

HUMAN TRAFFICKING AND THE COURTS



*Viewers' Guide to From Defendant to Survivor:
How Courts Are Responding to Human Trafficking*

From Defendant to Survivor: How Courts Are Responding to Human Trafficking is a multimedia training tool aimed at assisting justice system staff and stakeholders on implementing court-based responses to sex trafficking. This guide is designed to help viewers understand the key principles of effective human trafficking and prostitution diversion models, which include trauma-informed approaches, identifying victims, linking to services, multidisciplinary collaboration, and redefining success.



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Cover Image:

Melissa, Survivor with Judge Paul Herbert,
CATCH Court, Columbus, Ohio

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Toko Serita,
Judge, Human
Trafficking
Intervention
Court, Queens,
New York

WHAT WORKS

Key Principles of Human Trafficking Court Models

As you watch *From Defendant to Survivor: How Courts Are Responding to Human Trafficking*, consult the guide below to explore ways the courts, both juvenile and criminal, can build a local response to sex trafficking. For a comprehensive checklist of effective strategies, see page five.

Given the differences in local laws, culture, and available resources, there is no universally applicable model that can be applied across jurisdictions. Instead, human trafficking court models rely on a set of common principles that aim to identify victims and link them to services, enhance victim safety, promote interagency collaboration, and educate criminal justice practitioners on the dynamics of human trafficking and trauma. The five key principles are:

1. Trauma-Informed Approaches
2. Identifying Victims
3. Linking to Services
4. Multidisciplinary Collaboration
5. Redefining Success

The film profiles three different court responses to human trafficking. Each court spent time examining their court and related justice stakeholder systems and identified gaps that were occurring when there were cases involving suspected exploitation and trafficking. As you will see, each court developed responses based on the unique needs of their communities and the resources that they had available.

Queens County Criminal Court, Human Trafficking Intervention Court (HTIC) Queens, NY

In Queens, New York, the Human Trafficking Intervention Court is a misdemeanor criminal diversion court developed to address defendants cycling through the system again and again on prostitution related offenses. The court found that over 80 percent of women arrested for prostitution have histories of victimization and trauma—including domestic violence, sexual assault, childhood sexual abuse, or physical assaults. In the hope of helping these defendants increase their safety and support systems, and possibly exit “the life,” the court built partnerships and a comprehensive assessment that would help the court identify needs and respond with appropriate referrals and sanctions.

To identify the myriad needs of people arrested for prostitution, the court developed a comprehensive psychosocial assessment, which focuses on criminogenic needs as well as past and/or current victimization. The assessment, as well as the services that follow, is trauma-informed, meaning that a centerpiece of the interaction with a defendant is to establish rapport, help develop a sense of safety, and listen for symptoms of trauma, including re-experiencing, avoidance, or arousal. The practice of using an in-depth assessment allows the judge to make a more informed and nuanced decision about an appropriate alternative sanction. The most common mandate involves participation in five to ten sessions of individual and/or group

counseling (which is proportional to a jail based alternative since these are all misdemeanor cases) that allows victim/defendants to address topics such as safety, trauma reactions, healthy coping, relationships, financial literacy, and other important concerns, such as human trafficking, legal, employment, and housing issues. In addition, the court has partnerships with community anti-trafficking agencies serving Mandarin- and Korean-speaking victims, which has allowed defendants to receive assessment, counseling, and other services in a culturally and linguistically responsive way. The judge often uses graduated sanctions, such as mandating additional services or increasing the frequency of court visits, to encourage compliance, rather than sentencing a defendant to jail. Women arrested for prostitution also meet with court staff and partners regularly, so that non-compliance can be identified early and responded to quickly. The judge's response is aided by the presence of a dedicated prosecutor and defense attorney; these stakeholders, who also have specialized training, collaborate with the judge to help ensure that trafficking victim/defendants are not convicted of crimes for which they are not culpable.

