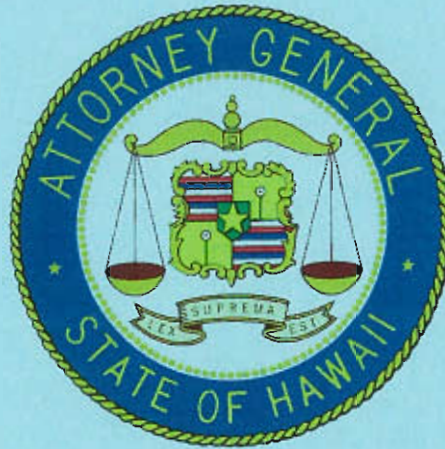


**State of Hawaii**  
**Department of the Attorney General**



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**Report of the**  
**Hawaii Anti-Trafficking Task Force**

**pursuant to Act 260, Session Laws of Hawaii 2006,  
as amended by Act 176, Session Laws of Hawaii 2008**

**Submitted to**  
**The Twenty-Fifth State Legislature**  
**Regular Session of 2010**

## **I. Authority and Composition of the Hawaii Anti-Trafficking Task Force**

Act 260, Session Laws of Hawaii 2006, established the Hawaii Anti-Trafficking Task Force (“Task Force”) to carry out the following activities:

- (1) Compile and review statutes, rules, and information relating to programs adopted in other states to combat human trafficking and to provide services to its victims;
- (2) Recommend further changes to Hawaii law necessary to assist in the prevention of human trafficking and to provide support to victims;
- (3) Develop protocols and training for individuals within designated state agencies, nongovernmental organizations, and private entities regarding provision of services to trafficked persons;
- (4) Develop interagency procedures to collect and organize data, including research and resource information on domestic trafficking, and to measure the extent of the need for protection and assistance to victims of trafficking; and
- (5) Engage in consultation with governmental and nongovernmental organizations, among other entities, to advance the purposes of this Act.

Pursuant to Act 260, the Task Force had a sunset date of June 30, 2008, and comprised the following twenty members:

- (1) The attorney general, or the attorney general's designees;
- (2) The directors of health, human services, and labor, or their designees;
- (3) The chief of police of each county or the chief's designee;
- (4) The prosecuting attorney of each county, or the prosecutor's designee;
- (5) The director of the victim and witness assistance program of the department of the prosecuting attorney, city and county of Honolulu;
- (6) The Salvation Army;
- (7) Sisters Offering Support<sup>1</sup>;
- (8) The Sex Abuse Treatment Center;
- (9) GirlFest;
- (10) Na Loio Immigrant Rights and Public Interest Legal Center;
- (11) The Domestic Violence Clearinghouse and Legal Hotline<sup>2</sup>; and
- (12) The Hawaii State Coalition Against Sexual Assault.

Act 260 appropriated \$5,000 for fiscal year 2006-2007 to support the work of the Task Force, including payment of reasonable travel expenses for members to attend meetings. Act 260 did not appropriate funds for fiscal year 2007-2008.

Act 260 did not identify a member of the Task Force to serve as the chair. The Department of the Attorney General convened meetings and provided administrative support.

Pursuant to Act 260, the Task Force provided reports to the Legislature before the convening of the regular sessions of 2007 (“2007 Report”) and 2008 (“2008 Report”). The reports are available at [hawaii.gov/ag/main/publications/reports/legislative\\_reports](http://hawaii.gov/ag/main/publications/reports/legislative_reports).

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<sup>1</sup> Sisters Offering Support no longer exists.

<sup>2</sup> In 2007, Domestic Violence Clearinghouse and Legal Hotline changed its name to Domestic Violence Action Center.  
333475\_2.DOC

Act 176, Session Laws of Hawaii 2008, amended Act 260 by extending the sunset date to June 30, 2010, and revising the membership to twenty-seven, as follows:

(1) Individuals:

- (A) The attorney general, or the attorney general's designee;
- (B) The directors of health, human services, and labor and industrial relations, or their designees;
- (C) The state public defender, or the state public defender's designee;
- (D) The chief of police of each county, or the chief's designee;
- (E) The prosecuting attorney of each county, or the prosecutor's designee;
- (F) The director of the victim and witness assistance program of the department of the prosecuting attorney, city and county of Honolulu;
- (G) Hawaii contractees for services under the office of refugee resettlement of the United States Department of Health and Human Services<sup>3</sup>; and
- (H) Hawaii contractees for services under the United States Conference of Catholic Bishops<sup>4</sup>; and

(2) Representatives of:

- (A) The immigration information office of the county of Hawaii;
- (B) The crime victim compensation commission;
- (C) The office of the gender equity counselor of the University of Hawaii;
- (D) The Hawaii State Coalition Against Domestic Violence;
- (E) The Salvation Army;
- (F) The Sex Abuse Treatment Center;
- (G) GirlFest;
- (H) Na Loio Immigrant Rights and Public Interest Legal Center<sup>5</sup>;
- (I) The Domestic Violence Action Center; and
- (J) The Hawaii State Coalition Against Sexual Assault.

Act 176 did not appropriate funds for the Task Force.

Act 176 did not identify a member of the Task Force to serve as the chair. The Department of the Attorney General convened meetings and provided administrative support.

Pursuant to Act 260, as amended by Act 176, the Task Force provided a report to the Legislature before the convening of the regular session of 2009 ("2009 Report"). The report is available at [hawaii.gov/ag/main/publications/reports/legislative\\_reports](http://hawaii.gov/ag/main/publications/reports/legislative_reports).

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<sup>3</sup> On June 27, 2008, the Office of Refugee Resettlement informed the Department of the Attorney General that the "ORR-supported entities (contractors and grantees, and those receiving subawards from them) providing services in Hawaii that are available to victims of a severe form of trafficking in persons who are neither U.S. citizens nor Lawful Permanent Residents" are Child and Family Service, Pacific Gateway Center, and Susannah Wesley Community Center.

<sup>4</sup> On June 27, 2008, the United States Conference of Catholic Bishops informed the Department of the Attorney General that it "has a contract with the federal Department of Health and Human Services to provide case management to survivors of human trafficking across the country. We subcontract with local social service agencies, both Catholic and non-Catholic, and support them in their work with this population . . . . Our subcontractor in Hawaii is Susannah Wesley Community Center . . . ."

<sup>5</sup> In 2009, Na Loio Immigrant Rights and Public Interest Legal Center changed its name to Hawaii Immigrant Justice Center.

The members note that it was very difficult to convene meetings in fiscal years 2008-2009 and 2009-2010. Because funds were not appropriated for interisland travel, it was necessary to hold meetings at the State Videoconference Facilities to comply with part I of chapter 92, Hawaii Revised Statutes. The facilities cannot be reserved more than three months in advance. Because of the high demand for the facilities and the large number of Task Force members (27), it was very difficult to find times when both the facilities and a quorum of members were available. As a result of these scheduling limitations, some members who wished to attend meetings were unable to do so. Additionally, some members chose not to participate in the Task Force because of limitations on their resources.

## **II. Hawaii Coalition Against Human Trafficking**

Almost all of the Task Force members are also members or partners of the Hawaii Coalition Against Human Trafficking (“Coalition”). The Coalition (formerly known as the Hawaii Anti-Trafficking Task Force or HATTF 1) was established in 2005 through the United States Department of Justice Bureau of Justice Assistance Law Enforcement and Service Provider Multidisciplinary Anti-Trafficking Task Forces program. Information regarding this program is available in the 2007 and 2008 Reports and at [www.ojp.usdoj.gov/BJA](http://www.ojp.usdoj.gov/BJA). This program requires the Coalition to carry out the following activities:

- (1) Continued enhancement of a multi-disciplinary and multi-jurisdictional victim-centered task force to identify and rescue victims of trafficking in persons and pro-actively investigate all forms of trafficking in the community to result in the successful prosecution of traffickers;
- (2) Identify and rescue victims of trafficking in persons, which entails collaboration with the [United States Department of Justice] Office for Victims of Crime (OVC)-funded victim services provider and the local Office of the [United States] Attorney to secure requests for continued presence or T-visas for foreign victims and the accurate reporting of victims who are identified and rescued by the task force . . . ;
- (3) In addition to continued reporting requirements for [the Bureau of Justice Assistance], cooperate with the [United States Department of Justice] Bureau of Justice Statistics to timely report accurate statistical information on human trafficking investigations and efforts . . . ; [and]
- (4) In coordination with Human Trafficking Victim Service Providers and task force partners, train law enforcement line officers, and persons likely to come into contact with victims of trafficking to be able to recognize the signs of trafficking and its victims.

In Hawaii, the OVC-funded victim services provider referenced above in item (2) is The Salvation Army Hawaiian and Pacific Islands Division. Information regarding the OVC program is available at [www.ojp.usdoj.gov/ovc/help/traffickingmatrix.htm](http://www.ojp.usdoj.gov/ovc/help/traffickingmatrix.htm). Information regarding The Salvation Army Hawaii and American Samoa Anti-Trafficking Services Project is available at [www.salvationarmyhawaii.org](http://www.salvationarmyhawaii.org).

### **III. Activities of the Hawaii Anti-Trafficking Task Force**

#### **A. Compile and review statutes, rules, and information relating to programs adopted in other states to combat human trafficking and to provide services to its victims.**

In its 2007 Report, the Task Force provided a compilation and review of statutes, rules, and information relating to programs adopted in other states to combat human trafficking and to provide services to its victims.

#### **B. Recommend further changes to Hawaii law necessary to assist in the prevention of human trafficking and to provide support to victims.**

In its 2007 Report, the Task Force proposed legislation that was introduced as House Bill No. 1784, Relating to Crime. The Legislature did not pass this proposed legislation.

In its 2008 Report, the Task Force proposed legislation that was introduced as House Bill No. 2765 and Senate Bill No. 2212, Relating to Crime. An amended version of this proposed legislation was enacted on June 6, 2008 as Act 147, Session Laws of Hawaii 2008.

In its 2009 Report, the Task Force recommended that the Legislature create the offense of Sexual Exploitation of a Minor, and provided wording for this offense.

In 2009, Senator Suzanne Chun Oakland asked the Task Force to review and comment on a draft *Bill for an Act Relating to Crime*. The Department of the Attorney General supported the intent of the draft bill (to prevent human trafficking) and explained the department's technical concerns. The Crime Victim Compensation Commission, the Hawaii County Office of the Prosecuting Attorney, and the Honolulu Department of the Prosecuting Attorney concurred with the Department of the Attorney General. GirlFest provided to the Senator a copy of comments written by a non-member organization; at the request of GirlFest, those comments (Attachment 1) and comments regarding five additional documents (Attachment 2) are attached to this report. The majority of members have concerns regarding the five additional documents; those concerns are summarized in Attachment 3.

The Task Force considered whether to recommend further changes to Hawaii law, in addition to or in place of those described above. The Task Force decided not to recommend further changes at this time. The Task Force recognizes that the Coalition discusses legal issues in the course of its work, and where the Coalition identifies ways to improve Hawaii law, its members may bring recommendations to the attention of the Legislature. Additionally, the Task Force recognizes that the Coalition continues to work to identify gaps in services to victims of human trafficking and ways to address such gaps.

#### **C. Develop protocols and training for individuals within designated state agencies, nongovernmental organizations, and private entities regarding provision of services to trafficked persons.**

The Coalition has developed protocols and training regarding provision of services to trafficked persons in the form of *Member Guidelines for Responding to Human Trafficking in Hawaii* (Attachment 4) and *Agency Guideline for Responding to Human Trafficking in Hawaii* (Attachment 5).

The Task Force considered whether to develop other protocols and training, in addition to or in place of those described above. The Task Force decided not to recommend additional or replacement protocols or training at this time because the Coalition is engaged in this activity. The Task Force recognizes that the Coalition continues to discuss and develop protocols and training.

**D. Develop interagency procedures to collect and organize data, including research and resource information on domestic trafficking, and to measure the extent of the need for protection and assistance to victims of trafficking.**

In its 2007 Report, the Task Force recommended that “a comprehensive assessment of the needs of trafficking victims and service providers in Hawaii must be done.” In response, the Legislature in 2007 adopted Senate Concurrent Resolution No. 220, in which the Legislature requested that the Department of Human Services “conduct a statewide needs assessment of non-citizen victims of human trafficking,” including the following items: “(1) Collaborate with the task force that was established, to determine how Hawaii can best combat and deter human trafficking, pursuant to Act 260, Session Laws of Hawaii 2006; (2) Identify existing obstacles, in statute, rule, or policy, that limit or deny benefits to non-citizen victims of human trafficking; and (3) Identify appropriate social, financial, and other services for victims of human trafficking, in general, including gaps in the services offered by state, county, and private agencies for victims of human trafficking[.]” The Department of Human Services *Report to the Twenty-Fourth Hawaii State Legislature 2008 in Accordance with the Provisions of Senate Concurrent Resolution 220, Senate Draft 1* is available at [hawaii.gov/dhs/main/reports/LegislativeReports/2008Leg](http://hawaii.gov/dhs/main/reports/LegislativeReports/2008Leg).

Additionally, the United States Department of Justice, in partnership with the Northeastern University Institute on Race and Justice and the Urban Institute Justice Policy Center, has developed interagency procedures to collect and organize data regarding human trafficking, as part of the Human Trafficking Data Collection and Reporting Project. The Law Enforcement and Service Provider Multidisciplinary Anti-Trafficking Task Forces program, referenced in section II.C. of this report, requires the Coalition to follow these procedures. Information regarding the Human Trafficking Data Collection and Reporting Project is available at [www.humantrafficking.neu.edu](http://www.humantrafficking.neu.edu).

The Task Force considered whether to develop other interagency procedures, in addition to or in place of those described above. The Task Force decided not to recommend additional or replacement interagency procedures at this time. The Task Force recognizes that the Coalition continues to discuss barriers to and methodologies for collecting information.

**E. Engage in consultation with governmental and nongovernmental organizations, among other entities, to advance the purposes of this Act.**

In 2009, the Task Force engaged in consultation with governmental and nongovernmental organizations as described throughout this report.

# Attachment 1



**Supporters**

Hawaii State Commission  
on the Status of Women

Catholic Diocese  
of Honolulu

Soroptimists International  
of Waikiki Foundation

International Justice Mission

Equality Now

Not For Sale

Imago Dei  
Christian Community

Bluewater Mission

Pacific Survivor Center

Kumulani Chapel (Lahaina,  
Maui)

Women Helping Women  
(Wailuku, Maui)

Aiea  
Neighborhood Board

Hawaii Kai  
Neighborhood Board

Kahaluu  
Neighborhood Board

Kaimuki  
Neighborhood Board

Kaneohe  
Neighborhood Board

Kuliouou  
Neighborhood Board

Palolo  
Neighborhood Board

Waikiki  
Neighborhood Board

Waimanalo  
Neighborhood Board

Waipahu  
Neighborhood Board

## COMMENTS & SUGGESTIONS FOR CHANGES TO HUMAN TRAFFICKING BILL (SB DRAFT)

\*Submitted to the Hawaii Anti Trafficking Task Force pursuant to Act 260 at the 9/23/09 meeting.

### TRANSPORTATION + KNOWLEDGE + INTENT TO FACILITATE

The underlying current of Human Trafficking is **coercion** which is diametrically opposite of "aiding" and, in the legal context, must not be equated with "help." "Aiding" and "help" relate more to the idea of "aiding and abetting," i.e. accomplice liability. Two people may be held responsible for committing the same crime if they are "aiding" each other as accomplices, even though one is definitely NOT "helping" the other. Promoting prostitution would be an appropriate example here. The pimp and the prostitute are "aiding" each other in the commission of the offense but the pimp is obviously not "helping" the prostitute when he does so. And, since the Human Trafficking offense cannot be brought against the trafficked person, **there is no notion that "transportation" equals "aiding"** since the trafficked person cannot, by definition, be the trafficker's accomplice.

Criminal liability is established only where a person acts, or fails to take required action, with the state of mind specified by the statute defining the offense.

You cannot be an accomplice to commission of the offense by someone else **unless you act with the state of mind required for commission of the offense.**

**§702-222 Liability for conduct of another; complicity.** A person is an accomplice of another person in the commission of an offense if:

(1) With the intention of promoting or facilitating the commission of the offense, the person:

(a) Solicits the other person to commit it; or

(b) Aids or agrees or attempts to aid the other person in planning or committing it; or

(c) Having a legal duty to prevent the commission of the offense, fails to make reasonable effort so to do; or

(2) The person's conduct is expressly declared by law to establish the person's complicity. [L 1972, c 9, pt of §1; gen ch 1993]



#### SUGGESTION FOR CLARIFICATION IN DRAFT SMA BILL:

"A person commits the offense of sexual human trafficking in the first degree if the person transports, aids, assists, or causes to be transported any person into, through, within, across, or out of the State, with intent to facilitate:

(a) Obtaining, maintaining, or advancing prostitution of the person transported by any of the following methods:

(Please insert i-ix starting on page 7, line 20 to page 8, line 20 of draft SMA Bill *here*).

or,

(b) Prostitution or activity as an erotic or nude massager or exotic or nude dancer, as defined by section 712-1210, or in the production of child pornography, as defined in section 707-750, by the person transported; *provided that this paragraph shall apply only where the person transported is under the age of eighteen.*"

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**MINIMUM DISTANCE:** There is no logical legal problem with the language of the bill that does not require any minimum distance to prove transport. This parallels current existing definitions of the "any penetration, however slight" language in the definition of "sexual penetration" in sec 707-700, HRS. **Any penetration/(or in our case, "transport") is sufficient; no specific/minimum amount must be proved, just that the penetration occurred.**

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#### **LABOR & SERVICES DEFINITIONS**

A hypothetical, devil's advocate, situation:

"My boss causes me to go to the Big Island to perform legal services to negotiate a sales contract amendment, and threatens that if I don't go, he or she will need to sue someone which will cause that person financial harm. The terms "labor" and "services" are fine, but (potentially) there is no differentiation between lawful and unlawful conduct on the part of my boss. It's a difficult distinction to draw. I think the key may be to underscore the involuntariness of the labor."

The response to this hypothetical comment:

In this example, it is important to understand that in Human Trafficking, the "transport" is for the purpose of engaging in illegal conduct; sending you to legal work on the Big Island is not criminal; the motivation to cause or threaten to cause physical or financial harm to any person for illegal conduct is what makes the conduct unlawful.

Furthermore, with regard to this hypothetical situation above, suing to prevent or recover a loss is one thing; suing to cause someone financial harm – in order to get you to do

something you don't want to do – is quite another; it is **action intended to overcome your will, not to assert a lawful claim**. Indeed, that latter part is the biggest distinction.

As presently written, the **law focuses on the perpetrator's conduct**. This is necessary to be a bill which protects the human and civil rights of the victims.

As for the "labor" and "services" definitions, they are already in the statute. **The same definitions are used, for example, the kidnapping statute, sec 707-720, HRS, without any confusion about the criminal coercive distinguishing factor contributing to the "labor" and "services."** Why is it OK to use these terms there, as already defined, and not in this Human Trafficking bill? Is there any empirical evidence whatsoever that the supposed broadness of the definitions has been a problem in enforcing these other statutes? - The answer is, no.

#### MINIMUM SENTENCES SET FOR CRIME AGAINST MINORS

This Human Trafficking bill does not grade the offense based on the age of the minor; it sets mandatory minimums based on the age of the minor.

