

STATE COURTS: CRITICAL TO HUMAN TRAFFICKING SOLUTIONS

VICTIMS – NOT CRIMINALS





Human Trafficking State Courts Collaborative

- ▣ State Justice Institute
 - www.SJI.org
 - Human trafficking one of SJI priority issues
 - SJI initial grant to raise awareness of HT in the courts
 - State court grants
 - Project grants
 - Specific Acknowledgement for this presentation: *From Defendant to Survivor: How Courts Are Responding to Human Trafficking*, Center for Court Innovation
- ▣ Center for Human Trafficking Court Solutions
 - www.htcourts.org
 - Education and collaboration
 - Help the courts fulfill the Chief Justices' Resolution 4 on human trafficking



CHTS Mission

- ▣ *Educate judges* in the pervasiveness and complexity of human trafficking and urgent need for judicial action; become more familiar with state and federal human trafficking laws; and share judicial best practices.
- ▣ *Train court personnel* in adaptation of human trafficking resources for court procedures and develop strategies to address victims' needs.
- ▣ *Foster collaboration* through local and regional meetings of law enforcement, human service providers, the courts, and other stakeholders.
- ▣ *Provide pro bono lawyers to victims.* To be effective, lawyers require resources on victim trauma, specific legal issues attendant to human trafficking, and effective advocacy in consideration of these complexities.
- ▣ *Develop additional resources* to support all states' courts.



HOW COURTS CAN HELP

Situated between law enforcement and corrections, courts are uniquely positioned in recognizing the crime behind the crime: Human trafficking. This means courts are the first opportunity to support victims.





State Court Potential—Reality in Some Venues

▣ VICTIM IDENTIFICATION

- Courts can implement procedures that identify victims when they enter the system on criminal charges such as larceny, assault, drug possession, and prostitution.

▣ LEADERSHIP

- Judges' natural leadership allows them to address the facets of serving this vulnerable population. Judges can build collaborations with government and non-government bodies to replace jail time with diversion programs. Courts can insure effective justice by demanding solutions to system failures in investigation, prosecution of perpetrators, service programs, and other barriers to restoring victims' lives.

▣ COMPASSION

- Court personnel can be taught to identify the signs of human trafficking and how to serve trauma victims whose human dignity has been shattered.



Court HT Responses – Idiosyncratic by Nature

- Some considerations:
 - Understand barriers to court engagement
 - EDUCATION, EDUCATION, EDUCATION, EDUCATION
 - politics impacting court, state of service provider involvement, stakeholders willingness to collaborate, etc.
 - Integrating court response across court systems and with key court personnel
 - Challenges in virtually all state systems but especially in decentralized state court systems



Common Principles

- ▣ Goal of common principles:
 - identify victims and link them to services
 - enhance victim safety,
 - Promote interagency collaboration, and
 - educate criminal justice practitioners on the dynamics of human trafficking and trauma.



Key Principles

- ▣ Trauma-Informed Approaches
- ▣ Identifying Victims
- ▣ Linking to Services
- ▣ Multidisciplinary Collaboration
- ▣ Redefining Success



TRAUMA INFORMED LINK TO PROCEDURAL JUSTICE

Principles of procedural justice in court response creates humane and effective response to victim defendants





Critical Dimensions of Procedural Justice

- ▣ Voice
- ▣ Respect
- ▣ Trust/neutrality
- ▣ Understanding
- ▣ Helpfulness



Barriers for HT Victims Accessing Courts

- ▣ Can't or won't self identify
- ▣ Complicated dynamics inherent to HT
- ▣ Criminal actions and fear
- ▣ Cultural, gender identity, language capacity



