



February 1, 2023

VIA EMAIL to tipreportUS@state.gov

TIP Ambassador Cindy Dyer
US Department of State
Office to Combat and Monitor Trafficking in Persons (JTIP)
2201 C Street NW, SA-09 Suite NE3054
Washington DC 20520

RE: The National Survivor Network's Input for the 2023 Trafficking in Persons Report

Dear Ambassador Dyer:

The National Survivor Network (NSN) is a values-based, survivor-led professional membership network for survivors of human trafficking who are engaged in or preparing for leadership in the anti-trafficking movement. In February 2011, Cast launched the NSN to foster connections between survivors of diverse forms of human trafficking and to build a national anti-trafficking movement in which survivors are at the forefront and recognized as leaders. While the NSN is a program of Cast, our funding explicitly requires that everything we do is survivor-led at every level, and thus we operate with a high degree of autonomy. Cast's input is based on their many staff experiences working within the organization with survivors as clients, and our input may align at many levels.

Our input is developed directly from surveys and listening sessions with our members. The NSN's members all have lived experience of human trafficking. We are people who have experienced trafficking in legal industries, criminalized trades (including commercial sex), as youth and as adults, in the United States and in other countries. Our members include migrants, US citizens, survivors of the Murdered and Missing Indigenous Women crisis, two-spirit and LGBTQ individuals, and people with diverse disabilities and chronic illnesses, some of which emerged from our trafficking. Our members work for local and state anti-trafficking programs as direct service providers, are consultants to organizations nationwide, or work at the national level as leaders, employees, and consultants. Many of us run full-time networks empowering other survivors in their healing and/or work. The NSN's diverse membership makes it uniquely representative of the myriad of situations experienced by survivors of human trafficking.

The NSN offers the following information about the challenges facing the US Government in our shared mission to address human trafficking in the US. Although our comments are not an exhaustive list of all of the US Government efforts that impact human trafficking, we focus on those about which we have the most information and experience.

Overview

1. Accomplishments

We applaud the recent direction in the Enhanced Multidisciplinary Task Force call that prohibited funds from being used for proactive operations (or widespread “stings”) in the absence of prior evidence of human trafficking, and hope that these operations will be extended to efforts to end exploitation in Asian massage businesses as well.

We applaud OVC’s efforts to increase understanding and guidance for the meaning and practice of “victim-centered” investigations and legal processes in task forces.

We are heartened to hear a greater emphasis on the impacts of race, poverty, migration, and patriarchal violence (violence against women and children, violence and discrimination against LGBTQ and gender-nonconforming individuals). We hope that emphasis translates into action, into changed policies about: migration, asylum-seeking, and welcoming refugees; LGBTQ anti-discrimination protections, including for youth and transgender individuals; broad support for racial equity and anti-discrimination policies, as well as consistent accountability for police and other state violence against Black and Brown individuals; and renewed investment into poverty-eradication measures. **Racism, homophobia/transphobia, mistreatment of migrants, and widespread poverty are not meaningful issues to address only in the context of human trafficking eradication; they are broad issues that are essential to address in the context of the United States social welfare programs, civil rights protections, immigration policies, and criminal legal and public safety systems. When these issues are not addressed universally throughout the United States government, they further vulnerability to all forms of violence and exploitation, all of which are horrific and essential to address.**

Recommendation: The NSN recommends that any framings of these foundational, vulnerability-creating “isms” or policies recommended do not limit these issues to importance only to the degree that they are experienced by survivors or human trafficking. Move beyond the silo into practical solidarity with agencies and organizers doing this work as well as into the earliest work of human trafficking prevention by moving “upstream.” Framing these issues as “important to address because they impact survivors of human trafficking” suggests that they only matter to

the US government once someone has experienced the most extreme violations, which hinders meaningful prevention. All policies that remove protections for vulnerable populations increase risk of human trafficking, and this should always be a consideration in all US policy and legislative work. Create awareness campaigns that help policymakers and the general public understand this, and that rally broad support for anti-racism, anti-poverty, LGBTQ rights, migrant rights, disability justice, and community-based accountability initiatives.

2. Deficiencies

1) Over-reliance on the criminal legal and immigration enforcement systems

The United States criminal legal system continues to be a source of ongoing trauma for many populations that have been systemically marginalized from access to safety, institutional power, and equitable legal protections. The 13th amendment includes a loophole that explicitly sanctions the enslavement of incarcerated individuals convicted through a system that is rampant with the disproportionate abuse, arrest, conviction, and incarceration of Black and Brown individuals. This loophole was intended to be exploited and weaponized against Black people in an effort to maintain foundational white supremacist systems of slavery, and has led to disruption of Black, Indigenous, and other people of color's (BIPOC) families and communities while expanding the wealth of privately-owned, for-profit prisons. There were only 10 days in 2022 where police did not kill someone, and 26% of the 1,186 people killed by the police were Black people, leaving them represented at twice the rate among police killings than they are in the general population.¹ BIPOC individuals, LGBTQ and transgender individuals, migrants, disabled or neurodivergent individuals, homeless people, sex workers, substance users, and people living in extreme poverty have watched agents of the state abuse or kill their comrades, unjustly surveil or lock up their loved ones, advocate for laws that dehumanize them or make them targets, separate families through incarceration or deportation, destroy their informal yet essential living spaces (often destroying homeless people's essential documents and only belongings in the process), fraudulently sexually assault them in the name of "investigating prostitution or human trafficking," or extort sex out of them in exchange for avoiding arrest.

The very communities that are at highest statistical risk of experiencing human trafficking have been the most harmed by agents of government systems, which means that **these systems cannot be relied on for prevention**. Additionally, many trafficking survivors report that their traffickers and buyers included police officers, judges, foreign diplomats, and other local, state, or federal government officials. **While many survivors will hope to engage these systems in**

¹ <https://mappingpoliceviolence.us/>

accessing justice for the violence they endured, many will not – either because they do not trust that they will be treated fairly by these systems or because they have not found that these systems provide “justice” in the first place.