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### SUGGESTIONS FOR CHANGES - SB HUMAN TRAFFICKING DRAFT BILL

(Both grammatical and substantive. Substantive changes are in **BOLD**)

#### SECTION 1

Page 2, lines 3-7: This paragraph is a bit of an orphan. For one thing, it's only two sentences long. For another, the sentences are largely redundant of each other. The first says HT "is a multibillion dollar a year business" (should be "per," not "a," in any event) The second line says "\$32,000,000,000" in profits. Also, what is the "largest criminal industry in the world" if this is the second? Comma after "dealing" on line 4. Finally, to whom are these assertions attributed? Is this still from the "Report"? Either way, it's a new paragraph so source should be ID'd.

Page 2, line 8-11: "Within" is probably not the best choice of prepositions here because we're talking about trans-national, cross-border activity (as evidenced by the word "into" on line 14). Hasn't the Act referred to been used to prosecute cases originating in, for example, Cambodia? **SUGGESTED REVISION: "Within The United States, the federal government has sought to combat this the human trafficking problem, by adopting the Trafficking Victims Protection Act of 2000, and subsequently amending the Act in 2003, 2005, and 2008 (2008 reauthorization act is also known as the Wilberforce Act), to combat this modern form of slavery."**

Page 2, line 9: In a new paragraph, the reference "this" does not clearly refer to an antecedent. I would substitute "the human trafficking".

Page 3, line 1: The word "large" usually refers to the size of an object. I think the context here suggests that something like "high volume" would be more accurate/appropriate.

Page 3, line 5: Outdated reference. SUGGESTED REVISION: ~~"Since December 2008~~ As of April 2009, according to the U.S. Department of State's Trafficking in Persons Report, ~~thirty-eight~~ forty-two states have passed anti-trafficking laws. Hawaii remains one of ~~twelve~~ eight states left without state laws defining human trafficking."

Page 3, line 15: Move comma after "and" to after "often".

Page 3, line 17: By whom is it "reported"? SUGGESTED REVISION: ~~"It is reported that~~ According to the FBI Innocence Lost Initiative for Operation Cross Country II, Honolulu is one of twenty-nine cities recognized as a place with a considerable amount of child sex-trafficking in addition to adult human trafficking, ~~according to the FBI Innocence Lost Initiative for Operation Cross Country II."~~

Page 4, lines 20-21: "that," certain," "that," "certain." Redundant. How about "Laws that criminalize conduct relating to human trafficking do not address"? SUGGESTED REVISION: ~~"Although there are laws that criminalize certain conduct that address certain aspects of human trafficking, these laws—~~ Existing laws that criminalize certain conduct relating to human trafficking do not address the trafficking problem holistically, directly, or...."

Page 5, line 9: Not "overlapping," just "overlap."

Page 5, line 11: Add, "here" after "misplaced."

Page 5, lines 11-13: This sentence makes no sense, to me at least. How does an underlying offense "raise due process and equal protection arguments"? It seems to repeat the preceding sentence and adds nothing. I would delete this entire sentence and the word "However," at the beginning of the next. That way, you go from "concerns are misplaced here" to "In State v. Modica," and avoid using "however" twice in three sentences.

Page 6, line 7: Subject/verb singular/plural disagreement; "offenses" "contain" OR "offense" "contains". Probably the former since the bill creates multiple degrees of HT. SUGGESTION FOR CHANGE: "The human trafficking offenses in this Act contain elements not found in underlying offenses ~~the offense of promoting prostitution."~~

Page 6, line 7: If promoting prostitution is not the only offense that raises the supposed dp/ep concerns, I would delete the reference to promoting and refer instead to "underlying offenses." In the alternative, if you want to refer to this specific offense, I would specify what the additional elements are / element is (e.g., transportation).

Page 7, lines 1-4: If your purpose is to make it possible to impose multiple punishments for a single course of conduct that amounts to more than one offense, this language will not do it. Consistent with the invitation by the Hawaii Supreme Court to the Legislature in Feliciano, (quoted at page 6, line 18 top page 7, line 1), section 701-109 should be amended so that both offenses can be punished (at least where the elements are committed at separate points in time; see State v. Ah Choy,

70 Haw. 618, 780 P.2d 1097 (1989)). In the alternative, language excepting the offense from section 701-109 could be added (see discussion of page 20, lines 5-7, below)

Page 7, line 20 to Page 8, line 20:

**CLARIFY DEFINITION:** "A person commits the offense of sexual human trafficking in the first degree if the person transports, aids, assists, or causes to be transported any person into, through, within, across, or out of the State, **with intent to facilitate:**

(a) Obtaining, maintaining, or advancing prostitution of the person transported by any of the following methods: (Please insert i-ix starting on page 7, line 20 to page 8, line 20).

or,

(b) Prostitution or activity as an erotic or nude massager or exotic or nude dancer, as defined by section 712-1210, or in the production of child pornography, as defined in section 707-750, by the person transported; *provided that this paragraph shall apply only where the person transported is under the age of eighteen.*"

**Page 7, line 5:** If the purposes of this Act **are**, and types of trafficking are identified, then it should be "problems". Otherwise, "purpose" and "is".

Just a general comment on the "purpose" section: It has enuf info about why we need a law and why this one doesn't raise dp/ep problems but not much description about how/why the offenses are structured and why the ancillary sections (no DAG/DANC, for feature, etc.) are there.

## SECTION 2

Page 9, lines 12, 14, and 17: Replace "transported" with "trafficked"

Page 12, lines 18-22: Statements of intent in statutes, especially penal ones, are not very helpful. Something either is, or is not, criminal. If the purpose here is to exclude parents/guardians from the reach of the statute for requiring chores under threat of discipline, then language such as "this section shall not apply to" or "it is a defense to prosecution under this section that . . . ." should be used. "Common" and "typical" lack precision, also. Is this behavior already exempted by the defense in Section 703-309(1)? If so, this language may not be necessary or should perhaps reference the defense section (see discussion below of language at page 20, lines 2-3).

**SUGGESTED REVISION:** "...provided that reference to the means listed in section 707-A (1) (a) ~~within this section is not intended to criminalize the actions~~ shall not apply to the actions of a parent or guardian who requires his or her child to perform ~~common~~ household chores under threat of ~~typical~~ lawful parental discipline."

**Page 12, line 19:** "within this section" is redundant, if the reference is to the HRS section in line 18.

Page 13, lines 7, 9, and 12: Replace "transported" with "trafficked"



Page 13, line 14 to page 14, line 3: Why is there not a similar restitution provision for sexual human trafficking?

Page 14, lines 1-3: Insert reference to Fair Labor Standards Act. **SUGGESTED REVISION:** (b) The value of the ~~transported~~ trafficked person's labor or services, as guaranteed under the minimum wage provisions of chapter 387, or the Fair Labor Standards Act codified in 29 USC 201 et. seq., whichever is greater."

Page 15, lines 1, 3, 6, 9, 14 and 15: Replace "transported" with "trafficked"

Page 15, lines 15-17: Insert reference to Fair Labor Standards Act. **SUGGESTED REVISION:** (b) The value of the ~~transported~~ trafficked person's labor or services, as guaranteed under the minimum wage provisions of chapter 387, or the Fair Labor Standards Act codified in 29 USC 201 et. seq., whichever is greater."

Page 15, lines 18-21: Why doesn't this requirement that restitution be paid to the vic even if the vic returns home apply to the first degree forced labor/services trafficking offense (i.e., insert same language at page 14, line 4)? **SUGGESTED REVISION:** "The return of the ~~transported~~ trafficked person to the ~~transported~~ trafficked person's home country of other absence of the ~~transported~~ trafficked person from the jurisdiction shall not relieve the defendant of the defendant's restitution obligation." OR DELETE THESE LINES ENTIRELY (why wouldn't restitution be an obligation?).

Page 16, lines 1: **SUGGESTED REVISION:** "Upon conviction of a defendant under this any of these section sections, the..."

Page 16, lines 1-13: Make the license revocation penalty apply to other degrees of the offense and to sexual human trafficking offenses? Sure, there is no license for human trafficking, be it for sex, labor, or services, but the persons charged with these other offenses may also have business licenses as part of their cover" that ought to be revoked as an additional, disabling penalty.

Page 16, lines 8-9: **SUGGESTED REVISION:** "...the business of enterprise who were not convicted of a ~~charge under this section~~ crime related to the trafficking offense, if the remaining owner or owners submit proof..."

Page 18, line 7: Not "one person", "a person".

Page 18, lines 1-3, lines 15-17: Insert reference to Fair Labor Standards Act. **SUGGESTED REVISION:** (b) The value of the ~~transported~~ trafficked person's labor or services, as guaranteed under the minimum wage provisions of chapter 387, or the Fair Labor Standards Act codified in 29 USC 201 et. seq., whichever is greater."

Page 18, lines 9-12: If the labor or service originally was voluntary, but becomes forced, is there a trafficking offense? The person will already have been transported but the labor/service will not have been forced at the time of transport. Is it then "just" extortion?

**SUGGESTED REVISION:** "If a person willingly begins to perform the labor or service but later attempts to withdraw and is forced to remain and perform against the person's will, the labor or service shall be deemed to have been forced from

the time the labor or service was first performed, whether or not the transported person has consented."?

Page 18, lines 12-13: "due to any of the methods listed in"? The language used in defining the offenses is "obtained, maintained, or advanced by any of the methods". So, how about "If labor or services are obtained, maintained, or advanced by any of the methods . . . "?

SUGGESTED REVISION: "If a person performs labor or services ~~due to~~ are obtained, maintained or advanced by any of the methods in listed in section 707-A (1) (a), ~~such~~ the labor or service shall be deemed to be forced, whether or not the transported person has consented."

Page 18, line 13: "the", not "such", unless "such as".

Page 18, lines 14 and 15: Either "whether or not" and "consented" OR "whether" and "consented or not" NOT two "or not"s.

Page 18, line 17: "Nude" refers to the condition of the individual"? SUGGESTED REVISION: "Nude" shall have the same meaning as defined in section 712-1210."

(see, e.g., sections 707-716(1)(c) and 710-1022(2)).

Page 19, line 1: There is a word missing. SUGGESTED REVISION: "Transported means *moved* any distance..."

Page 19, line 6: Comma after "that".

Page 19, line 11: "recklessness", not "reckless disregard".

Page 19, line 12: Insert "to prove the requisite state of mind" after "sufficient".

Page 10, lines 16-10: "the actor shall not be criminally liable for the very conduct that makes the actor the victim of the trafficking charge". This seems redundant of "(3) It shall be a complete defense to a charge under this part that: (a) The actor is the transported person who has been transported for the purposes in this part".

SUGGESTED REVISION: (a) "The actor is the transported person who has been transported ~~for the purposes in this part and the actor shall not be criminally liable for the very conduct that makes the actor the victim of the trafficking charge~~ by any of the methods in 707-A (i) through (ix), in this part."

Page 20, lines 2-3: Not sure why this is spelled out. Already covered, I think, by sections 703-303(1)(c) and 703-309(5).

Page 20, lines 5-7: Do you really want to prevent included offenses? What if, at trial, the prosecution fails in one of its elements of proof (say, transportation) but succeeds in proving a "method" that constitutes a separate offense. Do you not want to be able to get a conviction at least for the included "method"? Again, this raises the section 701-109 problem; if it's too much to amend that section, as

suggested above, maybe language should be inserted here to the effect that "Notwithstanding section 701-109(1)(a), . . . ."

Page 20, lines 5-6: Insert "separate" after "a" on line 5 and delete "itself" and "lesser" and change the "a" to "an" on line 6.

Page 20, line 7: Delete "to" and insert "of".

Page 20, lines 10 and 13: Insert "that constitute a separate offense" after "section 707-A(1)(a)".

Page 20, line 14 to page 21, line 2: Severability clauses should not be codified. Instead, the standard language should be inserted as a new SECTION 11 and the remaining sections renumbered accordingly.

### SECTION 13

Why make SECTION 9 (no DAG/DANC for HT) effective on 7/1/10 but everything else "on approval"?

###



# Attachment 2

**VOLUNTEER STAFF**  
(Girl Fest)

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Non-Executive Director

Veronica Garcia  
Workshop Coordinator

Eri Oura  
Coordinator

Libelle Garcia  
Art Gallery Coordinator

Trina Orimolo  
Conference Coordinator

Michele Leong  
Conference Coordinator

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Valerie McDougall  
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Weston Willard  
High School Teacher

**ADDENDUM TO Hawaii Anti Trafficking Task Force's  
Report to the 2010 Legislature  
Submitted to the HATTF on October 26<sup>th</sup> 2009**



**The 6<sup>th</sup> Annual  
GiRL FeST Hawaii**  
Multimedia Festival  
A program of  
The Safe Zone Foundation  
November 2009  
Honolulu, Hawaii  
[www.girlfesthawaii.org](http://www.girlfesthawaii.org)

1. Report Card of State Action to Combat International Trafficking - May 2007 Center for Women's Policy Studies  
<http://www.centerwomenpolicy.org/documents/ReportCardonStateActiontoCombatInternationalTrafficking.pdf>

This report has been submitted to the 2010 legislature to supplement their decision on whether a state Human Trafficking law is necessary. The report analyzed laws with regard to Human Trafficking prior to its publishing date, which clearly highlights the deficiency in legal protections of victims as well as criminal prosecutions of traffickers.

This report analyzed each state law in terms of its responsiveness to the model legislative provisions for the five types of laws discussed in the Center's 2005 Resource Guide for State Legislators.

Each state therefore received five letter grades, one for each type of law — criminalization, victim protection and services, statewide interagency task force, regulation of international marriage brokers, and regulation of travel service providers that promote sex tourism. Each state's individual report card includes a brief analysis of the state's legislation and includes recommendations for improvements. (Please note that this report only covers international trafficking not domestic trafficking).

2. U.S. Department of Justice Funded, National Center for Missing and Exploited Children Report titled "Prostitution of Children and Child Sex-Tourism: An Analysis of Domestic and International Responses"

This report effectively addresses how intervention responses have and have not worked with regard to Child Prostitution, and overview of federal and state law with legal analysis on how child trafficking is addressed, and victims profiles. On Page 25, there is a description of the "successful models for intervention," which should be implemented. This report is submitted based on the fact that Hawaii has a growing problem with regard to child-prostitution and therefore child-trafficking. FBI's Innocence Lost National Program which brings child traffickers to justice was started as a result of the Blue Diamond case; a case involving a child sex-trafficker who worked out of Detroit, Chicago and Hawaii.

The lack of a Hawaii state Human Trafficking statute creates problems within the legal system when trying to identify victims, even if the victim is a child, for the sole reason that current statutes criminalize these children as "runaways" or child "prostitutes." There is no system for proper identification for domestic child trafficked victims. There would be if a state Human Trafficking law existed. This included report explains why an effective response system is needed and how successful models are constructed.

3. State v. Espinoza, Intermediate Court of Appeals – April 2009

(<http://www.state.hi.us/jud/opinions/ica/2009/ica29094.htm>)

A copy of this decision has been submitted to reflect, by this one example, how current statutes may both be ineffective and may also criminalize the victims of sex-trafficking in the area of Waikiki. In Waikiki, all prostituted persons have pimp/traffickers. The decision on State v. Espinoza propounds the intent that “the legislature intended to exclude a patron, such as Espinoza, from criminal liability under this statute.”

4. Fact Sheet on State Anti-Trafficking Laws from US PACT [Policy Advocacy to Combat Trafficking] – December 2008- Center for Women’s Policy Studies

[http://www.centerwomenpolicy.org/programs/trafficking/documents/FactSheetonStateAntiTraffickingLawsDecember2008\\_001.pdf](http://www.centerwomenpolicy.org/programs/trafficking/documents/FactSheetonStateAntiTraffickingLawsDecember2008_001.pdf)

A copy of fact sheet is submitted to inform legislators of current Human Trafficking laws in other states and how they compare. Please note that according to this report which was released in December 2008, Hawaii is 1 of 12 states in the nation with no Human Trafficking state law. As of April 2009, according to the U.S. Department of State’s Trafficking in Persons report, Hawaii now remains 1 of 8 states in the nation with no state Human Trafficking law.

5. Memo on State v. Modica from Davis Polk & Wardwell – September 2009

(58 Hawai’i 249, 567 P.2d 420 (1977))

A copy of this memo has been submitted to inform the legislature about what State v. Modica establishes with regard to duplicate as opposed to overlapping statutes. Davis Polk & Wardwell is one of the top 100 law firms in the nation with offices around the world. In their analysis of State v. Modica they conclude that an overlapping of statutes does not create a constitutional violation. State v. Modica was used by opponents to a state Human Trafficking law, which served to kill past Human Trafficking bills.

This thorough analysis also comments on a former draft of the 2010 Human Trafficking bill to be submitted by the legislative women’s caucus and found no violation of State v. Modica in its language. The current bill is based on the same language using “Transportation + Knowledge + Intent” to create a new Human Trafficking offense which distinguishes itself uniquely from any other current statute.

The memo also cites other lesser-included (or overlapping) offenses in Hawaii law also cites other states with the same that have passed Human Trafficking state laws.

# Attachment 3

The majority of Task Force members have the following concerns regarding the list of documents provided by GirlFest (Attachment 2):

(1) *Report Card on State Action to Combat International Trafficking*

This document is more than two years old, and therefore lacks any reference to subsequent changes in Hawaii law relating to human trafficking – notably, Act 147, Session Laws of Hawaii 2008. Additionally, the “methodology and grading system” described in this document appears to focus on whether states have statutes that use the term “human trafficking,” rather than focusing on whether states’ overall legal framework prohibits the conduct involved in human trafficking. For example, in Hawaii, certain conduct involved in human trafficking is prohibited under laws regarding Kidnapping, Sexual Assault, and other offenses, as well as laws regarding accomplice liability. This raises concerns about the document’s accuracy and relevance.

(2) *Prostitution of Children and Child-Sex Tourism: An Analysis of Domestic and International Responses*

This document is more than ten years old and includes numerous references to very old statutory provisions. There has been substantial legislative activity in this field since this document was published. This raises concerns about the document’s accuracy and relevance.

(3) *State of Hawaii vs. Rollie Dumasig Espinosa*

The holding in this case is limited to a narrow issue involving a specific statute; that is, whether section 712-1207, Hawaii Revised Statutes (which prohibits agreeing or offering to engage in sexual conduct in certain specific geographic areas “in return for a fee”) applies to patrons of prostitution. The wording “in return for a fee” is not used in any other statute relating to prostitution. The relevance of this case is unclear.

(4) *Fact Sheet on State Anti-Trafficking Laws from US PACT*

This document was not presented at any meeting of the Task Force. The members are not familiar with this document.

(5) *Memorandum to Equality Now from William J. Fenrich, Zachary D. Shankman, Joanna C. Weiss, Ashley Gorski (Law Clerk), and Kevin Satter (Law Clerk), dated September 1, 2009, regarding Analysis of Proposed Hawaii Human Trafficking Legislation in Light of Modica*

The relevance of this memorandum is unclear because the subject bill has been withdrawn from consideration. Additionally, this memorandum, which addresses issues of Hawaii constitutional law, contains a disclaimer in which the authors disclose that they are not licensed to practice law in Hawaii and recommend consultation with Hawaii counsel.

