

**EXAMINING U.S. EFFORTS TO COMBAT HUMAN  
TRAFFICKING AND SLAVERY**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION,  
CIVIL RIGHTS AND PROPERTY RIGHTS

OF THE

**COMMITTEE ON THE JUDICIARY**

**UNITED STATES SENATE**

**ONE HUNDRED EIGHTH CONGRESS**

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## **EXAMINING U.S. EFFORTS TO COMBAT HUMAN TRAFFICKING AND SLAVERY**

**WEDNESDAY, JULY 7, 2004**

UNITED STATES SENATE,  
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND  
PROPERTY RIGHTS, OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 2:04 p.m., in room SD-226, Dirksen Senate Office Building, Hon. John Cornyn, Chairman of the Subcommittee, presiding.

Present: Senators Cornyn, Feingold, Schumer and Durbin.

### **OPENING STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR FROM THE STATE OF TEXAS**

Chairman CORNYN. This hearing of the Senate Subcommittee on the Constitution, Civil Rights and Property Rights shall come to order.

I first want to thank Chairman Hatch for scheduling today's hearing, and also the distinguished Ranking Member of this Subcommittee, Senator Feingold, and his staff for working with us to make this hearing possible.

This Subcommittee is expressly chartered to oversee both constitutional and civil rights issues across America. Just last month, for example, the Subcommittee examined the pervasive problem of hostility to religious expression in public squares across America, and I think the hearing was beneficial regardless of whether you perceive there to be a problem or not.

Today's hearing will examine U.S. efforts to combat human trafficking and slavery across America. As we continue to fight to protect the American way of life in our war against terrorism, we have also been fighting another war to protect American ideals and principles, a war against an old evil—human trafficking and slavery.

Most Americans would probably be shocked to learn that the institutions of slavery and involuntary servitude, institutions that this Nation fought a bloody war to destroy, continue to persist today, not just around the world, but indeed hidden in communities across America.

It has been nearly two centuries since the abolition of the trans-Atlantic slave trade, and well over a century since the ratification of the 13th Amendment. Yet, to this day, men, women and children continue to be trafficked into the United States and coerced into lives of forced labor and sexual slavery. The stories they tell are tragic, disturbing and heart-rending, and the acts that they endure are not just unconstitutional, not just criminal, but profoundly evil.

Today, we will hear tales of human suffering from across America. The experiences that we will hear recounted amount to a modern-day form of slavery. The stories are not easy to hear, but we must hear them and we must face up to them if we are to finish the work of the 13th Amendment and truly expel the institution of slavery from our midst.

We will hear the witnesses' testimonies, and then we will learn what the administration has been doing in this area. Specifically, we will examine the Justice Department's efforts to protect the victims of human trafficking and slavery, to punish the evildoers, and to prevent other innocent human beings from ever having to suffer the same fate.

On March 21, 2001, Attorney General John Ashcroft announced the creation of a comprehensive Justice Department initiative to combat human trafficking in America. Since that announcement, the Department has undertaken an aggressive campaign to eradicate slavery in America, an effort led by the Civil Rights Division and joined by other components within Main Justice, as well as U.S. Attorneys across the country.

The 13th Amendment states, and I quote, "Neither slavery nor involuntary servitude . . . shall exist within the United States or any place subject to their jurisdiction." This is a unique provision in our Constitution. Many constitutional amendments protect individual rights against actions by Federal, State and local governments. Other amendments alter the structure of government.

But the 13th Amendment is different. It protects fundamental human rights by abolishing an entire institution of society. The 13th Amendment is unique because under it, slavery and involuntary servitude cannot exist in public and private spheres alike.

Yet, the institution of slavery continues to exist even today. In communities across America, human beings are trafficked, literally bought and sold into lives of forced labor or sexual slavery. The trafficking of human beings is evil, immoral and wrong. Yet, most Americans are unaware of even its existence, let alone its magnitude.

According to some estimates, approximately 800,000 human beings are bought, sold, or forced across the world's borders each year. Moreover, Americans may be particularly alarmed to learn that at least 15,000 human beings are trafficked into lives of slavery in the United States each year. Indeed, according to some estimates, that number could be as high as 50,000 a year.

We cannot grasp the true, horrifying nature of human trafficking and slavery with numbers alone. We must not simply count the victims; we owe it to them to hear their stories.

Just recently, the Justice Department obtained convictions in the largest labor trafficking case it has ever prosecuted. Kil Su Lee, a Korean businessman, transported over 200 workers from China and Vietnam to the United States. He detained them and forced them to work in his American Samoa garment factory under slave-like conditions, enforcing his will by ordering beatings by his henchmen using sharpened pipes, florescent lights, chairs and fists. Civil Rights Division attorneys successfully prosecuted Mr. Lee and his partners under the Federal criminal slavery and peonage stat-

utes. Mr. Lee's sentencing is pending, and two of his thugs are already serving substantial time.

Consider another tragic example, this one from my home State of Texas. An international trafficking operation known by local prosecutors as the Molina organization promised young women a better life and employment in the United States as either housekeepers or waitresses in restaurants in the Fort Worth area. Once they arrived in the area, however, they were coerced into lives of prostitution and forced labor. More than 200 young women were trafficked from Honduras into the United States by this operation.

The U.S. Attorney's office in the Northern District of Texas, working in conjunction with the Civil Rights Division, shut down the operation by bringing charges against nine defendants. Six defendants eventually pled guilty, while three others are fugitives from justice.

I recently received a letter from the Justice Department detailing numerous examples of forced labor and sex slavery cases across the country, from California to Maryland, Hawaii to New Jersey, Georgia to New Hampshire. Without objection, that letter will be made part of the record.

We are honored to have before the Subcommittee today two distinguished U.S. Attorneys from Texas who will bring tragic tales to tell from their respective districts. We also have a distinguished panel that will address many other aspects of this problem and what we need to do or need to be doing better in America to combat it.

Thankfully, the Congress and the administration have been working closely together in recent years to combat this scourge. Congress has enacted the Trafficking Victims Protection Act of 2000 to strengthen Federal criminal slavery statutes, to provide victims with basic human needs so that they can begin down the road to recovery and encourage their cooperation with law enforcement so that others will not suffer a similar fate. Just last fall, we enacted legislation to reauthorize and strengthen that Act.

The administration has responded to the call by dramatically increasing efforts and devoting substantially more resources toward combating human trafficking. Under the Civil Rights Division, the Justice Department has prosecuted and convicted three times the number of traffickers over the past three fiscal years as in the preceding 3 years.

The Department has created the Office of Special Counsel for Trafficking Issues to coordinate anti-trafficking efforts, published educational and awareness-raising materials and circulated them to officials across America, and provided assistance to victims by installing a toll-free hotline. In addition, the Department has already established State and local task forces in Philadelphia, Atlanta, Phoenix and Tampa to coordinate anti-trafficking efforts of Federal, State and local governments and non-governmental organizations in those areas.

Clearly, the Department realizes that the support of local officials in government and in the private sector alike is absolutely essential to any successful effort to uncover the evil of human trafficking and slavery that are so carefully hidden in pockets across

America. I look forward to working with the Department to begin establishing such task forces in the State of Texas later this year.

Next week, the Justice Department is sponsoring a historic national conference on human trafficking in Tampa, Florida, bringing together Federal, State and local officials, social service agencies and NGOs to provide training for coordination of anti-human trafficking efforts across the country, as provided in the fiscal year 2004 appropriations bill.

I also applaud Congress—by the way, a Congress that I was not yet a part of—for recognizing this problem. Today’s hearing is certainly not the first Congressional hearing to bring attention to the deeply disturbing problems of human trafficking, and it should not be the last. My colleagues and I must continue to vigilantly monitor this situation and to consider whether further legislation is necessary to bolster the Department’s efforts.

For example, if further improvements to our Federal criminal slavery and peonage statutes would assist prosecutors and facilitate legitimate prosecutions, so be it. If Federal legislation is needed to ensure that immigration T visas and other important and compassionate protections are provided to true victims of human trafficking and slavery, let’s do it.

If more State laws are necessary to ensure that Federal efforts are accompanied by robust efforts at the local and State level, let’s encourage it. My home State of Texas, as well as the States of Washington and Florida, have led the way by enacting State criminal laws against human trafficking. Other States might consider joining the cause.

Human traffickers peddle in human misery. They smuggle innocent human beings into this country and condemn them to lives of forced labor or sex slavery. For a countless number of victims, the American dream quickly became an American nightmare. Such tales of human suffering should not exist anywhere in the world, and especially not in the United States of America.

The American commitment to eradicating human trafficking and, slavery from our midst is a solemn vow, reflecting the highest traditions of our Founding Fathers and the drafters of the 13th Amendment. It is a commitment to the principles of freedom and liberty that Americans have fought and died for, a commitment that Americans across the Nation commemorated just a few short days ago. And it is a profoundly moral commitment not just to punish violators of our criminal laws, but to repel an assault on our Nation’s core beliefs about the fundamental worth and dignity of every human being.

With that, I will be glad to recognize the distinguished Ranking Member of this Subcommittee, Senator Feingold.

**STATEMENT OF HON. RUSSELL D. FEINGOLD, A U.S. SENATOR  
FROM THE STATE OF WISCONSIN**

Senator FEINGOLD. Thank you, Mr. Chairman, and I thank you for holding this hearing on human trafficking and the U.S. Government’s efforts to combat this deplorable practice. I look forward to hearing from our distinguished witnesses about the work they are doing to prosecute traffickers, provide services to victims, and raise awareness of this issue.



Human trafficking is one of the more pernicious violations of global human rights. It is also one of the fastest growing areas of international criminal activity. According to its 2004 Trafficking in Persons report, the State Department estimates that 600,000 to 800,000 victims of human trafficking are transported across international borders each year.

Estimates of the number of people trafficked in the United States each year range from 14,500 to 17,500. Victims of trafficking include men, women and children who are trafficked for forced farm labor, domestic servitude, sweat shop labor, forced prostitution, construction work, restaurant work, or adoption.

The U.S. Department of Justice, as well as State and local law enforcement, are confronting this international human rights problem by prosecuting traffickers and providing services to victims. I look forward to exploring these efforts with the witnesses today.

Mr. Chairman, I am pleased to see a bipartisan effort to confront human trafficking and a commitment to this issue by both the current Bush administration and the Clinton administration. I also think that we cannot review our Government's efforts in this area without recognizing the contributions of the late Senator Paul Wellstone.

I know this was an important issue to my dear friend and colleague and his wife, Sheila. Senator Wellstone was one of the first legislators to recognize this escalating abuse of human rights, just as the U.S. Government and international organizations were beginning to identify trafficking in human beings as a serious international problem.

Senator Wellstone brought his unique passion, zeal and integrity to this issue. His efforts culminated in a resolution introduced in 1998 calling human trafficking a global human rights problem, and directing the State Department to review it and report to the Congress on its findings.

Senator Wellstone continued his efforts in 1999 by introducing the first comprehensive anti-trafficking bill in Congress. Working with his colleague, Republican Senator Brownback, his efforts resulted in enactment of the Victims of Trafficking and Violence Protection Act in 2000. That law, I believe, is one of Senator Wellstone's greatest achievements and one of the most important pieces of his legacy to our Nation and to unknown numbers of victims of trafficking for years to come. I was proud to support both pieces of legislation. I know Senator Wellstone would welcome our efforts today to explore a human rights problem he was so passionate about years ago.

President Clinton also recognized the horror of this global human rights abuse and the need for the United States to make every effort to combat human trafficking. In March 1998, President Clinton issued a directive establishing a U.S. Government-wide anti-trafficking strategy to prevent human trafficking, prosecute traffickers, and protect and support victims.

The Clinton administration suggested the need for programs to increase economic opportunities for potential victims, legislation to provide services to victims, and increased penalties for traffickers. Additionally, the Clinton administration created the Workers Exploitation Task Force, chaired by the Justice Department's Civil

Rights Division and the Labor Department's Solicitor's office, which was charged with investigating and prosecuting cases of exploitation and trafficking.

The State Department spearheaded the creation of a database on U.S. and international legislation on trafficking. And, of course, the Clinton administration worked with Congress on legislation to combat trafficking, culminating in the passage of the victims of trafficking law in 2000.

I am pleased that President Bush has continued this commitment to combatting human trafficking. I hope we can continue to work in a bipartisan fashion. I look forward to hearing from our witnesses on how effective our efforts have been in fighting this global human rights menace and what suggestions they might have for making improvements.

Thank you again, Mr. Chairman.

Chairman CORNYN. Thank you, Senator Feingold, and thank you for mentioning the contribution of Senator Wellstone to this important effort. This is something that we can all agree on, regardless of political affiliation or other stripe. This is something we need to work on together, and indeed we have and we will continue to do so.

The members of the panel have already taken their seats, and we are pleased to have a distinguished panel of government officials and representatives of non-governmental organizations with us today. They will discuss their views and experiences on U.S. efforts to combat human trafficking and slavery.

I will introduce the panel and I will give them each 5 minutes to make an opening statement. Of course, any longer written remarks that you may have will be made a part of the record. If you will try your best to confine it roughly to 5 minutes, we will have rounds of ten minutes of questioning each per member of the Committee, and depending on how many of our colleagues show up, we may have more than one or two rounds, depending on how we go from there.

First, we are honored to have before the Subcommittee two distinguished U.S. Attorneys from my State, both distinguished graduates of the University of Texas Law School and both of whom have overseen prosecutions of disturbing cases of human trafficking within their districts.

Johnny Sutton is the U.S. Attorney for the Western District of Texas, which encompasses San Antonio, El Paso and Austin, a huge chunk of Texas. He previously served as an Associate Deputy Attorney General at the Justice Department as Policy Coordinator for the Bush-Cheney transition team assigned to the Department of Justice, and as the Criminal Justice Policy Director for then-Governor George W. Bush. He is a longtime prosecutor, having served in the Harris County District Attorney's office for 8 years.

Michael Shelby is the U.S. Attorney for the Southern District of Texas, another large district that covers Houston, Brownsville, Laredo, Corpus Christi and Huntsville. He, too, is a career prosecutor, having worked for 5 years in the Harris County district attorney's office before becoming a U.S. Attorney in Phoenix, Arizona, as well as Houston. He is also a commissioned officer in the U.S. Naval Re-

serve who served during Operation Desert Storm and most recently in Bosnia.

We are honored today to hear testimony from representatives of five non-governmental organizations, individuals with experience and expertise in this area.

Sister Mary Ellen Dougherty is the program manager for outreach, education and technical assistance in the trafficking in persons program operated by the U.S. Conference of Catholic Bishops and its Office of Migration and Refugee Services. She is a frequent speaker and writer on this subject, most recently before the U.S. Embassy to the Holy See in Rome just last month.

Joseph Mettimano is the child protection policy advisor at World Vision. He also serves as the director of World Vision's Child Sex Tourism Prevention Project. World Vision is one of the largest Christian relief and development organizations in the world with operations on six continents, all devoted to the protection of children. Before joining World Vision, Mr. Mettimano served as deputy director of public policy and advocacy for the United States' arm of the United Nation's Children's Fund, or UNICEF USA.

Dr. Mohamed Mattar is an adjunct professor of law and co-director of The Protection Project. The Protection Project is a legal human rights research institute based at Johns Hopkins University's School of Advanced International Studies. Dr. Mattar has taught courses on human rights and human trafficking law, and has published several articles in the area. He holds numerous law degrees from universities in the United States as well as Egypt.

Charles Song is a staff attorney with the Coalition to Abolish Slavery and Trafficking based in Los Angeles. CAST, as it is called, provides legal services to combat human trafficking. Mr. Song previously served as a human rights fellow and staff attorney at the Center for Human Rights and Constitutional Law.

Our final panel member is Wendy Patten, the U.S. advocacy director at Human Rights Watch. She has worked on human trafficking issues at the U.S. Department of Justice, where she served as special counsel for trafficking in persons in the Civil Rights Division, chief of staff in the Violence Against Women Office, and senior counsel in the Office of Policy Development. She has also served as director of multilateral and humanitarian affairs at the National Security Council in the White House.

Thank you all for being here and for your commitment to combatting human trafficking and slavery. I would like to now ask each of you to start with your opening statements. Mr. Sutton, I will recognize you first for that purpose.

Let me remind each of the panelists you have a microphone with a button it and when the button is lit, that means we can hear you. So, please punch the button.

**STATEMENT OF HON. JOHNNY SUTTON, U.S. ATTORNEY,  
WESTERN DISTRICT OF TEXAS, SAN ANTONIO, TEXAS**

Mr. SUTTON. Good afternoon, Mr. Chairman and members of the Subcommittee. Thank you for the invitation to discuss this important topic, the horrible crime of human trafficking.

It is important to distinguish at the beginning the difference between the crime of human trafficking and the more common crime

of human smuggling. Trafficking is a particularly brutal offense because it involves the treatment of human beings as commodities who are forced to work in deplorable conditions in factories, fields, and sometimes as commercial sex workers. Trafficking in persons is not a crime, it is a violation of the most basic human rights.

It has been reported that some 15,000 people are trafficked into the United States each year. The trafficking profits feed organized crime, and trafficking is linked to a wide variety of criminal activities, including document fraud, money laundering, prostitution and drug trafficking.

The Department of Justice has made the investigation and prosecution of human trafficking a top priority, and our effort has been greatly enhanced by the efforts of Congress. I want to thank you all especially for all you have done to improve our ability to prosecute these cases.

Congress' passage of the Trafficking Victims Protection Act of 2000, the TVPA, essentially did three things. First, it provided a range of new protections and assistance for victims of trafficking. Second, it expanded the crimes and enhanced punishments that are available to Federal investigators and prosecutors to go after these traffickers. And, third, it expanded U.S. activities internationally to prevent victims from being trafficked in the first place.

Mr. Chairman, as you know, last year President Bush signed into law the Trafficking Victims Protection Reauthorization Act of 2003. This new law not only reauthorized the 2000 Act; it improved it by mandating new information campaign to combat sex tourism and added a new civil action provision that now allows trafficking victims to sue traffickers in Federal court.

The TVPRA also requires that the Attorney General report to Congress every year on the U.S. Government's efforts to combat trafficking. The first report was submitted in May of this year and included details of information on what the U.S. Government has done in the past year to address this problem. In a moment, my colleague, Mike Shelby, will provide a summary of the Department's recent activities in this area.

As United States Attorney in a district that shares over 600 miles of border with Mexico, I have seen firsthand how traffickers prey on the most vulnerable and desperate victims. Coyotes or the smuggling rings that they work for have long exploited the remote and informal crossings on the Rio Grande River. For years, a large number of aliens have entered into the U.S. through these remote regions and then traveled to other parts of the country.

In recent years, it has become increasingly evident that significant numbers of these aliens face the risk of physical harm trying to enter the U.S. These aliens face not only harsh weather and terrain, but unsafe vehicles and reckless drivers. They are also increasingly held hostage to the payment of high smuggling fees, in some cases being forced into virtual slavery as farm workers and prostitutes.

To address this problem, my office has joined with 30 other entities in central Texas, as well as the Homeland Security Department, to create the Coalition Against Human Trafficking. This is an informal group that meets monthly and it is made up of law en-

forcement agencies, social service providers and other non-governmental organizations all dedicated to working together to provide assistance to victims of these crimes. The coalition has recently put on a training conference to train people on the intricacies of human trafficking.

Human trafficking cases are difficult to investigate and prosecute, with victims typically unwilling or unable to contact the authorities. My district, like every other district in the country, has nevertheless made these cases a priority, and I am pleased to report that by using the cooperative efforts discussed above, we have had at least some successes. I would like to briefly talk about two cases from my district to highlight what has gone on in some of the cases that we see in west Texas.

The first one is a case that my office prosecuted in 2002 where an assistant professor, a research assistant at the University of Texas at El Paso and his wife would recruit women from their home country of Uzbekistan, from their home city, to come to the United States under the false pretenses that they would receive lucrative jobs as models, that they would live extravagant lifestyles, that they would be able to bring their families at some later date.

The defendants in this case obtained visas by falsifying what these ladies would be doing, and they were recruited to the United States saying they were brought to do scientific research at UTEP. But when they arrived in the United States, they immediately had their documents confiscated. Many of these women did not speak English, were not prepared to live in the United States or El Paso, and they were turned into dancers in a strip club. They were forced to do that demeaning work, and then all the profits derived from having to do that went to the two defendants in this case.

My office was able to prosecute and prove up the trafficking in this case. We were able to discover that these women were held in a slavery-like situation and prosecute the defendants in this case and send them to the Federal penitentiary. We were also able to recover—they were fined \$700,000, which was an enormous profit they were making from the money they were taking from these women. Both defendants were convicted and sent to Federal prison and ordered to pay over \$500,000 in restitution to the victims in this case.

I would like to also briefly cover one other case that occurred in Austin, Texas, a town you are familiar with. My office, in 2003, convicted a 32-year-old woman of human trafficking-related offenses. This woman would go into the remote villages in Mexico. She would speak to poor Mexican families who had young teenage girls in the house and she would convince them that they would take their daughter, take care of their daughter, take them to the United States to get them a better life. In fact, she went so far as to sign a written contract saying that I will care for your daughters. They will have a job in my restaurant in the United States. They will pay a fee of \$1,500.

When these young girls, two of them age 16 and one of them age 17, arrived in the United States, their documents were removed. They were immediately forced to have sex for money in Austin, Texas. They were held at a location not far from a place you may know, the Arboretum, which has a Pottery Barn and a Gap. One

mile from there, these young Mexican girls were held in virtual slavery, being forced to have sex with up to 15 men a day for money.

Eventually, two of them ran away. They were threatened with death if they did run away, and when they did, kidnappers went out and kidnapped them and brought them back. The only reason we found out about it is we got an anonymous 911 call to the Austin Police Department and we were able to track back and break this case and prosecute that woman who was holding those women in bondage and send her to Federal prison.

These cases are but two examples of a criminal growth industry, the true scope of which is still unknown. However, through this unprecedented cooperation between Federal, State and local governments, we are making significant strides in fighting this difficult but important battle. We are committed to increasing our efforts in this area and we will do the best we can to knock down this terrible problem.

Mr. Chairman, I thank you for your leadership on this issue. I thank you for having this important hearing today and I would be happy at the end of our discussion to answer questions that you or the other Subcommittee members may have.

Thank you.

[The prepared statement of Mr. Sutton appears as a submission for the record.]

Chairman CORNYN. Thank you, Mr. Sutton. I appreciate your statement.

Mr. Shelby, if you would give us your statement, please.

**STATEMENT OF HON. MICHAEL SHELBY, U.S. ATTORNEY,  
SOUTHERN DISTRICT OF TEXAS, HOUSTON, TEXAS**

Mr. SHELBY. Thank you, Mr. Chairman. I also want to join my colleague, Johnny Sutton, in thanking you for inviting us both here to discuss this very significant problem, and to personally thank you again for your continued commitment to the people of the southern portion of Texas.

The last two times you and I have spoken a bit in Laredo and Brownsville, where you were engaged in a discovery of the intricacies of these issues in both human trafficking and in smuggling, in general, and I appreciate your concern for all of the people in Texas and the United States in that regard.

As you indicated, in March of 2001 the Attorney General announced the creation of an anti-trafficking initiative that was designed to fully engage all of the personnel and the resources of the Department of Justice and to focus those people on this very significant problem area.

I am pleased to report that in the 3 years since that initiative has been underway, the Department of Justice has taken some substantial and in some cases some unprecedented steps to combat this very difficult problem. For instance, over 200 new cases have been opened during that 3-year period, and that number is particularly significant because it represents a two-fold increase over the previous 3-year period.

110 different defendants have been convicted or charged with trafficking-related offenses, which represents a three-fold increase

over the previous 3-year period. Finally, we have had 77 convictions, including 59 sex traffic-related convictions, that have been obtained by the Department during that remarkable 3 years.

While I think it is easy to point to those results as the most tangible results of our commitment, I want to assure you that they are by no means the only measure of that commitment. Because these cases necessarily involve the most susceptible and the most vulnerable of victims, victims who are not likely to seek out law enforcement to answer their specific needs, they are extraordinarily difficult to identify and distinguish from the traditional smuggling-type operations.

To overcome those obstacles, the Department of Justice has significantly increased the training opportunities that are made available to local, State and Federal law enforcement officials and prosecutors wherever they may find them. In fact, you just alluded to an unprecedented conference that will be held next week in Tampa, Florida, where the Department is bringing in all of the different participants in this extraordinary endeavor, bringing in Federal and State prosecutors, bringing in local and State police agencies, bringing in the extraordinary non-governmental organizations that help us in this regard, all to focus on this significant problem and come up with a strategy that can help us defeat those who would enslave other people.

That combined approach, as you well stated in your opening remarks, is absolutely essential to our success in this effort because the Department has overseen the creation of these anti-trafficking task forces that are presently located in just four cities, in Philadelphia, Atlanta, Tampa and Phoenix. With your help, they will be extended to dozens more cities in the near future, and I am hopeful that your statement was actually a promise that Johnny and I will see one of those in Texas, as well, that we can benefit from and our colleagues can.

Lastly, because certainly the most effective way to combat this problem is to stop the movement of human beings before it ever starts, the Department of Justice has engaged in a round-the-world effort to send out representatives to the countries that act as sources of these people and try to educate and train their law enforcement people and their prosecutors in ways that they can identify and disrupt the organizations that bring about this human trafficking.

Those efforts are significant, they are substantial, and in many ways they are unprecedented. But they are also absolutely essential, given the incomprehensible tragedy that the victims of these cases suffer. While in my prepared remarks I have laid out for you many—in fact, too many examples of the tragedies associated with the victims of these cases, I want to share with you this afternoon just one of those examples.

From July 2002 to April 2003, three brothers in south Texas—Juan, Armando and Hector Soto—controlled and operated a large-scale smuggling operation that was based right there in McAllen, Texas. During the nine-month period that we were able to identify, these individuals recruited hundreds of people in northern Mexico who had come to northern Mexico from all over Central and South

America all for the purpose of wanting to illegally enter the United States.

For a fee of \$1,500, the Soto brothers and their organization would cross those people across the Rio Grande into southern Texas and then would house them in a trailer compound that they had acquired solely and completely for the purpose of housing these individuals.

Once they were there at this trailer compound located near Edinburg, the Sotos would demand additional money from each of these smuggled individuals. If you could pay, if you complied with their demands for additional money, you were sent on to Houston and then wherever else you wanted to go in the United States.

If you could not pay, you were literally held captive at that trailer park until they had no further use for your labors. People there were forced to work for the various members, to cook for them, to clean for them, to do their chores, to do their housework, to do all the menial labor associated with keeping this organization on track. Most significantly, the women that were unable to pay this additional extortion fee were forced into forced-labor acts with Mr. Soto, his two brothers and their entire crew.

So throughout their captivity, they were beaten, they were sexually assaulted, they were threatened at gunpoint on a daily basis with death. In sum, they were enslaved with absolutely no chance that they would ever gain their freedom in the land of freedom that they had come to.

So after 36 days of this brutal treatment, one very brave, very courageous woman, a Honduran national, attempted to contact a neighbor of this trailer park for help. She saw one opportunity, she took it, and she was discovered in her attempt. She was taken to a remote area in south Texas by six men. She was forced to strip naked. She was kicked, she was beaten to near death, she was repeatedly raped, threatened with death on a number of occasions, and then abandoned in a lonely location literally in the middle of nowhere.

But through her remarkable force of will and her remarkable perseverance, she made it to a house, contacted the local sheriff's department and set in motion through her outcry on February 7 an international, multi-agency, Federal and State task force that came together for the purpose of identifying what this horrible tragedy was all about.

So the Hidalgo County sheriff's office, the McAllen P.D., the FBI and the Immigration and Customs Enforcement Service all came together to find out what the problem was and how they could disrupt this organization. Their investigation disclosed the full extent of the Soto organization's depravity, and that is truly the only word that fits this.

They discovered four additional women, each of whom had undergone a similar fate. They had been forced into labor, they had been repeatedly threatened and beaten, and they had been repeatedly raped by their captors for their own sexual pleasure. It is difficult for anyone, even a career prosecutor like me or like Johnny, to imagine a more profound or more intentional violation of the dignity of one human being by another human being.



Our office worked extensively with each of the victims of that case through our victim witness coordinators to ensure that the full nature of their story was brought to the attention of the Federal judge when these individuals were indicted. As a result of their courage and their ability to come forward and tell this horribly embarrassing tale that happened to them, six of the seven Soto conspirators were sentenced to significant terms of Federal incarceration, and the seventh member is a fugitive from justice that we seek today.

Significantly, Juan Soto, who was the leader of the organization, was sentenced to 14 years in Federal prison without parole, which at that time represented one of the most significant sentences for this type of activity. Equally significantly, the court used the provisions that you have provided to us to order the Sotos to make restitution to all of their various victims.

Mr. Chairman, the trafficking and the enslavement of any human being is a direct affront to the dignity of every human being. Without doubt, the Soto case illustrates the very worst aspects of this very terrible crime. The physical abuse, the forced labor, the sexual enslavement aspects—all of those come to light in this one terrible case.

But Soto also illustrates the Department of Justice's unshakable commitment to use all of the tools that you and your colleagues have given to us to combat this very serious offense. We are going to identify, we are going to apprehend and we are going to hold accountable all those individuals who would subjugate another human being.

Mr. Chairman, thank you again for this opportunity to testify to you and for your commitment to this very serious issue.

[The prepared statement of Mr. Shelby appears as a submission for the record.]

Chairman CORNYN. Thank you, Mr. Shelby, for your opening statement and for your work, as well as that of Mr. Sutton, in investigating and prosecuting these cases.

Now, as I stated earlier, we have a number of representatives of non-governmental organizations to talk about their good work in this area.

At this time, Sister, we would be glad to hear from you.

**STATEMENT OF SISTER MARY ELLEN DOUGHERTY, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, WASHINGTON, D.C.**

Sister DOUGHERTY. Thank you, Mr. Chairman, and I thank you for the opportunity to be here. It is certainly a privilege, as it is also a privilege as far as I am concerned to be able to work on this global issue.

I share the enthusiasm of Mr. Shelby and Mr. Sutton for what the U.S. Government has tried to do in its efforts to combat human trafficking. I have been in this work for not quite 2 years, since October of 2000, and I have seen major, major strides, and I am grateful for that.

However, we have one significant failure, and it is a steady failure, and that is a failure to identify victims. We know, by count, that we have approximately 500 victims identified since the law

was implemented in 2000. That is not the fault of any Federal agency, that is not the fault of any one person, but it is a failure to educate our communities and to educate ourselves to the discovery of victims.

That is much of my concern in the work that I do. At the United States Conference of Catholic Bishops, I work toward education and outreach for human trafficking. We also have somebody who works on providing services among our networks for adult victims and for child victims.

Last summer, I was at a wedding in southern Maryland and there was a man there whom I have known for about 20 years, but did not know him well. He asked what I was doing, if I was still teaching, which I had done for years. And I said no; I was administering a grant to combat human trafficking. And he said to me, my biological mother used to do that. And I said, do what? And he said, she trafficked people.

He went on to tell me about his mother, who was a Mohawk Indian, deceased at the time he was talking to me for a few years. From the time she was 70 until her death in 1976, she picked up Asian women, primarily Chinese women, in Canada. She got them across the border through an Indian reservation in the trunk of her car and she would deliver at a designated place in Albany at \$800 a head. A 75-year-old Mohawk woman.

Whether that would deconstruct into trafficking or smuggling, we know, depends on what happened to them when they were finally taken to New York. It was Michael's belief that it was trafficking, that they were then going to be forced into labor until at least they could pay the debt. That is right next door to us. That is somebody's mother, and yet we fail to see it. So I applaud also the efforts of the Office of Refugee Resettlement for rescuing and restoration to help us identify victims.

We have a major concern at USCCB around the area of victims, and that is the concern of the child victim. If we have approximately—and I say approximately 500 victims because we just uncovered, as you know, Justice did, and Homeland Security, a large case in Long Island which is another 69 victims or so.

But if we have approximately 500 victims, we have only—and this is a fact—we have only 34 child victims identified since this law was implemented in 2000. Now, 34 child victims identified since this law was implemented—if we look at our records of the exploitation of children both for labor and for sexual purposes across the world, we know that a number of 34 is absolutely unacceptable. And the failure, again, is a failure to identify them.

So toward that end, we are working for the identification of the child victim. We had a major national conference—attendees were there by invitation only—in Houston at the end of April. It was not just for Texas. It was for people from across the country, but we capitalized on expertise from Texas, so that we had local law enforcement there. We had Border Control people, we had Catholic Charities, we had child protective services, and we recognized the problem, if we can solve it.

The problem is articulation across the board so that the trafficked child is recognized. So problem number one is recognizing the trafficked child. The second problem we see with the trafficked

child is a problem that I think the Department of Justice can help us address, and that is immediately, when a child is identified as a trafficking victim or a probable trafficking victim, bringing in a professional child care welfare person, not waiting until the child is officially declared eligible, but immediately bringing in somebody who will look at the best interests of the child.

I would like to move on from there, in the interest of time, to another concern that we have about trafficking, and this is a concern that represents the difference between perception and reality, or I might say intent and effect.

I agree that we have a good law and I agree that we are working hard to implement it, and I see a lot of good work and a lot of collaborative work between NGOs and the Government. I have felt very well-supported by the Department of Justice and by other Federal agencies in this work.

There is a popular perception that human trafficking is about sexual exploitation. Any time I get a call from the media—and I can tell you I have had three calls from major media in the past six weeks wanting information about trafficking—they only want to talk about sexual exploitation. What they really want me to produce are victims whom they can interview.

I think we need to combat this popular perception. We know that there are prosecutions for labor. We have more victims of labor trafficking than we have sexual exploitation, although we probably have more incidents of sexual exploitation. We need to combat this for a lot of reasons and keep the labor piece in front so that any time we talk about it, we need to talk about it with both prongs.

I was very pleased last September that President Bush mentioned human trafficking in his speech to the UN. However, he too mentioned it in the context of sexual exploitation and there was no mention of labor there. That is a concern.

Finally, in closing, I would like to cite one particular avenue of improvement I have seen as we have been working on this in 2 years, and it concerns the Department of Justice and their collaboration with NGOs. When I came on board with this work, there was a very concrete tension between NGOs and the Department of Justice around prosecution versus victim, and it is the right and the responsibility of DOJ to prosecute and it is the right and responsibility of NGOs to take care of the victims. Sometimes, I thought the twains would never meet.

I have seen major leaps in the dialogue around that, and I have seen the Department of Justice move in the direction of being as victim-centered as their role would allow them to be. Again, I allude to the conference that is coming up next week that is particularly to enable the victims.

Finally, in closing, I would like to share with you one short incident that happened to me a few months ago. I was in the Perry Family Health Center here in D.C., in a very, very poor neighborhood of Washington, D.C. It is an offshoot of Providence Hospital. I have great respect for the work they do there with poor neighborhood people of all ethnic communities.

I was a little early for my meeting. I was going to do a training with the medical staff there. I deliberately went early so that I could spend a little bit of time in the waiting room and get a feel

for the place, and I did just that. It was a very crowded waiting room and a man from the middle of the room looked up and said to me, you have a mission. And I stopped; I wasn't expecting that in the middle of the Perry Family Health Center.

Then he said, it is a spiritual mission; I can tell. And then I went over and talked to him for a while and I talked to him about himself and about his neighborhood, and eventually about trafficking. What that says to me any time I come to any trafficking event is I think we all have a mission, and I think any mission that is the mission of the care of people is a spiritual mission. Thank you for the opportunity to participate in it.

[The prepared statement of Sister Dougherty appears as a submission for the record.]

Chairman CORNYN. Thank you, Sister Dougherty. I appreciate that very much.

Ms. DUNHAM [AUDIENCE PARTICIPANT.] I am a victim, okay, and I want to present this.

Chairman CORNYN. It is out of order at this time.

