

REPORT TO THE TWENTY-FOURTH HAWAII STATE
LEGISLATURE 2008

IN ACCORDANCE WITH THE PROVISIONS OF SENATE
CONCURRENT RESOLUTION 220, SENATE DRAFT 1

DEPARTMENT OF HUMAN SERVICES
SOCIAL SERVICES DIVISION
DECEMBER 2007
Revised MAY 2008

Senate Concurrent Resolution 220 (SCR 220), Senate Draft 1 (Attachment A), adopted by the 2007 State Legislature, requests that the Department of Human Services (DHS) conduct a Statewide needs assessment of non-citizen victims of human trafficking, and that in completing the needs assessment, DHS is to:

1. Collaborate with the Hawaii Anti-Trafficking Task Force (HATTF II), established pursuant to Act 260, Session Laws of Hawaii (SLH) 2006, to determine how Hawaii can best combat and deter human trafficking.
2. Identify existing obstacles, in statute, rule or policy that limit or deny benefits to non-citizen victims of human trafficking.
3. Identify appropriate social, financial and other services for victims of human trafficking

METHODOLOGY USED TO CONDUCT NEEDS ASSESSMENT

This analysis reviews the existing public policy that (1) established and authorized a victim-centered approach to combating, investigating and prosecuting human trafficking; (2) defined the target population of this report; (3) provided a means of identifying the size of this population, (4) identified lead agencies, their roles and responsibilities; (5) provided, through a case management approach, a means of assessing and identifying victim needs, and providing and coordinating services to address or meet victim needs in order to achieve safety, stabilization and self-sufficiency goals for these victims harmed by the criminal activity and to encourage continued cooperation with law enforcement and minimize risk for continued exploitation and undue control over and dependency of vulnerable victims; (6) established a process for authorizing legal status and eligibility for U.S. benefits and services, and (7) provided a process to gather and report, at the Federal level, on the resources required for this effort and the effectiveness of the effort.

DHS conducted literature review, key informant telephone, email and individual interviews, group consultation through the Act 260 Task Force and its Services Committee, and review of input from others who came forward with information.

Information on the size of the targeted population certified as eligible for benefits and services in Hawaii was provided by the lead Federal agency responsible for certifying non-citizen victims of human trafficking as eligible for U.S. benefits and services, the Office of Refugee Resettlement (ORR) in the Federal Department of Health and Human Services (DHHS).

Information on the number of non-citizen victims in Hawaii certified by ORR as eligible for services that were provided comprehensive case management to identify needs and provided services that address the identified needs was provided by the contracted non-government organization (NGO), Susannah Wesley Center. Information is limited because the contract only began in April 2007.

Information on the number of non-citizen victims provided comprehensive case management and emergency services prior to ORR certification was provided by contracted NGO, the Salvation Army.

This report is confined and limited by information restrictions in order not to jeopardize on-going investigation and prosecution of cases and to protect victims and witnesses who have come forward to aid in the investigation and prosecution.

Please note the term “victim”, as used in this report, is defined as a person who has suffered direct harm or who is directly and proximately harmed as a result of the criminal activity and is consistent with the U.S. Attorney General guidelines on victim assistance.

In order not to duplicate efforts, the following are not covered in this report because these issues are being addressed by the Hawaii Anti-Trafficking Task Force I (HATTF I), under a Federal U.S. Department of Justice (DOJ) grant, and/or by HATTF II, the Act 260 task force. Both task forces are convened by the State Department of the Attorney General (ATG).

HATTF I is working on:

- Agreements, protocols, and procedures between Federal, State and Local law enforcement agencies and NGOs for intake, investigation and prosecution of suspected trafficking in person (TIP) crimes, and for coordination of victim services;
- Development of a training plan and provision of law enforcement training;
- Community awareness and outreach programs; and
- Training for social service providers.

HATTF II has completed its review of State laws and recommended changes in its report to the 2008 State Legislature.

BACKGROUND

The Trafficking Victims Protection Act of 2000 (TVPA, Public Law 106-386) provided the legal authority and established a comprehensive Federal Policy to protect and assist victims of severe forms of trafficking and to prosecute their traffickers.