# Attachment 4

# HAWAII COALITION AGAINST HUMAN TRAFFICKING

## **MEMBER GUIDELINES FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII**

These Guidelines apply to Hawaii Coalition Against Human Trafficking members and collaborating partners. Agencies that are not Coalition participants should use the separate AGENCY GUIDELINE FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII

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- Part I. Hawaii Coalition Against Human Trafficking Members and Collaborating Partners**
- Part II. Hawaii Coalition Against Human Trafficking – The Project**
- Part III. Services for Victims of Human Trafficking under the Trafficking Victims Protection Act (TVPA)**
- Part IV. HCAHT Member Guidelines for Responding to Human Trafficking in Hawaii**
  - A. Introduction to HCAHT Member Guidelines for Responding to Human Trafficking in Hawaii**
  - B. Guideline 1: Discovery of a Trafficking Victim by an HCAHT Community Based Organization (“Member CBO Guideline”)**
  - C. Guideline 2: Discovery of a Trafficking Victim or Case by Local Law Enforcement (“Local Law Enforcement Guideline”)**
  - D. Guideline 3: Discovery of a Trafficking Victim or Case by a County Prosecutor (“County Prosecutor Guideline”)**

**HCAHT Member Guidelines Resource Directory** (separate document)

Part I

**HAWAII COALITION AGAINST HUMAN TRAFFICKING  
MEMBERS AND COLLABORATING PARTNERS**

The Hawaii Coalition Against Human Trafficking (HCAHT)<sup>1</sup> is a partnership of community based organizations and federal, state, and local law enforcement agencies and prosecutors. Coalition members and their collaborating partners work together to identify, investigate, and prosecute trafficking cases; to provide services to victims of trafficking; and to increase public awareness of human trafficking.

HCAHT is sponsored by the State of Hawaii Department of the Attorney General with funding from the Bureau of Justice Assistance, United States Department of Justice.

**Members** of the Hawaii State Coalition Against Human Trafficking are:

State of Hawaii Department of the Attorney General

Office of the United States Attorney, District of Hawaii

Federal Bureau of Investigation

United States Department of Homeland Security – Immigration and Customs Enforcement

State of Hawaii Department of Public Safety

Hawaii County Police Department

Hawaii County Office of the Prosecuting Attorney

City and County of Honolulu Police Department

City and County of Honolulu Department of the Prosecuting Attorney

Kauai County Police Department

Kauai County Office of the Prosecuting Attorney

Maui County Police Department

Maui County Department of the Prosecuting Attorney

Child and Family Service

Hawaii Immigrant Justice Center (formerly Na Loio – Immigrant Rights and Public Interest Center)

Sex Abuse Treatment Center

Susannah Wesley Community Center

The Salvation Army Hawaii and American Samoa Anti-Trafficking Services (HAATS) Project

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<sup>1</sup> HCAHT was formerly called the Hawaii Anti-Trafficking Task Force (HATTF).

**HCAHT Collaborating Partners** include:

United States Equal Employment Opportunity Commission  
United States Department of Labor  
State of Hawaii Department of Labor and Industrial Relations  
Girl Fest Hawaii  
Hale Kipa  
Hawaii State Coalition Against Domestic Violence  
Pacific Survivor Center  
University of Hawaii at Manoa Gender Equity Office

## Part II

### **HAWAII COALITION AGAINST HUMAN TRAFFICKING – THE PROJECT**

The goals of the Hawaii Coalition Against Human Trafficking are to work collaboratively:

- to identify, investigate, and prosecute trafficking cases;
- to provide services to victims of trafficking; and
- to increase public awareness of human trafficking.

Between 2006 and 2008, HCAHT moved forward through relationship-building, training programs, and outreach and public awareness. HCAHT also sought to institutionalize collaboration by producing these HCAHT MEMBER GUIDELINES FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII.

#### Relationship-Building

The Coalition's crucial initial task was to build relationships among all Coalition participants – federal and local agencies, members and collaborating partners, law enforcement and service providers. To accomplish this, the Coalition met monthly over a three-year period. Federal, state, and local criminal and civil enforcement agencies and prosecutors convened as the Law Enforcement Group; community-based organizations met as the Service Provider Group; and both Groups came together for a plenary Coalition meeting. The HCAHT Member Guidelines that follow are based, in great part, on the relationships that were formed during these monthly gatherings.

#### Coalition Training Programs

The Coalition - as well as its individual members and collaborating partners - sponsored a number of training programs for Coalition agencies. In November 2007, the Coalition and the Department of Justice's Civil Rights Division (DOJ-CRD) Human Trafficking Prosecution Unit co-sponsored two full-day human trafficking workshops. Trafficking Prosecution Unit Director Robert Moossy was the featured speaker, with various Coalition participants serving on panels and working on curriculum and material development.

Examples of training offered by individual Coalition members or collaborating partners include:

- a statewide Family Violence Prevention Fund (FVPPF) two-day conference on Building Collaboration to Address Trafficking;

- a juvenile sexual exploitation session at a Coalition meeting, presented by the FBI Innocence Lost Project, Hale Kipa Sexual Exploitation Prevention Project, and GirlFest; and
- a workshop on Post Traumatic Stress Disorder and Human Trafficking sponsored by Dr. Nicole Littenberg of the Honolulu Medical Group.<sup>2</sup>

### **Law Enforcement Training**

The Law Enforcement Group developed a Statewide Law Enforcement Training Plan and began implementation. The first step in the Plan was a basic training for all patrol officers, investigators, prosecutors, and victim advocates on recognizing potential trafficking situations. Other aspects of the Plan included advanced training on human trafficking laws and the investigation and prosecution of human trafficking cases.

Basic training of patrol officers and detectives was undertaken by the police departments on all the islands, as well as the Sheriff's Division of the state Department of Public Safety. It was later recommended that dispatchers also receive training and that recruit classes include an introduction to human trafficking. These recommendations were acted upon by several police departments.

Coalition representatives from the various police departments and prosecutors' offices took steps to ensure that detectives and prosecutors were provided with training on investigating and prosecuting human trafficking cases. Many were sent to the DOJ-CRD workshop and/or the FVPF conference. Others attended training and conferences on the mainland.

Coalition members also shared their expertise with fellow HCAHT law enforcement agencies. For example, ICE trained the state Sheriffs and, with the U.S. Attorney's Office, conducted a workshop for Hawaii County prosecutors.

### **Outreach and Public Awareness**

The Coalition, its member agencies, and its collaborating partners embarked on a comprehensive outreach and community awareness program in 2008.

#### **Human Trafficking Hotline**

The Sex Abuse Treatment Center (SATC) started the Coalition's 24-hour local Hotline for a one-year pilot period. During the pilot period, the Hotline was staffed by SATC and The Salvation Army's Hawaii and American Samoa Anti-Trafficking Services (HAATS) Project.<sup>3</sup>

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<sup>2</sup> Dr. Nicole Littenberg, who established the Pacific Survivor Center, is an HCAHT collaborating partner.

<sup>3</sup> At the conclusion of the pilot period, the Coalition decided that referral to the National Human Trafficking Hotline, 1-888-373-7888, would be more effective and efficient than maintaining a local Hotline.

### Foreign-language radio programs and public service announcements

Coalition participants were interviewed about human trafficking on twelve foreign-language radio shows. The Coalition also collaborated with the Ethnic Education Foundation of Hawaii to develop labor and sex trafficking public service announcements which were run in twelve languages on local ethnic radio stations.

### Electronic media and social networking

The Coalition created its own webpage, [www.FreedomRestoredHawaii.com](http://www.FreedomRestoredHawaii.com), which is hosted by The Salvation Army. The Coalition's MySpace profile was created and is being monitored by GirlFest.

### Television public service announcement

The Pacific Survivor Center, with support of various Coalition participants, created a human trafficking awareness public service announcement that is specific to Hawaii.<sup>4</sup> The PSA features actor Josh Holloway of the television show "Lost," which is filmed in this state.

### Brochure

HAATS produced a brochure, *Human Trafficking Is Modern-Day Slavery*, with local contact information.<sup>5</sup>

### Other outreach and public awareness

HCAHT members and collaborating partners were presenters, sponsored booths, or otherwise participated at conferences and community gatherings to raise awareness of human trafficking. Although too numerous to mention, the following are examples of the breadth of the activities of Coalition participants:

- served as faculty for a session on *The Misery Trade: Minors as a Commodity in Human Trafficking* at the International Pediatric Academic Society Conference in Honolulu;
- were presenters at two workshops on Immigrant Victims of Violent Crime and Human Trafficking for community-based organizations in Hawaii County;
- spoke at a Western District Conference of Zonta International;
- sponsored and served as panelists for a session on human trafficking at the GirlFest conference in Honolulu; and
- conducted outreach to schools and parents on sexual exploitation and human trafficking.

<sup>4</sup> The PSA was produced with a private grant awarded to Dr. Nicole Littenberg, PSC's founder.

<sup>5</sup> The HAATS Project is funded by the Department of Justice's Office for Victims of Crime.

### Related Programs

Other programs initiated by Coalition members include the **Pacific Survivor Center**, which provides medical and psychiatric services to victims of human trafficking and torture, and the **Sex Tourism Project**, which makes available to Customs and Border Patrol officials information from the Hawaii Sex Offender Registry.

### HCAHT Member Guidelines for Responding to Human Trafficking in Hawaii ("Member Guidelines")

All Coalition participants – members and collaborating partners alike – took part in the development of these Member Guidelines, *which are for use by Coalition participants only*. As discussed in Part IV-A, "Introduction to the Member Guidelines for Responding to Human Trafficking in Hawaii," a decision was made to keep the Guidelines general in nature, so Coalition participants would have discretion to address the unique needs of each case.

Coalition members and collaborating partners were encouraged to develop more detailed intra-agency operational procedures and inter-agency agreements regarding the handling of human trafficking cases. Some agencies have established informal working agreements. Others, such as the Hawaii County Prosecutor's Office and Police Department, have been working on written inter-agency procedures. As a next step, service providers are currently discussing protocols for case management coordination for trafficking victims.



### Part III

## **SERVICES FOR VICTIMS OF HUMAN TRAFFICKING UNDER THE TRAFFICKING VICTIMS PROTECTION ACT (TVPA)**

### The Trafficking Victims Protection Act

Prior to the Trafficking Victims Protection Act of 2000 (TVPA), there was no comprehensive federal law to protect victims of trafficking or prosecute their traffickers. The TVPA sought to combat human trafficking by adopting a multi-faceted approach:

- **prevention** through educational and public awareness programs;
- **protection** of victims by providing benefits and services to eligible victims under federal and state programs; and
- **prosecution** of traffickers with stronger law enforcement mechanisms and more severe federal penalties.

### Definition of a "Trafficking Victim" under the TVPA

Victims of a **severe form of trafficking in persons** are entitled to services under the TVPA. The TVPA defines a severe form of trafficking in persons as:

- sex trafficking in which a commercial sex act is induced by force, fraud, or coercion;
- sex trafficking in which the person induced to perform a commercial sex act has not attained 18 years of age; or
- the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.

### Eligibility for Services

A trafficking victim's eligibility for services under the TVPA depends on several factors, including:

1. whether the victim has been subjected to the TVPA definition of a severe form of trafficking;
2. the victim's immigration status;
3. the victim's willingness to assist with the investigation and prosecution; and
4. whether the victim is a minor.

Although the TVPA does not address the service needs of trafficking victims who are U.S. citizens, there are other service resources available to domestic victims of human trafficking. In addition, victims may be eligible for TVPA services even if law enforcement or the U.S. Attorney's Office determines that the statutory definition of a "severe form of trafficking in persons" is not met.

### **Types of Services**

TVPA services that may be available to a trafficking victim include:

- food, clothing, personal hygiene supplies
- shelter
- transportation
- medical care
- dental care
- crisis counseling
- immigration legal assistance
- support and advocacy throughout the criminal justice process
- interpretation and translation services
- life skills and job training
- English language classes

### **Immigration Remedies**

If a determination has been made by a federal or state law enforcement agency that an individual has been subjected to a severe form of trafficking, the victim is eligible for immigration relief under the TVPA.

#### **Continued presence**

Federal law enforcement agents can petition U.S. Citizen and Immigration Services (USCIS) for continued presence for a victim of a severe form of trafficking. With continued presence, the victim receives temporary immigration relief and work authorization.

### T-Visa

T-visas may be available to victims of severe forms of trafficking who:

- have complied with any reasonable request for assistance in the investigation and prosecution of acts of trafficking; and
- are able to show that they would suffer extreme hardship involving unusual and severe harm upon removal from the United States.

T-visa recipients are eligible for employment authorization and may, after three years, adjust their status to lawful permanent resident in accordance with federal law and USCIS regulations. Under certain circumstances, T-visas may be available to family members of a trafficking victim.

### Certification

The Office of Refugee Resettlement of the U.S. Department of Health and Human Services grants "certification" that entitles trafficking victims to benefits and social services available to refugees. To receive certification, a victim must:

- be willing to assist with the investigation and prosecution of the trafficking case; and
- either (i) have made a bona fide application for a T-visa *or* (ii) be an individual whose continued presence is ensured to effectuate a trafficking prosecution.

### Other immigration relief

In addition to immigration benefits under the TVPA, trafficking victims may be eligible for immigration remedies such as a U-visa, which provides relief for victims of certain serious crimes.

Part IV-A

**INTRODUCTION TO MEMBER GUIDELINES  
FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII**

Purpose and Use of HCAHT Member Guidelines

The **HCAHT MEMBER GUIDELINES FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII** ("Member Guidelines") consist of a set guidelines designed to provide a framework for collaboration among the HCAHT members and collaborating partners listed in Part I. The Member Guidelines include:

- Guideline 1: Discovery of a Trafficking Victim by an HCAHT Community Based Organization, set out in Part IV-B;
- Guideline 2: Discovery of a Trafficking Victim or Case by Local Law Enforcement, Part IV-C; and
- Guideline 3: Discovery of a Trafficking Victim or Case by a County Prosecutor, Part IV-D.

Definitions

As used in these Member Guidelines,

**Member agency** refers to an *agency* that is an HCAHT member or collaborating partner.

**HCAHT member** or **HCAHT representative** refers to an *individual* who has been designated by a member agency to attend HCAHT meetings and to serve as a point person for trafficking cases. Many member agencies have designated more than one representative to HCAHT.

The HCAHT Member Guidelines are intended to serve as a resource for individuals who:

- have been designated by a member agency to serve as the agency's representative to HCAHT;
- are the member agency's point person for trafficking cases;
- regularly attend HCAHT meetings;
- received training on human trafficking and are aware of issues relating to trafficking victims; and
- have established working relationships with other HCAHT representatives.

The Member Guidelines presume that the user understands the complexity of human trafficking and will be able to recognize the unique aspects of each case. Because victim needs – and the investigation and prosecution of a particular case – may vary widely, the Guidelines are not intended to be a singular, step-by-step approach to human trafficking. They instead offer *suggested* courses of action, thereby allowing members to exercise discretion in determining the best approach to achieve the joint TVPA goals of protection and prosecution.

Member agency personnel who are not their agency's representative to HCAHT will likely lack the foundation required to apply the Member Guidelines appropriately. In addition, these Guidelines and accompanying Resource Directory contain direct and after-hours contact information that is not available to the public and intended for use by individual HCAHT members only. Therefore, although HCAHT members have the discretion to share these Guidelines with personnel within their agencies, that authority should be exercised judiciously. The Member Guidelines and Directory are not to be disseminated widely within member agencies; nor are they to be used for training.

► *Recommended intra-agency procedures*

Because access to these Guidelines will rest primarily with the member agency's HCAHT representative, each member agency should have:

- an internal process for referral of suspected trafficking cases to its HCAHT representative(s); and
- internal policies regarding the use and dissemination of the Member Guidelines and Resource Directory.

### Resource Directory

The accompanying HCAHT Member Resource Directory contains information about member agencies, including the agency representative to HCAHT, contact information and a description of trafficking-related services and eligibility requirements.

### Guideline for Agencies that Are Not Members of HCAHT

A separate **AGENCY GUIDELINE FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII** ("External Guideline") is available for agencies that are not HCAHT members. Because these agencies may not have the expertise to assess a trafficking case, determine the nature of victim services required, or identify appropriate referral agencies, the External Guideline focuses on early triage and referral services.

#### Release of the HCAHT Member Guidelines, Resource Directory, and Contact Information

As mentioned earlier, the Member Guidelines and accompanying Resource Directory contain direct and after-hours contact information that is not available to the public. Therefore, the Member Guidelines and Directory are not to be released to the public, and non-member agencies should be provided with the External Guideline only.

## Part IV-B

### **GUIDELINE I: DISCOVERY OF A TRAFFICKING VICTIM BY AN HCAHT COMMUNITY BASED ORGANIZATION**

(“MEMBER CBO GUIDELINE”)

#### **Purpose of the HCAHT Member CBO Guideline**

The Member CBO Guideline provides individual HCAHT members with service and referral options for victims of human trafficking.<sup>6</sup> Because each trafficking case is unique, this Guideline is intended to be flexible, thereby allowing HCAHT members to exercise discretion to meet each client’s specific needs.

#### **Guidelines for Non-HCAHT Members**

For agencies that are not HCAHT members, see the separate  
AGENCY GUIDELINE FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII.

#### **Organization of the Member CBO Guideline**

The Member CBO Guideline is set out in a flowchart, DISCOVERY OF A TRAFFICKING VICTIM BY AN HCAHT CBO. An elaboration of the flowchart’s entries follows, in three sections:

- (A) Assessment and Identification of a Potential Victim of Human Trafficking (*pp. 4-5*)
- (B) Referral Options for Trafficking-Related Services (*pp. 6-7*)
  - 1. Consultation with HAATS
  - 2. Direct referrals
- (C) HCAHT Member Agency Listing (*pp. 8-14*)
  - description of agency’s trafficking services
  - contact information for agency’s HCAHT representative(s)
  - cite to agency’s entry in the Resource Directory

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<sup>6</sup>As discussed in Part IV-A, the Member Guidelines were developed for use by HCAHT member agencies only, and distribution within those agencies should, for the most part, be limited to the agencies’ HCAHT representatives. This CBO Member Guideline is not to be used as a training manual; nor should it be disseminated to agencies that are not HCAHT members.

