



March 14, 2022

To the Senior Policy Working Group:

My name is Chris Ash and I am a survivor of human trafficking who has been engaged in movement work for almost 30 years. I began with 2SLGBTQIA+ activism and suicide hotline crisis response, did extensive youth work in my twenties and thirties, and shifted into anti-sexual violence advocacy in 2009. I moved into full time anti-violence training and technical assistance work in 2018, and currently manage the National Survivor Network. My expertise focuses include public health approaches to violence prevention using a social justice lens, trauma-informed advocacy (including organizational management and supervision), and ethical survivor engagement.

Part of my current work is re-structuring and re-opening the National Survivor Network (NSN), whose work was paused in 2019 as a result of extensive lateral violence in the survivor movement, the fires of which were stoked by well-funded nonprofits leaving survivors as its embers. It was important to me (and to CAST) that anti-racist work remain the foundation of the renewed NSN, and so throughout the month of January I convened a Restructure Team that met regularly to draft our new values statement. You can read the demographics report for that team here (<http://nationalsurvivornetwork.org/wp-content/uploads/2022/01/2022-Restructure-Team-Report.pdf>). Each of our five meetings included extensive discussion of race and the movement. All of our values were intentionally crafted with an anti-racist lens, and several explicitly mention race. Much of the commentary provided in this document comes from our values statement and shared notes from those meetings.

Additionally, in March of 2022 I began conducting semi-structured interviews with survivors who had felt harmed by the movement to learn how we could better support them, and what their “ideal movement” would look like. Notes from my calls with BIPOC survivors also informed this document.

What this means is that 100% of the feedback/guidance in this document is from survivors of human trafficking (a good bit of it from those who have been harmed by or edged out of the movement, whose insights are especially valuable), and that all of the concepts are coming directly from quotes from BIPOC and/or immigrant survivors.

What does racial equity mean in the context of human trafficking? What does a racially equitable anti-trafficking framework look like, particularly for a law enforcement response and prosecution response, victim assistance efforts, and prevention strategy? Are there specific considerations for responding to sex trafficking and to labor trafficking, including forced labor?

One concept that came up repeatedly in our meetings was the harm done to BIPOC survivors when we conflate crime with violence. Survivors repeatedly shared that for them, many of our systems used to fight, respond to, and prevent crime are inherently violent. Additionally, they referenced the systematic use of criminal codes to enact violence against and enslave Black people. Therefore, not all crime = violence, some criminal justice systems *are* violent and state-sanctioned, and not all violence is criminalized. “Crime” is often used as a means of social control against Black people. See: <https://www.vera.org/downloads/publications/for-the-record-unjust-burden-racial-disparities.pdf>

From our values statement:

“The NSN opposes the use of forced or exploited labor in prisons. The 13th Amendment states; “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.” This loophole folded into the 13th Amendment was intended to be exploited and weaponized against Black people in an effort to maintain foundational white supremacist systems of slavery. It has led to an increase in racialized criminal codes that fuel mass incarceration, which disproportionately impact BIPOC families and communities while expanding the wealth of privately-owned, for-profit prisons, and, as an extension, reinstating the de facto enslavement of Black people as property.”

Survivors we worked with felt like this same racist trend was replicated in the ways trafficking is often described. One Black and Indigenous survivor noted: “Another thing that is different between me and the rest of these anti-trafficking people is that I’m not going to demonize traffickers. The same racist system that keeps little Black girls vulnerable and gets them trafficked leaves little Black boys vulnerable and then they’re a pimp, a caricature of white people’s fears. And that messaging gets out there and people think that’s what a trafficker is. It’s a cycle. We all need healing from racism.” Survivors noted the loop we are in, where racism creates vulnerability to both victimization and perpetration, increasing criminalization and mass incarceration, which perpetuates the next cycle.

Our survivors also did not feel that those systems will change or reform fast enough to mitigate violence, and that, because of that, mandatory engagement with those systems increases surveillance, risk of criminalization, and risk of incarceration or deportation. A racially equitable anti-trafficking framework would:

