

## HOW STRONG COLLABORATION BETWEEN LEGAL AND SOCIAL SERVICE PROFESSIONALS WILL IMPROVE OUTCOMES FOR TRAFFICKING SURVIVORS AND THE ANTI-TRAFFICKING MOVEMENT

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*A group of five Filipina women were discovered in a Beverly Hills neighborhood, working for two sisters who lived near each other.<sup>1</sup> The sisters would circulate the women between their houses and force them to work up to 20 hours per day. For seven years, the women received no payment for their labor, were sometimes fed only twice daily, and were beaten when they did not perform their duties as expected. The crime was eventually reported to the local police, who in turn called a social service provider to assist with victim services.*

*Upon escape, the women had several emergency health concerns. Case managers coordinated exams with community health care providers and free clinics and secured them all in a shelter with Tagalog-speaking staff. One client suffering from severe depression became suicidal and refused to attend any legal interviews. Her case manager and a staff social worker were able to help her through her crisis and connect her with a counselor. They also explained to the victim's attorney and to the prosecutors interested in the case that she was simply unable to participate with the prosecution of the case until she overcame her crisis. The attorneys*

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<sup>1</sup> The case studies in this article have been formulated by combining aspects of multiple cases to protect clients' confidentiality. Any names used are pseudonyms.

*heeded this advice, giving the client some time to stabilize and recover. By responding well to her needs, the attorneys demonstrated to the client that they were sincerely interested in her well being and, as a result, were able to build a strong rapport with her once she recovered. In fact, she later reported that working with the attorneys on her case was a validating and empowering experience.<sup>2</sup>*

*Case managers also assisted the attorneys by providing additional education on the events taking place and easing clients' anxieties about fears of deportation. When law enforcement decided to submit "continued presence"<sup>3</sup> applications, the case managers assisted the attorneys by accompanying clients to obtain photos and contacting their family members for other legal documents. After the women received their certification letters,<sup>4</sup> case managers accompanied them to the public benefits office and to the Social Security Administration. The social service staff continued to assist the women throughout both their criminal and civil trials. During the entire process, case managers supported their clients while these victims faced their traffickers in arduous depositions. The agency's legal staff also supported case managers who were asked*

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<sup>2</sup> In one reported case, a client named her child after the FBI agent who investigated her traffickers.

<sup>3</sup> "Continued presence" is a form of immigration relief authorized under the Trafficking Victims Protection Act of 2000. *See* Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended at scattered sections of 8, 20, 22, 27, 28, and 42 U.S.C.) [hereinafter VTPVA]. Division A of the VTPVA is further identified as the Trafficking Victims Protection Act of 2000 (codified as amended at 22 U.S.C. §§ 7101-7110 (2000), and which incorporates 18 U.S.C. §§ 1589-1594 (2000)) [hereinafter TVPA]. Federal law enforcement officials are authorized to "permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking . . ." TVPA 22 U.S.C. § 7105(c)(3).

<sup>4</sup> Under the TVPA, the Secretary of Health and Human Services can certify persons who have either 1) made a bona fide application for a T-nonimmigrant visa, or 2) been permitted to remain in the U.S. as a person whose continued presence the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons. 22 U.S.C. § 7105(b)(1)(E)(i)(II)(aa)-(bb). In either scenario, the certified person must also show that he or she is "willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons . . ." *Id.* § 7105(b)(1)(E)(i)(I).

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*to provide testimony at trial. Lasting over three years, this case was difficult and stressful for everyone involved. However, it represents the benefits that inter-departmental and inter-agency collaboration can provide.*

Any person who works with survivors<sup>5</sup> of human trafficking is aware of the multiple systems with which survivors interface.<sup>6</sup> A newly freed survivor often requires critical emergency services, such as treatment for injuries sustained from physical and/or sexual assault, rape exams, HIV/AIDS and communicable disease screening (including tuberculosis), psychological assessment for suicidal ideation, safe and appropriate housing,<sup>7</sup> and many other services.<sup>8</sup> In ad-

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<sup>5</sup> The term “survivor” is used rather than “victim” to place emphasis on the fact that a person who has been trafficked and who has escaped, has indeed survived that ordeal. The term is commonly used in the social work profession and as a part of the empowering “strengths-based approach” in working with clients. In this approach, attention is focused on a client’s assets rather than deficiencies and is believed to be an effective method of intervention that expedites the return of control and self-determination to a previously disempowered, often traumatized individual. See THE STRENGTHS PERSPECTIVE IN SOCIAL WORK PRACTICE (Dennis Saleebey ed., 2002).

<sup>6</sup> Survivors of trafficking commonly interface with the medical and managed care systems, the legal, public benefits, public housing systems, and many others. See generally HEATHER J. CLAWSON, PH.D., et al., CALIBER ASSOCIATES INC., NEEDS ASSESSMENT FOR SERVICE PROVIDERS AND TRAFFICKING VICTIMS (2003), available at <http://www.ncjrs.org/pdffiles1/nij/grants/202469.pdf>.

<sup>7</sup> Appropriate housing entails housing that ensures safety, confidentiality, and the provision of basic necessities. It also includes private yet supportive services that are both culturally and linguistically appropriate and that are provided by a staff that is well trained in the dynamics of human trafficking. See FREE THE SLAVES & THE HUMAN RIGHTS CENTER AT THE UNIVERSITY OF CALIFORNIA, BERKELEY, HIDDEN SLAVES: FORCED LABOR IN THE UNITED STATES 44-46 (2004), available at [http://www.hrcberkeley.org/download/hiddenslaves\\_report.pdf](http://www.hrcberkeley.org/download/hiddenslaves_report.pdf) [hereinafter HIDDEN SLAVES]. See also U.S. Department of Health & Human Services, The Campaign to Rescue & Restore Victims of Human Trafficking, *Identifying and Interacting with Victims of Human Trafficking*, available at [http://www2.acf.hhs.gov/trafficking/campaign\\_kits/tool\\_kit\\_law/identify\\_victims.html](http://www2.acf.hhs.gov/trafficking/campaign_kits/tool_kit_law/identify_victims.html) (last visited Feb. 9, 2006) [hereinafter *Identifying and Interacting with Victims of Human Trafficking*].

<sup>8</sup> Other services include, but are not limited to: interpretation, safety planning, job skills training, education, family reunification, connection with social support systems like community or religious groups, applying for public benefits, assistance in understanding physician instructions, learning to use public transportation,

dition to emergency needs, survivors require an array of services from transitional housing,<sup>9</sup> clothing and food, to ongoing mental and physical health care,<sup>10</sup> to legal assistance and beyond. When working with survivors of trafficking, it is critical to understand the deep interconnectedness between the survivor's ability to self-stabilize, build life skills, and develop positive coping mechanisms, and the nature of his or her interactions with these various systems. It is equally critical to understand how strong and consistent collaboration among the members of these systems can lead to better outcomes for the survivors as well as everyone involved in the multiple aspects of a trafficking case.<sup>11</sup>

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and integrating into American culture. *See, e.g.*, Jennifer Stanger & Sari Yoshioka, CAST, *Identification & Assessment of Trafficked Persons*, in *SMOOTH FLIGHT: A GUIDE TO PREVENTING YOUTH TRAFFICKING* 107, 112-14 (Alison Boak et al., eds., 2003), available at [http://www.seerights.org/data/reports/Reports/Youth\\_Trafficking\\_Prevention\\_Manual.pdf](http://www.seerights.org/data/reports/Reports/Youth_Trafficking_Prevention_Manual.pdf); CAST, *CAST SOCIAL SERVICES MANUAL: A GUIDEBOOK TO SERVING SURVIVORS OF TRAFFICKING IN LOS ANGELES* (2005) (on file with author) [hereinafter *CAST SOCIAL SERVICES MANUAL*]; FREEDOM NETWORK INSTITUTE ON HUMAN TRAFFICKING, *HUMAN TRAFFICKING: BASIC TOOLS FOR AN EFFECTIVE RESPONSE, FACILITATOR GUIDE* (2003) (on file with author) [hereinafter *FREEDOM NETWORK FACILITATOR GUIDE*].

