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ENHANCING PROSECUTIONS OF HUMAN TRAFFICKING AND RELATED VIOLENCE AGAINST SEXUALLY EXPLOITED WOMEN

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"I believe that we are well on our way to increasing prosecutions of traffickers and doing a much better job of recognizing and serving human trafficking victims. Our challenge remains, and this is not uncommon, that as a society we do not do a good job of addressing violence against women. Although things are changing, historically we have low prosecution rates of rapists, those who assault non-prostituted women. Essentially, we're doing a lot of work to catch prostituted women up to a place where the crimes committed against them will not be dismissed because they are being labeled 'prostitutes,' but that still is a place where we do not appropriately address violence against women in general."²

INTRODUCTION³

Almost all sexually exploited women, whether they are trafficking victims or otherwise involved in prostitution, experience some degree of violence, regardless of the venue or type of prostitution activity in which they are connected.⁴ Incidents of physical assault, rape, incest, sexual assault, emotional abuse, verbal abuse, stalking, torture, degradation, and humiliation perpetrated by traffickers, pimps, johns, and others are common. Significantly, violence against sexually exploited women, whether they are trafficked or non-trafficked, often ends in death.⁵

Over the last two decades, international, federal, state, and local governments, law enforcement agencies, prosecutors, and advocacy groups have increased their focus on trafficking⁶ and violence against women and girls.⁷ This focus has triggered extensive research on the dynamics of commercial sexual exploitation, revealing the prevalence and severity of sexual and physical violence directed at both trafficked and non-trafficked women involved in prostitution.⁸ In some jurisdictions, this has led agencies and non-governmental organizations (NGOs) to develop outreach, diversion, and transitional housing programs for commercially sexually exploited women and to strengthen advocacy on behalf of – and services for – them. Further it

has led both the anti-trafficking and violence against women movements to develop or enhance coordinated responses to these respective crimes.⁹

Even in jurisdictions where the link between violence against women and sexual exploitation is recognized, criminal justice professionals often adopt a siloed approach¹⁰ to them, thus erroneously considering these crimes to be distinct, rather than overlapping and co-occurring. This approach causes significant gaps into which both trafficked and non-trafficked women who are victims of violent crime fall.

A strong response to violence against sexually exploited women is a critical component of anti-human trafficking initiatives, closing existing gaps, and enhancing community safety and offender accountability. Further, collaborations among prosecutors and allied professionals with expertise in violence against women crimes and those with considerable expertise in other relevant criminal prosecutions such as organized crime, narcotics, and gangs, which often involve complex investigative tactics or legal issues, as well as the civil legal and advocacy needs of these victims, enhances the identification of victims and perpetrators and the effectiveness of the response to these crimes. There are seven critical strategies that can help prosecutors develop a response to human trafficking that recognizes and responds to the interconnected sexual and physical violence perpetrated against trafficked and non-trafficked victims and, thereby, better identify, investigate, and prosecute the crimes against them.

1. CREATE A COLLABORATIVE COMPREHENSIVE TASK FORCE

A coordinated, multi-disciplinary response is critical to identifying and effectively responding to trafficking and related violence against women.¹¹ Multi-disciplinary teams (MDTs) should include broad and diverse representation from law enforcement, prosecution, advocacy, medical, social service, and other agencies and systems with which sexually exploited women may have contact.¹² Combining elements and philosophies of traditional domestic violence and sexual violence coordinated responses with those recommended for human trafficking can yield the most effective results.

MDTs that involve survivor-advocates or advocates who have undergone specific training to work with sexually exploited women provide victims with appropriate support and necessary safety measures to encourage them to cooperate in a case against their perpetrator(s). MDTs help system responders identify and overcome barriers to a victim's cooperation and provide the victim with resources, protection, assistance, and encouragement throughout the investigation, prosecution, disposition, and beyond. Law enforcement who are specially trained in victim behavior and other issues involving sexual exploitation and human trafficking – particularly officers who work in vice or special victims units – can be especially crucial in creating an atmosphere in which victims feel supported and have access to advocacy and other necessary support built in to the criminal justice response to their victimization. Further, MDT-Coordinated Community Responses (CCRs) have extensive reaches into the community, and, therefore, can more easily recognize, respond to, and refer victims with whom they come into contact with the appropriate services or resources. To be effective, the coordinated response must occur between state and federal law enforcement and advocacy agencies and within the agencies' various divisions. Specifically, prosecutor's and law enforcement offices with separate sexual assault, intimate partner violence, child abuse, and gang units must collaborate to increase efforts to identify both victims and perpetrators. Victims also commonly enter the system as defendants. Including "vice" police officers, corrections officers, court personnel, public defenders, and other providers who concentrate on defendants is critical to accurate victim identification and enhancing responses.¹³ When the response addresses both human trafficking as well as violence against women, the result is that cases are appropriately referred, information on perpetrators and victims is shared, and necessary follow-up is conducted. This critical collaboration utilizes the unique expertise of each individual, division, or agency to maximize victim safety and offender accountability.¹⁴

2. CREATE SPECIALIZED UNITS AND PROSECUTORS¹⁵

Skills developed through specialization in human trafficking cases can greatly improve prosecutors' effectiveness. Due to the similar dynamics raised in human trafficking, sexual assault, and intimate partner violence crimes, the

skills, knowledge, and experience of sexual assault and domestic violence prosecutors are critical components to the successful prosecution and investigation of human trafficking cases. Those prosecutors, therefore, are crucial to combatting human trafficking. Violence-against-women prosecutors are experientially equipped to conduct evidence-based prosecutions,¹⁶ work with reluctant and uncooperative witnesses, persuade victims to participate in the prosecution of their perpetrators, understand the complex dynamics of interpersonal violence, explain victim behavior, and conduct victim-centered and offender-focused prosecutions. Significantly, these prosecutors understand and can explain cases in which trafficking was carried out without actual physical force because, in part, they understand the use of power and control over victims and the complexities of victim behavior.