The success of the TVPA law hinges on pursuing a victim-centered approach to combating the problem of trafficking in persons (TIP). Because government benefits are typically tied to a person’s citizenship or immigration status, the TVPA created a mechanism for allowing certain non-citizen trafficking victims access to benefits and services from which they may otherwise be barred. Under §§ 107(b)(1) and (b)(2) of the TVPA, various Federal agencies must

extend some of the existing public benefits and services to trafficking victims who qualify and are authorized to provide grants to effectuate such assistance.

Prior to the enactment of the TVPA, there was no comprehensive Federal law, policy or strategy to protect victims of severe forms of trafficking or to prosecute their traffickers. The TVPA made human trafficking a Federal crime with severe penalties, expanded criminal categories, and enhanced the penalties available to Federal investigators and prosecutors pursuing traffickers.

The TVPA also addressed identified gaps in existing law and enhanced the tools to pursue these crimes. Specifically:

- ✓ Criminalized the obtaining or maintaining of persons for commercial sexual activity, using force, fraud or coercion for those 18 and over (not a requirement for those under 18); use of certain kinds of force or coercion to provide or obtain persons for any labor or services (e.g., work in farms, factories or households).
- ✓ Included nonviolent coercion and threats of harm to third persons in Federal involuntary servitude laws.
- ✓ Made attempted trafficking crimes punishable.
- ✓ Criminalized the holding of actual or purported identity documents in the course of committing, or with the intent to commit, any trafficking crime.
- ✓ Increased the maximum penalty for slavery and involuntary servitude offenses from 10 years to 20 years or to a life sentence if the offense involved factors such as death, kidnapping, or aggravated sexual abuse.

During the 1990s, the United States began to take steps to address trafficking in persons at home and abroad. The U.S. DOJ prosecuted trafficking cases under several federal criminal statutes, including the involuntary servitude statutes, the Mann Act (referenced in the table below), and labor laws on workplace conditions and compensation. Existing statutes did not adequately protect trafficking victims, deter trafficking, or bring traffickers to justice. These statutes did not always treat trafficked persons as victims. Involuntary servitude was restricted to cases of physical abuse—force, threats of force, or threats of legal coercion, as opposed to the psychological coercion often used by traffickers. While the modern concept of trafficking in persons focused on compelled service, under the Mann Act, trafficking was generally perceived as interstate transportation for prostitution.

The TVPA addressed limitations in existing law that made it difficult to prosecute traffickers, as well as adding new crimes and enhanced penalties. Federal agencies continue to rely on a number of statutes to prosecute traffickers and halt their operations. Provided below are the primary Federal statutes that support the investigation and prosecution of TIP crimes.

PRIMARY FEDERAL STATUTES THAT SUPPORT INVESTIGATION AND PROSECUTION OF TRAFFICKING IN PERSONS (TIP) CRIMES	
U.S. Code	Provision
18 USC § 241	Conspiracy against rights
18 USC § 371	Conspiracy to commit Federal offenses
18 USC § 1581	Peonage
18 USC § 1584	Involuntary servitude
18 USC § 1589	Forced labor
18 USC § 1590	Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor
18 USC § 1591	Sex trafficking with a minor or by fraud, force or coercion
18 USC § 1592	Holding or confiscation of passport or immigration documents
18 USC § 1593	Mandatory restitution
18 USC § 1594(a)	Attempt to commit peonage, slavery, involuntary servitude, forced labor, trafficking, or sex trafficking
18 USC 1594(b)	Asset forfeiture
18 USC §§ 2421 – 2424	Mann Act (transportation for illegal sexual activity and related crimes)
8 USC § 1324	Bringing in and harboring certain aliens
8 USC § 1328	Importation of an alien for immoral purposes

OTHER RELATED STATUTORY PROVISIONS USED IN TIP PROSECUTIONS	
U.S. Code	Provision
18 USC § 1546	Arranging a false visa for the victim
18 USC § 1622	Witness tampering
18 USC § 875	Interstate transmission of threats
18 USC § 1001	False statements in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Federal government
18 USC § 982	Asset forfeiture
18 USC § 2	Aiding and abetting a Federal offense (e.g., employment of unauthorized aliens)
31 USC § 5332	Bulk cash smuggling
18 USC § 1956	Money laundering