<sup>9</sup> Transitional housing varies across shelters but typically lasts for 6-18 months and provides critical services that assist survivors in establishing control over and direction in their lives in order to establish independence.

<sup>10</sup> Specific medical needs include but are not limited to: screening and treatment for injuries, malnutrition, tuberculosis, intense stress and migraine headaches, fatigue, sexually transmitted diseases and HIV/AIDS, gynecological problems, cancer, diabetes, eye, ear, nose and dental problems, stomach pains, and gall stones. Survivors also need to be assessed for needed vaccinations. Mental health problems include posttraumatic stress disorder which exhibits such symptoms as dissociation, recurring and intrusive memories, identity disturbance, insomnia and nightmares, difficulty concentrating, somatization and hypervigilance, depression, anxiety disorders, Rape Trauma Syndrome, suicidal ideation, adjustment disorders, personality disorders, paranoia, spiritual disruption, fatalism, and rage. Survivors also often experience debilitating fear, hostility, anger, inability to trust others, apathy, emotional numbness, shame, guilt, feelings of helplessness, and difficulty regulating emotional reactions. *See* *FREEDOM NETWORK FACILITATOR GUIDE*, *supra* note 8; PROJECT REACH, *WORKING WITH SURVIVORS OF HUMAN TRAFFICKING: A BRIEF MANUAL FOR SOCIAL SERVICE PROVIDERS* (2004) (on file with author) [hereinafter *PROJECT REACH MANUAL*].

<sup>11</sup> For example, the following case study demonstrates how non-governmental organizations ("NGOs") and law enforcement can collaborate for better outcomes. Svetlana and Nadia are two young Ukrainian women who contacted the police af-

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While it is possible that all service providers, even those from the *helping professions*,<sup>12</sup> can impede their clients' recoveries,<sup>13</sup> the criminal justice system is more commonly recognized as a source of revictimization for survivors of violent crimes.<sup>14</sup> Referred to as "secondary victimization"<sup>15</sup> or "second assault,"<sup>16</sup> this revictimization is largely avoidable when those involved work to facilitate a better experience for the victim-witness.<sup>17</sup> Studies analyzing the impact

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ter escaping their traffickers. The police got the call at 10:00 p.m. one night and called the CAST shelter, where staff or volunteers were able to respond to after-hours referrals by arranging for emergency housing until an intake staff was available. This procedure came about after law enforcement requested more assistance in responding to survivors after hours. As CAST did not have the resources to support on call staff at the time, the Legal Director and Shelter Coordinator worked together to find the best solution with the resources available. In this successful example, the shelter staff arranged for a hotel room and forwarded the referral information to the day staff. The day staff contacted the police the next morning to conduct a full assessment. To everyone's pleasure, Svetlana and Nadia were provided safe housing immediately, the police were able to do their jobs effectively, and CAST was able to respond to both clients and partners with existing resources. It is important for attorneys and law enforcement to understand that many non-profits may not have the resources to respond after business hours. With limited staff and high risk for burnout, social services agencies must prioritize staff well being, not only to retain staff, but also to sustain quality services for clients.

<sup>12</sup> Helping professions are meant to include social services organizations, rape crisis centers, health care centers, etc.

<sup>13</sup> See generally Rebecca Campbell et al., *Preventing the "Second Rape": Rape Survivors' Experiences with Community Service Providers*, 16 J. INTERPERSONAL VIOLENCE 1239 (2001).

<sup>14</sup> See, e.g., JUDITH LEWIS HERMAN, M.D., *TRAUMA AND RECOVERY* (Basic Books 1992) [hereinafter *TRAUMA AND RECOVERY*]. See generally UNITED NATIONS OFFICE FOR DRUG CONTROL AND CRIME PREVENTION, *HANDBOOK ON JUSTICE FOR VICTIMS 9-10* (1999), available at <http://www.uncjin.org/Standards/9857854.pdf> [hereinafter *HANDBOOK ON JUSTICE FOR VICTIMS*].

<sup>15</sup> See Rebecca Campbell & Sheela Raja, *Secondary Victimization of Rape Victims: Insights from Mental Health Professionals Who Treat Survivors of Violence*, 14(3) VIOLENCE & VICTIMS 261, 261 (1999).

<sup>16</sup> Marlene A. Young, *Crime, Violence, and Terrorism*, in *PSYCHOSOCIAL ASPECTS OF DISASTER* 140, 144 (Richard Gist & Bernard Lubin eds., 1989).

<sup>17</sup> The authors of the Project REACH Manual explain that "[a]ny interactions with survivors of trafficking have the potential to be re-traumatizing or to be beneficial" including those between survivors and social service providers, attorneys, mental health providers, medical providers, or advocates. PROJECT REACH MANUAL, *supra* note 10, at 17.

of the criminal justice system on survivors of rape and assault suggest that supportive, empowering interactions with the system will commonly generate positive outcomes, while insensitive, disempowering interactions will consistently generate negative outcomes.<sup>18</sup> These outcomes refer not only to the client's well being, but also to the final success or failure of the legal case. In addition, there is a growing body of educational literature for law enforcement, which asserts that when survivors are treated with respect and dignity and recognized not just as a source of information, but as key stakeholders in the process of seeking justice, law enforcement officers are better able to do their jobs effectively and survivors are better able to participate as witnesses.<sup>19</sup> This literature further submits that coordinated and strategic collaboration among the multiple systems that trafficking survivors face will improve each system's response to this group, thus increasing the likelihood of achieving the desired outcomes of protection, prevention, and prosecution.<sup>20</sup>

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<sup>18</sup> See e.g., JAMES PTACEK, BATTERED WOMEN IN THE COURTROOM: THE POWER OF JUDICIAL RESPONSES (1999); Young, *supra* note 16, at 145; C.A. Byrne et al., *Victimization And Psychological Adjustment: Moderating Effects of Victim Satisfaction with the Criminal Justice System*, presented to the Association for the Advancement of Behavior Therapy, Annual Convention, cited in Judith Herman, M.D., *The Mental Health of Crime Victims: Impact of Legal Intervention*, 16(2) J. TRAUMATIC STRESS 159, 162-63 (2003) [hereinafter *The Mental Health of Crime Victims*]; Rebecca Campbell et al., *Community Services for Rape Survivors: Enhancing Psychological Well-Being or Increasing Trauma?* 67 J. CONSULTING & CLINICAL PSYCHOL. 847 (1999). See also Campbell & Raja, *supra* note 15, at 263, 267.

<sup>19</sup> HANDBOOK ON JUSTICE FOR VICTIMS, *supra* note 14; INSTITUTE FOR INTERGOVERNMENTAL RESEARCH, HUMAN TRAFFICKING IN THE UNITED STATES: PROMOTING LAW ENFORCEMENT AWARENESS, INSTRUCTOR GUIDE (2004) (on file with author); NATIONAL CENTER FOR VICTIMS OF CRIME & THE POLICE FOUNDATION, BRINGING VICTIMS INTO COMMUNITY POLICING 14 (2002), available at <http://www.ncvc.org/ncvc/AGP.Net/Components/documentViewer/Download.aspxnz?DocumentID=32559> [hereinafter BRINGING VICTIMS INTO COMMUNITY POLICING]; TIMOTHY O. WOODS, J.D., M.A., NATIONAL SHERIFFS' ASSOCIATION, FIRST RESPONSE TO VICTIMS OF CRIME: A HANDBOOK FOR LAW ENFORCEMENT OFFICERS ON HOW TO APPROACH AND HELP (2000), available at <http://www.ojp.usdoj.gov/ovc/publications/infores/firstrep/welcome.html>.

<sup>20</sup> Protection, prevention, and prosecution are the three major themes of the TVPA's approach to combat human trafficking. See TVPA, *supra* note 3, 22 U.S.C. §§ 7104-7105, 7109.

