

# Responding to Sex Trafficking in Your Jurisdiction

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A Planning Toolkit



HUMAN TRAFFICKING  
AND THE STATE COURTS COLLABORATIVE



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# Introduction

## WHAT IS THE CENTER FOR COURT INNOVATION?

Winner of the Peter F. Drucker Award for Non-Profit Innovation, the Center for Court Innovation is dedicated to reforming the justice system through demonstration projects, research, and expert assistance. The Center's goals are to help courts aid victims, reduce crime, and improve public trust in justice. In New York, the Center creates demonstration projects that test new approaches to problems that have resisted conventional solutions. Beyond New York, the Center disseminates the lessons learned from its demonstration projects, helping court reformers around the world test new solutions to local problems.

The Center is part of the Human Trafficking and the State Courts Collaborative, through which it provides hand-on training and technical assistance to jurisdictions seeking to plan, implement, enhance, or evaluate a local court response to human trafficking. The Center's approach to technical assistance is practitioner-focused and results-oriented, based on direct in-house expertise implementing court reform projects.

## WHAT IS THE HUMAN TRAFFICKING AND THE STATE COURTS COLLABORATIVE?

Beginning in early 2013, the State Justice Institute provided initial funding to form a Human Trafficking and the State Courts Collaborative consisting of the Center for

Public Policy Studies, the Center for Court Innovation and the National Judicial College, as one response to addressing the impacts of human trafficking on the state courts. Within a year, the National Association of Women Judges, Legal Momentum, and the National Council of Juvenile and Family Court Judges joined the Collaborative. All six organizations are now collectively working to address the following strategic priorities:

- increase understanding and awareness about the challenges faced by state courts in dealing with cases involving trafficking victims and their families, and traffickers;
- develop and test state and local approaches for assessing and addressing the impact of human trafficking victims and defendants in the state courts;
- enhance state and local court capacity to improve court services affected by human trafficking related case processing demands; and
- build effective national, state, and local partnerships for addressing the impacts of human trafficking case processing in the state courts.

## WHAT IS THIS TOOLKIT?

This Planning Toolkit was designed as a guide to help courts and communities assess their current approaches to human trafficking and prostitution,<sup>1</sup> and develop or enhance a

<sup>1</sup> Cases involving human trafficking may include prostitution, loitering, solicitation, drug possession, shoplifting, street peddling, truancy, delinquency, or providing false identification to an arresting officer.

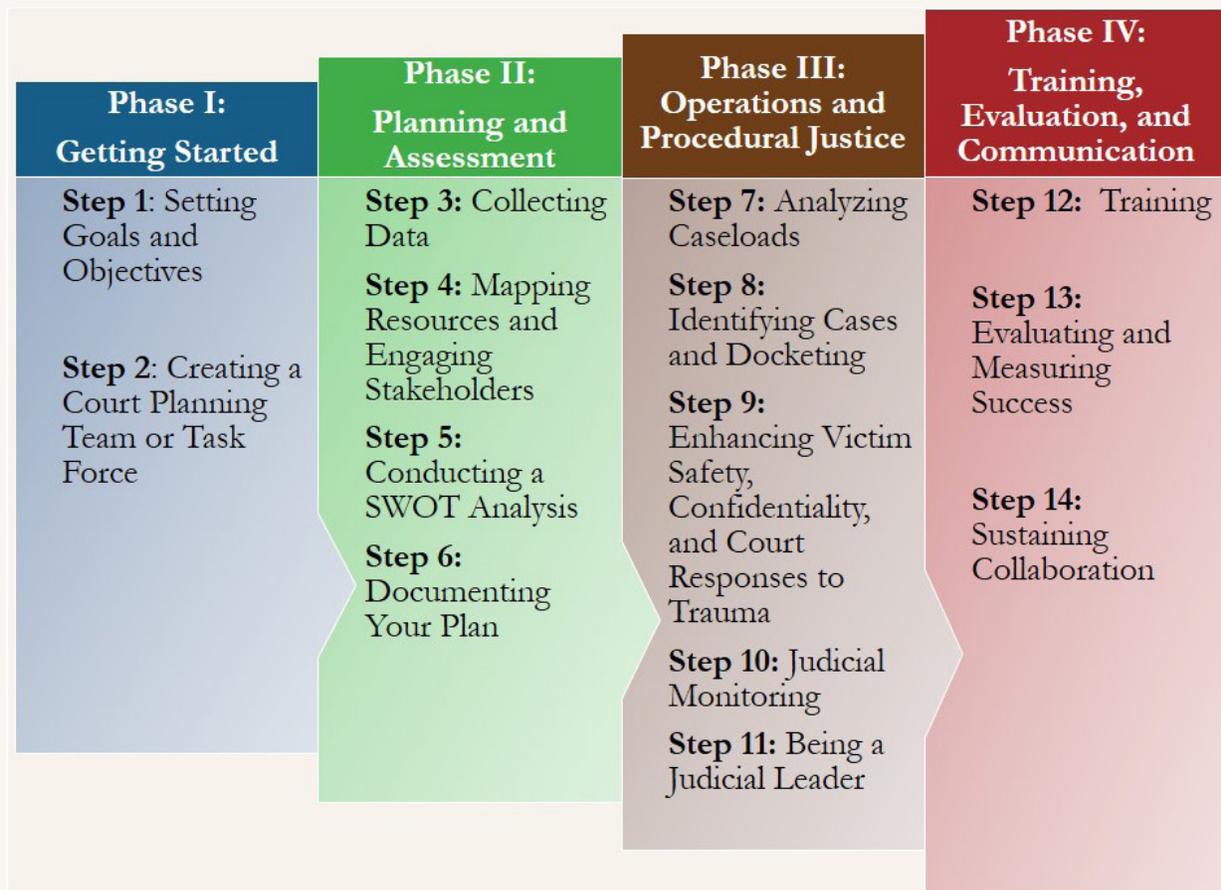
court-based response. While we recognize that labor trafficking is also a problem and may overlap with sex trafficking in some jurisdictions, the focus of this toolkit is oriented around sexual exploitation and victimization. This toolkit is a framework to guide the assessment, concept development, planning, and implementation process. The materials in this Toolkit are based upon promising practices identified through both the Center for Court Innovation’s (“Center”)

demonstration projects and national training and technical assistance.

### IS ADDITIONAL ASSISTANCE AVAILABLE?

The Center for Court Innovation offers training and technical assistance, supported by the State Justice Institute through its Human Trafficking and the State Courts Collaborative, to jurisdictions across the country interested in developing or enhancing a court response to human trafficking.

## 14 STEPS OF PLANNING



# I. Getting Started: Creating a Strong Foundation for Your Project

## HOW CAN COURTS IMPROVE THEIR RESPONSE TO HUMAN TRAFFICKING AND PROSTITUTION?

Jurisdictions across the country are developing new and different court-based responses to sex trafficking and prostitution. Some courts have enhanced traditional case processing to improve outcomes for victim/defendants, while others have developed specialized dockets that provide comprehensive assessments, judicial monitoring, and an array of social services. Many initiatives handle juvenile delinquency cases, focusing largely on the commercial sexual exploitation of children (CSEC). Others work with adults and tackle a broader range of relevant criminal cases, such as prostitution, loitering, and drug possession. Some courts even have the capacity to lead local task forces that aim to foster collaboration among stakeholders and generate new responses to the problems associated with human trafficking and prostitution. While these responses may vary, in general they all share common goals that aim to identify and divert victims, promote interagency collaboration, and educate criminal justice practitioners on the dynamics of human trafficking and trauma.

*See Appendix A for a detailed planning checklist and Appendix B for a planning timeline that can help guide your planning process.*

## VICTIM/DEFENDANT PARADIGM

Victims of sex trafficking arrested and charged with prostitution and other offenses

are both a criminal defendant and a victim. Victim/defendants may be forced to commit a crime by the trafficker or due to circumstances related to their exploitation. Chronic victimization, poverty, homelessness, substance use and social stigma are some of the common obstacles that victims of sex trafficking face and the interconnection of these hardships often results in victims' distrust of people, resources, and systems, making it difficult for victims to get help. Given the fear, trauma and shame victims of trafficking experience, they are unlikely to immediately disclose this information or be identified as a victim.

Victims of sex trafficking may come before the court as defendants in prostitution-related cases or in a variety of other case types, presenting a challenging duality for the court. Because the dynamics of prostitution and sex trafficking are often similar to the dynamics of power, control, and coercion common to domestic violence and sexual assault, the tenets of victim safety and a trauma-informed response are crucial to a court's response to trafficking.

## ARE THERE OTHER STRATEGIES TO CONSIDER?

Many jurisdictions are examining their existing problem-solving courts and enhancing operations to address human trafficking. Because of their collaborative nature and therapeutic approaches, problem-solving courts—such as drug, mental health, and truancy courts—are well-positioned to

identify victim/defendants and link them to services. While the prevailing national response is centered on victim/defendants, some jurisdictions have developed demand-focused strategies—such as “John Schools”—that target exploiters and aim to increase accountability and change behaviors.

The Center’s Human Trafficking and the State Courts Collaborative staff can help your team explore ways to enhance existing approaches, problem-solving courts and/or address demand through training and technical assistance.