*Recommendations: 1) Offer guidance to state and local partners using federal funds for human direct services to **prohibit federal funds and the necessary legal and supportive services they provide from being paired with mandatory reporting of adult victimization, either by the service provider or by the victim, in order to access funds and services.** While our systems have such disparate impacts on vulnerable populations (those that are currently underserved by our programs), mandating a survivors’ engagement with these systems prior to, during, or after prosecution denies their agency and puts them at increased statistical risk of violence. 2) **Enable multidisciplinary task forces to partner with “a government agency of their choosing” for their direct services task forces** so that service providers who hope to create safer, culturally-specific or culturally-responsive programming could perhaps choose to partner with their local labor, housing/homelessness, or aging services, for example. While it might seem counterintuitive that specialized multidisciplinary task forces would lead to greater identification and enhanced service provision, **current models that require law enforcement partnerships leads to the de facto deprioritization of the needs and safety of underserved populations.** This and other variances in state laws, policies, and implementation leads to inconsistent services. 3) **Shift prevention funding into non-carceral, community-centered, public health approaches.** Fund prevention task forces that do not engage the criminal legal system at all; instead fund the kinds of community partnerships and un-siloed strategies that would reduce community/societal risk. Potential partners in these task forces might be the local department of health, housing/ homelessness, early childhood enrichment, education, and a variety of non-governmental community-based organizations that represent the needs of underserved populations at statistically higher risk. 4) **Close the loophole in the 13th amendment that enshrines ongoing slavery in our constitution.** 5) **Provide safe migration routes and adequate protections for asylum-seekers and refugees, and a path to citizenship for DREAMers.***

2) Lack of protections for devalued, care, or informal workers.

Domestic, farm, construction, healthcare assistance and home health, janitorial, garment, and other workers in lower-paid, societally-devalued positions continue to lack access to sufficient worker protections. For example, many of these workers are unaware of rights related to wage theft. Even when there is awareness about wage theft laws and worker rights to compensation, accessing legal support is a barrier as is the relatively short statute of limitations. Many of these workers come from communities disproportionately impacted by harms of criminal legal and immigration systems and may be afraid of seeking recourse. Additionally, the individualistic

structure of US communities and families - which may itself be alien to migrants - means that trafficking within homes and residential systems (such as apartments or senior living homes) goes unnoticed. Within informal economies, such as use of day laborers in otherwise legal trades or criminal trades such as drug sales or criminalized forms of sex work, people who have been failed by our social welfare and civil rights systems are at increased vulnerability of exploitation when traffickers leverage their desperation and isolation. Even in legal trades that may carry increased cultural stigma, such as janitorial, garbage collection, stripping, pornography, or construction, social stigmas about the work may be leveraged by the trafficker as part of the coercion or may prevent workers from advocating for better treatment.

*Recommendations: 1) **Strengthen labor protection laws for societally-devalued, low wage, migrant, and informal workers** to reduce trafficking. Lengthen statute of limitations timelines for labor violations to allow exploited individuals to access recourse. Expand availability of education on workers' rights to these workers. 2) **Fund economic, food, and housing security programs and universal access to quality healthcare** to reduce people's reliance on informal or criminalized economies for income. 3) **Require that any human trafficking "awareness" campaigns include at least an equal focus on worker rights, migrant rights, rights when engaging with law enforcement or child welfare workers, tenant rights, and other forms of "know your rights" education as they do on "know the signs"** 4) **Ensure that federally-funded trafficking prevention and service campaigns and initiatives do not reinforce or replicate stereotypes or stigma against informal workers, to include those in commercial sex.** 5) **Do not advocate for the redirection of funds into human trafficking from other anti-violence work, civil rights initiatives, or community-strengthening programs.** Advocacy to address partner and sexual violence, worker rights, migrant safety and rights, racial equity and diversity, universal healthcare, poverty-eradication, LGBTQ rights and safety, disability access and rights, food insecurity, housing insecurity and homelessness, and substance use harm reduction and treatment is human trafficking prevention.*

3) Politicization of public health, inadequate efforts to address root causes and drivers, and ineffective "awareness" efforts

In recent years, the field of public health has attempted to right its historic wrongs by prioritizing the study of health equity. Through extensive research into disparate health impacts experienced by those who have been marginalized from access to safety and resources (largely the same populations we consider to be "underserved"), public health experts have identified direct correlations between legislative and social policy on issues such as immigration, worker rights, social safety nets, economic policy, racism, education, civil rights, climate change, environmental protection, and global development on health outcomes. **We will not be able to end or address human trafficking without changing our approaches to the very areas of**

legislative and social policy that create poor health outcomes and increase statistical risk of trafficking. While this research is indisputable evidence, it does challenge norms that are often considered to be “political ideologies.” Over the past year, opponents of the public health evidence claim that public health advocates are “politicizing the issue” simply for clearly and directly naming the health impacts of structural oppression and systemic violence. We saw this during the discussions behind the most recent TVPRA authorization, when evidence-based policies were deemed “political” and removed in the name of “bipartisanship,” stripping essential protections and necessary preventive measures from the final bill. This reduction of anti-trafficking policy to ineffectual but bipartisan talking points impedes meaningful prevention, limits our ability to provide services to already-underserved populations, hampers our ability to foster trust with communities at greatest risk of trafficking and with fewest resources and protection, and continues to direct funding to largely ineffective, misleading, or biased “awareness” and “education” efforts that perpetuate stigma, stereotypes, and shame.

