



# Residential Service Provider's Guide to Working with Law Enforcement Referrals of Human Trafficking Victims

*A roadmap for successful collaboration  
with law enforcement and prosecutors*

The United States Attorney's Office for the Western District of Virginia,  
on behalf of the Western District Human Trafficking Task Force



**U. S. Department of Justice**

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***Residential Service Provider’s Guide to Working with Law Enforcement Referrals of Human Trafficking Victims***

The United States Attorney’s Office for the Western District of Virginia created the Western District Human Trafficking Task Force to provide a comprehensive response to the victims of human trafficking, providing them options for services and access to the criminal justice system.

The psychological trauma experienced by victims of trafficking is extreme. Unless we work together to provide intensive services and support to victims they cannot help us in the criminal justice proceedings against their accused traffickers. This allows traffickers to avoid prosecution and profit off their victims once again.

The following is a guide – authored by the United States Attorney’s Office for the Western District of Virginia with the collaborative help of many – with the goal of providing a roadmap to success for residential service providers who work with law enforcement to provide services to human trafficking victims. We hope that this guide will open the dialogue between residential service providers and law enforcement agencies, and become the foundation of a working partnership to effectively combat the traumatic impact of human trafficking on victims.

Very truly yours,

**ANTHONY P. GIORNO**  
United States Attorney

## INTRODUCTION

The purpose of these guidelines is to facilitate the successful prosecution of traffickers, the effective rehabilitation of victims, and the collaboration between law enforcement and service providers to accomplish those two goals. In any victim placement, an involved party must expect to confront challenges that could further damage the victim, or negatively impact the criminal investigation and prosecution. The guidelines below provide a common ground for understanding how partners can work to overcome these challenges, while respecting the independent missions of the agencies involved.

It is important that agencies understand the roles and responsibilities of all parties involved in the criminal justice process to include law enforcement, prosecutors, courts, service providers, and victims. At times, victims may be required by the court to appear and provide testimony and all agencies should have mechanisms in place to support the victim through this process. Victims under federal law are a third-party to criminal prosecutions, and as such have their own set of rights under the law. Federal Courts and the US Attorney's Office have an independent obligation to ensure that victims are afforded all of their rights.

With this in mind, service providers should review the information contained within this guide to help them assess the capacity of their particular program to serve victims of human trafficking referred to them by law enforcement, and to facilitate communications with their law enforcement partners.

## DEFINITIONS

Case-Identified Victim: Any person who has been identified by law enforcement as a victim in an active criminal investigation.

Law enforcement proactively and reactively encounters potential victims of human trafficking. Specialized investigators, who have received specific training with regards to identification of human trafficking scenarios and victims, have been designated by law enforcement agencies to assess the situations to ascertain whether or not an encountered person is a victim of human trafficking. Often these determinations can be complex, but once made, that individual becomes classified as *case-identified victim* of human trafficking. Law enforcement will need to remain engaged with the victim and will require on-going communication and formal interviews as the investigation progresses.

When assisting a *case-identified victim* of human trafficking, service providers should expect to be asked by law enforcement to:

- Facilitate interviews with the victim.
- Allow the victim to contact law enforcement whenever the victim requests such contact.
- Relay information about the victim's conditions, care, and communications that are relevant to the law enforcement investigation.
- Assist the victim in addressing any additional emotions that arise from law enforcement interviews.

Court-Involved Victim: Any person who is referred to an agency that has been identified by law enforcement as a victim in an active criminal investigation where court proceedings have been initiated.

Once law enforcement initiates an investigation into an allegation of human trafficking, it is the responsibility of the lead investigator, in coordination with a prosecutor from an appropriate jurisdiction, to determine whether the investigation should go beyond inquiry to initiating court proceedings. The term court proceedings can encompass a wide array of legal actions, but, most commonly, *court-involved victims* of human trafficking will be required to provide testimony in court relating to the trafficking situation. In these instances, the victim will receive proper legal process, most commonly a subpoena to appear before the court, notifying them of their responsibility to appear. These appearances are mandatory. Failure to comply can result in punitive action by the court.

When assisting a *court-involved victim* of human trafficking, service providers should expect to be asked by law enforcement to:

- Facilitate the victim's attendance at meetings with the prosecutor and law enforcement and at any court appearances.
- Communicate regularly with the prosecutor, law enforcement, and victim-witness coordinator to ensure the victim complies with all orders from the court and understands their rights as a victim.
- Relay information about the victim's conditions, care, and communications that are relevant to the law enforcement investigation and/or any court proceedings.
- Assist the victim in addressing any additional emotions that arise from attendance at meetings or court appearances related to the court proceedings.

**Court-Supervised Victim:** Any court-involved victim who has regular reporting requirements or other conditions imposed by the court in a legal proceeding.

Frequently, victims of human trafficking have had contact with the criminal justice system prior to their identification. Victims who have been charged with other related or unrelated crimes may have certain rules ordered by a judge or representative of the court, such as probation officers, that they are required to follow. These rules may include, but are not limited to, regular reporting to a representative of the court, random drug screening, limitations on where they may reside or visit (sometimes persons are ordered not leave a certain state or jurisdiction), and necessity of maintaining employment, among others. This population could potentially have pending criminal charges as well and there should be an understanding that they could potentially be ordered to be incarcerated by the court.

When assisting a *court-supervised victim* of human trafficking, service providers should expect to be asked by law enforcement and/or a court representative to:

- Facilitate the victim's attendance at meetings with law enforcement and court representatives and at any court appearances.
- Report regularly to the court representatives about the victim's progress within the program and fulfillment any court-ordered conditions.
- Communicate frequently with law enforcement, court representatives, and any attorneys representing the victim to ensure compliance with any court-ordered conditions and rules.
- Assist the victim in addressing any additional emotions that arise from attendance at meetings or court appearances related to the court proceedings.