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This article will discuss and demonstrate how attorneys<sup>21</sup> can protect and yield better legal outcomes for their clients by collaborating with social service professionals<sup>22</sup> specifically, and by reconsidering their own roles in serving trafficking survivors--not only as legal advocates, but as *informal* mental health advocates. This article also presents one model of comprehensive service delivery, that of the Coalition to Abolish Slavery ("CAST"),<sup>23</sup> in which legal and social services complement and support each other within one agency to better serve clients.<sup>24</sup>

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<sup>21</sup> While this article focuses on collaboration between attorneys and social service professionals, many of the assertions herein may be applied to law enforcement officers, including investigators and prosecutors, who can collaborate with NGOs and with other governmental and inter-governmental agencies to improve outcomes for survivors and their legal cases.

<sup>22</sup> Social service professionals include case managers, who are frontline staff and tend to clients' basic needs and provide support and encouragement throughout and beyond clients' legal cases. They are commonly, but not always, Bachelor level staff with knowledge and experience in managing caseloads and working with individual clients on service plans. Professionals, however, also include social workers and marriage and family therapists, who have completed a Master's degree in Social Work or Psychology, completed formal and practical training, and are registered and/or licensed with their state board. Also included are creative arts therapists, psychologists, and psychiatrists.

<sup>23</sup> CAST is an interdisciplinary NGO based in Los Angeles, California and comprises three departments: Social Services, Legal Services, and Advocacy & Training. CAST was founded in 1998, in response to the El Monte sweatshop case, in which 72 Thai garment workers, both male and female, were held in debt bondage and forced to work for years in a makeshift sewing factory in an east Los Angeles suburb. Since its inception, CAST has provided assistance to over 200 individuals and is a founding member of the Freedom Network Institute on Human Trafficking, a national training program that educates the public, service providers, attorneys, and law enforcement officials on the issue of human trafficking. CAST is also a member of the Freedom Network USA, a national coalition of service providers and advocates working to promote a human rights response to trafficking in persons. CAST's mission is to assist persons trafficked for the purpose of forced labor and slavery-like practices and to work toward ending all instances of such human rights abuses. See Freedom Network (USA), <http://www.freedomnetworkusa.org> (last visited Feb. 24, 2006).

<sup>24</sup> CAST's comprehensive service delivery includes social service, mental health, and legal service providers working together within one organization to meet the vast needs of their clients. This organizational teamwork approach in out-

*I. Why Collaboration Is Critical*

Given time and financial constraints, it is extremely difficult for any one organization to meet the multiple complex needs of survivors of human trafficking, who almost never have personal or familial support within the United States.<sup>25</sup> As mentioned above, there is a growing body of literature<sup>26</sup> that encourages collaboration among law enforcement,<sup>27</sup> non-governmental organizations (“NGOs”),<sup>28</sup> and survivors themselves. There are also particular advantages for attorneys and social service professionals to work closely together.<sup>29</sup>

Collaboration may begin as early as the intake phase and may continue well beyond the end of a criminal or civil case, such as when clients are adjusting their status or applying for employment authorization renewals.<sup>30</sup> Social service professionals benefit most

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reach, training, advocacy, and case management follows a strengths-based, client-centered model to assessment, service planning, and service delivery. This approach also ensures specialized care in health, mental health, and legal services that are both culturally and linguistically appropriate. Comprehensive service delivery includes intensive case management and crisis intervention, strong partnerships with service providers, and on-going advocacy for issues that affect all trafficking survivors. *See* CAST SOCIAL SERVICES MANUAL, *supra* note 8.

<sup>25</sup> According to the U.S. Department of Health & Human Services Campaign to Rescue & Restore Victims of Human Trafficking, survivors of human trafficking “generally will be incapable of finding outside support due to the isolation they have suffered while in captivity.” *Identifying and Interacting with Victims of Human Trafficking*, *supra* note 7.

<sup>26</sup> *See* HANDBOOK ON JUSTICE FOR VICTIMS, *supra* note 14; INSTITUTE FOR INTERGOVERNMENTAL RESEARCH, *supra* note 19; BRINGING VICTIMS INTO COMMUNITY POLICING, *supra* note 19; WOODS, *supra* note 19.

<sup>27</sup> Law enforcement actors include, but are not limited to local, state, and federal investigators and prosecutors. Federal agencies that have been involved in trafficking cases include the Assistant U.S. Attorney’s Office, the Bureau of Immigration and Customs Enforcement, the Federal Bureau of Investigation, the Department of Labor, the Equal Employment Opportunity Commission, and others.

<sup>28</sup> NGOs include, but are not limited to community-based organizations, faith-based organizations, and victim service organizations.

<sup>29</sup> *See* HIDDEN SLAVES, *supra* note 7, at 43-51.

<sup>30</sup> Attorneys may assist clients with a multitude of services not directly related to the trafficking experience, including civil actions litigation, criminal defense representation, consumer fraud issues, family court matters, filing restraining orders, landlord-tenant disputes, bankruptcy, identity theft, employment discrimination, public benefits appeals, or other immigration issues.



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from collaborating with their clients' attorneys by acquiring a better understanding of the legal processes that influence their clients' abilities to participate in their case management plans.<sup>31</sup> Such partnerships enable social service providers to be better informed of their clients' rights, responsibilities, and upcoming choices. Attorneys may also represent social service staff members. A particular example exists when defense counsel subpoenas a case manager for deposition.<sup>32</sup>

Through the attorney-client privilege,<sup>33</sup> legal advocates are uniquely positioned to protect a client's confidentiality.<sup>34</sup> Because of

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<sup>31</sup> CAST's new staff members receive training from the different departments. Social services staff members receive orientation and ongoing training from the legal department to better understand the legal issues of clients' cases. Understanding what their clients are facing enables case managers and other staff to assist clients in building skills that will sustain them through long, difficult, often ambiguous periods.

<sup>32</sup> Additionally, attorneys may be able to provide legal referrals to and collaborate with pro bono counsel, who may also provide ongoing, long-term assistance. See TVPA, *supra* note 3.

<sup>33</sup> Laws protecting client privilege are codified on the state, rather than federal level. In California, for example, licensed clinical social workers, psychotherapists, and those receiving professional supervision from them, respectively, are covered under psychotherapist-patient privilege in California Evidence Code § 1014. Though there also exists sexual assault victim-counselor privilege, California Evidence Code § 1035.8, and domestic violence victim-counselor privilege, California Evidence Code § 1037.6, there is currently no statute protecting the rights of trafficking victims specifically.

<sup>34</sup> According to the U.S. Department of Health & Human Services Campaign to Rescue & Restore Victims of Human Trafficking,

Confidentiality is vital for victims of . . . trafficking. Their lives and the lives of their families are often at great risk if they try to escape their servitude or initiate criminal investigations against their captors. Therefore, it is imperative that you minimize the number of staff members who come in contact with the victim. Ensure that all staff members who have contact with the victim, including interpreters and advocates, understand the importance of confidentiality for the safety of the patient.

See U.S. Department of Health & Human Services Campaign to Rescue & Restore Victims of Human Trafficking, *The Mindset of a Human Trafficking Victim*, [http://www2.acf.hhs.gov/trafficking/campaign\\_kits/tool\\_kit\\_health/mindset\\_](http://www2.acf.hhs.gov/trafficking/campaign_kits/tool_kit_health/mindset_)

this privilege, coupled with their training and knowledge of the legal system, attorneys are the appropriate professionals to educate and advise clients on legal matters, and report cases to law enforcement. Regular and effective communication with attorneys will educate and remind social service providers of their strictly supportive non-advisory role in such legal matters.<sup>35</sup>

Similarly, social service providers can educate and support attorneys in maintaining appropriate ethical and professional boundaries when working with clients.<sup>36</sup> For instance, only trained clinicians should provide mental health counseling or therapy to clients.<sup>37</sup> While attorneys have a large role to play in a client's emotional well-being, they may not fully appreciate the line between advocating for a client, and becoming personally involved in the client's case. Social service providers, however, working with survivors of trafficking are certain to bear some imprint of their clients' traumatic ex-

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victim.html (last visited Feb. 22, 2006) [hereinafter *The Mindset of a Human Trafficking Victim*]. All organizations providing direct services should have a confidentiality policy. Such a policy protects clients' right to privacy, ensures a relationship of trust and respect, protects clients' personal safety and future welfare, and maintains the integrity of the criminal and/or civil case. See CAST SOCIAL SERVICES MANUAL *supra* note 8; FREEDOM NETWORK FACILITATOR GUIDE, *supra* note 8. Also, service providers should acquire "informed consent" for the release of confidential information, program admission, service delivery, videotaping, and audiotaping. SOCIAL WORKERS' DESK REFERENCE (Albert R. Roberts & Gilbert J. Greene eds., 2002); NATIONAL ASSOCIATION OF SOCIAL WORKERS CODE OF ETHICS, standard 1.03 (1996), available at <http://www.socialworkers.org/pubs/code/code.asp> [hereinafter NASW CODE OF ETHICS].