*Recommendations: 1) **Push back against politicized efforts to dismiss or invalidate the extensive public health research on the impacts of structural oppression, discrimination, poverty, and criminalization on community, family, and individual health and wellness, to include risk of trafficking.** 2) **Fund CDC primary prevention research to identify the predisposing and reinforcing behavioral, attitude, and environmental factors for human trafficking.** 3) **Require that any federally-funded strategies to prevent human trafficking include an assessment of collateral impacts of proposed strategies or legislation on historically oppressed communities, people living in poverty, LGBTQ rights and safety, or sex workers, for example. When considering positive and negative effects of policy or legislation on impacted communities, remember that impacted communities include those impacted by human trafficking as well as those impacted by anti-trafficking efforts. These impact assessments might include research such as that proposed in the SAFE SEX Workers Study Act or research that shows the economic and safety impacts of banking restrictions on a broad array of gig workers.** 4) **Acknowledge that prevention of crime is not synonymous with prevention of violence, and disentangle crime policy and prevention from violence policy and prevention to ensure that our efforts are not working at odds with each other.**² 5) **Fund awareness campaigns that educate the public and our policy-makers about the connection between structural oppression and politicized policy and increased risk of human trafficking. Oppose efforts to misuse “groomer” fears to target LGBTQ communities, and educate the public about the direct connection between the (currently) 184 anti-LGBTQ bills proposed across the United States³ and LGBTQ youth’s increased statistical risk of human trafficking due to lack of safe families and***

² See: Richard B. Felson, “Violence, Crime, and Violent Crime” in International Journal of Conflict and Violence (IJCV), 2009. DOI:10.4119/ijcv-2791

³ <https://www.aclu.org/legislative-attacks-on-lgbtq-rights>

communities. Increase efforts to create safety, access to gender-affirming healthcare, and employment and housing protections for LGBQ and transgender adults and youth. Ensure that anti-trafficking funds are not used to advocate against the accurate teaching of our racialized history of slavery and systemic racism. Require that any federal funds used to create curriculum for teaching youth about trafficking in the sex trades is LGBTQ-inclusive, inclusive of male victimization, and includes the importance of comprehensive sex education.

4) Lack of investment in survivors' long-term personal and community wellness

Anti-trafficking efforts continue to center the symptoms vs the root causes of trafficking. Current programs are too short-term to see people through spectrum of care needed to build long-term stability, and economic or workplace development funds for survivors in anti-trafficking funds are often restricted to limited kinds of work – often societally-devalued work that is prone to higher levels of exploitation or craft or tokenized and inconsistent consulting work that does not provide sustainable income or requires high levels of entrepreneurial skills (and luck) to generated livable income.

Recommendation: “Rescue and restore” and other models that prioritize identification, immediate exit, and addressing of short-term needs as the marker of success should be replaced with models that prioritize community wellness and prevention and long-term investment into survivors’ economic stability. Prioritize funding that invests in survivors’ long-term wellness.

3. COVID-19

Inadequate and politicized government response to COVID-19 has left underserved communities in heightened danger of being exploited or re-exploited due to economic insecurity, housing, disabling impacts of long COVID, and inconsistent access to safe homes or work opportunities. This increase in vulnerability hampers holistic, community-based, public health efforts at prevention of primary or secondary exploitation. Additionally, lack of access to affordable healthcare leaves individuals burdened with significant medical debt, which is leveraged by traffickers as part of coercion.

Recommendation: Reinstate protections that prevent and regularly report on community transmission rates (rather than simply “community level”). Provide expanded healthcare access for low-to-middle income individuals and advocate for universal healthcare as a society-level prevention strategy. Advocate for policies that make it easier for individuals to access disability benefits for long COVID.

4. Additional Recommendations

The legislative response to human trafficking has systemic biases and gaps and by definition will always exclude the needs, communities, and safety considerations of some survivors or people at increased statistical risk of human trafficking. Alternatives to carceral responses are essential, and criminalization of consensual adult sexual behavior is antithetical to a free society.

*Recommendations: 1) **Continue partnerships with community-based organizations** to address human trafficking. Historically this had focused primarily on churches; it is important to include other faith communities beyond Christianity, as well as culturally-specific organizations, those doing worker organizing (including in commercial sex), and secular social justice or anti-oppression groups whose focus is not restricted to trafficking. 2) Develop a **concrete plan for shifting sector leadership at all levels towards being led by people with both lived and professional experience**. See our recent publication, “Meaningful Engagement of People with Lived Experience” for a useful framework.⁴*

Prosecution

5. Extradition

The NSN has no input on this.

6. Existing Legislation and Policy

Many current laws and policies are antithetical to meaningful human trafficking prevention and response, and **it is disorienting and discouraging for survivors to see policymakers leverage a superficial commitment to “ending human trafficking” while also advocating for harmful immigration, incarceration, anti-LGBQ or anti-transgender, racist, or anti-labor bills and practices.**

1) Immigration reform to ensure safe migration for immigrants, refugees, and asylum-seekers

Title 42 embedded bias and racism into the selection of who can access refuge and asylum in the United States and who is “not worthy,” and stoked racist, xenophobic flames throughout the United States. Migrants from predominantly white countries in Europe were allowed in more quickly, while folks from Global South countries have been waiting for months. Framing this as a “public health” priority calls back to the Page Act and other immigration acts that coded racist migration policy as a “public health” issue, and is antithetical to preventing human trafficking or protecting survivors. Safe migration and violence prevention are actual public

⁴ <https://nationalsurvivornetwork.org/meaningfulengagement/>

health priorities that have been abandoned in the pursuit of outright racism. Additionally, many survivors of human trafficking are put at risk of violence against themselves or their families if they are required to participate in prosecution. We have also experienced survivors whose families back home would not allow their children to relocate to the US as a derivative during the initial application process for a T-visa or U-visa, who later were unable to bring their family members. This pressure point (requiring that derivative applications be processed simultaneously to the applicant of record) can be leveraged by traffickers or abusive family members to continue exploitation and intimidation of survivors.