In addition to creating and expanding criminal penalties, the TVPA:

- Put forward a Federal strategy for (1) prevention (education and public awareness), (2) protection, as well as (3) prosecution.
- Provided for a range of new protections and assistance for TIP victims who are non U.S. citizens **to the same extent as refugees.**
- Established the T nonimmigrant visa, which allows TIP victims to become legal temporary residents of the United States. The T visa signified a shift in immigration law policy, which previously resulted in many TIP victims being deported as illegal aliens.

- Made TIP victims eligible for the Federal Witness Protection Program.
- Expanded U.S. government activities internationally to prevent victims from being trafficked.

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA 2003; P.L. 108-193) reauthorized TVPA and added responsibilities to the Federal anti-trafficking portfolio:

- Included combating sex tourism as part of anti-human trafficking strategy.
- Added refinements to Federal criminal law, e.g., included sex trafficking and forced labor as offenses under the Racketeering Influenced and Corrupt Organization statute.
- Created a new civil action that allows trafficking victims to sue their traffickers in Federal District Court.
- Required (“shall”) the U.S. DHHS Secretary to consider statements, from State and Local law enforcement officials, in granting/certifying non-citizen victim eligibility for U.S. benefits and services, that the victim has been willing to assist in every reasonable way with respect to the investigation and prosecution of State and Local crimes such as kidnapping, rape, slavery or other forced labor offenses, where severe forms of trafficking appear to have been involved.

The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA 2005; P.L. 109-164) reauthorized the TVPA and created new anti-trafficking resources (funding), including:

- Authorized (“may”) the U.S. Attorney General to establish a grant program (75% Federal match) to assist State and Local law enforcement in the following:
 - Investigate and prosecute acts of severe forms of TIP, and related offenses (e.g., violations of tax laws, transacting in illegally derived proceeds, money laundering, racketeering and other violations of criminal law committed in connection with an act of sex trafficking or severe forms of TIP), which involve U.S. citizens and permanent resident aliens that occur in-whole or in-part within the territorial jurisdiction of the United States;
 - Investigate and prosecute persons who engage in the purchase of commercial sex acts;
 - Educate persons charged with or convicted of purchasing or attempting to purchase commercial sex acts; and
 - Educate and train law enforcement personnel in how to establish trust of persons subjected to trafficking and encourage cooperation with prosecution efforts.
- Authorized (“may”) the DHHS Secretary to establish a grant program (75% Federal match) to expand/strengthen assistance to U.S. citizens and resident aliens subjected to sex trafficking or severe forms of TIP that occur in-whole or in-part within the territorial jurisdiction of the United States.

Who is a victim of severe forms of trafficking under the Federal law and policy?

TVPA 2000 defines “severe forms of trafficking in persons” as:

- **Sex trafficking** in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age
Sex trafficking is defined as the recruitment, harboring, transportation, provision or obtaining of a person for the purposes of a commercial sex act.
Commercial sex act means any sex act on account of which anything of value is given to or received by any person.
Coercion means threats of serious harm to or physical restraint against any person; any scheme intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of the legal process.
- **Labor trafficking** which includes the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.
Involuntary servitude means a condition of servitude induced by causing a person to believe that the person or another would be seriously harmed, physically restrained, or subjected to abuse or threatened abuse of legal process if the person did not enter into or remain in the servitude.
Peonage means a status or condition of involuntary servitude based upon a real or alleged indebtedness.
Debt bondage means the status of a debtor arising from the debtor’s pledge of his or her personal services or the services of a person under the debtor’s control as a security for debt, if the value of those services is not applied to satisfy the debt or if the length and nature of the services are not appropriately limited and defined.

EVOLVING INTEGRATED STRATEGY AND NETWORK PARTNERSHIPS

The TVPA reflects the belief that effectively combating the problem of trafficking in persons will require a “comprehensive” cross-programs (“across disciplines”, law enforcement, immigration, social services) effort at many levels (Federal-State-Local-NGO). Relying on partners means written protocols to clarify shared/common mission, targeted outcomes, roles, responsibilities and dependencies/interrelationships, and an agreed upon understanding of how the system will work.