Succeeding Through Achievement and Resilience, STAR Court

Los Angeles Superior Court, CA

The STAR Court program provides referrals to specialized services for young victims of sex trafficking as well as those youth who are at risk of being trafficked (age 18 and younger). The court program's goal is primarily rehabilitative by addressing the underlying family or personal issues and traumas that precipitated the youth's involvement in Juvenile Court. STAR Court provides enhanced services and supervision through partnership with a multi-disciplinary team composed of specially trained and dedicated staff including the youth's defense lawyer, the Assistant District Attorney, a probation officer, a liaison from the child welfare agency, a representative from the

Board of Education, a representative from the mental health department, law enforcement and advocates from several community based organizations which work with at risk and exploited youth on an ongoing basis.

STAR Court proceedings are conducted once per week and proceed through the court as any other delinquency court proceeding. Youth eligible for STAR Court supervision will have discussed their possible participation in the program with their attorney, possibly prior to the adjudication of their case, in all cases before disposition. The court also reviews the program and the criteria for participation in the program with the youth prior to their addition to the docket. Many of the youth in the STAR Court are considered "dual status" (they have active dependency and delinquency cases) and the judge works with the representatives from probation and child welfare to see which agency will be the primary lead on the case. Regardless of which agency leads on the youth's case, the multidisciplinary team approach of the STAR Court allows information and services to be coordinated, shared and streamlined. Once the young person is part of the STAR Court, the youth will appear in court approximately every three to five weeks, depending on the circumstances of the case, and the youth's progress.

Changing Actions to Change Habits, CATCH Court

Columbus Ohio

The Changing Actions to Change Habits (CATCH) Court is a certified specialized docket in Franklin County Municipal Court in Columbus, Ohio. CATCH Court blends punitive sentences with an intensive treatment-oriented non-adversarial program for people who have pled guilty to loitering, solicitation, or prostitution. The goal of the CATCH Court is to provide a comprehensive, coordinated approach for defendants who exhibit any combination of post-traumatic stress disorder, major depression, other mental health

disorders, or drug or alcohol dependency in order to decrease criminal recidivism, jail nights, and arrests, to improve public safety, and to allow the defendant to be stabilized in the least restrictive location.

CATCH Court defendants must satisfy certain legal and clinical eligibility criteria to be admitted into the program, such as one or more of the following: arrest for prostitution/solicitation, with a primary Axis I diagnosis (e.g., major depressive or anxiety episodes; American Psychiatric Association, 2013), drug or alcohol dependency, a history of being a human trafficking victim, and willingness to participate in treatment that addresses behavioral healthcare diagnoses. Once eligible for the program, the defendant agrees to two years of probation and to adhere to the treatment plan that was designed uniquely for the individual including: residential treatment, counseling, random drug screens, and a weekly CATCH status review hearing.

The CATCH Court program has three phases, and participants may move to a succeeding phase only after satisfactory completion recommended by the judge of the previous one. Phase I, Stability and Compliance, requires participants to attend court appointments, status review hearings, and treatment appointments. Phase II, Movement and Connection, adds recommended services

such as social welfare, educational institutions, family services, and housing. Phase III, Sustain and Thrive, requires participants to complete all requirements of Phases I and II in their individual plan as well as to complete two volunteer activities and lead four sober support meetings. Phase I typically takes 6 months, Phase II three to six months, and Phase III 12 months.

The CATCH Court has a dedicated judge, Specialized Docket Coordinator, Community Support Coordinator, Probation Officer and attorneys. All of these professionals have been trained on trauma, abuse, and trafficking issues and work closely with the community and community based services. CATCH Court participants must attend regular status review hearings at the court as well as appointments with probation officers and provide documentation of their progress. They must also agree to random alcohol and drug screenings and random home visits by probation officers and CATCH staff members. A mentor for each participant is assigned and provided by a nongovernmental organization that prepares local, adult survivors of human trafficking for economic self-sufficiency through a catering business and workforce and life skills development program. For participants who complete the program and meet all requirements, the case against them is dismissed.