*Recommendation: 1) **End Title 42 and do not simply replace it with equally racist migration policies.** Remove the racial hierarchy that underpins who is seen as a refugee/asylum-seeker and who is seen as a criminal. 2) **Create safe migration options and ensure a path to citizenship for children of immigrants.** 3) **Expand the period of time during which T-visa and U-visa recipients can add derivative applicants** so that visa recipients whose children are unable to move initially may later be able to bring them to the United States. 4) **Never tie receipt of services or visa to mandated cooperation with investigation or prosecution.***

2) End the “anti-prostitution pledge”

The anti-prostitution pledge leaves survivors and organizations afraid to advocate for evidence-based, harm reduction strategies and denies survivors’ agency by forcing them to reframe their stories in state-sanctioned ways in order to work in federally-funded positions. Many of our members have left the anti-trafficking sector to organize in harm reduction, sex worker safety, or other anti-oppression and anti-violence movements due to finding their ability to advocate for policies and programs that would decrease sex workers’ vulnerability to human trafficking and better support sex working survivors due to harm caused by this pledge. This pledge and its accompanying models of end demand have placed restrictions on the ways that individuals organize to keep themselves and each other safe, and has made people less likely to support homeless youth or vulnerable adults who trade sex for fear of being seen as “pimping” or “promoting prostitution.”⁵ This pledge has also harmed our ability to collaborate with and better fund sex worker safety organizations whose work is essential to preventing exploitation and meeting the needs of survivors. It has limited the sharing of life-saving information about safer sex work, and has disproportionately redirected essential human trafficking prevention funding into anti-sex work and anti-pornography initiatives that replicate carceral patterns, stigma, and shame.

⁵ See our statement against demand reduction for concrete examples: <https://nationalsurvivornetwork.org/endeddemandstatement/>

Further, this pledge has made cross-field collaborations challenging by putting our movement at direct odds with organizations that do HIV advocacy, LGBTQ rights work, or work with other vulnerable populations. **Removal of the anti-prostitution pledge and ceasing the “demand reduction” assault on multiply-marginalized communities does not remove penalties for human trafficking or indicate enthusiastic acceptance of sex work; it means recognizing that adults have the right to make their own decisions about how they labor for income with their own bodies and that all workers (including erotic workers) deserve safety.**

Recommendation: Remove all references to the anti-prostitution pledge in funding calls and contracts for anti-violence (human trafficking, sexual violence, domestic violence, and public health). Allow equitable funding for research into potential and actual harmful impacts of demand reduction strategies on mental health, economic wellness, and long-term stability of survivors, families, and communities.

3) Ensure comprehensive protections for LGBTQ and transgender youth and adults

At the recent Office for Victims of Crime ceremony, we were heartened to hear Assistant Attorney General Kristen Clarke mention that LGBTQ youth who do not have safe, welcoming families are at increased statistical risk of human trafficking. **When youth have unsupportive families or are subjected to attempts at conversion, their risk of many forms of violence (including both suicide and human trafficking) increases, and no Human Trafficking Youth Prevention Education curriculum or program will resolve that in the absence of universal protections for these individuals.**

Recommendation: Ensure anti-discrimination protections for LGBTQ youth, and ban conversion therapy as a harmful and abusive practice. Acknowledge both conversion therapy and anti-LGBTQ emotional abuse as forms of abuse or maltreatment.

7. Government Officials’ Readiness and Work

Generally, our members felt like the government officials’ readiness was inconsistent.

1) Inadequate understanding of labor trafficking

Within labor trafficking alone, our members have reported receiving conflicting views. For example, a district attorney who said there is no element of sex trafficking so it was not human trafficking, and a labor commission that recognized the human trafficking even in the absence of commercial sex.

Recommendation: Strengthen education about labor trafficking among criminal legal system professionals.

2) Conflation and confusion about commercial sex

Our members also reported high levels of confusion around government officials' ability to differentiate trafficked and consensual commercial sex and rampant misrepresenting of all commercial sex as human trafficking ("conflation"). This has led to inadequate services for trafficked minors who later engaged in commercial sex consensually as adults (and these same inadequacies are present for all other individuals in commercial sex): They are subject to the same criminalization of sex work as other consensual adult workers, may not be able access necessary trauma services and trafficking support due to current or recent consensual engagement, and may be subjected to coercive interventions that replicate coercive patterns of traffickers while not assessing the survivor's actual needs. Current models do not always acknowledge how the *survivor* understands safety, what needs their trafficker is meeting that are not being met elsewhere, the intersections of forced labor and forced commercial sex, or other forms of forced criminality. Conflation also leaves service providers confused and leads to less confident service provision.⁶

Recommendations: 1) Ensure that any federally-funded publications or training differentiate between trafficked and consensual commercial sex, regardless of the legality of "prostitution." Vet trainers and consultants for their ability to educate about the difference between sex work and human trafficking, including with regard to Asian massage workers.⁷ 2) Remove any federally-mandated barriers for individuals engaging in commercial sex to receive necessary services. Low barrier service provision allows trafficking survivors to build stability in order to make the safest decisions for themselves without requiring immediate cessation of criminalized activities. 3) Fund additional research into the mental health and economic impacts of coercive interventions (such as "diversion courts" and "stings" done in the absence of concrete evidence of trafficking).

8. Law Enforcement

Survivors often experience inconsistencies in treatment by law enforcement, leading to confusion, frustration, and fear among survivors. A disproportionate number of people of color are viewed as criminals as opposed to victims, and all forms of forced criminality are not properly understood as trafficking. Minors are still prosecuted even in locations with safe harbor laws (which don't often include multiple "offenses"), and trafficking victims are regularly threatened with arrest (for commercial sex or other charges) to gain their compliance. Even in areas where appropriate training and support has been put into place with law enforcement, implementation is inconsistent in practice. Specifically to commercial sex, our members

⁶ <https://journals.sagepub.com/doi/abs/10.1177/1355819621997478?journalCode=hsrb>

⁷ <https://journals.sagepub.com/doi/full/10.1177/13558196211034898>

regularly hear from individuals (trafficked or consensually in the trade) who have been sexually abused, assaulted, or extorted by law enforcement, often in exchange for avoiding arrest. Finally, **it is still a common practice for law enforcement to engage in 1) sexual contact, 2) by fraudulent purposes, 3) for the purpose of commercial sex when conducting investigations of “human trafficking,” “prostitution,” or illicit massage. This is state-sanctioned sexual assault and human trafficking,** and it erodes survivors’ trust in our systems for protection, prevention, and prosecution.

