



Urban Justice Center

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*New York State Office of Temporary and Disability Assistance
and
Division of Criminal Justice Services*

***NEW YORK STATE INTERAGENCY TASK FORCE ON HUMAN TRAFFICKING
PUBLIC HEARING***

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The Sex Workers Project¹ at the Urban Justice Center and the NY Anti-Trafficking Network, of which we are a member, thank you for this opportunity to present our recommendations for implementation of the New York State anti-trafficking law that became effective November 1, 2007.²

The Network is a coalition of diverse service providers and advocates in New York dedicated to ending human trafficking and coordinating resources for trafficked persons. The NY Anti-Trafficking Network has provided direct services to over 500 survivors of trafficking and advocated on issues of trafficking in persons since 2002. As the first coalition in New York to engage in advocacy on issues relating to trafficked persons in New York, the Network aims to bring together the voices of those who have first-hand experience of the injustices of human trafficking, who work

¹ The Sex Workers Project (SWP) is the first program in New York City and in the country to focus on the provision of legal services, legal training, documentation, and policy advocacy for sex workers. The SWP's program on trafficking in persons advises and represents trafficking victims in legal cases; informs and educates immigrant communities about the issue of trafficking and possible legal options; and trains attorneys on this issue. The SWP also coordinates with various law enforcement agencies to better identify victims of trafficking, and to ensure that trafficked persons who cooperate with law enforcement are protected through the legal process. Finally, we collaborate with other non-governmental organizations to advocate for trafficking-related policies that focus on the human rights of trafficked persons and respect their dignity. The SWP is a member of the national Freedom Network and the NYC Anti-Trafficking Network (Co-Chair, Policy & Advocacy Committee; Member, Steering and Legal Committees).

² S.B. 5902, 228th Leg., Reg. Sess. (N.Y. 2007), chaptered on June 6, 2007.

consistently to meet the needs of trafficked persons, and who advocate for a more humane and responsive policy towards trafficked persons. Our membership currently includes over 90 organizations and individuals advocating on behalf of survivors of trafficking and other forms of violence.

We applaud the efforts of New York State, and work of your agencies in particular, to address the problem of human trafficking at the state and local level. Given that New York State is a hub for this severe violation of human rights, it is critical that all trafficked persons here receive ***immediate and comprehensive services as soon as they are identified***, regardless of the sector in which they worked and whether or not law enforcement has agreed to view them as victims of human trafficking. This victim-centered approach will allow trafficked persons to achieve dignity and stability in their lives, and simultaneously support the State's law enforcement efforts.

I. Identification and Confirmation Process of Trafficked Persons

The new anti-trafficking law provides that the Office of Temporary and Disability Assistance (OTDA) will coordinate with and assist law enforcement agencies and district attorneys' offices to access appropriate services for trafficked persons, and that OTDA *may* enter into contracts with non-governmental organizations for providing *pre-certified* victims of human trafficking services.³ Decisions regarding eligibility and confirmation for services rest with OTDA and the Division of Criminal Justice Services (DCJS).⁴ While we are pleased that the State is taking steps to ensure that trafficked persons receive the services they so desperately need, we have strong concerns about these efforts.

1. The goal of the services provision and the confirmation process of the new law is to fill the "gap" between the time that a victim of human trafficking is identified, and the time it takes for that victim to be certified as a victim under the federal law, at which point the victim is eligible to receive federal benefits and services.⁵ **However, there appear to be no mechanisms in place for social service providers or advocates to contact OTDA and/or DCJS directly when we discover and identify a victim of trafficking.**

The reality of this confirmation process is that law enforcement agents and district attorneys' offices will not contact OTDA or DCJS on behalf of a victim until they have a reasonable belief that the person in question is a victim of trafficking in persons. This means that law enforcement will be conducting their own investigations, which can take weeks or more realistically, months. The results of this process are clear—a person who has been identified as trafficked will need to be in an ongoing cooperative relationship with law enforcement or a district attorney's office in order to access services. Our experiences in working with well-meaning and dedicated law enforcement and prosecutorial offices have taught us that relying solely on government agencies to initiate the process of accessing services delays necessary services and benefits for months. This is counter to the very intent of the service-related sections of the new law, since at this point, the trafficked person can apply for the T visa and be well on his or her way to receiving federal benefits.

³ NY Soc. Ser. Law §483-bb (emphasis added).

⁴ NY Soc. Ser. Law §483-cc; Proposed 9 NYCRR 6174.3 (proposed emergency rule available at XXIX NY Reg. 2 (Nov. 14, 2007)).

⁵ XXIX NY Reg. 1 (Nov. 14, 2007) (proposing an emergency rule adding a new Part 6174 to Title 9 NYCRR); *see also* Meeting Minutes from NY Anti-Trafficking Network Meeting (Presentation by OTDA and DCJS), Oct. 12, 2007, on file with the Sex Workers Project at the Urban Justice Center.

We strongly urge you to adopt measures that will work in a way that provides assistance to trafficked persons as soon as they are identified by service providers as well as law enforcement agencies and district attorneys' offices.

2. In addition, **there appear to be no mechanisms in place to protect confidentiality of victims' information.** Given the sensitive nature of most trafficking situations, often relating to immigration status and/or experiences of abuse that no one would want to be public, this is a gap that must be addressed.

II. Outreach and Training on Trafficking Into Labor Sectors

We oppose human trafficking in all forms. Trafficking into various labor sectors is as harmful as trafficking into prostitution. However, it is clear that thus far, New York State is focusing its resources largely on trafficking into prostitution.⁶ **The prevalence and criminality of labor trafficking situations must be taken seriously by New York State,** and its importance must be made clear and acknowledged in:

- Outreach efforts to increase public awareness of human trafficking;
- Training of law enforcement, prosecutors, and state agencies;
- Identification of appropriate service providers;
- Collecting data on the nature and extent of human trafficking in New York State; and
- Prevention efforts aimed at protecting vulnerable workers before they become victims of this brutal crime.

Labor trafficking has already been treated as a less serious violation of human rights by being designated two felony levels lower than trafficking into prostitution.⁷ In the NY Anti-Trafficking Network, we see many cases of trafficking into sectors other than prostitution, including domestic work, retail work, and dancing or stripping. These cases will be ignored if substantial resources are not focused on outreach and training; identification; data collection; and prevention efforts for labor trafficking. Ultimately, this will result in New York State ignoring the needs of a large sector of trafficked persons.

Thank you for offering advocates such as the Sex Workers Project and other members of the NY Anti-Trafficking Network an opportunity to share our expertise and our concerns with you as you consider mechanisms around implementation of the new law. We look forward to working with you in an effort to bring ***immediate and comprehensive assistance*** to trafficked persons in New York State.

⁶ Meeting Minutes from NY Anti-Trafficking Network Meeting (Presentation by OTDA and DCJS), Oct. 12, 2007, on file with the Sex Workers Project at the Urban Justice Center.

⁷ See NY Penal Law §§135.35, 230.34.