Human Trafficking and the State Courts Collaborative:

Court Administrator Human Trafficking Exercise Worksheets

Center For Public Policy Studies

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AND THE STATE COURTS COLLABORATIVE

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Exercise Worksheet 1: **Addressing Human Trafficking In Our Court**

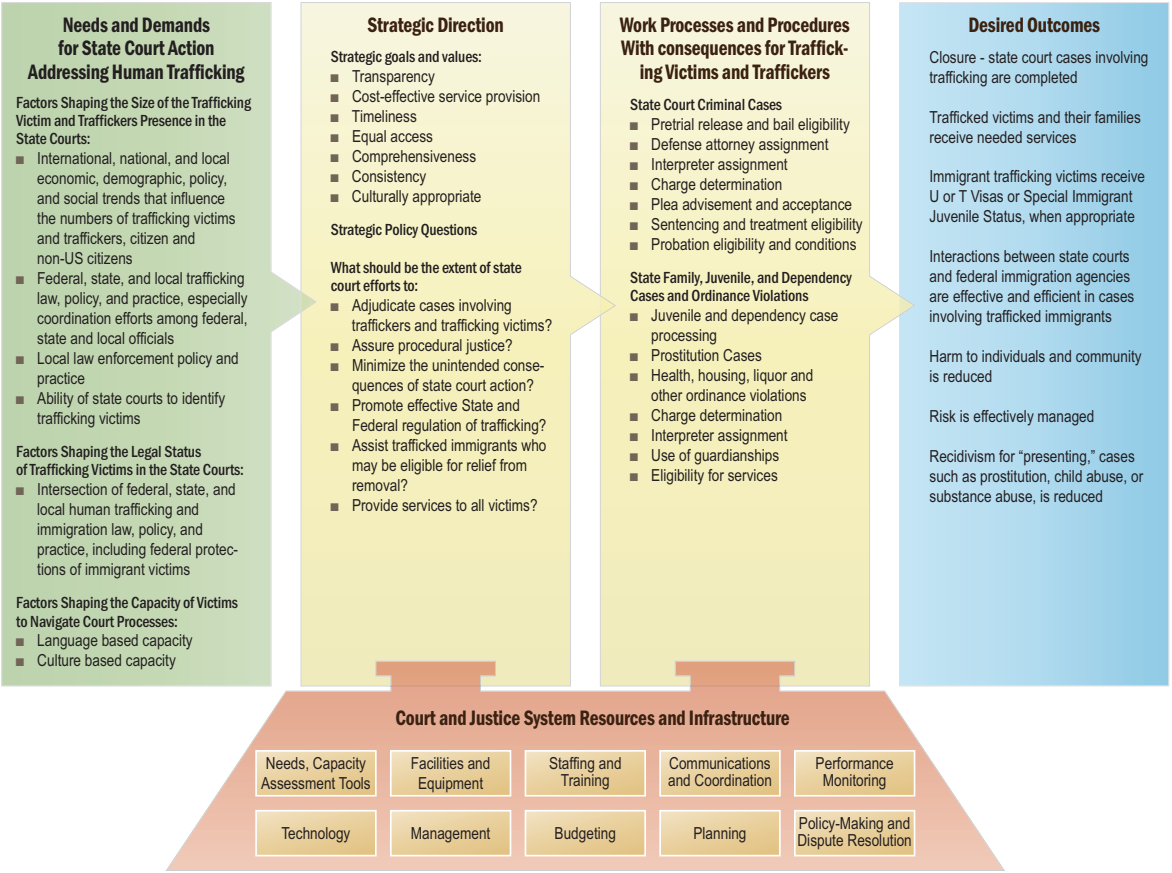
A Framework for Addressing the Impacts of Human Trafficking on the State Courts

The structure of the framework for addressing human trafficking in the state courts presented in Figure 1 stresses that state courts need to:

- understand the numerous factors shaping the human trafficking related needs and demands on the courts;
- have a clear, commonly shared set of goals and values regarding how trafficking cases should be processes and how trafficking victims should be served by the courts;
- have a clear commonly shared understanding of the desired outcomes of state court case processing of cases involving trafficking including cases involving U.S. and non-U.S. citizens;
- have reached agreement among court policy-makers about the extent to which the court should (a) adjudicate cases involving traffickers and trafficking victims, including immigrants, (b) assure procedural justice, (c) minimize the unintended consequences of state court action, (d) promote effective state and federal regulation of trafficking, and (e) provide services to all trafficking victims;
- be clear about how the complexities of federal and state human trafficking and immigration law, policy, and practice affect the numerous work processes used in criminal, civil, family, juvenile, and probate case processing; and
- provide court and justice infrastructure that supports effective case processing in cases involving trafficking.

Moreover, there are a variety of assumptions about the relationships among the five key components built into the framework for addressing human trafficking in the state courts. Specifically, the logic of the framework stresses that human trafficking related needs and demands on the courts need to be accounted for in the strategic goals and values and other aspects of the strategic direction established by the courts when addressing trafficking related issues. In turn, the characteristics of work processes should reflect the court's chosen strategic direction and work processes should result in well-articulated desired outcomes. The framework also stresses that both inter-organizational justice system and court specific infrastructure should support work processes and reflect fundamental strategic goals and values.

Human Trafficking Assessment Framework



What Are The Human Trafficking Related Needs And Demands On Our Court? (1.A)

Example Needs and Demands

Example Factors Shaping the Size of the Human Trafficking Presence In State Courts

Economic, demographic, policy, and social trends that influence the numbers of traffickers and trafficking victims in the state courts, such as:

- The characteristics and dynamics of various forms of child and adult, U.S. and non-U.S. citizen sex trafficking such as street prostitution, escort services, clubs and brothels, massage parlors, cyber-prostitution, pornography and cyber-pornography.
- The characteristics and dynamics of various forms of child and adult, U.S. and non-U.S. citizen involuntary servitude, peonage, debt bondage, slavery or other types of forced, coerced, or fraud induced labor, such as domestic servitude, and peddling rings, and in many other large and small business settings, especially in the construction, agriculture, forestry, restaurant, and hospitality industries.
- Labor force trends.
- Trade and labor force regulation trends.
- Human trafficking enforcement policies and practices.

Factors Shaping the Legal Status of Immigrants in State Courts

Important intersections of federal, state, and local immigration law, policy, and practice shaping trafficker and trafficking victims legal status in state courts, including the status of non-U.S. citizens such as:

- State anti-trafficking and victim protection laws.
- Protections under the federal Trafficking Victims Protection Act.
- Use of federal T and U visas for non-US citizen trafficking victims.
- Federal voluntary removal practices.
- Citizenship eligibility law and practices.
- Document fraud law and practices.
- Service eligibility law and practices.
- Sentencing practices.
- Local/state court level prosecutorial charging practices.
- Plea acceptance practices.
- Law enforcement citation and release practices.

Factors Shaping the Capacity of US and non-US citizen trafficking victims and traffickers to Use the State Courts

- Language based capacity, including English and other language skills, and literacy.
- Culture based capacity, such as gaps between court system and litigant assumption and beliefs about motivations for change, how to structure activity, gender roles, illness, discipline, contrition, authority, respect, and change.
- Mistrust and fear of authority, of government personnel including the justice system, and of court personnel.

What Values Should We Work From When Processing Human Trafficking Cases In Court (1. B)

Example Values

Transparency – assure that the decisions made and work processes used in human trafficking related matters, including when working with non-US citizens are apparent and understandable to litigants and local, state, and federal court and justice partners.

Cost-Effective Service Provision – assure that federal, state, and local court and justice system law, policy, and practice are coordinated.

Timeliness – exchange information across and among local, state, federal agencies, link litigants with interpreters and other resources and complete case events in concert across agencies to assure expedient case processing.

Equal Access and Consistency – provide access to needed defense, litigant assistance, treatment, language, and other services for all who use the courts, regardless of their ethnicity, income, education, or immigration status.