Recommendations: 1) Amend the TVPA, federal rules, and federal funding requirements to prohibit law enforcement from ever engaging in sexual contact with any potential victims while acting under the color of law, and prosecute any such contact that happens with individuals in commercial sex or the “illicit massage industry” as human trafficking. This should not just be limited to “human trafficking investigations,” because we have seen time and time again that the investigations will just be framed as investigations of other issues, such as drugs, immigration, etc. 2) Ensure expansion of safe harbor laws to all survivors of human trafficking in commercial sex and other forms of labor, and ensure that human trafficking is considered a mitigating factor in the determination of sentencing for violent crimes. 3) Partner with worker organizers for Asian massage workers, such as Red Canary Song, when developing strategies that impact these individuals in order to reduce inherent bias and racism in our strategies.

9. Investigation and Prosecution of Those who Purchase Sexual Access to Human Trafficking Victims

The NSN strongly supports the investigation and holding accountable of individuals who solicit or patronize commercial sex from children or from people being trafficked, but has not found that most law enforcement agencies do a good job of differentiating between those who have knowingly (or should have known) solicited from victims and universal targeting of clients of consensual sex workers. Using human trafficking funds, awareness, and momentum to go after consensual adult sexual behavior is disingenuous, counter-productive, causes harm, and amplifies the impacts of conflation.

10. Supply Chains

The NSN has no input on this.

11. Judges’ Preparation

Our members reported inconsistency with judges’ training and perspectives, but agreed that court is intimidating in general and can be frightening for survivors.

Protection

14. Identification and Referral

The United States still continues to be inconsistent with identification and referral to services. Confusion between sex work and human trafficking leads to either under-identification or false identification, leading to inadequate service provision and misleading data. The normalization of labor exploitation and mistreatment of migrants and people in poverty has led to inadequate identification and services for people being trafficked in other, particularly low-wage or informal, forms of labor.

Many individuals and communities have had their own harmful experiences of some of our government institutions, which leads to under-identification within those systems (even when they are identified and supported informally within their communities). Even for those who haven't had those direct experiences, traffickers use intimidation and fear, including fear of police and other government institutions. This points to the need to better support community-based services that do not require government engagement as a condition for receiving support, which would lead to better identification without relying on law enforcement for referrals.

15. Hotlines

Members felt like hotline support and referral was inconsistent, with supportive outcomes for approximately half of the survivors we have engaged with the hotline for.

16. Services by NGOs

While there were new services and changes to services, those services are not adequately supported by the government, and we've found greater willingness to fund projects than core support that allows the NGOs to operate with stability and staff wellness. It has not been our experience that survivors of all forms of human trafficking receive the same quality and level of access to services, as the hyperfocus on addressing trafficking within commercial sex has led to a proliferation of organizations claiming to meet their needs while labor trafficking survivors often go without proper access to care.

Recommendations: Increase funding for core support for NGOs and for the provision of services to labor trafficking survivors.

17. Overall Quality of Victim Care

1) Equity Disparities

We have found that the recent (and essential) emphasis on trauma-informed has not always been implemented in ways that acknowledge the cultural and historical trauma experienced disproportionately by BIPOC communities. Trauma-informed without equity is not trauma-informed for these survivors, leading to poorer quality of services and less trust in systems. Similarly, specific collective traumas are experienced by LGBTQ and transgender individuals, and the lack of equitable, nonjudgmental, appropriate, and unbiased victim services disproportionately impacts these survivors and their communities. Efforts to promote equity within the human trafficking framework have been inconsistent, and organizations run by and focusing on the experiences of white, cisgender, straight girls continue to fail to understand the shortcomings or missteps in their work, in spite of ongoing equity discussions and training.

Recommendation: Move outside of primarily funding human trafficking organizations to do human trafficking work so that culturally-specific organizations that are already trusted by these communities can work to end exploitation using frameworks and approaches that are appropriate to their communities. Do not impose “the way we’ve been doing this” onto these organizations, but rather allow them to come up with creative solutions that meet their communities’ needs (e.g. may not want to partner with law enforcement, may want to use a harm reduction approach that does not require exit from a trafficking situation until greater stability has been achieved, etc.). Allow human trafficking service and prevention funding to be used to fund groups that support the wellness of BIPOC, LGBTQ, farm worker, domestic worker, sex worker, migrant, disabled, and homeless populations.

2) Human Trafficking Within Services

Human trafficking is happening within safe houses, sober houses, senior living, and treatment centers. While client brokering is a federal crime, every state has a different implementation of the law, and clients are moved from one state to another when not held accountable through proper regulation. Eligibility fraud happens when these facilities forge files and records. Service providers in substance use and other treatment centers regularly collect income for their programs by “renting out” their residents, and frame it as “work therapy” or a beneficial part of treatment.

3) Spectrum of agency

The spectrum of agency shows that labor can be done by free choice (I choose this from among good options), circumstance (I do this because I do not have better options), or trafficking (force, fraud, or coercion).⁸ We have found that in commercial sex, service providers are more likely to misunderstand by assuming work by circumstance is trafficking and force inappropriate

⁸ See: <https://nationalsurvivornetwork.org/learning-the-spectrum-of-agency/>

services onto individuals who need economic and emotional empowerment. In other forms of labor, service providers are more likely to misunderstand by assuming work by circumstance is freely chosen and thus the individuals do not need support at all but are rather simply “unskilled workers.” In both cases, work done by circumstance *is not human trafficking* but still exists along a spectrum of normalized exploitation of labor, and human trafficking prevention will focus on building the economic security and wellness of those within that range, particularly the lower end of “circumstance” (which we can think of as “survival work”) in all forms of labor.

Recommendations: 1) Build out training and technical assistance to educate workers in all government systems (including law enforcement) about the spectrum of agency to avoid misidentification and missed identification. 2) Invest anti-trafficking dollars into strengthening the economic security and wellness of individuals working out of severely limited options without requiring them to be labeled as “human trafficking victims” in order to access services. This is trafficking prevention, and it will also ensure our safety nets also catch those victims who are not willing or able to disclose yet or are working within the legal levels of exploitation common among low-wage and informal workers. 3) Ensure that all services are victim-centered, meaning that the victim’s choices about their services, needs, and safety are respected and honored.