Skills developed through specialization in sexual violence cases can greatly improve a prosecutor's effectiveness as well. Defense attorneys commonly seek to tilt the scales in a defendant's favor by focusing entirely on the victim. They cast a case as "he said/she said," describe any victim behaviors that don't fit jury expectations as evidence of a victim's lack of credibility; or seek to introduce a victim's medical, mental health or sexual history in an effort to embarrass, humiliate or shift blame to the victim. Specialized prosecutors anticipate these tactics and prepare their cases accordingly. They know that these cases require a thorough investigation to corroborate as many details of the crime as possible, including investigating the defendant's past, any planning or preparation by the defendant, and what occurred after the assault. These prosecutors also prepare and file pretrial motions to exclude privileged, irrelevant, or immaterial information about the victim and collaborate with civil attorneys, where necessary, to protect victim privacy.

Specialized prosecutors' concentrated trial experience allows them to create an environment for victims that enables them to meaningfully participate in the criminal justice process. Meaningful participation includes recognizing the impact of each decision in a prosecution on a victim, and, where possible, getting the victim's input and working with advocates to provide the victim with support, services, and information. For example, victim advocates and counselors help victims work through the trauma they

have experienced and may continue to experience during the pendency of a prosecution; they also provide victims with information on available resources, e.g., housing, financial support, and childcare assistance. This support not only helps victims heal but also encourages victim participation

Many of these skills are not only developed over time in the courtroom, but through focused training and collaboration as well. Specialized prosecutors often obtain the most intensive, skill-building training offered. Training will cover the latest investigative, courtroom, and collaborative strategies available. Some of the most effective trainings are multi-disciplinary trainings, which can involve police, prosecutors, and community advocates learning together. Further, because these crimes so often involve evidence of financial crimes, these specialized prosecutors collaborate with investigators and prosecutors who are skilled in analyzing financial data and evidence in order to corroborate a case and detect additional perpetrators.¹⁷

Experienced sexual assault and domestic violence prosecutors are also collaborators. They have a history of collaborating with different disciplines on prosecutions, and, therefore, they respect the roles of different partners in the effective prosecution of a case, enhancement of victim safety, and holding perpetrators accountable. Further, because they have developed and refined their own victim-centered prosecution practices, they often understand the nuances involved in handling particular cases, including those involving gangs and organized crime. They also understand that collaboration, communication, and cross-training among and within agencies is necessary because of the complexities of many of these cases that implicate gangs, financial crimes, and RICO, and require wiretaps and other sophisticated surveillance and investigative methods.

3. IDENTIFY VICTIMS AND PERPETRATORS BY RECOGNIZING INDICATORS OF HUMAN TRAFFICKING

Human trafficking is a \$9 billion-a-year industry, ranking second only to drug smuggling in organized crime activities.¹⁸ Despite its pervasiveness, human trafficking remains largely hidden in plain sight. Sexual exploiters in rural, urban, and suburban jurisdictions may rely on

internet websites, upscale hotels, or private escort services to promote or conduct their activity.¹⁹ Often, they use “legitimate” businesses as fronts for criminal pursuits, or conceal themselves in private residences, sometimes in seemingly less suspicious upscale neighborhoods. Despite the “high end” or exclusive labels often attached to women used in prostitution, the majority still experience severe and often frequent violence while involved in prostitution.²⁰ In addition, responders should keep in mind that the individuals who feed the demand for commercially sexually exploited women and girls reside everywhere.

In order to recognize the indicators of human trafficking, it is critical for prosecutors and other allied professionals to understand the dynamics of human trafficking, including common victim pathways into exploitation. Sexually exploited women are often victims of childhood physical or sexual abuse that is untreated, or they are fleeing homes in which domestic violence is present. In many cases, this prior exposure to violence facilitates their sexual exploitation.²¹ Some sexually exploited women also are involved in intimate relationships with their pimps, and therefore, the dynamics of trafficking, exploitation, domestic violence, and sexual assault co-exist. Further, human traffickers operate in diverse venues, from the internet to storefront businesses that appear to be legitimate, e.g., nail salons or massage parlors, and where victims may be citizens or foreign born. Far too often, responders’ unfamiliarity with or misperceptions about human trafficking lead them to form expectations of victims, perpetrators, or dynamics that, when unmet, cause them to overlook or ignore the crime.