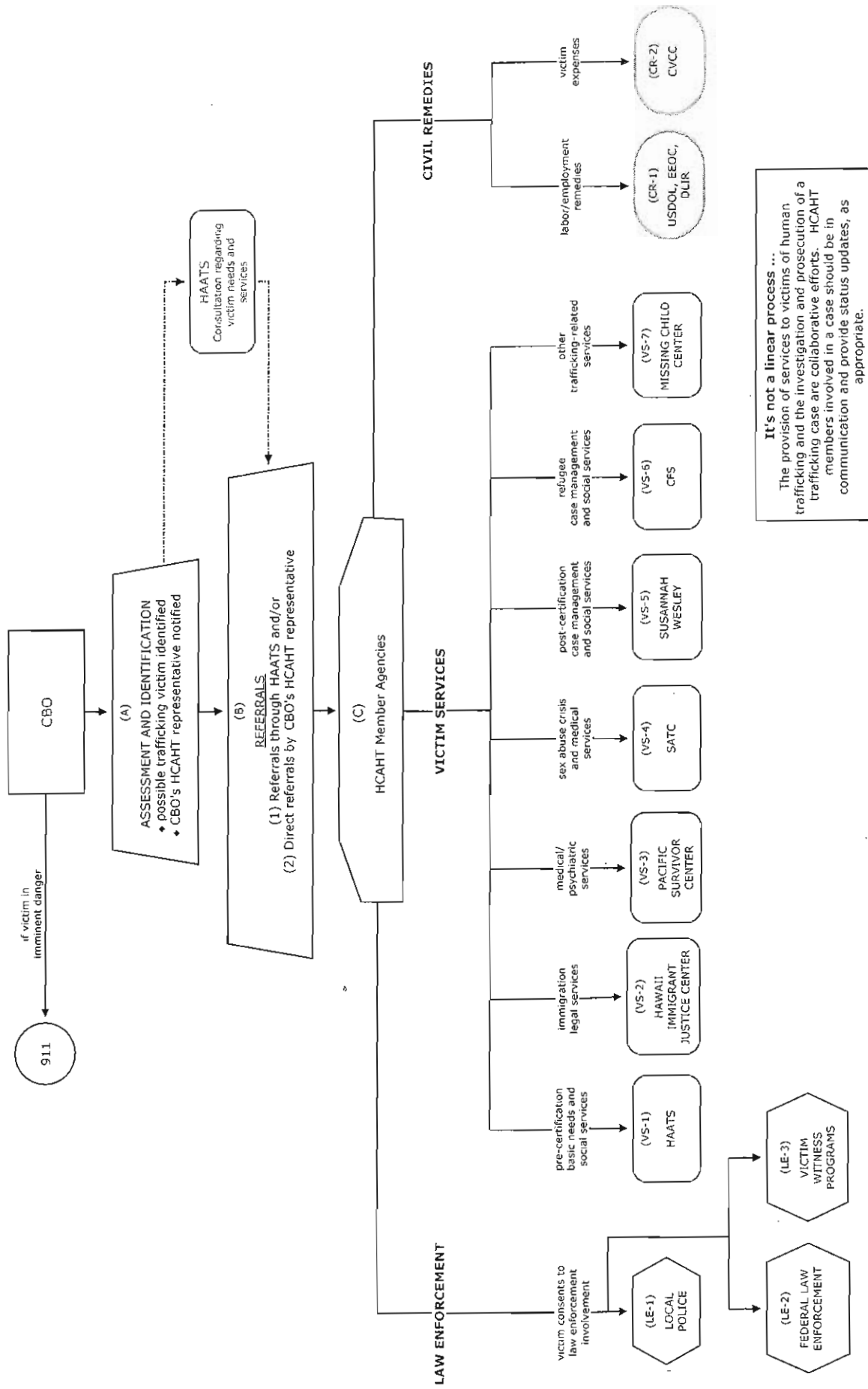
### Agency Acronyms

The following acronyms are used in the flowchart or elsewhere in the Member CBO Guideline.

CFS	Child and Family Service Employment Core Services for Immigrants and Refugee Program
CVCC	Hawaii Crime Victim Compensation Commission
DLIR	Hawaii State Department of Labor and Industrial Relations
EEOC	Equal Employment Opportunity Commission
HAATS	The Salvation Army's Hawaii and American Samoa Anti-Trafficking Services Project
HIJC	Hawaii Immigrant Justice Center (formerly Na Loio – Immigrant Rights and Public Interest Legal Center)
PSC	Pacific Survivor Center
SATC	Sex Abuse Treatment Center
SWCC	Susannah Wesley Community Center
USDOL	United States Department of Labor



## DISCOVERY OF A TRAFFICKING VICTIM BY AN HCAHT CBO



2/28/08

**If the victim is in imminent danger, call 911.**

The CBO's HCAHT representative should also notify the local police's HCAHT representative for appropriate follow-up.

## **(A) Assessment and Identification of a Potential Victim of Human Trafficking**

### **► Recommended intra-agency procedures**

Member CBOs should have an internal process for immediately notifying and involving the agency's HCAHT representative if trafficking is suspected.

If a CBO suspects that a client may be a victim of trafficking, the list of sample questions on the following page can be used as a guide to determine if key elements of human trafficking, as defined by the TVPA, are present.<sup>7</sup> The questions focus on:

- EXPLOITATION as it relates to fraud, involuntary servitude, debt bondage, or slavery;
- CONTROL and THREATS AND ABUSE as signs of coercion and force; and
- situations involving SEX TRAFFICKING OF MINORS.

CBOs should keep in mind that the crime of human trafficking under the TVPA covers:

- trafficking of undocumented immigrants;
- trafficking of non-citizens with valid immigration documents; and
- domestic trafficking of U.S. citizens.

Members should also be sensitive to cultural and language barriers that compound immigrant victims' isolation and fear, making it likely that they will be reluctant to cooperate with CBO staff. Moreover, cultural differences and limited English proficiency may make it difficult for immigrant victims to understand and respond to assessment questions. Thus, prior to making the trafficking assessment (and sooner if possible), HCAHT members should determine whether the client is able to effectively communicate in English and provide the client with appropriate language assistance services.

<sup>7</sup> For the definition of "trafficking victim," see Part III.

### Sample Questions To Identify Potential Victims of Human Trafficking

*Note: These sample questions are not to be used as an investigative tool. They are instead factors to keep in mind when assessing a client's circumstances.*

#### Exploitation

- What type of work do you do?
- What are your working conditions?
- How much are you getting paid?
- What are your work hours?
- Where do you sleep and eat?
- What are your living conditions?
- Are you doing work that is different from what you were told you would be doing when you took the job?
- Are your working conditions different from what you were told they would be when you took the job?
- Is there anything taken out of your paycheck for rent? for food? for debts owed?

#### Control

- Do you have to ask for permission to eat, sleep, or go to the bathroom?
- Are you free to come and go without being escorted or accompanied by your employer or someone the employer trusts?
- Can you leave your job or situation if you want?
- Are you in control of your own identification documents?
- Are you in control of your own money?

#### Threats and abuse

- Is anyone forcing you to do something you do not want to do?
- Have you been threatened?
- Has your family or someone close to you been threatened?
- Have you been physically or sexually harmed in any way?
- Have you been psychologically or emotionally abused?
- Have you ever been deprived of food or water? Sleep? Medical care?

#### Sex trafficking of minor

- Are you under the age of 18?
- Are you engaging in commercial sex (e.g., prostitution, pornography, strip dancing)?

## **(B) Referral Options for Trafficking-Related Services**

### **Mandatory Reporting**

A CBO may encounter a trafficking case that invokes mandatory reporting requirements – e.g., child abuse. In those situations, CBOs must report the case to appropriate authorities.

### **B-1. Consultation with The Salvation Army's Hawaii and American Samoa Anti-Trafficking Services Project (HAATS) regarding Victim Needs and Services**

HCAHT members may contact The Salvation Army's Hawaii and American Samoa Anti-Trafficking Services (HAATS) Project for consultation and triage. HAATS will help the member assess the client's needs, identify available resources, and make appropriate referrals. For consultation regarding victim needs and services, contact **Lisa Dunn** at HAATS:

- The HAATS telephone number on Oahu is (808) 489-7063.
- If immediate assistance is needed, HAATS is available 24/7.

### **B-2. Direct Referrals**

Alternatively, HCAHT members may directly communicate with other HCAHT representatives regarding victim services and trafficking-related issues. (See the following HCAHT Member Listing, pp. 8-14, for a description of victim services and resources with direct contact information.)

### **Consultation with Immigration Legal Service Provider**

If there is any uncertainty as to a victim's immigration status and the victim is not in immediate danger, a CBO should consult an immigration legal service provider such as the Hawaii Immigrant Justice Center for an assessment of immigration issues prior to contacting law enforcement.

- *Recommended inter-agency procedures – collaboration and communication*  
Providing safety and assistance to victims is a collaborative effort often involving multiple CBOs as well law enforcement agencies. Therefore, HCAHT representatives involved in a case should maintain communication and keep one another informed, as appropriate.

### Considerations for CBOs When Making Referrals

- ◆ A CBO should not contact other agencies about a case without the victim's consent. Exceptions are:
  - The victim is in immediate danger, in which case 911 should be called immediately.
  - The CBO is mandated by law to report the situation to the appropriate authorities.
- ◆ A CBO should consider referring trafficking victims to appropriate CBOs for assessment *even though a client's need for services may not be obvious*. These referrals – which could include assessments for medical, psychological, immigration, and/or basic needs – should be made as early in the process as possible.
- ◆ Even though law enforcement agencies or prosecutors determine that a case does not meet the TVPA definition of human trafficking, victim services may be available, and appropriate referrals to CBOs should be made.
- ◆ When making a direct referral, the CBO should let the receiving agency know that the case involves suspected trafficking. The CBO should also inform the receiving agency if the client has any language needs.
- ◆ If an HCAHT member is in doubt as to which agency to contact and whom to call, the member should contact HAATS.

## (C) HCAHT Member Agency Listing

The agencies described in this section are those shown in the flowchart<sup>8</sup> on page 3 and are grouped by:

- law enforcement (LE), *pp. 9-10*;
- victim services (VS), *pp. 11-13*; and
- civil remedies (CR), *p. 14*.

For each agency, the following is provided:

- a short description of the agency's trafficking-related services;
- contact information for the agency's HCAHT representative; and
- citation for the agency's Resource Directory Entry (RDE).

### Contact Information

The contact information in the Member Agency Listing is for use by HCAHT members only. It is not to be released to clients, other agencies, or the public. In addition, distribution of contact information to others within the HCAHT representative's agency should be strictly limited.

*Contact during non-work hours.* The Listing notes HCAHT representatives who are on call at night and on weekends. In addition, if urgent client services are needed outside of normal working hours, an HCAHT member may:

- call Lisa Dunn at HAATS on Oahu, 489-7063; or
- *if appropriate under the circumstances*, directly contact the appropriate HCAHT representative(s).

<sup>8</sup> The only non-HCAHT agency contained in the flowchart is the Crime Victim Compensation Commission. Although other CBOs and government agencies may also provide services needed by a trafficking victim, HCAHT member agencies should be contacted first.

## Law Enforcement

### LE-1. LOCAL LAW ENFORCEMENT

If and when a client is willing to speak to law enforcement, HCAHT members should contact the local police department's representative to HCAHT. Depending on the circumstances, the local police may refer the case to the FBI and/or Immigration and Customs Enforcement (ICE) representatives to HCAHT.

Local Police Representatives to HCAHT			
Hawaii Police Dept.	Randy Medeiros (Hilo)		
	Paul Kealoha (Kona)		
Honolulu Police Dept.	Jon Nakashima (24/7)		
	Eric Yiu		
Kauai Police Dept.	Roy Asher		
Maui Police Dept.	Milton Matsuoka		

### LE-2. FEDERAL LAW ENFORCEMENT

If and when a client is willing to speak to law enforcement, HCAHT members have the option of directly contacting the FBI or ICE representative to HCAHT, rather than the local law enforcement representative.

Federal Law Enforcement Representatives to HCAHT – All Islands			
FBI (RDE LE-2a)	Gary Brown		
ICE (RDE LE-2b)	Frank Kalepa		

HCAHT members may also contact the FBI or ICE victim witness coordinator to discuss service options.

Federal Victim Witness Representatives to HCAHT – All Islands			
FBI (RDE LE-2a)	Jennifer Rodriguez		
ICE (RDE LE-2b)	Evelyn Ramo		

### LE-3. VICTIM WITNESS SERVICES

On occasion, an HCAHT member may choose to consult with the victim witness assistance programs of the country prosecutors before contacting the law enforcement representatives listed above. These programs may provide HCAHT members with information regarding options, even though the client may not want to report to law enforcement.

Victim Witness Representatives to HCAHT			
Hawaii County Prosecutor (RDE LE-3a)	Phyllis Shinno		
Honolulu County Prosecutor (RDE LE-3b)	Dennis Dunn		
Maui County Prosecutor (RDE LE-3c)	Lena Lorenzo		



### Victim Services

#### VS-1. **HAATS – basic needs and social services to pre-certified victims of human trafficking** (RDE VS-1)

In addition to triage services for any trafficking victim, HAATS provides direct services to non-citizens identified by local or federal law enforcement as victims of human trafficking. Services to eligible victims may include provision of food, clothing, and other basic necessities; arrangements for shelter; transportation; and payment to agencies providing legal, medical, and social services. Cooperation in the investigation and prosecution of the case is required; however, victims may receive emergency services for a limited time while deciding whether to report to law enforcement.

HAATS Representatives to HCAHT– All Islands			
Primary (24/7)	Lisa Dunn		
Alternate (M-F, 8:00-4:00)	Marc Stannard		

#### VS-2. **HAWAII IMMIGRANT JUSTICE CENTER<sup>9</sup> – immigration legal representation** (RDE VS-2)

If there is any uncertainty as to a client's immigration status, HCAHT members should refer the client to the Hawaii Immigrant Justice Center for an assessment. HIJC will determine the client's status and, if needed, provide legal representation with regard to immigration remedies. Where appropriate, the client should be assessed for immigration issues before being referred to law enforcement.

Hawaii Immigrant Justice Center Representatives to HCAHT– All Islands			
Primary (M-F, 8:00-5:00)	Bow Mun Chin		
	Calleen Ching		

<sup>9</sup> formerly Na Loio – Immigrant Rights and Public Interest Legal Center

**VS-3. PACIFIC SURVIVOR CENTER – medical and psychiatric services (RDE VS-3)**

The Pacific Survivor Center offers comprehensive medical and psychological assessment and treatment for victims of torture and human trafficking. Patients are evaluated by both a physician and a psychologist/psychiatrist, who provide immediate and long-term care as well as specialty referrals to accommodate individual patient needs. HCAHT members should refer a client to PSC for an assessment as soon as possible, even though medical or psychological problems may not be evident.

Pacific Survivor Center Representatives to HCAHT– All Islands			
Primary	Nicole Littenberg, MD		
Alternate	Pooja Sood-Payeur		

**VS-4. SEX ABUSE TREATMENT CENTER (Oahu only) – crisis and medical-legal services to victims of sexual assault (RDE VS-4)**

The Sex Abuse Treatment Center provides crisis intervention, legal system advocacy, and therapy services to victims of sexual violence. Crisis intervention services include medical screening examinations and forensic medical examinations for certain types of sexual assault. A trafficking victim who experienced a sexual assault within 72 hours should be immediately referred to SATC, so medical services can be provided and evidence on the victim's clothing or person can be preserved. The client does not have to report to law enforcement in order to receive services.

Sex Abuse Treatment Center Representative to HCAHT – Oahu only			
Primary	Cindy Shimomi-Saito		
After hours	24-hour SATC Hotline		

**VS-5. SUSANNAH WESLEY COMMUNITY CENTER (Oahu only) – post-certification social services (RDE VS-5)**

Susannah Wesley Community Center provides post-certification case management services for persons who have been certified as victims of human trafficking by the Office of Refugee Resettlement (ORR) of the U.S. Department of Health and Human Services. SWCC also provides mental health services, including case management, for limited- or non-English speakers referred by the Adult Mental Health Division of the State Department of Health. SWCC's geographic service area covers Oahu only.

Susannah Wesley Community Center Representatives to HCAHT – Oahu only			
Primary	Dominic Inocelda		
Alternate	Mincha Saito		

**VS-6. CHILD AND FAMILY SERVICE EMPLOYMENT CORE SERVICES (Oahu only) -  
refugee services (RDE VS-6)**

The Employment Core Service for Immigrants and Refugee program of Child and Family Service provides case management services for refugees. It also provides employment-related services such as life skills and job training and ESL classes. The Program's services do not include direct job placement.

Child and Family Service Representatives to HCAHT – Oahu only			
Primary	Jennifer Vosberg		
Alternate	Tammie Smith-Visperas		

**VS-7. MISSING CHILD CENTER OF HAWAII (RDE VS-7)**

Although the Missing Child Center does not provide services specifically related to human trafficking, the Center serves as a resource in situations related to child sex trafficking and can provide referrals to other services that may be of direct assistance. In addition, the Center has a counterpart in each state and is therefore able to obtain information and assistance throughout the country.

Missing Child Center of Hawaii Representative to HCAHT – All Islands			
Primary	Charlene Takeno		

### Civil Remedies

#### **CR-1. FEDERAL AND STATE CIVIL ENFORCEMENT AGENCIES – wage and employment discrimination remedies**

Even though a case may not be prosecuted criminally, the **United States Department of Labor** (USDOL) Wage and Hour Division and/or the **Equal Employment Opportunity Commission** (EEOC) may be able to pursue civil remedies on behalf of the victim. Similar remedies are available through the federal agencies' state counterparts, the **Department of Labor and Industrial Relations** (DLIR) and the Hawaii Civil Rights Commission (HCRC).

If a trafficking client is interested in seeking civil remedies, it is recommended that HCAHT members contact the HCAHT representatives for:

- USDOL or DLIR for wage and hour issues (e.g., non-payment or underpayment for hours worked); and/or
- EEOC if the victim may have been subjected to employment discrimination (e.g., differing treatment of employees based on national origin and/or gender, including rape and sexual harassment of employees).

If an HCAHT member is uncertain as to which agency has jurisdiction, the member may contact either the USDOL or EEOC to discuss options available to the client. The receiving agency may handle the case itself, pursue the case jointly with another agency, and/or refer the case to other federal or state agencies.

Federal and State Civil Enforcement Agency Representatives to HCAHT – All Islands				
USDOL (RDE CR-1a)	Primary	Terence Trotter		
	Alternate	Min Kirk		
EEOC (RDE CR-1b)	Primary	Timothy Riera		
	Alternate	Glory Gervacio		
DLIR (RDE CR-1c)	Primary	Pam Martin		

#### **CR-2. HAWAII CRIME VICTIM COMPENSATION COMMISSION – victim expenses**

If a client is injured by a crime that occurred in Hawaii, he or she may be eligible for assistance from the Crime Victims Compensation Commission. The Commission reimburses victims for expenses related to the crime that are not covered by insurance or other sources, including medical and mental health counseling costs. Information and forms are available on CVCC's website <http://hawaii.gov/cvcc>. HCAHT members may call Pamela Ferguson-Brey at 587-1143 regarding cases involving trafficking victims.