**Emergency Placement:** Any residential facility that can provide temporary housing, up to five business days from time of initial placement, for a victim of human trafficking. This facility may provide additional assistance for the victim during the placement such as food, clothing, etc.

**Law Enforcement Referral:** A request from a law enforcement agency to a service provider to place an individual identified by the law enforcement agency as a potential victim of trafficking based on the initial investigation conducted.

**Law Enforcement Designee:** An individual or organization, not employed by the law enforcement agency, who, in a particular case, the law enforcement agency has charged with the coordination of services for a potential victim of trafficking. This individual or organization will often have a formal agreement with the law enforcement agency to fill this role on behalf of the agency.

**Legally-Protected Relationship:** A relationship between a victim/client and a service provider in which the communications between the two are privileged and protected by law. Such communications cannot be compelled by a court to be disclosed without the consent of the victim/client. The privilege must be recognized by law, and can vary depending on the profession of the service provider, the material communicated, the purpose of the communication, and the nature of the court proceedings.

Restorative Placement: Any residential facility that can provide long-term housing, intensive case management, and comprehensive services specific to human trafficking. This placement will typically last until the completion of a program tailored to the unique needs of the victim and focused on establishing independent living skills.

Stabilization Placement: Any residential facility that can provide short-term housing, up to 90 days from the time of initial placement, for a victim of human trafficking. This placement will typically last at least 30 days, during which time the facility will provide housing, food, and other basic needs. The agency will facilitate any additional or specialized services, as determined by victim's needs, such as substance abuse treatment, mental health treatment, legal services, and medical care.

Victim Profile: Characteristics of a victim (age, gender, nationality/languages, citizenship, case type, other agency specific limitations) relevant to the residential placement of the victim.

### **CRITERIA FOR LAW ENFORCEMENT REFERRAL: EMERGENCY PLACEMENT**

1) *The agency will provide law enforcement, in advance of any placement, with written criteria for placement of victims in the agency's facility.*

Before referring a victim to a particular agency for a residential placement, law enforcement must know the agency's criteria for placement of human trafficking victims. This information allows law enforcement to rapidly assess whether a specific victim would be appropriately placed at the agency. The written criteria should address, at a minimum:

- Victim profile the agency is equipped to house (i.e. male/female/transgender, age, victim of sex trafficking or forced labor, language restrictions, etc.).
- Whether the agency can accommodate the following types of law enforcement referrals:
  - Case-identified victims.
  - Court-involved victims.
  - Court-supervised victims.
- Any other criteria the agency deems a necessary condition of placement (i.e. participation in faith-based activities, limitation of medications, etc.).

2) *The agency will complete intake with the victim within two (2) hours of initial notification, and will accept placement of the victim that same day.*

Limited law enforcement resources to devote to investigations, and the nature of the investigations themselves, often mean that investigators have a short amount of time to spend working on the coordination and placement of the victim immediately after recovery. Investigators need to turn their attention to other aspects of the case to ensure the safety of the victim and the integrity of the investigation, or they may need to work with an additional identified victim. As such, agencies should be prepared to respond rapidly when notified of a law enforcement referral for emergency placement.

3) *The agency has an established written intake procedure that applies specifically to law enforcement referrals of human trafficking victims.*

While trafficking victims are often placed with agencies that serve several different types of client populations, it is important for the agency to have a written intake procedure that recognizes the complexities of a human trafficking investigation and the unique needs of this victim population. This is often the victim's first encounter with any service provider agency, and will be the first impression the victim has with anyone working in residential placements. The tenor of the intake process often sets the tone for the victim's interactions with service providers, and, as such, has a significant impact on the victim's expectations for working with service providers in the near term.

Intake questions should be geared towards assessing and evaluating the needs of the victim, and should actively avoid asking questions that risk eliciting details about the trafficking situation. Because the trafficking situation is an open investigation, asking questions about the details of the trafficking case could place the staff member at a greater risk of being subpoenaed to testify as a witness in court involving the case. Frequently, law enforcement can provide this type of information

to the agency, particularly when it involves assessing any potential safety/facility concerns with the placement.

Additionally, agency intake procedures should be sensitive to the fragile position of a trafficking victim being referred by law enforcement for an emergency placement. Often, victim contact with law enforcement was entirely unexpected, not initiated by the victim, and has left the victim feeling unprepared for the next steps in the process. The victim commonly has not confronted any part of the trauma associated with the trafficking situation. Law enforcement has spent time building rapport and trust with the victim, which is the reason the victim is open to an emergency residential placement, and may be providing the victim with a sense of safety and security in moving towards severing ties from their trafficker.

Given these circumstances, the victim referred by law enforcement can be easily upset by questions from other individuals that demand details of the trafficking situation. A particularly destructive practice is to *require* the victim to step away from the investigator's presence to answer the intake questions when the interview is being conducted remotely. This practice suggests to the victim that they cannot trust law enforcement, and/or that the agency does not trust law enforcement. Also, this practice may leave the victim with the false impression that the information they are providing to the staff member is confidential and cannot be disclosed.<sup>1</sup>

For all of these reasons, the agency should have an intake procedure tailored to law enforcement referrals of trafficking victims, the questions should be narrowly drafted to elicit only the information *necessary* for emergency placement of the victim at the facility, and the agency should guard against leaving the victim with the impression that law enforcement is not to be trusted.<sup>2</sup>

4) *The agency agrees to provide housing for a minimum of five (5) business days.*

A victim recovered from an active trafficking scenario needs a period of immediate housing until a more permanent, stabilization placement can be found. This is the most volatile time for the victim and law enforcement is working actively to build trust and rapport with the victim in this period. Frequent housing changes during the first week after the victim's recovery are highly detrimental to the victim's rapport with anyone working with her during this period, and often result in the victim refusing any additional placements or services.