IDENTIFICATION

Gateway to social and other services



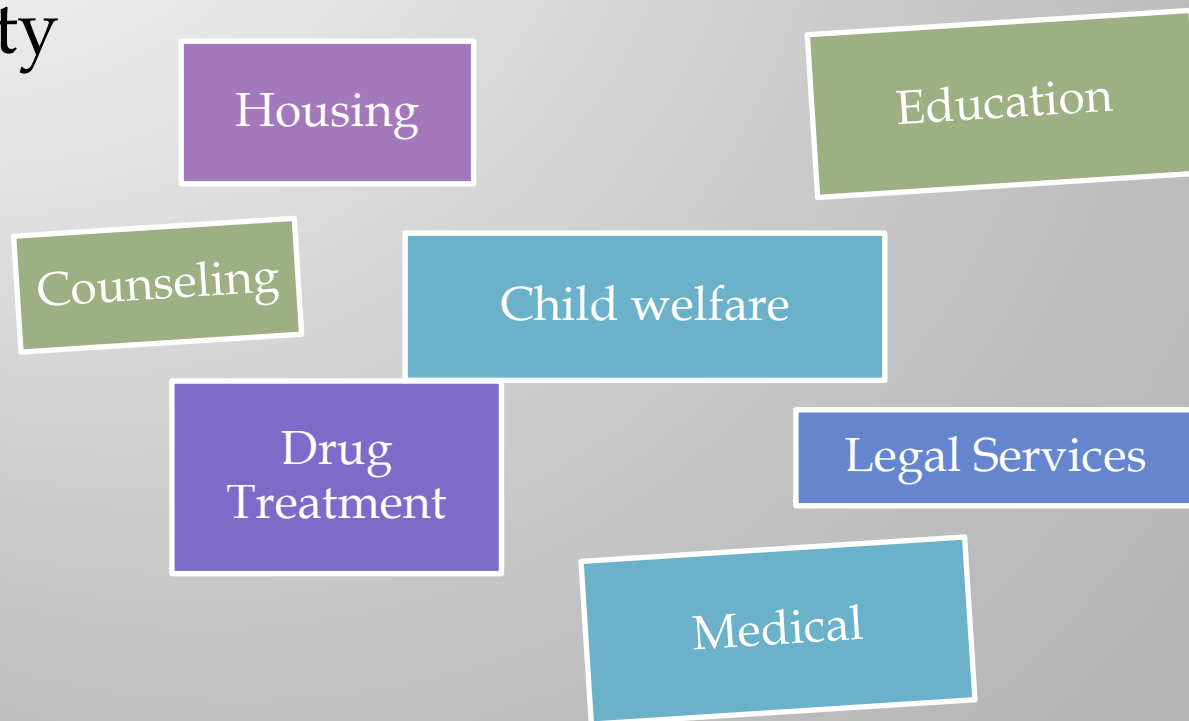
Build Court Practices to Overcome Identification Barriers

- ▣ Build court capacity to improve identification through multidisciplinary training on trafficking indicators.
- ▣ Identify points throughout the justice system continuum at which victims might be identified.
- ▣ Forge partnerships with trauma-informed agencies to conduct trafficking screening.
- ▣ Reduce collateral consequences for victims by eliminating criminal convictions and the use of jail.



Courts As Portal to Services

- ▣ Connect victims to evidence based and trauma informed services to meet myriad victim needs for assisting them in restoring their health and dignity



COLLABORATION

Enhanced Opportunity for Successful
Outcomes for Victim and Improved Use
of Scarce Resources



Collaboration Challenges

- ❑ Courts by their nature operate independently
- ❑ Siloed approaches a natural result of system stakeholders' differing mandates and business cultures
- ❑ Cooperative networking not often a system value
- ❑ Lack of role clarity
- ❑ Institution survival-competition
- ❑ Unnatural partners – agendas in conflict



Anti-trafficking Interventions

NON STATE APPROACH, ADVOCACY,
SOCIAL SERVICE, VICTIM/SURVIVOR
CENTERED

- ▣ Victim centered goal: empowerment of victims
- ▣ Trafficked persons are victim survivors in need of justice
- ▣ Change envisioned through training, social services and through job training and education

STATE APPROACH LAW ENFORCEMENT,
CRIMINAL JUSTICE, CARCERAL

- ▣ Prosecution oriented goal: witness cultivation and prosecution of traffickers
- ▣ Victims are managed to serve as witnesses
- ▣ Change imagined as pursuing more criminal cases against traffickers-pimps and buyers



Musto, Jennifer, *Control and Protect Collaboration, Carceral Protection, and Domestic Sex Trafficking in the United States* @ 32 (2016)

Court Role In Establishing Link to Services

- ▣ Map community resources to address victim-defendant needs.
- ▣ Broker partnerships with trauma-informed programs.
- ▣ Use the courts leverage to connect victims to needs-based and proportional services.
- ▣ Consider past trauma and the barriers victims face while monitoring compliance



Measuring Success

- ▣ Recidivism and compliance--not realistic measures when working with victims who may still be in coercive and exploitative situations
- ▣ Incremental performance indicators
 - enhancing victim safety
 - reducing barriers to services
 - identifying victims
 - incrementally completing services
 - reducing collateral consequences
 - promoting collaboration
 - other system responses



Examples of Court Responses

- ▣ Queens County Criminal Court, Human Trafficking Intervention Court (HTIC) Queens, NY
- ▣ Succeeding Through Achievement and Resilience, STAR Court Los Angeles Superior Court, CA
- ▣ Changing Actions to Change Habits, CATCH Court Columbus Ohio



Observations About Court Capacity for Engagement

- Judicial interest in HT energized after Summit,
- Passage of time, new and pressing court issues, and turnover of personnel contributes to waning interest
- Frustrating and complex issue for courts to engage even when energized to do so.



Observations About Court Capacity for Engagement

- Education curve for court personnel is huge
 - One-off education in most places-at best; partner models to replicate and enhance resource acquisition
 - Some resources have been created with help from CHTCS, but continuing challenge to scale education response
- Resources continue to be an issue
 - Barrier -- help state funded courts?



COURT SOLUTIONS TO HUMAN TRAFFICKING

Humanitarian results are enormous as demonstrated by various courts. So too is the case with financial cost savings and other benefits to society.

