

Providing Social Services Support for People Who Experienced Human Trafficking Acting as Witnesses in Legal Proceedings

A WARNATH GROUP PRACTICE GUIDE



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The WARNATH GROUP

Providing Social Services Support for People Who Experienced Human Trafficking Acting as Witnesses in Legal Proceedings

PRACTICE GUIDE
by The Warnath Group

AT A GLANCE

Intended Audience:

- Social workers, case managers, shelter staff, and victim advocates working on human trafficking cases.

Takeaway: Social services staff can contribute to the prosecutions of traffickers by supporting victim witnesses to engage with law enforcement.

In This Practice Guide:

- The role of social services staff in criminal justice processes
- Composite scenarios based on real cases
- How to provide support by ensuring the victim has the necessary information on the criminal justice process
- Considerations for the creation of safety and support plans during criminal justice processes

Victim-Centered Approach to Human Trafficking Cases

A victim-centered approach to the criminal justice process seeks to minimize victim re-traumatization by prioritizing victim needs and offering: 1) advocacy and support; 2) holistic, culturally appropriate and trauma-informed services; 3) choice, control and an opportunity to play an active role in bringing traffickers to justice. This best-practice approach promotes active collaboration between all parties and will empower the victim to be an effective witness. Ideally, a victim-centered approach to human trafficking cases is adopted and implemented by all actors in the criminal justice system including police, prosecutors, legal and social service providers, court staff and the judiciary.

Social workers, case managers, shelter staff and other social services personnel play a critical role in helping people who experienced human trafficking crimes to rebuild free and independent lives. They also assist law enforcement to bring human traffickers to justice by supporting victim witnesses who choose to provide information and testimony in the case against their traffickers.

Social service staff usually liaise between law enforcement and the victim to coordinate their engagement alongside other supports and remedies. Whilst social services staff are well-positioned to advocate for the rights and interests of victims throughout the criminal justice process they also have an obligation to support their agency and choices – including the choice to cooperate with police and prosecutors. Wherever possible, victims should be assigned a social service staff member to act as a single point of contact for law enforcement immediately following identification until completion of legal proceedings. This will ensure consistency, accuracy, and stability for the victim throughout criminal justice proceedings.