Comprehensiveness – provide a range of forums and services to address the potentially multiple needs of all court users, including human trafficking victims.

Culturally Appropriate – provide services that help all those who use the courts to navigate, successfully, the courts and justice system, process information, make wise decisions, and understand and comply with court orders.

Strategic Policy Question Descriptions – What Should Be The Extent Of Our Court's Efforts To:

- ***Adjudicate cases involving trafficking victims and traffickers?***
  - Should trafficking victims be prosecuted for the behavior that is part of their victimization such as prostitution, drug crimes, theft, or other offences?
  - Should undocumented immigrant traffickers and trafficking victims be taken into custody and potentially be removed from the U.S. by Immigration and Customs Enforcement (ICE) at any point prior to state court case disposition?
  - Should undocumented immigrants traffickers and trafficking victims be taken into custody and potentially be removed from the U.S. by ICE post-sentencing or after they have completed all or a portion of a sentence?
  - Should child protection and juvenile cases involving undocumented trafficking victims and violence against women cases be processed any differently than cases involving lawful permanent residents and U.S. citizens?

- ***Assure procedural justice?*** Should the courts promote:
  - ***Respect and understanding*** – the extent to which all litigants, including trafficking victims, are treated with dignity and understand what is happening in court?
  - ***Voice*** – the extent to which US citizen and non-US citizen traffickers and trafficking victims, including lawful and undocumented immigrants are given a chance to be heard?
  - ***Trust*** – the extent to which judges and court staff provide the impression that they care about US citizen and non-US citizen trafficking victim needs?
  - ***Neutrality*** – the extent to which judges can instill confidence that they are treating all litigants fairly?

- ***Minimize the unintended consequences of state court actions, in part by assuring state court judges and personnel understand the consequences of state court decisions relative to federal anti-trafficking efforts and federal immigration status?***
- ***Assist the federal government and international organizations in addressing human trafficking?*** Should the courts:
  - Provide state court case information in formats that can be used in co-occurring or subsequent federal case processing.
  - Check litigant immigration status
  - Report suspected undocumented immigrants?

- ***Provide services to all trafficking victims? Should the state courts provide lawful and undocumented immigrants needed state court case processing, sanctioned treatment, and other services at the same levels available to US citizen court users?***

What Should Be The Outcomes Of Cases Involving Human Trafficking Immigrants? (1.D)

Example Outcomes

Closure -- Cases Involving Trafficking Are Completed

Trafficking Victims Receive Needed Services. US Citizen and non-US Citizens, including lawful and undocumented Immigrants receive needed services. These services might include:

- Litigant assistance.
- Probation services including domestic violence, substance abuse and other treatment services attached to probation.
- Participation in victim restoration and other community programs.
- Child protection services.
- Medical and mental health treatment services, especially for children.
- Victim protection services.
- Immigrant trafficking victims receive U or T visas or Special Immigrant Juvenile Status.

Comply With Court Orders. Examples include:

- attending treatment services and meet other conditions for probation;
- making restitution payments and other victim compensation;
- attending parenting, domestic violence, and other courses; and
- serving state court sentences.

Harm to Individuals and Community is Reduced.

- Recidivism is reduced within all communities including immigrant communities.
- Individuals change destruction behavior, such as prostitution and substance use.
- Individuals in all communities report crime and assist law enforcement, such as serving as witnesses, and report to authorities when harm is observed.

Example Work Processes and Procedures with Immigration Status Consequences

Criminal Cases

- Pretrial Release and Bail Eligibility
- Pretrial Detention
- Initial Appearances
- Defense Assignment
- Charge Determination
- Plea Acceptance
- Sentencing
- Interpreter Assignment
- Probation and Other Service Eligibility

Family, Dependency, and Juvenile Cases Ordinance Violations

- Juvenile, Family, and Dependency Case Processing in General
- Prostitution Offenses
- Housing and Health Code Violations
- Charge Determination
- Interpreter Assignment
- Eligibility for Services

What Modifications To Our Infrastructure Might Be Required To Process Human Trafficking Related Cases (1.F)

Example Infrastructure

Technology

- Information systems for determining the identities of US and non-US citizen traffickers and victims.
- Management information systems capable of exchanging information about identity, litigant location, and case status between local, state, and federal agencies about case status.
- Multi-system-wide case tracking technology.
- Valid, best practice based, and readily accessible assessment and treatment tools that are applicable to US citizen and non-US citizen populations.
- Management information systems that share definitions, standards and guidelines across local, state, and federal, agencies.