**Part IV-C**

**GUIDELINE 2: DISCOVERY OF A TRAFFICKING VICTIM OR CASE  
BY LOCAL LAW ENFORCEMENT**

("LOCAL LAW ENFORCEMENT GUIDELINE")

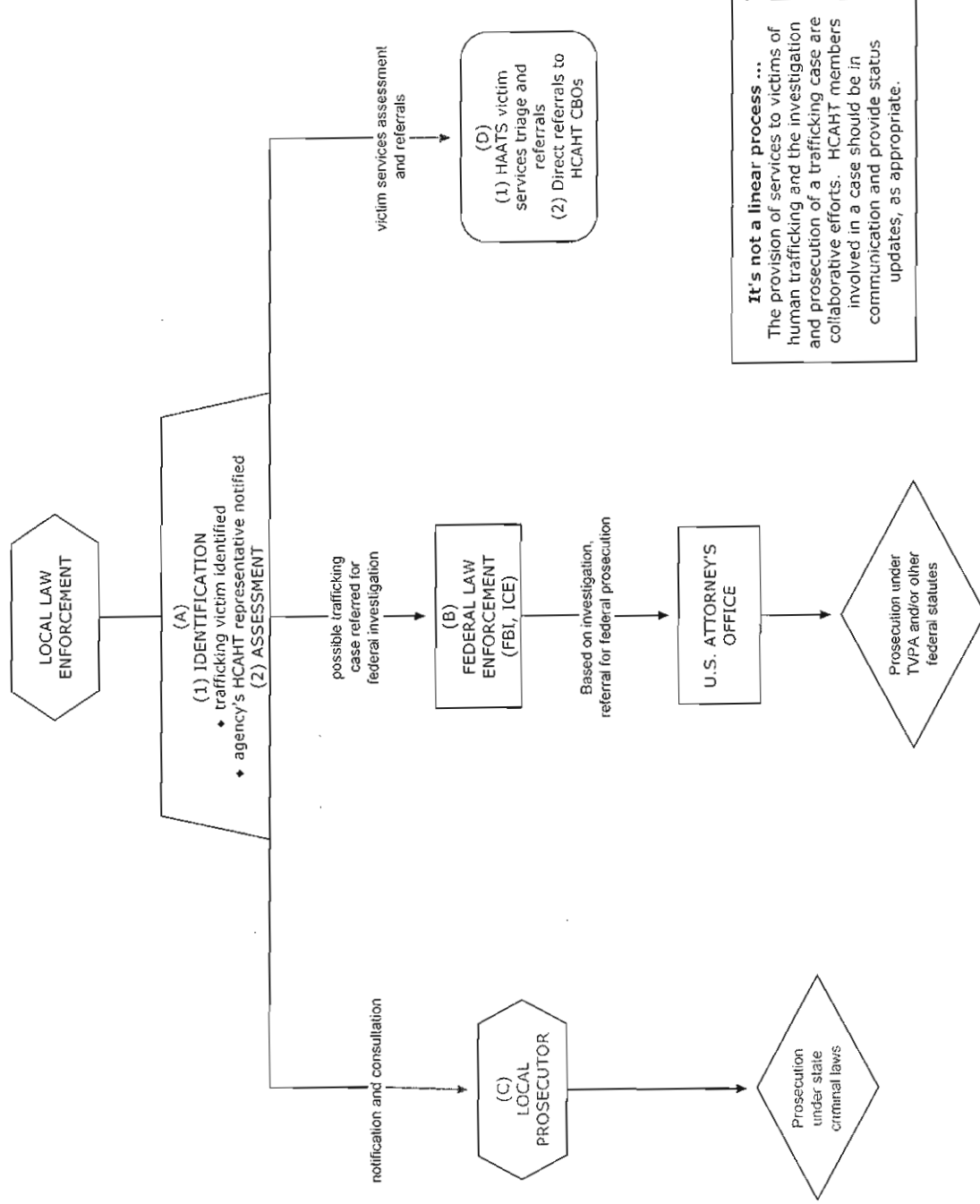
Patrol officers, investigators, and dispatchers in local police departments are often in the best position to uncover the crime of human trafficking. Other state law enforcement agencies such as the Department of Public Safety and the Attorney General's investigation unit may also encounter instances of human trafficking. This Local Law Enforcement Guideline is intended to encompass these county and state law enforcement agencies.

**Organization of the Local Law Enforcement Guideline**

The Local Law Enforcement Guideline is set out in a flowchart, DISCOVERY OF A TRAFFICKING VICTIM OR CASE BY LOCAL LAW ENFORCEMENT. An elaboration of the flowchart's entries follows, in four sections:

- (A) Identification and Assessment by Local Law Enforcement (*pp. 3-4*)
  - (B) Referral to Federal Law Enforcement Agencies for Investigation under the TVPA (*p. 5*)
  - (C) Consultation with Local Prosecutor for Prosecution under State Law (*p. 6*)
  - (D) Referral of Trafficking Victims to CBOs for Social Services (*pp. 6-7*)
- 3. Consultation with HAATS
  - 4. Direct referrals

## DISCOVERY OF A TRAFFICKING VICTIM OR CASE BY LOCAL LAW ENFORCEMENT



(12/28/08)



## **(A) Identification and Assessment by Local Law Enforcement**

### **A-1. Identification – Outward Indicators of Trafficking**

In most cases, local law enforcement personnel will encounter victims of human trafficking while investigating state criminal offenses such as prostitution, pimping, assault, domestic violence, labor disputes, drug offenses, kidnapping, or theft.

Based on training and experience, officers and investigators should be able to recognize outward indicators of trafficking, which include:

- heavy security indicating controlled exit from the premises
- sparse living conditions modified to accommodate several persons
- evidence that people live and work on the premises
- individuals with bruises and other signs of physical abuse
- individuals with neglected medical needs
- individuals who are overly submissive, fearful, or anxious
- individuals without passports or other forms of identification
- individuals who do not speak on their own behalf and/or do not speak English
- well-rehearsed and consistent responses to questions

In many instances, the only option available to detectives and officers encountering possible trafficking victims is to remove them from the site by taking them into custody through an arrest for a violation of law. This is particularly important when the individual presents the arresting officer with rehearsed statements and initially refuses to cooperate as a victim. Once the individual is away from the trafficking environment, the investigator is able to conduct an assessment in a safe and controlled setting.

► *Recommended intra-agency procedures*

Each law enforcement agency should have an internal process for notifying the agency's HCAHT representative of suspected trafficking cases.

## **A-2. Assessment – Key Areas in an Assessment Interview**

During the assessment phase, local law enforcement should attempt to determine if the elements of the crime of human trafficking are met and establish whether the person involved is a victim. Key topics in an assessment interview include:

1. Victim biographical background
2. Type of official identification documents; possession or confiscation of those documents
3. Recruitment method used by the traffickers
4. Method of entry into the United States
5. Type of labor and terms of employment
6. Conditions at the workplace
7. Personal living conditions
8. Frequency of movement to new residences
9. Existence of physical barriers
10. Existence and types of psychological barriers (e.g., threats)
11. Physical abuse
12. Existence of debt for being brought into the United States

Answers to the 12 key areas are critical to identifying and building a solid trafficking case; however, covering all the areas of inquiry during the initial local law enforcement interview is not absolutely necessary. In general, if adequate answers to #1 through #6 are obtained and human trafficking is suspected, the local law enforcement's representative to HCAHT should consult with the federal law enforcement's HCAHT representative.

HCAHT members should be sensitive to cultural and language barriers that compound immigrant victims' isolation and fear, making it likely that they will be reluctant to respond honestly or unable to respond accurately to questioning by law enforcement. Thus, prior to making the trafficking assessment (and sooner if possible), law enforcement should determine whether the victim is able to effectively communicate in English and provide the victim with appropriate language assistance services.



## **(B) Referral to Federal Law Enforcement Agencies for Investigation under the TVPA**

Although human trafficking is usually discovered by local agencies, potential trafficking cases should be referred to the Federal Bureau of Investigation (FBI) or Immigration and Customs Enforcement (ICE) for investigation under the TVPA. The advantages of prosecution under the federal statute include:

- criminal penalties for trafficking that are greater than the state statutes; and
- services for victims of trafficking that are not available under state law.

Hawaii does not have a criminal statute specific to human trafficking. Therefore, local law enforcement officers will not investigate human trafficking cases *per se*. Instead, their investigations will focus on crimes prosecutable under state laws (e.g., kidnapping, pimping, sexual assault).

For this reason, while proceeding with the identification and assessment process discussed in the previous section, local law enforcement should consult with the FBI or ICE representative to HCAHT as soon as a potential trafficking case is recognized.

Federal Law Enforcement Representatives to HCAHT – All Islands			
FBI (RDE LE-2a)	Gary Brown		
ICE (RDE LE-2b)	Frank Kalepa		

Local law enforcement should also advise the appropriate state or county prosecutor's representative to HCAHT that a possible trafficking case has been identified and referred to federal law enforcement.

### (C) Consultation with Local Prosecutor for Prosecution under State Law

Although Hawaii does not have a human trafficking statute, traffickers' activities will often result in violations of state laws. If a local law enforcement agency's investigation uncovers trafficking-related activities that may be prosecuted as state criminal offenses, the appropriate state or county prosecutor's HCAHT representative should be consulted to determine whether the case should be pursued at the local level. As noted in the previous section, local law enforcement should also inform the prosecutor's HCAHT representative if a potential trafficking case has been referred to federal law enforcement for investigation.

Local Prosecutor Representatives to HCAHT			
Hawaii County	Charlene Iboshi		
Honolulu County	Dennis Dunn		
Kauai County	Shaylene Iseri-Carvalho		
Mauai County	Peter Hanano		
Dept. of the Attorney General	Susan Won		

► *Recommended inter-agency procedures*

Local law enforcement agencies and their county prosecutors should have a process for referral of suspected trafficking cases between their agencies.

### (D) Referral of Trafficking Victims to CBOs for Social Services

It is highly probable that a potential trafficking victim initially will not cooperate in a law enforcement interview. Typically, victims have been well coached on how to respond to police questioning, and fear of their traffickers will keep them from revealing information. In the event that the investigator is unable to gain the cooperation of the victim, the investigator should provide the victim with information about social services.

Most victims of trafficking will not have resources of their own and will require assistance with basic needs such as housing, food, clothing, and medical treatment. Therefore, potential trafficking victims should be referred to services as soon as possible, even before local or federal law enforcement has completed its assessment as to whether the case meets the TVPA definition of trafficking. In addition to the Prosecutor's Office's Victim Witness programs, community based organizations (CBO) are valuable resources for providing services to victims of trafficking.

### D-1. Consultation with The Salvation Army's HAATS Project to Identify Victim Needs and Available Resources

The Salvation Army's Hawaii and American Samoa Anti-Trafficking Services (HAATS) Project is available 24/7 to help law enforcement on all islands assess a trafficking victim's needs and identify available resources. HAATS may also be able to provide direct services to eligible victims and/or make referrals to other CBOs. Local law enforcement representatives to HCAHT should contact **Lisa Dunn** at HAATS, (808) 489-7063. (See Resource Directory Entry VS-1 for more information.)

### D-2. Direct Referrals

Law enforcement representatives to HCAHT may directly communicate with HCAHT CBOs for services such as immigration legal services, medical and psychiatric assessment, and crisis counseling. For information regarding services provided by HCAHT members, as well as contact information, see the HCAHT Member Agency Listing, pages IV-B-8 through 14.

#### Considerations for Law Enforcement When Making Referrals

- ▶ Unless there are extenuating circumstances, law enforcement should obtain the consent of the victim before contacting a CBO about the case.
  - ▶ Law enforcement agencies should consider referring trafficking victims to appropriate CBOs for assessment *even though a client's need for services may not be obvious*. These referrals – which could include assessments for medical, psychological, immigration, and/or basic needs – should be made as early in the process as possible.
  - ▶ Efforts should be made to avoid the perception that any CBO is part of law enforcement.
  - ▶ If there is any uncertainty as to a victim's immigration status, local law enforcement should refer the victim to an immigration legal service provider such as Hawaii Immigrant Justice Center to help the victim determine his/her immigration right and remedies.
  - ▶ When making a direct referral, the law enforcement agency should let the receiving CBO know that the case involves suspected trafficking. Law enforcement should also inform the receiving agency if the client has any language needs.
- 
- ▶ *Recommended inter-agency procedures – collaboration and communication*  
Providing safety and assistance to victims is a collaborative effort often involving multiple CBOs as well law enforcement agencies. Therefore, HCAHT representatives involved in a case should maintain communication and keep one another informed, as appropriate.

**Part IV-D**

**GUIDELINE 3: DISCOVERY OF A TRAFFICKING VICTIM OR CASE  
BY A COUNTY PROSECUTOR**

(“COUNTY PROSECUTOR GUIDELINE”)

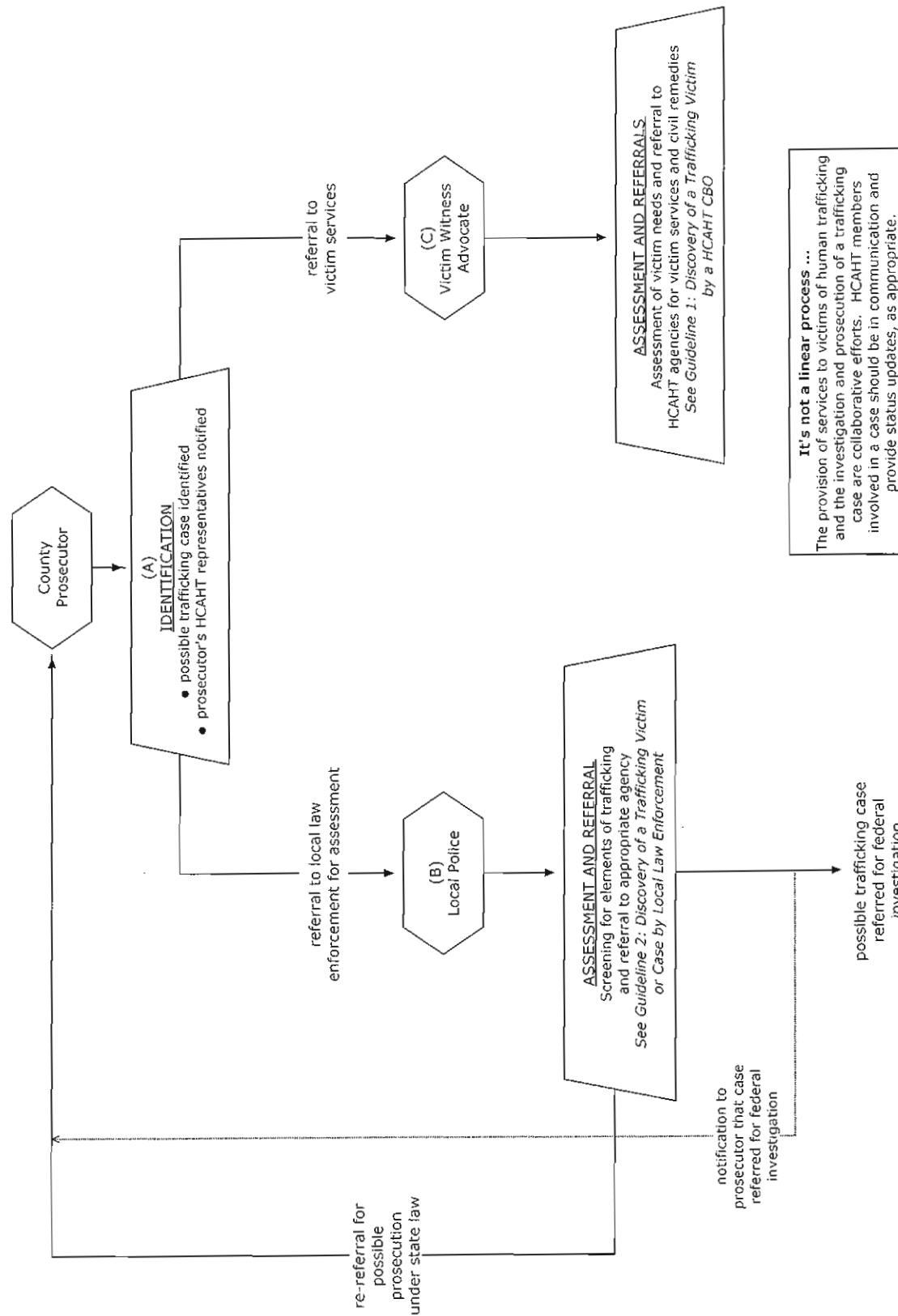
A prosecutor may receive a case that has indicators of trafficking but was not identified as a trafficking case by the investigating officer or by others in the prosecutor’s office. This County Prosecutor Guideline is intended to cover discovery of such cases.

**Organization of the County Prosecutor Guideline**

The County Prosecutor Guideline is set out in a flowchart, DISCOVERY OF A TRAFFICKING VICTIM OR CASE BY A COUNTY PROSECUTOR. An elaboration of the Flowchart’s entries follows, in three sections:

- (A) Identification of a Potential Victim or Case of Human Trafficking by a Prosecutor (*p. 3*)
- (B) Referral to Local Police Department for Human Trafficking Assessment (*pp. 3-4*)
- (C) Referral to Prosecutor’s Victim Witness Program (*p. 4*)

## DISCOVERY OF A TRAFFICKING VICTIM OR CASE BY A COUNTY PROSECUTOR



1/2/28/08

### (A) Identification of a Potential Victim or Case of Human Trafficking by a Prosecutor

If a prosecutor receives a case that appears to have to elements of trafficking but has not been previously identified as such, the department's HCAHT representatives (i.e., deputy prosecutor and/or victim witness advocate) should be notified as soon as possible.

► *Recommended intra-agency procedures*

Each prosecutor's office should have an internal process for referral of suspected trafficking cases to the agency's representatives to HCAHT.

The county prosecutor's HCAHT representative may choose to consult with the U.S. Attorney's representative to HCAHT regarding the discovery and handling of a potential trafficking case.

U.S. Attorney Representative to HCAHT – All Islands		
William Shipley (RDE LE-2c)		

### (B) Referral to Local Police Department for Human Trafficking Assessment

A decision may be made to send the case back to the local police department to screen for the elements of trafficking. The prosecutor's HCAHT representative should notify the police department's HCAHT representative that a possible trafficking case is being referred to the department.

► *Recommended inter-agency procedures*

Local law enforcement and their respective county prosecutors should have a process for referral of suspected trafficking cases between the two agencies.

Local Police Representatives to HCAHT			
Hawaii Police Dept.	Randy Medeiros (Hilo)		
	Paul Kealoha (Kona)		
Honolulu Police Dept.	Jon Nakashima (24/7)		
	Eric Yiu		
Kauai Police Dept.	Roy Asher		
Maui Police Dept.	Milton Matsuoka		

**Referral of potential trafficking case to federal law enforcement.** If, after screening, the police department determines that the case may involve human trafficking, the case should be referred to the FBI or ICE representative to HCAHT, as set out in GUIDELINE 2: DISCOVERY OF A TRAFFICKING CASE BY LOCAL LAW ENFORCEMENT. The police department should inform the referring prosecutor that the case has been forwarded to federal law enforcement for investigation.

**Re-referral of case to county prosecutor.** If the police department or federal law enforcement determines that the case does not meet the elements of human trafficking under federal law, the prosecutor should be notified and consulted for prosecution under state law.

### **(C) Referral to Prosecutor's Victim Witness Program**

The Prosecutor's victim witness representative to HCAHT should be contacted to assess the needs of a possible trafficking victim. This contact should be made as soon as possible, even though local or federal law enforcement may not have completed its assessment to determine whether the case involves trafficking. If victim services are needed, the program's HCAHT representative may access services of other HCAHT members, as set out in GUIDELINE 1: DISCOVERY OF A TRAFFICKING VICTIM BY AN HCAHT COMMUNITY BASED ORGANIZATION.

- ▶ *Recommended inter-agency procedures – collaboration and communication*  
Providing safety and assistance to victims is a collaborative effort often involving multiple CBOs as well law enforcement agencies. Therefore, HCAHT representatives involved in a case should for maintain communication and keep one another informed, as appropriate.

# Attachment 5



# HAWAII COALITION AGAINST HUMAN TRAFFICKING

## **AGENCY GUIDELINE FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII**

This Guideline applies to community based organizations and government agencies that are not members of the Hawaii Coalition Against Human Trafficking.

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- Part II. Hawaii Coalition Against Human Trafficking – The Project**
- Part III. Services for Victims of Human Trafficking under the Trafficking Victims Protection Act (TVPA)**
- Part IV. Guideline for Discovery of a Trafficking Victim by a Community Based Organization (CBO) or Government Agency (“Agency Guideline”)**
- HCAHT Agency Guideline Resource Directory (separate document)**

## Part I

### **HAWAII COALITION AGAINST HUMAN TRAFFICKING MEMBERS AND COLLABORATING PARTNERS**

The Hawaii Coalition Against Human Trafficking (HCAHT)<sup>1</sup> is a partnership of community based organizations and federal, state, and local law enforcement agencies and prosecutors. Coalition members and their collaborating partners work together to identify, investigate, and prosecute trafficking cases; to provide services to victims of trafficking; and to increase public awareness of human trafficking.

HCAHT is sponsored by the State of Hawaii Department of the Attorney General with funding from the Bureau of Justice Assistance, United States Department of Justice.