There are various, complex pathways of entry into trafficking and other sexual exploitation, many of which entail recruitment, force, coercion, and deception tactics by pimps and others who take advantage of the vulnerabilities of the women and girls they exploit. Research and anecdotal evidence indicate a range of precursors to a woman’s sexual exploitation, including being forced to have sex by family members at an early age, being “pimped out” by intimate partners, exchanging sex for survival needs, and supporting substance addictions.²² Regardless of whether one identifies as a trafficked or otherwise sexually exploited woman or describes a voluntary pathway into prostitution, most individuals face violence upon entry

into, while being used in, and when attempting to escape prostitution.²³ Further, some of the same reasons that led to a sexually exploited woman’s involvement in prostitution, e.g., addiction, financial desperation, and coercion, are also the barriers that keep her in the “revolving door”²⁴ of sexual exploitation.

Despite the unlimited availability of women and girls for sale on the Internet, many communities believe that prostitution is limited to urban streets and certain neighborhoods. The sexual exploitation of women – and the violence directed at them – permeates urban, suburban, and rural areas and extends far beyond city streets.²⁵ While it may seem that the sexual exploitation of women only occurs in larger metropolitan areas, it is simply more visible because of the prevalence of homelessness and street-level prostitution. In addition, many sexually exploited women are exploited simultaneously²⁶ through various venues and activities, including: bars, brothels, escort agencies, private parties, and massage parlors²⁷ and in neighborhoods throughout their city, suburbs, and other U.S. cities and countries.²⁸ Women in suburban neighborhoods and rural communities are victims of sexual exploitation as well, though it may appear as “adult entertainment” or “private prostitution,” taking place behind the closed doors of homes, clubs, and legitimate businesses.²⁹ In fact, experts estimate that 80 percent of prostitution takes place indoors in massage parlors, champagne rooms in strip clubs, health clubs, and hotel rooms.³⁰ These closed-door locales also play host to trafficking victims, which is one of the reasons these victims are so difficult to identify. Traffickers and pimps transport victims to these closed-door “businesses” in plain sight, and often operate with confidence that law enforcement and the public will misidentify victims as “willing” sex workers or ignore them completely.³¹

Unfortunately, the siloed approach to these crimes can also impact the response to juveniles in prostitution, whose dependency and delinquency statuses often co-exist. Some agencies and jurisdictions have created excellent models for developing comprehensive responses to violence against sexually exploited youth.³²

4. UNDERSTAND THE HEALTH CONSEQUENCES OF HUMAN TRAFFICKING

Given the frequent physical, sexual, and emotional violence that sexually exploited women endure at the hands of a variety of perpetrators, many inevitable health issues arise at various points in time. In addition, many may not have recently – or ever – seen a physician, dentist, or other healthcare provider. It is critical, therefore, that healthcare professionals are cross-trained in order to help identify and better respond to victims and are part of any coordinated response.

The constant and brutal violence that sexually exploited women experience impacts their physical and emotional health and often leads to or exacerbates mental health and substance abuse issues. In fact, as a result of the numerous assaults, prostituted women consistently suffer more severe health consequences than do other women.³³ As a direct result of the frequent, forced, and/or unprotected³⁴ sexual violence perpetrated against sexually exploited women, a large percentage of them commonly contract sexually transmitted infections, including HIV,³⁵ and experience multiple pregnancies³⁶ that often result in premature births, babies with low birth weights, and miscarriages due to poor prenatal care.³⁷ Significantly, it has been found that, as a result of being beaten, hit, kicked in the head, and strangled, prostituted women exhibit incidents of traumatic brain injury (TBI)³⁸ similar to those of torture survivors and battered women.³⁹

The emotional health effects of prostitution are devastating and may commonly include combinations of depression, anxiety, and dissociative disorders.⁴⁰ Consequential to physical, sexual, and psychological trauma, many prostituted women have complicated mental health problems and may even suffer from posttraumatic stress disorder (PTSD).⁴¹ Furthermore, the severe emotional scars will often lead women to engage in self-destructive behaviors as a method of coping. Women in prostitution frequently turn to drugs and alcohol or self-medicate to numb the pain and cope with the victimization, or may even resort to other dangerous self-destructive behaviors such as cutting and attempting suicides.

Often, sexually exploited women cannot seek care for their medical maladies, as their pimps and traffickers require them to “work” and meet a certain daily quota. They are denied even basic health care, and thus their illnesses only get worse. Some sexually exploited women may be permitted to seek treatment or can escape to an emergency room, hospital, medical clinic, or other health care facilities. It is when sexually exploited women present for treatment in these facilities that they may be most ready to leave the life and in need of being pointed in the direction of resources. It is therefore important that medical professionals also be able to screen for and identify sexually exploited women. In addition, for sexually exploited women who are presenting as defendants, it is incumbent upon criminal justice professionals to tailor responses in a manner that also address existing health issues.