18. Cooperation and Trust between Service Providers and Law Enforcement

1) Law enforcement violence against victims

Many trafficking victims, particularly in commercial sex, report that law enforcement are participating in their trafficking and covering it up. Even if the percentage of law enforcement who are traffickers or cover up trafficking is small, the percentage of sex trafficking victims who have been trafficked, purchased, sold, extorted, or raped by law enforcement is high. This leads to distrust from survivors and puts service providers into an untenable spot where they are unable to properly advocate for their clients and meet their needs if they are required to have collaborative partnerships with law enforcement.

2) Police violence against communities of color

Continued and ongoing police brutality against communities of color (including Immigration and Customs Enforcement removals and family separations) has impacted the willingness of communities to collaborate with organizations that have mandatory relationships with law enforcement. Positioning victim services in the context of “family justice centers” has made these services inaccessible to many survivors who no longer find these buildings safe, or are unwilling to walk past police cars and government offices to get to a needed appointment. The

lack of support for non-carceral options for services, justice, and healing impacts these communities (and other communities disproportionately impacted by police violence, such as LGBTQ and transgender communities, those with disabilities or mental health diagnoses, and those with substance use disorders) – leave them with the choice of criminal “justice” or no accountability at all.

Recommendations: Full, transparent, and consistent accountability for all acts of police violence and misconduct is essential. Fund non-carceral options so that those survivors who cannot wait on these systems to “reform” still have access to paths toward justice.

3) Power imbalances between law enforcement and service providers

Most of our “collaborative” agreements do not acknowledge the inherent power differential between law enforcement and service providers, and this power differential frequently becomes coercive. The goal of law enforcement is the enforcement of the law and ending crime, whereas the goal of a service provider is to assess the needs of a victim and connect them to appropriate services and resources while focusing on their long-term treatment. These different goals and lenses often lead to different goals and strategies, and when these strategies diverge, it is often the service provider who has to submit to the demands of law enforcement in order to keep the required memoranda of agreements or government support. This then puts service providers into roles of playing politics in order to keep funding, and when this happens it is almost always the most marginalized survivors, who come from communities with a justified fear of law enforcement, who suffer in the name of the “greater good” of keeping services well-funded and well-placed in their communities.

Recommendations: 1) Do not allow federal victim service or prevention funding to ever be attached to a requirement of a formal agreement with law enforcement. Issue explicit guidance to state agencies charged with the distribution of these funds to prevent this. In the ideal, these collaborative agreements would be voluntary and based on mutually-earned trust between equal and autonomous agencies, but in practice these requirements have been leveraged by law enforcement to shape service provision needs to their goals or to reduce agencies’ ability to advocate for the kinds of systems change that would prevent trafficking and protect their clients. 2) Require that any funding for family justice centers includes a provision for a separate, off-site victim services location provided by non-governmental actors that is easily accessible to populations at higher statistical risk of human trafficking and/or state violence.

19. Restitution

Survivors who have won court judgments for restitution are often not aware that these amounts are typically settled down to an amount significantly lower than what is ordered, and

thus they regularly do not receive the full court-ordered restitution amount. Additionally, those survivors who already have a higher degree of economic security at the time they receive their restitution award benefit greatly from this windfall, but those who are living in poverty or rely on public assistance (housing, insurance, disability) for their security are often penalized when they receive these funds. For example: A survivor may receive a settled/reduced amount of restitution than was ordered, which will cause them to lose all of their benefits and access to their housing for a short period of time, live off the settlement until it is gone, and then find themselves once again applying for the same benefits and having additional hoops to jump through. **This is not justice, and it does not invest in the long-term economic security and wellness of survivors who have experienced egregious violence and exploitation.** Survivors should not have to choose between losing their stability when they accept their restitution or donating it directly to a nonprofit in order to avoid penalties.

*Recommendations: 1) Fund the development of clear fact sheets that allow survivors to better understand the restitution process before they begin to ensure that they are aware that the amount that will be ordered is unlikely to be the amount they will receive. 2) **Protect survivors' restitution awards under a certain amount from being considered in the determination of public benefits** to allow these awards to actually build the long-term stability of these survivors. If an award does not provide at least one year of a livable wage **and** an additional year of a livable wage into savings, it is not sufficient to remove access to benefits.*

20. Access to Justice

1) Survivor agency over participation in investigation and prosecution

Currently, survivors have very little agency in determining what justice looks like to them or accessing the kinds of justice that align with their values and needs. This includes agency around whether or not they assist in the investigation and prosecution of trafficking, which is (by default) an inherently traumatic process. While trauma-informed training is essential and can ease the survivor's re-traumatization during investigative and court processes, it cannot change an inherently frightening, intimidating, and emotionally challenging process into one that is without retraumatization. Too often, survivors find that they go from being a pawn in a trafficker's externally-imposed goals to being a pawn in the criminal legal system's externally-imposed goals, and in both of these cases their agency is denied and they are leveraged without regard to what fosters their wellness and agency.

*Recommendations: 1) Ensure that survivors' agency over participation with investigation and prosecution is informed and entirely consensual. This means that our goal is **not** to encourage them to assist in investigations and prosecutions, but rather to give them transparent information about what the process of assisting with investigation and prosecution means,*

*possible positive and negative impacts of assisting, possible positive and negative impacts of opting out – and then allow them to choose what feels best based upon their unique circumstances, needs, and values. **Manipulating a survivor’s choice about assisting with investigation and prosecution, through “encouragement” (which in practice often includes either legal coercion, emotional manipulation, or other tactics used on criminals or by traffickers) or false guarantees of a trauma-informed process is not victim-centered.** 2) In order to ensure that this process of assessing pros and cons of assisting is balanced and focused on the victim’s needs, independent advocates (rather than those positioned within law enforcement agencies or prosecutors’ offices) are best positioned to facilitate this process of reflection.*

2) Pro bono representation for civil cases and for victim-witnesses engaged in criminal prosecutions

Victims can get justice and permission for employment when they get attorneys who can help them with the stringent processes of administrative law relief. They are not always aware about the availability of pro-bono attorneys, and organizations providing pro bono services beyond civil restitution cases are rare and underfunded. Survivors who choose to assist with the investigation and prosecution of their traffickers often benefit from independent legal representation to ensure their rights are advocated for and do not get lost in the pursuit of a prosecution, and increased funding for legal support for child custody, immigration, tenant’s rights, and other related issues is critical.