- Maintain options for victim services funding that are not linked to the criminal legal systems. Our survivors felt like funds for victim services being funneled through the criminal legal system added funding requirements that prohibited or deterred local programs from being able to provide the kinds of services they wanted. It might be that sorting the services provided into those that are meant to respond to crime (legal advocacy, vacatur support, crime victims funds, etc.) and those that are meant to respond to violence (trauma treatment, shelter, crisis services, etc.) would allow them to them be appropriately funded and supported with cross-systems collaboration happening to ensure seamless support.
- Allow anti-violence and anti-crime funding to be used for [non-carceral](#) approaches to treatment and accountability, *at the discretion of the survivor*. Meaning, no survivor who wanted to pursue criminal legal or civil accountability for their trafficking experience would be denied that option, but that those who explicitly wanted to avoid engagement with the criminal legal system would not be left without options. They would have their autonomy respected and have real choice, and choice and autonomy begin restoring what trafficking took from them.
- Would not require mandatory engagement with the criminal legal system as a precondition to receiving services, immigration relief, or funding. It is the responsibility of the criminal legal system to develop a strong case against a trafficker, not the moral obligation of a person who didn't get to choose whether or not they wanted to be targeted for criminal activity. Putting the burden onto victims to support law enforcement as a precondition for receiving relief replicates coercive patterns of traffickers.
- Would not prioritize sex trafficking over labor trafficking in prevention, messaging, awareness, response, or legislation. Our survivors regularly mentioned that the emphasis on sex trafficking is rooted in the white slave panic, which showed up in Chris Smith's 1999 comments explaining why sex trafficking is uniquely brutal. They also noted that the de-emphasis of labor trafficking is because of both its association with immigration and racist beliefs about the worthiness of certain racial categories of refugees, asylum-seekers, and immigrants (who are often portrayed as not their best, having lots of problems, or being criminals or rapists), *as well as* the racist portrayals of young Brown and Black men trafficked into non-sex criminalized economies (who are often dismissed as dealers or gang members rather than seen as trauma survivors whose vulnerabilities were exploited as they sought connection, safety, and community).

- While banning mandatory engagement with criminal legal systems in order to access treatment or funding would restore the autonomy of BIPOC survivors, work should continue to address disparities within those systems through reform and continued critical, systemic reflection. Releasing survivors from coerced criminal legal engagement is not a substitute for ongoing systemic change, but rather a parallel and complementary shift in approach to happen in tandem with ongoing systemic reform.

Please describe any racial injustice, inequity, or unfairness you have observed or experienced that resulted from a federal anti-trafficking activity (please specify the relevant policy, practice, or program). Do you have recommendations for how this should be corrected?

[After a traumatic ad Hoc SPOG committee on demand reduction meeting in September](#), I debriefed with several BIPOC and immigrant survivors who'd felt harmed, marginalized, or silenced on that call or as a result of similar dynamics in the movement. Two things that came up consistently in those conversations were: 1) Tokenizing survivors of color to shut down other survivors, and 2) unethical use of social justice language.

The anti-trafficking movement and its norms have consistently and historically been centered on whiteness and a need to center white women as both victims at risk for exploitation and saviors who are able to fix the movement. As people who had been engaged in immigrant rights, anti-racism work, and 2SLGBTQIA+ rights began to speak out critically about practices and norms in the anti-trafficking movement, survivors were platformed who have one or more of the identities but still mostly agree with the framework without a parallel platforming of the many BIPOC voices that were critical of the framework and norms. A few of our survivors mentioned parallels to Ben Carson or Thomas Sowell, noting that you could have thousands of Black people and racial equity experts speak to how affirmative action is essential, and the people who oppose affirmative action will repeatedly platform the small number of Black people who oppose affirmative action as if they are in any way representative of the majority of Black voices. In a similar way, they believe the mainstream anti-trafficking movement avoids elevating a broad diversity of BIPOC voices in favor of elevating the few that parrot existing narratives. In fact, our survivors mentioned feeling like those voices were cherry-picked to "weaponize the worst parts of identity politics" against BIPOC survivors who are critical of the movement.

The second thing that almost every BIPOC individual mentioned was that the call included a dynamic they've seen in other areas of the movement as well, in which social justice language and frameworks of equity are weaponized to shut down meaningful discussion about equity rather than to create the container for it. By weaponizing a survivor's identity as a trans Latina, for example, against other survivors of color, "leaders" effectively shuts down continued conversation about what practices do and don't work best. This shutting down impacts survivors of color who already feel marginalized from and harmed by the movement, depriving

us of their brilliance and insight. While we know that survivors have experienced trauma, that does not give us a pass to lash out against other survivors to preserve our position.

A variation on this dynamic occurs in meetings when BIPOC survivors with extensive expertise in anti-racism organizing and anti-violence work do not attend, even when they are invited, because anti-trafficking spaces do not typically feel safe to them. They will not engage in mainstream anti-trafficking spaces where they are shut down, talked over, or harmed. This creates a false illusion of diversity when you have people with marginalized identities in leadership or active in your movement, but the only ones who feel safe engaging are the ones who already agree with your frameworks and adhere to your practices. If all the BIPOC people at your table agree with each other and agree with you, your table has been far too well-curated to provide meaningful inclusion and advocacy.

How have federal anti-trafficking policies, programs, and systems created barriers to advancing racial equity?