5. CONDUCT OFFENDER-FOCUSED, VICTIM-CENTERED HUMAN TRAFFICKING INVESTIGATIONS AND PROSECUTIONS

Traffickers and other perpetrators of violence against sexually exploited women count on a victims’ fear and society’s biases against these women to protect them from detection and accountability:

From working as a prostitute myself for two decades, I know that violent crimes against sex workers often go unreported, unaddressed, and unpunished. There are people who really don’t care when prostitutes are victims of hate crimes, beaten, raped, and murdered. They will say: ‘They got what they deserved.’ ‘They were trash.’ ‘They asked for it.’ ‘What do they expect?’ ‘The world is better off without those whores.’⁴²

It is important, therefore, for criminal justice professionals to conduct thoughtful and thorough investigations in which they recognize how difficult it is for victims to self-identify, let alone come forward to authorities. Because these crimes are so often hidden in plain sight, accurate case assessments require thorough investigations so that evidence exposing victims, perpetrators, and related crimes is revealed and obtained. Many trafficking crimes implicate state and federal laws more commonly used in gang and organized

crime cases; these additional crimes can and should be used to hold traffickers accountable for the totality of their victimization.

Unfortunately, opportunities for victim-witness intimidation exist in almost every criminal case.⁴³ In cases involving human trafficking, however, the motivations for interfering with victim cooperation with law enforcement are heightened by the offender's financial interest in the victim. In addition, both trafficked and non-trafficked victims of sexual assault, physical violence, and exploitation may face enormous collateral consequences when they participate in a prosecution. They may not be able to return to their homes due to violence in the home, safety concerns, immigration issues or their families' rejection of them. Those victims who were exploited or trafficked by an intimate partner or family member may be conflicted about testifying against their perpetrators out of loyalty, love or fear. Victim service providers can offer victims support through psychological or sexual trauma counseling, financial assistance, professional or vocational skill building, life skills training, housing, and other services so victims can participate in the criminal justice process.

Gangs have increasingly entered the world of sexual exploitation because of the high economic benefits, the low risk of being identified as a trafficker, and because of the nature of the gang itself – the organization, control, and network it possesses.⁴⁴ Further, the violence perpetrated by the gang against the victims and third parties serves as a powerful deterrent to disclosure. In addition gang members involved in trafficking have affiliates, co-conspirators, and spies in correctional facilities as well as within law enforcement itself. The knowledge that they might be watched at any given time also serves as a deterrent to confide in law enforcement about victimization and seek help.

In human trafficking cases, prosecutors face trial issues similar to those encountered in sexual and physical violence cases. As discussed above, victims may not participate in the criminal justice process, and therefore, prosecutors should be prepared to investigate and prosecute cases in which the victim does not participate by proceeding with evidence-based prosecutions. Even victims who are present for trial, however, may still pose challenges for the prosecution by recanting or testifying on the behalf of

the defendant. Cross-examination of a recanting victim should initially focus on obtaining corroboration of key facts that are not controversial, such as the daily life and schedule of the offender and victim, how they met, where they live, with whom they normally come into contact and why, and any other facts that can confirm the circumstances surrounding the crimes committed by the offender. If it becomes necessary for a prosecutor to question a recanting victim's credibility on cross-examination, it should be done as gently as possible, recognizing the victimization she has endured and the pressure the victim is facing, with the goal of trying to expose to the jury that the *source* of the pressure is the defendant. Defendants, by contrast, should be cross-examined to expose tactics of coercion and control.

The dispositions of trafficking and related violent offences normally fit very closely with The Racketeer Influenced and Corrupt Organizations Act (RICO).⁴⁵ Trafficking, prostituting, and commercial sexual exploitation activities frequently consist of co-occurring violent crimes and the involvement of more than one individual working in concert. These operations meet the broad definition of the "enterprise" requirement of a RICO violation. Also, by nature, trafficking and exploitation operations are ongoing, and therefore defendants can often be found to violate more than two of the enumerated offences,⁴⁶ and can meet the continuity element of RICO. It is critical for prosecutors handling these cases to understand the laws available to them to address these crimes, and the partners with whom they must collaborate to effectively investigate these cases, develop effective trial strategies to satisfy the elements of the statutes, and be able to present very complicated arguments in a straightforward way.

Prosecutors have many tools at their disposal to prevent introduction of irrelevant evidence that the defense seeks to introduce as a tactic to discredit the victim through embarrassment, humiliation, or prejudice. The law of most jurisdictions supports prosecution arguments that irrelevant evidence that the defense seeks to admit has a limited probative value far outweighed by its prejudicial value.⁴⁷ Evidentiary rules related to rape shield, balancing tests that preclude the admission of unduly prejudicial evidence, and other acts evidence (such as FRE 404(b)) are critical tools to help prosecutors protect victim privacy and expose perpetrators.⁴⁸

In cases where the defendant threatens a victim or witness or interferes with her participation in a trial, prosecutors may introduce statements under the doctrine of forfeiture by wrongdoing.⁴⁹ While the Sixth Amendment provides defendants with the right to confront witnesses against them, the right is not absolute. Defendants may forfeit that right when they cause witnesses' or victims' unavailability with the purpose of preventing them from testifying at a present or future trial. Such wrongdoing may be comprised of threats or acts of violence, or may be more subtle and thus potentially overlooked by authorities. The ability to recognize these less obvious intimidation tactics is another trait honed by violence-against-women prosecutors.⁵⁰ Evidence of intimidation can be useful in cases where the trafficker is the victim's intimate partner as well as in those cases and situations in which there was no prior relationship.⁵¹