# STEP 1: SETTING GOALS AND OBJECTIVES

Before you decide on the type of response for your jurisdiction, it makes sense to step back and examine what your project aims to achieve. Why is it being established? How will you define success? Goals define the overall mission and purpose of the project. Typically, identifying victimization and possible resources for victims' safety and well-being are high priorities. Other common goals include: reducing barriers to services, improving outcomes for victim/defendants, and promoting stakeholder collaborate in and outside of the justice system. *See Step 9: Victim Safety, Confidentiality, and Court Responses to Trauma for more information on strategies to address these issues.*

After determining the goals, the next step is to set objectives that define exactly how the goals will be achieved. Sample objectives could include: screening potential victim/defendants for signs of trafficking and trauma, identifying and diverting victim/defendants to services, convening monthly stakeholder meetings, or holding case review hearings for all victim/defendants mandated to programs.

The Center's Human Trafficking and the State Courts Collaborative staff can help your team identify goals and objectives as part of the planning process. *See Appendix C for help with this exercise.*

## WHAT TYPE OF RESPONSE IS RIGHT FOR YOUR JURISDICTION?

Once clearly defined goals and objectives are established, project planners can begin to mold the design. Typical responses include enhanced court initiatives, specialized dockets, or multiagency task forces. The following focusing questions can help you decide on what type of response is needed in your jurisdiction.

### *Enhanced or Specialized Court-Based Responses.*

Depending on the number and types of cases local courts handle that may involve human trafficking victims or prostitution-related offenses, the planning team can consider whether your jurisdiction might benefit from:

- Focusing only on specific types of criminal cases? (i.e., prostitution, loitering, drug possession, shoplifting, etc.) Do you want to target any specific level of criminal case, (i.e., ordinance, misdemeanor, or felony)?
- Identifying and addressing commercial sexual exploitation of children who appear in juvenile delinquency and/or dependency cases?
- Addressing multi-jurisdictional cases, i.e., juvenile delinquency and dependency, or cases that may involve related criminal charges, such as prostitution, loitering, and substance abuse?

You might also consider more in-depth questions about the cases that will be handled by the court. For example:

- Which staff will be dedicated to/responsible for addressing cases involving human trafficking?
- How will you identify human trafficking cases and/or litigants at risk of being trafficked? At what stage of proceedings will defendants/litigants be screened? Which staff will be responsible for screening, or will stakeholders outside the court conduct screening?<sup>2</sup>
- What resources are available in the community to address these cases if human trafficking or suspected trafficking is identified?
- How will a defendant's case be handled if

<sup>2</sup> | See our related publication, "Identifying and Responding to Sex Trafficking: A Guide for the Courts," available at <http://www.courtinnovation.org/research/identifying-and-responding-sex-trafficking-guide-courts>.

they do not meet trafficking criteria but they report a history of victimization? What resources are available?

- How will the judge(s) hearing these cases address accountability and recidivism?
- How will you ensure access to justice for Limited English Proficient (LEP) litigants?

*See Step 8: Case Identification for more information.*

Many of these questions can be addressed as part of a planning process convened by the court and conducted with a range of community partners. These stakeholder groups can be formed specifically to plan and implement a specialized court response, or can stand alone as a task force addressing human trafficking, as described below.

*Task Force Development/Enhancement.*

Forming an anti-trafficking task force of executive-level personnel and policy makers from the court and community can be very helpful in developing a response to trafficking in a jurisdiction. These decision-makers can help build vital support, facilitate inter-agency cooperation, resolve potential conflicts and provide big picture insight to the project. Task forces are not involved in the “day to day” running of a court or community response and generally meet every few months. Task forces may include executive-

level personnel or policy makers from the following offices and agencies:

- State court administration offices;
- Civil legal service providers (including immigration, housing, family, etc.);
- Board of Education;
- Federal and local law enforcement agencies;
- Public Defender’s Office;
- Child Welfare
- City or District Attorney’s Office;
- Victim advocates and social service agencies;
- Workforce development agencies;
- Runaway and homeless youth organizations;
- Hospital and public health organizations (including HIV and AIDS advocates);
- Local government.

The Center’s Human Trafficking and the State Courts Collaborative staff can help your team identify stakeholders for task forces and find solutions to planning questions for a court-based response to human trafficking. These initiatives are not mutually exclusive; jurisdictions can have a specialized court response and a task force that works to engage both community and justice system stakeholders.

## STEP 2: CREATING A COURT PLANNING TEAM OR TASK FORCE

Collaboration among a diverse group of judicial and non-judicial court personnel, as well as representatives from court stakeholder agencies, is vital to a successful planning process and to cultivate and sustain buy-in from task force members. The Center advises that the planning team, typically comprised of judges, court staff and stakeholder representatives, allocate responsibilities in developing policies and procedures for the response to human trafficking and prostitution. The team should meet frequently during the planning process and then may meet less frequently after implementation.

The court-based members of the team typically include:

- Judges;
- Chief clerk or administrator of the court(s) (or other designee);
- Law clerk to judges;
- Technology advisor or administrator;
- Researcher or data analyst;
- Chief of security;
- Supervising judge or staff representative; and
- Project coordinator.

Typical stakeholder participants include:

- Victim advocates (including those representing a wide array of culturally and linguistically competent agencies);
- Defense bar representative(s);
- Prosecutor representative;
- Probation officer;
- Substance abuse and mental health providers;
- Child Welfare (if a juvenile project); and
- Law enforcement.

### HOW SHOULD THE PLANNING TEAM BE ORGANIZED?

*Working groups:* In larger jurisdictions, team participants can break into working groups to discuss specific areas of planning relevant to their expertise. Larger communities often have multiple agencies providing similar services and, therefore, the planning team might be quite big. A working group structure helps ensure that all planning team members have input into the process.

Smaller planning teams that do not break into sub-working groups can use these categories as a guide for discussion.

- *Operations:* This group addresses issues involving the operation of the court response, including: case identification and screening, court calendaring, and judicial compliance reviews.
- *Services:* This group develops protocols between stakeholders and the court to ensure the provision of immediate services, facilitate communication with the court, and promote efficient processes for referrals and program reporting. This group also develops and/or coordinates training programs for all court participants and stakeholders.
- *Security:* This group assesses the security needs of the court, including identifying a safe waiting area and training security personnel about trafficking.

The following questions will help guide you during the development of a planning team:

- Which agencies are currently handling cases involving human trafficking and prostitution in the justice system from initial system contact through disposition? This list should include both representatives from institutional providers (court, interpreter's office, prosecution, defense,

child welfare, public health, etc.) as well as non-profit, social service agencies.

- Which programs are being used as part of the victim/defendant's mandate (i.e. anti-trafficking organization, trauma-informed services, domestic and sexual violence agency, programming for at-risk and runaway and homeless youth, substance abuse programs, and/or mental health programs)? Are they willing to share information in a way that protects confidentiality?
- Are there programs or initiatives that would enhance services for victim/defendants (for example, culturally and linguistically specific services, services for LGBTQ victims, CSEC victims, victims with disabilities)?
- Which staff from each agency are appropriate to participate in planning meetings, i.e. line staff, senior staff, or a combination? Is there a particular liaison with specialized knowledge that should be included?
- Which agencies could cause difficulties later on if not included up-front?
- Once stakeholders are identified, what is the best strategy for approaching them? What kind of commitment will be required? What information will stakeholders need to provide to participate in the planning process? Can each agency dedicate an appropriate staff member (senior, line staff, etc.) to the planning process?
- Is the agency willing to provide an overview of services and a site tour (if appropriate) to court staff and stakeholders?
- Is the agency willing to participate in relevant trainings?
- Will the agency participate in developing the planning document including creating a stakeholder's statement that delineates services and protocols?

# II. Planning and Assessment: Building on Current Practice

## STEP 3: COLLECTING DATA

Data collection is a critical component of any response to human trafficking or prostitution, as it can help identify victim/defendant needs, manage operations, report essential performance information, assess goal achievement, identify areas for improvement, and offer invaluable statistics to funders and policymakers. Data collected prior to a project's launch is typically referred to as baseline data.

Consider the following questions as you create your data collection plan:

### GETTING NUMBERS

*What kind of data should be collected?*

Examples of data to be collected may include: the number of trafficking victim/defendants diverted to services, the prevalence and types of victimization and trauma (i.e., sexual assault, domestic violence, physical abuse, etc.) the length of time between arrest/case filing and diversion, the number of cases resolved without a criminal conviction or incarceration, the number of treatment modalities and services, program completion and retention rates, and voluntary engagement with service providers following the completion of a mandate.

*Where is the data stored?* Having identified the data set, planners will have to determine if the information is currently being collected and, if so, where. Is the information captured

in the court's management information system, or must a new database be collected? What information is available from outside sources, such as a police database, victim services organization, or child welfare agency? What additional data elements are needed? Where will that data come from? When collaborating with partner agencies on data sharing strategies, focus on sharing aggregated numbers rather than names to avoid breaching confidentiality. *See Appendix D for a complete menu of suggested data elements.*

*Who will collect the data and how? Who will analyze the data?* Once all of the data sources have been identified, the planning team should designate a person or persons to oversee the data collection and analysis process. It is also important to determine how information will be reported on, whom it will be shared with, how it will be protected, and how often (monthly, quarterly, or semi-annually). In general, if no one is responsible, and if deadlines are not set, data collection tasks will tend to slip through the cracks.

*How will the data be used?* Having produced the findings, the next step is to determine the implications. Staff can review on a regular basis whether the program is meeting operational goals and providing services as intended. Team meetings can be used to identify and troubleshoot any operational

weaknesses, propose midcourse adjustments, address confidentiality concerns, or educate stakeholders on the identified needs of victim/defendants.