**Members** of the Hawaii State Coalition Against Human Trafficking are:

State of Hawaii Department of the Attorney General

Office of the United States Attorney, District of Hawaii

Federal Bureau of Investigation

United States Department of Homeland Security – Immigration and Customs Enforcement

State of Hawaii Department of Public Safety

Hawaii County Police Department

Hawaii County Office of the Prosecuting Attorney

City and County of Honolulu Police Department

City and County of Honolulu Department of the Prosecuting Attorney

Kauai County Police Department

Kauai County Office of the Prosecuting Attorney

Maui County Police Department

Maui County Department of the Prosecuting Attorney

Child and Family Service

Hawaii Immigrant Justice Center (formerly Na Loio – Immigrant Rights and Public Interest Center)

Sex Abuse Treatment Center

Susannah Wesley Community Center

The Salvation Army Hawaii and American Samoa Anti-Trafficking Services (HAATS) Project

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<sup>1</sup> HCAHT was formerly called the Hawaii Anti-Trafficking Task Force (HATTF).

HCAHT **Collaborating Partners** include:

United States Equal Employment Opportunity Commission  
United States Department of Labor  
State of Hawaii Department of Labor and Industrial Relations  
Girl Fest Hawaii  
Hale Kipa  
Hawaii State Coalition Against Domestic Violence  
Pacific Survivor Center  
University of Hawaii at Manoa Gender Equity Office

## Part II

### **HAWAII COALITION AGAINST HUMAN TRAFFICKING – THE PROJECT**

The goals of the Hawaii Coalition Against Human Trafficking are to work collaboratively:

- to identify, investigate, and prosecute trafficking cases;
- to provide services to victims of trafficking; and
- to increase public awareness of human trafficking.

Between 2006 and 2008, HCAHT moved forward through relationship-building, training programs, and outreach and public awareness. HCAHT produced this AGENCY GUIDELINE FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII, so community based organizations and government agencies that are not HCAHT members could readily access services for victims of human trafficking.<sup>2</sup>

#### Relationship Building

The Coalition's crucial initial task was to build relationships among all Coalition participants – federal and local agencies, members and collaborating partners, law enforcement and service providers. To accomplish this, the Coalition met monthly over a three-year period. Federal, state, and local criminal and civil enforcement agencies and prosecutors convened as the Law Enforcement Group; community-based organizations met as the Service Provider Group; and both Groups came together for a plenary Coalition meeting.

#### Coalition Training Programs

The Coalition sponsored a number of training programs for Coalition agencies. In November 2007, the Coalition and the Department of Justice's Civil Rights Division (DOJ-CRD) Human Trafficking Prosecution Unit co-sponsored two full-day human trafficking workshops. Trafficking Prosecution Unit Director Robert Moossy was the featured speaker, with various Coalition participants serving on panels and working on curriculum and material development.

Examples of training offered by individual Coalition members or collaborating partners include:

- a statewide Family Violence Prevention Fund (FVPF) two-day conference on Building Collaboration to Address Trafficking;

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<sup>2</sup> The Coalition also sought to institutionalize collaboration among its members by producing internal guidelines for responding to human trafficking cases.

- a juvenile sexual exploitation session presented by the FBI Innocence Lost Project, Hale Kipa Sexual Exploitation Prevention Project, and GirlFest during a Coalition meeting; and
- a workshop on Post Traumatic Stress Disorder and Human Trafficking sponsored by the Honolulu Medical Group.<sup>3</sup>

### Law Enforcement Training

The Law Enforcement Group developed a Statewide Law Enforcement Training Plan and started implementation. The first step in the Plan was a basic training for all patrol officers, investigators, prosecutors, and victim advocates on recognizing potential trafficking situations. Other aspects of the Plan included advanced training on human trafficking laws and the investigation and prosecution of human trafficking cases.

Basic training of patrol officers and detectives was undertaken by the police departments on all the islands, as well as the Sheriff's Division of the state Department of Public Safety. It was later recommended that dispatchers also receive training and that recruit classes include an introduction to human trafficking. These recommendations were acted upon by several police departments.

Coalition representatives from the various police departments and prosecutors' offices took steps to ensure that detectives and prosecutors were provided with training on investigating and prosecuting human trafficking cases. Many were sent to the DOJ-CRD workshop and/or the FVPF conference. Others attended training and conferences on the mainland.

Coalition members also shared their expertise with fellow HCAHT law enforcement agencies. For example, ICE trained the state Sheriffs and, with the U.S. Attorney's Office, conducted a workshop for Hawaii County prosecutors.

### Outreach and Public Awareness

The Coalition, its member agencies, and its collaborating partners embarked on a comprehensive outreach and community awareness program in 2008.

#### Human Trafficking Hotline

The Sex Abuse Treatment Center (SATC) started the Coalition's 24-hour local Hotline for a one-year pilot period. During the pilot period, the Hotline was staffed by SATC and The Salvation Army's Hawaii and American Samoa Anti-Trafficking Services (HAATS) Project.<sup>4</sup>

<sup>3</sup> Dr. Nicole Littenberg, who established the Pacific Survivor Center, is an HCAHT collaborating partner.

<sup>4</sup> At the conclusion of the pilot period, the Coalition decided that referral to the National Human Trafficking Hotline, 1-888-373-7888, would be more effective and efficient than maintaining a local Hotline.

### Foreign-language radio programs and public service announcements

Coalition participants were interviewed about human trafficking on twelve foreign-language radio shows. The Coalition also collaborated with the Ethnic Education Foundation of Hawaii to develop labor and sex trafficking public service announcements which were run in twelve languages on local ethnic radio stations.

### Electronic media and social networking

The Coalition created its own webpage, [www.FreedomRestoredHawaii.com](http://www.FreedomRestoredHawaii.com), which is hosted by The Salvation Army. The Coalition's MySpace profile was created and is being monitored by GirlFest.

### Television public service announcement

The Pacific Survivor Center, with support of various Coalition participants, created a human trafficking awareness public service announcement that is specific to Hawaii.<sup>5</sup> The PSA features actor Josh Holloway of the television show "Lost," which is filmed in this state.

### Brochure

HAATS produced a brochure, *Human Trafficking Is Modern-Day Slavery*, with local contact information.<sup>6</sup>

### Other outreach and public awareness

HCAHT members and collaborating partners were presenters and panelists, sponsored booths, or otherwise participated at conferences and community gatherings to raise awareness of human trafficking. Although too numerous to mention, the following are examples of the breadth of the activities of Coalition participants:

- served as faculty for a session on *The Misery Trade: Minors as a Commodity in Human Trafficking* at the International Pediatric Academic Society Conference in Honolulu;
- were presenters at two workshops on Immigrant Victims of Violent Crime and Human Trafficking;
- helped organize a community awareness conference in Hawaii County;
- spoke at a Western District Conference of Zonta International;
- sponsored and served as panelists for a session on human trafficking at the GirlFest conference in Honolulu; and
- conducted outreach to schools and parents on sexual exploitation and human trafficking.

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<sup>5</sup> The PSA was produced with a private grant awarded to Dr. Nicole Littenberg, PSC's founder.

<sup>6</sup> The HAATS Project is funded by the Department of Justice's Office for Victims of Crime.

### Related Programs

Other programs initiated by Coalition members include the **Pacific Survivor Center**, which provides medical and psychiatric services to victims of human trafficking and torture, and the **Sex Tourism Project**, which makes available to Customs and Border Patrol officials information from the Hawaii Sex Offender Registry.



### Part III

## **SERVICES FOR VICTIMS OF HUMAN TRAFFICKING UNDER THE TRAFFICKING VICTIMS PROTECTION ACT (TVPA)**

### The Trafficking Victims Protection Act

Prior to the Trafficking Victims Protection Act of 2000 (TVPA), there was no comprehensive federal law to protect victims of trafficking or prosecute their traffickers. The TVPA sought to combat human trafficking by adopting a multi-faceted approach:

- **prevention** through educational and public awareness programs;
- **protection** of victims by providing benefits and services to eligible victims under federal and state programs; and
- **prosecution** of traffickers with stronger law enforcement mechanisms and more severe federal penalties.

### Definition of a "Trafficking Victim" under the TVPA

Victims of **severe forms of trafficking in persons** are entitled to services under the TVPA. The TVPA defines a severe form of trafficking in persons as:

- sex trafficking in which a commercial sex act is induced by force, fraud, or coercion;
- sex trafficking in which the person induced to perform a commercial sex act has not attained 18 years of age; or
- the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.

### Eligibility for Services

A trafficking victim's eligibility for services under the TVPA depends on several factors, including:

1. whether the victim has been subjected to the TVPA definition of a severe form of trafficking;
2. the victim's immigration status;
3. the victim's willingness to assist with the investigation and prosecution; and
4. whether the victim is a minor.

Although the TVPA does not address the service needs of trafficking victims who are U.S. citizens, there are many other services available to domestic victims of human trafficking. In addition, victims may be eligible for services even if law enforcement or the U.S. Attorney's Office determines that the TVPA definition of a "severe form of trafficking in persons" is not met.

### **Types of Services**

TVPA services that may be available to a trafficking victim include:

- food, clothing, personal hygiene supplies
- shelter
- transportation
- medical care
- dental care
- crisis counseling
- immigration legal assistance
- support and advocacy throughout the criminal justice process
- interpretation and translation services
- life skills and job training
- English language classes

### **Immigration Remedies**

If a determination has been made by a federal or state law enforcement agency that an individual has been subjected to a severe form of trafficking, the victim is eligible for immigration relief under the TVPA.

#### **Continued presence**

Federal law enforcement agents can petition U.S. Citizen and Immigration Services (USCIS) for continued presence for a victim of a severe form of trafficking. With continued presence, the victim receives temporary immigration relief and work authorization.

### T-Visa

T-visas may be available to victims of severe forms of trafficking who:

- have complied with any reasonable request for assistance in the investigation and prosecution of acts of trafficking; and
- are able to show that they would suffer extreme hardship involving unusual and severe harm upon removal from the United States.

T-visa recipients are eligible for employment authorization and may, after three years, adjust their status to lawful permanent resident in accordance with federal law and USCIS regulations. Under certain circumstances, T-visas may be available to family members of a trafficking victim.

### Certification

The Office of Refugee Resettlement of the U.S. Department of Health and Human Services grants "certification" to trafficking victims that entitles them to benefits and social services available to refugees. To receive certification, a victim must:

- be willing to assist with the investigation and prosecution of the trafficking case; and
- either (i) have made a bona fide application for a T-visa *or* (ii) be an individual whose continued presence is ensured to effectuate a trafficking prosecution.

### Other immigration relief

In addition to immigration benefits under the TVPA, trafficking victims may be eligible for immigration remedies such as a U-visa, which provides relief for victims of serious crimes.

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**Part IV**

**GUIDELINE FOR DISCOVERY OF A TRAFFICKING VICTIM  
BY A COMMUNITY BASED ORGANIZATION (CBO)  
OR GOVERNMENT AGENCY  
(“AGENCY GUIDELINE”)**

This Agency Guideline is intended for use by community based organizations, government agencies, and other organizations that are not members of the Hawaii Coalition Against Human Trafficking (HCAHT). The Guideline focuses on early triage and referral services to:

- help agencies assess a trafficking client's needs;
- provide information regarding available resources; and
- facilitate contact with HCAHT member agencies.

The Agency Guideline is set out in a flowchart, DISCOVERY OF A TRAFFICKING VICTIM BY A NON-MEMBER AGENCY, on page 3. An elaboration of the flowchart's entries follows, in three sections:

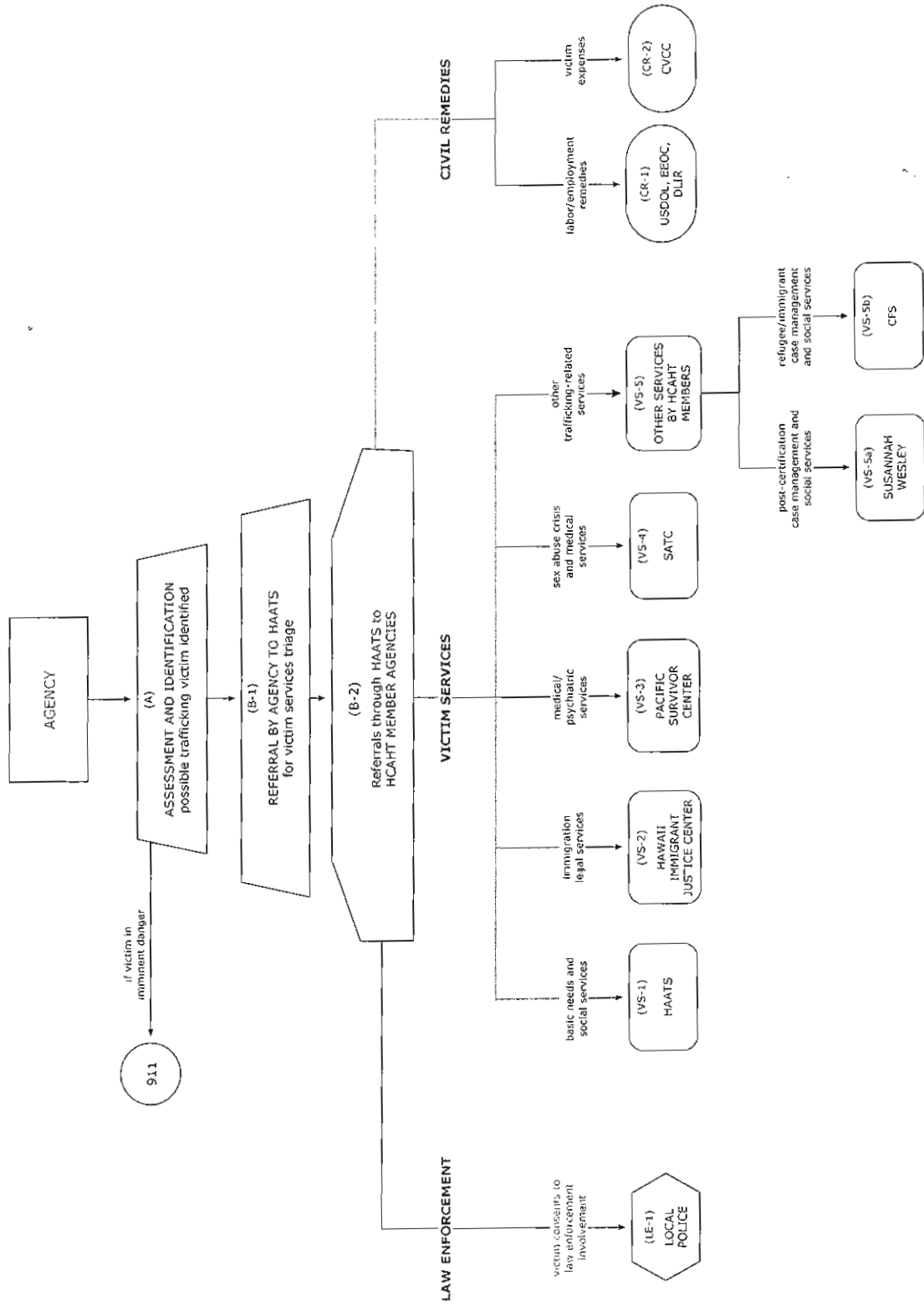
- (A) Assessment and identification of a potential victim of human trafficking by a non-member agency (*pp. 4-5*)
- (B-1) Referral of a potential victim of human trafficking to The Salvation Army's Hawaii and American Samoa Anti-Trafficking Services Project (HAATS) for triage services (*p. 6*)
- (B-2) Referrals from HAATS to HCAHT member agencies (*pp. 7-9*)

### Agency Acronyms

The following acronyms are used in the flowchart or elsewhere in the Agency Guideline.

CFS	Child and Family Service Employment Core Services for Immigrants and Refugee Program
CVCC	Hawaii Crime Victim Compensation Commission
DLIR	Hawaii State Department of Labor and Industrial Relations
EEOC	Equal Employment Opportunity Commission
HAATS	The Salvation Army's Hawaii and American Samoa Anti-Trafficking Services Project
HIJC	Hawaii Immigrant Justice Center (formerly Na Loio – Immigrant Rights and Public Interest Legal Center)
PSC	Pacific Survivor Center
SATC	Sex Abuse Treatment Center
SWCC	Susannah Wesley Community Center
USDOL	United States Department of Labor

## FLOWCHART: DISCOVERY OF A TRAFFICKING VICTIM BY A NON-MEMBER AGENCY



## (A) Assessment and Identification of a Victim of Human Trafficking by a Non-Member Agency

### Client safety

#### **IF THE VICTIM IS IN IMMINENT DANGER, CALL 911**

After contacting 911, the agency should call HAATS, (808) 489-7063, which will notify the police department's representative to HCAHT for appropriate follow-up.

### Identification of a client as a potential victim of human trafficking

If an agency suspects that a client may be a victim of human trafficking, the list of sample questions on the following page can be used as a guide to determine if key elements of human trafficking are present.<sup>7</sup> The questions focus on:

- **EXPLOITATION** as it relates to fraud, involuntary servitude, debt bondage, or slavery;
- **CONTROL** and **THREATS AND ABUSE** as signs of coercion and force; and
- situations involving **SEX TRAFFICKING OF MINORS**.

Agencies should keep in mind that the crime of human trafficking under the TVPA covers:

- trafficking of undocumented immigrants;
- trafficking of non-citizens with valid immigration documents; and
- domestic trafficking of U.S. citizens.

Agencies should also be sensitive to cultural and language barriers that may compound immigrant victims' isolation and fear, increasing the likelihood that they will be reluctant to cooperate with agency staff. Moreover, cultural differences and limited English proficiency may make it difficult for immigrant victims to understand and respond to assessment questions. Thus, prior to undertaking the trafficking assessment (and sooner if possible), agency staff should determine whether the client is able to effectively communicate in English and provide the client with appropriate language assistance services.

<sup>7</sup> For the definition of trafficking victim, see Part III, Services for Victims of Human Trafficking under the TVPA.



### Sample Questions To Identify Potential Victims of Human Trafficking

*Note: These sample questions are not to be used as an investigative tool. They are instead factors to keep in mind when assessing a client's circumstances.*

#### Exploitation

- What type of work do you do?
- What are your working conditions?
- How much are you getting paid?
- What are your work hours?
- Where do you sleep and eat?
- What are your living conditions?
- Are you doing work that is different from what you were told you would be doing when you took the job?
- Are your working conditions different from what you were told they would be when you took the job?
- Is there anything taken out of your paycheck for rent? for food? for debts owed?

#### Control

- Do you have to ask for permission to eat, sleep, or go to the bathroom?
- Are you free to come and go without being escorted or accompanied by your employer or someone the employer trusts?
- Can you leave your job or situation if you want?
- Are you in control of your own identification documents?
- Are you in control of your own money?

#### Threats and abuse

- Is anyone forcing you to do something you do not want to do?
- Have you been threatened?
- Has your family or someone close to you been threatened?
- Have you been physically or sexually harmed in any way?
- Have you been psychologically or emotionally abused?
- Have you ever been deprived of food or water? Sleep? Medical care?

#### Sex trafficking of minor

- Are you under the age of 18?
- Are you engaging in commercial sex (e.g., prostitution, pornography, strip dancing)?

## (B) Referral of a Potential Victim of Human Trafficking

### Considerations for CBOs When Making Referrals

- ◆ An agency should not contact other agencies about a case without the victim's consent. Exceptions are:
  - The victim is in immediate danger, in which case 911 should be called immediately.
  - The agency is mandated by law to report the situation to the appropriate authorities – e.g., child abuse.
- ◆ An agency should contact HAATS for an assessment of a potential trafficking victim's needs (see B-1, below) *even though*:
  - the agency is not certain that the client meets the TVPA definition of a trafficking victim; or
  - the client's need for services is not obvious.
- ◆ If there is any uncertainty as to a victim's immigration status and the victim is not in immediate danger, the agency should consult an immigration legal service provider for an assessment of immigration issues *prior to contacting local or federal law enforcement*. An agency can access these services through HAATS or, in emergency situations, directly contact Hawaii Immigrant Justice Center (see VS-2, p. 7).