<sup>35</sup> For example, according to the NASW Code of Ethics, "[s]ocial workers should accept responsibility or employment only on the basis of existing competence . . ." NASW CODE OF ETHICS, *supra* note 34, standard 4.01(a).

<sup>36</sup> According to the NASW Code of Ethics:

Social workers should not engage in dual or multiple relationships with clients or former clients in which there is a risk of exploitation or potential harm to the client. In instances when dual or multiple relationships are unavoidable, social workers should take steps to protect clients and are responsible for setting clear, appropriate, and culturally sensitive boundaries.

NASW CODE OF ETHICS, *supra* note 34, standard 1.06(c).

<sup>37</sup> *Id.* standard 4.01.

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periences,<sup>38</sup> and it can be difficult to know where professional support ends and personal involvement begins. For instance, during the process of managing a client's case, the service provider must address difficult questions: Is it appropriate to give a client one's home address and phone number? If so, is that supporting the client or furthering dependence on an unsustainable resource? If a client is invited into a service provider's personal life, how does the service provider maintain the proper focus? How does this affect the safety of the client, the service provider, and the service provider's loved ones? Finally, how will the client feel if the service provider decides the client is becoming too involved on a personal level? After addressing these questions through formal training, social workers and other mental health professionals<sup>39</sup> are then prepared and able to help attorneys develop their own understanding of boundaries and how crossing them can injure the client and the case in general.

In addition to maintaining boundaries, there are additional benefits for attorneys who work directly with social service professionals. These benefits are primarily tied to supportive services, without which many clients would be completely unable to participate in their legal cases.<sup>40</sup> Social service professionals are trained to

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<sup>38</sup> "Compassion fatigue (Figley, 1995) is the convergence [of] primary traumatic stress, secondary traumatic stress (Stamm, 1995) and cumulative stress/burnout in the lives of helping professionals and other care providers. When helping others precipitates a compromise in our own well-being we are suffering from Compassion fatigue." J. ERIC GENTRY, THE INTERNATIONAL TRAUMATOLOGY INSTITUTE, *TRAUMATOLOGY 1001: FIELD TRAUMATOLOGY INSTRUCTIONAL MANUAL 76* (2001) (on file with author). Many service organizations, including CAST, encourage their staff to seek out supportive services, such as counseling, burnout prevention, and compassion fatigue.

<sup>39</sup> Other mental health professionals include formally trained staff, such as social workers and marriage and family therapists who are licensed or receiving supervision from a licensed professional, psychologists, and psychiatrists.

<sup>40</sup> Services include housing, medical care, crisis and suicide intervention, basic necessities provision, supportive counseling or psychotherapy, transportation education, enrollment in English classes, psychotropic medication administering and monitoring, substance abuse intervention and treatment, connection to domestic violence and/or other support groups, and much more. Attorneys should keep in mind that some clients may not even know how to locate an attorney or how to use a phone. Most likely, they will not have money or a phone card with which to call or they may be so emotionally distraught that they are simply unable to advocate

assist clients to stabilize themselves,<sup>41</sup> to articulate goals, and to take the initial steps to accomplish those goals.<sup>42</sup> Further, they are well equipped and positioned to establish the rapport and trust needed to ease clients' anxieties and prepare them emotionally for legal proceedings.<sup>43</sup>

Although clients may be advised of their rights and responsibilities, participating in the legal process often comes with unforeseeable consequences resulting in the need for intensive and sustained support.<sup>44</sup> By ensuring that clients' needs are met, social

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for themselves at any level. In such instances, social service providers are invaluable.

<sup>41</sup> Mental health professionals, such as clinical social workers, psychologists, psychiatrists, and the like, receive formal training in making assessments and determining appropriate service plans with clients. In most service organizations, such professionals supervise and train case managers, who may have formal training themselves, in working with clients and providing appropriate referrals that will assist them to self-stabilize.

<sup>42</sup> An empowerment model includes participatory goals planning, in which clients articulate their own needs and goals. This approach to case management fosters self-advocacy, slowly developing clients' sense of power and control over their own lives, building feelings of self worth and confidence, and ultimately delivering clients to a place of complete independence. Some organizations, including CAST, utilize a matrix that helps to assess and track a client's progress upon intake through to independence. Listing housing, food, medical, social and emotional health, employment/education, ESL/literacy, legal issues, life skills, and human rights education as outcome categories, staffs partner with clients to work their way from a state of crisis to thriving. CAST, Client Assessment/Outcome Matrix (2002).

<sup>43</sup> Because of the helping nature of their job, social services staff, particularly case managers, are especially positioned to build trust and rapport with clients. Their interactions with clients are centered on assistance and support; similarly, they are typically the professionals who spend the most time with clients.

<sup>44</sup> In her discussion of crime victims receiving supportive services through a Victims of Crime Assistance ("VOCA"), or VOCA-sponsored hospital-based program, Judith Herman explains:

Making an informed choice whether or not to proceed with criminal charges is often a major issue at this time. After the initial stabilization period, many patients need no further treatment until their cases are scheduled for trial[s]. At that point, most patients experience renewed distress, and many return for another round of counseling.

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service providers enable attorneys to maintain focus on their legal cases, and enable clients to participate in the cases when they would otherwise be unable to do so.<sup>45</sup> Social service providers are a critical source of support and encouragement, connecting clients with networks and activities<sup>46</sup> that assist in sustaining them throughout the arduous processes of certification,<sup>47</sup> criminal investigation and

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*See The Mental Health of Crime Victims, supra note 18, at 165.* CAST staff have observed in some of our clients' cases, a general improvement in mental health with a decline as the criminal or civil trial draws near. Clients often experience the same anxiety as their own, or their traffickers' depositions draw near.

<sup>45</sup> The following case example is a combination of facts from several trafficking cases at CAST. To protect clients' identities, a pseudonym has been used.

*Fernanda is a South American woman in her late-twenties. She has several daughters, one of whom is very sick and in need of constant medical attention. Fernanda paid smugglers to get her into the U.S. so she could try to earn money to send home. However, upon arriving, she was raped by her smugglers and forced into prostitution. When she came to CAST, she expressed interest only in receiving legal services. After a while, her mental health began to deteriorate and her lawyer found it more and more difficult to assist her. Fernanda could not make her appointments, fluctuated between wanting to remain in the U.S. and repatriating, and eventually, was asked to leave the boarding house where she was staying for free after breaking several rules. Her attorney finally convinced her to speak with a CAST social worker who offered to show her some shelters in the area where she could stay safely and be much closer to her lawyer. The social worker discussed with her the many services available, including food assistance, clothing donations, medical, dental, and vision services, and most importantly, someone to help her deal with the enormous pain of her experiences and the separation from her children. After accepting CAST's social services, her case manager and attorney spent a lot of time educating her on what was happening in her case and advocating on her behalf with law enforcement. Her case manager provided countless hours of support and encouragement to help her articulate some interim goals that would sustain her while waiting for law enforcement to respond to her report. It has been a long road, but Fernanda's mental health has improved drastically. She attends English and computer classes and speaks regularly with her family. She received continued presence, and is able to take a more active, stable, and consistent role in her legal case, which has helped her attorney enormously. She is awaiting the approval of her T Visa and plans to bring her daughters to live with her here as soon as possible.*

<sup>46</sup> Activities include educational and self-development workshops, art, music, writing, or drama therapy, religious or community group events, exercise and stress-reduction activities, and others.