Establishing these protocols on how the unified system will operate is not easy and is a work in progress.

Federal agencies with assigned responsibility to investigate and prosecute TIP crimes, and support agencies have been identified and their strategic role in combating human trafficking defined. (See chart that follows.)

In Spring 2003, the FBI’s Crimes Against Children Unit, DOJ’s Child Exploitation and Obscenity Section, and the National Center for Missing and Exploited

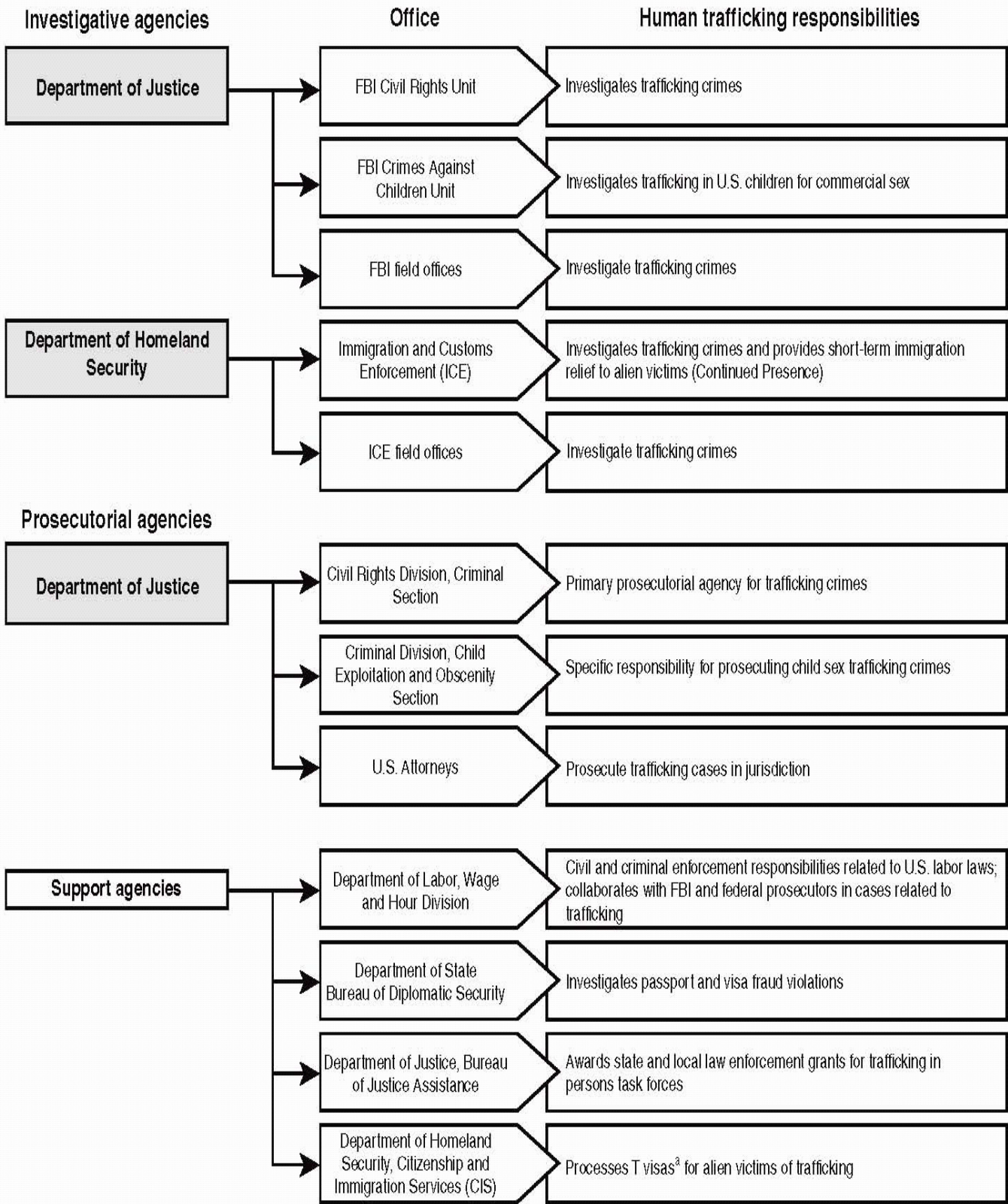
Children launched the **Innocence Lost National Initiative** in 14 cities where FBI field offices had identified a high incidence of trafficking of U.S. children for commercial sex. Subsequently the Initiative expanded to include other cities, including Honolulu. This is reflected in the chart of TIP investigation and prosecution responsibilities.