"If they've spent any time with our court, 62 percent have not been rearrested yet in eight years. That's a big number."
 Judge Paul Herbert
 CATCH Court
 Columbus, Ohio

Judges and courtroom staff should adopt practices that recognize the victim-defendant paradigm and promote safety and procedural justice in the courtroom to reduce the risk of re-traumatization. The approach is not just about linking victims to services, but also about adapting practices throughout the courtroom to emphasize concern and safety over fear and punishment. By helping to keep victim-defendants safe in the courtroom, courts can better respond to potential trauma reactions among victim-defendants.

What is the victim-defendant paradigm?

Because of the multilayered abuse and trauma endured, victims of sex trafficking arrested and charged with prostitution and other offenses are both a criminal defendant and a victim. Victims of human trafficking may appear in court as defendants in prostitution-related cases or in a variety of other case types—such as domestic violence, drug offenses, or shoplifting—presenting a challenging duality for the court. Because the dynamics of prostitution and human trafficking often overlap with 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 sex trafficking.

What is the nexus between trauma-informed and procedural justice?

At the core of trauma-informed practice is the notion of procedural justice. Incorporating the principles of procedural justice in the judge’s practice also creates a humane and effective response to victim-defendants. Procedural justice (or fairness) refers to the fairness of justice procedures and interpersonal treatment of defendants and victims. The critical dimensions of procedural justice include:

- *Voice*: Victim-defendants have an opportunity to be heard.
- *Respect*: Victim-defendants are treated with dignity and respect by law enforcement, prosecutors, judges, attorneys, and court staff.
- *Trust/Neutrality*: Victim-defendants perceive that the decision-making process is unbiased and trustworthy.
- *Understanding*: Victim-defendants fully understand the case process, outcome, and what is expected of them in order to comply with court orders.
- *Helpfulness*: Victim-defendants perceive that justice system players have an interest in their needs and their personal situation.

While viewing *From Defendant to Survivor: How Courts Are Responding to Human Trafficking*, notice the ways in which court stakeholders demonstrate an understanding of the trauma victim-defendants have endured, and how this has shaped court practices to help protect victims and create a safe and secure environment.

Trafficking victims are not going to self-identify as victims for many reasons. 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. Courts should implement practices to overcome these barriers to victim identification:

- Build court capacity to improve identification through multidisciplinary training on trafficking indicators.
- Identify points throughout the justice system continuum at which victims might be identified.
- Forge partnerships with trauma-informed agencies to conduct trafficking screening.
- Reduce collateral consequences for victims by eliminating criminal convictions and the use of jail.

Once victims are identified, the courts can act as a portal, connecting them to a range of individualized services based on their most salient needs. Services should be evidence-based and trauma-informed, and include counseling, case management, housing, child welfare, advocacy, medical services, legal services, and drug treatment. Courts can establish effective service linkages by:

- Mapping community resources to address victim-defendant needs.
- Brokering partnerships with trauma-informed programs.
- Using the courts leverage to connect victims to needs-based and proportional services.
- Considering past trauma and the barriers victims face while monitoring compliance.

Oree, Survivor/
Advocate,
Saving
Innocence,
Los Angeles



By bringing together an interdisciplinary team of judges, court administrators, prosecutors, defense attorneys, probation, child welfare agencies, and victim advocates and service providers, the courts can develop protocols and improve communication to enhance victim safety and create access to services. The purpose of these teams is to ensure the provision of immediate services for victims, facilitate communication among court stakeholders, promote efficient processes for referrals and program reporting, review cases in advance of upcoming court appearances, map existing community resources, and identify service gaps and additional stakeholders to include at the table.

Program evaluation is a key component of any court-based response to human trafficking. But typical metrics used in other problem-solving courts, such as compliance and recidivism, are not effective measures for victims of human trafficking. While recidivism is often the gold standard for measuring success, it is not a realistic measure when working with victims who may still be in coercive and exploitative situations. So instead, jurisdictions rely on incremental performance indicators that gauge measures such as enhancing victim safety, reducing barriers to services, identifying victims, incrementally completing services, reducing collateral consequences, promoting collaboration, and other systemic reforms.