Further, the appropriate stabilization placement for a victim depends on a host of factors that can be gleaned only after a more thorough assessment of the victim's needs. Such an assessment cannot be done immediately after the victim's recovery, and, often, it will take law enforcement several days to find an available and suitable option based on the unique needs of this victim. For these reasons, the emergency placement agency needs to be prepared to house the victim for five business days from the date of intake.

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<sup>1</sup> Unless the staff member conducting the intake is in a legally-protected relationship with the victim, that information can be compelled for disclosure by a court.

<sup>2</sup> The emergency placement agency should consider whether law enforcement or their designee could provide any information necessary for the initial intake assessment.

5) *The agency agrees to provide law enforcement with a minimum of two (2) business days advance notice before discharging a victim from their facility.*

While it is important for both law enforcement and service providers to consider the needs and safety of the victim as the utmost priority, it is also essential for service providers to ensure compliance with all rules and regulations of their facility in an effort to guarantee equality of services and a comfortable environment for all program participants. At times, a program may not be able to provide all of the necessary services or support to a particular victim of human trafficking, or a victim may become disruptive to the overall function of the program. In such instances, discharge of the victim from the program is appropriate.

To ensure a victim-centered approach to discharge, law enforcement will need an appropriate amount of time to find alternative placement for the victim, to avoid leaving the victim without proper shelter or care. The service provider should endeavor to provide law enforcement with the maximum amount of time possible between initial notification and the date of discharge to secure an alternative placement. However, if at any time the conduct of the victim rises to the level of a criminal act, the program will not be expected to provide advanced notice of discharge, though notification should still occur.<sup>3</sup>

6) *The agency has written policies in place, developed in collaboration with law enforcement, for ensuring victim stability and security.*

Emergency placements serve victims immediately after law enforcement has recovered them from an active trafficking situation, when victims are confronting the biggest challenges to their personal stability and security. The victim frequently feels unsure about cooperating with law enforcement and uneasy about trusting a service provider to meet their needs. This is a time of indecision and uncertainty, and the victim commonly considers leaving the emergency placement to either return to their trafficker or to simply try to make it on their own.

The victim may need almost constant reassurance about their decision to leave the trafficker, and they often seek that reassurance from the investigator. The agency should facilitate any communication with the investigator that the victim wants to initiate, as frequently as the victim desires. Communications with others outside the agency or outside of law enforcement, however, may need to be limited during the emergency placement.

The security of the victim during the emergency placement at the facility depends on the unique circumstances of each case. Law enforcement can provide considerable insight and guidance to the facility on the particular security concerns associated with any victim.

Agency policies should focus on minimizing the risks to the victim and on shielding the victim from negative and destabilizing influences. Written policies allow law enforcement to reasonably assess the agency's capacity to serve a particular victim based on their assessment of a victim's level of need for stabilization and security.

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<sup>3</sup> If a victim's conduct creates an emergency situation, such as an immediate threat to the safety of the victim or others, the service provider should have a policy to immediately notify local law enforcement by calling 911.

Written policies directed at stability and security concerns, at a minimum, should address the following:

- Victim access to phones, internet, social media, electronic devices, etc.
- Restrictions on leaving facility grounds, facility curfews, etc.
- Outside (i.e. non-law enforcement) visitor limitations at facility.
- Disclosure of facility location to outside (i.e. non-law enforcement) individuals.
- Minimum staffing levels and hours of staff supervision/presence at facility.
- Any facility-imposed restrictions on access to personal belongings or particular personal-care items.
- Limitations on contact between victims placed at the facility.
- Consequences for violations of facility policy, as well as provisions for staff communications with law enforcement on violations of facility policy.

7) *The agency has written policies in place, developed in collaboration with law enforcement, to facilitate communication, whether in person or by phone, with law enforcement or designee.*

Service providers should update law enforcement regularly on the victim's progress within the program as it relates to and intersects with the investigation and prosecution of the criminal case. These communications about victim behavior, contacts, and responses can be critical to law enforcement in preparing that victim for participation in the case, as well as ensuring the safety of the victim and others at facility. Examples of relevant conduct include:

- Contact with individuals outside your agency.
- Unsupervised/unauthorized access to the phone or internet.
- Correspondence with anyone who is incarcerated.
- Any violation of the rules, policies, or procedures of the agency.
- Any conduct staff of the facility finds concerning or alarming.

Such information should be exempted from any internal confidentiality policy of the agency, and staff should understand that communications with law enforcement about relevant conduct are exempt from these policies. Additionally, service providers and law enforcement should keep any written communications regarding the victim professional and focused, with a mind that any written communications, including emails, could be compelled to be produced in court.

8) *The agency has written policies in place, developed in collaboration with law enforcement, to limit disclosure of sensitive information and case details involving the victim.*

Service provider staff should be cognizant that, unless they share a legally-protected relationship with the victim, any information that they receive directly from the victim, outside the presence of law enforcement, that is related to the details of the case, could be compelled to be shared by court order. Essentially, staff at the facility, by asking unnecessary questions about the details of the victim's case, could become witnesses in court and subpoenaed to testify.

Service providers should document their communications about any case-related information with the victim, and be prepared, if asked, to share it with law enforcement.

Any written confidentiality policy should specifically exclude information that jeopardizes the safety of the victim or others at the facility. In such instances, disclosure of that information should be exempted from confidentiality, and staff should feel free to share that information with law enforcement to ensure the security of the victim, their staff, and the facility. Unless the staff member documenting the behavior is in a legally-protected relationship with the victim, that information can be compelled for disclosure by a court.

9) *The agency, upon receiving a request from law enforcement, will provide reasonable access to the victim.*

While service providers often correctly focus much of their attention on the security and confidentiality of their physical location, those security and secrecy concerns should not interfere with law enforcement access to the victim they referred to that facility. Because of the requirements and the responsibilities placed on law enforcement in the course of the investigation, in-person interviews may be necessary during the time the victim is placed with the agency. In-person contact with investigators is beneficial for the victim, as the rapport built during these sessions will aid in stabilizing the victim through the course of the criminal justice process. Agencies should work collaboratively with law enforcement to facilitate these in-person meetings.