### (B-1) REFERRAL TO THE HAWAII AND AMERICAN SAMOA ANTI-TRAFFICKING SERVICES PROJECT (HAATS) FOR TRIAGE SERVICES

The needs of a trafficking victim – and investigation of a particular case – often vary widely. There are numerous agencies providing a variety of services for trafficking victims, and the types of services available depend on multiple factors.<sup>8</sup> Therefore, once an agency has identified a possible victim of human trafficking, the agency should contact The Salvation Army's Hawaii and American Samoa Anti-Trafficking Services (HAATS) project. HAATS will provide triage services for victims of human trafficking, including helping agencies assess their clients' needs and identify available resources. HAATS will also facilitate referrals to HCAHT member agencies.

HAATS should be contacted even though the victim may not appear to need services. Referrals for services through HAATS – which could include assessments for hidden medical, psychological, immigration, and/or basic needs – should be made as early in the process as possible.

**For triage services, contact Lisa Dunn at HAATS, (808) 489-7063.** Neighbor island agencies may avoid long distance charges by calling the National Human Trafficking Hotline, 1-888-373-7888. The call will be referred to HAATS in accordance with National Hotline procedures (see Attachment A).

<sup>8</sup> See Part III, Services for Victims of Human Trafficking under the Trafficking Victims Protection Act.

## **(B-2) REFERRALS BY HAATS TO HCAHT MEMBER AGENCIES**

HAATS will assist the agency with referrals to HCAHT member agencies. Unless there are extenuating circumstances, HAATS' normal practice is to obtain the consent of the victim before calling another agency. Referrals *may* include any or all of the HCAHT agencies listed below.

### **Law Enforcement**

#### **LE-1. LOCAL POLICE**

If and when the client is willing to speak to law enforcement, HAATS will contact the local police department's representative to HCAHT. Depending on the circumstances, the local police may refer investigation of the case to the FBI or Immigration and Customs Enforcement (ICE) representatives to HCAHT.

### **Victim Services**

For additional information regarding services provided by the agencies listed in this section, refer to the accompanying Agency Guideline Resource Directory.

#### **VS-1. HAATS – basic needs and social services**

In addition to triage services for any trafficking victim, HAATS provides direct services to non-citizens identified by local or federal law enforcement as victims of human trafficking. Services to eligible victims include provision of food, clothing, and other basic necessities; arrangements for shelter; transportation; and payment to agencies providing legal, medical, and social services. Cooperation with the investigation and prosecution of the case is required; however, victims may receive emergency services for a limited time while deciding whether to report to law enforcement.

#### **VS-2. HAWAII IMMIGRANT JUSTICE CENTER – immigration legal representation (formerly Na Loio - Immigrant Rights and Public Interest Legal Center)**

If the client needs an assessment regarding his or her immigration status and available immigration options, the client will be referred to the Hawaii Immigrant Justice Center. The agency will determine the client's status and, if needed, provide legal representation with regard to immigration remedies. Where appropriate, the client should be screened for immigration issues before being referred to law enforcement.

**VS-3. PACIFIC SURVIVOR CENTER – medical and psychiatric services**

The client may be referred to the Pacific Survivor Center, a clinic offering comprehensive medical and psychological assessment and treatment for victims of torture and human trafficking. Patients are evaluated by both a physician and a psychologist/psychiatrist, who provide immediate and long-term care as well as specialty referrals to accommodate individual patient needs. A referral to PSC for an assessment should be made as soon as possible, even though medical or psychological problems may not be evident.

**VS-4. SEX ABUSE TREATMENT CENTER (Oahu only) – crisis and medical-legal services to victims of sexual assault**

Sex trafficking victims may be referred to the Sex Abuse Treatment Center for crisis intervention, legal system advocacy, and therapy services. Crisis intervention services include medical screening examinations and forensic medical examinations for certain types of sexual assault. The client does not have to report to law enforcement in order to receive services. *Note: A trafficking victim who has experienced a sexual assault within 72 hours should be immediately referred to SATC, so medical services can be provided and evidence on the victim's clothing or person can be preserved.*

**VS-5. OTHER SERVICES PROVIDED BY HCAHT MEMBERS**

In addition to the agencies listed above, a number of other HCAHT members offer services to victims of trafficking. Two agencies that provide services in the latter stages of a trafficking case are Susannah Wesley Community Center and Child and Family Service.

**VS-5a. Susannah Wesley Community Center (Oahu only)**

Once a victim is certified as a victim of human trafficking by the U.S. Department of Health and Human Services Office of Refugee Resettlement, Susannah Wesley provides post-certification case management and social services. SWCC also provides mental health services, including case management, for limited- or non-English speakers referred by the Adult Mental Health Division of the State Department of Health.

**VS-5b. Child and Family Service Employment Core Services**

Child and Family Service's Employment Core Services for Immigrants and Refugees provides case management services for refugees. It also provides employment-related services such as life skills and job training and ESL classes.

### Civil Remedies

#### CR-1. **FEDERAL AND STATE CIVIL ENFORCEMENT AGENCIES - wage and employment discrimination remedies**

Even though a case may not be prosecuted criminally, the **United States Department of Labor** (USDOL) Wage and Hour Division or the **Equal Employment Opportunity Commission** (EEOC) may be able to pursue labor and employment remedies on behalf of the victim. Remedies may include back pay and compensation for damages such as lost wages and medical costs. Similar remedies are available through the federal agencies' state counterparts, the **Department of Labor and Industrial Relations** (DLIR) and the Hawaii Civil Rights Commission (HCRC). For further information regarding USDOL, EEOC, and DLIR, see the accompanying Agency Guideline Resource Directory.

#### CR-2. **HAWAII CRIME VICTIM COMPENSATION COMMISSION - victim expenses**

If the client is injured by a crime that occurred in Hawaii, he or she may be eligible for assistance from the Crime Victims Compensation Commission. The Commission provides reimbursement for expenses related to the crime that are not covered by insurance or other sources, such as medical and mental health counseling costs. Information and forms are available on the CVCC's website, <http://Hawaii.gov/cvcc>.

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Appendix

**POLARIS PROJECT NATIONAL HUMAN TRAFFICKING HOTLINE  
1-888-3737-888**

**What is the National Human Trafficking Resource Center (NHTRC)?**

The NHTRC is a Department of Health and Human Services (HHS)-funded program operated and implemented by Polaris Project for the purpose of providing a national, 24-hour, toll-free hotline number for the human trafficking field in the United States. The NHTRC is a core component of Polaris Project's Training and Technical Assistance Program. By operating the national hotline, the NHTRC works to help improve the national response to protect victims of human trafficking in the U.S. by providing callers with a range of comprehensive services. Available services include crisis intervention, urgent and non-urgent referrals, tip reporting, and comprehensive anti-trafficking resources and technical assistance for the anti-trafficking field and those who wish to get involved. To perform these functions, the NHTRC maintains a national database of organizations working in the anti-trafficking field as well as a library of available anti-trafficking resources and materials. The NHTRC also works in collaboration with the infrastructure of the anti-trafficking movement in the United States, which includes HHS Rescue and Restore coalitions, DOJ-funded Human Trafficking Task Forces, FBI Innocence Lost Task Forces, Federal victims' services and outreach grantees, statewide human trafficking task forces, community-based initiatives, and on-going research projects.

**What is the NHTRC's National Hotline Number?**

1-888-3737-888 is the number to call to reach the National Human Trafficking Resource Center.

**Who Can Call the National Human Trafficking Resource Center?**

The NHTRC is equipped to handle calls from all regions of the United States from a wide range of callers including potential trafficking victims, community members, law enforcement agents, medical professionals, legal professionals, researchers, students, and policy-makers. Based on the past history of calls into the national hotline, we know that calls most frequently occur for the purposes of tips about potential trafficking situations, questions about human trafficking, training and technical assistance requests, emergency crisis response situations involving potential victims, and general information about how to get involved in the anti-trafficking movement.

**How Does the National Human Trafficking Resource Center Respond to Calls?**

The NHTRC is available to answer calls from anywhere in the country, 24 hours a day, 7 days a week, every day of the year. Urgent requests are processed 24 hours per day, 7 days per week. Non-urgent requests are processed primarily between the hours of 9am and 9pm EST, Monday through Friday, during an extended business week. If a non-urgent request comes in after 9pm EST, on the weekend, or on a holiday, a message will be taken by the call specialist on duty, and a full-time program staff will respond to the request within one business day or, in the case of holidays, on the next business day. A chart detailing the available services of the NHTRC is available below:

#### *Available Services*

Crisis Calls from Victims: 24 hours/7 days

Reporting Tips/Intelligence About Trafficking Situations: 24 hours/7 days

Training & Technical Assistance Requests - URGENT: 24 hours/7 days

Training & Technical Assistance Requests – NON-URGENT: 9am – 9pm

Referrals- URGENT: 24 hours/7 days

Referrals- NON-URGENT: 9am – 9pm

General Information Requests: 9am – 9pm

#### **What is the Need for the National Human Trafficking Resource Center?**

More than six years after the passage of the Trafficking Victims Protection Act (TVPA) of 2000, the anti-trafficking field in the United States has made significant progress but also faces a number of persistent challenges. The NHTRC will help to address some of the common challenges within the field including low levels of victim identification and certification relative to the scope of the problem; a need for more common infrastructure to disseminate information and best practices to the growing field; a need for more coordinated training and technical assistance efforts; and a need for strengthened communications among federal, state, and local anti-trafficking initiatives within the government, non-government, and private sectors. As a whole, there is an urgent need for capacity building in the field to facilitate an increase in the number of victims identified, the number of traffickers brought to justice, and the number of survivors receiving critical social services. The NHTRC is part of Polaris Project's Training, Technical Assistance, and Strategic Support Program (TTASP), which exists to help improve the systemic response to protecting victims of human trafficking in the United States.

#### **What are the Goals of the NHTRC?**

The National Human Trafficking Resource Center (NHTRC) will help meet the following critical needs in the field through the following areas:

- Increase the effectiveness of trainings, technical assistance, and strategic support throughout all levels and sectors of the anti-trafficking movement;
- Increase the number of victims identified, provided with referrals, and served in the country;
- Develop new and cutting edge anti-trafficking strategies focused on regional suppression of anti-trafficking networks;
- Improve local, regional, and national levels of coordination and communication; and,
- Provide more accessible and comprehensive promising practices, including practitioner-based training, technical assistance, and strategic support.

#### **Types of Calls Made into the NHTRC National Hotline**

The overall effectiveness of the anti-trafficking field in the U.S. is a collective effort of thousands of organizations and stakeholders that each have an important role to play. Using a strengths-based model, the NHTRC seeks to foster increased local ownership and engagement by connecting callers with anti-trafficking practitioners in communities nationwide who are best equipped to understand local needs and serve victims in their area. All calls that come into the NHTRC are categorized into the following six "Call Types" and often referred to local entities for a localized response: Potential Victim/Crisis Calls; Tip/Intelligence Calls; Training and Technical Assistance Requests; Referral Requests; General Information Requests; and Unrelated Calls.



# HAWAII COALITION AGAINST HUMAN TRAFFICKING

## AGENCY GUIDELINE FOR RESPONDING TO HUMAN TRAFFICKING IN HAWAII

## RESOURCE DIRECTORY

The Agency Guideline for Responding to Human Trafficking in Hawaii and accompanying Resource Directory applies to community based organizations and government agencies that are not members of the Hawaii Coalition Against Human Trafficking.

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DECEMBER 2008

## Resource Directory

### CONTENTS

#### **VICTIM SERVICES (VS)**

- VS-1 Hawaii and American Samoa Anti-Trafficking Services Project (HAATS) – The Salvation Army
- VS-2 Hawaii Immigrant Justice Center (formerly Na Loio - Immigrant Rights and Public Interest Legal Center)
- VS-3 Pacific Survivor Center
- VS-4 Sex Abuse Treatment Center – Kapiolani Medical Center for Women & Children
- VS-5a Susannah Wesley Community Center
- VS-5b Child and Family Service Employment Core Services for Immigrants and Refugees

#### **CIVIL REMEDIES (CR)**

- CR-1a United States Department of Labor Wage and Hour Division – Honolulu Area Office
- CR-1b United States Equal Employment Opportunity Commission – Honolulu Office
- CR-1c Hawaii Department of Labor and Industrial Relations Wage Standards Division

# HCAHT Agency Guideline for Responding to Human Trafficking in Hawaii

## Resource Directory Victim Services (VS-1)

### HAWAII AND AMERICAN SAMOA ANTI-TRAFFICKING SERVICES (HAATS) PROJECT THE SALVATION ARMY

#### I. AGENCY INFORMATION

**Mailing address:** P.O. Box 620  
Honolulu, HI, 96809-0620

**Telephone number:** (808) 489-7063

**Fax number:** (808) 440-1929

**Website:** <http://www.salvationarmyhawaii.org>

**Type of agency:** Community Based Organization Social Service

**Office(s):**

ISLANDS SERVED	OFFICE LOCATION(S)	SERVICES PROVIDED AT LOCATION	HOURS
All	2950 Manoa Road Honolulu, HI, 96822	Administrative	Mon-Fri 8:00 am-4:00 pm

## II. TRAFFICKING-RELATED SERVICES

### II-A. Services to victims of human trafficking

**PRE-CERTIFIED VICTIMS** (i.e., victims who have not yet been certified as trafficking victims by the federal Office of Refugee & Resettlement and the United States Department of Health and Human Services).

With federal funding, HAATS provides **direct services to non-citizen victims of trafficking**. Services commence with victim identification by law enforcement and continue up until the Office of Refugee & Resettlement and the Department of Health and Human Services certifies the client as a victim of trafficking.

Services include:

- Provision of basic necessities:
  - Shelter (HAATS does not have its own shelter for victims of trafficking but will find and/or pay for shelter within a Salvation Army program or at domestic violence shelters, churches, hotels, YWCA, etc.)
  - Food (HAATS will purchase, provide coupons to purchase, or supply food.)
  - Clothing (HAATS will purchase, provide certificates to purchase, or supply donated clothing.)
  - Other basic necessities
- Referrals to appropriate services, such as:
  - Legal assistance
  - Medical, mental health, and dental care
  - Substance abuse programs
  - ESL programs
  - Vocational assistance
- Case management

#### **TRAFFICKING VICTIMS WHO ARE NOT PRE-CERTIFIED**

HAATS provides screening and service referrals – but no funding – for all other victims of trafficking.

***Interpretation and translation services:*** Provided. Interpretation and translation services through Bilingual Access Line or will pay for other translation services if needed.

## II-B. Other activities/programs relating to human trafficking

The Salvation Army's HAATS program establishes and supports collaborative partnerships of government and non-government service providers in three jurisdictions – Hawaii, American Samoa, and Guam – to provide pre-certified victims of trafficking with a system of ongoing services.

- Identifies the range of victim service needs and resource availability.
- Provides ongoing training and support on victim identification, service provision, and advocacy.
- Develops and implements community awareness and outreach programs to increase general awareness of human trafficking and enhance community groups' ability to identify and report suspected cases of human trafficking..

HAATS also works with each island area *within* the three jurisdictions to identify the range of victim service needs and resource availability, and provide ongoing training and support to the island's collaborative network.

## IV. REQUIREMENTS AND SPECIAL CONSIDERATIONS FOR TRAFFICKING SERVICES

### IV-A. Requirements for trafficking services

- ☐ **Income:** n/a
- ☒ **Identification as trafficking victim by:** state, local, or federal law enforcement
- ☒ **Cooperation with law enforcement agency:** Victim must cooperate in the investigation and prosecution of the case. The victim may receive benefits while deciding whether he or she will cooperate with law enforcement, but the time frame is relatively short (e.g., two days).
- ☐ **Referral from:** n/a
- ☐ **Charges for services:** none
- ☒ **Immigration/Citizenship status:** The victim must be a non-citizen in order to be eligible for funded pre-certified services.
- ☒ **Other:** Full range of funded services are available to pre-certified victims of human trafficking only.
- ☐ **Special requirements for juveniles:** none

### IV-B. Special considerations

Even though the need may not be obvious, trafficking victims should be referred to HAATS as early in the process as possible, so they can be assessed for hidden medical, psychological, immigration and/or basic needs.

# HCAHT Agency Guideline for Responding to Human Trafficking in Hawaii

## Resource Directory Victim Services (VS-2)

### **HAWAII IMMIGRANT JUSTICE CENTER** (formerly Na Loio – Immigrant Rights and Public Interest Legal Center)

#### **I. AGENCY INFORMATION**

**Mailing address:** P.O. Box 3950  
Honolulu, HI 96821

**Telephone number:** (808) 847-8828

**Fax number:** (808) 842-0055

**Email address:** info@hijcenter.org

**Website:** <http://www.naloio.org>

**Type of agency:** Community Based Organization Legal Service

**Office(s):**

ISLANDS SERVED	OFFICE LOCATION(S)	SERVICES PROVIDED AT LOCATION	HOURS
All	810 N. Vineyard Boulevard Honolulu, HI 96817	Legal services	Mon-Fri 8:00 am–5:00 pm

#### **II. TRAFFICKING-RELATED SERVICES**

##### **II-A. Services to victims of human trafficking**

Hawaii Immigrant Justice Center (HIJC) provides legal representation, counsel and advice, and case screening for matters involving:

- **immigrant victims of trafficking:** T visas, employment authorization, advance parole, and other select civil legal matters such as public benefits, housing, and/or discrimination;
- **immigrant victims of certain serious crimes** (including domestic violence, sexual assault, felony assault and human trafficking): U visas, employment authorization, advance parole, and other select civil legal matters such as public benefits, housing, and/or discrimination; and
- **immediate family members of victims** who are eligible for visas.

Hawaii Immigrant Justice Center provides case management services for Chinese immigrant victims of domestic violence, sexual assault, and/or stalking. In other situations, the Center works closely with outside agency case managers to assure that services are provided as needed and to advocate for the client's best interests.

***Interpretation and translation services:*** Provided.

## **II-B. Other activities/programs relating to human trafficking**

Presentations to law enforcement and service providers on immigration remedies that are available to victims of human trafficking, including T-visas and U-visas.

## **III. REQUIREMENTS AND SPECIAL CONSIDERATIONS FOR TRAFFICKING SERVICES**

### **III-A. Requirements for trafficking services**

- ☒ **Income:** must be below 1.5x Federal Poverty Guideline
- ☐ **Identification as trafficking victim by:** n/a
- ☐ **Cooperation with law enforcement agency:** n/a
- ☐ **Referral from:** n/a
- ☐ **Charges for services:** none
- ☒ **Immigration/Citizenship status:** Services provided to individuals needing legal assistance with immigration matters, regardless of immigration status.
- ☐ **Special requirements for juveniles:** none

### **III-B. Special considerations**

If there is any uncertainty as to a client's immigration status and the client is not in immediate danger, the agency should refer the client to Hawaii Immigrant Justice Center for an assessment prior to contacting law enforcement. The Center will determine the client's status and, if needed, provide legal representation with regard to immigration remedies.

