

The Survivor-Centered, Trauma-Informed Approach

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I. Introduction

Cases involving human trafficking are among the most challenging that law enforcement agents will encounter because of the complex effects traumatization has on the victims who will serve as witnesses. Sex and labor trafficking victims commonly experience a panoply of neurological, biological, psychological, and social effects that require unique interventions. This article will discuss the various strategies law enforcement officers (LEOs) should use to successfully stabilize victims, gain their trust, and secure their effective cooperation in investigations and prosecutions. Survivor-centered, trauma-informed law enforcement interviews and investigations will be emphasized in order to foster effective collaboration among law enforcement victim assistance specialists and non-governmental organization (NGO) victim advocates.

II. The Hidden Crime and Its Effects on the Victims

Human trafficking—compelling another person’s labor, services, or commercial sex acts, or exploiting a minor for commercial sex—is often referred to as a hidden crime, and measuring its prevalence is extremely difficult precisely because of its often invisible nature.¹ Traffickers employ a mix of force, fraud, and coercion to exert control over their victims.

Human trafficking remains mostly hidden as victims seldom come forward because of language barriers, fear of those trafficking them, or reluctance to become involved with the criminal justice system. Traffickers identify people who display psychological or emotional vulnerability, economic hardship, or a lack of a social safety net. These include people with substance abuse issues, acute financial problems, and uncertain immigration statuses. Traffickers employ a mix of force, fraud, and coercion to entrap their victims. Traffickers later amplify these techniques to assure that their victims will be unable or unwilling to leave. As a result of the elaborate network of abuse, the trauma experienced by victims often renders them unable to identify themselves as victims or ask for help.

¹ Wendy Macias-Konstantopoulos, *Human Trafficking: The Role of Medicine in Interrupting the Cycle of Abuse and Violence*, 165 ANNALS OF INTERNAL MED., Aug. 2016, 582–88.

While the participation of these victims is essential to the mounting of any credible prosecution, the trauma they have experienced can greatly complicate their involvement in the legal process. Like most people who experience traumatic events, victims of human trafficking suffer significant alterations to their brain chemistry and functioning. The amygdala, hippocampus, and prefrontal cortex in the brain experience profound changes following the trauma associated with human trafficking.² Further, traumatic stress increases the levels of cortisol and norepinephrine response.³ These changes can cause victims to suffer hyperarousal, intrusive thoughts and flashbacks, nightmares and sleep disturbances, and most importantly, changes in memory and concentration.⁴ Therefore, victims are often unable to provide chronological and coherent testimony to law enforcement. The impression of inconsistency that would in other contexts indicate unreliability as a witness is a natural consequence of the trauma the trafficking victims have experienced. Further, the changes to the brain can result in extreme anxiety, fear, and mistrust. These feelings, coupled with the shame, embarrassment, or guilt for what has happened to them, can make for particularly problematic interactions with the criminal justice system. Not surprisingly, it is precisely these feelings of isolation and mistrust that the trafficker exploits to maintain a hold on the victim.

III. Trauma-Informed Interventions

It follows that, to effectively usher victims through their role in litigation, trauma-informed interventions that account for these concerns must be employed. Trauma-informed care comprises the victim-centered practices that allow the victim to begin working through the trauma while simultaneously participating in the criminal justice process. This type of intervention is essential to avoid the likely pitfalls of re-traumatization, feelings of insecurity, and withdrawal of cooperation, which can be consequences of insensitive care.

Having knowledge of the nature of trauma and its psychobiological effects, along with an awareness of what trauma-informed care is, one can build a toolbox of skills for working with a variety of trafficking victims. The urgency of a criminal case can often burden staff with an artificial timeline that encourages adherence to a schedule rather than recognition of what will best serve the victim. Staff should always endeavor to create genuine rapport and trust before attempting to engage a victim in the process. It is not always about the facts of the investigation or case, and not building rapport and trust creates the risk of re-traumatization and damage to the working relationship.

This relationship can be established in numerous ways. It is important to restore feelings of self-efficacy and control to the victims by providing them with opportunities for choice and consistency. Allowing them to meet with an agent whose gender puts the victim at ease, or allowing them to select the location for meetings, greatly empowers victims. Also, to the extent possible, minimize unexpected changes in meeting times or locations. It is most important to demonstrate honesty and respect.