Additionally, disclosure of the location of the facility can improve the security of the agency staff and residents at the facility. Once law enforcement is aware of the location, they can monitor communications among those that could compromise the security of the facility at the earliest possible juncture, and work together with the agency to ensure such a compromise does not manifest.

10) *Law enforcement will assess potential conflicts between residents, notify the program, and collaborate with the agency on a resolution.*

At times, law enforcement may recover a victim from a trafficker that is connected to an existing case, or two victims may know each other from prior contacts. Placing two victims connected by a common history could pose a significant risk to the integrity of the recovery of each victim, or give rise to an allegation that victims have colluded to fabricate their story against a trafficker. Law enforcement is usually in the best position to assess such situations, though they may not be able to share all of the details that give rise to the conflict due to restrictions on such disclosures. Law enforcement will work diligently with the facility to identify any potential conflicts, and mitigate any particular challenges arising from a shared placement.

11) *Law enforcement will provide safety assessment and planning for each victim placement.*

Law enforcement has the greatest access to the information necessary to accurately evaluate any safety concerns posed by the victim's particular circumstances and the appropriateness of the emergency placement at the facility. Law enforcement will collaborate with facility staff to develop a safety plan tailored to the victim's unique safety needs.

12) *Law enforcement will provide staff training for the agency on human trafficking investigations, the criminal justice process, and law enforcement agency specific policies.*

In order to ensure staff understand the potential complexities of working with law enforcement referrals, it is critical that staff receive training on the nature, length and scope of trafficking investigations, the criminal justice process, and law enforcement policies that dictate the roles and responsibilities of criminal justice personnel in relation to the victim. Law enforcement agencies will provide ongoing training, as appropriate, to agency staff of emergency placement facilities. This training should give staff insight into the varying needs of trafficking victims in the immediate post-recovery period, allowing them to better serve this population.

13) *Law enforcement will provide regular and appropriate updates regarding the status of the criminal investigation and potential prosecution.*

Law enforcement will notify emergency placement agencies about any developments in the criminal investigation that would impact the victim's residential placement, personal safety, or facility security during the placement period.<sup>4</sup>

14) *Law enforcement will ensure case management and appropriate coordination of services.*

Law enforcement, working through a victim-witness coordinator, victim assistance specialist, or other authorized designee, will provide case management and the coordination of services that are not provided directly by the emergency placement facility. Such services may include: medical treatment, mental health evaluation, substance abuse treatment, clothing/personal care items, transportation to appointments/meetings, long-term housing and assistance, etc. In all instances, law enforcement or its authorized designee will communicate with facility staff about any such outside services and the impact of those services on the emergency placement.

15) *The agency and law enforcement will meet regularly to evaluate current placements, referral procedures, and any areas of potential improvement.*

Communication between the agency and law enforcement should occur on a regular basis, outside of interactions regarding specific referrals and cases, and should focus more broadly on the policies and procedures each entity uses for law enforcement referrals. This meeting, whether in person or by phone conference, provides an opportunity to work collaboratively to overcome any obstacles that may present during a specific case.

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<sup>4</sup> Because of the short-term nature of the emergency placement, agency staff should not expect updates on the status and progress of the investigation as a general matter, as law enforcement often will not have any new information that would be appropriate or relevant to share with the agency.

### **CRITERIA FOR LAW ENFORCEMENT REFERRAL: STABILIZATION PLACEMENT**

1) *The agency will provide law enforcement, in advance of any placement, with written criteria for placement of victims in the agency's facility.*

Before referring a victim to a particular agency for a residential placement, law enforcement must know the agency's criteria for placement of human trafficking victims. This information allows law enforcement to rapidly assess whether a specific victim would be appropriately placed at the agency. The written criteria should address, at a minimum:

- Victim profile the agency is equipped to house (i.e. male or female, age, victim of sex trafficking or forced labor, language restrictions, etc.)
- Whether the agency can accommodate the following types of law enforcement referrals:
  - Case-identified victims.
  - Court-involved victims.
  - Court-supervised victims.
- Any other criteria the agency deems a necessary condition of placement (i.e. participation in faith-based activities, limitation of medications, etc.)

2) *The agency will accept placement within five (5) business days of initial notification.*

After initial identification, trafficking victims are typically placed emergency residential placement or other temporary housing. This preliminary placement is designed to last only a few days before victims need to transition to a more stable placement to begin addressing their specific needs. Arrangements for a stabilization placement frequently will be made immediately after identifying the victim.

3) *The agency has an established written intake procedure that applies specifically to law enforcement referrals of human trafficking victims.*

While trafficking victims are often placed with agencies that serve several different types of client populations, it is important for the agency to have a written intake procedure that recognizes the complexities of a human trafficking investigation and the unique needs of this victim population.

Intake questions should be geared towards assessing and evaluating the needs of the victim, and should actively avoid asking questions that risk eliciting details about the trafficking situation. Because the trafficking situation is an open investigation, asking questions about the details of the trafficking case could place the staff member at a greater risk of being subpoenaed to testify as a witness in court involving the case. Frequently, law enforcement can provide this type of information to the agency, particularly when it involves assessing any potential safety/facility concerns with the placement.

- 4) *The agency agrees to provide housing for a minimum of thirty (30) days.*

Trafficking victims require a minimum of thirty (30) days, and up to ninety (90) days, to stabilize after identification by law enforcement. During this time, the victim is detaching from their connections to the trafficking situation and is only starting to realize the depth of the trauma they experienced. Only after this critical stabilization period can the victim begin to plan their individual path for recovery, and assess their specific long-term needs. For that reason, a stabilization placement should strive to provide consistent housing and support to the victim for a minimum of thirty (30) days after referral.