All of our BIPOC survivors on our restructure team and in our interviews, many of whom also hold other marginalized identities such as 2SLGBTQIA+ or disabled, mentioned the anti-trafficking movement's hostility to the sex trades as a barrier to racial equity, a driver of criminalization (including of survivors), and a coercive force in marginalized survivors' lives. They shared that BIPOC and 2SLGBTQIA+ survivors have long traditions of caring for each other and maintaining safety outside of the criminal legal system, and that both demand reduction and the anti-prostitution pledge criminalize or impede those strategies. This not only limits their options of culturally-appropriate safety, but also (they noted) replicates coercive harm by not allowing survivors to name and frame their own harmful experiences. For example, if they were trafficked in the sex trades, many of them do not perceive the commercial sex to be the greatest violation, but rather the poverty and constant racialized community trauma. This leads them to see creative community interventions (such as transformative justice, community accountability, bad date lists, working in pairs, sharing homes with other workers, and sharing sex worker safety practices and information) as viable and meaningful solutions, and many of those creative interventions (even when they are supported by public health evidence on harm reduction) are interpreted by funders as "promoting prostitution" and would put them at risk of losing funding. For this reason, the BIPOC survivors who participated in our restructure and interviews felt that the anti-prostitution pledge trapped them in white supremacist responses and frameworks, and did not honor their cultural and ancestral ways of naming and addressing harm.

Similarly, our survivors expressed concern about how many demand reduction frameworks that criminalize sex buyers are disproportionately implemented and often replicate patterns of mass criminalization of BIPOC individuals. Furthermore, they named criminalization of consensual adult sexuality as a historical means of control over Brown and Black people's bodies, and drew

parallels to demand reduction as a racist practice of bodily control. Our survivors felt like minimizing bodily autonomy by conflating consensual and trafficked commercial sex removes survivors' agency, disrespects their autonomy, and entirely disregards the ways in which choices available to *all* people with marginalized identities and reduced economic means are limited by racism, poverty, and other forms of oppression. They worried about a "slippery slope" of dismissing someone's autonomous choices due to their identities, points of marginalization, or trauma history, fearing that could be weaponized to dismiss or disregard their other autonomous choices in their lives.

Finally, many of our BIPOC survivors named diversion courts as a source of harm to marginalized populations. While diversion courts are intended as a means of reducing criminalization to survivors of trafficking (which our survivors support wholeheartedly), they often bring additional harms to individuals in the sex trades (whether by consent, circumstance, or trafficking). Some of our BIPOC survivors referred to them as "coercive interventions," naming the ways in which many survivors experience them: Coercive. Some of the criticisms of diversion courts included:

- Requiring mandatory services that treat engagement in the sex trades as a mental health or moral issue without fundamentally changing the conditions that made sex-trading a reasonable choice. "I didn't need therapy. I need money. I need a job."
- Creating an "out" for people in the sex trades that is contingent upon meeting requirements that aren't always easy to meet. One example is if someone has to choose between missing an appointment that could recriminalize them or taking time off of work and losing income in order to make appointments (thus increasing vulnerability and the need to make up lost income through sex trading).
- Treating consenting sex workers as if they are victims in need of rehabilitation rather than respecting their bodily autonomy and sexual freedom. (Our BIPOC survivors spoke regularly of white supremacist values around purity and sex as harmful to marginalized populations.)
- Increasing policing. In many jurisdictions that implement diversion courts for prostitution-related offenses, law enforcement have been documented to increase policing and sting operations under the assumption that they are "helping" people.

These close partnerships with law enforcement may contribute to what has been described as a net widening effect. "Net widening" refers to reforms that make it easier to sweep individuals into the criminal justice system. Critics allege that diversion and other "decriminalization" reforms "[make] it possible to reach more offenders by simplifying the charging process and eliminating counsel, along with other forms of due process," while also "heighten[ing] the impact of the net by turning to supervision and fines as indirect, long-term constraints on defendant/participant behavior, and by extending the informal consequences of a citation or conviction deep into offenders' social and economic lives."⁵⁸ All of the programs we studied,

whether sting-based or not, are potentially net-widening; in some cases, like PDINL in Dallas, law enforcement officers are not able to offer services without making an initial arrest. Some programs, like the one in Austin, acknowledged that the existence of the PDP may result in heavier policing and increased arrests as the program seeks to fill its open slots.