Human trafficking prosecutions—like violence against women prosecutions—often involve dynamics and victim behaviors that are misunderstood and, at times, may be perceived as counterintuitive to allied professionals or lay people inexperienced with these crimes. Prosecutors who work with experts to prepare and prosecute their cases can better identify relevant evidence and explain the context in which the violence against the victim occurred. Further, expert testimony can be critical in helping prosecutors explain dynamics and victim behavior so that jurors do not ignore common control tactics of pimps and traffickers or misjudge certain behaviors as evidence of a victim's dishonesty or lack of credibility.⁵²

A critical component of keeping victims safe is ensuring that they are not re-victimized. In addition to criminal statutes that allow restitution to be awarded in these cases, some jurisdictions have recognized a civil cause of action for damages against a person who coerces another into prostitution, coerces another to remain in prostitution, or uses coercion to collect or receive earnings derived from prostitution.⁵³ Coercion is defined broadly and may include: physical or mental force or threats; blackmail; threats to interfere with parental rights or responsibilities; restraint of speech or communication with others; exploitation of a condition of developmental disability, cognitive limitation, affective disorder or substance dependency; exploitation of victimization by sexual abuse; exploitation of pornographic performance; and exploitation of human needs for food, shelter, safety or affection.⁵⁴

Prosecutor's offices may be concerned about prosecuting cases of human trafficking based on the perception that they will require additional intensive resources. However, an increase in collaboration, communication, and cross-training will enable jurisdictions to combat human trafficking cases through more effective and efficient use of existing resources. Jurisdictions should also keep in mind that they may be able to obtain resources through asset forfeiture, as the law generally allows for the seizure of any money, real estate or personal property that was derived from the commission of a crime.⁵⁵ Asset forfeiture is civil in form and quasi-criminal in nature, with a required burden of proof of preponderance of the evidence – making it possible to seize assets in circumstances in which the prosecution has not obtained a conviction. The forfeited assets can include any property that constitutes the fruit of the criminal enterprise or that was used to further the enterprise. Further, the forfeiture is not limited to assets within the jurisdiction; some statutes enable the state to obtain overseas assets if certain conditions are satisfied.⁵⁶

6. DEVELOP VICTIM SERVICES TO REHABILITATE VICTIMS AND REINTEGRATE THEM INTO THE COMMUNITY

Sexually exploited women often identify needing a safe place to live, job training, drug and alcohol treatment, health care, counseling, peer support, legal assistance, childcare or physical protection from their pimp-traffickers in order to help them transition out of the life.⁵⁷ Prosecutors must form partnerships with allied professionals and agencies that work to advocate, rehabilitate, and reintegrate trafficked or non-trafficked victims of violence.⁵⁸ Understanding some of the reasons that women cannot escape from prostitution can help allied criminal justice professionals find appropriate support for victims, even if they enter the criminal justice system as defendants.

7. EVALUATE AND IMPROVE YOUR JURISDICTION'S CURRENT RESPONSE

Communities that do not recognize the existence of trafficking, prostitution, or other forms of commercial sexual exploitation within their borders are generally not looking closely enough at the common venues where these crimes thrive. Jurisdictions historically have conducted raids or undercover operations of massage parlors, tracks or other

suspected prostitution venues. These operations have led almost exclusively to pre-ordained mass arrests of sexually exploited women, and the wholesale absence of arrest of johns, pimps, and traffickers. Women are arrested, arraigned, jailed, and typically plead guilty to a term of probation or short incarceration, and then find themselves repeating the cycle of the justice system's revolving door again in the future.

Jurisdictions seeking to improve their ability to identify, investigate, and prosecute cases of human trafficking and sexual exploitation can seek assistance through a variety of sources. The Bureau of Justice Assistance funds many anti-trafficking initiatives throughout the nation that promote and facilitate a collaborative, coordinated approach to these cases. Further, AEquitas has resources and experts available to consult and aid in the development of refined investigation and prosecution practices.

CONCLUSION

Traffickers and other perpetrators of violence against sexually exploited women inflict devastation on individuals as well as the communities in which they commit their crimes. Because human trafficking disproportionately impacts women and girls⁵⁹, prosecutors who prioritize the response to violence against sexually exploited women in their anti-trafficking efforts can enhance victim safety, prevention, and prosecution efforts. Working in partnership with advocates and agencies with the skills, experience, and expertise leads to a more comprehensive approach to these crimes and holds dangerous perpetrators accountable.

ENDNOTES

1 Jennifer Long is the Director of AEquitas: The Prosecutors' Resource on Violence Against Women. This article contains significant contributions from former Attorney Advisor Toolsi Meisner, particularly in the sections addressing Health Consequences and Identification, current Attorney Advisor Viktoria Kristiansson, Associate Attorney Advisor Charlene Whitman, and former law clerk Michal Gilad, LLM.

2 Interview with Samir Goswami, Director of Corporate Responsibility, Rule of Law at LexisNexis, who is the former Director of Policy and Outreach at the Chicago Coalition for the Homeless (June 3, 2010).