- 5) *The agency agrees to provide law enforcement with a minimum of two (2) business days advance notice before discharging a victim from their facility.*

While it is important for both law enforcement and service providers to consider the needs and safety of the victim as the utmost priority, it is also essential for service providers to ensure compliance with all rules and regulations of their facility in an effort to guarantee equality of services and a comfortable environment for all program participants. At times, a program may not be able to provide all of the necessary services or support to a particular victim of human trafficking, or a victim may become disruptive to the overall function of the program. In such instances, discharge of the victim from the program is appropriate.

To ensure a victim-centered approach to discharge, law enforcement will need an appropriate amount of time to find alternative placement for the victim, to avoid leaving the victim without proper shelter or care. The service provider should endeavor to provide law enforcement with the maximum amount of time possible between initial notification and the date of discharge to secure an alternative placement. However, if at any time the conduct of the victim rises to the level of a criminal act, the program will not be expected to provide advanced notice of discharge, though notification should still occur.<sup>5</sup>

- 6) *The agency has written policies in place, developed in collaboration with law enforcement, for ensuring victim stability and security.*

Stabilization placements serve victims shortly after law enforcement has recovered them from an active trafficking situation. The victim may feel unsure about cooperating with law enforcement and uneasy about trusting a service provider to meet their needs. This is a time of indecision and uncertainty, and the victim commonly considers leaving the placement to either return to their trafficker or to simply try to make it on their own.

The victim may need almost constant reassurance about their decision to leave the trafficker, and they often seek that reassurance from the investigator. The agency should facilitate any communication with the investigator that the victim wants to initiate, as frequently as the victim

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desires. Communications with others outside the agency or outside of law enforcement, however, may need to be limited during the placement.

Agency policies should focus on minimizing the risks to the victim and on shielding the victim from negative and destabilizing influences. Written policies allow law enforcement to reasonably assess the agency's capacity to serve a particular victim based on their assessment of a victim's level of need for stabilization and security.

Written policies directed at stability and security concerns, at a minimum, should address the following:

- Victim access to phones, internet, social media, electronic devices, etc.
- Restrictions on leaving facility grounds, facility curfews, etc.
- Outside (i.e. non-law enforcement) visitor limitations at facility.
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- Minimum staffing levels and hours of staff supervision/presence at facility.
- Any facility-imposed restrictions on access to personal belongings or particular personal-care items.
- Limitations on contact between victims placed at the facility.
- Consequences for violations of facility policy, as well as provisions for staff communications with law enforcement on violations of facility policy.

7) *The agency has written policies in place, developed in collaboration with law enforcement, to facilitate communication, whether in person or by phone, with law enforcement or designee.*

Service providers should update law enforcement regularly on the victim's progress within the program as it relates to and intersects with the investigation and prosecution of the criminal case. These communications about victim behavior, contacts, and responses can be critical to law enforcement in preparing that victim for participation in the case, as well as ensuring the safety of the victim and others at facility. Examples of relevant conduct include:

- a. Contact with individuals outside your agency.
- b. Unsupervised/unauthorized access to the phone or internet.
- c. Correspondence with anyone who is incarcerated.
- d. Any violation of the rules, policies, or procedures of the agency.
- e. Any conduct staff of the facility finds concerning or alarming.

Such information should be exempted from any internal confidentiality policy of the agency, and staff should understand that communications with law enforcement about relevant conduct are exempt from these policies. Additionally, service providers and law enforcement should keep any written communications regarding the victim professional and focused, with a mind that any written communications, including emails, could be compelled to be produced in court.

8) *The agency has written policies in place, developed in collaboration with law enforcement, to limit disclosure of sensitive information and case details involving the victim.*

Service provider staff should be cognizant that, unless they share a legally-protected relationship with the victim, any information that they receive directly from the victim, outside the

presence of law enforcement, that is related to the details of the case, could be compelled to be shared by court order. Essentially, staff at the facility, by asking unnecessary questions about the details of the victim's case, could become witnesses in court and subpoenaed to testify.

Service providers should document their communications about any case-related information with the victim, and be prepared, if asked, to share it with law enforcement.

Any written confidentiality policy should specifically exclude information that jeopardizes the safety of the victim or others at the facility. In such instances, disclosure of that information should be exempted from confidentiality, and staff should feel free to share that information with law enforcement to ensure the security of the victim, their staff, and the facility. Unless the staff member documenting the behavior is in a legally-protected relationship with the victim, that information can be compelled for disclosure by a court.

9) *The agency, upon receiving a request from law enforcement, will provide reasonable access to the victim.*

While service providers often correctly focus much of their attention on the security and confidentiality of their physical location, those security and secrecy concerns should not interfere with law enforcement access to the victim they referred to that facility. Because of the requirements and the responsibilities placed on law enforcement in the course of the investigation, in-person interviews may be necessary during the time the victim is placed with the agency. In-person contact with investigators is beneficial for the victim, as the rapport built during these sessions will aid in stabilizing the victim through the course of the criminal justice process. Agencies should work collaboratively with law enforcement to facilitate these in-person meetings.

In order to facilitate the victim's fullest participation in the program offered by the agency, law enforcement will provide agency staff with advance notice of any meetings or court appearances scheduled.

Additionally, disclosure of the location of the facility can improve the security of the agency staff and residents at the facility. Once law enforcement is aware of the location, they can monitor communications among those that could compromise the security of the facility at the earliest possible juncture, and work together with the agency to ensure such a compromise does not manifest.

10) *Law enforcement will assess potential conflicts between residents, notify the program, and collaborate with the agency on a resolution.*

At times, law enforcement may recover a victim from a trafficker that is connected to an existing case, or two victims may know each other from prior contacts. Placing two victims connected by a common history could pose a significant risk to the integrity of the recovery of each victim. Law enforcement is usually in the best position to assess such situations, though they may not be able to share all of the details that give rise to the conflict due to restrictions on such disclosures. Law enforcement will work diligently with the facility to identify any potential conflicts, and mitigate any particular challenges arising from a shared placement.