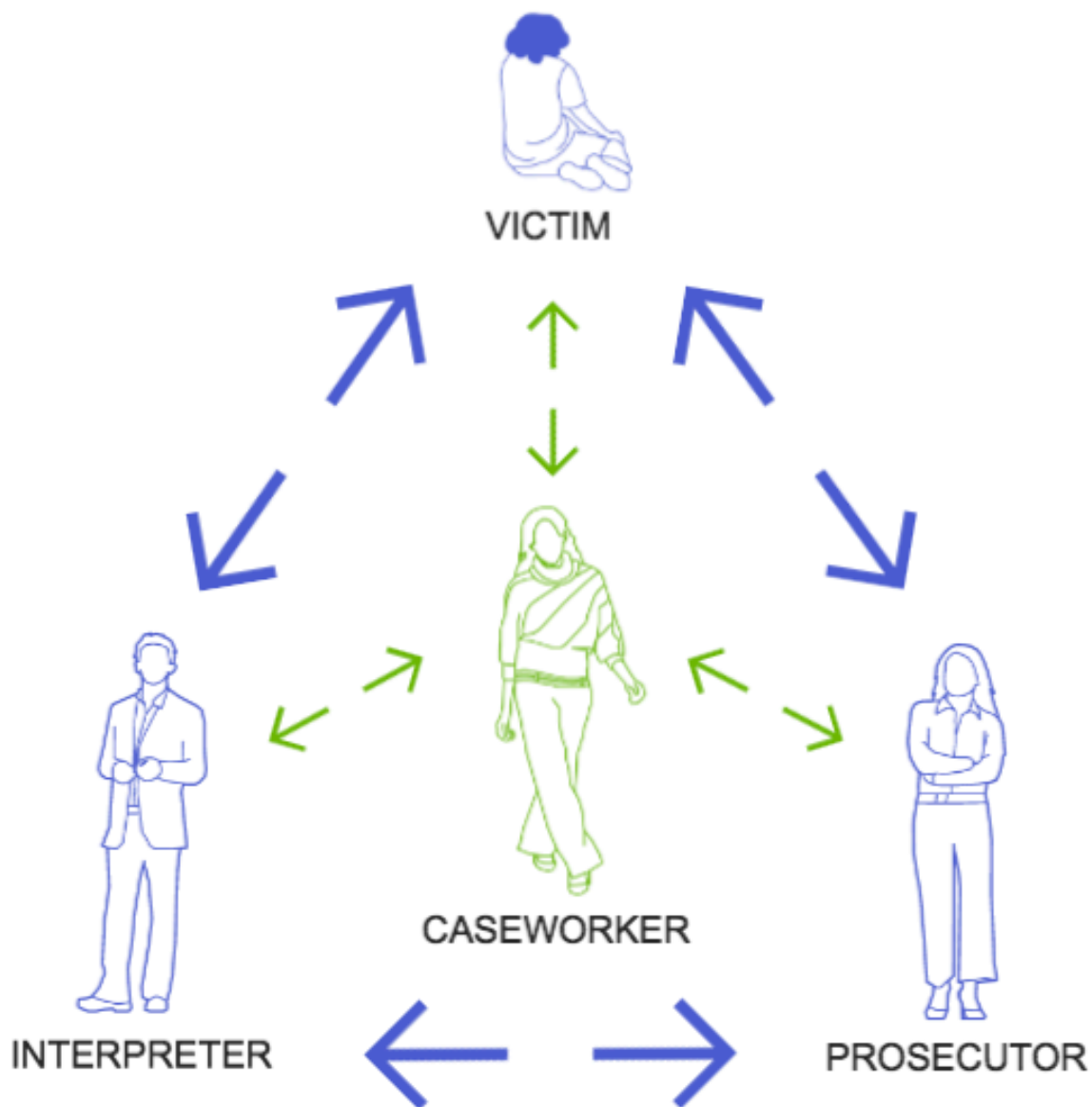
Team Building

Regular meetings between social services and law enforcement outside of cases involving victims will foster mutual trust and understanding, positive relationships and opportunities to improve practical ways of working together. Use the Warnath Group Practice Guides available at www.warnathgroup.com/publications to establish shared goals, understand each other's roles/responsibilities and facilitate a discussion about collaboration.

Social services personnel can increase their understanding of how law enforcement should use the victim-centered approach by reviewing the following Warnath Group Practice Guides available at www.warnathgroup.com/publications:

1. "Interviewing Victims of Human Trafficking: Promising Practices for Law Enforcement and Prosecutors" Online Tutorials Parts 1 - 3
2. "Prosecutor Trial Preparation – Preparing the Victim of Human Trafficking to Testify"

Role of the Caseworker



“Because the caseworker was involved from the beginning, she had the most global view of the victim’s situation post-trafficking. Agencies like mine got involved at various points and then disengaged when our roles finished. The caseworker was the hub of the wheel connecting everyone, keeping the victim well-informed and at the center of our efforts. She always made sure we had an interpreter; we were so focused on our own work sometimes we would forget to organize that!” -
Prosecutor

Informed Consent to Cooperate as a Victim Witness

Victims should provide informed consent to cooperate with law enforcement against their traffickers. Many factors contribute to this decision – family considerations, work or education opportunities that arise elsewhere, mental and physical health, and fear, to name a few. Social services personnel should not influence or advise victims about what decision to make. Their role is to ensure that victims are receiving the best information possible about what their involvement will entail and/or what impacts their lack of involvement may have. It is critical that victims understand their choices and are supported along their justice journey. In multi-victim cases, each victim should be recognized and treated as an individual with his or her own individual needs and concerns.

Victims should have access to ongoing independent legal advice in their own language and written information regarding:



The purpose of the criminal justice process



Their role, rights, and obligations as a victim witness including the right to withdraw cooperation



An overview of the steps involved in moving the case through the system



Possible outcomes in the event of participation and non-participation (positive, negative, short-term, long-term)



Approximate timelines for taking a statement and court proceedings to be completed



How the victim will be supported to participate and by whom (including if a lawyer will be appointed to represent their interests)



How the criminal justice process may intersect with other legal issues such as migration, civil remedies, debt, etc.