Federal agencies with assigned responsibility for victim assistance and services are also being identified for a comprehensive case management and services network coordination model. (See second chart that follows.)

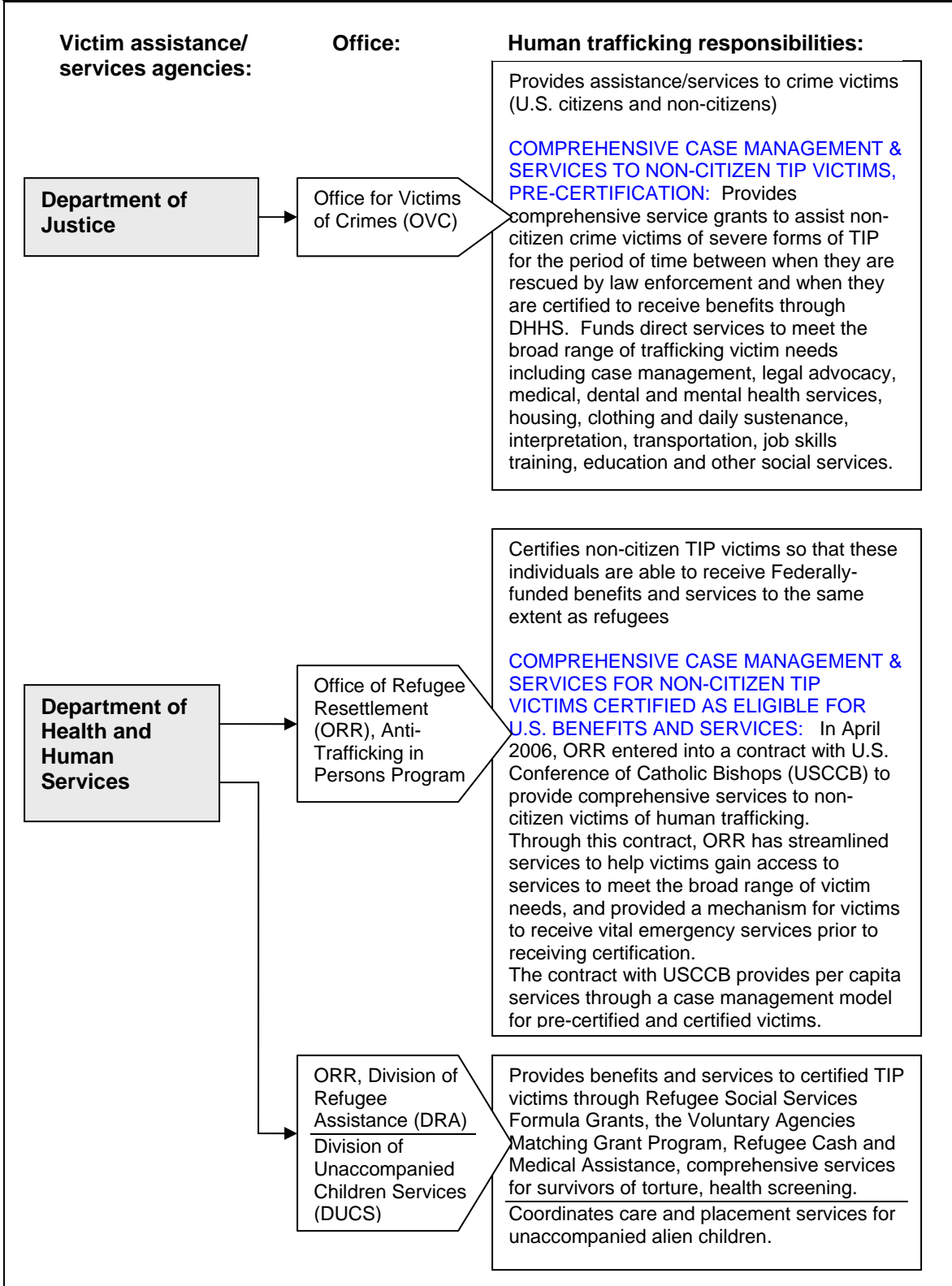
What still needs to be fleshed out in both charts are the roles and responsibilities of State and Local enforcement agencies and NGOs.