Ms. DUNHAM. I really don't want to stop you, but—

Chairman CORNYN. We need to proceed to hear from the rest of the panel.

Ms. DUNHAM. I have been a victim of this Government. The Government has used me. This isn't a planned thing because I truly—I want to put this under oath that the letter I have right here is true. And I don't want to be on the camera because that is not my point. And I do think—

Chairman CORNYN. This hearing will stand in recess until the police can restore order.

[The Subcommittee stood in recess from 2:55 p.m. to 3:02 p.m.]

Chairman CORNYN. The hearing will come back to order. I apologize for the disruption. I trust that the woman will get the help that she needs if, in fact, she needs help. We wish her well, but obviously no one should be disrupting hearings in the Senate Judiciary Committee or anywhere else. But, we will wish her well.

Mr. Mettimano, we were coming to you. So, if you would care to go ahead with your opening statement, I would appreciate it.

**STATEMENT OF JOSEPH METTIMANO, CHILD PROTECTION  
POLICY ADVISOR, WORLD VISION, WASHINGTON, D.C.**

Mr. METTIMANO. Thank you, Mr. Chairman, and I would like to thank you and the Subcommittee for inviting me to participate in this important hearing. It is a great encouragement to see this issue be made a priority of this Subcommittee.

My name is Joseph Mettimano and I serve as the child protection policy advisor with World Vision. World Vision is a 54-year-old Christian humanitarian organization with programs in 100 countries served by a staff of 20,000 people worldwide. World Vision is a child-focused organization and, as such, it is a witness to the impact of child trafficking and child sexual exploitation both here in the United States and in many countries abroad. My remarks will focus on the impact of trafficking and sex slavery on these, the most vulnerable victims, children.

The practice of human trafficking is as old as slavery itself. Each year, nearly 1 million people, predominantly women and children,

are trafficked from one country to another for the purpose of servitude in the commercial sex trade, forced labor, or domestic service. It is a problem impacting nearly every country on the planet, including the United States.

Traffickers, pimps and brothel owners target vulnerable children, particularly those living in poverty. Each year, millions of children fall victim to some form of sexual exploitation or abuse. Many of these children are abducted, forced or coerced into sexual slavery by strangers, while others are sold in prostitution to pay off family debts or are forcefully recruited on the streets, where many runaways are trying to escape abuse in the home.

Frequently, children are trafficked out of one country and into another, where they are beaten and forced to work in brothels. Driven by supply and demand, these abhorrent practices comprise a multi-billion-dollar international business, and the impact on children is catastrophic—long-lasting physical and psychological trauma; disease, including HIV/AIDS; violence; abuse; drug addiction; unwanted pregnancy; malnutrition; social ostracism; poverty; and in many cases death.

Outside of the United States, many factors have contributed to the increase in commercial sexual exploitation of children, including poverty, inadequate or non-enforced laws, government corruption, lack of political will, and the low status of girls in many countries.

Recent growth in the number of prostituted children can also be traced to the spread of HIV/AIDS. You see, Mr. Chairman, the spread of HIV/AIDS has encouraged predominantly local men in developing countries to seek young children for sex, with the erroneous belief that children are less likely to carry or transmit the disease. As you may know, the opposite is true.

Statistics suggest that the highest concentrations of prostituted children are found in Asia and Latin America. For example, it is estimated that one-third of the prostitutes in Cambodia are children under age 18. In Eastern Europe, Russia, Poland, Romania, Hungary and the Czech Republic have experienced an increase in child prostitution as well.

World Vision has learned through its work in many of these countries that the average age of a child exploited in the commercial sex trade is 14 years old, but some of these children are as young as 5 years old. Many of these children have acquired sexually-transmitted diseases.

The practice of child sex tourism wherein men from wealthy countries travel to have sex with children predominantly in poor countries is especially on the rise in countries in Asia and Latin America. This has resulted in a greater supply of child victims to meet the increased demand.

A survey conducted in December 2001 by World Vision and the Cambodian government indicates that Westerners, including Americans, account for about 38 percent of all child sex offenders in Cambodia. In Latin American countries such as Costa Rica, estimates are as high as 80 percent. An organization called ECPAT, which provides most of the ground-breaking research on this issue, estimates that 25 percent of child sex tourists worldwide are from the United States.

Mr. Chairman, these statistics, while sobering, do not come close to fully revealing the depth of this scourge, nor in telling the story of the victims. I am reminded of a 13-year-old girl that I met in Phnom Penh about a year ago. She was sold to a brothel owner because her father desperately needed medical care that her impoverished family could not afford. Her parents were faced with the nightmare decision to sell their child for the money to pay for the medical treatment or the father was going to die.

Closer to home, in 2001 I met a 19-year-old woman from the Chicago area who had been prostituted since she was 15 years old. Earlier, she was sexually abused at home by her stepfather, which caused her to run away. She later met a man at a bus station who offered her food and shelter, but she was later raped, beaten and forced into prostitution.

These stories, while shocking, are not unusual. A 1996 survey of World Vision national offices revealed that 70 percent of our offices overseas were dealing with some form of exploitation of local children. Through World Vision's vast network, we have been involved in programming aimed at preventing children from being drawn into the sex trade and helping those already victimized.

Our work has focused on prevention programs such as skill training designed to prevent children from being sold into the sex trade; residential treatment facilities to provide exploited children with ongoing medical care, counseling and skill training; training of local law enforcement officials; and most recently a program that is deterring Americans from participating in child sex tourism and assisting U.S. Immigration and Customs Enforcement in their work by helping to identify child sex tourists from the United States and providing key information that can be used in their prosecution.

Fortunately, sir, organizations like World Vision are no longer fighting this problem alone. In recent years, the U.S. Congress has made several important advancements in international trafficking and slavery. The Mann Act of 1910, which banned the transportation of prostitutes beyond State lines, provides the underpinnings of child sexual exploitation law in the U.S.

The Act was strengthened in 1994 with the passage of the Child Sexual Abuse Prevention Act, which was part of the 1994 crime bill, and most recently by the passage of the PROTECT Act of 2003, which imposes a fine and prison sentence of up to 30 years for any U.S. citizen who is convicted of participating in or attempting to participate in child sex tourism overseas.

One of the most comprehensive pieces of trafficking legislation passed by Congress is the Victims of Trafficking and Violence Protection Act of 2000. This important law contains several strong provisions to both combat trafficking and assist victims. All of these measures have not only made advancements in combatting international trafficking and slavery, but have set a leadership example for the rest of the world in addressing these issues.

Mr. Chairman, in recent years much attention has rightly been drawn to the plight of trafficking and sexual exploitation victims outside of the United States. However, this problem is not limited to poor countries, nor is it limited to perpetrations by foreign criminals. The problem is very real in the United States, and notably,

sir, the exploitation that happens outside of the U.S. is made worse through the participation of U.S. citizens in sex tourism.

Research conducted by experts such as Dr. Melissa Farley of Prostitution Research and Education and Dr. Richard Estes of the University of Pennsylvania have provided the American public with just a snapshot of the commercial sex trade in the U.S.

Dr. Estes' research revealed that between 244,000 and 325,000 American children are at risk of being victimized by the commercial sexual exploitation trade every year. Further, Dr. Farley's interviews with 130 people working as prostitutes in just the San Francisco area revealed a number of things, including 82 percent of them had been physically assaulted, 68 percent had been raped, 84 percent reported past or current homelessness. 88 percent truly desire to leave prostitution, and 50 percent of these were sexually abused as children.

All too often, these women and children are exploited as a result of difficult circumstances, previous abuse, homelessness and other vulnerabilities. Pimps and brothel owners prey on people such as these in order to fulfill the demand of their customers, known as "johns." The use of the Internet has only exacerbated the problem by providing a forum for pornography, prostitution on demand and chat boards.

Markedly, the U.S. Department of State estimates that between 14,500 and 17,500 women and children are trafficked into the United States annually for service in the sex trade as well. The U.S. Department of State, the Department of Justice and U.S. Immigration and Customs Enforcement, otherwise known as ICE, have made much progress in recent years to combat sex crimes against children.

For example, in the past year more than 3,000 sex offenders and predators have been arrested in the U.S. due to the great work of Operation Predator, an ICE initiative that has just completed its first year in operation. The work of these agencies, along with local police, non-governmental organizations and many other organizations, should be praised for their significant work.

Needless to say, the opportunity for additional measures to combat trafficking and slavery are abundant. In the United States, a greater emphasis on preventing women and children from being vulnerable to the sex trade, along with increased measures to identify and prosecute the abusers themselves, including pimps, brothel owners and johns, is greatly needed.

State and local police need to be better equipped to address these issues. Innovative programs such as "john schools" and amnesty support programs for victims who testify against their pimps are needed as well. Cracking down on international child sex tourism through better information exchange among law enforcement agencies is imperative. And, in general, we need to have an increased emphasis on the demand side of this problem.

Finally, sir, your leadership on this issue is greatly needed. As you know, a number of non-governmental organizations, including citizens groups, faith-based groups, feminist groups and human rights organizations have worked with this Congress in the past on historic measures such as the Trafficking Victims Protection Act,

the Sudan Peace Act, the International Religious Freedom Act and the Prison Rape Elimination Act.

Organizations and individuals from across the political spectrum have found common ground on these very issues, and for good reason. These are issues that strike at the core of human decency. We stand prepared to work with you.

Thank you, Mr. Chairman, for your leadership on this issue and I would be glad to answer any questions.

[The prepared statement of Mr. Mettimano appears as a submission for the record.]

Chairman CORNYN. Thank you very much, Mr. Mettimano, for your opening statement.

Professor Mattar. Did I pronounce that correctly?

Mr. MATTAR. That is correct.

Chairman CORNYN. Good. Thank you very much. You may proceed, sir.

**STATEMENT OF MOHAMED Y. MATTAR, CO-DIRECTOR, THE PROTECTION PROJECT, PAUL H. NITZE SCHOOL OF ADVANCED INTERNATIONAL STUDIES, JOHNS HOPKINS UNIVERSITY, WASHINGTON, D.C.**

Mr. MATTAR. Thank you, Mr. Chairman. I am really privileged to speak to you today on the United States current legal responses to combat the problem of trafficking in persons on the Federal, State and international levels.

But, first, according to the official Government statistics, there seems to be a decline in international trafficking, as well as trafficking into the United States. One may question, however, whether this decline in the number of trafficking cases is because of recent efforts to combat the problem or simply because victim identification has become more difficult, as Sister Mary mentioned.

Recently, the United States has adopted a number of Federal laws that address these problems. The significance of these legislative measures is that they expanded the rights of victims of trafficking. And, to me, the Federal law has expanded four main rights—the right to be heard in court, the right to civil compensation, the right to receive social and economic benefits, and the right to seek residency in the United States.

However, it remains to be seen how courts will interpret the provisions of the Federal law. Would a victim of a case of trafficking that was prosecuted under the Mann Act be entitled to the benefits granted under the Trafficking Victims Protection Act? How would the courts define a commercial sex act? Would sex trafficking involve cases of mail order brides? Would we consider massage parlors, strip clubs and other sexually-oriented establishments that may be involved in illicit sexual activities as forms of sexual exploitation?

I understand that such adult expressions are protected as free speech under the First Amendment. I also understand that they are subject to zoning requirements. But what is more important is that States take steps to curtail the activities of these establishments when they facilitate acts of trafficking.

I would also like to see an expansion in the interpretation of what we consider labor trafficking, especially cases that involve



child labor. Corporations that are involved in such illegal acts must be held accountable. I want to make a reference to the newly enacted Trade and Development Act of 2000 that prohibits importation of products made with the use of forced labor.

On the State level, it is encouraging to learn that, in addition to Texas and Washington State, legislators from Arizona, Connecticut, Hawaii, North Carolina, Minnesota and Florida are considering enacting specific anti-trafficking legislation.

State resources should be used to prosecute cases of trafficking, and anti-trafficking legislation in the criminal code of a State would make prosecution of a case of trafficking easier, instead of struggling to prosecute the case under existing laws. This would ultimately have the effect of identifying more victims of trafficking.

However, a number of issues must be resolved in establishing the relation between the Federal law and the State laws. In addition, State legislation should not be limited to the criminalization of trafficking as a crime. The creation of a task force that mobilizes efforts to combat trafficking in a particular State is imperative.

Finally, on the international level, the Department of Justice has been assisting foreign countries in drafting anti-trafficking legislation, but at least 62 countries still lack legislation that specifically makes trafficking a crime. This year, I have been part of a training program that was conducted by the War Against Trafficking Alliance, where Shared Hope International, The Protection Project and the Department of Justice have cooperated in training law enforcement officials in the countries of Moldova, the Dominican Republic, India and South Africa.

Prosecution rates in countries of the Middle East, Africa and Latin America are still very low, and further efforts are needed to not only assist in drafting anti-trafficking legislation, but to train investigators, prosecutors and judges to effectively consider cases of trafficking.

Mr. Chairman, thank you so much for holding this very important hearing.

[The prepared statement of Mr. Mattar appears as a submission for the record.]

Chairman CORNYN. Thank you, Professor, for your statement and your participation.

Mr. Song, we would be glad to hear from you.

**STATEMENT OF CHARLES SONG, STAFF ATTORNEY, COALITION TO ABOLISH SLAVERY & TRAFFICKING, LOS ANGELES, CALIFORNIA**

Mr. SONG. Chairman Cornyn, Ranking Member Feingold and distinguished members of the Subcommittee, thank you very much for the privilege to testify today on behalf of the hundreds of survivors of trafficking and their families. I have the honor of directly serving as the staff attorney at the Coalition to Abolish Slavery and Trafficking and as a member of the Freedom Network, a group of 22 community-based organizations that provide direct services to survivors of trafficking throughout the United States.

I would also like to thank this administration, Congress and the American people for rightfully taking a leadership role in the global struggle to eradicate one of the most egregious human and civil

rights violations known to humankind by courageously championing the most advanced anti-trafficking legislation in the world—the Victims of Trafficking and Violence Protection Act of 2000 and Trafficking Victims Protection Reauthorization Act of 2003—which have literally saved the lives of hundreds of survivors of trafficking and their families.

As you know, and as Mr. Sutton already discussed, the VTPA and TVPRA provided comprehensive Federal legislation to address the problem of human trafficking through a holistic, three-pronged approach of protection, prosecution and prevention. This legislation has dramatically improved the ability of prosecutors to punish traffickers, while providing the critical protections survivors need to cooperate with law enforcement.

By creating new trafficking crimes and increasing sentencing requirements, these laws ensure that traffickers are punished for the full panoply of offenses associated with trafficking and given appropriately severe sentences. Most importantly, the VTPA, recognizing that effective prosecution of human traffickers requires survivors to risk their lives and their families' lives to cooperate with law enforcement agencies, provides greater protections for trafficked persons by creating new immigration benefits—T non-immigrant status and continued presence.

It also guarantees victims specific services and enumerates legal rights that include the right to social services and benefits available to refugees, the right to appropriate shelter not incompatible with their status as victims of a crime, the right to receive medical care, the right to witness protection, the right to access information about legal and translation services, and the right to mandatory restitution and civil action.

Make no mistake about it, survivors of trafficking risk their lives and their families' lives to assist in the investigation and prosecution of their former captors, and legislators' primary intent in passing the VTPA was to protect victims of those violent crimes.

Representative Chris Smith, one of the authors of the VTPA, unequivocally confirmed this was the case in his keynote address at the State Department Conference on Trafficking in February of 2003. Speaking for the American people, he stated, "While it was the intent of the VTPA that victims of trafficking should help in the investigation and prosecution of trafficking cases, there should be no doubt that the T visa was primarily intended as a humanitarian tool to facilitate the rehabilitation of trafficking survivors."

In narrow circumstances, the VTPA saves the lives of survivors of trafficking and assists them in rebuilding their lives, as the American people intended. For example, I am pleased to announce that due to the collaborative efforts of local law enforcement, the Department of Homeland Security and many other dedicated individuals, CAST recently obtained a T visa for a woman sold into sexual slavery at the age of 16 and later wrongfully imprisoned because of her trafficking situation. When she finally obtained a T visa, this woman took her first breath of freedom in almost 27 years. Additionally, she is also receiving other urgent social and legal services through the VTPA.

However, nearly 4 years after the enactment of the VTPA, which authorized 5,000 T visas per year, or nearly 20,000 over 4

years, only 371 T visa applications have been granted since 2000. Perhaps even more disturbing is the fact that only 34 children have been identified as eligible for services by the unaccompanied refugee minors program as trafficked minors.

These statistics are extremely disturbing particularly in light of the fact that experts have estimated anywhere from 14,500 to 50,000 men, women and children, just like our own sons and daughters, are being trafficked and enslaved in the United States every year. What these numbers indicate is that survivors of trafficking are not being provided the critical protections they need in order to assist in the investigation and prosecution of their traffickers, as Congress intended.

A few weeks ago, I received a phone call from a woman who informed me her brother had been tricked into coming to the United States and was being physically and illegally forced to work. I advised the woman that her brother's life may be in imminent danger and recommended immediately contacting the proper authorities. I also advised her of the Federal protections available to her brother and the legal and social services CAST could provide him.

She asked if I could guarantee he would not be deported or if she reported to law enforcement, because he would be seriously injured or murdered if he was deported. I told her I could not guarantee anything, but based on the information she had provided me, he would be permitted to remain here legally and provided many other benefits to help him recover from his enslavement if he cooperated with law enforcement.

After discussing these issues further, she concluded the telephone call by saying that she was terrified of subjecting him to the risk of deportation and would think it over and contact me as soon as possible. I never heard from the woman again.

Fortunately, concerned legislators such as yourselves and Government officials such as Assistant Attorney General Acosta are asking why survivors such as these are not coming forward. In my view, United States efforts to combat human trafficking and slavery are being thwarted by unintentional yet overly restrictive barriers to critical victim protections.

Relatively speaking, there is tremendous benefit and very little risk and cost associated with the United States providing life-saving protections and services to human beings who have narrowly escaped from violent criminals with their lives. Conversely, survivors of trafficking are confronted with the highest possible cost and risk—theirs, their parents', their siblings' and their children's lives.

On behalf of the thousands of men, women and children who are enslaved in the United States and whose constitutional and civil rights are being violated as I speak to you today, I urge you to review the critical victim protections contained in the VTVPA that were unintentionally drafted too narrowly out of an abundance of caution and ensure survivors of trafficking can more easily access these protections and assist in investigating and prosecuting their traffickers.

Due to the brief period of time I have to speak with you today, I have not discussed the specific legislative amendments I am recommending. However, I and other members of the Freedom Net-

work would be more than happy to provide detail briefing papers on specific recommendations, as well as review these important changes with members of the Subcommittee.

The recommendations include amendments to the threshold requirements for benefits, amendments to make it easier to protect family and reunite family members with trafficking survivors, and the addition of a requirement that trafficking survivors have access to legal counsel.

I look forward to continuing to work with members of Congress to eradicate all instances of human trafficking in our country and the world, and I am confident that with your support, the VTVPA can be amended to more fully realize the goals and intentions of the American people when they passed the VTVPA.

Thank you for your attention and for the invitation to appear here today. I look forward to your questions.

Chairman CORNYN. Thank you, Mr. Song, for your opening statement, and we will take you up on your offer to give those proposals to us and to work with us to look at any changes that may be required.

Mr. SONG. Thank you.

[The prepared statement of Mr. Song appears as a submission for the record.]

Chairman CORNYN. Ms. Patten, we would be glad to hear from you.

**STATEMENT OF WENDY PATTEN, U.S. ADVOCACY DIRECTOR,  
HUMAN RIGHTS WATCH, WASHINGTON, D.C.**

Ms. PATTEN. Mr. Chairperson and members of the Subcommittee, thank you for inviting me to provide testimony on behalf of Human Rights Watch. It is an honor to testify before you today and we thank you for focusing on this important human rights problem.

For over a decade, Human Rights Watch has documented and monitored trafficking of persons around the world. We have published reports on trafficking of women and girls from Burma to Thailand, Nepal to India, Thailand to Japan, Eastern Europe to Greece, the former Soviet Union and Eastern Europe to post-conflict Bosnia and Herzegovina, and the trafficking of children in West Africa. In 2001, we reported on the abuse of domestic workers here in the United States with special employer-based visas.

Trafficking flourishes throughout the world, aided by corruption and neglect by governments. Seeking better lives and opportunities, trafficking victims migrate, only to find themselves trapped in debt bondage, forced labor and slavery-like conditions. The United Nations has estimated that 700,000 people are trafficked around the world each year, and recent U.S. Government estimates are consistent with this figure.

Both the International Protocol on Trafficking in Persons and the U.S. trafficking law cover all forms of trafficking in persons. As our research has shown, trafficking occurs for a variety of pernicious purposes, ranging from bonded labor to forced prostitution. Women and men, girls and boys, are trafficked and forced to work or provide services on farms and in factories, restaurants, homes, brothels and bars.

Despite the varied settings into which people are trafficked, the common element in all trafficking cases is the ongoing violation of the person. The goal of traffickers is to exert total control over the victim in order to extract labor or services from her. Traffickers around the world use a common set of tactics to track their victims in exploitative situations—physical force, threats of physical force, deception, intimidation, isolation, debt bondage, threats of deportation and threats to family members. It is vital for the U.S. Government to address trafficking in all of its horrific forms.

Trafficking in persons is in many ways a quintessential 21st century crime problem. In an era of globalization and enhanced technology, small networks of criminals can operate internationally, preying on those who would migrate in search of work or a better life, and subjecting them to horrible abuse.

As governments map out anti-trafficking strategies, they must see this problem not only in law enforcement terms, but also in human rights terms. They need to understand that trafficking in persons is a serious human rights abuse and that governments have an obligation to protect victims and to provide redress.

While much has been done here in the United States, much more can and should be done to better prosecute traffickers and protect victims of trafficking here in the U.S. I would like to focus now on four issues.

First, the United States should ratify the Trafficking in Persons Protocol. Proposed by the United States and Argentina in January 1999, this is the first international protocol to require governments to criminalize trafficking in persons and to provide a framework for enhanced protection of and assistance to victims. The protocol establishes a global standard for government action, which is particularly important given the transnational nature of many trafficking networks.

The protocol entered into force in December 2003 and now has 62 states party and 117 signatories. The U.S. Government was among the first countries to sign the protocol in December 2003, and earlier this year President Bush transmitted the protocol to the Senate. The Foreign Relations Committee had a hearing on the protocol in June. We urge the Senate to promptly provide its advice and consent to ratification of the Trafficking Protocol.

Second, the U.S. Government should enhance its capacity to provide meaningful witness protection and victim protection for victims of trafficking in the United States. Witness protection is a subset of the broader category of victim protection, and it is not limited to the safety of witnesses involved in criminal proceeding.

To be sure, prosecution is a core obligation of states in protecting the rights of trafficking victims and in holding traffickers accountable for their crimes. But despite the critical importance of prosecution, it would be a mistake to talk about protection for victims and witnesses only in the context of testimony at trial. Victims need protection in order to break free from the control of their traffickers and to avoid falling back into the hands of traffickers. They also need a range of support and assistance in order to rebuild their lives without fear of reprisal from those who traffic them. Specifically, victims need counseling; medical and psychological services, including specialized services in support for sexual assault; legal

assistance; employment authorization and training; and safe and secure shelter.

The U.S. Government should also ensure that all trafficked persons are allowed to remain in the U.S. throughout the duration of any criminal or civil proceedings against their abusers and ensure full implementation of measures that enable victims who fear retaliation upon return to their home country to apply for permanent resettlement on that basis. In particular, it should ensure that victims who fear retaliation can seek to remain in the United States even if they are unable to comply with law enforcement requests for assistance. The Government should also ensure special protections for child victims of trafficking who are under the age of 18. In emphasizing the witness protection issues today, I want to emphasize a crucial reality. Governments cannot effectively fight trafficking unless they develop and implement comprehensive protection policies and programs.

Third, the U.S. Government should expand and intensify its efforts to train Federal law enforcement, prosecutors and victim witness personnel, and to conduct outreach to State and local police, prosecutors and service providers. Such training and outreach is critical in identifying trafficking victims and in ensuring that community-based networks are established to provide support for victims when a case occurs.

Proactive community-wide work is needed before Federal prosecutors or local police encounter a large trafficking case with multiple victims who have urgent needs for shelter and services. This kind of effort echoes a key recommendation that the Department of Justice itself made in its June 2004 assessment of U.S. activities to combat trafficking in persons. Its efforts to expand training and local task forces are necessary steps that we urge the U.S. Government to undertake in a comprehensive and sustained way.

Fourth, the Senate should not enact the Homeland Security Enhancement Act which would have serious consequences for trafficking victims and for trafficking investigations and prosecutions. If enacted, this bill and its House counterpart, the CLEAR Act, would require State and local officials to enforce Federal civil immigration laws, which would in turn deter trafficking victims from contacting local police about the abuses they had suffered.

Finally, the United States should above all else return control to the victims of trafficking. The greatest challenge for governments around the world is seeing and respecting at the most basic level the humanity of all survivors of trafficking, and therefore working with survivors in a way that demonstrates their commitment to protecting the equality and dignity of all human beings. Because violation of human dignity lies at the core of trafficking in persons, the affirmation of the dignity of trafficking victims must be at the center of any effort to address and solve it.

To conclude, trafficking in persons is a profound human rights abuse, and women are particularly vulnerable to this practice due to the persistent inequalities they face in status and opportunity. With the passage of domestic legislation and the entry into force of the International Trafficking Protocol, important advances have been made in developing a framework for action.

Governments now need to take concrete steps to prevent trafficking, punish traffickers and provide human rights protections for victims. It is imperative that the United States demonstrate its leadership on this critical human rights issue by doing all it can to provide protection and redress for victims of all forms of trafficking here in the United States.

Thank you, and I look forward to your questions.

[The prepared statement of Ms. Patten appears as a submission for the record.]

Chairman CORNYN. Thank you, Ms. Patten.

We appreciate all of the opening statements. We will proceed to a ten-minute round of questioning and I will begin.

Mr. Sutton and Mr. Shelby, I would like to direct this to both of you. First of all, I understand the distinction between trafficking and smuggling, but it seems to me that many of the problems that we are talking about—that is, people operating in a lawless environment—is what makes victims of human trafficking the most vulnerable, and that a lot of the concerns that we have about border security post-9/11, concerns we have about drug trafficking into the United States, money laundering—you can go down the whole list—that this is another element of that and maybe something that we can't totally separate and look at as an isolated sort of problem.

I would be interested in your reaction and comments. First, Mr. Sutton, and then Mr. Shelby.

Mr. SUTTON. Thank you, Mr. Chairman. Again, thank you for the opportunity to be here today to address this. I think you are exactly right. As you listen to all these witnesses and the statistics and the numbers, you realize that this is a big problem. The Department of Justice takes it seriously, the President takes it seriously. It is a priority for us, but obviously we need to do more.

The real difficulty in these cases is identifying the victims. Usually, we find about them—someone will call 911, or a lucky break; someone runs away. But like we have said over and over again, these victims often don't speak the language. They are usually far from home, like that example. I can't even think of a worse scenario to be a 16-year-old Mexican girl from a small village in Mexico, brought to America with who you thought was a trusted family friend, a woman who was going to be like your mother, and then she gets you here thousands of miles from home and turns your life upside down in the most horrific of ways.

What I can say is hearings like this matter. It is important that we educate law enforcement, that we get the NGOs and law enforcement together to work together to identify these cases, because oftentimes we may see something going on and not recognize at the time that it is a trafficking case because it is under the surface. They keep this very quiet, but somebody is making a lot of money in this. And in my mind it is not that different than any organized crime, other than it is so much more horrific to the victims.

I think you are exactly right. We need to look at it in an overall way of protecting the border, having secure laws and enforcing our laws, and getting cooperation at the Federal, State and local levels.

Chairman CORNYN. Mr. Shelby, I would be interested in your response.

Mr. SHELBY. Mr. Chairman, I agree that the most effective way to approach this would be through a task force concept. And I don't say that believing that task forces are necessarily a panacea for all kinds of investigative approaches, but because within that task force element is this notion of education, where you bring in a number of different people to look at facts that they may see before them everyday, but not realize what it is that they are looking at.

In the area specifically of human trafficking, there are no victims making outcries. They are not allowed to by the very nature of the crime itself. But there are indicia that those people are being victimized, and if we can pick up on that through the education of the State, local and even the Federal agencies who see those indicia but don't realize them for what they are, then I think that we can have a significant impact.

But I would also—and you and I have had this discussion in Laredo—I would also urge you to look at these as two separate crimes, because in the trafficking-related offenses the offense itself is clearly a victimizer against a victim. An individual's rights are being violated and being subjugated for the purpose of some sort of financial gain.

But in a smuggling scenario, typically, the smugglee, the person who wants entry into the United States, is himself part and parcel of this. He wants the smuggler to succeed, he wants to be part of a successful effort to enter into the United States. Although they certainly can be victimized at some point during a smuggling operation gone bad, those people are not traditionally victims in the same sense.

I don't think, in fairness, they should be treated as victims because really what it would do is encourage everyone to participate in a smuggling operation as a smugglee and then claim the protections of some specific Act that is designed for people who are more closely victimized.

Chairman CORNYN. Thank you.

We have heard from a number of you about the importance of having cooperation not just at the Federal level. The Department of Justice is to be congratulated, and I think everyone here did, for the leadership that has been shown from top to bottom and where the rubber meets the road, where you gentlemen and your staff operate.

But, it seems like we have got to do something to get local and State law enforcement more involved. I know, because I have participated in hearings, that getting local law enforcement involved in immigration-related matters is somewhat controversial. As a matter of fact, Ms. Patten mentioned one bill that suggests that State and local law enforcement officers get involved in perhaps apprehending people who are here illegally in the country.

So, I would just maybe ask you, Ms. Patten, how do we get State and local officials involved unless we enact some sort of legislation that authorizes them, or at least authorizes them to enter into memoranda of understanding to investigate and pursue these crimes?

Ms. PATTEN. Well, I think that the approach that the Department has taken and that has been outlined today by the U.S. Attorneys in terms of creating local task forces or local cooperation



is really incredibly important, and it is one that I am glad to see is being furthered and expanded.

We already see that many local law enforcement on the ground have an understanding of what this problem is. They may vary in terms of whether they are familiar with all of the language that describes it, or know it as trafficking in persons or understand that there is a Federal law. But they see and live with the on-the-ground reality of how these traffic networks operate in their communities, and in my experience they are often eager to learn about and coordinate with Federal officials in order to help support and in many ways plug gaps in their ability to really address the problem.

I recall speaking with local law enforcement who understood that they might be able to deal with a couple of victims that they found working on a street corner in one city in the Midwest. But they knew that three weeks later, there would be other victims to come and replace them and they wanted some way to address the broader network that was involved.

So I think that the kinds of cooperative efforts that have been described are really, really important in terms of bringing together all the players in a community who have a piece of this, from local law enforcement to victim service providers with a range of different kinds of expertise, to those who understand linguistically- or culturally-appropriate services for the victims in question, as well as the local offices of the Federal Government—the FBI, the INS, the U.S. Attorney’s office, et cetera.

So, I think the way to do is to pursue more of that kind of training and outreach work so that we raise awareness of the problem and people learn who to work with in their local communities when they see a case.

Chairman CORNYN. So, let me see if we are on common ground here. Would you have any concerns about local and State law enforcement officials being authorized or allowed to enter into memoranda of understanding for purposes of perhaps investigating and prosecuting violations of the Trafficking Victims Protection Act, or obviously State statutes against human trafficking?

Ms. PATTEN. Well, as I have already explained, we have concerns about deputizing local law enforcement with enforcing immigration violations. We have sent a separate letter to all of the members of the Committee with our concerns about the CLEAR Act and the HSEA. We have broader concerns that they will go beyond the trafficking problem, but for purposes of this hearing I wanted to focus on the concerns we had about how doing that would impact the broader immigrant community, and in particular victims of trafficking. In terms of local law enforcement collaborating on Federal prosecutions of trafficking, I think that can be helpful especially when local police may have done some of the initial investigative work.

Chairman CORNYN. Well, I guess my concern is maybe a local police officer or highway patrol who makes a traffic stop and identifies someone who is not legally in the country who may be in a situation where they have been unable or simply afraid of reporting a violation of human trafficking laws. So, it seems like the line gets a little fuzzy.

Let me ask for a quick reaction from the rest of the panel who I have not had a chance to ask questions of yet. We have heard estimates of the number of people in this country who are victims of human trafficking, but I wonder how in the world we have any confidence in those numbers, given the nature of the crime and given the reluctance of the victim to come forward.

Sister, do you have any observations along that line?

Sister DOUGHERTY. I share your reservations about the credibility of the numbers. Nevertheless, they are the numbers we have in terms of State Department reports, and they do the research.

It is interesting to me that in 1999, the study that was put out by the State department—I think it was commissioned by the CIA of Amy O’Neill Richard as an independent researcher—that study that was behind the passing of the law said 50,000 people. And 2 years later, we drop from 50,000 people to 20,000 people, and now we have dropped from 20,000 people to 17,000 people being trafficked into the United States.

When we questioned the State Department about that radical change in numbers, their response last June at the issuing of the TIP report was that there has been a change in methodology. I don’t know exactly what that means, but I think it is safe to say that the numbers are certainly underestimated. And I can guarantee you that 34 identified children in the United States is certainly nothing—the estimate of every credible analyst in terms of children is that at least a third of the people trafficked into the United States are children. So that, by anybody’s numbers, would increase those radically.

Chairman CORNYN. Professor Mattar, you specifically mentioned the apparent decline.

Mr. MATTAR. Yes. I have a problem with the Government statistics. When the Trafficking Victims Protection Act passed and was signed into law on October 28, 2000, Section 102 referred to 700,000 victims of trafficking being trafficked globally and 50,000 being trafficked into the United States.

This last year, in 2003, the State Department told us, well, the number now is between 800 to 900, and in the United States between 18,000 and 20,000. This last report made reference to 14,500 to 17,500 trafficking victims into the United States, and between 600 to 800 annually. I am not sure that we have a reliable basis, a credible basis for this number.

That is why I want to bring to your attention that the reauthorization Act calls for conducting research, and I think that we have to do more research to find out what are the exact numbers we are talking about here so we can define the appropriate responses.

Chairman CORNYN. Thank you.

Mr. Mettimano.

Mr. METTIMANO. I share the frustration with my colleagues, but after working on these issues for 10 years, I have come to the conclusion that hard numbers pertaining to any aspect of this crime simply do not exist. And the reason is this, because it is largely a black-market crime that does not readily lend itself to conventional measurement. It is like asking how many spouses in the United States are battered. It is not like people stand up to be polled. Much of this goes unreported.

I have found that the diversity and the range of estimates on everything from the number of trafficking victims to the number of children that are involved vary greatly from agency to agency. The only consistency that I have seen typically either on an international basis or on a country-by-country basis is going to be the ratio. I find some level of consistency in the ratio of children that are involved in the sex trade.

As far as the overall numbers, though, sir, I think just because of the nature of the crime and often because it goes largely unreported, it is very difficult to come up with hard numbers.

Chairman CORNYN. My time is up, and at this time I will recognize Senator Durbin for any questions he may have.

**STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR  
FROM THE STATE OF ILLINOIS**

Senator DURBIN. Thank you, Mr. Chairman, and thank you for this hearing. I just have a couple of questions, and thank you all for your testimony. I am sorry I was in the Senate Intelligence Committee and had to come a little late, but I have reviewed your testimony.

First, let me say that I think it is worth noting that the first time that this issue was raised on the Senate floor was by our late colleague, Paul Wellstone, who really was outspoken on this issue. I am glad that we are continuing our efforts to look into it.

I also want to note that John Miller, a former colleague of ours from the House of Representatives, is now heading the State Department's anti-trafficking office, and I met with him to talk about some efforts underway there. I think he is a very talented individual and I hope to work with him.