<sup>47</sup> See TVPA, *supra* note 3, 22 U.S.C. § 7105(b)(1)(E).

prosecution,<sup>48</sup> civil litigation,<sup>49</sup> and application for immigration benefits.<sup>50</sup> Service providers allow attorneys to focus on their primary responsibilities and improve their clients' abilities to provide the information attorneys need to advance their cases.

Working with social service providers also improves attorneys' awareness of their clients' needs and capabilities, and how to minimize the chances for retraumatization or reinjury.<sup>51</sup> Typically, clients are more likely to share their concerns and fears with those individuals with whom they enjoy a rapport and regard as less intimidating. While attorneys can certainly build such a rapport, the power dynamic<sup>52</sup> between attorney and client may be so overwhelm-

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<sup>48</sup> Depending on the types of coercion and the forms of labor or service involved, an incident of human trafficking could give rise to a number of common law criminal charges, including assault and battery, false imprisonment, intentional infliction of emotional distress, and rape. In addition, the TVPA created the following federal crimes: forced labor, 18 U.S.C. § 1589; trafficking with respect to peonage, slavery, involuntary servitude, or forced labor, 18 § U.S.C. 1590; sex trafficking of children or by force, fraud or coercion, 18 U.S.C. § 1591. See TVPA, *supra* note 3, 22 U.S.C. § 7109(a)(2).

<sup>49</sup> In addition to the many torts and labor rights violations that are implicated in most human trafficking cases, the Trafficking Victims Protection Reauthorization Act of 2003 explicitly created a private right of action for forced labor; trafficking with respect to peonage, slavery, involuntary servitude, or forced labor; and sex trafficking of children or by force, fraud or coercion. Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875 (Dec. 19, 2003), at 18 U.S.C. § 1595 [hereinafter TVPRA].

<sup>50</sup> Benefits include Refugee Cash Assistance, medical insurance, and food stamps for not more than eight months. These benefits are provided through the Office for Refugee Resettlement, which issues a letter certifying a client as a victim of trafficking and enabling the client to apply for assistance.

<sup>51</sup> See *The Mental Health of Crime Victims*, *supra* note 18, at 160; TRAUMA AND RECOVERY, *supra* note 14, at 182-83. Verbally articulating the trafficking experience gives a client the opportunity to develop his or her own narrative, which can help begin to integrate the trauma into the survivor's present and changed identity. *Id.* Conversely, the client may experience great anxiety and suffering as telling the story forces him or her to relive the events. *Id.* Attorneys should keep in mind that telling their stories can be both beneficial and detrimental to clients' mental health, so skilled, cautious, and client-centered interviewing is critical to protect the client.

<sup>52</sup> "Lawyers are professionals because they are trained in an area that requires intellectual skill and specialized knowledge. This training creates a power imbalance in the lawyer-client relationship . . ." Recognizing that clients may be dis-

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ing that some clients may not be comfortable or simply may not be able to express themselves directly.<sup>53</sup> An attorney may be aware of some of the factors influencing a client's ability to participate in the case, including the severity of abuse during the trafficking situation, the speed and nature of law enforcement's response, and the client's ability to build independence. However, there are other factors a client may neglect to communicate to the attorney, including pre-existing physical or mental health problems,<sup>54</sup> the abiding trauma of sexual violations or torture, the pressure of high expectations from family members living in poverty back home, or the death of a loved one. Keeping in mind the client's right to confidentiality,<sup>55</sup> social service professionals can inform attorneys of the existence of such factors and advise on the client's ability to proceed.<sup>56</sup> Social service providers can also help clients develop the assertiveness needed to communicate their concerns directly. With access to such informa-

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satisfied with directive lawyering, "humanized lawyering" models have developed, such as the Binder-Price model, that recognize that "the client has superior knowledge about her values, goals and situation, which will enable her to better choose a satisfactory resolution. Thus, client-centered lawyering attempts to shift the power imbalance by engaging the client as a participant in the lawyering process." Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 CLINICAL L. REV. 401, 407-08 (2005), available at <http://lsr.nellco.org/bc/bclsfp/papers/46/>. Trafficking survivors have lost most, if not all, control over their entire lives and have been psychologically, physically, and/or verbally beaten into submission. This loss of power often translates into submission in other relationships, which may explain why many trafficking survivors were and remain susceptible to re-exploitation. Service providers working with survivors of trafficking should be aware of this dynamic and address it when a client tries to defer to the staff's judgment. Bear in mind as well, that the vast number of decisions that newly freed survivors must face is incredibly overwhelming. Attorneys should remain patient and take every step possible to educate clients on their choices and the rights and responsibilities attached to those decisions.

<sup>53</sup> Because of the loss of control they experienced in the past, clients may experience great difficulty in articulating their desires and needs directly to people who they perceive to be in positions of power.

<sup>54</sup> See *supra* note 10 and accompanying text.

<sup>55</sup> See *supra* notes 33 and 34 and accompanying text.

<sup>56</sup> See *supra* note 42 and accompanying text. In line with encouraging clients to advocate for themselves, social service professionals often encourage clients to bring any issues that impede participation directly to attorney themselves by working with them in building self-confidence and self-worth.

tion, attorneys can better understand each client's experiences and respond more appropriately to individual needs.<sup>57</sup>

## *II. The Role of Mental Health in the Legal Case*

While training in mental health issues prepares the social service professionals to contribute to a client's legal case, one does not have to be a trained or licensed professional to support a client's mental and emotional health needs. For instance, the attorney has an opportunity to positively impact a client's mental health. Moreover investigators and prosecutors can alleviate a client's stress by validating and addressing fears and concerns. It is important to keep in mind that many survivors, particularly those who come from countries rife with bribery and corruption, typically mistrust law enforcement officials.<sup>58</sup>

While there is little empirical data specific to trafficking,<sup>59</sup> studies of crime victims and the practitioners who serve them indicate that the criminal justice system often retraumatizes these victims,<sup>60</sup> whereas clients treated with respect and validation fare much

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<sup>57</sup> For instance, if client is depressed, his/her attorney can acknowledge the challenges the clients is facing, inquire if there is anything else the attorney might do to further support the client, reiterate that the attorney is there for the client to advocate for his/her rights and to assist in obtaining justice, protection, assistance, or other. The attorney can also practice patience in interviews, insist on postponing interviews, or insist for regular breaks for clients during interviews.

<sup>58</sup> See HIDDEN SLAVES, *supra* note 7; INSTITUTE FOR INTERGOVERNMENTAL RESEARCH, *supra* note 19; Young, *supra* note 16; *The Mindset of a Human Trafficking Victim*, *supra* note 34.

<sup>59</sup> See HIDDEN SLAVES, *supra* note 7, at 1, 6-18; AMY O'NEILL RICHARD, INTERNATIONAL TRAFFICKING IN WOMEN TO THE UNITED STATES: A CONTEMPORARY MANIFESTATION OF SLAVERY AND ORGANIZED CRIME (2000), available at [http://www.freetheslaves.net/files/01int\\_traffick\\_women.pdf](http://www.freetheslaves.net/files/01int_traffick_women.pdf). See generally TVPA, *supra* note 3; TVPRA, *supra* note 49.

<sup>60</sup> See generally Campbell & Raja, *supra* note 15. This study interviewed mental health professionals for their opinions about the impact of secondary victimization of rape victims who seek help from social service providers after their assaults and considers how differences in training and experience affected the professionals' perception of secondary victimization. Many of those interviewed provided their observations of the impact of both poor and negative interaction with the legal system on their clients.