In November 2007, Robert Moosy, the Director of the Human Trafficking Prosecution Unit in the DOJ Civil Rights Division, shared with a Hawaii audience that 75 – 80% of the cases they handle involve undocumented aliens and the rest are domestic cases involving U.S. citizen victims. Input from a number of sources reflect the concern that more attention needs to be directed to the needs of victims who are U.S. citizens, particularly the needs of victims of child sex trafficking/exploitation (child prostitution, child pornography and internet crimes against children). It has also been suggested that the Hawaii Innocence Lost Task Force take on the task.

Federal agencies with primary responsibilities to investigate and prosecute TIP crimes:



Federal agencies with primary responsibilities to provide victim assistance and services to non-citizen TIP victims:



THE LINK BETWEEN ESTABLISHING AUTHORIZED NONIMMIGRANT (T VISA) OR CONTINUED PRESENCE (CP) STATUS AND ELIGIBILITY FOR U.S. BENEFITS AND SERVICES FOR NON-CITIZEN VICTIMS OF SEVERE TRAFFICKING WHO QUALIFY

What is the mechanism for allowing certain non-citizen trafficking victims access to U.S. benefits and services from which they may otherwise be barred?

The Anti-Trafficking in Persons Program of ORR, DHHS helps certify victims of a severe form of trafficking so that these individuals are able to apply for U.S. benefits and services to the same extent as refugees and begin rebuilding their lives safely in the U.S.

Once ORR issues a certification letter to an adult victim or an eligibility letter to a child victim, he or she is eligible to apply for Federally-funded public benefits and services.

To receive ORR certification, an adult victim must:

- Be a victim of human trafficking as defined by TVPA;
- Be willing to assist in every reasonable way in the investigation and prosecution of traffickers; and
- Have completed a bona fide application for a T non-immigrant visa; or
- Have received Continued Presence (CP) from the U.S. Department of Homeland Security.

Comparison of Available Immigration Relief and ORR Certification of Eligibility for Refugee and Other Public Benefits and Services (Multiple Sources: USCCB, November 2004, and Other Handouts)			
Conditions:	Continued Presence (CP) Status	T Non-immigrant Visa (T Visa) Status	U Non-immigrant Visa (U Visa) Status
<i>General description of each type of temporary immigration relief</i>	CP is a status that allows a victim to secure legal presence in the US; may only be requested by Federal law enforcement on behalf of a potential victim/witness; victim is allowed to remain in US for a period of 1 year and is issued a work permit, or Employment Authorization Document (EAD). If investigation is ongoing, CP status may be extended for a longer period of time. Following an award of CP status,	The T visa is a legal temporary residence status available only to non-citizen trafficking victims under TVPA who have complied with reasonable requests from law enforcement to assist in investigation and prosecution. If granted a T visa, the individual may remain in the US for 3 years and then may apply for lawful permanent residence. T visa derivatives may also be requested for family	The U visa is a legal temporary residence status set aside for alien victims of qualifying crimes who have suffered substantial mental or physical abuse because of the criminal activity and who are willing to assist law enforcement agencies or government officials in the investigation of that activity. If granted a U visa, the individual may remain in the US for 3 years and

Comparison of Available Immigration Relief and ORR Certification of Eligibility for Refugee and Other Public Benefits and Services
(Multiple Sources: USCCB, November 2004, and Other Handouts)