Going back to your point, Mr. Mettimano—I hope I didn't mispronounce your name—I look in your testimony at all the range of people trafficked in the United States. The estimates range from 14,500 to 50,000, depending on which one of your statements we stick by, and I think you get to the point that when you are dealing with black market, you just don't have easily quantifiable numbers to deal with here.

But some things are quantifiable. From the U.S. Attorneys, we have heard that there have been 110 prosecutions over a 3-year period of time, which pales into insignificance if any of the numbers, if any of the estimates are correct. We also know that there were 591 immigration hearings in the year 2003 relative to these problems, which again is a very, very small number compared to any of the estimates before us.

And then the point made by Mr. Song about the T visas that have been issued, 371 over a 4-year period of time, suggests that perhaps we aren't being as aggressive as we could or should be. Maybe it is for lack of resources. Maybe it is for lack of legal authority. I am not sure which, but I am just curious at this point and I would ask the U.S. Attorneys, in particular, it seems that several witnesses have identified strip clubs, massage parlors and that sort of activity as a magnet for a lot of these trafficked victims who are exploited.

Is that your experience, and if so, what are we doing about it?

Mr. SUTTON. Thank you, Senator. I agree with you. I mean, I think the improvement is we have dramatically increased prosecutions. But when you look at the overall numbers, they are very low, and that is one of the reasons we are here today is to try to give attention to this problem to say we need to know about these cases to prosecute them.

Our experience has been that they are very hard to detect. You weren't here when I gave the example, but we had an example in one of the cases we had in our district where a woman traveled deep into Mexico to remote villages and would convince parents of teenage girls, 16-year-olds, that she was going to take care of their daughters, take them to the United States, have them working in a restaurant, get a better life. She even signed a contract to that effect that, you know, there would be a 1-year deal that would pay off the \$1,500 smuggling fee. And then when they got way out of sight to Texas, they would turn it around and force them to have sex with up to 15 men per day.

Along with that, those girls, who were again 16, didn't speak English, far away from home, are being threatened that if you run away or if you speak out, we are going to kill you; and not only are we going to kill you, we are going to go back to your village and kill your family.

So they are very, very difficult situations to find about because these girls are held in just terrible situations. Usually, someone calls 911 who sees a situation in a house or a—

Senator DURBIN. It is a lot like the discussion on narcotics. I am talking about the demand side at this moment. If we know that they are being used for sexual purposes in the United States, I am asking you as prosecutors, are you focusing on that in terms of your investigations to try to discover this illegal trafficking here?

Mr. SUTTON. Sure. I mean, we try to identify those people as much as possible. There is renewed emphasis on sex tourism, renewed emphasis on getting—Senator Cornyn has an idea to get these task forces organized around the country, which we think is a very good one. But it is really getting that information out and sort of breaking the mind set of some law enforcement.

A lot of this happens at the local level. I mean, at a local level they are dealing with street prostitutes, dealing with situations like when they see that, and they may not recognize that you are arresting what you think is a prostitute when, in reality, it is a slave. That is why it is so important that we have hearings like this that get that information out and that we work together to educate local law enforcement and the NGOs to identify these folks, because once we have got them identified, we are going to bring both feet of the Federal Government down on their heads.

Senator DURBIN. My time is limited. I want to go to the supply side for a moment. One of the articles which I read on the subject which really caught my eye was in the New York Times Magazine several months ago. It was a front-page story about a situation involving Mexico, with photographs and graphic detail. I then coincidentally met with some Congress men and women—senators, I suppose, from Mexico—gave them the article and said what are we doing; what can we do together?

Can I ask you, any on the panel who would like to respond, what can or should we be doing about Mexico that we are not doing now? Are they taking this situation seriously? Are they dealing with the problem? Are they cooperating with us in the prosecutions? Should we be doing more to develop a more aggressive posture by both countries?

Mr. SHELBY. Senator, I would like to address that if I could. I guess immediately after General Ashcroft came into his position, there was a tragedy in Phoenix, Arizona, or the southern part of Arizona where I had worked, where 14 aliens died in the desert that were being led in. They weren't being trafficked in. They were people who were being led and were ultimately led astray. That was one of the most horrible tragedies up to that point in time until the situation in Victoria a year-and-a-half later, where 19 people died in the same way.

If any good came out of those very horrible situations, it was that the Mexican government reached out to us to help us investigate thoroughly not only those specific instances where there was this singular loss of life, but also a number of bridges were created to help us with the overall problem of smuggling individuals, both consensually smuggled individuals and ultimately individuals who are not consensually smuggled into the United States.

So we have forged new relationships with this Mexican administration and they have shown a cooperation to engage us in that way that was not present in the preceding 14 years of my Federal practice as an Assistant United States Attorney.

Senator DURBIN. Thank you.

Sister, did you want to comment on that?

Chairman CORNYN. Sister, if I could just ask your indulgence just briefly.

Colleagues, as I mentioned, I am going to have to leave to go preside on the Senate floor, but I know Senator Durbin and Senator Schumer have additional questions and what I would like to do is turn the gavel over to Senator Schumer for purposes of each of them asking the questions they would like to ask, making any statement they wish, and then closing out the hearing.

Senator DURBIN. You are a very trusting Chairman to turn the gavel over to the Democrats.

Sister?

Sister DOUGHERTY. About a month ago, I was in Rome and I was there doing trafficking business for my organization, specifically speaking at a conference to the U.S. Embassy to the Holy See, but also I took the time then to get around to the safehouses in Rome where victims of trafficking are housed. Many of them are from Eastern Europe.

I talked to the people who run the houses about what is happening, and Rome has developed—and perhaps all of Italy, but certainly out of the Rome Coalition Against Human Trafficking, part of their training is automatically to go to Romania and do training, to go to countries that are feeding the trafficking in their own country.

It may be legally naive on my part to think that we could do some of that with Mexico and Central America, particularly with so many victims coming from there, and that it could be built into

part of the whole grant process; that that in itself could be a major effort on our part to train from a U.S. point of view with the collaboration of those governments.

Senator DURBIN. Thank you.

Mr. MATTAR. I just want to add that Mexico is one of the 62 countries that does not have specific anti-trafficking legislation. The Department of Justice has been assisting countries to enact good laws on trafficking. Especially in light of the good relations between Mexico and the United States, I think we should go there and help them put together a good law that defines the crime of trafficking in a better way.

Senator DURBIN. Thank you very much.

Mr. Song, did you want to say a word?

Mr. SONG. I just wanted to add very quickly that I have been working on a few trafficking cases with the Mexican government, specifically with the Mexican consulate in the L.A. area, and they have been very helpful. They assisted us in getting victim protection.

Some of our clients' children are still in Mexico and being threatened by traffickers and they have been very helpful. The First Lady of Mexico even sent a letter regarding another case of trafficking that we are working on. But they still need to do more especially in regard to Mexican children who are being trafficked into the United States and being brought over the border and being summarily returned.

Thank you.

Senator DURBIN. Thank you very much.

Mr. Chairman, I ask that my opening statement be made part of the record.

Senator SCHUMER [PRESIDING.] Without objection.

[The prepared statement of Senator Durbin appears as a submission for the record.]

**STATEMENT OF HON. CHARLES E. SCHUMER, A U.S. SENATOR  
FROM THE STATE OF NEW YORK**

Senator SCHUMER. Well, thank you, and I want to thank the witnesses for comprehensive testimony and questions. I will read a brief statement that I have. Only one of my questions hasn't really been addressed. So I will ask you that and then we will let you all go on your way.

But, first, I wanted to thank Senator Cornyn for holding this hearing and shining a spotlight on this important issue. As we all know, human trafficking is a serious problem. It is getting worse. According to the State Department, 600,000 to 800,000 people are trafficked across national borders into slavery each year, and then another 2 to 4 million victims are trafficked within national borders.

The plight of those trafficked is among the most horrible we can imagine, and many are young girls, beaten, abused and sexually assaulted. Their lives will never be the same. The lack of protection against HIV/AIDS means that many sexual trafficking victims are, in effect, receiving a death sentence. When I read the stories of what happens to these young girls, it sickens me to imagine that anyone's daughters would ever have to suffer these horrors.

This is one of those problems we would like to think can't happen here, maybe somewhere far away, not here in America. Yet, the sad fact is that approximately 16,000 people here, again mostly children, are trafficked into the United States each year. Their dreams are turned into nightmares right in our own backyard.

So too often this isn't a problem simply of a few bad apples. In many places in the world, corrupt police and justice systems protect traffickers and allow them to continue to traffic human beings into other countries, including ours. A problem like this can't be solved easily. It is embedded in the system and we have to take action to make sure that sexual trafficking and slavery of any kind is not permitted in any corner of the world.

A few weeks ago, I met, as Senator Durbin did, with Congressman John Miller. He is head of the Trafficking in Persons office at the State Department and we talked in-depth about this issue, where we stand right now and how we can all work together in the future to advance this issue.

The State Department recently released the 2004 Trafficking in Persons report. The stories of the victims told in that report are extraordinary, and it is hard to imagine the terrible wrongs these victims have endured. But they also embolden us to continue this fight to try and stop more sons and daughters from being trafficked.

So I am proud to join Senator Brownback as the Democratic co-sponsor of the Trafficking Victims Protection Reauthorization Act of 2003. We were able to stand together in a bipartisan way to combat this evil. So frequently, we find ourselves at odds with one another on this Committee and in the Senate. Our efforts on this issue show we can work together to protect some of the most endangered people in our world.

We have accomplished some important goals in the fight against human trafficking legislatively in the past year. We have elevated the importance of the issue by making the head of the TIP office an ambassador-at-large. We have created a senior policy operating group to help different agencies work on this issue. We have given prosecutors new tools to help fight against this crime in the U.S. and we have authorized money to help fund this fight and work toward eliminating sexual trafficking in all corners of the globe and in our backyard.

That said, it is clear that there is much more to be done and I look forward to working with all of you on this issue. If you need tools in this fight, let us know and we will do everything we can to get them for you. Finally, I want to thank every one of you for the work you have done and for appearing before the Subcommittee to share your stories and insights on this important issue.

Again, the questions have been good and comprehensive. Let me ask one or two here.

First, currently, less than 2 percent of the T visas for the victims of trafficking that can be issued are actually being issued. Yet, we know from State Department figures that tens of thousands of trafficking victims are never identified and given T visas. What can we do to improve our ability to identify and distribute T visas to those who need them most?

Mr. Song.

Mr. SONG. I will take that. Regarding my testimony, it primarily focused on getting the victims the protections. We can't identify them if they are not coming forward, if we are not running into them. For me, what strikes me as so difficult is there are such difficult requirements for people to get benefits under the TVPA.

I understand why Congress initially drafted some of the language in the TVPA, but I currently believe that it is overly restrictive. There are too many barriers in place. There are four very difficult requirements for trafficking victims to meet in order to get T visas and it makes it extremely difficult for them.

What we need to do is provide protection so that they can have the services so that they can be able to cooperate in investigations and prosecutions. We are asking them to first cooperate in investigations and prosecutions, and then we might give you the protections or you will get them later. But the situation is they can't do it without some of these protections and services. If we can get them the protection and let them know that they are safe and their families are safe, then they will come forward and they can help us in investigations and prosecutions.

Senator SCHUMER. Does everyone agree with that? T visa requirements should be loosened a little bit?

Mr. SHELBY. Senator, may I?

Senator SCHUMER. Yes.

Mr. SHELBY. While I certainly agree that we should encourage and do everything that we can to encourage the victims of these trafficking offenses to come forward, I think your question really is how do we get more T visas into the hands of the victims. That is the same question that we face on the law enforcement side about what can we do to encourage victims to come forward.

I am convinced that if they come forward and if we are able to identify who they are, the T visas will follow because it is in the best interest of the individual victim, and ultimately the prosecution, to have those individuals ready and available to testify.

The problem is getting the victims to come forward or having some independent party identify them as victims in the first place. That is why I believe that this concept of educating the local, State and our Federal counterparts in what to look for when they inevitably run across individuals whom they may first view as isolated victims, but are, in fact, victims of a trafficking offense—basically, human slaves—that educational component is essential to this. I am convinced that once those people are identified, we will go through the process, as we have on 500-plus occasions, to get them the visa to stay here and help us with the prosecution.

Senator SCHUMER. Mr. Song is saying that one of the things that holds people back from coming forward is the requirements in the T visa. You believe it is other things, the obvious kinds of things?

Mr. SHELBY. Yes, sir. I believe it is the same things that hold any person, even a voluntary smugglee, from coming forward if they are victimized in another way in the United States after their smuggling has been successful. They don't want to run the risk of being deported.

Senator SCHUMER. Professor Mattar.

Mr. MATTAR. I just want to make the case that I am not sure that we need to reexamine the Act itself or the reauthorization Act.



I think what we should do is interpret the Act in a way which is friendly to the victim. Why? Because the Act never really required the victim to come forward and testify.

Senator SCHUMER. Right.

Mr. MATTAR. The Act says, well, a victim has to come forward and show willingness to comply with a reasonable request in the prosecution or in the investigation of a case of trafficking. In fact, under the reauthorization Act, no longer is a victim required to go to a Federal law enforcement official; a State official is enough.

Under the reauthorization Act, a child who is under 18 does not even have to cooperate at all. So I think it is a matter of interpretation, not a matter of a problem with the Act itself.

Senator SCHUMER. Yes, Ms. Patten.

Ms. PATTEN. I would just add that I think we are talking about two different kinds of outreach here, and that goes to the question of how do we find more cases. One is conducting outreach to those in law enforcement, State and local prosecution, and then the broader community who can identify trafficking cases that are existing in their community. And that is obviously very important, in large measure for the reason you alluded to in your testimony that we have had to overcome a certain amount of disbelief, I think, that modern-day slavery exists here in the United States.

But, secondly, also is the question that Mr. Song raised about how do we reach the victims themselves so that they feel protected and safe enough to come forward. And the ease, or lack thereof, with which they can access protections is certainly going to be part of that.

This is a difficult challenge, but the victims will need to understand that trafficking and slavery are illegal in this country and that they have legal rights, and that they can access those protections particularly through trusted community-based organizations whom they can go to who can help explain to them how this works.

Senator SCHUMER. Anyone else on that? Mr. Song, go ahead.

Mr. SONG. I just have a short response. While I understand the argument for the reinterpretation of the Act, I will just give you one example. There is an unintended consequence by the law enforcement cooperation requirement. When an immigrant is detained and put into proceedings, and most trafficking victims have no defense to removal, they are actually required to cooperate with law enforcement, whether they want to willingly, or they will be deported back to their country, to their traffickers, to serious injury or death.

What is perverted or strange about that is that this is exactly what the traffickers threaten against them when they say, if you don't work for me, if you don't stay for me, I am going to send you back to your home country where we are going to have our way with you or your family.

This is an unintended consequence, but if they are put in detention and removal proceedings, DHS has no choice but to remove them from the country if they have no defense to their deportation. So these victims are placed in this situation where they are literally being legally coerced into cooperating with law enforcement and it is simply not necessary.

You can imagine, if you have been enslaved and raped and beaten by people, you are going to be the first one to line up to want to testify and want to investigate and prosecute somebody. We don't need to coerce them. We don't need to make it a requirement that they cooperate. These people want to; they just need to be safe and they need to be protected first. So I respectfully disagree and still believe that there are certain problems with the Act, such as that one.

Senator SCHUMER. Anyone else?

Well, I want to thank all of you for your testimony on a very important subject that we have to focus more on.

I am going to ask unanimous consent, which means me, I guess, that the record be open for one week for written questions to be submitted to our witnesses.

Thank you. The hearing is adjourned.

[Whereupon, at 4:11 p.m., the Subcommittee was adjourned.]

[Questions and answers and submissions for the record follow.]

## QUESTIONS AND ANSWERS

Written Questions from Sen. Richard Durbin

Senate Judiciary Committee  
Subcommittee on the Constitution, Civil Rights and Property Rights

Hearing: "Examining U.S. Efforts to Combat Human Trafficking and Slavery"

July 15, 2004

Answers from Dr. Mohamed Mattar

The Protection Project

Johns Hopkins University-SAIS

1. **The Trafficking Victims Protection Act (TVPA) permits the executive branch to issue 5,000 T visas each year for trafficking victims to use to seek legal protection and humanitarian assistance. The TVPA was signed into law in October 2000, which means that the executive branch could have issued 20,000 T visas by now. According to testimony from Charles Song of the Coalition to Abolish Slavery & Trafficking, however, the actual number of T visas issued to date is 371. I am concerned about the low number of T visas that the executive branch has issued. The TVPA does not require that a federal investigation or prosecution take place in order for a T visa to be issued to a victim. Moreover, after adoption of the Trafficking Victims Protection Reauthorization Act of 2003, minors are now entitled to receive T visas regardless of whether they are even willing to provide assistance to law enforcement officials. What specific advice would you give to this Administration for improving its track record with respect to issuing T visas to trafficking victims?**

- a. **Low Numbers of the T-Visa: Increase efforts to identify victims.**

**Proactive Victim Outreach.** The United States government has placed a priority on outreach and public awareness, however it is imperative to engage in these activities in a more proactive manner, continuously improving victim identification strategies, so as to increase the number of victims of trafficking who are identified and who will therefore have access to services.

**Developing Partnerships with Non-Governmental Organizations and Working with Local Communities.** While the United States government has launched the *Look Beneath the Surface* campaign which utilizes non-English publications to raise awareness among communities where victims of trafficking might be found and in the languages of potential victims, the United States government should partner with grassroots non-governmental organizations working in local communities and providing outreach to victims of exploitation in order to reach those victims who may be reluctant to contact authorities or protective services associated with the government. These proactive approaches should seek to permeate the different communities where victims may be

found in collaboration with those groups having greatest access to trafficking populations.

Additionally, public awareness campaigns with deeper reach should be initiated, such as in immigrant neighborhoods, and local places of worship, for example, where trafficked persons are likely to find refuge, and to which victims may be allowed access by their exploiters.

In many communities across the United States, congregations have been established where parishioners from specific countries come to meet with each other and to worship. Such places of worship should be identified and public awareness campaigns initiated with parishioners who might come in contact with victims of trafficking of their same nationality, or those who may speak their same language. Parishioners should be trained on recognizing victims of trafficking and provided information as to how to provide help, for instance by disseminating the number for the Trafficking in Persons and Worker Exploitation Task Force Complaint Line, launched by the Department of Justice. Additionally, contact information should be distributed to members of the local communities where trafficking is known to be a significant problem for various service providers who may be able to help a victim of trafficking if a local community member was to come into contact with one. Town hall meetings should also be held in local communities, in which community members should be given the opportunity to suggest specific measures for reaching out to trafficking victims, which are best-suited to their local communities.

**Increasing Public Awareness in Zones Known for High Levels of Prostitution and Prostitution-Related Activities.** At the same time, in zones known for high levels of prostitution, for the presence of large numbers of strip clubs or massage parlors, messages in the languages of potential trafficking victims should be disseminated in a manner most conducive to reaching the victims whose access to the outside world is likely to be extremely limited.

Funding may be provided for non-governmental organizations to design and distribute anti-trafficking warnings and help line phone numbers to stores in these zones to which victims of trafficking might have access – such as small street shops where cigarettes may be purchased. The anti-trafficking messages may be conveyed on matchboxes, as well as on sugar packages distributed to local diners, where community members might often be found. To reach victims of trafficking who may be being forced into domestic servitude, informational materials should be disseminated in grocery and drug stores, which victims may be allowed access to.

**b. Low Numbers of the T-Visa: Regulate establishments which may act as covers for prostitution.**

**Regulation of the Massage Parlor Industry.** Let me emphasize the points regarding sexually-oriented establishments. Brothels and strip clubs are not the only establishments where victims of trafficking for sexual exploitation may be found. There have been a

number of cases in recent years of massage parlors in the United States being used as fronts for prostitution. In a number of these cases, victims of trafficking have been found in the parlors, forced into situations of sexual exploitation. In 2001, Montgomery County in Maryland enacted tough licensing regulations aiming to protect legitimate massage businesses and to prevent from opening or shut down illegitimate businesses, acting as fronts for prostitution and often, employing victims of trafficking. A multi-agency task force cracked down on a number of establishments in Montgomery County throughout 2001 and shut down several illegal establishments. Additionally, Montgomery County has made its Victim Assistance and Sexual Assault Program in order to provide necessary assistance to rescued victims of crime. The administration should work with local governments to encourage them to enact similar legislation so as to limit the number of establishments that might be using legitimate businesses as cover for illegal activities, particularly such as trafficking in persons. Such legislation would also allow law enforcement greater flexibility in reaching out to establishments where victims of trafficking may be found. Specifically, the legislation provides for strict requirements for massage providers who are not certified by the state, such as having to be licensed by the country, be fingerprinted and undergo background and photo checks, and provide massage on persons only of the same sex. Additionally, all businesses that employ massage providers who do not have state certification must obtain county certification, provide the massage history of the business' owner, and be subject to background checks for owners and managers. These provisions enable local officials to shut down massage parlors without having to prosecute individuals for solicitation or prostitution, offenses that carry relatively light sentences, but may harm the victims and would usually not endanger the ability of the massage parlor itself to stay in business.

**2. What additional laws, if any, do you believe Congress should pass in order to help win the fight against human trafficking?**

**The International Marriage Broker Regulation Act of 2003.** Congress should enact the pending International Marriage Broker Regulation Bill of 2003, which would provide prospective mail-order brides from around the world with background information as to the criminal history of their prospective husband in the United States. This law would provide for a balance in disclosure requirements for marriages between US citizens and foreign nationals, most of which tend to be women, who have found themselves in situations of domestic violence and sexual abuse. In a number of cases, these women had married US men with prior histories of domestic violence. Such a law would allow foreign women planning to marry an American citizen greater access to information vital to their decision-making about the prospective marriage.

**The Domestic Trafficking Victims Protection Act of 2004.** The Domestic Trafficking Victims Protection Act of 2004 further combats trafficking in persons by targeting demand. This is a measure that is imperative if the US government is serious about eliminating trafficking in persons. Since the focus of the Act is demand, the title should reflect this focus. Instead of the title "Domestic Trafficking Victims Protection Act of 2004" as suggested by the Act, I would propose "Discouraging Demand for Commercial Sexual Activities" or "Demand Reduction Act" or "Measures to Reduce Demand for

Commercial Sexual Services” or similar titles. The Domestic Trafficking Victims Protection Act suggested good measures as “to promote the effective prosecution of purchasers, exploiters, and traffickers of commercial sex acts.” In particular, in regards to prosecution of purchasers, Section 4(b)(1) proposes measures such as educational programs for the first time purchasers of “unlawful commercial sex,” publication of names and addresses, the use of female decoys, statutory rape and felony assaults prosecutions, and other programs enhancing prosecution and reducing demand. I believe that these measures would be effective in discouraging demand.

3. **Dr. Mattar, I want to commend you for the thoughtful and innovative work you have performed in the United States and abroad to put a spotlight on the problem of human trafficking. You have a unique perspective as someone who is familiar with efforts to combat trafficking both nationally and internationally. The United States has been widely criticized in recent years for our preemptive foreign policy, our aggressive posture in Iraq, and our failure to work in harmony with the world community. Our credibility has been further diminished by the torture of Iraqi prisoners by US military personnel. Do you believe that these issues have undermined US credibility and hampered our efforts to work with other countries to combat human trafficking?**

I agree that trafficking in persons is a transnational crime that requires transnational policies, including cooperation among countries. The United States no doubt has to adopt a policy of constructive engagement whereby collective efforts are taken to combat the problem. Many of the US foreign policy measures have been recently criticized, and sometimes, they are misunderstood. The United States has to do a better job of explaining its foreign policy objectives. We need more programs promoting international dialogue, especially with countries of the Middle East. This is imperative if we are serious about engaging other countries in the fight against trafficking in persons.



**U.S. Department of Justice**  
Office of Legislative Affairs

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Office of the Assistant Attorney General

Washington, D.C. 20530

October 22, 2004

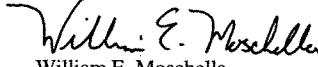
The Honorable John Cornyn  
Chairman  
Subcommittee on the Constitution,  
Civil Rights and Property Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find responses (and related materials) to questions posed to United States Attorneys Johnny K. Sutton and Michael Shelby following their appearance before the Subcommittee on July 7, 2004. The subject of the Subcommittee's hearing was the government's efforts to combat human trafficking and slavery.

We hope that this information is helpful to you. Please do not hesitate to call upon us if we may be of additional assistance in connection with this or any other matter.

Sincerely,

  
William E. Moschella  
Assistant Attorney General

Enclosures

cc: The Honorable Russell Feingold  
Ranking Minority Member

U.S. Senate Judiciary Subcommittee  
on the Constitution, Civil Rights and Property Rights  
U.S. Senator John Cornyn (R-TX), Chairman

Examining U.S. Efforts to Combat Human Trafficking and Slavery

July 7, 2004

Written Question from Senator John Cornyn

**QUESTIONS FOR JOHNNY K. SUTTON, UNITED STATES ATTORNEY FOR THE  
WESTERN DISTRICT OF TEXAS, AND MICHAEL T. SHELBY, UNITED STATES  
ATTORNEY FOR THE SOUTHERN DISTRICT OF TEXAS**

- 1. How much coercion or force must be demonstrated to establish a criminal violation of the Trafficking Victims Protections Act? Is some physical violence or threat of physical violence necessary? From what I can tell from reviewing the statute, there is no requirement of physical violence or threats of physical violence. It seems to me that the coercion element could be satisfied in a variety of ways, short of physical violence. But I would like the benefit of your official views as United States Attorneys.**

In enacting the Trafficking Victims Protection Act ("the Act"), the House Conference Report specifically stated that prosecutors would not have to demonstrate physical harm or threats of force against victims. H.R. Conf. Rep. No. 106-939, at 101 (2000). While proof of the actual use of physical force is not required, conduct tantamount to coercion is required to prove a violation. The definition of "coercion" in section 1591 (prohibiting sex trafficking of children) is virtually identical to the conditions of proving forced labor in violation of section 1589. For both statutes, the prosecution must show at least the use of threats of serious harm or physical restraint against the victim or another person, a scheme, plan or pattern intended to cause the victim (or in the case of 1591, any person) to believe that failure to perform an act would result in serious harm or physical restraint to any person, or the abuse or threatened abuse of law or legal process. As you point out, under this definition, coercion can be proved in a number of ways short of actual physical violence. To our knowledge, no court has construed the definition of "coercion" in the Act; however, it is the Department's intent to follow the broad application of the statutes suggested in the House Conference Report, to include "a broad array of harms, including both physical and nonphysical," taking into account "the individual circumstances of victims that are relevant in determining whether a particular type or certain degree of harm or coercion is sufficient to maintain or obtain a victim's labor or services, including the age and background of the victims." *Id.*



## Written Questions from Sen. Richard Durbin

Questions for U.S. Attorney Johnny Sutton

1. **At the hearing, we discussed the significant gap between the number of human trafficking victims who are brought into the United States each year and the number of victims who are identified and aided by the federal government. It is estimated that at least 14,500 trafficking victims are brought into the United States each year, yet the executive branch has identified and provided assistance to fewer than 500 victims. There was a consensus at the hearing that one of the biggest challenges is how to motivate victims to come forward. Please identify three specific steps you think the Department of Justice could take to increase the number of trafficking victims who come forward.**

While the Department of Justice (DOJ) undertakes actions to encourage victims to come forward, victims are often prevented from doing so by their exploiters. This has led DOJ to design proactive investigations that attempt to identify victims in the place of abuse and mistreatment and then to design rescue actions. News of assistance to current victims that provides safety and services can filter back to other victims and serves as a strong message that victims can come forward and be protected. Five proactive steps that DOJ has taken are as follows: 1) We have established a toll-free telephone complaint line that is publicized in brochures and posters published in multiple languages. Victims are able to call this number and receive information about their rights under the Trafficking Victims Protection Act and the Victims' Bill of Rights. 2) We have provided training for federal, state, and local law enforcement officers and prosecutors, at national conferences, at the FBI academy at Quantico, Virginia, and in various cities across the country. 3) We have engaged in outreach to non-governmental organizations (NGOs) that regularly work with the at-risk population. This has included training and awareness-raising that NGOs' staff have been able to pass on to their constituencies. 4) We have partnered with the Department of Health and Human Services in the design of a twenty-four hour, seven-day-per-week toll-free telephone hotline that victims can call to get help. The availability of the hotline is featured at every training and public event undertaken by DOJ, and is included in public service announcements for television and radio, print ads for ethnic newspapers, and posters. 5) We have developed and disseminated the Model State Law (copy enclosed) in order to provide guidance to state and local authorities on legal reform to facilitate the fight against trafficking. 6) At the local level, the Attorney General has announced \$14 million in funding for state and local law enforcement and victim service providers to facilitate the establishment of anti-trafficking task forces throughout the country.

2. **A January 25, 2004 *New York Times Magazine* article discussed the problem of human trafficking and observed: "Because of the porousness of the U.S.-Mexico border and the criminal networks that traverse it, the towns and cities along that border have become the main staging area in an illicit and barbaric industry, whose 'products' are women and girls. On both sides of the border, they are rented out for sex for as little as 15**

minutes at a time, dozens of times a day."

**A. Your district is the largest district in the United States that borders Mexico. What specific steps have you taken to investigate and prosecute human trafficking that is taking place along your district's border with Mexico?**

We have taken several steps to increase the investigation and prosecution of human trafficking in my District. First, along one of the main highway corridors leading from the border region to the interior we have organized a coalition of organizations committed to victims' rights and local and federal law enforcement agencies to focus on human trafficking. We have developed an informal task force of law enforcement agencies to include identification of human trafficking victims as part of on-going highway interdiction and enforcement efforts. The coalition seeks to enhance communication among interested organizations and agencies and focuses available resources on identifying and assisting victims. Second, we have made efforts to inform the public about human trafficking, calling special attention to human trafficking cases we have prosecuted, as well as particularly egregious cases involving alien smuggling.

**B. The *New York Times Magazine* article contains information about a young trafficking victim named Andrea, who was the captive of a sex trafficking ring that allegedly operated in your district. She told the reporter that she was taken back and forth between El Paso, Texas and Juarez, Mexico and forced into prostitution. What steps have you taken to investigate the allegations made by Andrea in the *New York Times Magazine* article?**

We are not able to effectively investigate the information provided by the woman identified as "Andrea" in Peter Landesman's article, "The Girls Next Door," in the January 25, 2004, issue of the *New York Times Magazine*. The information recounted in the article contains virtually no identifiers, except for several hotels in Mexico, and lacks specificity as to time and place. According to Andrea, her captivity occurred over a period of 12 years; there is no indication when the last of the events she described occurred. That information simply is not specific enough to begin an investigation. On the average day, more than 36,000 private vehicles and more than 24,000 pedestrians cross the three bridges from Juarez into El Paso. It would be impossible to verify the report that Andrea crossed the border at El Paso on unspecified occasions in the past.

**C. Have you met with your law enforcement counterparts in Juarez, Mexico and other Mexican border communities to discuss the problem of human trafficking? If so, please explain how frequently you have met with them and whether the Mexican officials have been cooperative.**

I meet occasionally with officials from Mexico, including officials from Juarez and consular officials in San Antonio, to discuss common issues. These conversations have included discussion of illegal immigration and smuggling aliens into the United States and our mutual

interests in addressing these issues. The Mexican officials have been cooperative. Of course, the law enforcement agencies including Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), work more frequently with their counterparts in Mexico and would have firsthand information about their joint efforts.

**3. In your testimony, you stated: "During the past three years, we have seen an increase in the number of trafficking cases in the Western District of Texas." You went on to discuss two such cases that your office has prosecuted, one in 2002 involving women who were forced to work in local strip clubs, and one in 2003 involving young women forced into prostitution.**

**A. Are there any other sex trafficking cases that you have investigated or prosecuted while you have been the U.S. Attorney? If so, please list them and provide brief summaries.**

During my tenure as U.S. Attorney we have investigated at least one additional case believed to involve sex trafficking. The investigation revealed that the alien prostitutes were lawfully in the U.S. and were voluntarily plying their trade. They were violating local laws, but there was no violation of federal human trafficking statutes. We also have another sex trafficking case under investigation extending into several other districts. However, to disclose details about it at this stage could jeopardize the investigation.

For many years my district has prosecuted a large number of cases involving the illegal transportation of undocumented aliens. Typically, the Border Patrol or some other law enforcement agency discovers a vehicle loaded with one to dozens of undocumented aliens. Virtually all of our information in those cases is obtained from the aliens, and usually, the aliens report that in exchange for some fee they expect to be taken to some destination to work, most often a destination outside of this district. At that point, it is highly unlikely the aliens know that their transporters intend to impress them into the sex trade or other forced labor. Unlike illegal narcotics, whose illicit character is readily apparent, the ultimate character of the illegal transportation is not. Our successful prosecutions and our investigations bear this out: each has involved sex trafficking that actually occurred in our district. Just as undocumented aliens working in agriculture are transported throughout the U.S., we expect that victims of sex trafficking also are distributed throughout the country. As the operation in Plainfield, N.J., described in the *New York Times* article illustrates, it is most likely that the trafficking organizations will be uncovered where the sex trafficking or forced labor occurs, and not during the transport of the victims across the border.

**B. Have you investigated or prosecuted any labor trafficking cases while you have been the U.S. Attorney? If so, please list them and provide brief summaries.**

We have pending at least three investigations involving suspected forced labor. Because the investigations are pending and sensitive, identifying them or describing them could jeopardize

them.

**4. In his written testimony, Dr. Mohamed Mattar stated: "Victims' mistrust of public officials and the lack of public awareness about victims' rights makes it difficult for victims of trafficking to come forward and cooperate with law enforcement officials."**

**A. Do you agree with that assessment? Why or why not?**

Dr. Mattar's observation probably applies equally to all undocumented aliens who are victims of any crime, not only crimes involving human trafficking. I would surmise three reasons for this, though there are likely many others: (1) many undocumented aliens come from countries in which there is widespread official corruption and abuse, causing them to be suspicious and even fearful of any government official; and (2) because they are undocumented, they fear any contact with law enforcement officials will result in their deportation. In addition, (3) victims of trafficking, and particularly child victims, may also actually be more trusting of their captors than they are of law enforcement, because victims often do not speak English, are unfamiliar with U.S. culture, and are conditioned to rely upon their captors for all of their basic needs. Thus, captors often come to represent, to some extent, things that are known and familiar, whereas U.S. law enforcement officials may represent things that are unknown and frightening.

**B. At the hearing, Wendy Patten of Human Rights Watch testified that her organization opposes federal legislation that would give local police officers the power to enforce federal immigration laws. Human Rights Watch believes that such legislation would have a chilling effect on trafficking victims, who might fear deportation if they come forward. Do you share Human Rights Watch's opposition to this federal legislation?**

As I surmised in my previous answer, undocumented aliens fear any contact with law enforcement, whether at the state, local or federal level. The enactment of the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Act Reauthorization Act of 2003, and the promulgation of implementing regulations at 66 Fed. Reg. 38514 (July 24, 2001) and at 67 Fed. Reg. 4784 (January 31, 2002) have provided us with the necessary tools and incentives to alleviate some of these fears.

Under these statutes and regulations, trafficking victims are eligible for "continued presence" status allowing them to remain temporarily in the United States if federal law enforcement determines that they are potential witnesses to trafficking. They can also apply for T non-immigrant status (also known as a T-visa) if they have complied with reasonable requests for assistance in the investigation or prosecution of the act of trafficking. Those who receive T non-immigrant status may remain in the United States for three years and then may apply for lawful permanent residency subject to certain statutory criteria.

**5. In his written testimony, Dr. Mattar stated that the Justice Department has prepared model state legislation to assist states in drafting anti-trafficking legislation at the local**

**level. Does the Justice Department in fact have such model legislation? If so, please provide a copy. If the Justice Department has not yet been finalized its model state legislation, please provide a draft.**

Assistant Attorney General Daniel Bryant of the Office of Legal Policy (OLP) released the Model State Law at the Justice Department's Conference on Human Trafficking held in Tampa, Florida in July 2004. It is now available on the website of the Department of Justice, and a copy has been enclosed with this document.