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better.<sup>61</sup> One study of rape survivors reported that those who experienced difficulties with the legal system after reporting their rapes exhibited “higher levels of posttraumatic stress symptoms than did all other victims, including those who did not report or seek help of any kind.”<sup>62</sup> Many anecdotal accounts<sup>63</sup> among service providers describe how trafficking survivors who had positive, empowering experiences with their attorneys and law enforcement reported and demonstrated improved self-esteem, more strength, and a higher capacity to meaningfully participate in their cases.<sup>64</sup>

Thus, there is a strong argument for the role that attorneys, and law enforcement, can play in improving a client’s mental health; it can no longer be solely relegated to the social worker, psychologist, or other mental health professional. A deeper understanding of how a survivor’s mental health impacts and is impacted by the legal case involves developing an awareness of all the issues discussed herein and how they apply to working with survivors. Effective representation of survivors also involves a conscious effort and commitment to uphold their rights under the Trafficking Victims Protec-

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<sup>61</sup> See HANDBOOK ON JUSTICE FOR VICTIMS, *supra* note 14, at 34-35; Byrne et al., *cited in The Mental Health of Crime Victims*, *supra* note 18, at 162; Campbell et al., *supra* note 18.

<sup>62</sup> Rebecca Campbell et al., *Community Services for Rape Survivors: Enhancing Psychological Well-Being or Increasing Trauma?* 67 J. CONSULTING & CLINICAL PSYCHOL. 847 (1999), *cited in The Mental Health of Crime Victims*, *supra* note 18, at 162.

<sup>63</sup> Anecdotal accounts are from social service providers, mostly case managers, from various agencies with whom CAST collaborates.

<sup>64</sup> The measure of “meaningful” participation is the extent to which clients are satisfied legal consumers. In her discussion of one study on crime victims, Judith Herman discusses how most victims interviewed reported an eagerness to participate in the legal process when offered the opportunity. For example, she reports, “over 90% of victims who were informed of their right to make an impact statement chose to do so.” Herman continues:

[V]ictims’ overall satisfaction with the criminal justice system was directly related to their sense of inclusion and empowerment. Those who were given a chance to participate in the process and thought their participation had an impact on their cases were . . . more satisfied with the system. They also appeared to have better mental health outcomes.

*The Mental Health of Crime Victims*, *supra* note 18, at 162-63.

tion Act,<sup>65</sup> other domestic federal, state,<sup>66</sup> and local laws, as well as international treaties and protocols<sup>67</sup>--not simply because it is the law, but, more importantly, because survivors deserve it.

“Secondary victimization<sup>68</sup> . . . most often occurs because those responsible for ordering criminal justice processes and procedures do so without taking into account the perspective of the victim [survivor].”<sup>69</sup> Stronger collaboration among the various professions working with survivors of trafficking--particularly with social service professionals and the survivors themselves--will help all involved develop a richer understanding of the survivor’s perspective, thereby facilitating a more protective, empowering journey for the survivor throughout the legal process. By collaborating in this way, advocates will grow professionally, restore control, dignity, and jus-

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<sup>65</sup> Victims rights listed in the TVPA § 7105(c), include: the right to access information, the right to rescue and be removed to the appropriate shelter, the right to social assistance and economic self-sufficiency, the right to medical care, the right to be heard in court, the right to mandatory restitution, the right to privacy and safety, the right to seek residency, and the right to return to their country of origin and not be detained in facilities that are not appropriate to their status as victims of crime. TVPA, *supra* note 3, 22 U.S.C. § 7105(c).

<sup>66</sup> A few states, including Washington, Florida, Texas, Missouri, and just recently California, have already passed anti-trafficking laws with more states, including Colorado, and New York currently introducing anti-trafficking bills.

<sup>67</sup> *E.g.*, Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Cultural and Social Rights (ICESCR), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), Slavery Convention (SC) and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (SCAS), Convention Against Transnational Organized Crime (CATOC) and Supplementary Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children. For a full discussion of international human rights instruments and human trafficking, see GLOBAL ALLIANCE AGAINST TRAFFIC IN WOMEN, FOUNDATION AGAINST TRAFFICKING IN WOMEN AND GLOBAL RIGHTS, HUMAN RIGHTS STANDARDS FOR THE TREATMENT OF TRAFFICKED PERSONS (1999), available at [http://www.globalrights.org/site/DocServer/IHRLG Traffickin\\_tsStandards.pdf?docID=204](http://www.globalrights.org/site/DocServer/IHRLG Traffickin_tsStandards.pdf?docID=204).

<sup>68</sup> Campbell & Raja, *supra* note 15, at 261.

<sup>69</sup> HANDBOOK ON JUSTICE FOR VICTIMS, *supra* note 14, at 9.

tice to clients, improve the chances for successful legal outcomes, as well as advance U.S. efforts to end human trafficking.

### *III. A Collaborative Model for Comprehensive Service*

The legal<sup>70</sup> and social service<sup>71</sup> teams at CAST work closely together as soon as a client is referred and continue to collaborate through and beyond the initial intake phase.<sup>72</sup> Inter-departmental collaboration not only minimizes the number of staff members with whom clients interact, thereby reducing the risk for reinjury,<sup>73</sup> but also facilitates a smoother transition for a client onto the caseload. With CAST's limited and precious resources, it is necessary to conduct a thorough assessment<sup>74</sup> before accepting a case to ensure that CAST assists only those who cannot find help elsewhere. The organization accepts cases that may or may not be regarded as "severe."<sup>75</sup> However, the cases selected must involve survivors of do-

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<sup>70</sup> CAST's legal team currently consists of two attorneys who work with interns as well as contracted attorneys in the community to meet the needs of CAST's clients.

<sup>71</sup> CAST's social services team currently consists of three shelter staff, four case managers, and two social workers, one of whom is based at the shelter program. The team also works with interns, volunteers, and contractors.

<sup>72</sup> Clients may be referred to CAST through both departments.

<sup>73</sup> See *The Mindset of a Human Trafficking Victim*, *supra* note 34.

<sup>74</sup> CAST utilizes an assessment tool to determine if a potential client is eligible for services. This tool includes questions to ascertain if and how the client was recruited, to what conditions and payment the client agreed and how those changed upon entry into employment, whether or not there was abuse and the nature of that abuse, and what emergency needs the client has. At times, it is difficult to complete the information, particularly if the client has not yet escaped. In high risk situations, emergency housing may be necessary to provide staff with sufficient time to make a thorough assessment. Doing so protects both the client and the staff.

<sup>75</sup> See, e.g., TVPA, *supra* note 3, 22 U.S.C. § 7105(b)(1)(A). The term "severe" refers to the language of the TVPA, which limits its protection to victims of a "severe form of trafficking." *Id.* The TVPA defines "severe forms of trafficking in persons" as:

- (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of

mestic and/or international trafficking in the U.S. CAST seeks all appropriate immigration benefits for trafficking survivors, including, but not limited to, T Nonimmigrant<sup>76</sup> and U Nonimmigrant<sup>77</sup> Visas, Asylum,<sup>78</sup> or those provided by the Violence Against Women Act (“VAWA”).<sup>79</sup> The staff also works closely with law enforcement agencies to advocate for continued presence<sup>80</sup> and employment authorization for clients assisting in the prosecution of criminal cases.

Once a new client requests social services,<sup>81</sup> a social worker screens for emergency needs the client may have and then works with a case manager to address those needs and develop a service plan.<sup>82</sup> Thereafter, the case manager<sup>83</sup> assumes responsibility for the client’s case and coordinates follow-up care. When the client consents and is prepared, he or she is referred to a staff attorney for a preliminary interview.<sup>84</sup> Later, if the client decides to report his or her case, the Legal Director will report it to the appropriate law enforcement agency. If deemed to be in the best interest of the client, or if the client requests, then CAST will advocate to have a social service professional present in the interview. Naturally, some law enforcement officials may have reservations about allowing non-legal personnel in such interviews. However, if they have built relationships directly with social service providers, and if they have wit-

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force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

TVPA, *supra* note 3, 22 U.S.C. § 7102(8).

<sup>76</sup> See TVPA, *supra* note 3, 8 U.S.C. § 1101(a)(15)(T).

<sup>77</sup> *Id.*

<sup>78</sup> See Immigration and Nationality Act section 208, 8 U.S.C. § 1158.

<sup>79</sup> See VAWA *supra* note 3, Division B (Violence Against Women Act of 2000).

<sup>80</sup> See TVPA, *supra* note 3.