This kind of routine data analysis will also be a key source of information for funders and further research. *Appendix E will help guide your data analysis and will also help your team generate a list of current resources available to the court, including a description of these resources.*

### DOCUMENTING CURRENT PRACTICE

What cases should be flagged for the court's response to human trafficking and prostitution (i.e., red flags for youth at risk of trafficking including prostitution-related, drug-related, shoplifting, providing false identification to an arresting officer, or runaway or truant behaviors, etc.)? How are these cases currently processed through the court system(s)? At what point in the process can victims be identified and diverted to services?

While each agency represented in the system map generally maintains its own policies on how to respond to human trafficking or prostitution related offenses, it is important for new policies to derive from the project's agreed-upon goals. Existing policies should be shared between agencies during the court planning process to assess the feasibility of certain approaches. Prosecutors, for instance, may face legislative obstacles when deciding who is eligible for pre-filing diversion. An assessment of current policy should include

the identification all of these operating guidelines.

### GUIDELINES FOR GATHERING INFORMATION ON FORMAL PRACTICES

1. Make a list of all of the federal, state, and local statutes and court rules that pertain to diversion and alternatives to incarceration, human trafficking, and prostitution-related matters in your jurisdiction.
2. Compile any formally developed policies of the court and its stakeholder agencies regarding diversion, human trafficking, prostitution-related cases, and cases with "red flags" for trafficking.
3. Review your system map. Pay particular attention to the decision points in the system that are guided by formal policy. Make a list of all the agencies that make or influence decisions about human trafficking, prostitution-related cases, or cases with risk factors for trafficking in your jurisdiction. *Appendix F will assist your team in developing a system map of your jurisdiction's case flow. Developing a comprehensive system map can be one of the most effective means of identifying early identification and diversion intercept points, developing communication protocols, and deepening stakeholders' understanding of each agency's roles.*

This analysis should describe the current policy environment and serve as a tool to assess those policies that need review in greater detail or points in the system that require further policy guidance.

## STEP 4: MAPPING RESOURCES AND ENGAGING STAKEHOLDERS

A clear understanding of your community's resources will enable you to develop protocols with stakeholder agencies to outline each agency's role regarding the types of programs and services available to victim/defendants and, if applicable, how they will be effectively monitored if there is a court mandate.

### SERVICES FOR VICTIM/DEFENDANTS

Early assessment, including screening for risks and “red flags” for human trafficking and victimization, as well as connection to trauma-informed services for victim/defendants, helps to promote safety and improve service delivery for the victim/defendant. *See Steps 8 through 10 for more information on developing trauma-informed court mandates or conditions.*

Identification can be particularly challenging, since trafficking victims often appear as criminal defendants for a variety of charges. Identifying some of these common arrest types may be a first step in conducting a caseload analysis. For example, arrests for prostitution, loitering, possession of drugs, false identification, resisting arrest, or shoplifting may be system entry points and “red flags” for human trafficking victims. Juveniles appearing in family court for dependency, delinquency, truancy, or runaway matters may be at risk of trafficking.

During the resource mapping process, the planning team will identify the existing victim services providers and the types of services offered. For example, your jurisdiction might have a community-based domestic violence service agency, women's substance abuse and/or mental health treatment program, runaway and homeless youth service organization, or immigrant services organization. These and other agencies may

have existing services appropriate for your community's population. If this is the case, your team should examine the difference in these services, create protocols for mandates or referrals made to each agency, and determine whether they can have staff on-site at the courthouse. If there is a lack of appropriate services in your jurisdiction, consider ways in which existing agencies can build their capacity to serve victims through specialized training, grant opportunities, or collaborative partnerships.

Judges as well as court staff should become familiar with the agencies that can provide evidence-based services to the court and victim/defendants. When appropriate, the judge as well as court personnel can meet with the heads of each agency to better understand the scope of services, how to make referrals, and how compliance will be reported to the court in the event of a court mandate. Judges and court staff should keep in mind that compliance with federal orders regarding language access and the courts require that court-mandated services be able to serve LEP defendants. To comply with these statutes and ensure that defendants receive meaningful assistance, court outreach to culturally and linguistically specific services should be a priority.

Once services are identified and partnerships are forged, it is crucial to promote ongoing collaboration and stakeholder engagement. To do this, specific activities might include:

- Establishing liaisons with all stakeholders for victim service provision including agencies that serve diverse communities and offer services for LEP clients;
- Establishing protocols between these agencies and the court;
- Instituting cross-training programs;

- Providing a schedule for regular, ongoing stakeholder meetings; and
- Planning for the involvement of judges and court staff in outreach and training opportunities.

### LEGAL REPRESENTATION FOR VICTIM/DEFENDANTS

It is critical to ensure victim/defendants are represented by defense counsel trained on the dynamics of prostitution and human trafficking. It is also important to identify potential sources of legal representation for related matters where permitted by law, such as vacating prior convictions, as

well as civil legal service needs, such as immigration, child custody, and emancipation of minors. Agencies including public defender organizations, legal services and non-profit teams, lawyers for children, and the private bar may all be available to assist. It will be helpful to develop protocols for determining how volunteer attorneys can be linked to victim/defendants. Partnerships with the local police and prosecutor's office are also crucial to help protect victim/defendants and connect them to resources if they choose to file charges against their exploiters.

*See Appendix G for a Resource Mapping checklist.*

## STEP 5: CONDUCTING A SWOT ANALYSIS

Your team has collected data on various aspects of your jurisdiction's present response to human trafficking and prostitution-related offenses to better understand and assess current practice in order to develop an enhanced court response to these issues. Through this exercise, the team once again will review the information that has been collected and use it to identify and prioritize the gaps in practice. You should analyze what you know across the following four areas:

- **Strengths:** Identifying your strengths is important for two reasons: It affirms the good work you are already doing and identifies assets upon which you can build. Examples may include an interested judiciary, a specialized counseling services, interagency collaboration, and dedicated criminal justice staff for these cases.
- **Weaknesses:** The weaknesses you identify are your gaps or areas for enhancement. These are the issues about which you should be most concerned, as they are the obstacles that stand between where you are now and where you want to be. Examples may include high case volume, excessive probation caseload, lack of social services and housing, and difficulty of identifying victims within the system.
- **Opportunities:** Your data collection efforts may have uncovered opportunities you have not yet considered. For example, you may have identified untapped resources through your resource assessment, or discovered that your system is already operating efficiently at certain points in the court process. Examples may include training opportunities made available by victim service agencies and federal funding streams for new staff positions at probation and victim service agencies.

- **Threats:** It is also possible that you have identified threats to your work through your information collection process. For example, through your policy assessment you may have learned about case law of which you were unaware that impacts current practice, discovered best practice models that differ from your present policies, or you may encounter a political climate that is unfavorable toward your objectives.

### STEPS TO FOLLOW FOR SWOT ANALYSIS

You will want to consider each of these areas as you review current practices and identify your priorities for change. Use the steps below to guide your discussions.

1. With your stakeholder team, brainstorm “strengths,” “weaknesses,” “opportunities,” and “threats” on four separate sheets of flip chart paper.
2. Once the brainstorming session has been completed, synchronize these lists with your data collection reports and record the following on the appropriate flip chart pages.
3. Review the findings listed under “weaknesses.” Consider each and give team members a few minutes to indicate the items they deem of greatest importance. Have each person place a check mark on the flip chart next to the five findings they believe represent the greatest weaknesses in your current system. These priorities will become the first set of goals your team will address. Keep the original list of weaknesses as you may elect to pursue later.
4. Referring back to this list as you plan and once you are operational will be helpful to ensure you are reaching your goals and will assist you in prioritizing any solutions to challenges or threats identified.

## STEP 6: DOCUMENTING YOUR PLAN

Even with a short planning timeline, teams will discover the importance of creating a planning document. The planning document is the written version of all the policies and procedures developed during the planning process. Memorializing these protocols in writing helps to clarify the mission of the project, whether it is a specialized court, enhanced court response, or task force, and formalizes the roles and responsibilities of court and stakeholder staff, and helps to ensure the accountability of the court and

its partners. The planning document also serves as a reference for future personnel in the event of staff turnover. As the planning process continues, additional challenges will arise. In addition to being a touchstone for action, the planning document will also be a living document that can be updated to reflect needed changes and additions. A checklist is provided below to assist you in the creation and organization of your planning document.

### PLANNING DOCUMENT CHECKLIST

- Mission and goals of the court or the project.
- A list of planning team and/or task force members and additional stakeholders.
- The types of cases heard in the specialized docket and/or other dockets that may screen for trafficked individuals or those at risk of trafficking.
- Any court rules/statutes issues to support the creation of a human trafficking and/or prostitution diversion court, task force or enhanced court response.
- A staffing plan for the court, delineating additional court personnel needs, and job descriptions of proposed additional staff. The plan should identify existing court and stakeholder agency staff, including staff from existing problem-solving courts, who may perform some additional functions, including the roles and responsibilities of bi-lingual staff.
- Services for victim/defendants: list who will provide mandated and voluntary services (both legal and supportive counseling), where will services be provided, and how will referrals be handled.
- The presiding judge and back-up judge, if implementing a specialized docket.
- Trainings on human trafficking, sex trafficking, sexual exploitation of children, prostitution, trauma, effective court-based responses, and relevant laws that both community and justice system stakeholders will attend to increase knowledge and enhance case processing.
- Judicial monitoring of victim/defendants: outline the referral process to appropriate providers, reporting requirements, designation of a liaison from each program to the court, proposed scheduling of court appearances, and a supportive plan for victim/defendants who fail to comply.
- Technology being used in the court project (include who will be using which technology and for what purpose).
- A language access plan that describes procedures for requesting interpreters, guidelines for interpreter ethics and use of interpreters outside of the courtroom, and submitting formal complaints about interpreter quality.
- Evaluation plan for the project, and who will be responsible for evaluation.