3 While this article does not discuss the specific issue of labor trafficking, prosecutors should note that the strategies needed for labor trafficking cases mirror those employed in sex trafficking and other violence-against-women cases. For more information, see generally

Duren Banks & Tracey Kyckelhahn, *Characteristics of Suspected Human Trafficking Incidents, 2008–2010* (U.S. Dep't of Justice/Office of Justice Programs, Bureau of Justice Statistics), Apr. 2011, available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cshti0810.pdf> (includes data provided by the Bureau of Justice Assistance's law enforcement grantees who serve on the task forces. According to these data, 82% of reported human trafficking incidents in the United States between January 2008 and June 2010 involved allegations of sex trafficking; labor trafficking accounted for 11% of incidents; and other or unknown forms of human trafficking made up the remaining 7%). For additional information and resources, contact AEquitas at <http://www.aequitasresource.org>. In addition, instances of human trafficking involving juveniles and children involve additional challenges and dynamics that will be addressed in a forthcoming publication.

4 See, e.g., JODY RAPHAEL & DEBORAH L. SHAPIRO, *SISTERS SPEAK OUT: THE LIVES AND NEEDS OF PROSTITUTED WOMEN IN CHICAGO* 18 (Center for Impact Research 2002)(hereinafter *Sisters Speak Out*); see also CITY OF CHICAGO'S MAYOR'S OFFICE ON DOMESTIC VIOLENCE, *THE INTERSYSTEM ASSESSMENT ON PROSTITUTION IN CHICAGO*, 27 (Emily Muskovitz Sweet, ed., 2006), available at <http://www.cfw.org/document.doc?id=168>. Both studies substantiate the prevalence of violence and victimization among women involved in prostitution.

5 Michelle Henry, Diana Levengood, & Jennifer D. Keith, *Analysis of Deaths Among Philadelphia Women Ages 15 through 60, 2002 and 2003, Including a Review of Trends, 1997-2003*, Philadelphia Department of Public Health, The Philadelphia District Attorney's Office, Women in Transition and the Philadelphia Health Management Corporation 61 (2006).

6 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational and Organized Crime, Dec. 25, 2003, 2237 U.N.T.S. 319; see also Polaris Project, State and Federal Laws, <http://www.polarisproject.org/resources/state-and-federal-laws>.

7 See, e.g., 18 U.S.C.A. § 2261-2266 (2000); Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, 119 Stat. 2960 (2006).

8 *Supra* note 4.

9 See, e.g., FACT SHEET OFFICE TO COMBAT TRAFFICKING IN PERSONS (U.S. Dep't of State), June 27, 2011, available at <http://www.state.gov/j/tip/rls/fs/2011/167228.htm> (discussing the 4 P's of anti-human trafficking response: Prevention, Protection, Prosecution and Partnership); see also Office on Violence Against Women, U.S. Dep't of Justice, Minimum Standards for Creating a Coordinated Community Response to Violence Against Women on Campus, <http://www.ovw.usdoj.gov/docs/standards-for-ccr.pdf> (last visited Apr. 30, 2012).

10 "Siloe approach" refers to the lack of a coordinated response to sex trafficking and interrelated violence against women.

11 See, e.g., Christopher Mallios & Jenifer Markowitz, *The Benefits of Coordinated Response to Sexual Violence* 7 STRATEGIES IN BRIEF (Dec. 2011).

12 For a detailed discussion of the numerous agencies relevant to creating a multi-system, multi-agency response to sexually exploited women, see Muskovitz, *supra* note 4. For information regarding anti-human trafficking task forces, see *Human Trafficking*, OFFICE OF JUSTICE

PROGRAMS FACT SHEET (U.S. Dep't of Justice), Dec. 2011, *available at* http://www.ojp.usdoj.gov/newsroom/factsheets/ojpfs_humantrafficking.html; Bureau of Justice Assistance, U.S. Department of Justice, Anti-Human Trafficking Task Force Initiative, https://www.bja.gov/ProgramDetails.aspx?Program_ID=51; Bureau of Justice Assistance, U.S. Department of Justice, Anti-Human Trafficking Task Force Strategy and Operations E-Guide, <https://www.ovcttac.gov/TaskForceGuide/EGuide/Default.aspx>.

13 See, e.g., Prostitution Diversion Initiative (PDI), <http://www.pdinewlife.org>; Dawn's Place, <http://www.ahomefordawn.org/>.

14 *Supra* note 12 for Bureau of Justice Assistance resources on human trafficking task forces. For additional resources on MDT responses to crimes involving violence against women, visit <http://www.usdoj.gov/ovw>.

15 This section is adapted from Jennifer Long & John Wilkinson, *The Benefits of Specialized Prosecution Units in Domestic Violence and Sexual Assault Cases* 8 STRATEGIES IN BRIEF (Dec. 2011).

16 "Evidence based prosecutions" are prosecutions conducted without the victim's participation. For specific strategies in these cases, please contact AEQUITAS.

17 For additional information on one effective comprehensive collaborative anti-human trafficking task force, please contact Jennifer Greene, Policy Advisor, Office of the Cook County State's Attorney, jennifer.greene@cookcountyil.gov, <http://www.statesattorney.org/index2/specialprosecutions.html>.

18 See, e.g., Coalition to Abolish Slavery and Trafficking (CAST), *A Serious Problem – Around the Globe and in the USA*, <http://www.castla.org/key-stats> (last visited Apr. 10, 2011).