<sup>81</sup> Departments refer to each other at a client’s request. Some clients only request Legal Services in the beginning. They may have the support they need or reside outside of CAST’s service area, in which case CAST provides supportive referrals to local service providers. Similarly, some clients, who already have legal representation, request only social services. Oftentimes, CAST’s Legal Department will provide technical assistance to clients’ private counsel.

<sup>82</sup> See *supra* notes 8 & 10 and accompanying text.

<sup>83</sup> See *supra* note 22 and accompanying text.

<sup>84</sup> The case manager may assist the client with transportation to this and future appointments.

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nessed first hand the benefits to clients and the legal case, law enforcement partners often allow or even encourage the presence of individuals in strictly supportive roles for these interviews.<sup>85</sup>

As a case progresses, the legal and social service departments also collaborate on immigration issues. CAST's social workers and case managers have supplied numerous declarations for clients' T Visa applications, presenting the impact of the trafficking situation on clients' mental health, attesting to historical or concomitant issues that bear on clients' ability to recover, and emphasizing how denial of the application would prevent survivors from achieving a full recovery, possibly even revictimizing them. This testimony also plays a role in advocating for temporary status and employment authorization for clients.<sup>86</sup>

CAST, and many of its partners with similar programs, has dealt with many of the issues discussed in this article, including situations where, had there not been a social service professional available, the attorney would not have been able to proceed. One such case, occurring prior to the passage of the TVPA, involved a young child who was used as a decoy by a trafficker attempting to smuggle a woman into the U.S. for prostitution. With no TVPA, there was much debate over who held jurisdiction, no appropriate housing readily available,<sup>87</sup> and responders struggled to find a secure

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<sup>85</sup> While there is no law prohibiting the presence of advocates at such interviews with law enforcement, this practice remains discretionary on the part of the interviewer(s). California law gives sexual assault victims the right to have advocates at interviews. Additionally, victims have a right to have an attorney there under federal and state law. CAST has facilitated these relationships by having social services personnel receive intakes directly from law enforcement officers; assist in advocating for continued presence and for other issues on clients' behalfs; and in urgent cases, discuss clients' concerns, with client consent--all directly with law enforcement.

<sup>86</sup> See TVPA, *supra* note 3.

<sup>87</sup> Court proceedings related to the case prohibit the release of specific details. Currently, mandated reporters are required by law to report such cases to Child Protective Services ("CPS"), although there are many reports from advocates that CPS does not consistently perceive trafficked minors to fall within their jurisdiction. The Unaccompanied Refugee Minor program, established in 1979, now includes a Trafficked Minors Program to assist in cases such as the one described

and supportive situation in which to place the child. Only through contacting social service networks in the community were they finally able to place the boy with an appropriate caretaker. Through the assistance of social service providers, and after an arduous process, the boy was eventually placed in permanent care.<sup>88</sup>

In 2004, CAST opened its shelter program, the first of its kind in the country, dedicated exclusively to serving survivors of human trafficking. A few months later, the legal department inaugurated its first legal clinic, a monthly educational workshop to educate clients about the various issues they will face as participants in criminal and civil cases against traffickers. These clinics have become CAST's most successful inter-departmental collaboratives, providing unique and exciting opportunities for clients to learn from each other's experiences.<sup>89</sup>

CAST continues to evaluate its own procedures for inter-departmental collaboration and provides regular training for staff members on important issues that direct the way they work to-

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above. Service providers should contact U.S. Conference of Catholic Bishops or Lutheran Refugee and Immigration Services to make a referral.

<sup>88</sup> The Cadena case is another example to support strong collaboration between law enforcement officials and social service providers to protect both survivors and the legal case. Recounted in *HIDDEN SLAVES*, *supra* note 7, federal agents placed survivors in a detention center to prevent them from fleeing or returning home. Agents had to contact immigration authorities every day to make sure the women were not deported. Not only was the situation detrimental for the women, but also for the prosecuting attorneys who needed their cooperation to advance the case. In cases like this, law enforcement can benefit greatly by working with social service providers who can build trust and rapport with survivors and provide safe and appropriate housing that supports the client's needs. While there may remain some risk of flight, holding survivors in detention does not make them useful witnesses. CAST worked on a similar case in which two women were being held in a local detention facility. After some time, CAST was able to establish a working relationship with the prosecutors, who then agreed to release the women to CAST's care and shelter program. The women received their freedom and were more able and willing to assist in their case.

<sup>89</sup> Clinics have covered issues such as the T Visa Rights and Responsibilities, Anatomy and Timeline of a Criminal Case, You and Your Civil Case, Knowing Your Rights under Employment Law, and Client Privilege.

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gether.<sup>90</sup> New personnel receive orientations from the other departments to clarify roles and demonstrate how they complement each other in the pursuit of the agency's mission.<sup>91</sup> Staff members also share case conferencing<sup>92</sup> and case presentations<sup>93</sup> to explore solutions to difficult challenges they face and to inform the non-service staff of the agency's work with clients.<sup>94</sup>

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<sup>90</sup> Staff trainings have included trainings from law enforcement officers such as victim-witness coordinators; sexual harassment; employment law; working with minor survivors of trafficking and the URM program; self-care and preventing burnout and compassion fatigue; issues around client privilege; professional and ethical boundaries in the workplace; and more.

<sup>91</sup> See *supra* notes 23 & 24 and accompanying text.

<sup>92</sup> Within one agency, case conferencing is a way for staff to learn from each other's experience in working with clients. Conferences are held in private meetings, with only service staff present, and may include a brief presentation of the presenting problem followed by a team discussion to brainstorm possible solutions. This is also an excellent training opportunity for new staff to learn the ins and outs of the social service or legal system when working with trafficking survivors as well as how the team works together to support each other in this difficult and complex work. Across organizations, conferencing takes place in situations in which multiple providers are directly involved in a client's case. For instance, when appropriate, CAST co-case manages cases with ethnic community-based organizations to better meet the diverse needs of its clientele. CAST may take the lead in the trafficking case, but the co-managing agency may tend to other needs, such as housing, interpretation, or mental health counseling in the client's language. In these instances, CAST and the co-managing organization holds regular case conferences, with the client, to maintain a focused, collaborative, and communicative approach in working with the client.

<sup>93</sup> Similar to case conferencing, case presentations are a way to share lessons learned with other staff who may not be directly involved in service delivery while still protecting client confidentiality. In case presentations, a general synopsis of a case is provided to educate other staff on the problems that this client faced upon entering the caseload, what was done to assist them, by whom, whether or not there were any complications in the case, and what was done to address them. It is important to note that no identifying information is *ever* provided in these presentations. If there is any risk of identifying the client, the presenter should take extra steps to protect his or her identity, including creating a pseudonym and altering the county of origin, age, and other distinguishing factors.

<sup>94</sup> Additionally, this practice is a useful way for agencies to apply the knowledge they learn on a micro level and on a macro level, taking the clients' and direct service providers' experiences to the public, to other organizations and law enforcement officials, and to policy makers, etc. Sharing lessons learned on the

#### *IV. Conclusion and Recommendations*

Collaboration is critical. It is critical to those serving survivors of trafficking, to those working to prosecute traffickers, and to the survivors themselves. For successful outcomes, it is important to reconsider conventional ways of working with others, not only within offices, but also across professions. This means putting away stereotypes and preconceived ideas, and being open to working with representatives from diverse fields. Human trafficking will not be abolished in a vacuum, but rather, through a concentrated, sustained effort by a team of actors addressing the issue from every side and from every direction, each contributing a unique expertise. This effort requires much from all of us; the traffickers are constantly developing new tactics to remain under the radar, and we must evolve to counter their methods.

While much remains to be done, many involved in this work have witnessed inspiring changes and growth in the way the U.S. is approaching the issue of human trafficking.<sup>95</sup> With unprecedented attention being paid to the issue, advocates must make the most of the current opportunity and channel their efforts in unprecedented ways. Working with survivors as *partners* in rebuilding their lives will return to them the power and control over their own lives that was stolen. Working with each other as *teammates* in protecting survivors and pursuing justice will further the mission of restoring survivors and eliminating human trafficking in the U.S. and abroad.<sup>96</sup> The following recommendations are offered to provide guidance to

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ground, and educating advocacy and training staff with up-to-date information on our experiences with clients, empowers them to be stronger, more informed advocates. It also builds among all staff a commitment to and investment in the agency mission.