The nature and location of the victim interview is vital to the success of any agent-victim relationship. The agent's attitude and behavior during the interview are critical. It is essential to monitor your own comportment to guard against actions that can be interpreted as biased or judgmental. Remain honest and respectful, and strive to honor all commitments. A familiarity with and keen attention to the meaning of both verbal and nonverbal cues are also essential. Crossed arms, lack of eye contact, and changes in facial expression can all indicate shifts in victim comfort during the interview. Also, consider the location and timing of the interview. Victims will respond differently in different environments and are unlikely to be as forthright if the timing does not feel right or if they feel someone is watching or listening. For children younger than twelve, a Children's Advocacy Center (CAC) is an excellent

² *Id.*

³ *Id.*

⁴ *Id.* See also Vedat Sar & Erdinc Ozturk, *What Is Trauma and Dissociation?*, 4 J. OF TRAUMA PRACTICE, 7, 7-9 (2006).

resource. CACs were created specifically to be a neutral, non-intimidating, child-appropriate environment that can help reduce the stress of the child. Further, CACs boast of expertly trained child interview specialists and can assist victims' families in obtaining medical, mental health, and advocacy services. For older children and adults, a private yet informal office setting provides an excellent environment with few distractions. An environment that allows the victim to feel safe, relaxed, and comfortable is indispensable for gaining cooperation and trust.

It bears mentioning that these feelings of safety and comfort can be compromised if the victim has any immediate needs that have not been met. Finding secure housing and reliable transportation can provide a base from which to build a sincere connection and confidence with a victim. Assuring that they have eaten recently, have no outstanding medical concerns, and have sufficient and comfortable clothing is of utmost importance. Ensure that both children and adults have had ample rest prior to the interview.

Of equal importance to the comfort of the victim is the structure of the interview and how questions are posed. It is crucial to make the distinction between an interview and an interrogation. While an interrogation is often adversarial, an interview is yet another opportunity to build rapport and trust with the victim. Forensic interviewing is designed with children in mind, yet it can be used with a wide variety of victims. It is a structured conversation meant to elicit detailed information about specific events the victim has experienced or witnessed. Questions should be open-ended, allowing for a narrative response. Open-ended questions are those that require elaboration and cannot be answered with a "yes" or "no" response. The responses to these questions can be further expanded with phrases such as, "can you describe what happened next?" or, "please tell me more about that." Inevitably, some victims will not respond freely using these techniques. The urge to force the conversation should be suppressed. Instead, shift from open-ended questions to those that offer a choice, such as, "was it blue, red, or some other color?" Allowing the victims latitude in how they answer questions can only enhance their sense of control and feelings of efficacy.

It is likely that the above will serve to enrich the relationship between the agent and the victim. It then becomes important for the agent and prosecutor to maintain that trust and cooperation until the trial. It is necessary not only that the agent, but also the Victim Assistance Specialist (VAS), as well as the United States Attorney's Office (USAO), establish a positive professional relationship with the victim. The VAS can maintain contact with the victim and their family to assure that they are receiving the appropriate services and assistance or to provide additional referrals as necessary. They can facilitate meetings with the agent or prosecutor, coordinate trial preparation, such as court school or travel logistics, and provide a consistent point of contact between staff and the victim. This consistency enriches the relationship and increases the likelihood of continued cooperation.

Also important to victims' comfort and continued cooperation is their awareness of the roles LEOs, victim specialists, NGOs, or community-based victim advocates will play in criminal cases. When victims are identified in a criminal case, they will often encounter any number of people in these positions. The difference between positions can best be described in terms of the specialist's interaction with the identified victim and how the specialist is obligated to navigate the confidentiality of the victim's story.⁵

Housed in an investigative agency or prosecution office, an LEO victim specialist works in conjunction with the investigation and prosecution of a criminal case. The LEO specialist identifies and refers a victim to appropriate services and organizations, such as an NGO, to assist in the stabilization and support of a victim. An important element of the relationship between LEO victim specialists—including the United States Attorney's Office—and victims is that there is no confidentiality. Any resources, referrals, and information that LEOs obtain from victims are subject to disclosure during the prosecution of a criminal case. Many victims that LEO specialists assist may feel encumbered by this, and it may limit