**6. You're on the front line every day in the fight against human trafficking. What more do you think Congress should do to help you win this fight?**

Congress' attention to trafficking has been very helpful in the fight against human trafficking. The passage of the Trafficking Victims Protection Act of 2000, and its reauthorization in 2003, were crucial to providing prosecutors and other law enforcement officials with the tools to combat this crime. We are grateful for Congress' continued support for our efforts.

**Questions for U.S. Attorney Michael Shelby**

**1. You testified about an anti-trafficking conference that the Justice Department is organizing this week. Press reports indicate that President Bush will speak at this conference, which you described as an "unprecedented conference that will be held next week in Tampa, Florida, where the Department is bringing in all of the different participants in this extraordinary endeavor, bringing in Federal and State prosecutors, bringing in local and State police agencies, bringing in the extraordinary non-governmental organizations that help us in this regard." Please provide a copy of the conference agenda, list of conference speakers, and list of conference attendees.**

Attached please find the documents you request.

**2. You're on the front line every day in the fight against human trafficking. What more do you think Congress should do to help you win this fight?**

I agree with the answer of U.S. Attorney Sutton to Question 6 above.

**Written Questions from Senator Russell Feingold****Questions to Mr. Johnny Sutton and Mr. Michael Shelby**

- 1. Could you elaborate on what you learned from your experiences in investigating and prosecuting human traffickers? What would you do differently in investigating and prosecuting another multi-victim trafficking case? What can the Department of Justice do better to assist U.S. Attorney's offices around the country?**

Two lessons come immediately to mind. First, these cases are very difficult to detect, especially when undocumented aliens are found near the border. We uncovered the cases in the Western District of Texas in large part because the victims' final destination was in our district. However, the vast majority of cases we see in this district involve the transportation of undocumented aliens. During the transport stage it is not readily apparent that the persons being transported are on their way to forced labor, involuntary servitude or other coerced service. As far as we know, the aliens themselves may not fully understand their destiny at that point. Second, the life circumstances of victims present considerable challenges for effective prosecution of the traffickers. In these cases, as well as more routine alien smuggling cases, the undocumented aliens are the witnesses to the crimes. Yet they are subject to a number of extraordinary pressures and needs, which can work at cross purposes and undermine our ability to prosecute fully the victimizers: they are traumatized by their victimization; they generally communicate only in a foreign language; the judicial system does not have efficient means of securing their testimony; and as undocumented aliens, they are subject to prompt removal or deportation. To elaborate briefly, the victims are material witnesses to our prosecution. It is both our preference and a legal requirement that they be available to testify at trial, and be subject to confrontation by the defendants. Local court procedures rightly recognize that these witnesses should not be held in custody indefinitely, as this further victimizes them. In attempting to strike a balance, the courts either require the witnesses be released on conditions as any criminal detainee, or deposed within 30 days and turned over to Immigration and Customs Enforcement for repatriation. Those who are released on conditions frequently abscond, jeopardizing our prosecutions. Pretrial depositions are costly and less effective than live testimony at trial. For victims who are minors, there are few certified shelters and an insufficient number of programs in which they can be placed. For example, in our Austin case, we discovered only two certified victim shelters for minor victims of trafficking, both located more than 200 miles from Austin.

From our experience, I can offer few suggestions of what we would do differently in investigating and prosecuting another multi-victim trafficking case. We already are making efforts to enhance training and coordination among law enforcement agencies in our district. For example, we have recently formed a coalition and task force aimed at combating alien smuggling and human trafficking. If minor victims are involved, we will focus on placing them in appropriate shelters and using our Victim Witness staff to do needed follow up with them.

The Department of Justice, especially the Civil Rights Division, always is available for consultation and routinely offers to assist us in handling these cases. We have no criticisms or complaints about the Department in the handling of these cases.

- 2. What are the main issues for you, your staff, and the investigators with regard to dealing with human trafficking victims? What steps do you believe should be taken to improve the training of investigators and other law enforcement officials to handle these cases and to make sure that there is sufficient coordination between the various local and federal law enforcement agencies to make these cases successful?**

Our main issues arise from the fact that the victims are in the U.S. unlawfully and constitutional protections (afforded both the victims and defendants) require us to have the victims available to testify, but a combination of circumstances makes it extremely difficult to accomplish this. The problems relating to these material witnesses are unique to prosecutions along the Southwest Border. The courts have been appropriately sensitive to preventing undue detention of these material witnesses pending trial, and we have made efforts to work with the courts to forge workable solutions. Unfortunately, once the witnesses have been released on conditions, such as to a halfway house or to relatives in distant parts of the U.S., we lose control over them and too often lose them as witnesses. These difficulties are compounded when minor victims are involved. In routine smuggling cases, we do not rely on minors: there usually are enough adults available to testify, and we simply have the juveniles returned to family in their country of origin. This is not an option when the minors are victims of human trafficking, for they are often the sole witnesses. While victims in our cases have applied for T-visas to address their immigration issues, the T-visa does not fully solve their problems. For example, in *U.S. v. Martinez-Uresti*, three teenage undocumented alien victims sought T-visas. Of the three, only one actually stayed in an assistance program and obtained a T-visa. The other two returned to Mexico for personal reasons.

**Question to Mr. Johnny Sutton**

- 1. It is my understanding that the two defendants in *U.S. v. Martinez-Uresti* were sentenced to prison terms, but there was no order for restitution. As you know, restitution is an important form of relief for victims of human trafficking. Did you seek an order of restitution? If so, why did the court not issue such an order? If you did not seek an order of restitution, why not?**

We did not vigorously pursue an order of restitution in *U.S. v. Martinez-Uresti*. It was beyond doubt that the defendants were indigent and there was no likelihood that condition would change in the foreseeable future. They had no assets from which to satisfy a judgment and no means for acquiring assets in the foreseeable future. The primary defendant was an alien who is unlawfully in the United States. She will be deported after completion of her 108 month sentence and will therefore be beyond the reach of our process. Given the near certainty that a restitution order

would go unsatisfied, we did not seek and the court did not order restitution from these indigent defendants.



MODEL STATE ANTI-TRAFFICKING CRIMINAL STATUTE

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AN ACT relating to criminal consequences of conduct  
that involves certain trafficking of persons and involuntary servitude.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF \_\_\_\_\_:

(A) Title \_\_\_\_\_, Penal Code, is amended by adding Article XXX to read as follows:

Article XXX: Trafficking of Persons and Involuntary Servitude

Sec. XXX.01. Definitions. In this Article:

- (1) "Blackmail" is to be given its ordinary meaning as defined by [state blackmail statute, if any] and includes but is not limited to a threat to expose any secret tending to subject any person to hatred, contempt, or ridicule.
- (2) "Commercial sexual activity" means any sex act on account of which anything of value is given, promised to, or received by any person.
- (3) "Financial harm" includes credit extortion as defined by [state extortion statute, if any] , criminal violation of the usury laws as defined by [state statutes defining usury], or employment contracts that violate the Statute of Frauds as defined by [state statute of frauds].
- (4) "Forced labor or services" means labor, as defined in paragraph (5), infra, or services, as defined in paragraph (8), infra, that are performed or provided by another person and are obtained or maintained through an actor's:
  - (A) causing or threatening to cause serious harm to any person;
  - (B) physically restraining or threatening to physically restrain another person;
  - (C) abusing or threatening to abuse the law or legal process;
  - (D) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;
  - (E) blackmail; or
  - (F) causing or threatening to cause financial harm to [using financial control over] any person.

- (5) "Labor" means work of economic or financial value.
- (6) "Maintain" means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of service.
- (7) "Obtain" means, in relation to labor or services, to secure performance thereof.
- (8) "Services" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of "services" under this Section. Nothing in this provision should be construed to legitimize or legalize prostitution.
- (9) "Sexually-explicit performance" means a live or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.
- (10) "Trafficking victim" means a person subjected to the practices set forth in Sections XXX.02(1) (involuntary servitude) or XXX.02(2) (sexual servitude of a minor), or transported in violation of Section XXX.02(3) (trafficking of persons for forced labor or services).

Sec. XXX.02. Criminal Provisions.

- (1) Involuntary Servitude. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services shall be punished by imprisonment as follows, subject to Section (4), infra:
  - (A) by causing or threatening to cause physical harm to any person, not more than 20 years;
  - (B) by physically restraining or threatening to physically restrain another person, not more than 15 years;
  - (C) by abusing or threatening to abuse the law or legal process, not more than 10 years;
  - (D) by knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person, not more than 5 years,
  - (E) by using blackmail, or using or threatening to cause financial harm to [using financial control over] any person, not more than 3 years.

- (2) **Sexual Servitude of a Minor.** Whoever knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, sexually-explicit performance, or the production of pornography (see [relevant state statute] (defining pornography)), or causes or attempts to cause a minor to engage in commercial sexual activity, sexually-explicit performance, or the production of pornography, shall be punished by imprisonment as follows, subject to the provisions of Section (4), infra:
- (A) in cases involving a minor between the ages of [age of consent] and 18 years, not involving overt force or threat, for not more than 15 years;
  - (B) in cases in which the minor had not attained the age of [age of consent] years, not involving overt force or threat, for not more than 20 years;
  - (C) in cases in which the violation involved overt force or threat, for not more than 25 years.
- (3) **Trafficking of Persons for Forced Labor or Services.** Whoever knowingly (a) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services; or (b) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of Sections XXX.02(1) or (2) of this Title, shall, subject to the provisions of Section (4) infra, be imprisoned for not more than 15 years.
- (4) **Sentencing Enhancements.**
- (A) Statutory Maximum - Rape, Extreme Violence, and Death. If the violation of this Article involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life [or death].
  - (B) Sentencing Considerations Within Statutory Maximums.
    - (1) Bodily Injury. If, pursuant to a violation of this Article, a victim suffered bodily injury, the sentence may be enhanced as follows: (1) Bodily injury, an additional \_\_\_\_ years of imprisonment; (2) Serious Bodily Injury, an additional \_\_\_\_ years of imprisonment;

- (3) Permanent or Life-Threatening Bodily Injury, an additional \_\_\_\_ years of imprisonment; or (4) If death results, defendant shall be sentenced in accordance with Homicide statute for relevant level of criminal intent).
- (2) Time in Servitude. In determining sentences within statutory maximums, the sentencing court should take into account the time in which the victim was held in servitude, with increased penalties for cases in which the victim was held for between 180 days and one year, and increased penalties for cases in which the victim was held for more than one year.
- (3) Number of Victims. In determining sentences within statutory maximums, the sentencing court should take into account the number of victims, and may provide for substantially-increased sentences in cases involving more than 10 victims.
- (5) Restitution. Restitution is mandatory under this Article. In addition to any other amount of loss identified, the court shall order restitution including the greater of 1) the gross income or value to the defendant of the victim's labor or services or 2) the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) and [corresponding state statutes if any].
- (B) Trafficking Victim Protection
- 1) Assessment of Victim Protection Needs
- (A) The Attorney General, in consultation with the [Department of Health and Social Services] shall, no later than one year from the effective date of this statute, issue a report outlining how existing victim/witness laws and regulations respond to the needs of trafficking victims, as defined in XXX.01(8) of the Criminal Code, and suggesting areas of improvement and modification.
- (B) The [Department of Health and Social Services], in consultation with the Attorney General, shall, no later than one year from the effective date of this statute, issue a report outlining how existing social service programs respond or fail to respond to the needs of trafficking victims, as defined in XXX.01(8) of the Criminal Code, and the interplay of such existing programs with federally-funded victim service programs, and suggesting areas of improvement and modification. [Such inquiry shall include, but not be limited to, the ability of state programs and licensing bodies to recognize federal T non-immigrant status for the purposes of benefits, programs, and licenses.]

**Explanatory Notes**

**Purpose**

This Model Law is offered to help criminal law policymakers at the state level address the phenomenon of modern-day slavery, often termed "trafficking in persons." In the course of researching this proposal, it became clear that many states already have laws on their books that directly address this crime problem. For instance, many trafficking-like crimes may be codified in seemingly-unrelated parts of a state code, such as the kidnaping or prostitution sections. Unfortunately, by being codified in disparate parts of the criminal code, it may unclear to prosecutors that the behaviors are trafficking in persons crimes and may be charged as such. Research into these existing state statutes revealed that they are often archaic, little-known, or underutilized, and do not necessarily reflect the current understanding of slavery and trafficking in persons.

The Thirteenth Amendment to the U.S. Constitution mandates that:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction....

Under the Trafficking Victims Protection Act of 2000, Pub. L. 106-386 ("TVPA"), a "severe form of trafficking in persons" is defined as:

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

In the international arena, the United Nations Convention Against Transnational Organized Crime, supplemental Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children defines trafficking in persons as:

[T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs[.]

Federal criminal provisions specific to trafficking in persons are codified at Title 18,

United States Code, Chapter 77, Peonage, Slavery, and Trafficking in Persons. Some of these statutes are newly-enacted provisions of the TVPA; some of these statutes date from the Civil War era. All of these federal criminal civil rights statutes are rooted in the 13<sup>th</sup> Amendment's guarantee of freedom. The other federal criminal civil rights statutes, such as 42 U.S.C. §3631 (Interference with Housing Rights) and 18 U.S.C. §242 (Deprivation of Rights Under Color of Law), have corresponding state statutes. *E.g.*, Indiana Code, § 22-9.5-10-1 (criminalizing interference with another's rights) and Texas Penal Code §39.03 (criminalizing official oppression). Such federal/state overlap allows for more prosecutions to be brought and allows local prosecutors to respond most appropriately to crime problems in their own jurisdictions. State prosecutors' increased prosecution of racial violence cases in the last 20 years can serve as a model for increased enforcement of the U.S. Constitution's guarantee of freedom from involuntary servitude.

Many state constitutions mirror the federal constitutional prohibition against involuntary servitude, *see, e.g.*, Arkansas Const. Art. 2, § 27, and some states have involuntary servitude statutes on their books. *See, e.g.*, Cal. Penal Code § 181 (Slavery, infringement of personal liberty; purchase of custody). Other states have similar statutes. North Carolina adopted a state involuntary servitude statute in the wake of several high-profile federal migrant labor prosecutions. *See* N.C.G.S.A. § 14-43.2. Arizona's criminal code, for example, includes kidnaping for involuntary servitude in its kidnaping statute, A.R.S. §13-1304, and a crime of taking a child for prostitution in its prostitution statutes, A.R.S. §13-3206. It is unclear whether such statutes are well-known by police and prosecutors, and to what extent they are being used to combat trafficking in persons.

The Model Penal Code recommends creation of an involuntary servitude crime as part of its overall kidnaping chapter. MPC 212.3(b), Felonious Restraint (third degree felony for holding a person in involuntary servitude). While the U.S. Department of Justice has not surveyed the field to determine how many states adopted this proposal, Nebraska is an example of one state that has this Model Penal Code provision on the books. *See* Neb.Rev.St. §28-314.

Certainly, experience at the federal level indicates that more comprehensive trafficking in persons statutes are needed to address the wide range of coercive tactics that traffickers use to obtain and maintain the labor and services of their victims. The proposed Model Law seeks to provide a tool for drafting modern anti-trafficking crimes, based on the Justice Department's experience in investigating and litigating these cases. Additionally, there is a strong need for uniformity in definitions and concepts across state lines to minimize confusion as trafficking victims in state prosecutions begin to seek the victim protections available through the federal Departments of Health and Human Services and of Homeland Security.

States and territories interested in adopting anti-trafficking legislation should survey their existing criminal codes to determine whether they include prohibitions on involuntary servitude, kidnaping, or false imprisonment, which have simply not been brought to bear against trafficking in persons. Such a survey will assist in incorporating relevant portions of a modern anti-trafficking statute into existing law, and could result in increased use of such statutes.

Bundling of appropriate statutes into a Slavery/Trafficking chapter, as in the federal criminal code, will make it more likely that such crimes are recognized and charged.

### **Definitions**

The heart of the concept of "trafficking in persons" is the denial of the liberty of another. Accordingly, the transportation of a person is a secondary inquiry, the apparent meaning of "trafficking" aside. Thus, the definitions section and the criminal provisions focus on the coercive nature of the service, rather than the movement of the victim or the type of underlying service.

The definitions are in alphabetical order.

Section XXX.01(1) defines blackmail in a manner identical to the Model Penal Code's Criminal Coercion statute, Section 212.5(1)(c).

Section XXX.01(2), "commercial sexual activity," tracks the definition of commercial sexual activity in the TVPA.

Section XXX.01(3) defines "financial harm" to reflect the TVPA and the UN Protocol's inclusion of "debt bondage" as a form of trafficking in persons. In order to differentiate a debt that has the effect of coercion, as opposed to simply a bad bargain, the proposal adopts the usury laws of the relevant jurisdiction to illustrate debts that contravene public policy and may thus appropriately be considered to be coercive. On the federal level, an example of this type of law can be found at 18 U.S.C. § 892 (Making Extortionate Extension of Credit).

Section XXX.01(4) defines "forced labor or services" as those obtained or maintained through coercion, and lists the forms of coercion that would, if used to compel forced labor or services, justify a finding that the labor or service was involuntary.

Section XXX.01(5), which defines "labor," covers work activities which would, but for the coercion, be otherwise legitimate and legal. The legitimacy or legality of the work is to be determined by focusing on the job, rather than on the legal status or work authorization status of the worker.

Section XXX.01(6)'s "maintain" builds upon the Model Penal Code's definition of "obtain" and incorporates the principle in federal anti-slavery caselaw that a person's initial agreement to perform a particular activity or type of service is not a waiver of any coercion aimed at keeping that person from leaving the service.

Section XXX.01(7), "obtain" tracks the definition set forth at Model Penal Code's Theft statute, Section 223.0(5)(b).

Section XXX.01(8), which defines "services," incorporates activities that are akin to an

employment relationship but are in market sectors that are not legitimate forms of "labor." Notable in this area is commercial sexual activity, which is criminalized in almost every jurisdiction in the United States. Differentiation between "labor" and "services" makes it clear that this Model Law does not legitimize or legalize prostitution.

The notion that commercial sexual activity or concubinage can be "service" for the purposes of involuntary servitude statutes is reflected in case law. See, e.g. Pierce v. United States, 146 F.2d 84, 85-86 (5th Cir. 1944) (upholding conviction for forcing women to commit "immoral acts" at roadhouse to pay off debts); Bernal v. United States, 241 F. 339, 341 (5th Cir. 1917) (outlining as a crime when a woman was lured to house of prostitution under false pretenses and required to serve as prostitute or maid to pay debt); and the recent prosecutions, U.S. v. Cadena (SD FL 1998); U.S. v. Kwon (D. CNMI 1999); U.S. v. Pipkins (ND GA 2000); and U.S. v. Soto (SD TX 2003). See also Neal Kumar Katyal, Men Who Own Women: A Thirteenth Amendment Critique of Forced Prostitution, 103 Yale L.J. 791 (1993). Non-sexual forms of "service" might include rings that hold children for street begging or petty theft.

Section XXX.01(9) introduces the concept of "sexually-explicit performance." A number of recent federal cases have involved persons being held in servitude for purposes of sexually-explicit performances such as "exotic dancing." Unlike prostitution, which is typically illegal and involves commercial sexual activity, sexually-explicit performance may be legal, absent any coercion. Inclusion of sexually-explicit performance in this Model Law recognizes that such activity can have an impact on victims similar to sexual abuse, and reflects federal experience in which international traffickers are increasingly placing their victims into strip clubs rather than prostitution. The proposed criminal statutes provide expanded coverage for minors who are held in sexual performance as opposed to prostitution.

Section XXX.01(10) defines "trafficking victim," not for the purposes of the criminal statutes so much as to provide a working definition for state and local agencies who subsequently establish or modify programs to serve victims of these crimes.

### **Trafficking/Servitude Chapter**

The Slavery/Trafficking crimes in this Article are arranged in a particular order that reflects the Department of Justice's experiences and understanding of the interplay between slavery/involuntary servitude and the transportation of persons for illicit purposes.

First, Involuntary Servitude, which focuses on the denial of a victim's liberty, applies to all persons held in compelled service, regardless of age, type of service, and whether they are transported or not. This approach de-links the crime from the nationality of the victim or the underlying morality of the service. All adults in coerced service are protected by this Section.

Second, a provision specific to minors in sexually-related activities sets forth a lesser standard of coercion – recognizing that sexual activities are conceptually different when minors are involved – by casting as Sexual Servitude those activities which involve minors but are not the result of coercion. This Section is the equivalent of Statutory Rape laws, which obviate the



need to prove coercion when a victim is under the age of legal consent. This Section would allow for trafficking prosecutions in cases in which minors are kept in prostitution because of their circumstances but overt force is not used, such as is common in cases involving runaway U.S. citizen youth. As noted above, this provision extends the concept of proving sexual exploitation without a concomitant need to find coercion to include sexually-explicit performance and child pornography, as well as sexual acts.

Finally, Trafficking of Persons for Forced Labor or Services punishes the trade in coerced labor or services, but focuses on the recruiting, moving, and harboring for these practices. Conceptually, these actions are illegal if done for the purpose of the exploitation captured by the servitude offenses previously set forth.

Section XXX.02(1) (Involuntary Servitude) provides a baseline offense that is graded according to the severity of the coercion used against the victim. Rather than the federal approach, in which there are separate crimes based on the level of coercion (a function of the development of the federal anti-slavery laws over the course of almost 200 years), the proposed offense – the obtaining or maintaining another person in service through coercion – outlines different statutory maximums for cases involving force, threats, document confiscation, blackmail, etc. For drafting purposes, jurisdictions that prefer to codify each crime separately could easily do so by referring to [Appendix A](#), Optional Servitude Offenses, which sets the proposed crimes out in a different manner. States with guidelines sentencing may want to adopt a simple involuntary servitude statute with a 20-year statutory maximum and then incorporate gradations by level of coercion within their guidelines instead of adopting a multi-part statute or multiple servitude statutes. Such a statute is set forth in [Appendix B](#), Alternative Servitude Offense.

Statutory maximums are provided as an illustration of a graduated approach based on the type and level of coercion used against the victim. Many jurisdictions simply designate particular levels of a crime as a Class A, B, or C Felony or as a First, Second, or Third Degree Felony, rather than assigning a specific statutory maximum within the actual offense. Statutory maximums are provided in this Model Law as an example of relative culpability. The statutory maximums should be reviewed and incorporated in keeping with the sentencing structure of the criminal code of the particular state or territory.

Each of the crimes punishes attempts as well as completed offenses. Criminalizing attempts allows prosecutors to focus on a defendant's objectively observable intent to use coercion for compulsory service rather than on a victim's subjective response to the coercion. For instance, a victim flees after a beating intended to hold her, rather than staying and submitting to the "master"; in this instance, the enslavement is attempted but not completed. Nonetheless, by criminalizing the attempt, a prosecutor may charge the defendant with his intended enslavement instead of having to wait for the victim actually to be enslaved (or to feel coerced). Such an approach has obvious benefits from the perspective of public safety: no victim should have to remain in a dangerous situation in order for the wrong done to him or her to be prosecutable. Note that the particular attempt language in the Model Law should be

reviewed to ensure that it reflects an individual state's approach to attempts.

### Penalties

The proposal's sentencing section sets forth two main concepts. First, the proposal reflects the notion that statutory maximum sentences should be increased in particularly violent instances of trafficking in persons, especially where the crime involves sexual abuse. Second, the actual sentences should reflect the time the victim was held and the various levels of injury suffered by a victim, as well as the number of victims harmed in a particular case. Additionally, gradation in sentences is appropriate among situations involving minors, especially those involving minors under the age of consent.

In the federal system these offense characteristics are incorporated into the U.S. Sentencing Guidelines, *see* U.S.S.G. §2H4.1, and have different effects depending on the other adjustments that are applied. Thus, the Model Law sets out offense characteristics which should be considered, but does not assign them values.

All of the offense characteristics offered for particular consideration should be reviewed and incorporated in keeping with the sentencing structure of the criminal code of a particular state or territory.

### Restitution

The proposed measure of restitution tracks the federal restitution provision of the TVPA, codified at 18 U.S.C. §1594. Mandatory restitution allows prosecutors to recover money that the victims can use to assist them in their recovery. Unlike theft cases, there is typically little identifiable out-of-pocket loss in a trafficking case – the victims themselves are the objects that are stolen. Accordingly, this provision fixes the actual loss to the victim as either 1) the value of their services to the trafficker, or 2) the minimum wage for hours worked. The first measure of restitution, the value to the trafficker of the victim's labor or services, not only prevents the traffickers from profiting from their crime, but also avoids the unpalatable situation of assigning a wage valuation to instances of forced prostitution. The second measure of loss, the minimum wage calculation, is a handy tool in cases where victims did not receive any pay for their work, or sub-minimum wage, or in certain sex trafficking cases where the defendants hold their victims in concubinage rather than selling them as prostitutes (in which there is therefore no other identifiable measure of the value of the sexual services to the traffickers).

### Trafficking Victim Protection

Federal experience has shown that prosecution without victim protection is unworkable. At the federal level, there is a variety of benefits and services available to trafficking victims. Accordingly, this Model Law provides a mechanism through which a state could determine how well current state programs serve the needs of trafficking victims. In addition, a state may want to consider optional Model Law language regarding the incorporation of federal T non-immigrant status as a basis through which certain state benefits, programs, and licenses could be accessed by alien trafficking victims.

**APPENDIX A - Optional Servitude Offenses**

[This formulation would also obviate the need for Section (4)(A), statutory maximum sentences.]

Sec. XXX.02. Criminal Provisions.

(1) Involuntary Servitude Offenses.

(A) Involuntary Servitude. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by causing or threatening to cause physical harm to any person shall be punished by imprisonment for not more than 20 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life [or death].

(B) Unlawful Restraint for Forced Labor. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by physically restraining or threatening to physically restrain another person, shall be punished by imprisonment for not more than 15 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

(C) Legal Coercion for Forced Labor. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by abusing or threatening to abuse the law or legal process shall be punished by imprisonment for not more than 10 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

(D) Document Servitude. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person, shall be punished by imprisonment for not more than 5 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

(E) Debt Bondage. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by blackmail, or by using or threatening to cause financial harm to [using financial control over] any person, shall be punished by imprisonment for not more than 3 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

**Appendix B - Alternative Servitude Offense**

[Use sentencing guidelines to differentiate among levels of coercion and other aggravating factors.]

Sec. XXX.02. Criminal Provisions.

(1) Involuntary Servitude. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services shall be punished by imprisonment for not more than 20 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

## National Conference on Human Trafficking

### U.S. Department of Justice

July 15-17, 2004  
Tampa, Florida

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Thursday, July 15, 2004

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**1:00 p.m. – 5:00 p.m.**      **Registration and Information Desk Open**  
*Lower Level Stairs*

**4:00 p.m. – 4:45 p.m.**      **Reception**  
*Florida Ballroom Foyer*

**5:00 p.m. – 8:00 p.m.**      **Dinner Meeting**  
*Florida Ballroom*

#### *Challenges of Human Trafficking and Overview of Conference*

##### *Master of Ceremonies*

**Deborah J. Daniels**  
Assistant Attorney General  
Office of Justice Programs  
U.S. Department of Justice  
Washington, DC

##### **Welcoming Remarks**

**Paul I. Perez**  
U.S. Attorney  
Northern District of Florida  
Tampa, Florida

##### **Dinner Remarks**

#### *Developing Sustainable Team Work to Indict, Investigate, and Prosecute Traffickers and Rescue Victims*

**R. Alexander Acosta**  
Assistant Attorney General  
Civil Rights Division  
U.S. Department of Justice  
Washington, DC

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**Friday, July 16, 2004**

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**7:00 a.m.**                      **Registration and Information Desk Open**  
*Lower Level Stairs*

**7:15 a.m. – 8:10 a.m.**      **Continental Breakfast**  
*Florida Ballroom*

Conference Participants are invited to proceed through security to the Grand Ballroom from 8:10 to 9:10 for the morning session.

**Morning Session**

*Grand Ballroom*

**Opening Remarks**  
**Representative Chris Smith**  
 4<sup>th</sup> Congressional District  
 New Jersey

<b>9:35 a.m. – 9:45 a.m.</b>	<b>Break</b>
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**9:45 a.m.**  
*Grand Ballroom*

**Plenary I**

***Identifying and Investigating Human Trafficking***

This plenary will educate and train conference attendees about the importance of the State and local identification and investigation of human trafficking cases. Attendees will learn how local law enforcement effectively identified victims and their abusers and the importance of immediately providing services to the victim.

**Moderator**

**Margaret Davis**  
 Principal Deputy Director  
 Office on Violence Against Women  
 U.S. Department of Justice  
 Washington, DC

**Panelists**

**Richard Castro**  
 Sheriff's Deputy  
 San Diego Sheriff's Department  
 Vista, California

**Anna Rodriguez**  
 Founder, Immigrants Rights Advocacy Center  
 Collier County, Florida

**KEYNOTE SESSION**

**Governor Jeb Bush**  
State of Florida

**Attorney General John Ashcroft**

**President George W. Bush**

**11:45 a.m. – 12:00 p.m.**

**Break**

**12:00 p.m. – 1:20 p.m.**  
*Florida Ballroom*

**Luncheon**

***Supporting State Efforts to Criminalize Human Trafficking***

**Daniel J. Bryant**  
Assistant Attorney General  
Office of Legal Policy  
U.S. Department of Justice  
Washington, DC

**1:10 p.m. – 1:20 p.m.**

**Break**

**1:20 p.m. – 2:00 p.m.** **Plenary II**  
*Florida Ballroom*

***Domestic Trafficking Understood in the Context of International Human Trafficking and Organized Crime***

This plenary will combine a live presentation with a video to illustrate how organized criminal networks, often with international ties, are involved in human trafficking. Because efforts to stop trafficking at the local level can help to identify and dismantle larger criminal networks, the plenary will address the importance of coordination and intelligence-sharing. The Federal Human Smuggling and Trafficking Center and its role in helping to combat human trafficking, will also be introduced.

**Monique Roth**  
Counsel to the Assistant Attorney General  
Criminal Division  
U. S. Department of Justice  
Washington, DC

**Jim Chaparro**

Director, Human Smuggling and Trafficking Center  
 Immigration and Customs Enforcement  
 Department of Homeland Security

<b>2:00 p.m. – 2:15 p.m.</b>	<b>Break</b>
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**2:15 p.m. – 4:15 p.m. Training Workshop: Session II**

A: Salon A/B (black)

B: Salon C/D (red)

C: Salon F (green)

**Workshop A: *An Overview of Trafficking and the Commercial Sexual Exploitation of Children (CSEC)***

This workshop will expand participants' ability to identify and address the phenomenon of human trafficking into commercial sexual exploitation. The panel will emphasize the importance of proactive law enforcement actions, teambuilding, and identification of victims. The workshop will also provide participants with tools, resources, and case examples of effective intervention responses. Finally, the workshop will discuss the federal role in trafficking of children and case investigations and prosecutions.

**Moderator****J. Robert Flores**

Administrator  
 Office of Juvenile Justice and Delinquency Prevention  
 Office of Justice Programs  
 U.S. Department of Justice  
 Washington, DC

**Panelists****Anthony Communiello**

Assistant District Attorney  
 Queens District Attorney's Office  
 Queens, New York

**T. March Bell**

Special Counsel for Trafficking Issues  
 Civil Rights Division  
 U.S. Department of Justice  
 Washington, DC

**Andrew Oosterbaan**

Chief of Child Exploitation and Obscenity Section  
 Criminal Division  
 U.S. Department of Justice  
 Washington, DC



**Alesia Adams**  
Project Coordinator  
CEASE  
Fulton County Juvenile Justice Fund  
Atlanta, Georgia

**Workshop B: *Identification to Certification: Meeting the Needs of Victims***

This workshop will educate and train conference attendees on the victim centered response to human trafficking. Presenters will help participants understand the challenges faced by trafficking victims from the point of view of both service providers and prosecutors. The tools available to obtain services and immigration status under the TVPA of 2000, including continued presence and the T-visa will be discussed. The panel will also identify characteristics of the typical types of victimization, the barriers that prevent victims from coming forward, and some appropriate methods of interviewing victims.

**Moderator**

**Linda Smith**  
Founder and Executive Director  
Shared Hope International  
Vancouver, Washington

**Panelists**

**Kay Buck**  
Executive Director  
Coalition to Abolish Slavery and Trafficking (CAST)  
Los Angeles, California

**Sue Shriner**  
Victim-Witness Coordinator  
Immigration and Customs Enforcement  
Department of Homeland Security  
Washington, DC

**Sister Mary Ellen Dougherty, SSD**  
Program Manager for Outreach, Education, and Technical Assistance  
Trafficking in Persons Program, Migration and Refugee Services  
U.S. Conference of Catholic Bishops  
Washington, DC

**Anne Milgram**  
Trial Attorney  
Civil Rights Division  
U.S. Department of Justice  
Washington, DC

**Workshop C: *Investigating and Prosecuting***

This workshop will educate and train conference attendees about federal laws against human trafficking in the U.S. and how these laws might interact with local laws. Attendees will also learn about promising prosecutorial strategies and possible charging options, including collaboration with federal law enforcement agencies.

**Panelists**

**Hilary Axam**  
Trial Attorney  
Civil Rights Division  
U.S. Department of Justice  
Washington, DC

**Lou de Baca**  
Special Litigation Counsel  
Civil Rights Division  
U.S. Department of Justice  
Washington, DC

**Stanley Strauss**  
Supervisory Special Assistant  
Federal Bureau of Investigation  
U.S. Department of Justice  
Washington, DC

<b>4:15 p.m. – 4:30 p.m.</b>	<b>Break</b>
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**4:30 p.m. – 6:30 p.m.**

**Training Workshop: Session I**

A: Salon A/B (green)

B: Salon C/D (black)

C: Salon F (red)

**Workshop A: *Trafficking and CSEC***

**Workshop B: *Identification to Certification***

**Workshop C: *Investigating and Prosecuting***

<b>6:30 p.m. – 6:45 p.m.</b>	<b>Break</b>
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**6:45 p.m. – 8:30 p.m.**  
*Florida Ballroom*

**Dinner Meeting**

**Dinner Remarks**

**The Most Reverend John J. Myers, J.C.D., D.D.**  
Fifth Archbishop of Newark  
Newark, New Jersey

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Saturday, July 17, 2004

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**7:30 a.m.**                      **Registration and Information Desk Open**  
*Lower Level Stairs*

**8:00 a.m. – 9:05 a.m.**      **Breakfast**  
*Grand Ballroom*

**Breakfast Remarks**

***Domestic Trafficking Understood in the Context of International Trafficking in  
Persons and Organized Crime***

**Christopher A. Wray**  
Assistant Attorney General  
Criminal Division  
U.S. Department of Justice  
Washington, DC

<b>9:05 a.m. – 9:30 a.m.</b>	<b>Break</b>
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**9:30 a.m. – 10:45 a.m.**      **Plenary Session III**  
*Grand Ballroom*

***Case Study of a Trafficking Response Team***

This plenary session will (1) restate the importance of a multidisciplinary team approach, (2) present examples of existing anti-trafficking response teams, and (3) offer a broad outline of how to convene a team using the conference attendees as the core convening group.