Recommendation: Fund nonprofit organizations to support the holistic legal needs of survivors throughout their process of accessing justice to ensure that independent, pro-bono representation is widely available.

3) Lack of follow up

Gaps in alignment and clarity between judicial, law enforcement, legislative, labor, etc., as well as gaps in alignment and clarity between federal and state policies lead to lack of follow up for survivors. Our members report that often traffickers remain at large, do not pay restitution or lost wages as ordered, or do not end up receiving the penalties that the law says they should, there is not always follow-up, which leads to a sense that judgments are often for formality rather than accountability. This is especially the case when the trafficker is a foreign diplomat exploiting their immunity.

4) Bias embedded into prosecutorial systems

Immigration status often plays into whether or not a victim’s trafficker is prosecuted. Additionally, victims who consented as adults to commercial sex (legal or criminalized) but did

not consent to the force, fraud, or coercion often find that their access to justice is limited by the system's bias against sex work. In some cases, they have reported that their cases have been denied unless they "renounce sex work or repeat shaming and stigmatizing messages," deny that they ever consented to sex work, or deny that sex work can be a choice. This removes survivors' agency over their own experiences and reifies stigma and shame that is later leveraged by traffickers against their victims. Survivors often experience this coercion of their narrative as a form of gaslighting and it impedes both their access to justice and their access to healing.

21. Status for Foreign National Victims

The meaningfulness of work authorizations remains inconsistent based on how different countries are treated, and status is often assigned in ways that are meant for survivors to be laborers rather than professionals. Even when status is achieved, there is inconsistent reciprocity with regard to other countries' educational systems, which limits the benefit any status granted can have in the lives of survivors. Work authorizations allow for such low pay that it is often perceived by survivors as a legal way "to authorize exploitation through inadequate, non-living wages." Residency status is still granted based upon willingness to participate in a trial.

22. United States Nationals Exploited Abroad

The NSN has no input on this.

23. Forced Criminality

Forced criminality is not broadly recognized or understood, and "youth violence" and/or gang violence in particular are often viewed as issues of crime rather than the exploitation of young people's isolation, trauma, economic marginalization, lack of meaningful options, and need for belonging and support. **This is also true for many young people who become traffickers**, which makes a public health primary prevention approach to human trafficking and other forms of violence essential. This leads to people of color and particularly survivors of color being charged with crimes they were forced to commit at disproportionately high rates. This includes not just crimes survivors are forced to commit by their traffickers, but survival crimes that marginalized individuals (including trafficking survivors who have already been through the system of crisis services) commit out of survival or to meet economic gaps left by inequitable systems.

Recommendations: Ensure and expand vacatur and expungement protections for all survivors of human trafficking, including youth exploited in criminalized economies.

Prevention

24. Prevention Policy

1) Lack of structural violence prevention efforts

Broadly, anti-trafficking efforts in the United States have focused more on the prevention of *crime* rather than the prevention of *violence* through fostering community wellness.⁹ In general, there is a sense that our federal efforts did not address core issues like poverty, structural racism and historical oppression as causal sites of prevention opportunities, but only addressed them in terms of how they impact survivors. In our recent publication “Care, Self-Determination, and Safety: A Community-Centered, Public Health Approach to Human Trafficking Prevention,” we identified seven systemic drivers (and associated opportunities) to prevent human trafficking.¹⁰

Recommendation: We recommend funding research, alternatives, and initiatives that address the following drivers (and associated opportunities):

- 1) *The “American Dream” and current models of capitalism (Opportunity: economic justice)*
- 2) *Structural oppression (Opportunity: disability, race, gender, and land justice)*
- 3) *Culture of criminalization and punishment (Opportunity: ending criminalization of survival)*
- 4) *Poverty wages and housing insecurity (Opportunity: living wages and housing justice)*
- 5) *Funding and programmatic restrictions in nonprofits (Opportunity: transformative organizations)*
- 6) *Child welfare, foster care, and juvenile legal system harms (Opportunity: family and youth justice)*
- 7) *Isolation and harmful relationship dynamics (Opportunity: connection, care, and protective factors)¹¹*

2) Lack of evidence-based and rights-based prevention

Our members’ sense was that the government often puts more energy and resources into “doing post-mortems” than it does into prevention. For example, migrants often do not receive adequate information about their rights in the United States until they are already here, which in many cases is too late. Getting funding for prevention is often challenging and confusing, and often the practices that are normalized in human trafficking prevention are not grounded in

⁹ <https://christianash.com/human-trafficking/violence-and-crime/>

¹⁰ <https://nationalsurvivornetwork.org/wp-content/uploads/2023/01/Care-Self-Determination-and-Safety.pdf>

¹¹ <https://nationalsurvivornetwork.org/wp-content/uploads/2023/01/Highlights-from-Care-Self-Determination-and-Safety.pdf>

prevention research, are not supported by the evidence, or replicate stigma and shame about sexuality or sex work. This has led to federal funding and resources going into “prevention” strategies that focus on “rescue” and “saving” rather than empowerment, individual education rather than systems change, and increased criminalization (which disproportionately targets communities of color, immigrants, and LGBTQ populations) rather than community-centered, evidence-based, harm reduction approaches.

Demand reduction approaches for commercial sex cause harm, do not prevent human trafficking, often increase criminalization of both survivors and marginalized communities, criminalize consensual adult sexuality, contribute to messaging of shame and stigma about consensual adult sexuality, reduce trust and collaboration in attempted partnerships with anti-racism and LGBTQ advocacy organizations, and contribute to economic insecurity, criminalization, and banking discrimination against trafficking survivors who have been failed by all of our systems.¹² While many initiatives say on paper that they make the distinction between trafficked and consensual commercial sex, in practice, “John Schools” replicate stigma and messages that deny the agency of adult sex workers. In practice, survivors of trafficking are often criminalized under these approaches if they fail to disclose their victimization. In practice, policing of consensual commercial sex still puts vulnerable populations at increased contact with law enforcement, and thus increased risk of violence or criminalization. In practice, demand reduction aims to remove options from vulnerable individuals (including former sex trafficking victims who are no longer being trafficked but are consensually engaging in sex work) without meaningfully changing the material conditions that create vulnerability. In practice, prohibitions against “pimping” and “brothel-keeping” are often leveraged against consensual adult sex workers who are organizing to keep each other safer and provide necessary support, instead of being limited to actual traffickers. All of these negatively impact the many survivors who rely on commercial sex for income and stability at different points in their recovery, and all of these increase vulnerability to trafficking and other forms of violence for individuals in the sex trades.