⁵ See [CTR. FOR SEX OFFENDER MGMT., COMPARING COMMUNITY-BASED AND SYSTEM-BASED ADVOCATES \(2000\)](#).

their ability to seek the full extent of services that the victims need in order to successfully leave their situation. Nevertheless, LEO victim specialists are able to assist victims in navigating the criminal justice system and informing them of their statutory rights under the Crime Victims' Rights Act.⁶ It is most often the LEO victim specialists that are tasked with identifying and addressing the victim-survivor's immediate needs mentioned above. As such, the LEO victim specialist is indispensable to ensuring that victims will be able and willing to assist with the investigation and prosecution.

In contrast, NGO victim advocates provide direct services and make referrals, including housing, emotional support, case management, and documentation. The NGO advocate, unlike the LEO, has confidentiality with victims. This allows victims the ability to fully disclose the extent of their needs and to access emotional and mental health services that they might not otherwise be willing to use if referred by a system-based victim specialist, since their conditions could be shared during a prosecution. The community-based advocate is generally prohibited from disclosing confidential information without the permission of the victim. NGO victim advocates also engage with the victim-survivors regardless of whether they are prepared or interested in participating in an investigation or prosecution of a case. The instability of victims, which may stem from housing issues, lack of proper identification, or uncertain immigration status, can often take months if not years to normalize. The role of the NGO advocate is to maintain an ongoing relationship with victim-survivors, to provide stability and support, and to interact with them on their terms and with an eye on what they are prepared for—the very definition of a victim-survivor-informed approach.

The importance of a successful collaboration between LEO specialists and NGO advocates to effectively identify and target potential victim needs is essential for the rehabilitation of the victim-survivor. Both positions provide a foundation for victim-survivors to begin to emerge and overcome their circumstances. Victims have been manipulated and psychologically abused by their traffickers, which fosters distrust with law enforcement. They have been made to feel fearful that they themselves may be in trouble, a feeling that may be exacerbated for those who have been arrested prior to their situation as a trafficking victim. Collaboration with an agency that is not law enforcement-based can make the difference in the victim's ability to sustain cooperation for the length of an investigation and prosecution.

While LEO and NGO positions differ in focus and responsibilities, the combined resources and experience they offer victims often provide the best possible scenario to facilitate the process for victim-survivors to successfully leave their trafficker and recover from the abuse. The relationships that are fostered and developed between the LEOs and NGOs are critical for survivors of human trafficking and their process.

IV. Conclusion

Victims of human trafficking are in the unenviable position of being both the objects of and participants in a highly traumatic criminal enterprise. For survivors, inherent in participation in the legal process is the requirement that they relive their ordeal, and this can present ample possibilities for re-traumatization. It is clear that while serving as a witness, it is essential that survivors receive proper assistance from qualified and well-trained staff who are aware of the psychological effects trauma will have on their participation. Law enforcement and prosecutors would be well served to become familiar with and learn to effectively use the trauma-informed techniques discussed above. Further, they should seek to form positive working relationships with LEO victim specialists and their NGO counterparts.

⁶ [Crime Victims' Rights Act \(CVRA\), 18 U.S.C. § 3771 \(2012 & Supp. III 2015\)](#).

Traumatized survivors are indispensable in holding accountable the perpetrators of human trafficking, and law enforcement needs to deal sensitively with them to assure their participation.

ABOUT THE AUTHOR

□ **Melissa Milam** has more than twenty years of experience advocating for justice. She spent seven years as a juvenile probation counselor at the county level, eleven years as a sexual assault and domestic violence victim advocate with the U.S. Attorney's Office in Washington, D.C., and more than two years as the Victim Services Coordinator with the Civil Rights Division's Human Trafficking Prosecution Unit. Melissa has trained law enforcement, prosecutors, and victim advocates both nationally and internationally on topics ranging from trauma-informed care, the Crime Victim's Rights Act, and effective strategies for working with victims. Both her Bachelor's and Master's degrees are in Social Work, and she is licensed in the District of Columbia. Melissa has specialized clinical training in the areas of psychiatric and substance use disorders and providing mental health therapy to Spanish-speaking clients with trauma histories.

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