# III. Operations and Procedural Justice: Adopting a Trauma-Informed Approach

## STEP 7: ANALYZING CASELOADS

In an effort to accurately measure the potential workload of an enhanced court response to human trafficking or prostitution, your planning team will need to conduct a careful review and analysis of cases eligible for adjudication and/or additional services. During this process, the planning team can help ensure that all eligible cases will be properly identified (and transferred to a specialized docket, if your jurisdiction is implementing one).

One way to understand your caseload is to create a Caseload Analysis. A Caseload Analysis can be performed for criminal, juvenile, or multi-jurisdictional court projects. This will help you determine the project's staffing needs, how often the docket will operate if a specialized docket will be implemented, and what impact the project will have on stakeholder agencies.

When conducting an analysis of cases that involve human trafficking or prostitution related offenses, the planning team will need to coordinate with court staff, the district attorney's office, public defender's office, probation, local law enforcement, advocates and child welfare agency staff (if your jurisdiction is focused on the commercial

sexual exploitation of children) to determine the best mechanism for identifying and tracking these cases.

In order to identify common avenues through which victim/defendants may enter the system, your planning team can consult the following sources of information:

- reports prepared by the investigating police agency;
- information on arrest reports;
- information from prosecutors' offices;
- information from defense attorneys;
- information from court case management systems; and
- information from child welfare and victim service stakeholder agencies (keeping in mind their confidentiality requirements)

Once the planning team has identified the type of case(s) on which they would like to focus, and consulted the above sources for additional information, an estimate can be made of the potential caseload in a specialized court or in an enhanced court response to human trafficking or prostitution related offenses.

## STEP 8: IDENTIFYING CASES & DOCKETING

Case identification is the process for flagging cases as potentially eligible for the enhanced or specialized court docket according to the parameters the planning team has chosen. When developing your case identification process, consider the following:

- How will cases be flagged initially? Some jurisdictions use screening tools<sup>3</sup> and look for red flags to determine case eligibility, whereas others are identified simply by arrest charge or history.
- What types of cases will be eligible?
- If a screening tool is used, will it be gender responsive?
- How will the needs of lesbian, gay, bisexual, transgender, and queer individuals be addressed?
- What are the language needs of victim/defendants and how will individuals with limited English proficiency be screened?
- When will cases be flagged and who will be responsible for identifying cases?
- What type of screening tool will be used and who will be administering it?
- Are there trauma-informed agencies that can assist with screening process?

Planning teams may need to work closely with the state criminal justice agency, court staff, the prosecutor's office, the defense bar, local law enforcement, the local child welfare agency, and community agencies and treatment providers with an expertise in trauma, domestic violence, sexual assault, mental health, and substance abuse to determine the best mechanism for implementing an evidence-based assessment to help identify and track these cases. The following sources of information may prove helpful in the process:

1. The state criminal justice agency;

2. Information on arrest reports;
3. Information from the district attorney's office;
4. Information from defense attorney's;
5. Automated Case Management Systems; and
6. Other indicators of trafficking specific to your area.

### DOCKETING

In addition to developing protocols for the identification of eligible cases, it is helpful to create procedures that ensure eligible cases are moved at the earliest possible stage to the specialized human trafficking or prostitution diversion court or docket.

It is important to identify and document who will be responsible for case identification, screening and docketing of cases. Some courts have one person responsible for this, while others have multiple people or agencies identifying the cases.

We recommend that the planning team consider creating a separate docket and/or training staff to be dedicated solely to human trafficking, prostitution, or individuals at risk of trafficking or the commercial sexual exploitation of children. A dedicated calendar typically includes monitoring compliance with mandated programs.

Many courts have found that dedicating trained staff and creating a specialized court facilitates improved information sharing and more efficient case management.

*For more information on case identification and screening tools, see the Center's publication on [Identifying and Responding to Sex Trafficking: A Guide for the Courts](#).*

<sup>3</sup> "Screening tool" refers to a brief, pre-trial instrument that can be used in justice system settings. It is recommended that a more in-depth assessment be administered once victim/defendants are identified and enter into the program.

## STEP 9: ENHANCING VICTIM SAFETY, CONFIDENTIALITY, & COURT RESPONSES TO TRAUMA

By identifying goals that will help keep victims safe in the courtroom, courts can better respond to potential trauma reactions among victim/defendants. Below are some suggestions for creating a safe and secure environment:

- Provide judicial trainings and interdisciplinary trainings for all court staff on trafficking, prostitution, and trauma;
- Create safety protocols for court staff (including clerks, security and interpreters) assigned to the trafficking/prostitution diversion court;
- Create a case management system that addresses confidentiality when cases intersect with the child welfare system or with social service providers;
- Provide a printed calendar for security and court staff to ensure identification of all litigants;
- Include sufficient security personnel who are well-trained in the area of trafficking and can identify and respond to subtle or overt intimidation by pimps/traffickers potentially present in the courtroom;
- Post clear and visible signs to direct litigants to needed services in all relevant languages;
- Invite advocates from local trafficking or domestic and sexual violence agencies to be present during each docket to assist with connecting victims/defendants with appropriate mandated services and counseling;
- Create a referral protocol for services addressing co-occurring issues (such as substance abuse or mental health services); and
- Implement a protocol for trauma and

victimization screening, typically conducted by qualified social workers/counselors at local social service agencies.

Victims of sex trafficking confront a number of complicated barriers to accessing justice via the courts because of involvement in prostitution, but it's important to remember the additional barriers for victims of sex trafficking posed by culture, language capacity, and gender identity. Victims face tremendous cultural stigma when speaking about involvement in commercial sex trades, and experiences from prior arrests or with the justice system in their country of origin may lead to distrust of the court. Fear about deportation or consequences for family members abroad may be issues for immigrant victims. "Trafficking" itself may not have a correlate in a victim's native language, making interpretation difficult. For all of these reasons, it is important to collaborate with culturally and linguistically specific service providers, and to consider the experience of an LEP litigant in your courthouse:

- Are forms and materials available in languages other than English?
- Will clerks be able to assist litigants in their language, or have access to remote interpreters or bilingual advocates?
- Does the court have "I Speak" posters or other signs that assist litigants in indicating their spoken language?
- Are there signs that indicate what languages are spoken in the courthouse?
- Are court security trained on how to respond to LEP litigants?

For more on trafficking, the courts, and cultural competency, see "[A Guide to Human Trafficking for State Courts.](#)"

## CONFIDENTIALITY

Confidentiality is critical in keeping victims safe throughout the court process. Traffickers, family, gang members, and others associated with the trafficker may be in the court room. Reducing the amount of publicly shared information can help protect the victim. Information such as: the name of service provider, location of provider, details of the defendant's past or current victimization/trafficking experiences - are several examples of the type of information that courts should be mindful of putting on

the record. Additionally, the court, lawyers and social service providers are likely to have different definitions of confidentiality based on profession and organization. In efforts to reduce confusion over varying types of confidentiality, the limits of confidentiality should be clear to all stakeholders, including the victim/defendant. Some questions to consider when handling varying definitions of confidentiality are: who needs the information? What will it be used for? Is it necessary to the case? Is it necessary for the victim/defendant's engagements in services?

## ENHANCING PROCEDURAL FAIRNESS & COMMITMENT TO TRAUMA-INFORMED CARE

Here are some strategies judges can incorporate into the court's practice to enhance procedural fairness and demonstrate a commitment to trauma-informed care:

- Ensure courtroom staff – court officers and bailiffs, clerks, attorneys, interpreters – receive training on prostitution, human trafficking and the impact of trauma on victims, as well as principles of procedural justice.
- Encourage courtroom staff to implement procedural justice principles, such as asking court officers to rethink how courtroom rules are posted, explained, and enforced in a way that is clear and respectful; and examining how court administration and attorneys communicate information about the defendant's case to her to ensure it is understandable and clear.
- Make eye contact with the defendant and when appropriate, address him/her directly, and offer him/her an opportunity to speak during court proceedings.
- Use plain language during court proceedings, particularly when speaking to the defendant.
- Limit on-the-record discussion the defendant's personal circumstances, including victimization and barriers to compliance, to ensure safety (if an exploiter or unsafe person is in the courtroom) and respect.
- Manage the courtroom to promote perceptions of fairness by minimizing wait times and treating all litigants and courtroom staff courteously to reinforce that the courtroom is a place of mutual respect.

## STEP 10: JUDICIAL MONITORING

Judicial monitoring of defendants is a key component in many problem-solving courts, including drug courts, domestic violence courts, and mental health courts, and can also be applied to traditional case processing of these case types. Defendants should have regular and frequent court appearances in front of a consistent judge trained in the dynamics of human trafficking and prostitution who also adheres to the principles of procedural justice. Strong judicial monitoring enhances compliance with court-mandated services and reduces recidivism. While the basic principles remain true for a human trafficking intervention or prostitution diversion court, there are several unique challenges to consider: the victim/defendant duality, high rates of recidivism, and the impact of trauma. These three elements require the court to be creative in their monitoring and understanding of compliance.

These circumstances pose a challenging question to the courts: how does the court hold the defendant accountable for his or her criminal act and accountable to complete mandated services, while knowing the defendant could be a victim of sex trafficking or other forms of violence? Addressing it requires a paradigm shift in which court staff and stakeholders move from viewing the defendant as a criminal to a victim who has complex needs and safety concerns that often lead to a cycle of recidivism.