11) *Law enforcement will provide safety assessment and planning for each victim placement.*

Law enforcement has the greatest access to the information necessary to accurately evaluate any safety concerns posed by the victim's particular circumstances and the appropriateness of the emergency placement at the facility. Law enforcement will collaborate with facility staff to develop a safety plan tailored to the victim's unique safety needs. This responsibility will continue throughout the victim's placement at the facility, and law enforcement will notify the facility of any new information that impacts the safety assessment and planning for this particular victim.

12) *Law enforcement will provide staff training for the agency on human trafficking investigations, the criminal justice process, and law enforcement agency specific policies.*

In order to ensure staff understand the potential complexities of working with law enforcement referrals, it is critical that staff receive training on the nature, length and scope of trafficking investigations, the criminal justice process, and law enforcement policies that dictate the roles and responsibilities of criminal justice personnel in relation to the victim. Law enforcement agencies that refer victims to emergency placement facilities will provide ongoing training, as appropriate, to agency staff. This training should give staff insight into the varying needs of trafficking victims in the immediate post-recovery period, allowing them to better serve this population.

13) *Law enforcement will provide regular and appropriate updates regarding the status of the criminal investigation and potential prosecution, and will notify the agency in advance of any planned meetings or events connected to the criminal case.*

A criminal investigation regarding a particular human trafficking case can be lengthy, spanning sometimes 18-24 months from victim identification to conclusion of a prosecution. Law enforcement should provide as much information as possible, and as regularly as possible, in order to allow the service provider to structure their program with the victim accordingly. Law enforcement will provide the agency with advance notice a minimum of three (3) business days before any scheduled court appearances, except in extraordinary circumstances. Law enforcement will provide the agency with advance notice a minimum of twenty-four (24) hours before any interviews or off-site meetings.

Law enforcement will notify agencies about any developments in the criminal investigation that would impact the victim's residential placement, personal safety, or facility security during the placement period.

14) *Law enforcement will ensure case management and appropriate coordination of services.*

Law enforcement, working through a victim-witness coordinator, victim assistance specialist, or other authorized designee, will provide case management and the coordination of services that are not provided directly by the placement facility.

Services law enforcement will provide include, but are not limited to:

- Appropriate immigration relief and/or visa services for foreign national victims
- Criminal injuries compensation/funding application assistance

- Protection of victim's rights during any criminal process

In all instances, law enforcement or its authorized designee will communicate with facility staff about any such outside services and the impact of those services on the stabilization placement.

15) *The agency and law enforcement will meet regularly to evaluate current placements, referral procedures, and any areas of potential improvement.*

Communication between the agency and law enforcement should occur on a regular basis, outside of interactions regarding specific referrals and cases, and should focus more broadly on the policies and procedures each entity uses for law enforcement referrals. This meeting, whether in person or by phone conference, provides an opportunity to work collaboratively to overcome any obstacles that may present during a specific case.

### **CRITERIA FOR LAW ENFORCEMENT REFERRAL: RESTORATIVE PLACEMENT**

1) *The agency will provide law enforcement, in advance of any placement, with written criteria for placement of victims in the agency's facility.*

Before referring a victim to a particular agency for a residential placement, law enforcement must know the agency's criteria for placement of human trafficking victims. This information allows law enforcement to rapidly assess whether a specific victim would be appropriately placed at the agency. The written criteria should address, at a minimum:

- Victim profile the agency is equipped to house (i.e. male or female, age, victim of sex trafficking or forced labor, language restrictions, etc.)
- Whether the agency can accommodate the following types of law enforcement referrals:
  - Case-identified victims.
  - Court-involved victims.
  - Court-supervised victims.
- Any other criteria the agency deems a necessary condition of placement (i.e. participation in faith-based activities, limitation of medications, etc.)

2) *The agency will accept placement within thirty (30) days of initial notification.*

Law enforcement may refer victims to restorative placements from a stabilization placement, from a correctional facility, or from another housing situation. Because the restorative placement is designed to be a long-term residential program, law enforcement will typically have a better handle on a victim's particular needs, and the agency will need to ensure they have the resources to accommodate those needs over an extended period of time. It may be possible that law enforcement and the agency can negotiate a longer period for accepting placement from the time of the initial notification in a particular case, depending on that victim's particular housing circumstances. Generally, however, restorative placement agencies should anticipate completing their intake and assessment procedures within thirty (30) days of initial notification by law enforcement.

3) *The agency has an established written intake procedure that applies specifically to law enforcement referrals of human trafficking victims.*

While trafficking victims are often placed with agencies that serve several different types of client populations, it is important for the agency to have a written intake procedure that recognizes the complexities of a human trafficking investigation and the unique needs of this victim population.

Intake questions should be geared towards assessing and evaluating the needs of the victim, and should actively avoid asking questions that risk eliciting details about the trafficking situation. Because the trafficking situation is an open investigation, asking questions about the details of the trafficking case could place the staff member at a greater risk of being subpoenaed to testify as a witness in court involving the case. Frequently, law enforcement can provide this type of information to the agency, particularly when it involves assessing any potential safety/facility concerns with the placement.

4) *The agency agrees to provide housing for a minimum of ninety (90) days, or through the completion of the agency's program.*

The goal of the restorative placement is to set the victim on a path to self-sufficiency and to provide the necessary skills to navigate through the remaining recovery process successfully. Ideally, restorative placement agencies should focus on completion of a course or program as the point of discharge from the placement, rather than on a specific time. However, ordinarily, the placement should last a minimum of ninety (90) days.