In some countries, the above information may be provided by police, prosecutors, legal officers or other law enforcement personnel. The presence of social services staff during this advice can help the victim to feel more comfortable to ask questions, raise concerns and follow up afterward if something was not understood or needs clarification.

It is important that consent is not sought whilst the victim is experiencing a physical or emotional crisis. Social service, medical, and mental health care providers should advocate with law enforcement regarding the readiness of a victim to consider cooperation and any concerns about whether or not informed consent has been obtained should be fully addressed. A victim should NEVER be pressured, coerced or manipulated into cooperating as a witness by any of the professionals they engage with from NGOs or government agencies.

Many victims experience acute stress after leaving their trafficking situation and may be at risk to themselves or others. If possible, social service providers should offer professional mental health services to assess risk and help victims develop strategies to manage their symptoms. A mental health professional can also identify any conditions that may impede the victim's readiness to make an effective statement including disorders or cognitive issues that may require longer-term treatment. Access to medication may also assist to stabilize mental health in the short-term. If services can be provided over the long-term, a mental health care plan can be tailored around how to best manage stress and anxiety concerning providing a statement to law enforcement and giving evidence in court. Additionally, mental health services can assist a victim to learn new self-advocacy skills, manage relationships with others and increase resilience.

Many victims choose not to engage with mental health services due to stigma and lack of knowledge about mental health. Lack of availability and access to mental health services is also a reality in many countries. In the absence of professional mental health support, every effort should be made to provide regular psycho-education, informal counseling and therapeutic activities by social service staff. In a shelter setting, this will foster peer support, a more harmonious living environment and increase management of mental health crises by staff. Improved mental health will increase the possibility of victims developing trust with law enforcement representatives and enhance the quality of information provided.

Social Worker Sara and Detective Martin



VICTIM



SOCIAL WORKER
SARA



DETECTIVE
MARTIN

Detective Martin was assigned to take a statement from a woman who was trafficked into domestic servitude where she experienced physical and psychological abuse. The woman was eager to make a police statement, so he arranged an interview through the woman's social worker, Sara. On the day of the interview, Sara called to inform Detective Martin that the woman had been hospitalized and needed to reschedule. At the rescheduled interview the woman quickly became dizzy, short of breath, and said she felt like she had a heart attack. Sara called an ambulance to take her to the hospital again. Sara discussed these ongoing panic attacks with Detective Martin and his efforts to work with a psychologist to help the victim. Detective Martin decided to delay meeting with the victim until the support plan could be implemented and asked a female detective to conduct the interview while he took notes in the background. Within one month, Sara and the psychologist were able to help the victim manage her symptoms and effectively provide a statement to the police. "By working with the victim's supports, I was able to get a very good and complete statement over three shorter interviews. If I had not waited and brought in my co-worker, I don't think the victim would have been able to recall critical information that I could follow up. Having Sara at the interviews also meant that she could help the victim manage her stress when talking about painful memories related to the crimes she suffered and I could concentrate on my job." – Detective Martin

Coordinating with Law Enforcement

Once informed consent is obtained, social services staff should communicate proactively with law enforcement on behalf of the victim to coordinate next steps. Paperwork related to the victim should be obtained, and professional documentation kept secure. The victim should be advised of any documentation being kept about them by social service providers and have the opportunity to see his or her own case file when requested. The victim should be provided with the names and contact details of everyone involved in the criminal case and any other contacts related to their support as well as an explanation of their role.

After a victim has left a trafficking situation, evidence corroborating their statement (including other witnesses) could disappear, be altered or destroyed. Most likely, police, prosecutors and labor inspectors will want to interview the victim as soon as possible. In some countries, investigative tasks are inflexible because there are strict time limits and accountabilities built-in to the investigative process. Law enforcement will be under pressure from their agency to pursue the investigation and from social services/victim advocates to consider the readiness to provide information. This can create tension between all of the parties involved. However, if a victim decides to cooperate, they should be given an opportunity to provide the best possible information to investigators. Social service providers should not create unnecessary or unreasonable barriers to law enforcement being able to access victims to obtain timely information and evidence.