Additionally, partnering with community-based providers who have expertise in working with victims of trafficking and trauma, LGBTQ clients, and limited English speakers will help to engage and identify victims and those at risk. These agencies can provide culturally sensitive, language proficient assessments and direct referrals to address victim needs. If your community does not have an agency that works solely with trafficking victims, explore local domestic

violence and sexual assault agencies to see if they have received specialized training in the areas of human trafficking, prostitution, and trauma.

Once adequate community-based partners are secured, it is recommended that the court create meaningful graduated responses that maximize the benefits of judicial monitoring without re-traumatizing a victim/defendant. It is important to remember all of the barriers victim/defendants face, and how difficult it is for them to safely leave dangerous, violent, and coercive situations. *See Appendix H for guidance in developing compliance monitoring protocols.*

Here are some strategies judges can use:

- Structure case dispositions and sentences to eliminate or significantly reduce criminal convictions and incarceration or placement in juvenile detention.
- Schedule regular court compliance dates. If the defendant is in compliance, reduce the frequency; if she is not, increase the frequency.
- Build a relationship with the victim/defendant by remembering her/his name, making eye contact and speaking directly to her/him when possible.
- Offer praise and encouragement when the victim/defendant succeeds with court mandates.
- Ask the defendant why they are struggling with noncompliance and/or re-arrest, and explore what the court can do to assist. Use a trauma-informed approach and plain language that will encourage the defendant to view the court as a place of safety and concern, not punishment and fear.
- Involve the victim/defendant in decision-making about how to respond to noncompliance or re-arrest. For example, ask if s/he need additional or new services that are more responsive to her/his needs;

schedule court dates and other obligations on dates/times most convenient for the victim/defendant; remain flexible in helping her/him access services and overcome barriers.

- Use community-based responses to noncompliance or re-arrest. Use a graduated approach to increase the duration of court-

mandated social services; consider adding a new service component to the mandate, such as drug treatment, trauma counseling, or an educational or employment program. Consider responses such as court-mandated community service or personal essay if necessary to enhance accountability.

## STEP 11: BEING A JUDICIAL LEADER

Judicial leadership can have a strong impact on case outcomes, particularly in cases involving prostitution and human trafficking. The role of the judge goes beyond the bench and might include:

- **Convening Stakeholders:** Interagency collaboration is crucial to ensuring communication, consistency, and continuing education about the court and issues of human trafficking. The judge has the unique ability to convene stakeholders and bring community resources to the court to identify and address the needs of human trafficking victims in the court. The judge can be a catalyst and a convener, providing leadership to the collaboration. Judges should invite all of the court's partners—representatives from the prosecutor's office, the defense bar, court security officers, victim advocates, child welfare, treatment providers, law enforcement, interpreters, social service providers and probation—to participate in regular meetings. The meetings create an opportunity to clarify and understand the court's expectation of everyone's roles in the enhanced response to trafficking or prostitution related offenses and fosters ongoing communication about community efforts to address trafficking. Partner meetings can also focus on strengthening outreach to underserved communities and devising preventive education models.
- **Creating a trauma-informed courtroom that implements procedural justice strategies:** A key component of an effective court response to prostitution and human trafficking is creating a trauma-informed courtroom, led by the judge and implemented through all aspects of court operations. A trauma-informed

system, agency or organization: 1) realizes the widespread impact of trauma and understands potential paths for recovery; 2) recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system; 3) responds by fully integrating knowledge about trauma into policies, procedures, and practices; and 4) seeks to actively resist re-traumatization.<sup>4</sup> The approach is not just about linking victim/defendants to trauma-informed services, but rather adapting practices that demonstrate the court as a place of concern and safety, not fear and punishment.

In addition to adopting a trauma-informed approach, incorporating the principles of procedural justice in the judge's practice creates a humane and effective response to victim defendants. Research strongly supports enhancing procedural justice (or fairness) to increase litigants' compliance with the law and court obligations. The key elements of procedural justice are:

**Voice:** litigants are given the opportunity to tell their story;

**Respect:** litigants perceive that the judge, attorneys, and court staff treat them with dignity and respect;

**Neutrality:** litigants perceive that the decision-making process is unbiased and trustworthy;

**Understanding:** litigants understand their rights and the decisions that are made;

**Helpfulness:** litigants perceive that court actors are interested in their personal situation to the extent that the law allows.<sup>5</sup>

4 | See SAMSHA <http://www.samhsa.gov/nctic/trauma-interventions>

5 | See, e.g., Tom R. Tyler. WHY PEOPLE OBEY THE LAW (2006).

# IV. Training, Evaluation and Communication: Keeping Your Project on Track

## STEP 12: TRAINING

Understanding the dynamics of human trafficking and prostitution, including new research and national best practices, is crucial to ensure both the readiness to begin a specialized response as well as the ongoing success of your court project. Outlining training resources and integrating training into your planning and ongoing operations is a key step in the planning process.

### JUDICIAL TRAINING

An informed judiciary is vital to the efficacy of all court responses to human trafficking and those at risk of trafficking. In addition to providing education on the dynamics of prostitution, trafficking, and trauma, trainings targeted specifically to judges can provide tools for handling the nuts-and-bolts legal issues of these cases and give a stronger sense of the roles judges play in and out of the courtroom to help victim/defendants achieve safety and success in court or community-based programming. *Please refer to Appendix I for a list of recommended training resources.*

### ON-SITE LOCAL TRAININGS

Planning teams can take a leadership role to help engage and educate court staff, court stakeholders, and the community at large

about human trafficking by organizing and providing on-site trainings at the courthouse.

A useful approach is to first consult with any local organizations focused on trafficking, or local domestic violence and sexual assault service providers who understand the overlap between domestic violence, sexual assault, and sex trafficking, to choose a training topic and to select local advocates/experts to conduct the training. Possible topics include: General Introduction to the Dynamics of Human Trafficking; Identifying Justice-Involved Victims and Understanding Their Needs; Developing a Court & Community Response: What Works in Other Jurisdictions?; and The Overlap Between Domestic Violence and Sex Trafficking.

### NON-JUDICIAL PERSONNEL, INCLUDING COURT STAFF, SECURITY, AND INTERPRETERS

Knowledge of the dynamics of human trafficking among court staff and stakeholders (i.e., clerks, court interpreters, or court security staff) is essential to creating a responsive court. Court staff often serve as a key intercept for identifying victim/defendants and those at risk of victimization, and the demeanor of the court staff will impact a victim's overall experience and level of trust in the "system."

## STEP 13: EVALUATING & MEASURING SUCCESS

Your planning team will want to be able to monitor and assess the performance of a court response to human trafficking, prostitution, or commercial sexual exploitation of children once the specialized court or enhanced response has been implemented. One strategy is to obtain an independent evaluation of your project's implementation and impact by assessing a variety of factors, including recidivism, screening protocols that screen for trafficking victims and those at-risk, connecting victims to services, compliance rates, or other outcomes. In addition, whether or not you decide to invest in a formal evaluation, it is useful to take some simple steps towards "self-evaluation"—determining your project's most important goals and objectives, identifying a simple, short list of key performance measures to monitor your progress, and instituting a data collection protocol to ensure that you can actually track the measures you identified.

An independent evaluation can provide an objective assessment of your project. Most evaluation activities fall within two categories:

**Process Evaluation:** A process evaluation helps answer how a court response to human trafficking has been planned and implemented. Such an evaluation typically gives a qualitative account of the court's goals, objectives, policies, operations, staffing and resources, overall strengths, and barriers. Also, a process evaluation typically includes a quantitative portrait of basic descriptive and performance information – e.g., distribution of demographics; number of victim/defendants identified; number and percent of victim/defendants linked with services; disposition outcomes; and program completion rates. Ideally, a process evaluation will assess the fidelity of the program to its own operational plan and will identify potential problem areas that might require changes in strategy.

**Impact Evaluation:** An impact evaluation describes the impact of the human trafficking/prostitution diversion court in achieving its goals. A proper impact evaluation must involve a comparison between cases processed via a specialized response and cases not processed in a targeted way. One method is to compare outcomes among victim/defendants before and after the enhanced response is put into place. This is known as a "pre-post" design. Another common method is to compare outcomes in a human trafficking/prostitution diversion court to those obtained during the same period of time but in a nearby jurisdiction that does not have a specialized court. This is a "comparison site" design. When using such a design, it is important for the comparison jurisdiction to have very similar population demographics (e.g., indicating similarities in the race, income, and educational backgrounds) and similar police, prosecutorial, court, and probation practices in all respects other than those directly stemming from the human trafficking/prostitution diversion court itself. Although justice system research often focuses on "recidivism" as the key outcome in an impact evaluation, in a human trafficking/prostitution diversion response, it is important to set and investigate realistic impacts that can be controlled within the initiative, such as identifying victims, linking them to services, and reducing collateral consequences. The specific "impacts" under investigation should follow from the project's own goals and objectives and not from the interests or preconceptions of the evaluator.

*To help secure an independent evaluation, consider local academic institutions that might be interested in evaluating your project or apply for government or private grants that fund relevant research projects.*

## STEP 14: SUSTAINING COLLABORATION

Continued communication among stakeholder agencies will help to encourage ongoing interagency cooperation and elicit helpful feedback and solutions regarding your court enhancement project. Each community faces unique challenges when developing their court response to human trafficking/prostitution diversion. This toolkit was designed to address many of these challenges and to provide a framework for your planning process.