Equipment

- Accessible and well maintained multi-systems hardware and software

Facilities

- Accessible, dispersed, community-based, facilities
- Sufficient space for co-locating local, state, and federal system partners throughout communities

Budgeting and Finance

- Sufficient, predictable, and stable resources for providing litigant assistance, treatment and other services.
- Flexibility to change during a budget cycle and over the long term to meet changing demands and needs including increasing resource and modifying expenditures as needed in light of changes in size of trafficking related caseloads.
- Budget, service procurement, and other business processes that encourage health care, treatment, detention, probation, and other resource sharing across local, state, and federal agencies and organizations.
- Fiscal processes that allow flexible use of funds, moving resources across agencies and organizations when needed.
- Funding set aside for multi-system-wide innovation and improvements.
- Predictable long-term financing that permits long-term system and multi-system budgeting and planning.
- Resources available to track decision outcomes across multiple agencies.

Planning

- Operational planning to ensure consistent responses across agencies and personnel.
- Multi-system wide, long-range, and operational planning to create linkages among agencies.

Policy Making and Dispute Resolution

- Capacity to address disputes among federal, state, and local court and justice agencies.
- Policy is based on research, national practices, and best practices.
- A decision making structure at the multi-system leadership level that is educated on the roles of all system partners.
- Policies for establishing and maintaining consistent decision-making practices across agencies and organizations.
- Transparent decision-making processes.

Staffing / Training

- Multi-system, federal, state, and local training of all the personnel involved in case processing involving trafficking.
- Cultural competency training.
- Training about specific tools such as assessment and evaluation tools designed for US and non-US citizen populations.
- Capacity to cross train staff through coordination of staff development efforts.
- Staff available with decision-making authority to help litigants and families navigate successfully through multiple system.

Communications and Coordination

- Timely access to information across agencies about cases involving trafficking.
- Capacity to communicate the results of assessments and evaluations with appropriate personnel across multiple systems.
- Capacity to track case progress within and across agencies and systems.
- Capacity to monitor caseloads across agencies and systems.
- Shared case management planning that addresses the multiple needs of litigants, children, families, and meets the mandates of system organizational partners.
- Development of multiple system-wide performance measurements for both processes and outcomes involving trafficking.

Leadership and Management

- Multiple system-wide and agency leaders to: (1) establish long-term strategic direction for systems as well as individual agencies and organizations regarding human trafficking policies and practices; (2) develop long-term system capacity to provide services; (3) establish and monitor inter-agency, multiple system infrastructure for supporting services; (4) establish and maintain effective inter-organizational work processes; (5) monitor multiple system performance; and (6) work cooperatively to establish a strong fiscal foundation for on-going service delivery.
- Capacity to work across multiple systems and agencies collaboratively and proactively.
- Capacity of the interagency management structure to insure fair workload distribution.

Exercise Worksheet 2: **Addressing Human Trafficking in My Job**

What Are The Work Processes Associated With My Job Potentially Affected When Addressing Human Trafficking? (2.A)	What Are The Key Aspects of My Job Potentially Affected In Cases Involving Human Trafficking? (2.B)	How Might Work Processes and Key Aspects of My Job Be Modified to Address Trafficking Related Needs? (2.C)

Continued

Exercise Worksheet 3: **Court Improvement Strategies**

What Are the Features of Our Improvement Strategy?

Summary Issues We Need to Address:

Summary of Elements to Include in an Improvement Strategy:

Continued

Problem Statement and Strategy Outline:

Key Issues to Be Addressed:	*Desired Outcomes:*	*Action Items:*

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