5) *The agency agrees to provide law enforcement with a minimum of five (5) business days advance notice before discharging a victim from their facility.*

While it is important for both law enforcement and service providers to consider the needs and safety of the victim as the utmost priority, it is also essential for service providers to ensure compliance with all rules and regulations of their facility in an effort to guarantee equality of services and a comfortable environment for all program participants. At times, a program may not be able to provide all of the necessary services or support to a particular victim of human trafficking, or a victim may become disruptive to the overall function of the program. In such instances, discharge of the victim from the program is appropriate.

To ensure a victim-centered approach to discharge, law enforcement will need an appropriate amount of time to find alternative placement for the victim, to avoid leaving the victim without proper shelter or care. The service provider should endeavor to provide law enforcement with the maximum amount of time possible between initial notification and the date of discharge to secure an alternative placement. However, if at any time the conduct of the victim rises to the level of a criminal act, the program will not be expected to provide advanced notice of discharge, though notification should still occur.<sup>6</sup>

6) *The agency has written policies in place, developed in collaboration with law enforcement, for ensuring victim stability and security.*

The security of the victim during the restorative placement at the facility depends on the unique circumstances of each case. Law enforcement can provide considerable insight and guidance to the facility on the particular security concerns associated with any victim.

Agency policies should focus on minimizing the risks to the victim and on shielding the victim from negative and destabilizing influences. Written policies allow law enforcement to reasonably assess the agency's capacity to serve a particular victim based on their assessment of a victim's level of need for stabilization and security.

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<sup>6</sup> If a victim's conduct creates an emergency situation, such as an immediate threat to the safety of the victim or others, the service provider should have a policy to immediately notify local law enforcement by calling 911.

Written policies directed at stability and security concerns, at a minimum, should address the following:

- Victim access to phones, internet, social media, electronic devices, etc.
- Restrictions on leaving facility grounds, facility curfews, etc.
- Outside (i.e. non-law enforcement) visitor limitations at facility.
- Disclosure of facility location to outside (i.e. non-law enforcement) individuals.
- Minimum staffing levels and hours of staff supervision/presence at facility.
- Any facility-imposed restrictions on access to personal belongings or particular personal-care items.
- Limitations on contact between victims placed at the facility.
- Consequences for violations of facility policy, as well as provisions for staff communications with law enforcement on violations of facility policy.

7) *The agency has written policies in place, developed in collaboration with law enforcement, to facilitate communication, whether in person or by phone, with law enforcement or designee.*

Service providers should update law enforcement regularly on the victim's progress within the program as it relates to and intersects with the investigation and prosecution of the criminal case. These communications about victim behavior, contacts, and responses can be critical to law enforcement in preparing that victim for participation in the case, as well as ensuring the safety of the victim and others at facility. Examples of relevant conduct include:

- a. Contact with individuals outside your agency.
- b. Unsupervised/unauthorized access to the phone or internet.
- c. Correspondence with anyone who is incarcerated.
- d. Any violation of the rules, policies, or procedures of the agency.
- e. Any conduct staff of the facility finds concerning or alarming.

Such information should be exempted from any internal confidentiality policy of the agency, and staff should understand that communications with law enforcement about relevant conduct are exempt from these policies. Additionally, service providers and law enforcement should keep any written communications regarding the victim professional and focused, with a mind that any written communications, including emails, could be compelled to be produced in court.

8) *The agency has written policies in place, developed in collaboration with law enforcement, to limit disclosure of sensitive information and case details involving the victim.*

Service provider staff should be cognizant that, unless they share a legally-protected relationship with the victim, any information that they receive directly from the victim, outside the presence of law enforcement, that is related to the details of the case, could be compelled to be shared by court order. Essentially, staff at the facility, by asking unnecessary questions about the details of the victim's case, could become witnesses in court and subpoenaed to testify.

Service providers should document their communications about any case-related information with the victim, and be prepared, if asked, to share it with law enforcement.

Any written confidentiality policy should specifically exclude information that jeopardizes the safety of the victim or others at the facility. In such instances, disclosure of that information should be exempted from confidentiality, and staff should feel free to share that information with law enforcement to ensure the security of the victim, their staff, and the facility. Unless the staff member documenting the behavior is in a legally-protected relationship with the victim, that information can be compelled for disclosure by a court.

9) *The agency, upon receiving a request from law enforcement, will provide reasonable access to the victim.*

While service providers often correctly focus much of their attention on the security and confidentiality of their physical location, those security and secrecy concerns should not interfere with law enforcement access to the victim they referred to that facility. Because of the requirements and the responsibilities placed on law enforcement in the course of the investigation, in-person interviews may be necessary during the time the victim is placed with the agency. In-person contact with investigators is beneficial for the victim, as the rapport built during these sessions will aid in stabilizing the victim through the course of the criminal justice process. Agencies should work collaboratively with law enforcement to facilitate these in-person meetings.

Additionally, disclosure of the location of the facility can improve the security of the agency staff and residents at the facility. Once law enforcement is aware of the location, they can monitor communications among those that could compromise the security of the facility at the earliest possible juncture, and work together with the agency to ensure such a compromise does not manifest.

10) *Law enforcement will assess potential conflicts between residents, notify the program, and collaborate with the agency on a resolution.*

At times, law enforcement may recover a victim from a trafficker that is connected to an existing case, or two victims may know each other from prior contacts. Placing two victims connected by a common history could pose a significant risk to the integrity of the recovery of each victim. Law enforcement is usually in the best position to assess such situations, though they may not be able to share all of the details that give rise to the conflict due to restrictions on such disclosures. Law enforcement will work diligently with the facility to identify any potential conflicts, and mitigate any particular challenges arising from a shared placement.

11) *Law enforcement will provide safety assessment and planning for each victim placement.*

Law enforcement has the greatest access to the information necessary to accurately evaluate any safety concerns posed by the victim's particular circumstances and the appropriateness of the emergency placement at the facility. Law enforcement will collaborate with facility staff to develop a safety plan tailored to the victim's unique safety needs.