Resource Directory  
Victim Services  
(VS-3)

**PACIFIC SURVIVOR CENTER**

**I. AGENCY INFORMATION**

**Mailing address:** P.O. Box 235080  
Honolulu, HI 96823

**Telephone number:** (808) 294-5622

**Email address:** info@pschawaii.org

**Website:** <http://www.pschawaii.org>

**Type of agency:** Community Based Organization Medical Service

**Office(s):**

ISLANDS SERVED	OFFICE LOCATION(S)	HOURS
Oahu	Call for appointment and location	Mon-Fri, 9 am - 5 pm
Neighbor islands	Consultations provided	

**II. SERVICES TO VICTIMS OF HUMAN TRAFFICKING**

The Pacific Survivor Center (PSC) offers comprehensive medical and psychological assessment and treatment for victims of torture and human trafficking. Patients are evaluated by both a physician and a psychologist/psychiatrist, who are available to provide immediate and long-term care.

PSC provides the following medical services to victims of human trafficking:

- **Clinical Care:** All PSC patients are evaluated by a primary care physician for a comprehensive assessment of health care needs and provided with ongoing medical care. Specialty referrals are also available to accommodate individual patient needs.
- **Mental Health:** Includes both psychiatric and psychological care, as well as group and art therapy. Treatment is culturally appropriate and tailored to the needs and background of the patients.
- **Forensic Examinations:** Medical and psychiatric forensic examinations are available on-site as well as through the PSC service provider referral network.

***Interpretation and translation services:*** Provided on a case-by-case basis.



### III. REQUIREMENTS AND SPECIAL CONSIDERATIONS FOR TRAFFICKING SERVICES

#### III-A. Requirements for trafficking services

- ☐ **Income:** n/a
- ☐ **Identification as trafficking victim by:** n/a
- ☐ **Cooperation with law enforcement agency:** n/a
- ☐ **Referral from:** n/a
- ☐ **Charges for services:** none
- ☒ **Immigration/citizenship status:** Medical services are provided to victims regardless of citizenship status; however, service provision priority is for non-citizens.
- ☐ **Special requirements for juveniles:** none

#### III-B. Special considerations

Victims should be referred for medical and/or psychological assessment as early in the victim identification process as possible, even though the need may not be obvious. In addition, if a victim is not yet ready to report to law enforcement, PSC can document evidence of the victim's physical and psychological injuries.

Resource Directory  
Victim Services  
(VS-4)

**SEX ABUSE TREATMENT CENTER  
KAPIOLANI MEDICAL CENTER FOR WOMEN & CHILDREN**

**I. AGENCY INFORMATION**

**Mailing address:** 55 Merchant Street  
Harbor Court Building, 22<sup>nd</sup> Floor  
Honolulu, HI, 96813

**Telephone number:** (808) 535-7600

**Fax number:** (808) 535-7630

**Website:** <http://www.satchawaii.com>

**Type of agency:** Community Based Organization Medical and Social Service

**Office(s):** See below. SATC also subcontracts with sex assault programs on Maui (CFS), Kauai (YWCA) and the Big Island (YWCA).

ISLANDS SERVED	OFFICE LOCATION(S)	SERVICES PROVIDED AT LOCATION	HOURS
Oahu	Sex Assault Crisis Hotline	Telephone crisis counseling	24 hours
Oahu	55 Merchant Street Harbor Court Building, 22 <sup>nd</sup> Floor Honolulu, HI, 96813	<ul style="list-style-type: none"><li>○ Crisis Intervention</li><li>○ Therapy</li><li>○ Case management.</li></ul>	Mon-Fri 8:00 am–4:30 pm
Oahu	Kapiolani Medical Center for Women & Children	<ul style="list-style-type: none"><li>○ Acute forensic examinations</li><li>○ Non-acute pediatric sex abuse evaluations</li></ul>	Mon-Fri 8:00 am–4:30 pm
Oahu	Children's Justice Center (one SATC staff person)	<ul style="list-style-type: none"><li>○ Crisis intervention services for juveniles and their families</li></ul>	Mon-Fri 8:00 am–4:30 pm

## **II. TRAFFICKING-RELATED SERVICES**

### **II-A. Services to victims of human trafficking**

SATC provides services to victims of sexual assault, including persons trafficked into the sex industry.

- Crisis Intervention
  - 24-hour crisis hotline
  - Specialized medical examination available 24 hours a day (must be done within 72 hours of the assault or post-72 if victim is symptomatic)
  - Legal evidence collection (must be done within 72 hours of the assault)
  - Pediatric medical evaluation for non-emergency situations (beyond 72 hours of the assault)
  - In-person crisis counseling
- Legal Systems Advocacy
  - Victim support and advocacy during contact with law enforcement personnel and the legal system
- Therapy Services
  - Therapy for individuals recently assaulted, and for those assaulted in the past, including adults sexually abused as children
  - Therapy for family members and significant others
  - Referral services for additional need

### **II-B. Other activities/programs relating to human trafficking**

SATC's community outreach and education programs include:

- educational presentations to schools, community organizations, businesses and other groups;
- professional training and consultation for professionals who work with sexual assault survivors; and
- advocacy for policies and laws to protect the rights of sexual assault survivors and to promote community safety.

***Interpretation and translation services:*** Provided.

### III. REQUIREMENTS AND SPECIAL CONSIDERATIONS FOR TRAFFICKING SERVICES

#### III-A. Requirements for trafficking services

- ☐ Income: n/a
- ☐ Identification as trafficking victim by: n/a
- ☐ Cooperation with law enforcement agency: n/a
- ☐ Referral from: n/a
- ☐ Charges for services: none
- ☐ Immigration/citizenship status: n/a
- ☒ Special requirements for juveniles:
  - Parental or legal guardian consent necessary for therapy services if minor is under the age of 18.
  - Minors 14 and above can consent to the provision of crisis intervention, legal systems advocacy, and medical-legal services.

#### III-B. Special considerations

A trafficking victim who experienced a sexual assault within 72 hours should be immediately referred to SATC, so medical services can be provided and evidence on the victim's clothing or person can be preserved. If drugging of the victim is suspected, SATC should be contacted immediately.

# HCAHT Agency Guideline for Responding to Human Trafficking in Hawaii

## Resource Directory Victim Services (VS-5a)

### SUSANNAH WESLEY COMMUNITY CENTER

#### I. AGENCY INFORMATION

**Mailing address:** 1117 Kaili Street  
Honolulu, HI 96819

**Telephone number:** (808) 440-5818 (Please leave a message if no answer)

**Fax number:** (808) 440-5843

**Email address:** swcc-pa-cs@hawaii.rr.com

**Website:** <http://www.gbgm-umc.org/swcc/swcc.shtml>

**Type of agency:** Community Based Organization Social Service

**Office(s):**

ISLANDS SERVED	OFFICE LOCATION(S)	SERVICES PROVIDED AT LOCATION	HOURS
Oahu	1117 Kaili Street Honolulu, HI 96819	Bilingual case management	8:30 am–4:30 pm

## **II. SERVICES TO VICTIMS OF HUMAN TRAFFICKING**

Susannah Wesley Community Center (SWCC) provides case management services for **POST-CERTIFICATION VICTIMS** of human trafficking. (For explanation of certification requirements, see "Other" in § III, below).

Case managers assist with:

- Housing referrals
- Food -- e.g., applications for food stamps, emergency food supply
- Clothing received from donations
- Transportation -- e.g., transporting clients if needed, obtaining bus passes
- Medical and dental care -- e.g., applications to programs such as Quest
- Enrollment for public benefits, if eligible
- Enrollment into school if under 18 years of age, with consent of parent or guardian
- Legal service referrals

The case manager manages an account of \$500 per month to pay for the client's basic necessities, including:

- Housing
- Food
- Clothing
- Transportation
- Medical services
- Personal items (e.g., toothbrush, soap, hairbrush, etc.)
- Training

Susannah Wesley also provides:

- Mental health services for limited- or non-English speakers referred by the Adult Mental Health Division of the Hawaii Department of Human Services. Mental health case managers track clients, monitor their medication, transport them to medical appointments, etc.
- English language training
- Employment assistance and placement

***Interpretation and translation services:*** Provided. SWCC multilingual staff also provides direct services. Current case management bilingual capacity is Chinese (Mandarin and Cantonese), Filipino (Ilokano and Tagalog), Korean, Laotian, Samoan, Thai, Vietnamese, and Chuukese.

### III. ELIGIBILITY AND OTHER REQUIREMENTS FOR TRAFFICKING SERVICES

☐ **Income:** n/a

☐ **Identification as trafficking victim by:** United States Conference of Catholic Bishops Migration and Refugee Services (USCCB)

☒ **Cooperation with law enforcement agency:** Victim must reasonably assist in the investigation and prosecution of the trafficker.

☐ **Referral from:** n/a

☐ **Charges for services:** none

☒ **Immigration/citizenship status:** must be a non-citizen (see "Other" regarding visa application requirement)

☒ **Special requirements for juveniles:**

- In order to provide services to a minor under the age of 18, SWCC must obtain consent from the minor's parent or guardian.
- SWCC's services are not available to minors after they are placed in foster care.
- Susannah Wesley is mandated to report incidents of child abuse, neglect, and sexual exploitation of children under 18 years of age to child protective services and/or the police.

☒ **Other:** Victim must be certified as a victim of a severe form of trafficking by the U.S. Department of Health and Human Services Office of Refugee Resettlement. In order to be certified, a victim must have:

1. completed an application for a T-visa that has not been denied; and
2. received continued presence status from the U.S. Department of Homeland Security Immigration and Customs Enforcement.

Resource Directory  
Victim Services  
(VS-5b)

**CHILD AND FAMILY SERVICE  
EMPLOYMENT CORE SERVICES FOR IMMIGRANTS AND REFUGEES**

**I. AGENCY INFORMATION**

**Mailing address:** 200 N. Vineyard Blvd. Bldg. B  
Honolulu, HI, 96817

**Telephone number:** (808) 681-3500

**Website:** <http://www.childandfamilyservice.org>

**Type of agency:** Community Based Organization Social Service

**Office(s):**

ISLANDS SERVED	OFFICE LOCATION(S)	SERVICES PROVIDED AT LOCATION	HOURS
Oahu	200 N. Vineyard Blvd., Bldg. B Honolulu, HI 96817	<ul style="list-style-type: none"><li>• Employment services</li><li>• Case management</li></ul>	8 am–5 pm

**II. SERVICES TO VICTIMS OF HUMAN TRAFFICKING**

Employment Core Services provides case management services for refugees. Case managers assist with:

- Welfare applications (refugees eligible for up to 8 months of welfare)
- Housing applications and referrals to shelters
- Finding employment
- Health care referrals
- Child care referrals and subsidies
- Domestic violence service referrals
- Transportation needs, including teaching clients how to use the bus
- Advocacy on behalf of client - e.g., intervening with government agencies



Employment Core Services also provides employment-related services, including:

- employment training (e.g., finding/retaining employment, interview skills);
- ESL classes; and
- assistance finding a job, including documents such as job applications.

The Program does not do direct job placement.

***Interpretation and translation services:*** Provided. Child and Family Service has multilingual staff and uses services of Bilingual Access Line or Pacific Gateway if necessary.

### **III. ELIGIBILITY AND OTHER REQUIREMENTS FOR TRAFFICKING SERVICES**

- ☒ **Income:** at or below 150% of federal poverty guideline
- ☐ **Identification as trafficking victim by:** n/a
- ☐ **Cooperation with law enforcement agency:** n/a
- ☐ **Referral from:** n/a
- ☐ **Charges for services:** none
- ☒ **Immigration/citizenship status:** must be non-citizen (see "Other" regarding visa application requirement)
- ☒ **Other:** Victim must be certified as a victim of a severe form of trafficking by the U.S. Department of Health and Human Services Office of Refugee Resettlement. In order to be certified, a victim must have:
  1. completed an application for a T-visa that has not been denied; and
  2. received continued presence status from the U.S. Department of Homeland Security Immigration and Customs Enforcement.
- ☒ **Special requirements for juveniles:** Consent of legal guardian required.

# HCAHT Agency Guideline for Responding to Human Trafficking in Hawaii

Resource Directory  
Civil Enforcement Agency  
(CR-1a)

**UNITED STATES DEPARTMENT OF LABOR – WAGE AND HOUR DIVISION  
HONOLULU AREA OFFICE**

**I. AGENCY INFORMATION**

**Mailing address:** Prince Jonah Kuhio Kalanianaʻole Federal Building  
300 Ala Moana Boulevard  
Room 7-225  
Honolulu, HI 96850

**Telephone number:** (808) 542-1360

**Fax number:** (808) 541-2956

**Website:** <http://www.wagehour.dol.gov>

**Type of agency:** Federal Government Civil Enforcement

**Office(s):**

ISLANDS SERVED	OFFICE LOCATION(S)	SERVICES PROVIDED AT LOCATION	HOURS
All islands	300 Ala Moana Boulevard Room 7-225 Honolulu, Hawaii	All services	Mon-Fri 8:00 am-4:30 pm

## **II. REMEDIES AVAILABLE TO VICTIMS OF HUMAN TRAFFICKING**

The Wage and Hour Division (WHD) is responsible for enforcing some of the nation's most comprehensive federal labor laws on topics including minimum wage, overtime pay, recordkeeping, youth and special employment, migrant workers, and worker protections in certain temporary worker programs as well as other labor statutes. WHD can help victims of trafficking or exploitation obtain back pay or equity payments based on the failure to pay the employees for hours worked while under the employer/trafficker's control and/or direction. The Division also enforces limitations on the types of employment minors under the age of 18 can engage in, as well as the restrictions on hours worked by minors under the age of 16.

***Interpretation and translation services:*** Provided.

## **III. ELIGIBILITY AND OTHER REQUIREMENTS FOR TRAFFICKING SERVICES**

- ☐ **Income:** n/a
- ☐ **Identification as trafficking victim by:** n/a
- ☐ **Cooperation with law enforcement agency:** A trafficking victim does not have to report to criminal law enforcement in order to file a complaint and seek remedies through the Wage and Hour Division.
- ☐ **Referral from:** n/a
- ☐ **Charges for services:** none
- ☐ **Immigration/citizenship status:** n/a
- ☐ **Special requirements for juveniles:** none

# HCAHT Agency Guideline for Responding to Human Trafficking in Hawaii

Resource Directory  
Civil Enforcement Agency  
(CR-1b)

**UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
HONOLULU OFFICE**

**I. AGENCY INFORMATION**

**Mailing address:** Prince Jonah Kuhio Kalaniana'ole Federal Building  
300 Ala Moana Boulevard  
Room 7-127  
Honolulu, HI 96850

**Telephone number:** (808) 541-3118

**Fax number:** (808) 541-3390

**Website:** <http://www.eeoc.gov>

**Type of agency:** Federal Government Civil Enforcement

**Office(s):**

ISLANDS SERVED	OFFICE LOCATION(S)	SERVICES PROVIDED AT LOCATION	HOURS
Oahu	300 Ala Moana Boulevard Room 7-127 Honolulu, HI	Civil rights enforcement	Mon-Fri 8:00 am-4:00 pm
Neighbor islands	Consultation by telephone, (808) 541-3118	Civil rights enforcement	Mon-Fri 8:00 am-4:00 pm

## **II. REMEDIES AVAILABLE TO VICTIMS OF HUMAN TRAFFICKING**

Trafficking victims who are subjected to sexual harassment, national origin discrimination or other forms of employment discrimination should contact the EEOC for assistance in filing a charge of discrimination.

If a victim of trafficking is subjected to sexual harassment or sexual assault, the EEOC has jurisdiction over the matter. The EEOC also has jurisdiction in the following situations that may arise in trafficking cases:

- Employers may not treat employees differently on the basis of race, sex, national origin, color, age or disability with respect to hiring, termination and any other term or condition of employment.
- Employers may not subject victims of trafficking to harassment or harsher working conditions than other employees of a different national origin or race.

Remedies that are available include back pay; compensation for damages such as lost wages, medical expenses, emotional harm and suffering; and punitive damages of up to \$300,000, depending on the size of the employer.

***Interpretation and translation services:*** Provided.

## **III. ELIGIBILITY AND OTHER REQUIREMENTS FOR TRAFFICKING SERVICES**

☐ **Income:** n/a

☐ **Identification as trafficking victim by:** n/a

☐ **Cooperation with law enforcement agency:** n/a

☐ **Referral from:** n/a

☐ **Charges for services:** none

☐ **Immigration/citizenship status:** n/a

☐ **Special requirements for juveniles:** none

☒ **Other - Jurisdictional:** The U.S. Equal Employment Opportunity Commission is responsible for enforcing several anti-discrimination employment statutes: Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; and the Equal Pay Act of 1963. These statutes prohibit employers from discriminating against employees on the basis of sex, race, national origin, religion, color, age (40 years and older) and disability.

☒ **Other - Filing deadline:** A discrimination charge must be filed with the EEOC within 300 days of the date of the last act of discrimination.

# HCAHT Agency Guideline for Responding to Human Trafficking in Hawaii

Resource Directory  
Civil Enforcement Agency  
(CR-1c)

**HAWAII DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
WAGE STANDARDS DIVISION**

**I. AGENCY INFORMATION**

**Mailing address:** 830 Punchbowl St., Room 340  
Honolulu, HI 96813

**Telephone number:** (808) 586-8777

**Fax number:** (808) 586-8677

**Email address:** [dlir.wages@hawaii.gov](mailto:dlir.wages@hawaii.gov)

**Website:** <http://hawaii.gov/labor/wsd>

**Type of agency:** State Government Civil Enforcement

**Office(s):**

ISLANDS SERVED	OFFICE LOCATION(S)	SERVICES PROVIDED AT LOCATION	HOURS
Oahu	830 Punchbowl Street, Rm. 340 Honolulu, HI 96813	Unpaid wages enforcement	Mon-Fri 7:45 am–4:30 pm
Kauai	State Building, Rm. 202, 3060 Eiwa St. Lihue, HI 96766-1887	Unpaid wages enforcement	Mon-Fri 7:45 am–4:30 pm
Maui	2264 Aupuni Street Wailuku, HI 96793	Unpaid wages enforcement	Mon-Fri 7:45 am–4:30 pm
Hilo	State Building, Rm. 108, 75 Aupuni St. Hilo, HI 96720	Unpaid wages enforcement	Mon-Fri 7:45 am–4:30 pm
West Hawaii	Post Office Building, 81-990 Halekii St. Kealahou, HI 96750 Mailing: P. O. Box 49, Kealahou, HI 96750	Unpaid wages enforcement	Mon-Fri 7:45 am–4:30 pm

## **II. REMEDIES AVAILABLE TO VICTIMS OF HUMAN TRAFFICKING**

Under Hawaii State law, all employees must be paid at least minimum wage for all hours worked and overtime after 40 hours per week. If it is determined that a trafficking victim has an employee-employer relationship with the trafficker, the victim may be owed back wages for time worked.

In determining whether an employee-employer relationship exists and whether a victim of human trafficking is owed back wages, the Department does not consider citizenship and serves all individuals working in Hawaii regardless of their legal status in the country.

If a victim of trafficking is determined to be an employee, the remedies available include back pay, interest, and penalties collected from the employer.

***Interpretation and translation services:*** Provided.

## **III. ELIGIBILITY AND OTHER REQUIREMENTS FOR TRAFFICKING SERVICES**

- ☐ **Income:** n/a
- ☐ **Identification as trafficking victim by:** n/a
- ☐ **Cooperation with law enforcement agency:** n/a
- ☐ **Referral from:** n/a
- ☐ **Charges for services:** none
- ☐ **Immigration/citizenship status:** n/a
- ☐ **Special requirements for juveniles:** none