Social service staff should work to empower the victim to make their own decision about when and how to cooperate with authorities by ensuring a support plan is in place. It is likely that providing information or a statement will be distressing and can even trigger traumatic stress symptoms (difficulty concentrating, anger, sadness, suicidal thoughts, anxiety/fear, etc.). Help the victim make a plan on what coping strategies they will use during engagement with law enforcement and then plan how to debrief together afterward. Help the victim identify an activity that they enjoy or that brings them a sense of calm. This may be as simple as taking a walk, listening to music or having a cup of tea.

Investigating Officer Carl and Caseworker Ann



INVESTIGATING
OFFICER CARL



CASEWORKER
ANN



VICTIM

A migrant sex worker was trafficked into a brothel where she suffered multiple serious assaults. She was extremely reluctant about talking to the police after she escaped and was suffering from a serious illness requiring intensive treatment. Her caseworker, Ann, told Officer Carl that she was also very ashamed of people knowing about her work. With the victim's consent and consultation, Ann brought together her doctors, lawyer, mental health counselor, Officer Carl, and the prosecutor to create a risk management and support plan that set acceptable timelines, boundaries, and guidance for their engagement with her.

Officer Carl said, "It was very helpful for me to understand all of the challenges the victim was facing at this point and where I fit in as the investigating officer. It also made me aware of what everyone else was doing to support her and how her medical situation would impact her ability to give a statement. I tried to be really mindful that she didn't feel I judged her for working in the sex industry. She could see all of us working together to help her do her best, and I think this gave her more confidence.

She was an amazing witness."

Right to Communicate with Family and Others

Human traffickers often control their victims' ability to communicate with family members to increase isolation and reduce opportunities to seek help. Some victims are not allowed to contact their family members at all, or their contact is limited and monitored by the trafficker. Some victims are forced to lie about their situation to their families. Losing touch with children, spouses, parents and extended family who are often relying on the victim to send them money is highly distressing. Human trafficking tears families apart. Once a victim has escaped from their traffickers, all efforts should be made to assist them to reconnect with and restore relationships with their families and other people in their life if they desire to do so.

Communication with family and friends (and associated risks) can be included in early safety planning and as part of rights information provided to help victims assess what to share, whom to share it with and how to share it alongside possible outcomes – positive/negative and short-term/long-term. Social services staff can discuss this with the victim and law enforcement together to help develop open lines of communication and trust. Victims should be advised that if they are unsure about a communication they are considering with someone, they can seek help to assess the impact.

There is always a risk that victims will contact the traffickers or their associates, that victims will lie or give misinformation to investigators and that this can adversely affect the investigation. Family and friends will often seek to influence the victim's decisions about what actions they will take going forward and even pressure the victim to act outside of what others would view as the best interest of the victim. Restoring freedom, choice, and control for the victim should be supported so they can reconnect with people and relationships that make them feel safe as a priority. A victim-centered approach recognizes that people make choices based on a range of factors including what is best for themselves, their families/friends and communities – not what is best for NGOs, police, prosecutors or the criminal case.

Police Officer Jennifer and NGO Staff



POLICE OFFICER
JENNIFER



NGO STAFF



VICTIM KEN

“Ken had been trafficked into a factory and had not spoken to his family for almost two years. They thought he was dead. He and most of the other workers were terrified to cooperate with us to try and prosecute the factory boss. We took them to the NGO shelter, and many of them contacted their families straight away even though we told the staff not to let them call anyone. Most of their families told them not to talk to us. Some of the family members were also threatened by the recruiters - we couldn't do anything about that. It was confusing in the beginning with everyone talking to everyone and no one talking to us. The NGO staff worked hard to make sure that each victim was given their own advice. They even talked to some of the families and helped to explain the process here. In the end, Ken decided to cooperate with us. His family was furious about what had happened to him. His participation gave courage to two other workers who then decided to cooperate. If Ken didn't have the support of his family, he never would have spoken to us, and there would not have been any case at all.” - Police Officer Jennifer