19 Nicholas D. Kristof, *How Pimps Use the Web to Sell Girls*, NY TIMES, Jan. 25, 2012, *available at* <http://www.nytimes.com/2012/01/26/opinion/how-pimps-use-the-web-to-sell-girls.html>.

20 *Supra* note 4.

21 See, e.g., JANICE G. RAYMOND & DONNA M. HUGHES, SEX TRAFFICKING OF WOMEN IN THE UNITED STATES: INTERNATIONAL AND DOMESTIC TRENDS 51 (Coalition Against Trafficking Women, Mar. 2001); Michael R. Pergamit, *On the Lifetime Prevalence of Running Away from Home*, URBAN INSTITUTE (Apr. 2010), <http://www.urban.org/UploadedPDF/412087-running-away-from-home.pdf> (Urban Institute has conducted additional research in the area of human trafficking and identifying challenges to improve the investigation and prosecution of these cases. For more information, visit <http://www.urban.org/center/jpc/projects/Victims-of-Crime.cfm>).

22 Muskovitz, *supra* note 4. (Finding reasons that someone becomes involved in the sex trade to be multiple and complex).

23 See generally Jessica Ashley, *Prostitution study finds Chicago girls trafficked through coercion* (Illinois Criminal Justice Information Authority/ Research Bulletin), Sept. 2008, at 2.

24 Jail is often a revolving door that many trafficked and sexually exploited women are conditioned to accept as a part of their jobs and lives.

25 "A 'track' is a known street, block, or outside area frequented by women involved in prostitution and johns looking to pick up persons working in prostitution.

26 *Sisters Speak Out*, *supra* note 4 at 25 (discussing the prostitution trajectories of women and indicating that many started in street "simultaneously engaged in other activities – these included drug house, survival sex, truck stops, escort service, and exotic and private dancing ... 69% ended up in indoor venues – mostly escort services, exotic dancing, pornography, and parties").

27 Rachel Durchslag & Samir Goswami, *Deconstructing the Demand for Prostitution*, 30 CHICAGO ALLIANCE AGAINST SEXUAL EXPLOITATION 3 (2008), *available at* <http://www.sapromise.org/pdfs/deconstructing.pdf> (last visited Dec. 13, 2011)(hereinafter *Deconstructing the Demand*).

28 *Id.*

29 Connie Sponsler, *Advocacy on Behalf of Women in Prostitution: A Handbook for Rural Advocates*, 7 (Praxis International 2004), *available at* <http://www.praxisinternational.org/files/praxis/files/Women%20Used%20in%20Prostitution/WomenUsedinProstitutionHandbook.pdf> (last visited Dec. 14, 2011) (describing women working in strip clubs as being expected to "turn tricks" between dances or after the bar closes. In some instances, bar owners arrange for "dates" for the dancers, expecting them to have sex with 5 to 10 men every night. The dancers who are brought in from remote areas are particularly vulnerable and easy targets for bar managers who pressure them into prostitution so that they can make enough money to get back home).

30 See also Megan K. Scott, *Prostitution realities are unlike glamour myths in wake of Spitzer scandal*, ASSOCIATED PRESS, Mar. 18, 2008 (citing Melissa Farley that "80 percent of prostitution is done indoors, including massage parlors, champagne rooms in strip clubs, health clubs and hotel rooms").

31 In fact, "Pipkins entertained members of a municipal police force at his home on at least one occasion, where they engaged in sexual intercourse with his prostitutes." *United States v. Pipkins*, 378 F.3d 1281, 1286 (11th Cir. 2004).

32 See, e.g., Children's Advocacy of Suffolk County, Support to End Exploitation Now (SEEN), <http://www.suffolkcac.org/programs/seen/> (last visited Apr. 27, 2012).

33 Sponsler, *supra* note 29, at 22.

34 Compounding the already alarming statistics of STIs and HIV and known risks of unprotected sexual activity, women are consistently raped and coerced by johns, pimps, and intimate partners to engage in sexual acts without the use of condoms. *Deconstructing the Demand*, *supra* note 28, at 11. See also, Monica O'Connor & Grainne Healy, *The Links between Prostitution and Sex Trafficking: A Briefing Handbook*, COALITION AGAINST TRAFFICKING IN WOMEN/EUROPEAN WOMEN'S LOBBY 15 (2006) (indicating that 47% of women stated that men expected sex without a condom; 73% said that men offered to pay more for sex without a condom; and 45% became abusive if women insisted on condoms be used).

35 Ruth Parriott, *The Health of Women in Prostitution*, CURA REPORTER 12 (1994), *available at* <http://www.cura.umn.edu/sites/cura.advantagelabs.com/files/publications/24-3-Parriott.pdf> (last visited Apr. 27, 2012) (finding that only 15% of a sample of women in prostitution had never contracted a STD compared to 60% of the general population of Minnesota women; study also found a much higher rate of HIV among prostituted women compared to the general population of Minnesota women).

36 *Id.* at 12 (finding that over 75% of the sample of women had experienced pregnancy during or since their involvement in prostitution with an average of three pregnancies during their time in prostitution).

37 *Id.* at 3.