The activities within this toolkit encourage the court and community partners to work together to map existing community responses to trafficking and prostitution

related offenses, identify possible gaps in response and practice, determine what is needed to address these gaps, implement the necessary changes in court operation, and design measures for court evaluation. Although these activities culminate in a planning document, inter-agency collaboration should continue throughout the implementation process and beyond. Ongoing and consistent communication, periodic meetings and training with the planning team, and continued evaluation of court goals and operations are vital to the court's ability to effectively respond to the needs of trafficking victims and those at risk of trafficking within your community.

# APPENDIX A:

## Planning Checklist

Before launching a court-based human trafficking/prostitution diversion initiative, planners should engage a multi-disciplinary group of stakeholders in planning efforts and develop a strong concept. During this process it is important to keep in mind that individuals charged with prostitution first appear before the court as defendants. It might be revealed at a later point, however, that the defendant was forced into prostitution, is trafficked, or is experiencing victimization. It is therefore suggested that planners consider this duality when designing all project components.

What follows is a sample checklist and focusing questions that can be used as a framework to guide the step-by-step planning process.

### PHASE I: GETTING STARTED

**Establish a project name and define goals.**

**Identify key stakeholders and convene for collaborative planning. Possible players include:**

- Judge
- Court administrator/coordinator
- Court security
- Court interpreter's office
- Prosecutor
- Defense bar
- Service providers (including: anti-trafficking, domestic violence, sexual assault, mental health, substance abuse, LGBTQ, youth, culturally and linguistically competent agencies)
- Law enforcement
- Probation
- Child Welfare (if a commercial sexual exploitation of children project)

### PHASE II: PLANNING AND ASSESSMENT

**Data collection.**

- What kind of data should be collected?
- Where is the data stored?
- Who will collect the data and how?

- Who will analyze the data?
- How will the data be used?

**Map resources to build a roster of social service options.**

- What community-based services are available? Have formal partnerships been established?
- Are a wide range of services available that meet victim/defendant needs? What is their language capacity?
- How will referrals be handled?

**Conduct a SWOT analysis.**

- What are the strengths, weaknesses, opportunities, and threats?
- How do these relate to the data?
- What are the key weaknesses that should be targeted?

**Determine staffing needs.**

- Who are the core staff that are essential to realize this initiative?
- What role will partner agencies play?
- How many LEP litigants are anticipated? Does the court have the interpreter capacity to respond appropriately?

**Set launch date.**

- What is the phasing plan for implementation?

### PHASE III: OPERATIONS AND PROCEDURAL JUSTICE

**Determine case types and caseload projections.**

- Have you considered cases beyond prostitution-related offenses (i.e. drug cases, shoplifting, juvenile delinquency, or dependency)?
- How many cases of this type have been processed in the past six months as a baseline?
- How many individuals can realistically be served by the initiative?
- What is the estimated volume during each implementation phase and will it increase incrementally?

**Decide on case identification and assessment process.**

- Who will be responsible for identifying cases and conducting an assessment?
- What type of assessment will be used?
- How will the information revealed during the assessment be used, shared, and protected?

**Create a paradigm that recognizes the victim-centered case flow process.**

- How are cases currently processed and how will this change under the new initiative?
- What is the earliest point that victim/defendants can be provided alternatives to detention and/or diverted from the system?
- How will safety needs be addressed in and out of the courtroom?

**Develop dispositional options.**

- How will cases be resolved without criminal convictions or incarceration?
- How will victim/defendants be linked to services?
- Are the alternative conditions proportionate to the traditional sentence?

**Establish compliance monitoring protocols.**

- Who will be responsible for tracking compliance info and reporting to the court?
- What info is required by justice system stakeholders and how will it be shared by service providers in a way that protects confidentiality?
- How frequently will cases be calendared for compliance and who will be involved?
- What happens if victim/defendants are non-compliant or get rearrested? Have you considered developing graduated sanctions to allow room for failure?

#### PHASE IV: TRAINING, EVALUATION, AND COMMUNICATION

**Determine training needs.**

- What training is needed?
- What training opportunities are available?

**Create an evaluation plan.**

- What data is currently being collected and what additional data elements are needed?
- How will data be collected (database or MIS?) and who will be responsible for providing statistical updates?
- What metrics will be used to monitor performance and impacts?

**Promote ongoing collaboration and capacity building.**

- How will you sustain involvement of key justice and community-based partners?

# APPENDIX B:

## Planning Timeline

In the first three to six months of planning, Center for Court Innovation staff advises your community to:

### PHASE I: GETTING STARTED

- Set goals and objectives to determine what your court response should look like.
- Identify court staff and community partners to participate in the court planning process.

### PHASE II: PLANNING AND ASSESSMENT

- Assess your community's current approach to trafficking/prostitution-related offenses and to cases involving potential victims of human trafficking.
- Map resources in your jurisdiction.
- Identify your community's strengths and weaknesses in responding to human trafficking, potential obstacles, and how these obstacles are best overcome.
- Develop a planning document and action plan delineating project objectives, responsible parties, and timeline.

### PHASE III: OPERATIONS AND PROCEDURAL JUSTICE

- Conduct a caseload analysis.
- Investigate and apply for grant funds to support your court response and services for victim/defendants.
- Plan a site visit to an existing court project with attributes similar to yours.
- Work with court administrators to discuss case identification, compliance review, and linkages with social service agencies.

### PHASE IV: TRAINING, EVALUATION, AND COMMUNICATION

- Attend training sessions on human trafficking, trauma-informed practices, specialized court responses, procedural justice, and the role of the judge.
- Develop internal court and stakeholder procedures/protocols between the court and stakeholder agencies; develop performance measures and evaluation plans.
- Memorialize your court response objectives, policies, and procedures in a written document.
- Set a launch date.

# APPENDIX C:

## Guidelines for Setting Goals and Objectives

Identifying and prioritizing the goals and objectives of your jurisdiction's response to trafficking and/or prostitution will be the first step in determining what your initiative will look like. The planning team may use information gathered during an analysis of current practice as a guide during this process.

### GOALS

The goals you identify will articulate the overall mission and purpose of the court's response, not specific methods or numeric targets. When determining the mission, keep in mind that a goal:

- Is a broad statement;
- May be short, intermediate, or long-term in nature;
- Provides overall focus, vision, and direction; and
- Should be believable, attainable, and based on identified needs.

For instance, many specialized human trafficking courts or enhanced court responses define victim safety and counseling/treatment as important goals. Consider whether these goals resonate with your court's planned response, and whether you will include additional goals in your vision for the court. Other common goals to consider include:

- Redefining success to take coercion/victimization into account;
- Educating the judiciary and court stakeholders about human trafficking and risk factors for trafficking; and
- Improving stakeholder collaboration in and outside of the justice system.

### OBJECTIVES

Your team will also want to consider what objectives you will set for each identified goal. Objectives explain how each goal will be achieved. When determining these measures, keep in mind that "SMART" objectives are:

- As **S**pecific as possible;
- **M**asurable, in order to determine progress toward your stated goal(s);
- **A**chievable, given available time, staffing, and resources;
- **R**elevant to the goals, needs, and interests of the community; and
- Able to specify a time-frame for when they will be accomplished.

For example, if victim safety is identified as a goal of the court, you may want to set an objective of linking 75 percent of identified victims to a victim advocate within the first year of operation. Other objectives might include:

- Screening all related cases for signs of trafficking and social service needs;
- Holding monthly court stakeholder or task force meetings; and
- Holding weekly case review hearings for all victim/defendants mandated to programs.

# APPENDIX D:

## A Menu of Suggested Performance Measures for Human Trafficking and Prostitution Diversion Courts

### PERFORMANCE INDICATORS

A performance indicator is a discrete, specific, and quantifiable measure of progress towards an objective. These measures (for example, measures of specific activities like identifying and assessing victims, treatment linkages, judicial monitoring, etc.) allow for the assessment of the implementation of individual project objectives. Clear and accurate performance indicators will demonstrate fidelity to the intended model. Performance indicators are a tool for administrators and managers to monitor program implementation and make mid-course adjustments as needed.

Individuals charged with prostitution first appear before the court as defendants, however, it might be revealed at a later point that the defendant was forced into prostitution or is experiencing victimization. While recidivism is an important indicator of success, it is difficult to gauge accurately when working with victim/defendants that may be in coercive situations and forced into criminal behaviors. The following goals and performance measures are, therefore, more realistic indicators and designed to address the victim/defendant duality. What's more, it is important to note that all suggested diversion conditions and sanctions should consider this duality and be proportionate to the traditional sentence.

The following list of performance indicators have been adapted from other problem-solving courts – including domestic violence, community, and drug courts – and are based on experience operating prostitution diversion courts in New York. To learn more about universal measures for problem-solving justice, see “What Makes a Court Problem-Solving?” by the Center for Court Innovation.