**Moderator**                      **Bradley J. Schlozman**  
Deputy Assistant Attorney General  
Civil Rights Division  
U.S. Department of Justice  
Washington, DC

**Panelists**

**Patrick Meehan**  
U.S. Attorney  
Eastern District of Pennsylvania  
Philadelphia, Pennsylvania

**Paul Perez**  
U.S. Attorney  
Middle District of Florida  
Tampa, Florida

**Nicholas Sensley**  
President and Chief Solutions Officer  
Cross Sectors Solutions  
Santa Rosa, California

**Steve Wagner**  
Director  
Office of Refugee Resettlement  
Health and Human Services  
Washington, DC

<b>10:45 a.m. – 11:00 a.m.</b>	<b>Break</b>
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**11:00 a.m. – 1:00 p.m. Training Workshops: Session III**

A: Salon A/B (red)  
B: Salon C/D (green)  
C: Salon F (black)

**Workshop A: *Trafficking and CSEC***

**Workshop B: *Identification to Certification***

**Workshop C: *Investigating and Prosecuting***

Given Name	Surname	Organization	Suburb/City	State
Rene Alexander	Acosta	Department of Justice	Washington	DC
Alesia Patrick	Adams	Center to End Adolescent Sexual Exploitation	Atlanta	GA
Claude David Matthew	Adams	FBI	Seattle	WA
Daniel	Allen	Health & Human Services	Washington	DC
Katie	Allen	Carlton Fields	Tampa	FL
Henry	Alonso	DOJ U.S. Attorney's Office	Brooklyn	NY
Kimberly	Ambrose	Catholic Social Services	Philadelphia	PA
Michelle	Amoroso	Archdiocese of Newark	Hackensack	NJ
Nadine Marie	Anderson	DOJ U.S. Attorney's Office	Richmond	VA
Sean	Anderson	Salvation Army		
Demetrios	Anderson	FBI	Melbourne	FL
Kevin	Antoniacis	Hillsborough County Sheriff's Office	Tampa	FL
Antoinette	Appleby	USCCB	Washington	DC
Ryan	Aqui	Department of Health and Human Services	Washington	DC
Albert	Aron	U.S. Department of Homeland Security	Chariotte	NC
Douglas	Ashby	Virginia State Police Department	Chesapeake	VA
Mary	Astralaga	FBI	Jacksonville	FL
Alexander	Atlas-Terry	Office for Victims of Crime	Washington	DC
Hilary	Awad			
Pete	Axam	Civil Rights Division	Washington	DC
Janice	Axelrod	DOJ U.S. Attorney's Office	San Francisco	CA
Gregory	Ayala	Department of Homeland Security	Laredo	TX
Jennifer	Ayco	Seattle Police Department	Seattle	WA
Noris	Bach	FBI	Falls Church	VA
Janet	Balabanian	Department of Homeland Security	Washington	DC
Bucky	Banfield	The Salvation Army	Union	NJ
Crystal	Banks			
Dale	Banning	Attorney General's Office	Tampa	FL
Tom	Bannon	Salvation Army		
George	Barber			
Alan	Barford		Temple Terrace	FL
Thomas	Barger			
Claudia	Barker			
Melynda	Barlow	RAINN, MiraMed, Ketchum, Etc.	Springfield	VA
	Barnhart	Arizona League to End Regional Trafficking	Phoenix	AZ

Catherine	Barrett	Nation Foundation for Women Legislators	Columbus	OH
Carla	Battle	Courtesy Associates	Washington	DC
Maria Luisa	Bava	Bilateral Safety Corridor Coalition	San Diego	CA
Jeffrey	Bawson	FBI	Tampa	FL
Marcia	Bayne	DOJ U.S. Attorney's Office	Philadelphia	PA
Michael	Becke	Piper Rudnick LLP	Tampa	FL
T. March	Bell	Department of Justice	Annandale	VA
Cleveland	Bell III	Riverside House	Miami	FL
Lizette	Benedi	Office of Justice Programs	Washington	DC
Rose	Benedicks	Image Technical Services	Orlando	FL
Bill	Bernstein	Mosaic Family Services	Dallas	TX
Karl	Bickel	U.S. Department of Justice	Washington	DC
Gus	Bilirakis	Florida State House of Representatives		
Ruth	Billings	World Relief	Baltimore	MD
Lorena	Bitetto	Hillsborough County Sheriff's Office	Tampa	FL
Samantha	Blake	Equal Employment Opportunity Commission	Los Angeles	CA
Thomas	Bliss	Hillsborough County Sheriff's Office	Tampa	FL
Martha	Boersch	U.S. Attorney's Office	San Francisco	CA
Daniel	Bogden	DOJ U.S. Attorney's Office	Las Vegas	NV
Amy	Boldosser	International Organization for Adolescents	Brooklyn	NY
Wendy	Boles	New Jersey Division of Criminal Justice	Cherry Hill	NJ
Shauna	Boliker	Cook County State's Attorney's Office	Chicago	IL
Pamela	Bondi	State Attorney's Office	Tampa	FL
Tom	Borbes	Carlton Fields PA	Tampa	FL
Alana	Bowman	Los Angeles City Attorney	Los Angeles	CA
Suzanne	Bradley	FBI	Houston	TX
Howard	Bratcher	Salvation Army	San Antonio	FL
Joy	Braun	Florida Freedom Partnership	Coral Gables	FL
John	Bray	Phoenix Police Department	Phoenix	AZ
Steve	Brooks	Federal Law Enforcement Training Center	Glynnco	GA
Greg	Brown	Hillsborough County Sheriff's Office	Brandon	FL
Lorraine	Brown	U.S. Immigration & Customs Enforcement	Long Beach	CA
Willie	Brown	Image Technical Services	Orlando	FL
Sam	Brunelli	Team Builders International	Washington	DC
Daniel	Bryant	U.S. Department of Justice	Washington	DC
Debra	Bryce King	Aid to Victims of Domestic Crime	Delray Beach	FL
Emmit	Bryson	State of Florida	Lehigh Acres	FL

Charlene	Buccione	FBI	Tampa	FL
Mary Beth	Buchanan	Department of Justice	Pittsburgh	PA
Key	Buck	CAST	Los Angeles	CA
Florrie	Burke	Safe Horizon	New York	NY
Linda	Burkle	The Salvation Army	Omaha	NE
Richard	Butcher	House Government Reform Committee	Washington	DC
Mark	Campbell	Florida Attorney General	Tampa	FL
Mark	Cangemi	Department of Homeland Security	Bloomington	MN
Frank	Cannon	Capital City Partners	Arlington	VA
John	Carassas			
Twanda	Carlisle	City Council	Pittsburgh	PA
Mariojo	Carnes	USAO	Tampa	FL
Gerald	Carruth	U.S. Department of Justice	Austin	TX
Vednita	Carter	Breaking Free Inc.	St. Paul	MN
Rick	Castro	San Diego County Sheriff's Department	Vista	CA
Joseph	Catanzarite	U.S. Immigration & Customs Enforcement	West Palm Beach	FL
Cass	Caudill	FBI	Sarasota	FL
Catherine	Ceips	State of South Carolina	Beaufort	SC
John	Chekwin	Immigration and Customs Enforcement	Atlanta	GA
Jim	Chaparro	Immigration and Customs Enforcement	Washington	DC
Sangita	Chari	Boat People SOS	Falls Church	VA
Piper	Charles	Charlotte-Mecklenburg Police Department	Charlotte	NC
Paul	Charlton	DOJ U.S. Attorney's Office	Phoenix	AZ
Pamela	Chen	DOJ U.S. Attorney's Office	Brooklyn	NY
Howard	Cheng	New York City Police Department	New York	NY
Vickie	Childers	Tampa Police Department	Tampa	FL
Candice	Chili	DOJ OPA Staff		
Eumi	Chiu	Department of Justice		
Robert Louis	Choi	DOJ U.S. Attorney's Office	San Francisco	CA
Wendy Olsen	Ciotti	Carlton Fields	Odessa	FL
Michele	Clancy	DOJ U.S. Attorney's Office	New York	NY
Robert	Clark	Johns Hopkins University	Washington	DC
Thea	Clark	FBI		
Phillip	Clayton	Hillsborough County Sheriff's Office	Tampa	FL
Julie	Cogsdale	Virginia Department of Health	Lutz	FL
Aaron	Cohen-Chaisen	People for Children	Richmond	VA
			Costa Mesa	CA

Steve	Cole	USAO	Tampa	FL
Barbara Wike	Coleman			
Anthony	Comuniello	Queens County District Attorney's Office	Kew Gardens	NY
Karen	Conan	FBI	Maitland	FL
Michael	Considine	DOJ U.S. Attorney's Office	Chicago	IL
Terry	Coonan	FSU Human Rights Center	Tallahassee	FL
Davis	Cooper	Department of Justice	McLean	VA
J. Regan	Cooper	Pennsylvania Immigration & Citizenship Coalition	Philadelphia	PA
Mark	Corallo	Department of Justice	Washington	DC
Linda	Corraro	Department of Justice	New Haven	CT
Sharon	Cortinas	Essex County Sheriff's Office	Newark	NJ
Robert	Cosby	The Salvation Army	Tampa	FL
David	Courtney	DOJ U.S. Attorney's Office	Philadelphia	PA
Mark	Cowen	SonCoast Community Church	Boca Raton	FL
Stephen	Cox	State Attorney's Office	Tampa	FL
Patricia	Crane	Hillsborough County Sheriff's Office	Tampa	FL
Janice Shaw	Creighton	Hillsborough County Sheriff's Office	Tampa	FL
Elizabeth	Crouse	Concerned Women for America	Washington	DC
Faye	Cuevas-Nunder			
Anthony	Culp	Florida State House of Representatives	Tampa	FL
Heather	Curry	FBI	New York	NY
Kim	Cutchen	DOJ OPA Staff		
Deborah J.	Dammers	Department of Justice	Atlanta	GA
Devraj Kumar	Daniels	U.S. Department of Justice	Washington	DC
Kenneth	David	Florida Atlantic University	Davie	FL
Margaret	Davis	Hillsborough County Sheriff's Office	Tampa	FL
Martin	Davis	Office on Violence Against Women	Washington	DC
Lou	Davis	Metropolitan Police Department	Washington	DC
Olga	De Baca	Department of Justice	Washington	DC
Don	De La Rosa	DOJ U.S. Attorney's Office	McAllen	TX
Danielle	DeGabrielle	DOJ U.S. Attorney's Office	Houston	TX
Patricia	Deisch	Department of Justice	San Antonio	TX
Charles	Delouisa	The Salvation Army	New York	NY
Richard	Dernore	U.S. Immigration & Customs Enforcement	Oakland	CA
Grace	Dent	FBI	Jacksonville	FL
Joseph	Denton	DOJ U.S. Attorney's Office	Los Angeles	CA
	Depadilla	DOJ U.S. Attorney's Office	Norfolk	VA



Doreen	Der-Mcleod	Cameron House	San Francisco	CA
William	Desantiago	Catholic Social Services	Phoenix	AZ
Charles	Deservo	NY State Apparel Task Force	New York	NY
Danielle	DeSousa	State Attorney's Office	Tampa	FL
Patrick	Devine	Department of Homeland Security	Buffalo	NY
Joan	Dias	Tampa Police Department	Tampa	FL
Victoria	Dillon	DOJ U.S. Attorney's Office	Las Vegas	NV
Patty	Dobbs	Institute for Intergovernmental Research	Tallahassee	FL
Paula	Dobziansky	U.S. State Department	Washington	DC
Shaen	Doherty	Catholic Charities	Washington	DC
Darcey	Donehey	Department of Justice	Washington	DC
Mary Ellen	Dougherty	USCCB	Los Angeles	CA
Jennifer	Downes	FBI	Tampa	FL
Paul	Driscoll	Tampa Police Department	Tampa	FL
Yossie	Dubrowski			
Gregory	Ducot	International Criminal Investigative Training Assistance Program	Washington	DC
Matt	Dummermuth	U.S. Department of Justice	Washington	DC
Julianne	Duncan	USCCB	Washington	DC
Donna	Duplantier	DOJ U.S. Attorney's Office	New Orleans	LA
Rafael	Duran Jr.	Pahokee City Police Department	Pahokee	FL
Daniel	Dzwilewski	FBI	San Diego	CA
Kevin	Eaton	FBI	Tampa	FL
Julia	Edwards	Hillsborough County Sheriff's Office	Tampa	FL
Dayle	Eileson	DOJ U.S. Attorney's Office	Dallas	TX
Derek	Eilerman	Polaris Project	Washington	DC
Jon	Engelbreisen	LA County Sheriff's Office	Whittier	CA
Mark	Epley	Office of Justice Programs	Washington	DC
Roberto	Escobar	Immigration and Customs Enforcement	Santruce	PR
Deborah	Espy	Fulton County District Attorney's Office	Atlanta	GA
Shirley	Estreicher	DOJ U.S. Attorney's Office	Newark	NJ
Nancy	Fabrizio	DOJ U.S. Attorney's Office	Brooklyn	NY
Onelia	Fajardo	Miami-Dade County Health Department	Miami	FL
Melissa	Farley	Prostitution Research & Education	San Francisco	CA
Michael	Felix	Los Angeles Police Department	Los Angeles	CA
Brenda	Ferebee	U.S. Marshal	Tampa	FL
Debra	Fergus	Catholic Social Services	Phoenix	AZ
Martin	Ficke	Department of Homeland Security	New York	NY

Darrell	Figueredo						
Joyce	Fisher	USAO-MDFL	Tampa				FL
Cindy	Flachmeier	Salvation Army					
Maria Jose	Fletcher	Florida Immigrant Advocacy Center	Miami				FL
J. Robert	Flores	Office of Juvenile Justice & Delinquency Prevention	Washington				DC
Sidney	Ford	YANA	Baltimore				MD
Robert	Fountain	Calvary Chapel Miami Beach	Miami Beach				FL
John	Fox	Immigration & Customs Enforcement	Baltimore				MD
Bert	Fox	Image Technical Services	Orlando				FL
Jennifer	Frappler	Courtesy Associates	Washington				DC
Evelyn	Freeland	Courtesy Associates	Washington				DC
Robert	French	FBI	Tampa				FL
Gary	French	Boston Police Department	Boston				MA
Phillip	Frese	Catholic Community Services	Newark				NJ
Carla	Friestad	DOJ U.S. Attorney's Office	Phoenix				AZ
Mark	Furtado	Department of Homeland Security	Boston				MA
Edward	Gallagher	DOJ U.S. Attorney's Office	Houston				TX
Mary	Gallegos	Oregon House of Representatives	Cornelius				OR
Elvia	Garcia	Diocesan Migrant & Refugee Services Inc	El Paso				TX
Ivelisse	Garcia	Plainfield Police Department					
Gerald	Gardner	Nevada Attorney General	Las Vegas				NV
Stephen	Gately						
Beverly	Gatewood	FBI	Tampa				FL
Suzanne	Geer						
Sylvia	George	Hillsborough County Sheriff's Office	Tampa				FL
Laura	Germino	Coalition of Immokalee Workers	Immokalee				FL
Brad	Giglio	Cook County State's Attorney	Chicago				IL
John	Gillis	Office for Victims of Crime	Washington				DC
Patsy	Gillis		Arlington				VA
Monica	Goodling	DOJ OPA Staff					
Gwendolyn	Goodrich	FBI	Maitland				FL
Jennifer	Goodson	Shared Hope International	Washington				DC
Matt	Gordon						
David	Gray	World Relief	New Port Richey				FL
Nancy	Gray	World Relief	New Port Richey				FL
Charles	Green	Philadelphia Police Department	Philadelphia				PA
Kate	Greenquist	DOJ U.S. Attorney's Office	Seattle				WA

Suzanne	Greer				Dundin	FL
Miss	Gregory	Kings County District Attorney's Office			Brooklyn	NY
Lorna	Grenadier	Department of Justice			Washington	DC
Diana	Gryder	Hillsborough County Sheriff's Office			Vairico	FL
Jon	Gubanich	Fairfax County Police Department			Fairfax	VA
Paul	Haag	FBI			Hampton	VA
Brian Ross	Hagman				Palm Harbor	FL
Thomas	Hall	Hillsborough County Sheriff's Office			Tampa	FL
Kesha	Handy	DOJ U.S. Attorney's Office			Houston	TX
Amy	Harily	USAO-MDFL			Tampa	FL
Laura	Hardcastle	Refugee Health Section			Sacramento	CA
Scott	Harmon	State Attorney's Office			Tampa	FL
Amada	Harrell					
Brooke	Harris	DCIS			Tampa	FL
Sherril	Harris	The Cambodian Family			Santa Ana	CA
Sarah Buck	Harrod					
Sarah	Hart	NIJ			Washington	DC
Debra	Hartman	DOJ U.S. Attorney's Office			San Diego	CA
Kathryn	Hausbeck	University Las Vegas & Nevada Anti-Trafficking Initiative			Las Vegas	NV
Kara	Hayes	Suffolk County District Attorney's Office			Boston	MA
Cassandra	Hazel	FBI			Tampa	FL
Kelly	Heinrich	Boat People SOS			Falls Church	VA
Donald	Hemke	Carlton Fields			Tampa	FL
Donald Edward	Henke					
Tracy	Henke	Department of Justice			Washington	DC
Troy	Henley	Immigration and Customs Enforcement			El Paso	TX
Richard	Hertling					
Pi	Hessline	Massachusetts State Police			Boston	MA
Jose	Hidalgo	Project REACH			Brookline	MA
Carolyn	Hightower	Office of Justice Programs			Washington	DC
Jean	Hines					
Molira	Hinson	The Salvation Army			Tampa	FL
Elizabeth	Hittos	Office of Florida State Representative Gus Billirakis				
Paul	Hittos					
James	Ho	Sen. John Cornyn - Senior Judiciary Comm.			Alexandria	VA
Michael	Hodzen	Department of Homeland Security			Detroit	MI
Jay	Hoffer	USAO-MDFL			Tampa	FL

Debbie	Hoffman							
Wendy	Hogue	FBI		Tampa		FL		
Erik	Holland	DOJ OPA Staff		Tampa		FL		
Sandra	Hollingshead	FBI		Hilo		HI		
Annette	Honda	The Salvation Army		Richmond		VA		
Brian	Hood	DOJ U.S. Attorney's Office		Baltimore		MD		
Tracy	Hood	YANA		Tampa		FL		
Carolle	Hooper	State Attorney's Office		Washington		DC		
Wade	Horn	Department of Health and Human Services		Valrico		FL		
Charles	Hoskinson			San Francisco		CA		
Norma	Hotelling	SAGE Project Inc		Melbourne		FL		
Todd	Howard	FBI		Tampa		FL		
Chuck	Hudson	State's Attorney's Office		Thurmont		MD		
Donna	Hughes	University of Rhode Island		Los Angeles		CA		
Sandra	Hunnicut	Captive Daughters		Washington		DC		
Thomas	Hurlburt	U.S. Marshals Service		Newark		NJ		
Kyle	Hutchins	Department of Homeland Security						
Asa	Hutchinson	DHS						
Leighton	Hyde							
Mary Kate	Hyde							
David	Iglesias	DOJ U.S. Attorney's Office		Albuquerque		NM		
Jonathan	Irnbody	Christian Medical Association		Ashburn		VA		
Eldred	Jackson	U.S. Department of Justice		Washington		DC		
Tony	Jackson			Brandon		FL		
Wroe	Jackson	DOJ OPA Staff						
Larry	Jacobs	Phoenix Police Department		Phoenix		AZ		
Philip	Jacobson	U.S. Department of Labor		New York		NY		
William	Jessie	Revealing Truth Ministries						
Yvette	Jessie							
Marcos	Jimenez	DOJ U.S. Attorney's Office		Miami		FL		
Lynn	Johnson	DOJ U.S. Attorney's Office		Alexandria		VA		
Jan	Jones	DOJ U.S. Attorney's Office		Atlanta		GA		
Jeffrey	Jordan	ICE		Charlotte		NC		
Ethan	Kanter	Office of the Deputy Attorney General		Washington		DC		
Phyllis	Katsakiores	New Hampshire House of Representatives		Derry		NH		
Kay Kellogg	Katz	Louisiana House of Representatives		Monroe		LA		
Maria	Kavouklis							

Philip	Kearney	U.S. Department of Justice	San Francisco	CA
Sean Patrick	Keefe			
Chris Ann	Keehner	Senate Committee on Foreign Relations	Alexandria	VA
David	Kelley	DOJ U.S. Attorney's Office	New York	NY
Andrew	Kempel	State Attorney's Office-16th Judicial Circuit	Key West	FL
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**USCCB Responses to Senator Durbin on Human Trafficking**

**Based on Testimony given by Sr. Mary Ellen Dougherty, SSND, before the Senate Subcommittee on Constitution, Civil Rights and Property Rights--July 7, 2004**

**1. The Trafficking Victims Protection Act (TVPA) permits the executive branch to issue 5,000 visas each year for trafficking victims to use to seek legal protection and humanitarian assistance. The TVPA was signed into law in October, 2000, which means that the executive branch could have issued 20,000 T visas by now. According to testimony by Charles Song of the Coalition to Abolish Slavery and Trafficking, however, the actual number of T visas issued to date is 371.**

**I am concerned about the low number of T visas that the executive branch has issued. The TVPA does not require that a federal investigation or prosecution take place in order for a T visa to be issued to a victim. Moreover, after adoption of the Trafficking Victims Protection Reauthorization Act of 2003, minors are now entitled to receive T visas regardless of whether they are even willing to provide assistance to law enforcement officials.**

**What specific advice would you give to this Administration for improving its track record with respect to issuing T visas to trafficking victims?**

**Answer:** USCCB agrees that the low number of T visas issued since the passage of the TVPA in 2000 is cause for concern. We first need to consider that the issue of human trafficking is an emerging one and that it takes time to coordinate the government response to this growing problem. Many law enforcement officials did not recognize the crime of trafficking in earlier years, believing it to be smuggling or prostitution rings. With more attention being shown to the issue, it is more likely that law enforcement will investigate and apprehend trafficking rings, and rescue trafficking victims, on a more regular basis.

In this regard, however, there needs to be a concerted effort to raise awareness in local communities and with local law enforcement about human trafficking and the availability of support services and immigration relief for these victims. While such efforts in the first few years of the TVPA have been somewhat lacking, the Administration has been taking more initiatives recently to publicize the availability of the T visa to trafficking victims.

Specifically, in order to address this problem, more avenues should be created for victims to access support services and immigration relief. As Sister Mary Ellen Dougherty stated in her testimony to the subcommittee, in practice there exist only certain avenues for referral of victims for certification, mainly by federal authorities who apprehend and prosecute traffickers and, in the process, rescue victims.

The Trafficking Victims Protection Reauthorization Act of 2003 contains a provision which permits the Office of Refugee Resettlement (ORR) to consider referrals of victims for certification by state and local law enforcement authorities. Unfortunately, the provision is vague in construction and has caused some confusion among governmental officials as to its intent. The intent of Congress in including this provision in the 2003 reauthorization legislation should be clarified with Justice Department officials, perhaps through a letter to the Attorney General from the sponsors of the bill. Or, in the alternative, Congress should legislatively clarify this provision so that it is clear that local and state officials maintain this authority. However, regardless of a congressional statement on this issue, USCCB suggests that the Administration continue its very recent efforts to educate local law enforcement and to authorize them clearly to assist victims of trafficking in their efforts to get their T visa.

Another contributing factor to the low rate of referrals, certification, and relief is the lack of coordination between federal agencies. While such coordination is improving, often we have found that agencies with jurisdiction in this area do not effectively communicate information to each other, particularly on specific trafficking victim cases. NGOs which assist the government in assisting victims have, at times, acted as conduits of information on certain trafficking cases.

**2. What additional laws, if any, do you believe Congress should pass in order to help win the fight against trafficking?**

**Answer:** USCCB believes that some legislative improvements should be made in the area of child trafficking victims. Children are especially vulnerable to traffickers and susceptible to the emotional and physical trauma of sexual slavery or forced domestic servitude.

Currently, when child trafficking victims are apprehended they are handled in a variety of ways. They are placed in shelters, delivered to community providers (who may or may not have a specialty in care of children) for care, or kept in detention. Once they are identified as victims of trafficking, law enforcement officials alert ORR which, in turn, provides a letter of eligibility and contacts the appropriate child welfare agency (the U.S. Conference of Catholic Bishops or Lutheran Immigration and Refugee Service). At the point that the child is placed in the care of an appropriate agency, the care of the child is governed by the "best interest of the child" principle.

However, the time between discovery of the child and the declaration of eligibility is problematic. The time period can be random and children can remain in detention for long periods of time. USCCB favors legislation which would mandate that, when a child is apprehended, a child welfare expert must be contacted and appointed immediately to speak for the best interest of the child. The best interest of the child should supersede all other concerns, including the needs of the prosecution.

In addition, the passage of the Unaccompanied Alien Child Protection Act of 2003, sponsored by Senator Dianne Feinstein (D-California) and Senator Sam Brownback (R-



Kansas), would help unaccompanied alien children, including child victims of trafficking, to navigate the complex system and laws governing their placement and legal status. We thank Senator Durbin for his support of this legislation and for its recent passage by the Senate Judiciary Committee.

**3. You testified that the Bush Administration has emphasized sex trafficking rather than labor trafficking. You were critical of this emphasis and stated that “we have more victims of labor trafficking than we have of sexual exploitation.” You testified: “I was very pleased last September that President Bush mentioned human trafficking in his speech to the U.N. However, he too mentioned it in the context of sexual exploitation and there was no mention of labor there. That is a concern.”**


**A. Why do you believe that President Bush has emphasized sex trafficking rather than labor trafficking?**

**Answer:** USCCB would not speculate as to why the emphasis of sex trafficking over labor trafficking. In providing these comments in our testimony, we do not in any way minimize the moral gravity of sex trafficking, but simply seek to raise awareness about forced labor as another form of trafficking. In fairness, President Bush recently mentioned forced labor in a speech on trafficking to the Department of Justice Trafficking Conference in Tampa. Furthermore, the recent discovery of 59 Peruvian trafficking victims on Long Island who were forced to work in a factory for long hours with no pay has raised awareness as to this aspect of trafficking, both to the general public and to government officials.

**B. Do you believe this emphasis is shared by members of the executive branch who enforce trafficking laws and assist trafficking victims? Please explain.**

**Answer:** It is the experience of USCCB that the Departments of Justice, Homeland Security, and Health and Human Service are very aware of both fields of abuse and willing to prosecute traffickers and serve victims in both arenas. The Department of Justice has been particularly even-handed in its willingness to prosecute both kinds of abuses. This has been demonstrated in the recent Long Island case. They have also increased their public recognition of labor as a human trafficking issue.

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Statement of  
**The Honorable John Cornyn**  
United States Senator  
Texas

July 7, 2004

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**Examining U.S. Efforts to Combat Human Trafficking and Slavery**

This subcommittee is expressly chartered to oversee constitutional and civil rights issues across America. Just last month, the subcommittee examined the pervasive problem of hostility to religious expression in public squares across America.

Today's hearing will look at the most fundamental of all of our cherished civil rights. Today, the subcommittee will examine U.S. efforts to combat human trafficking and slavery across America.

As the Administration continues to fight to protect the American way of life in its war against terrorism, it has also been fighting another war to protect American ideals and principles – a war against an old evil: human trafficking and slavery.

Most Americans would be shocked to learn that the institutions of slavery and involuntary servitude – institutions that this nation fought a bloody war to destroy – continue to persist today – not just around the world, but hidden in communities across America.

It has been nearly two centuries since the abolition of the transatlantic slave trade, and well over a century since the ratification of the Thirteenth Amendment. Yet to this day, men, women and children continue to be trafficked into the United States, and coerced into lives of forced labor and sexual slavery. The stories they tell are tragic, disturbing, and heart-rending. And the acts they endure are not just unconstitutional, not just criminal – they are profoundly evil, immoral, and wrong.

Today, we will hear tales of human suffering – from across Texas, and across America. Their experiences amount to a modern-day form of slavery. Their stories are not easy to hear – but we must hear them and we must face up to them, if we are to finish the work of the Thirteenth Amendment, and truly expel the institution of slavery from our midst. We will hear their stories, and then we will learn what the Administration has been doing to alleviate this suffering. Specifically, we will examine the Justice Department's efforts to protect the victims of human trafficking and slavery, to punish the evildoers, and to prevent other innocent human beings from ever having to suffer the same fate.

On March 27, 2001 – within weeks of taking office – Attorney General John Ashcroft announced the creation of a comprehensive Justice Department initiative to combat human trafficking in America. Since that announcement, the Department has undertaken an aggressive campaign to eradicate slavery in America – an effort led by the Civil Rights Division, and joined by other components within Main Justice, as well as U.S. Attorney offices across the country.

The Thirteenth Amendment states, and I quote: “Neither slavery nor involuntary servitude . . . shall exist within the United States, or any place subject to their jurisdiction.” This is a unique provision of our Constitution. Many constitutional amendments protect individual rights against actions by federal, state, and local governments. Other amendments alter the structure of our government. But the Thirteenth Amendment is different. It protects fundamental human rights by abolishing an entire institution of society. The Thirteenth Amendment is unique, because under it, slavery and involuntary servitude cannot exist – in public and private spheres alike.

Yet the institution of slavery continues to exist, even today. In communities across America, human beings are trafficked – literally bought and sold – into lives of forced labor or sex slavery.

The trafficking of human beings is evil, immoral, and wrong – yet most Americans are unaware even of its existence, let alone its magnitude. According to government estimates, approximately 800,000 human beings are bought, sold or forced across the world’s borders each year. Moreover, Americans may be particularly alarmed to learn that at least 15,000 human beings are trafficked into lives of slavery in the United States each year. Indeed, according to some estimates, the number could be as high as 50,000 per year.

We cannot grasp the true, horrifying nature of human trafficking and slavery with numbers alone, however. We must not simply count the victims – we must also hear their stories.

Just recently, the Justice Department obtained convictions in the largest labor trafficking case it has ever prosecuted [United States v. Kil Soo Lee]. Kil Soo Lee, a Korean businessman, transported over 200 workers from China and Vietnam into United States territory. He detained them and forced them to work in his American Samoa garment factory under slave-like conditions, enforcing his will by ordering beatings by his henchmen – using sharpened pipes, fluorescent lights, chairs, and fists. Civil Rights Division attorneys successfully prosecuted Mr. Lee and his partners under the federal criminal slavery and peonage statutes. Mr. Lee’s sentencing is pending, and two of his thugs are already serving substantial time.

Consider another tragic example, this one from my home state of Texas. An international trafficking operation – known by local prosecutors as the “Molina Organization” – promised young females a better life and employment in the United States, as either housekeepers or waitresses in restaurants throughout the

Ft. Worth area. Once they arrived, however, they were coerced into lives of prostitution and forced labor. Over 200 young women were trafficked from Honduras into the United States by this operation. The U.S. Attorney's office in the Northern District of Texas, working in conjunction with the Civil Rights Division, shut down the operation by bringing charges against nine defendants [United States v. Molina]. Six defendants eventually pled guilty, while three others are fugitives from justice.

I recently received a letter from the Justice Department detailing numerous examples of forced labor and sex slavery cases all across the country – from California to Maryland, Hawaii to New Jersey, Georgia to New Hampshire. Without objection, that letter will be entered into the record. And we are honored to have before the subcommittee today two distinguished U.S. Attorneys from Texas, who bring with them tragic tales to tell from their respective districts.

Thankfully, Congress and the Administration have been working closely together in recent years to combat human trafficking. Congress has enacted legislation such as the Trafficking Victims Protection Act of 2000 – to strengthen federal criminal slavery statutes, to provide victims with basic human needs so that they can begin the road to recovery, and to encourage their cooperation with law enforcement so that others will not suffer a similar fate. Just last fall, we enacted legislation to reauthorize and strengthen that Act.

The Administration has responded to the call, by dramatically increasing efforts and devoting substantially more resources toward combating human trafficking. Under the leadership of the Civil Rights Division, the Justice Department has prosecuted and convicted three times the number of traffickers over the past three fiscal years as in the preceding three years. The Department has created an office of Special Counsel for Trafficking Issues to coordinate anti-trafficking efforts, published educational and awareness-raising materials and circulated them to officials across America, and provided assistance to victims by installing a toll-free hotline.

In addition, the Department has already established state and local task forces in Philadelphia, Atlanta, Phoenix, and Tampa, to coordinate anti-trafficking efforts of federal, state, and local government and non-governmental organizations (NGOs) in those areas. Clearly, the Department recognizes that the support of local officials, in government and in the private sector alike, is absolutely essential to any successful effort to uncover the evil acts of human trafficking and slavery that are so carefully hidden in numerous pockets across America. I look forward to working with the Department to begin establishing such task forces in the state of Texas later this year.

And next week, the Justice Department is sponsoring a historic "National Conference on Human Trafficking" in Tampa, Florida – bringing together federal, state, and local officials, social service agencies, and NGOs, to provide training and coordination to anti-human trafficking efforts across the country, as provided in the fiscal year 2004 appropriations bill.

I also applaud Congress for recognizing the problem. Today's hearing is

certainly not the first Congressional hearing to bring attention to the deeply disturbing problem of human trafficking – and it must not be the last. My colleagues and I must continue to vigilantly monitor the situation, and to consider whether further legislation is necessary to bolster the Department's efforts.

For example, if further improvements to our federal criminal slavery and peonage statutes would assist prosecutors and facilitate legitimate prosecutions, so be it. If federal legislation is needed to ensure that immigration T-Visas and other important and compassionate protections are provided to true victims of human trafficking and slavery, let's do it. If more state laws are necessary to ensure that federal efforts are accompanied by robust efforts at the state and local level, let's encourage it. My home state of Texas, as well as the states of Washington and Florida, have led the way by enacting state criminal laws against human trafficking. Other states should seriously consider joining the cause.

Human traffickers peddle in human misery. They smuggle innocent human beings into this country, and condemn them to lives of forced labor or sex slavery. For countless numbers of victims, the American dream quickly turns into an American nightmare. Such tales of human suffering should not exist anywhere in the world – and especially not in the United States of America.

I want to close my remarks by quoting a man whose passing Americans continue to mourn. On January 11, 1989, President Reagan delivered his 34th – and final – address from the Oval Office. In that farewell address, he said, and I quote: "America is freedom – freedom of speech, freedom of religion, freedom of enterprise. And freedom is special and rare. It's fragile; it needs protection."

The American commitment to eradicating human trafficking and slavery from our midst is a solemn vow – reflecting the highest traditions of our Founding Fathers, and the drafters of the Thirteenth Amendment. It is a commitment to the principles of freedom and liberty that Americans have fought and died to protect – a commitment that Americans across the nation commemorated just three days ago. And it is a profoundly moral commitment – not just to punish violators of our criminal laws, but to repel an assault on our Nation's core beliefs about the fundamental worth and dignity of every human being.

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**Testimony of Migration and Refugee Services  
U.S. Conference of Catholic Bishops**

**on**

**Trafficking in Human Persons**

**Hearing before the Senate Committee on the Judiciary**

**Subcommittee on the Constitution, Civil Rights, and Property  
Rights**

**United States Senate**

**Wednesday, July 7, 2004**

**presented by**

**Sr. Mary Ellen Dougherty, SSND**

I am Sister Mary Ellen Dougherty, a School Sister of Notre Dame and Program Manager for Outreach, Education, and Technical Assistance, Trafficking in Persons program, of Migration and Refugee Services of the U.S. Conference of Catholic Bishops (MRS/USCCB). I am pleased to be here today before the Subcommittee to testify on U.S. efforts to combat the growing problem of trafficking in human persons.

The movement of people across boundaries around the world is part of the collective human experience, but towards the end of the 20<sup>th</sup> century a new and disturbing issue related to the international migration of humans began to emerge: the trafficking of humans through the use of fraud, force, or coercion.

Now, in the twenty-first century, the practice reaches every corner of the globe, from Asia and Africa to Europe and the Americas. The purveyors of this new international scourge—international traffickers and their accomplices—gain power and reap profits from their abuse and exploitation of those they traffic.

This is not a problem which exists merely on far away shores and in less developed lands. It exists right here in the United States, where thousands of persons are trafficked each year for purposes of forced prostitution or forced labor. Trafficking in persons is a modern-day form of slavery, and it is the largest manifestation of slavery today.