Handling Information Disclosures

It is possible that social services staff will learn relevant information related to the case in the course of their work with the victim. Sometimes, this is simply because the victim was never asked about a particular issue, did not understand its relevance or relation to the context of the case or was forgotten/blocked at the time due to trauma. Sometimes victims intentionally withhold information for a variety of reasons including shame, because they are worried about being criminally implicated themselves, or they are being threatened. Social services staff should discuss the information with the victim and offer to support them to share it with law enforcement. Ultimately, it is the victim's decision about what information they share with law enforcement. If the victim has legal representation, they can also obtain advice from their lawyer. Some information disclosures require social service staff to make mandatory reports to authorities and vary by jurisdiction. Social service staff should check their mandatory reporting obligations and ensure that they are familiar with reporting policies and procedures.

Orientation to Court and Court Support

Every effort should be made to conduct a site visit to the court with the victim so they can begin to visualize their own participation in detail. Social service providers should advocate strongly for this to take place and include the prosecutor and investigating police officer, if possible. At a minimum, court orientation should consist of:



A visit to a safe room where the victim and their support person will wait before being called to court (if applicable)



Access to food/drink/toilets and an explanation of possible delays that may occur before being called as a witness



A clear explanation of where each person at the court will be sitting including the accused trafficker and particulars around how the judge will conduct proceedings and what role each person in the courtroom will have



How the victim witness can give evidence by video link or from behind a screen (if applicable)



A role play of the victim entering the court, sitting in the witness box, being examined (including how this would work with an interpreter) and leaving the court to a safe room



Explanation of the language and customs of the court including taking an oath or affirmation, court etiquette, and technicalities of giving evidence



A role play of where social service staff and other supporters will sit in the court so the victim can clearly see them whilst giving evidence and being cross-examined



When information will be provided about any parts of the court proceedings that the victim is/is not allowed to attend and parts of the proceedings the accused is/is not allowed to attend



When information can be provided about other witnesses being called in the case (as permitted)



Information about whether or not the media can attend and report on the court proceedings, including whether the victim's name, biographical information and/or photograph can be used



A plan with the police, prosecutor and victim for safe transport to and from the court including safe entry and exit away from the accused, the media and a plan to manage media if it is unavoidable (every effort should be made not to expose victims to the media)



Information about access to/reviewing their police statement or other physical evidence that will be presented at trial



If there is a conviction, information about the opportunity to provide a victim impact statement, seek restitution or other compensation strategies.

If possible and permissible, it can be beneficial for the victim to observe an unrelated court proceeding so they can see how their orientation is applied in real life.

As a follow up to the court orientation, social service staff should work with police to ensure a safety plan for giving evidence at court that been developed and communicated to the victim and includes:



Physical safety – getting to and from court safely, safety at the courthouse, access to food/drink/toilets



Emotional safety – strategies for reducing stress and how to ask for help if overwhelmed



Safety of family members



Safety of case manager/service provider/support person



Community support for victim-witness at court – where supporters will sit



Community of support for trafficker – how to avoid these people including not making eye contact



Media management

Post-trial Follow Up Tasks for Social Service Providers

Social services staff can play a role in helping to finalize the criminal justice process by ensuring:



A clear explanation to the victim regarding the case outcome and why the prosecution was or was not successful and any next steps (e.g., appeal)



Return of personal property including identity documents



Financial awards are provided to the victim.



The victim understands how all of the legal documents related to the case are stored/accessed by others including media, researchers, other government agencies.



The victim's rights and access to information about the perpetrator after legal proceedings. If the trafficker/s have been jailed, what are the victim's rights to be notified of their release and how will this happen?



Any further safety assessment or planning that may be needed, especially if the prosecution failed.

Whilst no one can guarantee a successful prosecution, a victim who has felt supported, heard and believed by the team of people running the case has been empowered by the criminal justice process. This, in itself, is a successful outcome.

Acknowledgments

For more information about providing support to victims of human trafficking during the criminal justice process contact the Warnath Group at info@WarnathGroup.com. The Warnath Group thanks Jennifer Stanger, Anti-Slavery Specialist at End Slavery Solutions, for her contributions to the preparation of this paper. To access additional practical tools and resources, visit our website at www.WarnathGroup.com. Studies and background material are available at www.NEXUSInstitute.net.

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