## SAMPLE MENU OF PERFORMANCE INDICATORS

Goal	Objective	Performance Indicator
<b>Enhance Victim/ Defendant Safety and Reduce Barriers</b>	Potential victim/ defendants are identified and receive needs assessment	<ul style="list-style-type: none"> <li>• Number and percent of victim/ defendants identified and receiving needs assessment</li> <li>• Types of barriers and needs identified through assessment</li> </ul>
<b>Enhance Victim/ Defendant Safety and Reduce Barriers</b>	Potential victim/ defendants are diverted to advocacy and social services	<ul style="list-style-type: none"> <li>• Number and percent of victim/ defendants diverted to services</li> <li>• Time from arrest/case filing to diversion</li> </ul>
<b>Enhance Victim/ Defendant Safety and Reduce Barriers</b>	Potential trafficking victim/defendants are identified and diverted to services	<ul style="list-style-type: none"> <li>• Age of trafficking victim/ defendants identified</li> <li>• Number and percent of trafficking victim/defendants identified and diverted to services</li> </ul>
<b>Enhance Victim/ Defendant Safety and Reduce Barriers</b>	Potential trafficking victim/defendants are diverted to services expeditiously	<ul style="list-style-type: none"> <li>• Length of time between arrest and access to services before initiative pre/post project launch</li> <li>• Distance trafficking victim / defendants have to travel to access services</li> </ul>
<b>Enhance Victim/ Defendant Safety and Reduce Barriers</b>	Collateral consequences are reduced for potential trafficking victim/ defendants	<ul style="list-style-type: none"> <li>• Overall case outcomes</li> <li>• Number and percent of cases resolved without a criminal conviction</li> <li>• Number and percent of cases resolved with a non-jail disposition</li> <li>• Number and percent of convictions vacated, both past and present</li> </ul>
<b>Enhance Victim/ Defendant Safety and Reduce Barriers</b>	Courtroom staff create a safe environment for trafficking victim/ defendants	<ul style="list-style-type: none"> <li>• Court staff (judge, court officers, clerks, interpreters, etc.) receive formal training on trafficking, prostitution, trauma reactions, etc.)</li> </ul>
<b>Individualized Treatment or Service Mandate</b>	Court links victim/ defendant to appropriate services	<ul style="list-style-type: none"> <li>• Number and percent of victim/ defendant linked to each type of service or program (e.g., counseling, advocacy, legal services, drug treatment, etc.)</li> </ul>

<b>Individualized Treatment or Service Mandate</b>	Court uses continuum of treatment modalities and services that address victim/defendant needs	<ul style="list-style-type: none"> <li>• Number of treatment modalities and services</li> <li>• Number of providers per modality or service type</li> <li>• New services are developed as needed</li> </ul>
<b>Direct Engagement of Victim/Defendant</b>	Judge engages in direct interaction with victim/defendant	<ul style="list-style-type: none"> <li>• Regular judicial compliance hearings</li> <li>• Judge directly converses with victim/defendant about progress</li> </ul>
<b>Direct Engagement of Victim/Defendant</b>	Judge explains responsibilities and decisions to victim/defendants	<ul style="list-style-type: none"> <li>• Judge explains mandates and decisions in plain language</li> <li>• Judge reiterates responsibilities at each status hearing</li> </ul>
<b>Direct Engagement of Victim/Defendant</b>	Court staff and attorneys engage with victim/defendants	<ul style="list-style-type: none"> <li>• Staff address and respond to victim/defendant</li> <li>• Staff reiterate court mandate, goals and purpose</li> </ul>
<b>Direct Engagement of Victim/Defendant</b>	Dedicated justice system players and service providers engage with victim/defendants	<ul style="list-style-type: none"> <li>• Consistent judge, prosecutor, and defense attorney throughout the case</li> <li>• Consistent service provider works with victim/defendant</li> </ul>
<b>Focus on Outcomes</b>	Court retains victim/defendant in program	<ul style="list-style-type: none"> <li>• Completion rate</li> <li>• 3, 6, and 12 month retention rates (if appropriate)</li> <li>• Total time in program (for both graduates and failures)</li> </ul>
<b>Focus on Outcomes</b>	Court focuses on behavior changes beyond case completion	<ul style="list-style-type: none"> <li>• Total time engaged in services (for both graduates and failures)</li> <li>• Number and percent of victim/defendants engaged in services voluntarily</li> <li>• Types of treatment services and modalities</li> </ul>
<b>Focus on Outcomes</b>	Reduction in substance use	<ul style="list-style-type: none"> <li>• Frequency of drug testing</li> <li>• Percent of victim/defendants achieving substance-free milestones</li> </ul>
<b>System Change</b>	Stakeholders learn about human trafficking and the dynamics of prostitution	<ul style="list-style-type: none"> <li>• Justice system stakeholders and team members have formal training in relevant social issues (trafficking, trauma, domestic violence, sexual assault, etc.)</li> </ul>

<b>System Change</b>	Court reaches sizable population (relative to size of the eligible target population)	<ul style="list-style-type: none"> <li>• Individuals screened for court entry</li> <li>• Individuals accepted into court</li> </ul>
<b>System Change</b>	Reduce the length of time between arrest and arraignment/disposition	<ul style="list-style-type: none"> <li>• # of days between arrest and arraignment/disposition pre/post project launch</li> </ul>
<b>System Change</b>	Reduce the use of jail for victim/defendants	<ul style="list-style-type: none"> <li>• Dispositions for victim/defendants pre/post project launch</li> <li>• Non-compliance outcomes pre/post project launch</li> </ul>
<b>Justice System Collaboration</b>	Justice stakeholders collaborate on court policies and case-level decisions	<ul style="list-style-type: none"> <li>• Attorneys, supervision agencies, judiciary and other stakeholders involved in court planning</li> <li>• Dedicated attorneys and dedicated judge</li> <li>• Less adversarial communication in courtroom</li> </ul>
<b>Justice System Collaboration</b>	Justice stakeholders collaborate to improve the response to human trafficking	<ul style="list-style-type: none"> <li>• Judges, attorneys, law enforcement, and other stakeholders develop a strategy to address human trafficking</li> <li>• Strategic elements are implemented</li> </ul>
<b>Social Service Provider Collaboration</b>	Court and service providers collaborate to offer services and assess victim/defendant progress/compliance	<ul style="list-style-type: none"> <li>• Service providers and supervision agencies included in court planning</li> <li>• Service providers and supervision agencies informed about hearings</li> <li>• Clinical case reports routinely delivered to court</li> </ul>
<b>Social Service Provider Collaboration</b>	Court and service providers both participate in case review meetings	<ul style="list-style-type: none"> <li>• Case review meetings regularly held</li> <li>• Case review meetings include central stakeholders</li> <li>• Case review meetings result in decision-making for each case discussed</li> </ul>
<b>Victim/Defendant Accountability</b>	Victim/defendants have practical incentive to complete court mandates with understanding of existing barriers	<ul style="list-style-type: none"> <li>• Judge specifies consequences of compliance and noncompliance to participant (intermediate incentives, sanctions, and/or final sentence)</li> <li>• Stated consequences always or nearly always adhered to in practice</li> </ul>

<b>Victim/Defendant Accountability</b>	Victim/defendants expect sanctions and incentives to match behavior with understanding of entrenched population	<ul style="list-style-type: none"> <li>• Continuum of graduated sanctions and incentives are used</li> </ul>
<b>Service Provider Accountability</b>	Service providers accurately and regularly inform court about victim/defendant progress	<ul style="list-style-type: none"> <li>• Clinical case and service reports are timely and accurate</li> <li>• Reports include all pertinent information (e.g., details about attendance, participation, compliance, progress)</li> <li>• Reports are provided in specified format (paper, oral, electronic)</li> </ul>
<b>Service Provider Accountability</b>	Service providers use a specified and effective program model	<ul style="list-style-type: none"> <li>• Program model is clearly described in provider materials</li> <li>• Program has and adheres to an operations manual that reflects program model</li> <li>• Program model is supported by literature about treatment efficacy, best practices, and/or evidence-based practices</li> <li>• Participants receive services that correspond to program model</li> </ul>
<b>Service Provider Accountability</b>	Court assesses social service delivery	<ul style="list-style-type: none"> <li>• Court verifies licensing and compliance with state requirements</li> <li>• Court conducts periodic site visits</li> <li>• Court queries victim/defendants about experience in social service programs (e.g., survey, exit interview)</li> <li>• Court addresses participant claims of incident with service providers, as appropriate</li> </ul>
<b>Court Accountability</b>	Court relies on up to date data for case decisions and tracking	<ul style="list-style-type: none"> <li>• Information system includes screening, assessment, participation status, service, and compliance data</li> <li>• Court uses linkage agreements to define scope of service, share data and maintain confidentiality</li> </ul>

<b>Court Accountability</b>	Court monitors its implementation and outcomes	<ul style="list-style-type: none"> <li>• Participant characteristics, program placement, compliance, and outcome information (i.e., graduates and failures) collected and aggregated at least annually</li> <li>• Court shares outcomes with justice system stakeholders</li> </ul>
<b>Court Accountability</b>	Court coordinated by single model and point person	<ul style="list-style-type: none"> <li>• Dedicated coordinator/manager</li> <li>• Court has and adheres to an operations manual</li> </ul>

# APPENDIX E:

## Data Analysis Checklist

### LAW ENFORCEMENT

- Arrest rates by crime and area
  - Juvenile and adult
  - Felony and misdemeanor
  - Demographics of arrests
- Summons or administrative violations data
- Staffing: Dedicated law enforcement officers or bureaus
- Types of relevant training received

### PROSECUTION

- Length of time between arrest and case filing
- Deferred prosecution/diversion
- Diversion outcomes by charge
- Conviction rates by charge
- Staffing: victim advocates and specialized bureau
- Types of relevant training received

### PROBATION/PAROLE

- Number of defendants (or juveniles) under supervision by area or district
- Demographics
- Services offered to defendants
- Types of offenses charged and under supervision
- Revocation data
- Types of relevant training received

### COURT SYSTEM

- Length of time between arrest and first appearance
- Charges brought to court organized by specific charge and category

- Defendant demographics; other information available?
- Numbers of defendants with prior charges
- Staffing: dedicated judge and court
- Interpreter services capacity and accessible materials
- Types of relevant training received
- Disposition data
  - Types and rates of dispositions adjudicated by court (dismissed, declined prosecution, convicted, etc.)
  - Sentencing outcomes (time served, jail, juvenile detention, alternative sanctions, etc.)
  - Types and rates of alternative sanctions used by court (counseling, community service, substance abuse treatment, mental health counseling, etc.)
  - If monitoring compliance, data on compliance rates
  - Time to disposition