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REDEFINING SUCCESS

DISCUSSION QUESTIONS

Now that you've viewed *From Defendant to Survivor: How Courts are Responding to Human Trafficking*, use the questions listed below to think of ways your own court may better serve victims of sex trafficking.

- What are some ways in which your court currently implements trauma-informed practices? How might the court be more responsive to victim-defendant needs?

- At what point in the process might victims be identified? How are their cases currently being handled and how might this be improved?

- What types of community-based services are available to victims? How can the court connect victims to these services?

- How well are court stakeholders currently collaborating in your court? What relationships need to be strengthened?

- How does your court currently respond to non-compliance or violations of court orders? What types of changes, both philosophical and systemic, can your court make to be more trauma-informed?

- How can you begin the process for applying some of these key principles?

- Which stakeholder support do you need the most to facilitate widespread buy-in?

KEY STRATEGIES FOR ADDRESSING SEX TRAFFICKING IN THE COURT

TRAUMA-INFORMED APPROACHES

- Train court staff and stakeholders on the dynamics of human trafficking and prostitution, the needs of trafficking victims, understanding trauma and how trauma affects victims' response to services and the juvenile/criminal justice process, and how to improve courtroom practices to reduce re-traumatization.
- Create a safe environment for victim-defendants by adhering to the tenants of procedural justice.
- Create policies and procedures with the goal of avoiding re-traumatization and increasing victim safety.
- Seek to understand the whole story, avoid labels, and ask yourself “why” someone is in the system.
- Dedicate 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.

IDENTIFYING VICTIMS

- Train stakeholders on the risk factors, red flags, and indicators of human trafficking.
- Identify potential victims at the earliest possible entry point into various systems, such as child welfare, health care, family court, or juvenile/criminal court.
- Establish partnerships with a range of local victim service providers to help identify victims and facilitate referrals for victims.
- Reduce collateral consequences—such as arrest, prosecution, convictions, and/or the use of jail—for victims.
- Implement a protocol for trafficking screening.

LINKING TO SERVICES

- Broker partnerships with a range of local agencies to facilitate referrals for victims.
- Invite advocates from local trafficking or domestic and sexual violence agencies to be present during court dockets to assist with connecting victims-defendants with appropriate services.
- Link victims to the most appropriate services based on needs (i.e., trauma counseling, advocacy, child welfare, legal services, housing, or drug treatment).
- Create a safe and effective information-sharing protocol that allows service providers to report on compliance to the court.
- Recognizes victim-defendant barriers when addressing re-arrest and non-compliance.

MULTIDISCIPLINARY COLLABORATION

- Convene stakeholders to collaborate on victim identification, service provision, and recommendations.
- Establish MOU's to ensure sustainability of the collaborative effort.
- Seek new and relevant partner agencies to join the collaborative effort.

REDEFINING SUCCESS

- Create realistic performance measures that consider the multitude of barriers victims face.
- Collect incremental measures of success to effectively gauge improvements.

For More Information

Here are additional resources from the Center for Court Innovation:

- Identifying and Responding to Sex Trafficking: A Guide for the Courts
www.courtinnovation.org/publications/identifying-and-responding-sex-trafficking-guide-courts
- Fact Sheet: The Intersection of Domestic Violence, Sexual Assault, and Human Trafficking
www.courtinnovation.org/publications/fact-sheet-intersection-domestic-violence-sexual-assault-and-human-trafficking
- Responding to Sex Trafficking in Your Jurisdiction: A Planning Toolkit
www.courtinnovation.org/publications/responding-sex-trafficking-your-jurisdiction-planning-toolkit
- Community Courts, Specialized Dockets, and Other Approaches to Address Sex Trafficking
www.courtinnovation.org/publications/community-courts-specialized-dockets-and-other-approaches-address-sex-trafficking

CATCH Court
Graduation,
Columbus, Ohio





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