12) *Law enforcement will provide staff training for the agency on human trafficking investigations, the criminal justice process, and law enforcement agency specific policies.*

In order to ensure staff understand the potential complexities of working with law enforcement referrals, it is critical that staff receive training on the nature, length and scope of trafficking investigations, the criminal justice process, and law enforcement policies that dictate the roles and responsibilities of criminal justice personnel in relation to the victim. Law enforcement agencies that refer victims to emergency placement facilities will provide ongoing training, as appropriate, to agency staff. This training should give staff insight into the varying needs of trafficking victims, allowing them to better serve this population.

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policies and procedures each entity uses for law enforcement referrals. This meeting, whether in person or by phone conference, provides an opportunity to work collaboratively to overcome any obstacles that may present during a specific case.

## **SPECIAL CONSIDERATIONS**

### *Service Provider Policies and Procedures*

Law enforcement referrals present a unique situation for service providers working with trafficking victims. Often the agency must revise its existing policies and procedures in order to address the particular circumstances of these victims. Law enforcement has official roles and responsibilities, set forth in law, in relation to any crime victim, and those responsibilities do not end once law enforcement refers a victim to a service provider. Indeed, law enforcement maintains responsibility for a victim throughout the criminal justice process.

As a result, law enforcement and the government entities for whom they work may require agencies accepting a law enforcement referral to have written policies in place addressing key areas of the agency's structure, staffing, and client services, to include:

- Organization Structure:
  - Role of the board of directors, if any
  - Funding sources/allocation
  - Division of labor regarding business and program management
- Staff/Volunteer Roles and Responsibilities
  - Hiring standards (education/experience requirements)
  - Consequences for policy violations
  - Volunteer supervision and oversight
  - Volunteer contact with clients
- Staff/Volunteer Minimum Training Standards
  - Initial and continuing education specific to human trafficking
- Facility Security and Safety Planning
  - Location security measures
  - Staffing levels
  - Incident response plan
- Clients Rights and Responsibilities
  - Confidentiality and non-disclosure
  - Facility rules
  - Consequences for policy violations
- Client Services
  - Assessment/treatment planning
  - Integration with outside service providers
  - Collaboration with law enforcement
- Client Referral and Intake
  - Trafficking-specific intake process and questionnaire
  - Referral sources and criteria
- Client Discharge
  - Procedures/discharge plan

Consultation with law enforcement will benefit agencies designing policies impacting their victim referrals, and agencies should consider continued collaboration with law enforcement a critical step in the revision and expansion of these policies. Providing copies of these key policies will ensure that victims referred by law enforcement have the best chance for a successful residential placement with the agency.

#### *Facility-Specific Rules for and Expectations of the Victim*

Residential placement facilities housing trafficking victims may have rules and expectations of the victim that are specific to that particular program or facility, and that may not be commonly found at other programs or facilities. These guidelines may cover victim behavior, for instance, restricting the use of cigarettes or consumption of certain types of food, or deal with limitations on a victim's personal possessions, for instance, prohibiting a certain type of clothing while at the facility.

The agency should provide any such rules and expectations in writing to law enforcement in advance of any intake discussions, and afford both law enforcement and the victim referred by law enforcement an opportunity to review these guidelines before deciding to pursue a placement with the agency. The transition period from trafficking scenario to residential placement can prove very intense and stressful for victims; restricting access to certain items the victim considers "comforts," while it may be critical to the agency's operating philosophy, may significantly add to that stress if the restriction comes as a surprise. Additionally, discussing guidelines for victim behavior at the facility in advance with law enforcement allows them to prepare the victim for these restrictions, and gives the victim an opportunity to process and weigh the impact of those restrictions in a more controlled environment.

#### *Confidentiality and Privileged Communications*

The agency should take steps to ensure that, in their intake process and treatment program, they are *not* eliciting unnecessary information about the details of the trafficking situation from the victim. Few staff members employed by the agency will have a legally protected relationship with the victim, and their conversations about the details of the trafficking situation will *not* be protected in court.

In federal court, the following privileges may apply to communications with a victim of human trafficking:

- Medical records privacy/HIPPA
- Psychotherapist-patient: Covers any *confidential* communications a victim/patient has with psychotherapists, licensed psychiatrists, licensed psychologists, and licensed social workers made in the course of diagnosis and treatment.

*Note*, there is no privileged communication/protected relationship recognized in federal court for case managers, service providers, volunteers, hotline operators, intake counselors, etc. For this reason, staff filling such roles should take care not to elicit information from the victim that could impact any relevant court proceedings. Failure to do so could subject the staff member to be compelled to testify

about any communication during the court proceedings, even by the defense attorney for the trafficker in a criminal prosecution.

To the extent that details about the trafficking situation are necessary and relevant to the intake process and evaluation of the victim for placement, the interview should be conducted in the presence of the law enforcement investigator, who could then serve as the witness in any future court proceeding.

## CONCLUSION

The investigation of human trafficking is a continually evolving discipline, driven by a focus on ensuring appropriate, safe, and effective rehabilitation, protection, and restoration for the victims. To truly be effective in combatting human trafficking, teams of professionals from law enforcement, victims services, and the court system must work together to adopt a victim-centered approach to the prosecution of this crime.

Communication is the cornerstone of this collaborative model. It is important for law enforcement to communicate clearly their investigative and prosecutorial intentions as well as the known needs of the victim. It is equally important for the service providers to accurately communicate those services they are equipped and proficient at delivering. Each member of the multi-disciplinary team engaged with a victim of human trafficking needs to commit to active, ongoing communication with other team members to provide proper and comprehensive treatment, as well as ensuring the safety of the victim and successful prosecution of offenders. When unique needs or unexpected complications arise, active communication among the team allows a coordinated multi-disciplinary response and uninterrupted service provision.

This guide is designed to facilitate those important discussions, and to advance the quality of services delivered to victims referred to residential placement agencies by law enforcement.

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