#### VICTIM SERVICES/SOCIAL SERVICES

- Number of victims (including at-risk victims) served: from both community-based and system-based sources
- Victim demographics: commonly spoken languages other than English
- Staffing: credentials and training
- Types of services provided
- Culturally and linguistically specific services available
- Length of services
- Completion rates for both mandated and voluntary participants
- Distance victims travel to access services

#### OTHER COMMUNITY-BASED SERVICES

- Domestic violence and sexual assault service providers
- Substance abuse service providers
- Mental health services providers
- Child welfare agencies
- Other: \_\_\_\_\_

# APPENDIX F:

## System Mapping

One of the most effective ways to develop an understanding of your current practices is to develop a system map. A thorough system map will allow a court planning team to clearly define the current processes and identify problem areas. System mapping involves diagramming all of the steps of the court process, beginning with identification of a “red flag” for trafficking identified by police, prosecutors, or other front-end court stakeholders, and ending with a case disposition. In addition to detailing the processing of a case, a system map should include the following elements:

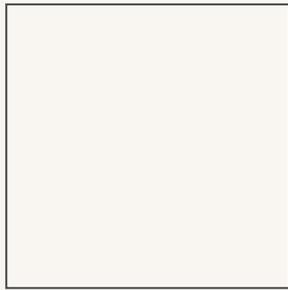
- The major steps and key decision points in the system.
- The key decision makers at each point in the system.
- The amount of time it takes a case to move from one point to the next.
- The volume of cases moving through (or leaving) the system at each point.

### CREATING YOUR MAP

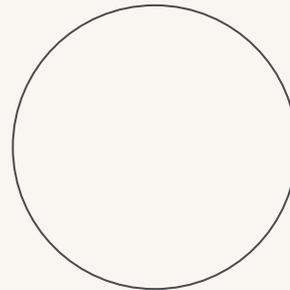
1. Identify the first step in the case-flow process from the time of the arrest/entry of a possible trafficking victim into the “system.” Place this at the beginning of the map inside the appropriate shape (see key and shape definitions below).
2. Continue discussing and drawing each subsequent step (and placing them in the appropriate shape) until the entire process is diagrammed.
3. Draw arrows from one step to the next. Use solid lines between those steps that are guided by formal policy or procedure; use dashed lines between those steps that are guided by informal practices.
4. Review each decision point on the system map. Identify and list the decision makers involved at each point on the map; this step will help you identify additional stakeholders who may not currently be part of your planning team. Consider how decision points might differ in cases involving LEP litigants and what additional steps are needed.
5. Number each step in the process to ensure clarity. This will allow you to refer to specific steps in the process at a later point.
6. Go back through your map and add quantitative information such as case volume, average time from step to step, or agency capacity information.
7. Work with your team to ensure the map accurately represents the process from start to finish, but keep this document as simple as possible—the primary objective is to make the map clear so the process under review can be readily understood by all stakeholders and improvements easily identified.

8. Use this map as a planning tool to help guide decisions regarding staffing, resources, protocols, and policies.

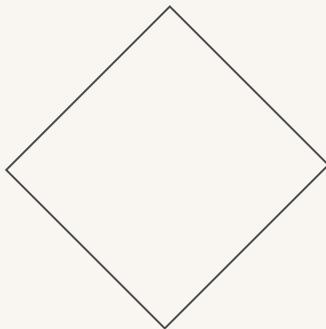
### SHAPE KEY AND DEFINITIONS



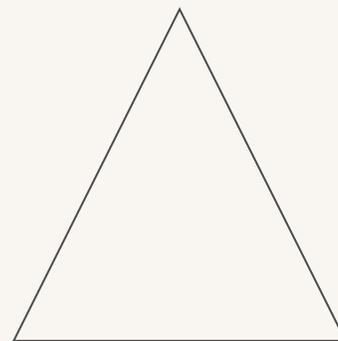
Input: the initial step in the process



Process: each step that is not a decision point



Decision Point: steps in the process where more than one



Terminus: the final step in a stream of activity that terminates all other actions (e.g., “case closed”)

# APPENDIX G:

## Mapping Community Resources

Resource mapping is the process of identifying and documenting community-based assets, such as legal and social service providers, advocacy organizations, and housing facilities that can serve as potential resources or partners in a human trafficking initiative.

### MAPPING TIPS

- In all likelihood, you do not need to start from scratch. Begin by researching existing lists – from local task forces or coalitions, social service agencies, or national resources like the Department of Health and Human Services – and then build on and update what’s already there.
- Use the checklist below to begin making your list of key community “asset” categories your mapping exercise should cover. What resources does your population need? Consider all of the key domains (housing, legal services, advocacy, counseling, etc.) along with the age of your clients, language and cultural needs, and accessibility to the court.
- Schedule in-person meetings with potential partner agencies so you can see first-hand where you will refer clients to and the quality of services provided. During these meetings, discuss the types of services offered, assessment tools, the use of evidence-based practices, referral and compliance monitoring protocols, and how to overcome any confidentiality concerns.
- Once you have identified quality resources and strong partner agencies, consider institutionalizing the relationship with a formal linkage agreement or memorandum of understanding. This will help clarify agency roles and avoid service disruptions if there are changes in leadership.

### CHECKLIST: MAKE SURE YOU INCLUDE ...

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Advocacy Groups                                | <input type="checkbox"/> Faith Community   | <input type="checkbox"/> Law Enforcement/<br>Probation                           |
| <input type="checkbox"/> Arts Programs                                  | <input type="checkbox"/> Government Agencies/<br>Officials                                 | <input type="checkbox"/> Legal Services (criminal,<br>family, immigration, etc.) |
| <input type="checkbox"/> Benefits Assistance                            | <input type="checkbox"/> Hospitals   | <input type="checkbox"/> Mental Health Services                                  |
| <input type="checkbox"/> Case Management                                | <input type="checkbox"/> Housing (including DV<br>shelters and homeless<br>youth shelters) | <input type="checkbox"/> Mentoring Programs                                      |
| <input type="checkbox"/> Defense Bar                                    | <input type="checkbox"/> Immigration Resources   | <input type="checkbox"/> Medical Services  |
| <input type="checkbox"/> Domestic Violence &<br>Sexual Assault Services | <input type="checkbox"/> LGBTQ Services  | <input type="checkbox"/> Prosecutor’s Offices                                    |
| <input type="checkbox"/> Drug/Alcohol Treatment                         | <input type="checkbox"/> Language Interpreter<br>Services                                  | <input type="checkbox"/> Trauma Counseling                                       |
| <input type="checkbox"/> Educational/Vocational<br>Services             |  | <input type="checkbox"/> Victim Services Agencies                                |
|   |  | <input type="checkbox"/> Child Welfare Agencies                                  |

# APPENDIX H:

## Developing a Plan for Judicial Monitoring

When developing a plan for judicial monitoring of compliance, you will want to consider the following:

- Who will be responsible for tracking compliance information and reporting to the court?
- What information is required by justice system stakeholders and how will it be shared by service providers in a way that protects confidentiality?
- How frequently will cases be calendared for compliance and who will be present at the hearings?
- What happens if victim/defendants are non-compliant or get rearrested? Have you considered developing graduated sanctions to allow room for failure?

Here is an example of how graduated sanctions can be used to promote accountability and give victim/defendants multiple opportunities to succeed. **Please note: the number of days of the mandate should be proportionate to the alternate jail sanction in your jurisdiction and, therefore, the length of engagement may vary widely across jurisdictions.** The following is just one example based on a Human Trafficking Intervention Court in New York City.

Examples of enhanced sanctions might include:

Alternative Sanction	1st Attempt	2nd Attempt	3rd Attempt	4th Attempt
Social Service	5 Days of Counseling	10 Days of Counseling	20 Days of Counseling	Assessment and case-by-case determination.
Community Service	N/A	As appropriate	As appropriate	

- More frequent or intensive counseling that is proportionate to the weight of the case and is trauma-informed. For example, the required days of counseling may increase from two to four times per week.
- A change in treatment modality or an additional treatment component. Victim/defendants experiencing trauma, for instance, may need to participate in both drug treatment and trauma-informed counseling if drug treatment alone fails to address their needs.
- Meaningful community service that helps connect victim/defendant to community-based services.
- Following-up with individualized case management plans, such as housing or medical referrals.

# APPENDIX I:

## Judicial Training Resources

### HUMAN TRAFFICKING AND THE STATE COURTS COLLABORATIVE

[www.htcourts.org](http://www.htcourts.org)

#### *Collaborative Members:*

Center for Public Policy Studies  
(303) 478-8500  
<http://www.centerforpublicpolicy.org/>

Center for Court Innovation  
(646) 386-3100  
<http://www.courtinnovation.org/topic/human-trafficking-0>

National Association of Women Judges  
(202) 393-0222  
<http://www.nawj.org/>

National Judicial College  
(800) 255-8343  
<http://www.judges.org/>

Legal Momentum  
(212) 925-6635  
[www.legalmomentum.org](http://www.legalmomentum.org)

National Council of Juvenile and Family Court Judges  
(775) 784-6012  
<http://www.ncjfcj.org/>

See also *A Guide to Human Trafficking for State Courts*, Chapter 11, “Human Trafficking Resources for Judges and Court Practitioners,” available at [www.htcourts.org](http://www.htcourts.org).