#### **Catholic Social Teaching**

The Catholic bishops of the United States and the church community throughout the nation have placed combating human trafficking as a top priority in their public advocacy, educational outreach, and in providing service to trafficking victims. From the Catholic perspective, human trafficking represents a scourge on the earth which must be eradicated. It is indeed troubling that in the twenty-first century human beings are being sold into bondage as prostitutes, domestic workers, child laborers, and child soldiers.

His Holiness Pope John Paul II, in a letter on the occasion of the International Conference on “21<sup>st</sup> Century Slavery—the Human Rights Dimension to Trafficking in Human Beings,” stated that human trafficking “constitutes a shocking offense against human dignity and a grave violation of fundamental human rights. In particular, the sexual exploitation of women and children is a particularly repugnant aspect of this trade, and must be recognized as an intrinsic violation of human dignity and human rights.”<sup>1</sup>

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<sup>1</sup> Pope John Paul II, *Letter to Archbishop Jean-Louis Tauran on the Occasion of the International Conference on 21<sup>st</sup> Century Slavery—the Human Rights Dimension in Trafficking in Human Beings*, May 15, 2002.

The Catholic bishops of the United States and Mexico have also spoken out on the issue, calling upon the governments of the United States and Mexico to work together to apprehend traffickers and destroy trafficking networks: “Both governments must vigilantly seek to end trafficking in human persons. Together, both governments should more effectively share information on trafficking operations and should engage in joint action to apprehend and prosecute traffickers.”<sup>2</sup>

Bishop Thomas Wenski, Coadjutor Bishop of Orlando, Florida, and Chairman, U.S. Conference of Catholic Bishops Committee on Migration, recently reaffirmed the commitment of the church to ending human trafficking: “The Catholic Church...in the United States stands ready to work with our government to end this scourge. We cannot rest until trafficking in human persons is eliminated from the globe.”<sup>3</sup>

### **The Scourge of Human Trafficking**

At least 700,000 persons annually are trafficked within or across international boundaries. They are forced or enticed mainly from less-developed countries and regions, such as India, the former Soviet Union, Central and South America, and throughout Africa. They traverse the globe, ending in Germany, Italy, the Netherlands, Israel, Australia, Japan, Canada, and the United States.

It is estimated that as many as 17,000 human beings each year are trafficked into the United States. Women and children have been forced to work in prostitution and child pornography rings, while men, women, and children have been forced into different types of manual labor, without pay or protection.

Victims of human trafficking are commonly linked by poverty and lack of opportunity. They are also connected by their desperation and urge to escape the double trap of privation and their perception of migration as an accessible escape route. Often they seek to escape life in a dreary village or oppressive slum, with the hope of finding opportunity and a brighter future in a more developed land.

It is in these environments that human traffickers flourish, promising unsuspecting victims an opportunity to travel to a foreign land, at no immediate expense, for employment and housing. At the end of the journey, they find coercion, abuse, entrapment, and exploitation in a brothel, a massage parlor, an illicit factory, or an agricultural outpost. By the time they are rescued, if ever, they are shattered by physical, mental, and psychological abuse in the roles of prostitutes, domestic servants, or

<sup>2</sup> U.S. and Mexican Catholic Bishops, *Strangers No Longer: Together on the Journey of Hope*, January, 2003, n. 191.

<sup>3</sup> Statement of Bishop Thomas Wenski, Press Conference on Launching of Anti-Trafficking Initiative in Central Florida, June 9, 2004.



manual laborers. Many become ill with disease or become infected with HIV. Some lose their lives.

#### **The Church Response to Human Trafficking**

As I mentioned, Mr. Chairman, the Catholic Church has placed the elimination of trafficking as an important priority in the areas of public advocacy, public education, and services to trafficking victims. We are working to raise awareness within the Catholic community about the problem, including trainings to help diocesan staff identify and assist victims of trafficking. We have sponsored roundtables and fora on the subject and held public meetings on several occasions to educate the Catholic faithful and others on human trafficking. It is important to note, Mr. Chairman, that all of our training and education are directed toward one end: the best interest of the victims. Our education and training are intended to help people to identify victims when they see them, and to empower them to act on what they see.

Part of this effort is driven by the Catholic Coalition Against Human Trafficking, which consists of about twenty Catholic organizations which convene quarterly and work together on advocacy and public outreach. The coalition was instrumental in influencing provisions of the Trafficking Victims Protection Act of 2000 and its successor, the Trafficking Victims Protection Reauthorization Act of 2003.

The Church and its service organizations, particularly Catholic Charities, also provide support services to both adult and child victims of trafficking, including health and mental health services, employment assistance, English-language training, counseling, housing and other material assistance. Through our service providers, we also provide case management services, social service assistance, and legal assistance, where appropriate. In our experience, Mr. Chairman, victims of trafficking need access to a continuum of services in order to attain self-sufficiency and restore mental and physical health.

Trafficking victims also need, first and foremost, safety and security. Many are terrified of the traffickers who brought them to the United States and show signs of post-traumatic stress disorder, among other mental health problems. Providing them with a secure, safe, and nurturing environment is crucial to ensuring their return to society as contributing members. In this vein, MRS/USCCB has developed a system for short-term emergency housing where victims can be safe until they are assigned to a non-governmental organization to provide them with the services they are entitled to as victims of trafficking. Our system of safe houses involves the commitment of individuals and communities, including religious communities, who open their doors when there is an emergency in their area or who network to ensure that victims receive housing and are protected.

Mr. Chairman, let me add that faith-based organizations are uniquely positioned to identify and provide assistance to victims of human trafficking. First, faith-based organizations act from a theological and philosophical perspective. For example, the

themes of Catholic social teaching—the protection of human dignity and human rights; the preferential option for the poor; the call to family and community; the rights of workers; solidarity and care for creation—all address evils inherent in human trafficking. These principles of justice are not unique to Catholicism but are manifest in most religions. Commitment to these principles gives the issue of human trafficking a sense of urgency to many faiths and religious communities.

Second, many faith-based organizations have national and international partner agencies that enhance their capacity and reach. The Catholic Church is certainly no exception and plays a leading role in giving voice to the victims of trafficking. Through advocacy and material support, the Church utilizes her full reach, resources, and expertise – both domestically and internationally – to bring peace, justice, and hope to this vulnerable population. For example, the Catholic Church is present overseas, in the form of Catholic Relief Services and other Catholic overseas assistance organizations and the universal Church, as well as domestically, in the form of Catholic Charities, local dioceses, and parishes. We also have access to other service providers, such as religious congregations around the world.

Finally, faith-based organizations have resources, in the form of human resources, in-kind donations, and other assets, which provide an important infrastructure which can assist in the fight against human trafficking. While we see the effort as a partnership with the U.S. government and other governments around the world, we would be performing this work regardless, particularly because of the moral gravity of the issue and the ongoing suffering of its victims.

#### **U.S. Government Response to the Plague of Human Trafficking**

Mr. Chairman, in 2000 the U.S. Congress passed landmark legislation, entitled the Trafficking Victims Protection Act of 2000, which provided the U.S. government the framework to respond to the plague of human trafficking in the United States. Just last year, you reauthorized the legislation and made major improvements to it, giving law enforcement authorities more tools to apprehend traffickers and giving trafficking victims, especially children, easier access to immigration benefits and services.

Specifically, TVPA revamped U.S. law by making trafficking a crime against an individual, allowing the U.S. government to focus on victims of trafficking. The government now provides funding to assist victims and issues a T-visa, created under the law, to provide protection and permanence to victims. Reauthorization of TVPA allowed for minors to access the T-visa without being forced to testify in open court against their perpetrators and allowed for siblings of victims to come with their parents to the United States. We believe the T-visa and its protection is a major feature of U.S. law which permits victims to remain in the United States and not be sent back to potential traffickers in their home countries.

Since the passage of TVPA in 2000, the Department of State, the Department of Justice, and the Department of Health and Human Services have made great strides in

implementing the law. Because of their joint and individual efforts, general awareness about the reality of human trafficking has increased, more victims have been identified and referred for services, and more traffickers have been brought to justice. Your leadership, Mr. Chairman, and that of Congress will help improve these efforts even further in the years ahead.

However, Mr. Chairman, improvements can be made in several areas, including the provision of a continuum of services to victims and in identifying and referring victims for care. We make the following recommendations for your consideration:

**1. Funding for services should be increased and services should be made available to victims from the point they are rescued to the point they are self-sufficient and in good health.**

While the Congress has appropriated funds for services to trafficking victims through the Office of Refugee Resettlement of the Department of Health and Human Services (ORR/HHS) and the Department of Justice, there exist gaps in funding and services for victims which should be addressed.

First, funding for services should be made more available once a victim is identified but before certification by HHS. This is a critical time in the care of a trafficking victim, who is usually traumatized, physically and mentally abused, and insecure. The funding which is available for pre-certification is inadequate to address the needs of an individual when the period between his or her identification and certification lasts many months. Care and placement should begin immediately upon the rescue of a victim. While both the Department of Justice's Office of Victims of Crime and HHS recognize this principle, the funding does not match the long-term care that the investigation mandates.

While HHS funding for victims has been adequate given the low numbers of victims identified, it will not accommodate numbers that will surface if the HHS *Rescue and Restore* program is effective. When large numbers of victims are uncovered, no funded agency can respond without depleting its funding on one single case. We recommend a contingency fund that is both large enough and flexible enough to provide for large-scale emergency cases.

Recent events on Long Island demonstrate the need for such a fund. Last week 69 Peruvians were rescued from captivity in Suffolk County, Long Island, by law enforcement authorities. They had been held in captivity for four years, forced to work 18 hour days and pay traffickers. Catholic Charities of the Rockville Centre diocese is now attempting to provide counseling, medical care, job placement, housing, and immigration assistance to the victims.

Second, consideration should be given for the care of victims post-certification, at least until they have achieved self-sufficiency and good health. Currently, funding provides for initial screening, health-care, employment referral, and other services,

but does not follow the victim beyond the initial stages of resettlement. This leaves these victims susceptible to traffickers and to desperation on the streets.

We recommend that the subcommittee examine the continuum of care given to trafficking victims and work to fill the gaps which undermine the potential success of victims to lead happier and more fulfilling lives.

**2. More avenues should be created for the referral of victims for certification and services.**

Although as many as 17,000 persons are trafficked into the United States each year, approximately 500 have been identified and certified since 2000. This is primarily because of the lack of awareness among the general public, community organizations and groups, and local law enforcement authorities, which should improve in the months and years ahead. It is also because there exist only certain avenues for referral, mainly by federal authorities who apprehend and prosecute traffickers and who rescue victims.

The reauthorization of the TVPA in 2003 includes a provision which allows ORR/HHS to consider referrals by state and local law enforcement authorities of trafficking victims for certification. However, the language is vague, resulting in confusion as to how local and state law enforcement are involved in referral/certification decisions. We recommend that the exact authority of local and state law enforcement to refer victims for services be clarified and enforced.

In addition, many state and local officials are unaware of this provision and of the certification process and services available to victims. Since state and local authorities often encounter trafficking rings and victims without recognizing them as such, more education should be provided by the federal government to state and local governments for this purpose. We applaud the initiatives of the Department of Justice to provide this education and encourage them to move expeditiously.

**3. Federal agencies should better coordinate efforts, especially in the certification, protection, and care of victims.**

The creation of the State Department Office to Monitor and Combat Trafficking in Persons in the TVPA has helped focus the efforts of the U.S. government in the last several years. Among the initiatives undertaken by the Office include an interagency task force to coordinate efforts and initiatives to combat trafficking and the sponsorship of conferences and fora to educate the public and others about the issue. The Office also issues an annual Trafficking in Persons report, which identifies sending countries and holds them accountable for not addressing the issue in their countries. The Office also speaks for the U.S. government on trafficking issues, raising awareness domestically and abroad.

Coordination between federal agencies, however, such as the Department of Justice and the Department of Health and Human Services, should be improved. For example, information on victims and prosecutions should be more readily shared between the agencies, and questions about implementation of the law should be jointly considered and addressed. For example, confusion and disagreement over the role of state and local law enforcement in referring trafficking victims continues, without a clear system to take advantage of this provision and encourage those officials to use it.

Mr. Chairman, these suggestions and observations are given with the highest respect for the federal officials who are implementing this law and spearheading the U.S. response to this scourge. We must keep in mind that the issue of trafficking in human persons is an emerging issue which will take time to eradicate and that we must work together toward this goal.

#### **Child Trafficking Victims**

Mr. Chairman, MRS/USCCB has a special interest in the situation of children who are trafficking victims. As you know, children are particularly vulnerable to traffickers and are susceptible to their abuses. We must pay particular attention to child trafficking victims and ensure that they are protected and provided special care. Mr. Chairman, children are perhaps the most vulnerable group of victims of trafficking. While efforts to find and assist victims of trafficking have been pursued with commendable commitment over the last several years, we fear that children, as a group, have fallen through the cracks of these enforcement efforts. Since the enactment of TVPA, only 34 child victims have been identified within the United States and referred to trafficking victims assistance. However, knowledge of the nature of trafficking, the sexual exploitation of children, and statistics gathered by the State Department on child trafficking worldwide numbers leads one to conclude that many more children are being held involuntarily in trafficking situations in the United States than we have so far identified. Special attention needs to be given to identifying child victims of trafficking crimes.

Those children who *are* discovered are in need of special protection. Most are unaccompanied, without a parent or guardian to care for them, and their immigration status may be in doubt. Currently, the Office of Refugee Resettlement (ORR) ably cares for trafficked and other unaccompanied children without a firm immigration status. Congress could assist ORR by resolving structural ambiguities created when care and placement of these children was transferred from the now defunct Immigration and Naturalization Service (INS) to ORR.

Senators Dianne Feinstein and Sam Brownback have introduced S. 1129, the Unaccompanied Alien Child Protection Act of 2004, which would sensibly resolve these ambiguities and provide other needed reforms in the care and placement of these children, including ensuring that proactive steps are taken to protect such children from smugglers, traffickers, and unscrupulous attorneys who may be cooperating with such criminals. We commend the Senate Judiciary Committee for favorably reporting S.

1129 and urge the Senate and House of Representatives to pass it before the end of the 108<sup>th</sup> Congress.

Mr. Chairman, I would like to share with you and the subcommittee members a success story of trafficked children who were referred to our agency for services.

*In early April, 2002, a local law enforcement agency conducted a raid on an organized crime syndicate involving illegal aliens engaged in prostitution in the U.S. Among those apprehended were four young girls from Mexico who had been lured to the U.S. with promises of marriage, but who instead were forced into prostitution and kept in virtual slavery. At the time of their apprehension by law enforcement personnel, the girls, ranging in ages from 14 to 16, had been in the U.S. and kept in slave-like conditions for two years. They were not allowed to leave the houses in which they were forced into prostitution, were often beaten, and were forbidden to even speak with each other.*

*Soon after the raid, a call was made to ORR/HHS and to Migration and Refugee Services of the U.S. Conference of Catholic Bishops in Washington, requesting assistance in locating an appropriate child welfare environment in which to place the girls. Within a week, the girls were transferred to a state-licensed, residential program for unaccompanied minors which specializes in assisting children suffering from sexual abuse and is experienced in caring for children around the world.*

*Since placement of the girls, reports are that their fears and trauma-induced nightmares are abating. The girls have since received T-visas and helped prosecute the men who trafficked them. The court convicted the traffickers and ordered them to give restitution of \$135, 000 to the girls. They are receiving an education and two are living with family.*

Mr. Chairman, this is an example of how the system should work. Unfortunately, it does not always work in this manner because not enough child victims are able to access the system.

Of the 17,000 persons trafficked into the United States each year, an estimated one-third are children. Unfortunately, there have been few referrals of children for services since 2000. Through FY 2003, only 18 children nationwide have been certified and referred for care. During the current fiscal year, we and our partner agency, the Lutheran Immigration and Refugee Service, have received only *four* referrals of children for services.

The children identified and “determined eligible” for services in the United States to date are largely being served in specialized foster care programs which have long experience caring for refugee, asylee, and other unaccompanied foreign-born children. *Immediate safety* and *long-term stability* are the overwhelming needs of child trafficking victims, regardless of age, background, type of enslavement or any other characteristic. For some of the children to date, the referral and service system has worked well. However, a continuum of care in which the child experiences the most stability should become the norm for child referral victims.

There are several different principles which should be invoked in any decision-making process regarding child victims:

- The “best interest of the child” standard should be used as the basis of all decision-making related to any child identified in any trafficking situation. In any question of age or “victimhood,” the benefit of the doubt should go toward the greater care of the child.
- All children should receive immediate *safe haven* with a systematic plan for assessing the child’s needs.
- *Family reunification* should be explored as a priority but with great care taken to assure that the claimants are genuine family members, do not have connection to traffickers, and are capable of providing safety for the child.
- Children should be placed in the *least restrictive setting* commensurate with their safety and emotional and physical needs.
- Children need assistance with *legal obligations* to assist prosecution and with immigration assistance to ensure that they remain in the United States, if that is in their best interest.
- All children should have a long-term plan for self-sufficiency.

Despite best efforts, there exist gaps in the continuum of care for child trafficking victims, including initial identification by law enforcement of trafficked persons as children and victims, referral to ORR/HHS to be determined eligible for services, and possible “family reunification” with traffickers.

These gaps can have major consequences for child trafficking victims. For example, when children are not identified as trafficking victims, they may be mistakenly identified as adults, detained and deported through the Department of Homeland Security detention system, placed in overburdened local child welfare systems with little security and planning, or released back to traffickers or their associates. When children are identified as trafficking victims but not referred to ORR/HHS for care, they can be placed in short-term shelters where they experience frequent moves, receive no orderly system of assessment and treatment, and have no long-term safety and security.

In order to avoid these devastating consequences for children, we offer the following recommendations:

- Procedures should be developed for all federal, state, and local law enforcement personnel to *refer immediately* children in trafficking-like

situations for assessment and age determination with benefit of the doubt going to the child;

- A system of *immediate safe haven* should be developed where a child is safe while being determined eligible, which includes immediate care and assessment of needs and a strategy to assess family for possible safe reunification;
- Determination of eligibility for child victims should be expedited; and
- *Long-term care in a least restrictive setting* should be arranged, with capacity for therapeutic intervention; assistance with legal obligations; plan for family reunification; or eventual self-sufficiency.
- *A Child Welfare specialist* should be appointed to oversee the child from rescue to self-sufficiency. Such an expert can act as a decision-maker for a traumatized child in a complex legal and child welfare system.

The Catholic Church recognizes the special vulnerability of trafficked victims who are children and is ready to work with the federal government to develop and implement programs which address their needs.

#### **Conclusion**

Mr. Chairman, the issue of trafficking in human persons is perhaps one of the most important human rights issue facing the world community today. The United States, and Congress, have taken significant steps in the past several years to address this problem. The historic passage of trafficking legislation in 2000 established the framework for the U.S. response and places the United States as a moral leader in the effort to eradicate the scourge of trafficking from the face of the earth.

I am confident that, with better coordination and cooperation between all branches of government as well as all federal agencies, we can, as a nation, punish traffickers and provide appropriate care to victims. We also will, as a nation, influence other nations to step up their efforts to end this practice, so that vulnerable men, women, and children everywhere will not become victims of the worse side of humanity.

Thank you for considering our views today.



**Statement of Sen. Richard Durbin**

**Senate Judiciary Committee – Subcommittee on the Constitution, Civil Rights and Property Rights**

**Hearing: “Examining U.S. Efforts to Combat Human Trafficking and Slavery”**

**July 7, 2004**

I am pleased to see a hearing before this subcommittee on an issue other than election-year constitutional amendments.

Today’s hearing is also a nice opportunity to see the work of the Justice Department in a positive light. For the last several weeks, I and many of my colleagues on both sides of the aisle have been highly critical of the Justice Department for its refusal to turn over memos justifying the use of torture. Some of the memos were ultimately made public and their contents were very troubling.

But there is far more support here on Capitol Hill for the Justice Department’s efforts to combat trafficking. Human trafficking is a significant human rights problem and law enforcement challenge both in the United States and abroad. It is an affront to human dignity, and we share a bipartisan commitment to addressing it.

Our collective fight against human trafficking honors the legacy of Senator Paul Wellstone. He was a champion of human rights and human dignity, and he made a tremendous difference to the lives of many.

Senator Wellstone was the first member of Congress to introduce anti-trafficking legislation, and on the day the Trafficking Victims Protection Act passed the Senate in October 2000, Senator Wellstone took to the Senate floor and said: “No longer in the United States of America are we going to turn our gaze away from this kind of exploitation.”

I am pleased to see that we have kept our gaze on this horrific problem. After we passed the anti-trafficking bill in 2000 and after President Clinton signed it into law, the Bush Administration has implemented it with enthusiasm.

I met recently with John Miller, a former colleague of mine in the House of Representatives who now heads the State Department’s anti-trafficking office. John is doing an excellent job of monitoring the efforts of countries around the world, and his annual Trafficking in Persons Report has been a valuable incentive for many countries to reform their laws and do the right thing.

I also applaud the organizations who are represented at today’s hearing. You are to be commended for the resources and commitment you have put into the important fight against human trafficking.



News From: \_\_\_\_\_

## U.S. Senator Russ Feingold

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**Statement of U.S. Senator Russ Feingold**  
*At the Constitution, Civil Rights, and Property Rights Subcommittee of  
the Senate Judiciary Committee Hearing on "Examining  
U.S. Efforts to Combat Human Trafficking and Slavery"*

**July 7, 2004**

Mr. Chairman, thank you for holding this hearing on human trafficking and the U.S. government's efforts to combat this deplorable practice. I look forward to hearing from our distinguished witnesses about the work they are doing to prosecute traffickers, provide services to victims, and raise awareness of this issue.

Human trafficking is one of the more pernicious violations of global human rights. It is also one of the fastest growing areas of international criminal activity. According to its 2004 Trafficking in Persons Report, the State Department estimates that 600,000 to 800,000 victims of human trafficking are transported across international borders each year. Estimates of the number of people trafficked into the United States each year range from 14,500 to 17,500. Victims of trafficking include men, women, and children who are trafficked for forced farm labor, domestic servitude, sweatshop labor, forced prostitution, construction work, restaurant work, or adoption. The U.S. Department of Justice, as well as state and local law enforcement, is confronting this international human rights problem by prosecuting traffickers and providing services to victims. I look forward to exploring these efforts with the witnesses today.

Mr. Chairman, I am pleased to see a bipartisan effort to confront human trafficking and a commitment to this issue by both the current Bush Administration and the Clinton Administration. I also think that we cannot review our government's efforts in this area without recognizing the contributions of the late Senator Paul Wellstone. I know this was an important issue to my dear friend and colleague and his wife Sheila.

Senator Wellstone was one of the first legislators to recognize this escalating abuse of human rights, just as the U.S. government and international organizations were beginning

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to identify trafficking in human beings as a serious international problem. Senator Wellstone brought his unique passion, zeal, and integrity to this issue. His efforts culminated in a resolution introduced in 1998 calling human trafficking a global human rights problem and directing the State Department to review it and report to Congress on its findings. Senator Wellstone continued his efforts in 1999 by introducing the first comprehensive anti-trafficking bill in Congress. Working with Senator Brownback, his efforts resulted in enactment of the Victims of Trafficking and Violence Protection Act in 2000. That law, I believe, is one of Senator Wellstone's greatest achievements and one of the most important pieces of his legacy to our nation and to unknown numbers of victims of trafficking for years to come. I supported both pieces of legislation, and I know Senator Wellstone would welcome our efforts today to explore a human rights problem he was so passionate about years ago.

President Clinton also recognized the horror of this global human rights abuse and the need for the United States to make every effort to combat human trafficking. In March 1998, President Clinton issued a directive establishing a U.S. government-wide anti-trafficking strategy to prevent human trafficking, prosecute traffickers, and protect and support victims. The Clinton Administration outlined the need for programs to increase economic opportunities for potential victims, legislation to provide services to victims, and increased penalties for traffickers. Additionally, the Workers' Exploitation Task Force, chaired by the Justice Department's Civil Rights Division and the Labor Department's Solicitor's Office, was charged with investigating and prosecuting cases of exploitation and trafficking. The State Department funded the creation of a database on U.S. and international legislation on trafficking. And, of course, the Clinton Administration worked with Congress on legislation to combat trafficking, culminating in the passage of the Victims of Trafficking and Violence Protection Act of 2000.

I am pleased that President Bush has continued this commitment to combating human trafficking. I hope we can continue to work in a bipartisan fashion. I look forward to hearing from our witnesses on how effective our efforts have been in fighting this global human rights menace and what suggestions they might have for making improvements. Thank you again, Mr. Chairman.

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**Statement of Senator Patrick Leahy**  
**Ranking Member, Senate Judiciary Committee**  
**Subcommittee on the Constitution, Civil Rights, and Property Rights**  
**Hearing on “Examining U.S. Efforts to Combat Human Trafficking and Slavery”**  
**July 7, 2004**

I am pleased to see this subcommittee today turn its attention away from divisive proposals to amend the Constitution and focus on an issue that should concern us all – the prevalence of human trafficking and slavery around the world. We cannot know how many people are trafficked but many believe that nearly a million people worldwide every year are bought, sold, or trafficked, with about 20,000 of those people trafficked to the United States. These people are forced into involuntary servitude or, often, prostitution. Until recently, this issue was not a priority for governments around the world, but we are seeing signs of change, some prompted by our passage of the Trafficking Victims Protection Act (“TVPA”).

In 2000, I served on the conference committee for the TVPA, which passed in the House and Senate by overwhelming margins and was signed by President Clinton, whose Justice Department was intimately involved in the legislative process. This bill – on which our late colleague Senator Wellstone worked so tirelessly – signaled a bipartisan congressional commitment to the prosecution of traffickers and the protection of their victims. I am proud to have played a role in creating the law, which was reauthorized last year, and I look forward to learning from our witnesses about how it is working and what changes may be needed.

In forging the TVPA, Senators Wellstone and Brownback, and Congressmen Christopher Smith and Gejdensen, sought both to eliminate trafficking at home and to make combating trafficking and slavery a foreign policy priority. The State Department now issues a detailed report on the trafficking and slavery policies of nations around the world, which has provided a substantial incentive for countries across the globe to take trafficking more seriously and pass their own anti-trafficking laws. The Justice Department has talked frequently about prosecutions under the law, and I hope that this hearing will produce specific numbers detailing the use of the law by the Justice Department and by U.S. Attorneys throughout the nation.

I would like to raise a specific concern about how the TVPA is working. I am concerned by anecdotal reports suggesting that provisions in the law that were designed to provide refuge for trafficking victims are not working as Congress intended. The TVPA created the T visa, which is available to those who have been trafficked into the United States, those who have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, and who would face extreme hardship if returned to their native countries. The T visa was never intended to be available only to those who participate in actual criminal prosecutions – cooperation with law enforcement requests, if any, was sufficient. Congress created the S visa specifically for participants in criminal investigations. By contrast, the T visa is available to anyone except for those who *refuse* to assist law enforcement.

The Department of Homeland Security regulations for granting legal immigration status, however, place substantial emphasis on Law Enforcement Agency (“LEA”) endorsements of trafficking victims. I fear that the hurdle for obtaining such endorsements is set too high. For example, I have been told of a case in which requests for an LEA endorsement were denied even after the victim participated actively in a Federal criminal investigation, meeting on a number of occasions for interviews with law enforcement officials and providing the names of potential witnesses. The woman eventually obtained a T visa without the endorsement – a credit to the DHS officials in Vermont who process the applicants – but the process appears to have been more arduous than it should have been. DHS should make it clear that if a victim assists prosecutors, they deserve an LEA endorsement, regardless of whether a prosecution ensues. I would be curious to learn of any experiences our witnesses have had with applicants seeking the T visa.

On a related note, I was pleased to work last year with the Department of Homeland Security to ensure that all applications for U visas – also created by the TVPA – would be processed by the Violence Against Women Unit at the Vermont Service Center in St. Albans.

Finally, I hope this subcommittee’s oversight of the Justice Department’s efforts to protect the civil rights of all of our nation’s residents does not end with this hearing. I have spoken repeatedly about the need for this Committee to turn its attention to the Voting Rights Act and the need to make it permanent. I hope we can at least make a start on this issue before the end of the Congress.

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Statement of Mohamed Y. Mattar, S.J.D.  
Co-Director, The Protection Project of the Johns Hopkins University  
School of Advanced International Studies

Hearing before the Senate Committee on the Judiciary,  
Subcommittee on the Constitution, Civil Rights and Property Rights

**Examining U.S. Efforts to Combat Human Trafficking and Slavery:  
An assessment of the United States' recent legal responses to the problem of  
trafficking in persons on the federal, state and international levels**

July 7, 2004

Mr. Chairman, distinguished Members of the Subcommittee, I am privileged to speak to you today on the United States' current legal responses to combat the problem of trafficking in persons on the federal, state and international levels.

And perhaps, due to these significant efforts one may observe a decline in international trafficking as well as trafficking into the United States.

In the 2003 Trafficking in Persons Report, the Department of State estimated that between 800-900,000 women and children were trafficked worldwide across international borders. This number has decreased to 600-800,000 according to the 2004 Trafficking in Persons Report.

Similarly, while Congress in its findings in the Trafficking Victims Protection Act in 2000 estimated that approximately 50,000 women and children are trafficked into the U.S. each year, this number has decreased in accordance with the Department of State Report of 2003 which placed the number of persons trafficked to the United States between 18-20,000. Currently the U.S. Department of State in its report entitled Assessment of US Activities to Combat Trafficking in Persons estimates that between 14,500-17,500 are trafficked annually into the United States.

The Department of Justice has significantly increased its efforts to prosecute cases of trafficking. Between 2001 and March 2004, at least 150 traffickers have been charged, of these 79 included sex trafficking allegations, 77 of these cases have resulted in convictions or guilty pleas. Of those 59 defendants were found guilty of sex trafficking charges.

Based upon the analysis conducted by The Protection Project on these cases, which the Department of Justice kindly made available, I can say that the majority of victims that are trafficked into the U.S. come from countries in Africa, especially Cameroon, Nigeria, Ghana and Tonga; Latin America, especially Jamaica, Mexico, Honduras and Guatemala; Asia, especially South Korea, Indonesia, Uzbekistan, Vietnam, Thailand and China and Russia.

They are trafficked to different states, in particular, California, Florida, New York, Hawaii, Georgia, Alaska, Texas and North Carolina.

They are trafficked for the purposes of prostitution, other forms of sexual exploitation, forced labor and domestic service.

One may question, however, whether this decline in the number of trafficking cases is because of recent efforts to combat the problem, or simply because victim identification has become more difficult. Unfortunately, few of those victims have been identified. For instance, in 2003 the Department of Homeland Security (DHS) received 601 applications and has granted only 297 T-visas. In 2002 only 5 visas were granted, while so far in 2004 78 visa applications were approved.

Consequently, I believe that the main challenge that we face today is to identify victims of trafficking. This is not an easy task especially because many cases of trafficking involve organized crime. Victims' mistrust of public officials and the lack of public awareness about victims' rights makes it difficult for victims of trafficking to come forward and cooperate with law enforcement officials in the investigation and prosecution of cases of trafficking.

Recently the United States has adopted a number of federal laws that address these problems. The Trafficking Victims Protection Act (TVPA) was signed into law on October 28, 2000. It was amended on December 19, 2003 by the Trafficking Victims Protection Reauthorization Act. On April 13, 2003, the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act (PROTECT Act), Section 105 provided for penalties for sex tourism and amended the Child Sexual Abuse Prevention Act of 1994. The Inter-Country Adoption Act of 2000 enacted on October 6, 2000 implemented the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. The Racketeer Influenced and Corrupt Organizations Act (RICO) added "trafficking in persons" to the definition of a racketeering activity in its Section 1961. On February 13, 2002 Executive Order 13257 established a Cabinet-level inter-agency task force to monitor and combat trafficking in persons. And the February 25, 2003 Trafficking in Persons National Security Presidential Directive emphasized trafficking in persons as a priority for this administration.

The significance of these legislative measures is that it expanded the rights of a victim of trafficking. To me, the federal law has expanded four main rights of a victim of trafficking: the right to be heard in court, the right to civil compensation, the right to receive social and economic benefits, and the rights to seek residency.

Today a victim of trafficking has more opportunities to be heard in court. To facilitate the prosecution of cases of trafficking, the Reauthorization Act made it clear that trafficking in foreign commerce shall be prosecuted as well as trafficking affecting interstate commerce. In addition, trafficking in persons may be tried as a racketeering case. The

new Sex Tourism Act, while criminalizing travel with intent to engage in illicit sexual conduct also makes engaging in illicit sexual conduct in foreign countries a crime.

Now a victim of trafficking is entitled to file a civil action asking for civil compensation and reasonable attorney's fees. You may be familiar with a civil lawsuit filed in January 2004 in federal district court in New Orleans, where about 220 workers from Asia, mostly of Indian heritage, sought to recover damages amounting to \$75,000 for being lured into virtual slavery in Louisiana.

Traditionally courts awarded restitution to victims of trafficking upon the successful prosecution of such a case. In one of the first sex trafficking cases brought under the TVPA, a federal district court awarded restitution to trafficking victims to the full amount of their loss in *U.S. v. Jimenez-Calderon*, where the court awarded \$ 135,240 to the four girls that were victims of sex trafficking by the Jimenez-Calderon family. On March 2, 2004, Ramiro Ramos was sentenced on charges related to trafficking in persons (involuntary servitude) for which he was convicted in June 2002. The sentence included 15 years imprisonment, \$20,000 in fines, and forfeiture of property worth over \$3 million, as well as deportation. In January 2004, two defendants, Bradley and O'Dell were sentenced to five years and ten months after being convicted by a jury in August 2003 on charges of forced labor and trafficking in persons. Bradley and O'Dell recruited four Jamaican citizens and brought them to New Hampshire in 2000 and 2001 to work for their tree cutting business. The court in this case also ordered the defendants to pay restitution to the victims totaling \$13,052.

No longer a victim of trafficking is limited to the criminal sanction of mandatory restitution, which may be limited and requires a strict standard of proof and is contingent upon a conviction.

No longer an alien is required to cooperate with a federal agent to be qualified for receiving benefits under the Trafficking Victims Protection Act. Now under the Reauthorization Act it suffices that she cooperates with a state or local law enforcement agent.

A child under the age of 18 is no longer required to show willingness to assist in reasonable request to investigate and prosecute a case of trafficking before he is entitled to receive an immigration status in the U.S.

However, it remains to be seen how courts will interpret the provisions of the federal law.

A physical or legal coercion is no longer required. Any serious harm now suffices to establish coercion in accordance with the TVPA. How would courts interpret the coercion requirement after the TVPA has expanded the definition of coercion under *U.S. v. Kozminski*. When should we prosecute a case of trafficking under the Mann Act that does not require force, fraud or coercion? Would a victim of a case of trafficking that was prosecuted under the Mann Act, be entitled to the benefits granted under the TVPA that requires proof that the trafficked person has been a victim of severe form of trafficking?



How would the courts define a commercial sex act? Is it limited to prostitution or does it include other forms of sexual exploitation, such as pornography?

Would sex trafficking involve cases of mail-order brides, especially since the only law that covers the issue of mail order brides is Section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. However, this is merely a disclosure law. It imposes penalties on international matchmaking organizations violating the requirements of the section including providing information in the recruit's native language regarding residency in the U.S. and relevant marriage issues. At least 200 matchmaking organizations are operating in the United States and between 2,000-3,500 men find brides through catalogues. I understand that personal freedoms and privacy rights, especially in the area of marriage and family relations must be protected and perhaps left unregulated. However, when brides are beaten, tortured and treated like slaves by their husbands or when they are forced to perform illicit sexual activities or placed in condition of forced labor, such instances of abuse must be confronted and a legal response must be developed to protect such victims.