Although we have not studied this phenomenon closely, a systematic analysis of rates of arrest could better quantify the extent of this problem. The net-widening concern persists for pre-arrest and pre-booking programs, which generally claim to reduce harms associated with CJS engagement. The LEAD program in Seattle and some affiliated programs elsewhere rely partially on social contact referrals by police. With social contact, police officers (and in some cases, non-police community members) are able to refer individuals into the program whom they believe are at high risk of future arrest for any of the divertible offenses. While social contact referrals enable individuals to access social services without the contingent threat of arrest, there is concern that this may have a net-widening effect, as police who make referrals in situations without probable cause for arrest may be increasing contact with law enforcement for individuals who would not have otherwise had a police encounter. For instance, in environments where police were not actively arresting the divertible offenses under normal operating procedure and begin “diverting” individuals they would have otherwise not contacted on the grounds of connecting them with social services, arrest numbers may not decrease and police-community interaction (and all of its attendant risks) may actually increase.

[*Diversion from Justice: A Rights-Based Analysis of Local “Prostitution Diversion Programs” and their Impacts on People in the Sex Sector in the United States*](#)

Also see: [Human Trafficking and Prostitution Courts: Problem Solving or Problematic?](#)

One final example of the harms that can emerge from the diversion court approach: Layleen Polanco, a 27-year-old transgender woman of color, died in 2019 in Rikers. The charge she was picked up for that led to her incarceration would *not* have led to her detention, except that she had been previously involved with a human trafficking diversion court and her minor offense was seen as a violation of its terms. This detention ultimately led to her death. See: [How the tragic death of Layleen Polanco exposes the horrors of criminalizing sex work](#)

To address and help reduce these barriers, it is recommended that the executive branch:

- Ensure that survivors are able to advocate for practices that are informed by both the evidence and by their lived experiences, without limiting their practices to those that are in opposition to sex work.
- Review the research to better understand how demand reduction replicates the harms of full criminalization. See [Advocating Opportunity’s Demand Reduction Desk Review](#).

- Ensure that survivors who participate in Federal planning and advisory councils have diverse experiences and perspectives, and that BIPOC survivors are not tokenized through selection practices that only uplift voices in alignment with the mainstream movement, which has been plagued with racism.
- Prioritize and enhance programming to support survivors working in the movement to show up in uncomfortable professional spaces, in which survivors may disagree with each other, without harming others through their own unaddressed trauma responses.

What can SPOG agencies individually and the SPOG collectively do to advance racial equity and integrate it into federal anti-trafficking work domestically and internationally—particularly in the areas of investigation and prosecution, victim services (commenters may specify specific populations, such as people of color, noncitizens, LGBTQ+ persons, etc.), grantmaking, public procurement, supply chains, public awareness and outreach, research and data collection, and any other area the submitter feels is important to note?

In many of my interviews with BIPOC survivors, I have asked them “What does your ideal anti-trafficking movement look like? How does it respond to trafficking? What does its prevention strategies look like?” All but one responded by indicating that in their ideal, the work wouldn’t be siloed into the anti-trafficking movement but would instead recognize the incredible anti-trafficking impact of progress and empowerment of related movements, like efforts to eradicate poverty and child maltreatment. As an example, work to improve safety for noncitizen refugees, asylum-seekers, and migrants *is* anti-trafficking work whether it is housed in the anti-trafficking movement or not. Similarly, eradicating poverty, reducing childhood trauma, prevention of sexual and partner violence, and increasing labor protections are trafficking prevention. The SPOG could highlight these messages, create messaging and educational campaigns to help the general public and especially policy-makers better understand the connection between strong social and economic supports and reduction of trafficking. This approach is fundamental to the public health approach to addressing trafficking, and the field of public health already has a solid and evidence-based framework for violence prevention. If violence prevention (even for trafficking) were to remain in the domain of the Centers for Disease Control, with DOJ instead focusing on crime and victim response, this broader, evidence-based, and effective approach could be normalized and expanded in the anti-trafficking movement.

Several of our BIPOC survivors specifically named universal basic income as having powerful potential for preventing trafficking.

See: <https://actionnetwork.org/forms/the-power-to-say-no-can-ubi-prevent-trafficking>

Also see: <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/universal-basic-income-way-through-storm/>

Meaningful stakeholder engagement includes collective problem-solving and decision-making, equitable partnerships, and collaboration that fosters a sharing of power. What processes or approaches should SPOG agencies have in place to proactively and meaningfully engage individuals with lived experience of human trafficking and communities that are most directly impacted by human trafficking? What are tools and best practices that SPOG agencies should consider to embed racial equity practices into community and stakeholder engagement?

Please see this document on the [Spectrum of Survivor Engagement](#) (Croft and Dunkerton, 2019). It is an excerpt from Expanding Our Reach: Equipping NC's Rape Crisis Centers to Support Survivors of Human Trafficking.

See: [Empowering Meaningful Survivor Leadership in the Movement](#)

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Thank you so much for your consideration of this important issue. I welcome any questions you may have, and am available to support this work in any way possible on behalf of the National Survivor Network.

Warmly,

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