38 Traumatic Brain Injury (TBI) is a form of acquired brain injury that occurs when a sudden trauma causes damage to the brain. TBI can result when the head suddenly and violently hits an object, or when an object pierces the skull and enters brain tissue. Symptoms of a TBI can be mild, moderate, or severe, depending on the extent of the damage to the brain. The National Institute on Health has additional information on TBI *available at* <http://www.ninds.nih.gov/disorders/tbi/tbi.htm>.

39 O'Connor & Healy, *supra* note 34, at 14.

40 Joe Parker, *How Prostitution Works*, PROSTITUTION RESEARCH AND EDUCATION Aug. 4, 1998, http://www.prostitutionresearch.com/how_prostitution_works/000012.html.

41 See Melissa Farley & Howard Barkan, *Prostitution, Violence, and Posttraumatic Stress Disorder*, 27 WOMEN & HEALTH 37 (1998).

42 Annie Sprinkles, *Stopping the Terror: A Day to End Violence Against Women Prostitutes*, ON THE ISSUES MAGAZINE, Nov. 18, 2008, *available at* <http://www.ontheissuesmagazine.com/cafe2.php?id=21> (last visited May 14, 2012).

43 AEquitas has a special initiative, "Improving the Justice System Response to Witness Intimidation (IWI)," which helps improve the community's and justice system's ability to keep victims safe and hold offenders accountable. For more information, see <http://aequitasresource.org/special-initiatives.cfm>. IWI is a field-initiated project funded by the U.S. Department of Justice, Bureau of Justice Assistance (BJA) award number 2010-MU-BX-K079.

44 Maureen Cavanaugh, *Gangs Contributing to Rise in Prostitution*, KPBS.ORG, Nov. 16, 2010, <http://www.kpbs.org/news/2010/nov/16/gangs-contributing-rise-prostitution/> (last visited Apr. 27, 2012).

45 Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968 (2006). (Enacted as part of the federal Organized Crime Control Act of 1970. The underlying purpose of the act was to create an enhanced response to traditional and untraditional forms of organized crime. It provides severe criminal and civil remedies for violation of its provisions. Most states have adopted RICO laws, very similar to the formulation of the federal act.

46 Either violation of two or more different enumerated offences or several violation of a single enumerated offence can meet the act's requirement.

47 Contact AEquitas for Statutory Compilations and Case Law Digests on Rape Shield as well as Other Crimes Evidence.

48 For guidance on permissible arguments for admission, see Teresa M. Garvey, *Making it Stick: Protecting the Record for Appeal*, 12 STRATEGIES IN BRIEF (Apr. 2012).

49 See, e.g., *Giles v. California*, 554 U.S. 353, 365 (2008)(for discussion on establishing forfeiture by wrongdoing).

50 *Id.*

51 See, e.g., Amy E. Bonami et al., "Meet me at the hill where we used to park:" *Interpersonal processes associated with victim recantation*, 73 SOCIAL SCIENCE AND MEDICINE 1054-61 (2011)(for a discussion on subtle intimidation tactics); see also Giles, *supra* note 49.

52 For human trafficking cases in which expert testimony has been introduced, see e.g., *United States v. Anderson*, 560 F.3d 275 (5th Cir. 2011)(introducing the nature of commercially sexually exploited adolescent's relationship with pimp through expert testimony to establish that defendant was a pimp); *United States v. Brooks*, 610 F.3d 1186 (9th Cir. 2010)(admitting detective's testimony on pimp/prostitute relationship as relevant to provide jury with means to assess witness' credibility); *United States v. Shamsud-Din*, No. 10 CR 927, 2012 WL 280702 (E.D.Ill Jan. 31, 2012)(qualifying individual to testify as expert on sex trafficking); *United States v. King*, 703 F. Supp. 2d 1063 (D. Hawai'i 2010)(holding pediatrician's testimony on dynamics of pimp/prostitute relationship relevant to introduce dynamics, norms, culture, and circumstances that make victims susceptible to commercial sexual exploitation).

53 *E.g.*, 740 ILL. COMP. STAT. 128/15 (2011).

54 *E.g.*, 22 U.S.C.A. § 7102 (2012)(defining "Coercion" as "(A) threats of serious harm to or physical restraint against any person; (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (C) the abuse or threatened abuse of the legal process").

55 *E.g.*, 18 PA. CONS. STAT. § 3004 (2007).

56 *Id.*

57 Sponsler, *supra* note 29 (listing circumstances that sexually exploited women would need to escape prostitution: 78% needed a safe place, 73% needed job training, 67% needed drug & alcohol treatment, 58% needed healthcare, 48% wanted counseling, 50% wanted peer support, 43% wanted legal assistance, 34% wanted childcare, and 28% wanted physical protection from their pimps).

58 The Tahirih Justice Center provides legal services, advocacy, and public education, <http://www.tahirih.org/>. Dawn's Place in Philadelphia provides housing and rehabilitation services, <http://www.ahomefordawn.org/>. Thistle Farms provides housing, food, medical and dental needs, therapy, education, and job training, <http://www.thistlefarms.org/index.php/about-magdalene>.

59 Hillary Clinton, Secretary of State, Remarks on the release of the 2011 Trafficking in Persons Report (June 27, 2011), *available at* <http://www.state.gov/secretary/rm/2011/06/167156.htm>.

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