Would we consider massage parlors, strip clubs and other sexually oriented establishments that may be involved in illicit sexual activities as forms of sexual exploitation? I understand that such adult expressions are protected as free speech under the First Amendment. I also understand that they are subject to zoning requirements. However, in many cases sexually oriented establishments have been used as fronts for houses of prostitution. For instance, in *Young Im Kim v. The State of Texas* (2002 Tex. App. LEXIS 749), Kim was convicted of prostitution where an undercover detective engaged Kim in a discussion about possibly offering more than just massage, i.e. sex in exchange for \$200. Similarly, in *Yong Ae Becerra v. The State of Texas* (2000 Tex. App. LEXIS 791), Becerra was convicted of prostitution when an undercover police officer visited the massage parlor where Becerra worked and arrested her after she agreed to engage in oral sex for a certain fee.

In Louisiana, there have been a number of recent cases when massage parlors have been shut down after it was discovered that they were fronts for houses of prostitution. The women working in those establishments did not have massage therapist licenses and traveled from New Orleans to Atlanta, Houston, Chicago, Pittsburgh, Boston, New York, Biloxi (Mississippi) and Grand Rapids (Michigan) to engage in prostitution. The owners of the parlor and intermediaries were charged with money laundering and conspiracy to travel in interstate commerce in aid of a racketeering enterprise.

Women are brought from foreign countries to the U.S. then transferred to various massage parlors and strip clubs across the U.S. where they end up working as prostitutes.

Massage parlors and strip clubs and other sexually oriented establishments facilitate or create demand for trafficked persons. For example, in a 2002 case three persons were arrested in Brooklyn, New York for trafficking a dozen Russian women into the U.S. and forcing them to dance nude in New Jersey strip clubs. In another case involving four

defendants, one of which, a Russian national, Virchenko, was sentenced in 2001 to 30 months in prison followed by deportation for trafficking adult women and under age girls from Russia into Alaska to dance nude in strip clubs.

While pursuing such establishments through violation of zoning ordinances might be sufficient in some cases, what is more important is that states take steps to curtail the activities of the establishments that might facilitate trafficking.

Last May, Arizona passed a new law that entered into force on July 1, 2004 and imposed stricter requirements on the massage industry. Thus, the new law requires all massage therapists to obtain a license. Among the requirements for license is that a masseuse or masseur has to be a citizen or legal resident of the United States and to have not been convicted of a felony or other crime involving moral turpitude, or prostitution or solicitation in the past five years. The law also explicitly prohibits for massage therapists to engage in any kind of sexual activity with a client.

Distinguishing between massage and massage "with a special ending," a grand jury charged Roman Valdma with Importation of Aliens for Immoral Purpose (8 USC §1328), Transportation for Illegal Sexual Activity (18 USC § 2421), Persuading and Enticing Illegal Sexual Activity (18 USC §2422) and visa fraud. Valdma recruited women from Estonia and induced, enticed and/or coerced them to work in Valdma's erotic massage parlors located in Massachusetts.

The implementation of the extraterritorial application of the new sex tourism act (PROTECT Act) will require intensive investigative and prosecutorial efforts. I am encouraged by the recent cases of arrests. On the day following President Bush's speech to the United Nations on September 23, 2003 on Iraq and the Sex Trade, Michael Lewis Clark, a 69 year old retired United States army sergeant, was charged with sex tourism in one of the first indictments under the new law. Clark was indicted by a Seattle Grand Jury on two counts: traveling via foreign commerce to Cambodia, and engaging in illicit sexual conduct with a minor. He paid two young homeless boys, aged ten and thirteen, two dollars each to have sex with them.

There were also other arrests made under the new law: Gary Jackson, 56 years old, from Washington state, was arrested for having sex with children in Cambodia; and Richard Schmidt, 61 years old of Baltimore faces charges that he traveled to Cambodia and the Philippines to engage in sexual activities with children.

You may also be familiar with the case of Jean Succar Kuri, who was arrested this February near Phoenix and is currently awaiting extradition to Mexico from Arizona. He has been charged with statutory rape, child pornography and corruption of minors. Mr. Succar is a naturalized citizen of Mexico (originally from Lebanon) and a resident of California. He is a successful businessman, investing in retail shops, restaurants and hotels in Cancun. However, for many years, Mr. Succar was engaged in child sex tourism, when he traveled to Cancun and engaged in sexual conduct with teenage girls

ages 13 to 17, giving them some money, perhaps \$10 a day, and buying them new clothes in exchange for sex. Mr. Succar also asked older girls to bring over the younger ones, some as young as 6, whom he called “fresh meat.” He took pornographic photographs and videos of the girls, and threatened to separate them from their families if they told anyone about being abused.

And this is a step further, since the TVPA mentions sex trafficking only in the context of the definition of the sex industry in Article 102, and in specifying the main duties of the Interagency Task Force. One of these duties is to inquire into the role of sex tourism in trafficking.

In addition to prosecution of cases of sex tourism, we need to increase our efforts to prevent such a horrific crime. The Reauthorization Act now requires developing and disseminating materials to alert travelers to foreign destinations where sex tourism is significant, that sex tourism is illegal and will be prosecuted.

I would like to applaud the approach taken by the 2004 TIP Report which focuses on the problem of trafficking, listing 21 countries of origin and destination where sex tourism is an issue. These countries are: Australia, France, Germany, Morocco, Taiwan (Tier 1), Brazil, Cambodia, Cameroon, Indonesia, Mauritius, Singapore, Sri Lanka (Tier 2), the Dominican Republic, Kenya, Laos, Madagascar, Malawi, the Philippines, Russia, Thailand (Tier 2 Watch List) and Venezuela (Tier 3).

Our research at The Protection Project shows that sex tourism is significant in the following countries: Cambodia, Vietnam, the Philippines, Sri Lanka, Dominican Republic, Costa Rica, Thailand and Cuba.

I would also like to see an expansion in the interpretation of what we consider labor trafficking, especially cases that involve trafficking in children and child labor. Corporations that are involved in such illegal act must be held accountable. We are all familiar with McDonalds’ “Happy Meal” toys which were found to be made by children in China, prompting the company to terminate that supplier relationship.

It is encouraging that many U.S. companies have adopted their own standards of conduct. For example, Reebok International LTD, “will not work with business partners that use forced or other compulsory labor” and “will not purchase materials produced by forced, prison or other compulsory labor, and will terminate business relationship with any sources found to utilize such labor.” Gap Co. in its Code of Vendor Conduct states that “factories shall employ only workers that meet the minimum working age requirement, or are at least 14 years of age, whichever is greater, and factories must comply with all requirements of child labor laws.” In the same manner Levi Strauss Co. states in its Code of Conduct that “use of child labor is not permissible, workers can be no less than 14 years of age and not younger than the compulsory age to be in school.” Levi Strauss will also “not utilize partners that use child labor in any facilities.”

The Trade and Development Act of 2000 (19 USC §1307) provides for the effective enforcement of the standards established by ILO Convention 182 (Worst Forms of Child Labor). The Act prohibits importation of products made, in whole or in part, with the use of convict, forced, or indentured labor under penal sanctions.

International standards prohibiting involvement of corporations in human rights violations must be fully respected. In particular the proposed United Nations Code of Conduct for Companies, bans use of “slave and forced or compulsory labor.” It states that “[e]mployees shall be recruited, paid, and subjected to other working conditions so as to avoid debt bondage or other forms of slavery and shall have the option to leave employment and the employer must facilitate such departure by providing all the necessary documentation and facilitation.”

The proposed United Nations Code of Conduct of Companies states that companies should not “allow any person under the age of 18 to work under conditions which have been identified by the ILO convention as the worst forms of child labor. For example, which are likely to harm the health and safety of children, or interfere with the physical, mental, spiritual, moral or social development of a child.”

For the first time, international treaty law establishes the liability of corporations for illegal activities in connection with organized criminal groups. Under Article 10 of the United Nations Convention against Transnational Organized Crime, countries must establish liability of the legal person: “Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes...” “the liability of the legal persons may be criminal, civil or administrative,” and “shall be without prejudice to the criminal liability of the natural persons who have committed the offenses.”

Whether trafficking is for the purpose of prostitution or other forms of sexual exploitation or labor, a trafficked person must be identified as a vulnerable victim. It is encouraging that courts applied the Vulnerable Victim Sentence Enhancement doctrine to cases of trafficking under USSG §3A1.1(b)(1) to enhance the penalties in cases of trafficking. A vulnerable victim is a person who “is unusually vulnerable due to age, physical or mental condition, or who is otherwise particularly susceptible to the criminal conduct.”

In *U.S. v. Veerapool*, 312 F.3d 1128, 1133 (9<sup>th</sup> Cir. 2002), the court applied the doctrine in a case involving involuntary servitude where the wife of the Thai ambassador recruited girls from Thailand to work in her home and restaurant in Los Angeles. Veerapool kept the workers in degrading circumstances and a condition of involuntary servitude. The court used the vulnerable victim sentencing adjustment, stating that the victim was “vulnerable based on her immigrant status and the circumstances in which the immigrant was exploited [...] from the initial recruitment, and the treatment of the individuals while they were here [in the U.S.]. ... The victim was a poor uneducated woman, lacking in sophistication, in the knowledge of the United States laws, and [...] that was also exploited.”

In a similar case, *U.S. v. Castaneda*, 239 F.3d 978 (9<sup>th</sup> Cir. 2001), in which Filipino women were recruited to work in a nightclub where they were forced to perform sexual services, Circuit Judge Silverman in his dissent argued for the application of the vulnerable victim doctrine. He stated that: “It is difficult to understand how the majority can equate (1) a woman who is intentionally tricked into leaving her home in a foreign country on the promise of a legitimate job, and then, in the words of the plea agreement – ‘forced to line up for selection by male customers to accompany them to private ... rooms’ and there, ‘made to provide sexual services,’ with (2) a professional prostitute who willingly agrees to travel across state lines for the purpose of prostitution. Both are covered by the Mann Act, but the majority hold that the former is no more a ‘vulnerable victim’ than the latter. This is obviously wrong, and therefore, I respectfully dissent.

The majority derives its conclusion from the premise that ‘economic hardship’ is typical of women victims in Mann Act cases. Even assuming that to be true, the majority completely overlooks the fact that this case involved much more than ordinary economic vulnerability.

-The victim in this case was *tricked* into leaving a foreign country on the promise of a legitimate job.

-As a direct result of this deception, she was *stranded* in a foreign country and, as found by the district judge, ‘couldn’t just pack up and go home.’

-Because the victim was an indentured nonresident alien worker under Northern Mariana Islands law, she *could not work elsewhere*.

-She was *forced* to participate in the prostitution activity.”

On the state level, it is encouraging to learn that in addition to Texas and Washington state legislators from Arizona, Connecticut, Hawaii, North Carolina, Minnesota and Florida are considering enacting specific anti-trafficking legislation. My understanding is that the Department of Justice has prepared a model state legislation to assist states in drafting anti-trafficking legislation. This is another significant legislative effort, which is to be added to the model U.S. legislation to combat trafficking that the Department of Justice also drafted for the purpose of assisting foreign countries.

As a part of the training program that The Protection Project conducts in the different states, implementing the Health and Human Services public awareness program, I have been advocating the drafting of anti-trafficking legislation in other states. This year I traveled to Louisiana, Florida, Massachusetts and Arizona arguing that a specific anti-trafficking provision in the criminal code would make prosecution of a case easier instead of struggling to prosecute the case of trafficking under existing laws such as prostitution, kidnapping, false imprisonment, and the like.

Penalties under these existing laws are not comparable to the gravity of the crime of trafficking. State resources should be used to prosecute cases of trafficking and especially

when federal resources are not always available in light of the diverse priorities of the Federal Bureau of Investigation (FBI). This would ultimately have the effect of identifying more victims of trafficking in the different states.

However, a number of issues must be resolved in establishing the relation between state laws and federal law, in the areas of criminalization as well as protection of victims of trafficking. Would a victim of trafficking, a part of a case that has been prosecuted in accordance with the state law, be entitled to federal benefits granted under the Trafficking Victims Protection Act (TVPA)? Should the protection granted to victims of trafficking under the Federal Victim and Witness Protection Act of 1982 be extended to victims of trafficking on the state level?

Furthermore, the issue of reconciliation of sentencing is important. Under the federal TVPA the sentence is up to 20 years imprisonment, or any term of years or life. While Texas law categorizes trafficking as a second degree felony that may be punished with a sentence up to 20 years, the Washington state law designates trafficking in persons as Class A felony which may be punished by a sentence of 10 years to life.

Most importantly how do we define trafficking under state legislation. Should state legislation also require force, fraud or coercion as is the case under the TVPA?

Texas Penal Code Ann. Sec. 20A.02 provides that: "A person commits an offense if the person knowingly traffics another person with intent that the trafficked person engage in: forced labor or services."

The Washington statute defines trafficking in the first degree when a person: "recruits, harbors, transports, provides, or contains by means another person knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor or involuntary servitude." Wash. Rev. Code §9A.40.100 (2004).

A different definition of trafficking is provided by the Connecticut bill for Establishing an Interagency Task Force on Trafficking in Persons. It defines trafficking as "all acts involved in the recruitment, abduction, transport, harboring, transfer, sale or receipt of persons, within national or across international borders, through force, coercion, fraud or deception, to place persons in situations of slavery or slavery-like conditions, forced labor or services, such as forced prostitution or sexual services, domestic servitude, bonded sweatshop labor or other debt bondage." (2004 Ct. S.A. 8; 2004 Ct. HB 5358).

A state legislation however, should not be limited to the criminalization of trafficking as a crime. Accordingly the creation of a task force that mobilizes efforts to combat trafficking in a particular state is imperative. Washington state has already embraced such a model, establishing in 2002 the Washington task force against trafficking in persons.

Arizona has also introduced Bill 1300 in the Senate this year. The bill provides for establishment of the Trafficking Victims' Task Force consisting of the state's Attorney General, the Director of the Department of Health Services, the Director of the Industrial

Commission, and the Director of the Criminal Justice Commission. The Task Force is charged with tasks that include: collecting research and information on victims of trafficking; evaluating various approaches used by the state and local governments to increase public awareness of the issue of trafficking; reviewing the services and facilities that provide assistance to victims of trafficking; developing a plan for combating trafficking in persons within Arizona; coordinating the support services to victims of trafficking; and presenting an annual report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

On the international level, the U.S. has been active promoting a role for non-governmental organizations (NGOs) and urging foreign countries to allow NGOs to work to further the cause of human rights, including combating trafficking in persons as a human rights violation. This is important because in many countries it is the government that determines the degree of freedom the NGO enjoys while pursuing its goals.

The Reauthorization Act amended the TVPA to provide for “facilitating contact between relevant foreign government agencies and such non-governmental organizations to facilitate cooperation between the foreign governments and such organizations.”

This provision is important especially in light of the international obligation of a government to cooperate with NGOs. The Convention against Transnational Organized Crime Article 32 established a Conference of the State Parties “to improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of this Convention” through 32(3)(c) “Cooperating with relevant international and regional organizations and non-governmental organizations.”

The Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime also emphasizes the need to cooperate with NGOs in Article 6(3) which states that “[e]ach State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society ...”; Article 9(3) which mentions that “[p]olicies, programmes, and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society;” and Article 10(2) which calls for training that “should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.”

Enforcing this international obligation of cooperation would require countries to review their policies regarding NGOs' activities within their territories.

The Department of Justice has been assisting foreign countries in drafting anti-trafficking legislation in compliance with the UN Protocol on Trafficking. This legislative assistance led to the formulation of a comprehensive anti-trafficking law in many countries. Two of my favorites are the Romanian Anti-Trafficking law was passed in December 2001 and the Bulgarian law Prohibiting Trafficking in Persons, which became effective in July 2002. While there have been significant legislative reforms in this area, many countries still do not have a specific anti-trafficking legislation. According to the 2004 TIP Report, 62 countries lack legislation that specifically make trafficking a crime.

For instance, the majority of the countries of the Middle East do not have a specific anti-trafficking legislation. Morocco and Turkey are among the few that criminalize trafficking, while Qatar's criminal laws prohibit trafficking only for the purposes of sexual exploitation.

Similarly, most of the countries in Africa do not have anti-trafficking legislation, including Ghana, Angola, Burundi, Cameroon, the Gambia, Mauritius, Mozambique, Niger, Rwanda, South Africa, Togo, Uganda, Democratic Republic of Congo, Ethiopia, Madagascar, Burma, Senegal, Sudan, Cote d'Ivoire, Gabon, Kenya, Malawi, Zambia, Zimbabwe, Equatorial Guinea, Sierra Leone.

Countries from Latin America that lack specific anti-trafficking legislation include: Argentina, Chile, Honduras, Jamaica, Mexico, Peru, Suriname, Ecuador, Guyana, and Venezuela.

This last year I have been a part of the training program that was conducted by the War Against Trafficking Alliance where Shared Hope International, The Protection Project and the Department of Justice have cooperated in training law enforcement officials in the countries of Moldova, Dominican Republic, India and South Africa. I talked about the laws in these countries, namely Articles 165 and 206 of the Moldovan Criminal Code addressing trafficking; the Dominican Republic's Law Number 137-03 Regarding Illegal Trafficking of Migrants and Trade in Persons of August 2003; the Immoral Traffic Prevention Act of India, and the proposed amendment to the Sexual Offenses Act of South Africa.

We must also assist countries in enacting related laws, especially in the area of witness protection, anti-corruption and money-laundering.

The American Bar Association Central European and Eurasian Law Initiative (CEELI) is developing a "Trafficking Assessment Tool" on how countries should comply with the U.N. Protocol on Trafficking including enacting anti-trafficking legislation. I participated in the discussion group that looked into the first draft and I believe once this tool is finalized it will provide a useful guide.



Prosecution rates in the Middle East, Africa, and Latin America are still very low, and further efforts are needed to not only assist in drafting anti-trafficking legislation but to train investigators, prosecutors and judges to effectively consider cases of trafficking.

Actually it is not only developing countries that show such low instances of prosecutions of traffickers. Even countries that have more resources available to prosecute cases still have low rates of successful prosecution of traffickers.

The Reauthorization Act provides for International Law Enforcement Academies to be utilized more fully in the effort to train law enforcement authorities, prosecutors, and members of the judiciary to address trafficking in persons-related crimes.

This international training is particularly important, especially that under the Reauthorization Act a government which does not provide data on investigation, prosecution and conviction or sentencing shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts.

Thank you.



**STATEMENT  
OF  
JOSEPH METTIMANO  
CHILD PROTECTION POLICY ADVISOR  
WORLD VISION**

**BEFORE THE  
COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS  
AND PROPERTY RIGHTS**

**UNITED STATES SENATE**

**JULY 7, 2004**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the horrific practice of human trafficking and slavery. It is a great encouragement to see this important issue prioritized by this committee.

The Subcommittee has assembled a prestigious panel here today to provide a variety of viewpoints on these issues. My remarks will focus on the impact of trafficking and sex slavery on the most vulnerable victims, children.

I am here today as a representative of World Vision, a 54-year-old Christian humanitarian organization with programs in 100 countries served by 20,000 staff worldwide. World Vision is a child-focused organization, and as such is a witness to the impact of child trafficking and sexual exploitation, both here in the United States and in many countries abroad.

The practice of human trafficking is as old as slavery itself. Each year an estimated one million people, predominately women and children, are trafficked from one country to another for the purpose servitude in the commercial sex trade, forced labor or domestic service. It is a problem impacting nearly every country on the planet, including the United States.

Traffickers, pimps and brothel owners target vulnerable children, particularly those living in poverty. Each year millions of children fall victim to some form of sexual abuse or exploitation. Many of these children are abducted, forced or coerced into sexual slavery by strangers while others are either sold into prostitution to pay off family debts or are forcefully recruited on the streets where many runaways are trying to escape abuse in the home. Frequently children are "trafficked" out of one country and into another where they are beaten and forced to work in brothels. These abhorrent practices comprise a multi-billion dollar international business.

The impact on children is catastrophic: long-lasting physical and psychological trauma, disease (including HIV/AIDS), violence/abuse, drug addiction, unwanted pregnancy, malnutrition, social ostracism, poverty and, in many cases, death.

Outside of the United States, many factors have contributed to the increase in commercial sexual exploitation of children, including:

- Poverty and unemployment
- Inadequate or non enforced laws
- Expansion of organized crime
- Government/law enforcement corruption
- Lack of political will to end the practice
- Low status of girls in many countries
- Moral decay
- Availability of pornography and the promotion of sex tours on the internet
- Lack of education

Recent growth in the number of prostituted children also can be traced to the spread of HIV/AIDS. The spread of HIV/AIDS has encouraged predominately local men in developing countries to seek young children for sex with the erroneous belief that children are less likely to carry the disease.

Statistics suggest that the highest concentrations of prostituted children are found in Asia and Latin America. An enormous increase in child prostitution in Russia, Poland, Romania, Hungary and the Czech Republic has emerged, as well. World Vision has learned through its work in many of these countries that the average age of a child exploited in the commercial sex trade is 14 years. Of these children, many have acquired sexually transmitted diseases (STDs), including HIV/AIDS.

The practice of child sex tourism, wherein men from wealthy countries travel to have sex with children predominately in poor countries, is especially on the rise in countries in Asia and Latin America. This has resulted in a greater supply of child victims to meet the increased demand. For example, in Cambodia, one-third of the prostitutes are children. A survey conducted in December 2001 by World Vision and the Cambodian Government indicates that Western pedophiles accounted for about 38 percent of all child sex offenders in three principle destinations for tourists in Cambodia. In Latin American countries such as Costa Rica, estimates are as high as 80%. ECPAT (End Child Prostitution, Pornography and Trafficking of Children) estimates that 25 percent of sex tourists worldwide are U.S. citizens.

Mr. Chairman, these statistics, while sobering, do not come close to fully revealing the depth of this scourge, nor in telling the story of the victims. I'm reminded of a 13-year-old Cambodian girl who I met in Phnom Penh about a year ago. She was sold to a brothel owner because her father desperately needed medical care that her impoverished family could not afford. Her parents were faced with the nightmare decision to sell their child for the money to pay for the medical treatment. Closer to home, in 2001, I met a 19-year-old woman from the Chicago area who had been prostituted since she was fifteen years old. She was sexually abused at home by her stepfather, which caused her to run away. She met a man at a bus station who offered her food and shelter, but later was raped, beaten and forced into prostitution. These stories, while shocking, are not unusual.

A 1996 survey of World Vision national offices revealed that 70 percent of our offices overseas were dealing with some form of exploitation of local children. Through World Vision's vast network of programs, we have been involved in programming aimed at preventing children from being drawn into the sex trade and helping those already victimized. Our work has focused on:

- prevention programs such as skills training designed to prevent children from being sold or drawn into the sex trade, and community awareness-raising programs;
- residential treatment facilities to provide exploited children with on-going medical care, counseling, skill training and a safe place to live;
- training of local law enforcement officials to appropriately assist victims, advocacy with ministries of tourism to address sex tourism and encouraging governments to create and enforce effective child protection laws;
- and, most recently, a program that is deterring Americans from participating in child sex tourism and assisting U.S. Immigration and Customs Enforcement in their work by helping to identify child sex tourists from the United States and providing key information that can be used in their prosecution.

Fortunately, organizations like World Vision are no longer fighting this problem alone. In recent years the United States Congress has made several important advancements in combating international trafficking and slavery. The *Mann Act of 1910*, which banned the transportation of prostitutes beyond state lines, provides the underpinnings of child sexual exploitation law in the United States. The Act was strengthened in 1994 with the passage of the *Child Sexual Abuse Prevention Act* (passed as part of the 1994 "Crime Bill") and most recently by the passage of *The Protect Act of 2003*, which imposes a fine and prison sentence of up to thirty years for any U.S. citizen who is convicted of participating in, or attempting to participate in, child sex tourism.

One of the most comprehensive pieces of trafficking legislation passed by Congress was the *Victims of Trafficking and Violence Protection Act of 2000*. This important law contains several strong provisions to both combat trafficking and assist victims, including:

- funding to support anti-trafficking enforcement and victim assistance programs abroad;
- availability of a non-immigrant visa ("T" visa) and protection from criminalization for trafficking victims in the United States;
- directs the Secretary of State to issue an annual report on the status of international trafficking, and establishes an interagency task force on trafficking;
- established the Office to Monitor and Combat Trafficking in Persons at the State Department;
- doubles the current penalties for convicted traffickers (up to life imprisonment for worst offenses);
- directs the President to deny non-humanitarian aid to countries that tolerate or condone trafficking.

All of these measures have not only made advancements in combating international trafficking and slavery, but have set a leadership example for the rest of the world in addressing these issues.

In recent years, much attention has rightly been drawn to the plight of trafficking and sexual exploitation victims outside of the United States. However, this problem is not limited to poor countries, nor is it limited to perpetrations by local criminals. The problem is very real in the United States, and, notably, the exploitation that happens outside of the United States is made worse through the participation of U.S. citizens in sex tourism.

Research conducted by experts such as Dr. Melissa Farley of Prostitution Research and Education, and Dr. Richard Estes of the University of Pennsylvania have provided the American public with a snapshot of the commercial sex trade in the United States. Dr. Estes' research revealed that between 244,000 and 325,000 American children are at risk of being victimized by commercial sexual exploitation each year. Further, Dr. Farley's interviews with 130 people working as prostitutes in the San Francisco area revealed that:

83% have been threatened with a weapon  
 82% have been physically assaulted  
 68% have been raped (59% of these have been raped four or more times)  
 84% reported past or current homelessness  
 49% reported that pornography was made of them in prostitution  
 75% have a drug abuse problem

50% now have a physical health problem  
 88% want to leave prostitution  
 57% were sexually abused as children

All too often, these women and children are exploited as a result of difficult circumstances, previous abuse, homelessness and other vulnerabilities. Pimps and brothel owners prey on people such as these in order to fulfill the demand of their customers, "Johns." The use of the internet has only exacerbated the problem by providing a forum for pornography, prostitution on demand and chat boards. Markedly, the U.S. Department of State estimates that between 14,500-17,500 women and children are trafficked into the United States annually for service in the sex trade, as well.

The Department of State, the Department of Justice and U.S. Immigration and Customs Enforcement (ICE) have made progress in recent years to combat sex crimes against children. For example, in the past year, more than 2000 sex offenders and predators have been arrested in the U.S. due to the great work of Operation Predator, an ICE initiative that just completed its first year in operation. The work of these agencies, along with local police, nongovernmental organizations and many other organizations should be praised for their significant work.

The opportunity for additional measures to combat trafficking and slavery are abundant. In the United States, a greater emphasis on preventing women and children from being vulnerable to the sex trade, along with a better focus on identifying and prosecuting the abusers themselves (including pimps, brothel owners and "Johns") is greatly needed. State and local police need to be better equipped to address these issues. Innovative programs, such as "John Schools" and amnesty/support programs for victims who testify against pimps are needed, as well. Cracking down on international child sex tourism through better information sharing among law enforcement agencies is imperative.

Finally, your leadership on this issue is greatly needed. As you know, a number of nongovernmental organizations, including citizen groups, faith-based groups, feminist groups and human rights organizations have worked with the Congress in the past on historic measures such as the Trafficking Victims Protection Act, The Sudan Peace Act, the International Religious Freedom Act and the Prison Rape Elimination Act. Organizations and individuals from across the political spectrum have found common ground on these issues - - and for good reason - - these issues strike at the core of human decency.

My own organization, World Vision, along with the Salvation Army, Equality Now, National Center for Missing and Exploited Children, Women's Action Network, Southern Baptist Convention, Ministerial Alliance of Midland, Texas, and several others stand ready to work with you to help combat the slavery of the 21<sup>st</sup> century.

Thank you for your leadership on this and many other important issues.

**Statement of Wendy Patten  
U.S. Advocacy Director  
Human Rights Watch**

**Hearing Before the Senate Committee on the Judiciary  
Subcommittee on the Constitution, Civil Rights, and Property Rights**

**On**

**“Examining U.S. Efforts to Combat Human Trafficking and Slavery”  
July 7, 2004**

Mr. Chairperson and Members of the Subcommittee,

Thank you for inviting me to provide testimony on behalf of Human Rights Watch on efforts to address trafficking in persons in the United States. It is an honor to testify before you today. My colleagues and I at Human Rights Watch thank you for focusing on this important human rights problem.

For over a decade, Human Rights Watch has documented and monitored trafficking of persons around the world. We have published reports on trafficking of women and girls from Burma to Thailand, Nepal to India, Thailand to Japan, Eastern Europe to Greece, and countries of the former Soviet Union and Eastern Europe to post-conflict Bosnia and Herzegovina. Our recent reports have documented trafficking of children for domestic and agricultural labor in West Africa, focusing on Togo, and trafficking of Bhutanese refugee women from refugee camps in Nepal. In 2001, we reported on the abuse of domestic workers with special employer-based visas in the United States.

Trafficking flourishes throughout the world, aided by corruption and neglect by states. Seeking better lives and opportunities, trafficking victims migrate only to find themselves trapped in debt bondage, forced labor, and slavery-like conditions. The United Nations has estimated that 700,000 people are trafficked into forced labor and forced prostitution around the world each year. Recent U.S. government estimates (600,000 to 800,000) are consistent with this figure.

In researching trafficking, Human Rights Watch has relied since December 2000 on the international standard that defines trafficking as set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (Trafficking Protocol). In Article 3(a), the Protocol defines trafficking in persons as:

the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

The Trafficking Protocol gives governments a framework for providing human rights protections to victims of trafficking, including medical and psychological care, appropriate shelter, legal assistance, protection and safety, temporary residence, and safe repatriation.

Like the Trafficking Protocol, the U.S. Trafficking Victims Protection Act of 2000 covers all forms of trafficking. As our research has shown, trafficking occurs for a variety of pernicious purposes, ranging from bonded labor to forced prostitution. Women, men, girls, and boys are trafficked and forced to work or provide services in or on farms, factories, restaurants, homes, brothels, and bars. Despite the varied settings into which people are trafficked, the common element in all trafficking cases is the ongoing violation of the person. The goal of traffickers is to exert total control over the victim in order to extract labor or services from him or her. Traffickers around the world use a common set of tactics to trap their victims in exploitative situations: physical force, threats of physical force, deception, fraud, intimidation, isolation, debt bondage, threats of deportation, and threats to family members. It is vital for the U.S. government to address trafficking in all of its horrific forms.

Trafficking in persons is in many ways a quintessential 21<sup>st</sup> century crime problem. In an era of globalization and enhanced technology, small networks of criminals can operate internationally, preying on those who would migrate in search of work or a better life and subjecting them to horrible abuse. As governments map out anti-trafficking strategies, they must see this problem not only in law enforcement terms, but in human rights terms. They need to understand that trafficking in persons is a serious human rights issue, and that governments have an obligation to protect victims and to provide redress. This obligation is firmly rooted in human rights principles.

I will briefly speak to you today about how the U.S. government can better prosecute traffickers and protect victims of trafficking here in the United States. I will make five main points, drawn from our research on and monitoring of trafficking in persons in numerous countries around the world.

First, the United States should ratify the Trafficking in Persons Protocol. Proposed by the United States and Argentina in January 1999, this is the first international protocol to require governments to criminalize trafficking in persons and to provide a framework for enhanced protection of, and assistance to, victims. The text of the Trafficking



Protocol was adopted and opened for signature in the fall of 2000, establishing a global standard for government action, which is particularly important given the transnational nature of many trafficking networks. The Protocol offers an historic opportunity for countries of origin, transit, and destination to work together to investigate and prosecute traffickers, and to afford essential protections and assistance to trafficking victims.

The Trafficking Protocol entered into force in December, 2003 and now has 62 states party and 117 signatories. The U.S. government was among the first countries to sign the Trafficking Protocol in December 2000. Earlier this year, President Bush transmitted the Protocol, together with the main Convention Against Transnational Organized Crime, to the Senate seeking its advice and consent to ratification. On June 17, the Senate Foreign Relations Committee held a hearing on a number of law enforcement treaties, including the Trafficking Protocol. We urge the Senate to promptly provide its advice and consent to ratification of the Trafficking Protocol, and enable the United States to join the large number of countries who have already pledged to prosecute traffickers, protect victims, and undertake prevention efforts.

Second, the U.S. government should enhance its capacity to provide meaningful witness protection *and* victim protection for victims of trafficking in the United States. All too often, witness protection is thought of in its most traditional, most well-known form: protecting a witness who testifies on behalf of the government in a criminal trial. But existing witness protection programs were typically designed for witnesses who were themselves criminals, not for victims, and certainly not for vulnerable victims who may have endured serious trauma.

Instead, we should think of witness protection as a subset of the broader category of victim protection -- and which is not limited to the safety of witnesses in a criminal proceeding. To be sure, prosecution is a core obligation of states in protecting the rights of trafficking victims and in curbing trafficking. Traffickers must be held accountable for the crimes, victims need access to justice, and trafficking networks need to be disrupted and future trafficking prevented. Despite the critical importance of prosecution in trafficking cases, it would be a mistake to talk about protection for victims and witnesses only in the context of testimony at trial. Victims need protection in order to break free from the control of their traffickers and to avoid falling back into the hands of the traffickers. Victims need safety, whether they are being treated in a hospital, staying at a local shelter, or living in a private home. Whether they stay in the country to which they were trafficked or return to their home countries, they need to be able to do so safely. They also need a range of support and assistance in order to rebuild their lives without fear of reprisal from those who trafficked them.

Elaine Pearson's work on victim protection at Anti-Slavery International is instructive. In her report, she speaks of victim protection in terms of the right to confidentiality, the right to security of person, and the right to access to justice. This formulation embraces those elements of victim support that governments rarely provide --

counseling, medical and psychological services (including specialized services and support for sexual assault), legal assistance, employment authorization and training, and safe, secure shelter.

In addition to these essential protections, the U.S. government should also provide the following protections for trafficking victims in the United States:

- Ensure that all trafficked persons are allowed to remain in the United States throughout the duration of any criminal or civil proceedings against their abusers.
- Ensure full implementation of measures that enable victims who fear retaliation upon return to their home country to apply for permanent resettlement on that basis. In particular, ensure that victims who fear retaliation at home can seek to remain in the United States, even if they are unable to comply with law enforcement requests for assistance.
- Prevent the further victimization of trafficked persons by guaranteeing their immunity from prosecution for immigration violations or other crimes related to their having been trafficked.
- For children under the age of 18: Provide for their protection and development, including appropriate urgent care, ongoing physical or mental health care, shelters separate from adults for recovery and reintegration, and education.

These kinds of protections – against reprisals, violence, and threats against victims and their families, especially children – are essential in protecting the rights of trafficking victims. Such protection is also a critical component of an effective anti-trafficking strategy. The inclusion of such provisions in the Trafficking Protocol and in the TVPA underscores a crucial reality: governments cannot effectively fight trafficking unless they develop and implement comprehensive protection policies and programs.

Third, the U.S. government should expand and intensify its efforts to train federal law enforcement, prosecutors, and victim-witness personnel, and to conduct outreach to state and local police, prosecutors, and service providers. Such training and outreach is critical in identifying trafficking victims and cases, and in ensuring that community-based networks are established to provide support for victims when a case occurs. Proactive, community-wide work is needed before federal prosecutors or local police encounter a large trafficking case with multiple victims who have urgent needs for shelter and services.

This kind of effort echoes a key recommendation of the Department of Justice's 2004 Assessment of U.S. Activities to Combat Trafficking in Persons. In its report, the Justice Department recommends that the U.S. government develop a standard trafficking in persons training program that can be implemented at the academy level for all state and local police, and expand training to prosecutors and judges to include the mental health consequences to victims. The report further recommends enhanced state and local involvement in identifying victims of trafficking, and further efforts to expand local government and community knowledge of the crime of trafficking and resources available to help victims. These are necessary steps that we urge the U.S. government to undertake in a comprehensive and sustained way.

