim to engage services voluntarily, the forced-services model simply reproduce and reinforce the disempowerment the victim has already experienced.

Second, by denying victims the choice to decide whether and how to engage victim services, the forced-services model denies victims the opportunity to exercise their autonomy in pursuing their own recovery. In order to transition from victim to survivor, one must have the opportunity to make choices about one’s own life. When people are given the opportunity to make choices about their own lives (especially when those people have been deeply violated and traumatized), they will sometimes make bad choices – choices that we wish they did not make, and which we view as harmful to them. Yet, the very process of making these choices (such as running away, refusing

counseling, etc.) – and transitioning to making different, better choices (such as returning after a run, talking with a counselor, etc.) – is key to the recovery and empowerment process. If victim services are forced on victims, this process of exercising choice is eliminated.

**B. No Other Category of Victim is Forced to Receive Services**

While many victims of crimes and violence would often benefit from therapy and other victim services, we do not force them to receive services. We might wish that a victim of domestic violence would seek assistance from victim services rather than return to her abuser – and we might wish that a rape victim experiencing PTSD take advantage of counseling services rather than engage in self-destructive behaviors to process her trauma. Yet, if these victims choose not to engage in victim services, they are not penalized. The same principle should apply to how we deal with victims of sex trafficking who refuse victim services. We must recall that these victims are – first and foremost – victims of abuse, rape, sexual assault, and other horrific forms of violence and exploitation. These victims deserve robust and comprehensive services, but they should not be penalized for refusing to engage these services.

**C. Forcing Victims into Services Cuts Against the JVTAs Safe Harbor Incentives**

Increasingly throughout the United States, minor victims of sex trafficking are being recognized for who they are – victims of horrific abuse. The Justice for Victims of Trafficking Act of 2015 (JVTA), signed into law by President Obama on May 29, 2015, represents another important step forward in recognizing and remedying minor domestic sex trafficking in our nation.<sup>14</sup> One important component of the JVTA is the provision of “Safe Harbor Incentives” established in Section 601. Specifically, Section 601 amends Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968, which authorizes “preferential consideration for certain [federal] grants”

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<sup>14</sup> Justice for Victims of Trafficking Act, H.R. 181, 114th Cong. §§ 101-121 (2015) [hereinafter *JVTA*].

for States that adopt innovative approaches to addressing particular kinds of criminal activity.<sup>15</sup> Notably, the JVTA’s amendment to the “preferential consideration” provisions encourages States to approach sex trafficking that clearly recognizes that minors who engage in the commercial sex trade are not criminals and should not be treated as criminals. Specifically, under Section 601 of the JVTA, preferential consideration for federal grants will be given to applicants from “a State that has in effect a law that...treats a minor who has engaged in, or has attempted to engage in, a commercial sex act as a victim of a severe form of trafficking in persons.” In sum, if Pennsylvania does not begin treating minor victims of sex trafficking as victims, our Commonwealth will be at a disadvantage when competing for federal grant funds.

### **III. Conclusion**

Although victims of sex trafficking may be reluctant to take advantage of services offered to them, because of the traumatic experiences they have suffered through the crimes their traffickers have committed against them, the choice to engage in victim services should remain **with the victims**, without threat of punishment if they refuse services. This approach is the recognized best practice in victim treatment for this highly-traumatized population, is consistent with our treatment of other crime victims, and fulfills the requirements under the JVTA to allow Pennsylvania federal grant seekers to obtain preferential consideration for anti-trafficking grants.

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<sup>15</sup> 42 U.S.C. 3796dd et seq.