*Recommendations: 1) While many human trafficking perpetrators are people with high degrees of institutional power or are strangers, much human trafficking perpetration is done within the context of intimate partnerships, families, or survival economies. **Fund research to identify predisposing and reinforcing behavioral, attitude, and environmental factors for human trafficking, in multidisciplinary partnerships with other fields addressing family and partner violence.** 2) **Prohibit federal funds from being used to support demand reduction initiatives***

¹² Our end demand statement cites and links to extensive research demonstrating these harms. <https://nationalsurvivornetwork.org/endeddemandstatement/>

that are not explicitly and practically limited to reducing demand for trafficked commercial sex or exploitation of minors.

25. National Plan

The NSN has no input on this.

26. Information and Awareness Campaigns

Many public awareness campaigns replicate stereotypes and bias (such as those that lead to racist profiling in travel of parents whose skin tone doesn't match their children), or do not provide meaningful information ("Trafficking: It happens in plain sight." – What happens in plain sight? What is trafficking? How can I tell a precarious worker from someone being trafficked?). Know your rights campaigns and comprehensive, multi-layered public health prevention approaches are likely to be more effective. It is not uncommon to hear survivor leaders say that we have "too much" awareness because much of it is misinformation or misrepresentation.

27. Survivor Engagement

Our federal government has survivors at the table and providing input, however the kinds of engagement have not always been reciprocal, mutually beneficial, equitable, or meaningful. Sex trafficking survivors are often prioritized over labor trafficking survivors, and as mentioned earlier survivors who oppose demand reduction approaches are often prohibited from fully sharing their perspectives or are less likely to be invited to give feedback. Survivors are often invited to give feedback based upon their lived experience only, and are not often offered opportunities for capacity-building to provide more targeted and actionable feedback, which contributes to tokenization. Survivors are often brought in as "advisory board" members or "consultants," but are rarely integrated throughout our efforts in decision-making positions.

Recommendation: See "Meaningful Engagement of People with Lived Experience" by the National Survivor Network and the Global Fund to End Modern Slavery for concrete recommendations for shifting away from tokenizing approaches.¹³ Provide ongoing training to sector leaders about the need to rethink what we mean by "survivor leadership," such as the National Survivor Network's Rethinking Survivor Leadership training.¹⁴

28. Labor Recruitment

The NSN has no input on this.

¹³ <https://nationalsurvivornetwork.org/meaningfulengagement/>

¹⁴ <https://www.youtube.com/watch?v=4kZU0e-4pJk&list=PL5wVwLlIQfRbSI2YELg0i4VAE8m55pDM>

29. International Recruitment

The NSN has no input.

30. Migration, Labor Trade, and Investment

The NSN has no specific insight on this beyond what has been shared in other sections.

31. Procurement

The NSN has no specific insight on this.

32. Information-sharing Agreements

The NSN has no specific insight on this.

33. Support for Other Governments

The NSN has no specific insight on this.

34. Child Sex Tourism

The NSN has no specific insight on this.

Territories and Semi-Autonomous Regions

35. Trends

The NSN has no input on this.

Trafficking Profile

36. Changes

The NSN has no input on this.

37. Underserved Communities

1) Groups at increased risk

In spite of tremendous strides and efforts at raising awareness about equity and underserved communities, many agencies and federally-funded projects still focus on “who deserves care.” We believe that all people deserve care, including the following groups at increased risk of trafficking, and that meeting their needs and protecting their rights broadly as a national policy priority **will reduce their statistical risk of being trafficked in the first place.** Increased risk for each of these populations stems from structural oppression and policy choices that deprioritize

their care, self-determination, and safety, and thus each represents an opportunity to increase support through policy improvements.

- Black and Indigenous people and communities; migrants who aren't from Western Europe;
- Undocumented migrant children and adults from Central and South America as well as parents of migrants who have obtained citizenships who may be then forced into domestic servitude by their families once they are here;
- People with physical as well as intellectual and developmental disabilities or chronic illness, particularly those with inadequate access to medical care;
- Two spirit, Lesbian, Gay, Bisexual, Transgender, Queer/questioning, Intersex, and other people who fall under the "LGBTQ" umbrella; Trans women of color in particular; Individuals targeted by patriarchal violence (including LGBTQ individuals, women, and girls);
- People struggling with mental illness, substance use disorders, and unhealed trauma;
- Low-income people, particularly low-income youth;
- Homeless populations;
- Foster kids and those aging out of services, particularly those swept into these systems through family separations and removal or cultural disruption (such as the kind that ICWA is meant to prevent);
- Elderly individuals.

2) Other underserved populations

All of the above communities struggle with increased statistical risk of trafficking and also experience a lack of sensitized, meaningful, and relevant services. Additionally, a hyperfocus on sex trafficking of women and girls means that services for men and boys are often inaccessible, rare, and often less applicable to their unique experiences.

38. Chinese, Cuban, North Korean Workers

The NSN has no input on this.

39. Climate Change

Especially vulnerable populations, including Indigenous communities, experience displacement due to environmental changes, violence related to climate-change-accelerating activities (such as oil drilling, which contributes to disproportionate levels of violence against indigenous women), and economic loss when industries are no longer viable due to climate change.

Child Soldiering

The NSN has no input on this.

Thank you for your time and consideration, and we stand ready to partner with you in this work. Please reach out to me directly if you have any questions.

Sincerely,

Chris Ash, Survivor Leadership Program Manager
National Survivor Network- Cast