<sup>95</sup> Over the past four years, advocates have seen increased funding for services and training, particularly through multi-sector taskforces that include both NGOs and law enforcement. The political will to address the issue of human trafficking is arguably stronger in the U.S. than anywhere else in the world and opportunities for education are more available with new conferences and events highlighting the issue-taking place around the country.

<sup>96</sup> The same type of collaboration is needed on an international level, not only within the U.S. To address the problem in countries of origin, law enforcement officials have much to gain by cooperating with community-based organizations which are directly linked with the communities from which victims come.



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attorneys, social service professionals, and others on how they can work together to improve services and legal outcomes for survivors of trafficking.

First, attorneys should endeavor to educate themselves on the relationship between mental health and the legal case. Clients may suffer from one or more mental health problems, including depression, anxiety, and posttraumatic stress disorder,<sup>97</sup> which may cause or exacerbate physical health problems. These problems may hinder or prevent clients from being able to participate in the legal case. When attorneys and law enforcement officers respond to clients' needs first, clients will experience better mental health, which, in turn, will help the case. Similarly, when the client is receiving empowering treatment and the legal case is going well, the client is more likely to experience improved emotional and physical health. Attorneys should create a working relationship with their clients that welcomes and encourages open communication and regular contact, and ensures respectful, validating and understanding treatment, not only from the attorney, but also from law enforcement partners. Additionally, attorneys should collaborate with social service providers to ensure that clients' basic needs are being met and clients are receiving appropriate psychological and emotional support.

Second, attorneys and organizations should incorporate empowerment models<sup>98</sup> into their service delivery plans which guide, support, and encourage clients to advocate for themselves. Clients are more likely to experience expedited recovery when the control and self-determination lost in the trafficking situation are returned to them. They will also be better witnesses.<sup>99</sup>

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<sup>97</sup> According to the DSM IV, "Posttraumatic Stress Disorder [PTSD] is characterized by the reexperiencing of an extremely traumatic event accompanied by symptoms of increased arousal and by avoidance of stimuli associated with the trauma." AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC & STATISTICAL MANUAL OF MENTAL DISORDERS 393 (4th ed. 1994). In PTSD, the stressor must be of an extreme nature, i.e. life threatening, and can occur at any age. Symptoms usually begin within the first three months after the trauma, but may present months or years later.

<sup>98</sup> See *supra* note 42 and accompanying text.

<sup>99</sup> See INSTITUTE FOR INTERGOVERNMENTAL RESEARCH, *supra* note 19.

Clients should be informed of the attorney's purpose--to serve and to help the client to realize the life originally sought in the United States. Attorneys should guide and educate the client regarding legal options in a clear and precise manner. Additionally, attorneys should be prepared to respond with patience and understanding in the event the client does not comprehend, or expresses ambivalence. In these instances, attorneys should refrain from making decisions for clients. Attorneys should be prepared to utilize different methods to educate clients, including written, language-appropriate materials, educational workshops or group clinics. They might consider multiple, brief meetings with individual clients, in which information is distributed in shorter amounts over longer periods of time. In addition, attorneys should encourage clients to articulate their preferences. Attorneys should provide the best advice and guidance possible, with explanations describing risks, responsibilities, and possible outcomes of decisions.

Together, an attorney and a client should develop a plan delineating tasks and timeframes. This plan will demonstrate to the client that the attorney is accountable, and will foster a partnership rather than further dependence by encouraging client contribution. In future communications the attorney should refer to this plan to demonstrate accountability to the client. The plan may be revised as necessary.

Third, organizations providing direct services to survivors of trafficking should establish and maintain in-house legal and social service departments. Organizations should seek funding to establish the two departments within one agency. Once these have been established, organizations should develop policies and procedures for inter-departmental collaboration, including protecting client confidentiality, sharing of client information, conducting intakes, and establishing protocols for working with law enforcement. Doing so will facilitate better and more consistent communication and cooperation between attorneys, who are providing clients with legal services, and social service professionals, who are seeing to the clients' day-to-day needs. Housing legal and social services together better protects the confidentiality of client information, limiting communication through less secure means, such as telephones, emails, and

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faxes. It also creates a unified team dedicated to the interests of its clients, which, in turn, reassures clients and makes them feel more supported.<sup>100</sup> Providing guidelines for cooperating and sharing information will ensure that staff members understand what information they can and cannot share with other departments and with law enforcement. Rules guiding the attorney-client and psychotherapist-client privilege may also be communicated through these guidelines.<sup>101</sup>

Fourth, attorneys should advocate within their respective agencies or firms to collaborate with organizations providing social services to survivors of trafficking.<sup>102</sup> Attorneys providing services to survivors should advocate for their organizations/firms to establish *Memoranda of Understanding* with social services organizations to formalize partnerships and establish guidelines for cooperation. Additionally, organizations that do not possess the funds to house legal and social services together should seek funding to establish inter-agency collaboratives that include legal partners to ensure that clients receive adequate legal representation. Doing so will improve the NGO response to survivors of trafficking and assist in establishing community taskforces that include multiple service providers, attorneys, and law enforcement agencies responding to trafficking cases.

Fifth, NGOs and law enforcement agencies should endeavor to establish and nurture collaboratives.<sup>103</sup> Each should work to establish regular meeting times during which respective members can discuss important issues that affect how they are able to work to-

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<sup>100</sup> CAST clients have reported feeling better about themselves and about their cases because of the positive interaction they enjoy with staff attorneys. For example, one client who was feeling particularly overwhelmed by her case approached her attorney to explain the toll it was taking on her. The attorney responded with empathy, understanding, and patience and worked with the client to explore her options. As a result of this interaction, the client felt reassured, empowered, and protected; shortly thereafter, she decided to move forward with the case.

<sup>101</sup> See *supra* notes 33 & 34 and accompanying text.

<sup>102</sup> There are several collaboratives in cities across the U.S., including Los Angeles, Miami, and New York that include legal and social service providers.

<sup>103</sup> Similar to the collaboratives amongst service providers, 22 U.S. cities have or are in the process of establishing inter-agency taskforces between law enforcement and NGOs.

gether.<sup>104</sup> Doing so improves inter-agency communication, channels resources to facilitate a more coordinated response to survivors, and provides an opportunity for participants to learn about one another's roles in addressing trafficking cases and how they may complement each other to better accomplish these goals. The ultimate goal is to improve survivors' experiences when cooperating with investigations and prosecutions.

Finally, attorneys should advocate for relationship building directly between social service providers and law enforcement officers. Attorneys can assist their clients by encouraging law enforcement to work directly with social service providers when appropriate.<sup>105</sup> This may be encouraged by having social service staff participate in conducting intakes, collaborating with law enforcement to transfer clients into supportive housing, and speaking to officers about the impacts of the trafficking experience on clients and how that has affected their ability to participate in an investigation. Fostering this relationship will provide law enforcement officers with more opportunities to learn about the role social service professionals can play in supporting the client as a victim-witness throughout the legal process. Moreover, law enforcement officers will develop an appreciation for their own role in supporting survivors in the journey toward recovery.

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<sup>104</sup> The New York Community Response to Trafficking Project, through its CRT Working Group, has developed the first set of guidelines in New York City created to assist community based organizations and criminal justice agents to collaboratively address the problem of human trafficking, <http://www.nyc-crt.org/> (last visited Feb. 28, 2006).

<sup>105</sup> This can occur as early as the rescue stage, when mental health staff members are provided access to survivors shortly after their escape when emotional support and reassurance are most critically needed. Law enforcement officers may not have the time to spend with newly freed survivors, particularly on the site of a raid; having supportive staff available to calm and reassure victims, at a safe distance, can sometimes facilitate a smoother transition out of the forced labor setting.