Fourth, the Senate should not enact the Homeland Security Enhancement Act (HSEA), which would have serious consequences for trafficking victims and for trafficking investigations and prosecutions. If enacted, this bill and its House counterpart, the CLEAR Act, would require state and local officials to enforce federal civil immigration laws and to detain and remove non-citizens. These bills would thus further endanger some of the most vulnerable members of immigrant communities in the United States: battered, trafficked, or sexually abused women and children. Many immigrants, even if they are in the United States legally, will refrain from contacting police about abuses they have suffered for fear that they – or undocumented relatives who may live with them – will be arrested on immigration charges. Indeed, traffickers often use the threat of deportation and reprisals back home to prevent their victims from reporting the crimes they have suffered. The CLEAR Act and HSEA will simply give those criminals new confidence in their ability to act with impunity.

Even where limited relief for these victims may be available through new special visa categories, the CLEAR Act and HSEA risk harming these victims by making their recourse to justice and protection even more unlikely. Local law enforcement officers should protect victims of trafficking. But if local officials are also required to enforce federal immigration laws, traffickers will have greater power to trap their victims in violent or exploitative situations. Not only will trafficking victims suffer serious abuse, but law enforcement will encounter much greater difficulty in identifying and prosecuting traffickers and other violent criminals.

Finally, the United States should, above all else, return control to the victims of trafficking. The greatest challenge for governments is not identifying the specific services that victims of trafficking need to survive and begin rebuilding their lives. That is indeed a challenge, as discussed above. The greatest challenge for governments is seeing and respecting, at the most basic level, the humanity of all survivors of trafficking and, therefore, working with survivors in a way that demonstrates their commitment to protecting the equality and dignity of all human beings. Because violation of human dignity lies at the core of human trafficking, the affirmation of the dignity of trafficking victims must be at the center of any effort to address and solve it.

Trafficking in persons is a profound human rights abuse, and women are particularly vulnerable to this practice due to the persistent inequalities they face in status and opportunity. Governments around the world must take this problem seriously. With the passage of domestic legislation, the elaboration of regional action plans, and the entry into force of an international trafficking protocol, important advances have been made in developing a framework for action. Governments now need to take concrete steps to prevent trafficking, punish traffickers, and provide human rights protections for victims. It is imperative that the United States demonstrate its leadership on this critical human rights issue by doing all it can to provide protection and redress for trafficking victims here in the United States.

Thank you.

STATEMENT OF

MICHAEL SHELBY  
UNITED STATES ATTORNEY  
SOUTHERN DISTRICT OF TEXAS

BEFORE THE

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON THE CONSTITUTION,  
CIVIL RIGHTS, AND PROPERTY RIGHTS

JULY 7, 2004

Good afternoon Mr. Chairman and Members of the Subcommittee.

Thank you for the opportunity to appear before you today to discuss the Department of Justice's efforts to combat the crime of human trafficking.

Over the past three years, the Department has undertaken unprecedented steps to address the evils of human trafficking within our borders, including the dedication of substantial resources not only to investigating and prosecuting these crimes, but to providing compassionate assistance to the victims, as well. The Department's record over the past three fiscal years (FY 2001-2003) shows the results of this commitment:

- 110 persons have been charged with trafficking offenses, representing a nearly three-fold increase over the previous three-year period.

- 77 trafficking defendants have been convicted or have pled guilty, including 59 defendants in sex trafficking-related cases. Again, this is a dramatic increase in the number from the previous three year period.
- More than 200 new investigations into trafficking offenses have been opened during the past three years, more than double the number from the previous three years.

In addition, the Department has undertaken several initiatives aimed at maintaining our considerable momentum in this area. For example, the Executive Office for United States Attorneys and the Department's Civil Rights Division have combined to provide training to investigators, prosecutors, and those who work with victims of these crimes. The Civil Rights Division has also devoted considerable resources to the development of awareness raising materials and has set-up and continues to operate a toll-free "complaint line" to receive information about suspected trafficking activity. In addition, the Department's Criminal Division is providing its expertise in dismantling organized criminal networks, and pursuing alien smuggling offenses, document fraud offenses, child exploitation offenses, and engaged in working with their foreign counterparts to ensure that trafficking in persons is effectively investigated

and prosecuted in other countries as well as in the United States. Later this month, the Department will host a Trafficking In Persons conference , which will bring federal, state, and local law enforcement officials and social service providers from around the country together for three days of seminars and workshops aimed at increasing awareness and cooperation. In short, the Department is tapping every potential resource at its disposal to address this problem.

The Department also continues to implement other plans to increase our investigative and prosecutorial effectiveness. Our main focus is on the development of interagency and intergovernmental strategies to increase intelligence sharing about this often difficult to detect crime. For example, as part of the U.S. Department of Health and Human Services' (HHS) public awareness campaign to rescue and restore victims of human trafficking, DOJ joined HHS, the Department of Homeland Security, state and local law enforcement, and various faith-based and other non-governmental organizations in forming four anti-trafficking task forces in Philadelphia, Atlanta, Tampa, and Phoenix. Additional cities will be announced later this year. These collaborative efforts are designed to help establish an improved communications infrastructure regarding human

trafficking activities, thereby allowing for more prompt assistance to victims and more proactive investigations of trafficking cases.

That's the view from the Department's perspective in Washington. As a prosecutor in the Southern District of Texas, I also want to share with you my perspective on what is happening in the field with respect to trafficking investigations and prosecutions.

Investigating and prosecuting human trafficking cases is one of the highest priorities of the Department of Justice, the Department of Homeland Security, and other government agencies engaged in the fight against human trafficking. The border between the United States and Mexico runs the length of my District's southern border and presents a unique challenge. The constant flow of illegal immigrants results in thousands of prosecutions each year for illegal entry and alien smuggling. In 2002, the Southern District prosecuted 7,483 immigration related cases, including 480 smuggling cases. In 2003, the number of immigration cases increased to 12,689, with 591 of these involving smuggling or trafficking. For 2004, we project more than 17,000 immigration cases, with over 700 including a smuggling or trafficking charge. Moreover, we have noticed a

significant increase in the use of violence by members of organized smuggling and trafficking rings and an alarming increase in their willingness to disregard the basic safety and welfare of those they attempt to smuggle and traffic. Indeed, in the past three years, we have seen a significant increase in the number of such cases resulting in death.

Some of the recent cases that illustrate this growing problem include the following:

- In March 2003, the leader of a trafficking ring was sentenced to sixteen years in prison for holding and beating an alien in Houston. This operation transported aliens from Mexico to a "safe house" in Houston where they were forced to work long hours at a factory in order to pay off their smuggling "fees."
- In May of 2003, three El Salvadoran nationals were sentenced to between eight and ten years in prison following their convictions for hostage taking in connection with a smuggling operation that held immigrants at gun-point and threatened them with death while their families were extorted for smuggling fees.
- In January of 2004, several defendants were sentenced to prison terms ranging from four months to fourteen years



after pleading guilty to a variety of crimes, including alien smuggling. The ring leader admitted to running a human trafficking operation, holding women from Central America against their will, raping several of the women, and forcing them to work against their will, until smuggling fees were paid by their families.

- In May of 2004, four defendants were convicted of transporting undocumented aliens and using females to work as prostitutes in a Houston nightclub. ICE agents, posing as alien smugglers, were able to penetrate the operation and uncover the criminal activities.

These are but a few examples of how the U.S. Attorney's Office in the Southern District of Texas, in cooperation with other federal agencies and state and local law enforcement, has succeeded in taking down and prosecuting those who break the law by trafficking in human beings. Unfortunately, however, I know that this problem is probably bigger than we realize and that much work remains to be done.

Mr. Chairman, I also want to thank you for your leadership on this important issue, and look forward to working with you and the Congress as we continue to maintain our commitment to combating these criminals. I look forward to your questions.

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**Hearing Before the  
Committee on the Judiciary  
Subcommittee on the Constitution, Civil Rights, and Property Rights  
United States Senate  
One Hundred Eighth Congress**  
on

**“Examining U.S. Efforts to Combat Human Trafficking and Slavery”**

Wednesday, July 7, 2004

2:00 p.m., SD-226

**Panel I**

Testimony of Charles Song

Staff Attorney

Coalition to Abolish Slavery & Trafficking

Los Angeles, CA

Chairman Cornyn, Ranking Member Feingold, and Distinguished Members of the Subcommittee,

Thank you very much for the privilege to testify today on behalf of the hundreds of survivors of trafficking and their families I have had the honor of directly serving as the Staff Attorney at the Coalition to Abolish Slavery & Trafficking (CAST) and as a member of the Freedom Network, a group of 22 community based organizations that provide direct services to survivors of trafficking throughout the United States. I would also like to thank this administration, Congress, and the American people for rightfully taking a leadership role in the global struggle to eradicate one of the most egregious human and civil rights violations known to humankind by courageously championing the most advanced anti-trafficking legislation in the world: the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) and the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA) which have literally saved the lives of hundreds of survivors of trafficking and their families.

As you know, the VTVPA and TVPRA provided comprehensive federal legislation to address the problem of human trafficking through a holistic, three-pronged approach of protection, prosecution, and prevention. This legislation has dramatically improved the ability of prosecutors to punish traffickers while providing the critical protections survivors need to cooperate with law enforcement. By creating new trafficking crimes and increasing sentencing requirements, these laws ensure that traffickers are punished for the full panoply of offenses associated with trafficking and given appropriately severe sentences. Furthermore, the VTVPA, recognizing that effective prosecution of human traffickers requires survivors to risk their lives and their family's lives to cooperate with law enforcement agencies, provides greater protections for trafficked persons by creating two new immigration benefits: T Nonimmigrant status and continued presence. It also guarantees victims specific services and enumerates legal rights that include: the right to social services and benefits available to refugees; the right to appropriate shelter not incompatible with their status as victims of a crime; the right to receive medical care; the right to witness protection; the right to access information about legal and translation services; and the right to mandatory restitution and civil action.

Make no mistake about it, survivors of trafficking risk their lives and their family's lives to assist in the investigation and prosecution of their former captors, and legislators' primary intent in passing the VTVPA was to protect victims of these violent crimes. Representative Chris Smith (R-NJ), one of the authors of the VTVPA, unequivocally confirmed this was the case in his keynote address at the State Department conference on trafficking in February 2003. Speaking for the American people, he stated:

While it was the intent of the legislation [the *Victims of Trafficking and Violence Protection Act of 2000*] that victims of trafficking should help in the investigation or prosecution of trafficking cases, there should be no doubt that the T-visa was primarily intended as a humanitarian tool to facilitate the rehabilitation of trafficking survivors.

In narrow circumstances, the VTVPA saves the lives of survivors of trafficking and assists them in rebuilding their lives as the American people intended. For example, I am

pleased to announce that due to the collaborative efforts of local law enforcement, the Department of Homeland Security, and many other dedicated individuals, CAST recently obtained a T-visa for a woman sold into sexual slavery at the age of 16 and later wrongfully imprisoned because of her trafficking situation. When she finally obtained a T-visa, this woman took her first breath of freedom in almost 27 years. Additionally, she is also receiving other urgent social and legal services through the VTVPA.

However, nearly four years after the enactment of the VTVPA, which authorized 5,000 T-visas per year, or nearly 20,000 over four years, only 371 T-visa applications have been granted since 2000. Perhaps even more disturbing is the fact that only 21 children have been identified as eligible for services by the Unaccompanied Refugee Minors Program as trafficked minors. These statistics are extremely disturbing, particularly in light of the fact that experts have estimated anywhere from 14,500 to 50,000 men, women, and children, just like our own sons and daughters, are being trafficked and enslaved in the United States every year. What these numbers indicate is that survivors of trafficking are not being provided the critical protections they need in order to assist in the investigation and prosecution of their traffickers as Congress intended.

A few weeks ago, I received a phone call from a woman who informed me her brother had been tricked into coming to the United States and was being physically and legally forced to work. I advised the woman that her brother's life may be in imminent danger and recommended immediately contacting the proper authorities. I also advised her of the federal protections available to her brother and the legal and social services CAST could provide him. She asked if I could guarantee he would not be deported if she reported to law enforcement because he would be seriously injured or murdered if he was deported. I told her I could not guarantee anything but, based on the information she had provided me, he would be permitted to legally stay in the United States and provided many other benefits to help him recover from his enslavement if he cooperated with law enforcement. After discussing these issues further, she concluded the telephone call by saying that she was terrified of subjecting him to the risk of deportation and would think it over and contact me as soon as possible. I never heard from the woman again.

Fortunately, concerned legislators, such as yourselves, and government officials, such as Assistant Attorney General Acosta, are asking why survivors such as these are not coming forward. In my view, United States' efforts to combat human trafficking and slavery are being thwarted by unintentional, yet overly restrictive barriers to critical victim protections. Relatively speaking, there is tremendous benefit and very little risk and cost associated with the United States providing life-saving protections and services to human beings who have narrowly escaped from violent criminals with their lives. Conversely, survivors of trafficking are confronted with the highest possible cost and risk: theirs, their parents', their siblings', and their children's lives. On behalf of the thousands of men, women, and children who are enslaved in the United States and whose constitutional and civil rights are being violated as I speak to you today, I urge you to review the critical victim protections contained in the VTVPA that were unintentionally drafted too narrowly out of an abundance of caution and ensure survivors of trafficking can more easily access these protections and assist in investigating and prosecuting their traffickers.

Due to the brief period of time I have to speak with you today, I have not discussed the specific legislative amendments I am recommending. However, I and other members of the Freedom Network would be more than happy to provide detailed briefing papers on specific recommendations as well as review these important changes with members of the Subcommittee. The recommendations include: amendments to the threshold requirements for benefits, amendments to make it easier to protect family and reunite family members with trafficking survivors, and the addition of a requirement that trafficking survivors have access to legal counsel.

I look forward to continuing to work with Members of Congress to eradicate all instances of human trafficking in our country and the world. I am confident that, with your support, the VTVPA can be amended to more fully realize the goals and intentions of American people when they passed the VTVPA.

Thank you for your attention and for the invitation to appear here today. I look forward to your questions.

## COALITION TO ABOLISH SLAVERY & TRAFFICKING

5042 Wilshire Blvd., #586 ♦ Los Angeles, CA 90036 ♦ 213-365-1906 phone ♦ 213-365-5257 fax

The Coalition to Abolish Slavery and Trafficking (CAST) provides legal and social services to victims of human trafficking in the greater Los Angeles area. Since its inception in 1998, CAST has assisted hundreds of trafficked persons in the Los Angeles area and has consulted on thousands of cases of trafficked persons throughout the United States. Given CAST's past and present experience assisting victims of trafficking, CAST makes the following recommendations for amendments to the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) to help this Administration improve its track record with respect to issuing T visas and win the fight against trafficking:

- Trafficked Persons who comply with law enforcement requests OR would face extreme hardship upon removal should be eligible for T-visas.
- Law enforcement endorsements should be provided as soon as a Trafficked Person comes forward to law enforcement officials.
- Trafficked Persons should be able to reunite with their family members, therefore, the "extreme hardship" requirement for derivatives should be removed.
- Upon approval of a T-visa, Trafficked Persons should be eligible immediately for adjustment of status to legal permanent resident.
- The 3-year and 10-year bars for re-entry into the U.S. should be waived for Trafficked Persons.
- All Trafficked Persons should have the express right to legal counsel.

**Trafficked Persons who comply with law enforcement requests OR would face extreme hardship upon removal should be eligible for T-visas.**

In 2000 the federal government passed the Victims of Trafficking and Violence Protection Act (VTVPA). The VTVPA was the first comprehensive piece of legislation that directly addressed the issue of human trafficking in both the United States and abroad. Prior to the VTVPA's enactment, traffickers benefited from their victims' status as undocumented immigrants. Victims were often treated as criminals and deported before they could be identified as victims of human trafficking. To legitimize a victim's status in the United States, the VTVPA establishes a nonimmigrant visa under the Immigrant and Nationality Act (INA) called the T-visa. In the alternative, a victim of human trafficking is also eligible for continued presence status.

Eligibility for the T-visa extends to those who have (1) been a victim of severe forms of trafficking; (2) are physically present in the United States or port of entry; (3) have complied with reasonable requests for assistance in the investigation and prosecution of

traffickers; and (4) would suffer extreme hardship involving unusual and severe harm upon removal.<sup>1</sup> Victims who will suffer extreme hardship if deported from the United States and who are under the age of 18 can also qualify for a T-visa.<sup>2</sup>

Currently, the language in the requirements for T-visas is too restrictive and that the AND connecting provisions three and four should be changed to an OR. Survivors of trafficking in the United States should be permitted to remain here if they comply with law enforcement requests or they would face extreme hardship.

Survivors of human trafficking must prove they escaped from violent criminals and demonstrate that they are in the United States because of their enslavement. In addition, they must risk their lives and the lives of their family members to assist in the investigation and prosecution of their former captors. Finally, they bear the additional burden of showing that they would face unusual and severe hardship—the highest extreme hardship standard in United States immigration law. For example, this standard is higher than that required of applicants for suspension of deportation and cancellation of removal for battered spouses or children.<sup>3</sup>

CAST's experience has been that the vast majority of survivors of trafficking wish to assist law enforcement officials because they want these violent criminals to pay for their crimes and wish to protect other individuals from becoming victims. However, sometimes victims of trafficking are not physically, psychologically, or emotionally capable of complying with law enforcement requests. Victims have faced years of brutal physical, emotional, and sexual abuse, and some simply cannot face the grueling and detailed trial preparation and court proceedings that a trafficking prosecution involves. The provisions of the VTVPA were designed to support and protect victims while ensuring that the traffickers received the punishment they deserved. Punishing victims because they are unable to assist in an investigation against their traffickers and sending them back to countries where their lives could be in danger is clearly contrary to the humanitarian principles of the VTVPA. Additionally, penalizing a Trafficked Person by denying him or her a T-visa when they are assisting in the investigation and prosecution of a trafficking case simply because they can not meet the high standard of showing extreme and unusual hardship, is also contrary to goals of the VTVPA.

Furthermore, given the number of individuals currently trafficked into the United States, T-visas are drastically under utilized. Four years after the enactment of the VTVPA, which authorizes 5,000 T-visas per year<sup>4</sup>, less than 400 T-visas have been issued.<sup>5</sup> In this four year time period, the government was authorized to issue 20,000 T-visas and the State

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<sup>1</sup> 8 U.S.C. § 1101(a)(15)(T) (2004).

<sup>2</sup> *Id.*

<sup>3</sup> National Immigration Law Center, DOJ Issues Regulations for T Visas Available To Victims of Trafficking, *Immigrant Right's Update*, Vol. 16, No. 1 February 28, 2002. Available at [www.nilc.org/immlawpolicy/obtainpr/olpr071.htm](http://www.nilc.org/immlawpolicy/obtainpr/olpr071.htm). 8 U.S.C. 1229(b)(2)(A)(III)(v) requires that the removal would result in extreme hardship for the alien, alien's child or the alien's parent.

<sup>4</sup> 8 U.S.C. § 1184(o)(2).

<sup>5</sup> International Rescue Committee, Human Trafficking Watch Newsletter, Spring 2004. Available at [www.humantrafficking.org/resources/pubs/newpubs.html](http://www.humantrafficking.org/resources/pubs/newpubs.html). Since March 2002, USCIS reports that 371 T-visa applications have been granted, and 90 are pending.

Department estimates that 18,000-20,000 individuals were trafficked into the United States each of these years.<sup>6</sup> Given these figures, efforts to assist victims of this horrible crime currently fall far short of even beginning to scratch the surface of this grave human rights abuse. Therefore, creating a less onerous standard for fulfilling the T-visa requirements by changing the AND requirement to an OR would greatly benefit survivors of this terrible crime and give more individuals access to benefits and services they need and deserve, as was Congress' intent when it enacted the VTVPA.

**Law enforcement endorsements should be provided as soon as a Trafficked Person comes forward to law enforcement officials.**

Besides establishing legal ways for trafficked persons to remain in the United States, the VTVPA grants victims of severe forms of trafficking the right to benefits and services to the same extent as refugees.<sup>7</sup> This access allows service providers to address the multifaceted concerns of trafficking victims and acknowledges that prosecution alone is not enough to effectively combat this problem. To be eligible for benefits, an applicant must be certified as a victim of a severe form of trafficking by the Department of Health and Human Services (HHS).<sup>8</sup> To qualify for this certification, the victim must have applied for a T-visa, or be eligible for continued presence because their testimony is necessary to prosecute traffickers.<sup>9</sup> Additionally, the Trafficked Person must be willing to reasonably assist in the investigation and prosecution of severe forms of trafficking.<sup>10</sup> Law Enforcement Agency endorsements or (LEAs) are considered to be primary evidence that Trafficked Persons are assisting in the investigation and prosecution of their traffickers. Although not mandatory, Department of Justice regulations strongly suggest that LEA endorsement are essential to demonstrating compliance with this requirement, and indicates that without such an endorsement, establishing compliance may be difficult.<sup>11</sup>

Under the current provisions of the VTVPA, assistance with "investigation and prosecution" is defined as identifying, locating and apprehending human traffickers, and being willing to testify at proceedings against them.<sup>12</sup> Given this language, CAST has experienced many delays and denials of request for LEAs even after a Trafficked Person has come forward, told his or her story, and expressed willingness to continually cooperate in the investigation and prosecution of the trafficking crime. The delay or refusal of a LEA endorsement causes great hardship for the Trafficked Person and the service providers working with this individual since LEAs play perhaps the most pivotal role in securing the victim's legal immigration status and benefits such as food, shelter and medical care. Receiving legal status and access to social services is essential to the well-

<sup>6</sup> U.S. Dep't of State, Assessment of U.S. Activities to Combat Trafficking in Persons 3 (2003).

<sup>7</sup> 22 U.S.C. § 7105(b)(1).

<sup>8</sup> 22 U.S.C. § 7105(b)(1)(E)(i).

<sup>9</sup> 22 U.S.C. § 7105(B)(1)(E)(i)(II).

<sup>10</sup> 22 U.S.C. § 7105(B)(1)(E)(i)(I).

<sup>11</sup> New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for "T" Nonimmigrant Status, 67 FED. REG. 47804-01 (Jan. 31, 2002) (codified at 8 C.F.R. § 214.11).

<sup>12</sup> 22 U.S.C. § 7105(b)(1)(E)(iii)(I-III).



being of survivors of trafficking, and also to the successful prosecution of these cases. Therefore, CAST believes that the language in the VTVPA should be altered to clearly state that law enforcement officials are required to provide a LEA endorsement to a Trafficked Person when the person exhibits willingness to cooperate by offering information on a trafficking situation. The VTVPA should be amended to require the immediate delivery of a LEA when a trafficking victim expresses willingness to cooperate by reporting a case. To make this change, the language in 22 U.S.C. § 7105(b)(1)(E)(iii)(I-III) should be altered to define assistance in investigation and prosecution as initially coming forward and reporting a case. The Trafficked Person can then be required to provide continuous assistance in the on-going investigation and prosecution. However, receipt of a LEA endorsement should be contingent on the initial cooperation of the Trafficked Person. This clarifying language will ensure a Trafficked Person's timely access to immigration status and benefits while ensuring continued cooperation in ongoing criminal investigations.

**Trafficked Persons should be able to reunite with their family members, therefore, the "extreme hardship" requirement for derivatives should be removed.**

Family members of Trafficked Persons are only allowed to come to the United States after a survivor of trafficking receives a T-visa if they would face extreme hardship. The language in 8 U.S.C. 1101(15)(T)(ii) currently only allows family members to accompany or follow to join a Trafficked Person if the Attorney General considers it necessary to avoid extreme hardship.<sup>13</sup> The extreme hardship standard is not satisfied by the significant hardship and pain of separation from family members but instead means that the family member must live under a hardship that is substantially different from hardships experienced by others in the same country who are not victims of trafficking. Examples of extreme hardship include when the T-visa holder is the breadwinner for the family, or if there is serious risk of harm, especially bodily harm, from traffickers. Family members who do not qualify under this standard likely will not qualify to come to the United States for years. To petition for his or her family to come to the United States, the T-visa holder first must wait three years until he or she can adjust his immigration status to become a legal permanent resident. After this time period the Trafficked Person can apply for a family sponsored immigration visa.<sup>14</sup> This takes about 5-10 years, depending on country of origin.

In contrast to the extreme hardship requirement for T-visa holders, once an asylum applicant is granted asylee status in the United States, his or her spouse and children are eligible for the same status as the asylee unencumbered by the extreme hardship

<sup>13</sup> The language reads as follows:

(ii) if the Attorney General considers it necessary to avoid extreme hardship--

(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; and

(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien,

if accompanying, or following to join, the alien described in clause (i)

<sup>14</sup> 8 U.S.C. § 1153(a)(2).

requirement.<sup>15</sup> To remain in keeping with the humanitarian principles of the VTVPA and to maintain consistency with other provisions in United States law that deal with individuals who have suffered grave human rights abuses, the CAST believes that the language in 8 U.S.C. § 1101(T)(15) should be altered to eliminate the extreme hardship requirements for derivative family members.

**Upon approval of a T-visa, Trafficked Persons should be eligible immediately for adjustment of status to legal permanent resident status.**

Trafficking survivors have to wait three years to adjust to legal permanent residence status. Currently, 8 U.S.C. § 1255(l) requires that a victim of trafficking must have been present in the United States for a continuous period of at least 3 years to adjust his or her immigration status.<sup>16</sup> This delay significantly hinders a Trafficked Person's full integration into life in the United States. It keeps trafficking survivors from being able to work and travel freely, and reunite with their family. It is also a far lengthier period of time than what is required for those who receive refugee status. Under 8 U.S.C. § 1159, refugees who are physically present in the United States for at least one year may adjust to legal permanent residence status. Given that Trafficked Persons are generally in the United States 1-2 years before they receive their T-visa, they should be eligible to adjust upon approval. Additionally, given the current backlog of cases and bureaucratic hurdles that must be surpassed when refugees apply for permanent residence status CAST believes it is in the Trafficked Person's and the government's interest to grant Trafficked Persons immediate eligibility for legal permanent resident status upon issuance of a T-visa.

**The 3-year and 10-year bars for re-entry into the U.S. should be waived for Trafficked Persons**

Under current United States immigration law an individual unlawfully present in the United States for a period of more than 180 days but less than a year is inadmissible for

<sup>15</sup> 8 U.S.C. § 1158(a)(3)(A). The language reads as follows:

Treatment of spouse and children.

(A) In general. A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) [8 USC § 1101(b)(1)(A), (B), (C), (D), or (E)]) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

<sup>16</sup> (l) Adjustment of status of victims of severe form of trafficking in persons.

(1) If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States under section 101(a)(15)(T)(i) [8 USC § 1101(a)(15)(T)(i)]--

(A) has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under section 101(a)(15)(T)(i) [8 USC § 1101(a)(15)(T)(i)],

(B) has, throughout such period, been a person of good moral character, and

(C) (i) has, during such period, complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or

(ii) the alien would suffer extreme hardship involving unusual and severe harm upon removal from the United States,

the Attorney General may adjust the status of the alien (and any person admitted under section 101(a)(15)(T)(ii) [8 USC § 1101(a)(15)(T)(ii)]) as the spouse, parent, sibling, or child of the alien) to that of an alien lawfully admitted for permanent residence.

three years.<sup>17</sup> Additionally, an individual unlawfully present in the United States for one year or more is inadmissible for 10 years.<sup>18</sup> Many Trafficked Persons accrue unlawful presence in the United States while being held by their captors. This means that Trafficked Persons who leave the United States are oftentimes barred from returning to the United States for 3 or 10 years. Trafficking survivors have been separated from their families for extended periods of time. Family emergencies or other urgent matters also often create a need for survivors to return home on a temporary basis. However, the current immigration laws prevent most Trafficked Persons from returning the United States and survivors oftentimes must make the difficult decision of being unable to return to the United States for an extend period of time if an urgent matter calls them back home.

CAST believes that in legislating the 3 and 10-year bars to admission, Congress intended to prevent persons who knowingly and intentionally violate our immigration laws from returning to the United States. However, while in the hands of their captors, Trafficked Persons have no control over their immigration status. They are often unaware of their immigration status and unable to impact and normalize their status while in the trafficking situation and afterwards. Therefore, CAST asks that an exception similar to those provided for minors, asylees, and battered women and children apply for Trafficked Persons as well.<sup>19</sup> This exception will protect Trafficked Person from the extreme hardship of not being able to travel outside the United States when necessary, and also ensure that Trafficked Persons continue to be available for investigation and prosecutions of their traffickers.

**All Trafficked Persons should have the express right to legal counsel.**

The VTVPA requires that Trafficked Persons be provided with a referral to a nongovernmental organization to advise the Trafficked Person of his or her options while in the United States and about the resources available to them.<sup>20</sup> CAST provides both social and legal services to survivors of trafficking, advising them of their options and rights under the law and developing essential support systems to assist in their recovery and reintegration into normal life.

Although CAST is involved in every aspect of a Trafficked Person's life, with increasing frequency legal service providers are being excluded from their client's interviews with law enforcement officers and United States Attorneys. A legal service provider's presence in these interviews is essential because many trafficking victims fear self-incrimination, prosecution, and deportation. Their own counsel is in the best position to assert their rights and ensure the Trafficked Person's continued best interest. It takes incredible courage for Trafficked Persons to come forward and tell their story and every possible precaution should be taken to ensure they are not re-traumatized by the criminal legal process. Allowing trafficking victims the right to be represented by their own legal

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<sup>17</sup> 8 U.S.C. § 1182 (a)(9)(B)(i)(I).

<sup>18</sup> 8 U.S.C. § 1182 (a)(9)(B)(i)(II).

<sup>19</sup> 8 U.S.C. § 1182(a)(9)(B)(iii).

<sup>20</sup> 8 U.S.C. § 1101(i).

counsel minimizes the potential for re-traumatization. For these reasons CAST believes that the VTVPA needs to be amended to provide that a Trafficked Person has an explicit right to have legal counsel present at all times.

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STATEMENT OF

JOHNNY SUTTON  
UNITED STATES ATTORNEY  
WESTERN DISTRICT OF TEXAS

BEFORE THE

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON THE CONSTITUTION,  
CIVIL RIGHTS, AND PROPERTY RIGHTS

JULY 7, 2004

Good afternoon Mr. Chairman and Members of the Subcommittee.

Thank you for the invitation to join you today for a timely discussion of a very important topic: the horrible crime of human trafficking.

It is important to distinguish the crime of human trafficking from the more common crime of human smuggling. Trafficking is a particularly abhorrent offense, as it involves the treatment of human beings as commodities who are forced to work under deplorable conditions in factories, fields, and as commercial sex workers.

Trafficking in persons is a not only a crime, it is a violation of the most basic human rights. It has been reported that some 15,000 people are trafficked into the United States every year. Trafficking profits feed organized crime, and

trafficking is linked to a wide variety of other criminal activity including document fraud, money laundering, prostitution, and drug trafficking.

The Department of Justice has made the investigation and prosecution of human trafficking a top priority, and our efforts have been greatly enhanced by Congress's passage of the Trafficking Victims Protection Act of 2000 ("TVPA"). The TVPA essentially did three things: (1) it provided for a range of new protections and assistance for victims of trafficking in persons; (2) it expanded the crimes and enhanced the penalties available to federal investigators and prosecutors in pursuing traffickers; and (3) it expanded U.S. activities internationally to prevent victims from being trafficked in the first place. Mr. Chairman, as you know, last year President Bush signed into law the Trafficking Victims Protection Reauthorization Act of 2003 ("TVPRA"). This new law not only reauthorized the 2000 Act, it improved it by mandating new information campaigns to combat sex tourism and creating a new civil action provision that allows trafficking victims to sue their traffickers in federal court. In addition, the TVPRA requires that the Attorney General report to Congress every year on the U.S. Government's efforts to combat trafficking. The first such report was submitted in May 2004 and

included detailed information on what the U.S. Government has done in the past year to address this problem. In a moment, my colleague, Mike Shelby, will provide a summary of the Department's recent activities in this area.

As the United States Attorney in one of our country's largest border regions, I have seen firsthand how traffickers operate to prey upon the most vulnerable and desperate of victims. Because it shares over 600 miles of border with Mexico, the Western District of Texas traditionally has been a primary corridor for alien smuggling. "Coyotes" and the smuggling rings they work for have long exploited the remote, informal crossing points along the Rio Grande River, as well as the major interstate highways running north and east from south Texas, to move undocumented aliens from Mexico and Central America to major metropolitan areas in Texas and on to North Carolina, Chicago, and other points north. A large number of aliens also enter the U.S. through the remote regions of west Texas, crossing near El Paso and Presidio, and then traveling through the trans-Pecos region to Midland/Odessa and then onward.

In recent years, it has become increasingly evident that significant numbers of these aliens face serious risks of physical harm as part of their quest to enter the U.S. These

aliens face not only harsh weather, unsafe vehicles, and reckless drivers, they are also increasingly held hostage to the payment of high smuggling fees and in some cases are being forced into virtual slavery as farm workers or prostitutes.

To address this problem, my office has joined with thirty other entities in central Texas, such as the Department of Homeland Security, to create a Coalition Against Human Trafficking. This coalition is made up of law enforcement agencies, social service providers, and other non-governmental organizations, all dedicated to working together to uncover and prosecute these cases, and providing assistance to the victims of these crimes. The coalition meets monthly and recently hosted a training conference on human trafficking issues.

We have also created a Human Trafficking/Anti-Smuggling Working Group, made up of central Texas federal (again, including the Department of Homeland Security, among others), state, and local law enforcement agencies. The goal of this effort is to facilitate communication and coordination and to provide education so as to improve our collective ability to identify and prosecute trafficking and smuggling cases in our region.

During the past three years, we have seen an increase in the number of trafficking cases in the Western District of Texas.



These are difficult cases to investigate and prosecute, with victims typically unwilling or unable to contact the authorities.

My district, like every district in the country, has nevertheless made these cases a priority, and I am pleased to report that by utilizing the cooperative efforts discussed above, we have had some success.

In 2002, we prosecuted a University of Texas at El Paso research assistant and his wife for leading a trafficking ring that victimized young women. The couple recruited their victims from their hometown in Uzbekistan. The women were lured to the U.S. with promises of lucrative modeling jobs, extravagant lifestyles, and the ability to bring their families here also. The defendants used fraudulently obtained J-1 visas to bring the women into the U.S. through El Paso. The visas purported to show that the women were scientists traveling to the U.S. to do research at UTEP. Once here, the women's immigration documents were confiscated and they were forced to work in local strip clubs for the benefit of the defendants. It was estimated that the defendants collected more than \$700,000 as result of their criminal enterprise. They were ultimately convicted, sentenced to five years in prison, and ordered to pay more than \$500,000 in restitution to their victims.

In 2003, we convicted a 32 year-old woman of human trafficking offenses relating to "contracts" she entered into with minor females and their families in Mexico by falsely representing that the girls would be obligated to work for one year in the woman's restaurant in order to pay a \$1500 smuggling fee. In fact, when the girls reached Austin, they were held against their will, threatened with death and bodily harm if they tried to flee, and forced into prostitution. This defendant was sentenced to 9 years in prison.

Most recently, in March of 2004, the leader of smuggling ring pled guilty to conspiracy to smuggle illegal aliens resulting in death. The defendant admitted that for the past ten years, his operation smuggled thousands of illegal aliens into the U.S. from Central and South American countries in exchange for fees of up to \$9,000 per alien. During one of the organization's operations, two aliens died as a result of heat stroke while enclosed in an unventilated cargo trailer used to transport 40 aliens to Austin. Four other members of this conspiracy remain at large.

These cases are but a few examples of a criminal growth industry, the true scope of which is unknown. However, through unprecedented cooperation by federal, state, and local law

enforcement authorities, we are making significant strides in fighting this difficult, but important battle, and we are committed to increasing our efforts in this area.

Mr. Chairman, again, thank you for your leadership on this issue and for having this hearing today. I would be happy to respond to any questions that Members of the Subcommittee might have.