Conditions:	Continued Presence (CP) Status	T Non-immigrant Visa (T Visa) Status	U Non-immigrant Visa (U Visa) Status
	the victim should apply for a T visa at a later date.	members of a victim.	then may apply for lawful permanent residence. U visa derivatives may also be requested for family members of a victim.
<i>Who requests</i>	Federal law enforcement agency requests	Victim applies	Victim applies
<i>Eligibility criteria</i>	<ul style="list-style-type: none"> - Must be victim as defined under TVPA - Potential witness in a case 	<ul style="list-style-type: none"> - Must be victim as defined under TVPA - Complies with reasonable requests to assist in investigation or prosecution (unless under age 18) - In U.S. because trafficked here - Must convince that the victim would suffer extreme hardship, involving unusual and severe harm, if removed/ deported 	<ul style="list-style-type: none"> - Must be victim of one of 26 enumerated Federal, State or Local crimes (abduction, abusive sexual contact, blackmail, domestic violence, extortion, false imprisonment, felonious assault, female genital mutilation, hostage, incest, involuntary servitude, kidnapping, manslaughter, murder, obstruction of justice, peonage, perjury, prostitution, rape, sexual assault, sexual exploitation, slave trade, torture, trafficking, unlawful criminal restraint, and witness tampering) or other related/similar crimes - Suffered substantial mental or physical abuse as a result of having been a victim of a qualifying crime - Has information about the crime - Has been, is being, or is likely to be helpful to law enforcement - Crime occurred in the U.S. or violated U.S. law
<i>Who verifies that victim is assisting law enforcement agency?</i>	<ul style="list-style-type: none"> - Federal law enforcement agency only (investigation or prosecution) - Must be a potential witness - Minors under age 18 exempt 	<ul style="list-style-type: none"> - Federal, State or Local law enforcement agency (investigation or prosecution) - Minors under age 18 exempt 	<ul style="list-style-type: none"> - Federal, State or Local law enforcement agency (investigation or prosecution) - Other agencies that have criminal investigative jurisdiction in their respective areas

Comparison of Available Immigration Relief and ORR Certification of Eligibility for Refugee and Other Public Benefits and Services (Multiple Sources: USCCB, November 2004, and Other Handouts)			
Conditions:	Continued Presence (CP) Status	T Non-immigrant Visa (T Visa) Status	U Non-immigrant Visa (U Visa) Status
			of expertise such as the Equal Opportunity Commission or the Department of Labor (DOL)
<i>Duration of immigration relief</i>	1 year, renewable annually	4 years; may be extended upon certification by Federal, State or Local law enforcement authority that presence is still needed	4 years; may be extended upon certification by Federal, State or Local law enforcement authority that presence is still needed
<i>Adjustment of immigration status</i>	No, temporary	Yes, may adjust to permanent resident (green card) status after 3 years	Yes, may adjust to permanent resident status after 3 years
<i>To whom is immigration relief available</i>	Victim only (If a victim's family is threatened, other immigration relief may be available)	Victim and immediate family	Victim and immediate family
<i>Authorized to work?</i>	Work permit/EAD available	Work permit/EAD available	Work permit/EAD available
<i>How application is adjudicated</i>	One stage determination	Two-stage determination: (1) Bona fide application (2) Final determination Form I-914	Interim rule published in Federal Register 9/17/07 Form I-918
<i>Fees required?</i>	No fees	Fees, may be waived, except for fingerprint	No fees for interim relief Fees for EAD, may be waived
<i>When is the victim certified by ORR as eligible for refugee or other public benefits and services?</i>	Certified by ORR when the Federal law enforcement request to ORR or the CP application notes cooperation Minors under age 18 are not required to assist	Certified by ORR when informed by CIS that application is bona fide or that T visa has been granted, and cooperation with law enforcement is certified by Federal, State or Local law enforcement (investigation or prosecution).	Not eligible for refugee assistance and other public benefits to the same extent as refugees Need to research what public benefits and services U visa crime victims can access and to what extent
<i>Filing period?</i>		Crimes pre- 10/31/2000 must be filed no later than 1/31/03 or before 21 years old, exceptions possible Crimes post- 10/31/2000 can be filed any time as long as in US on account of trafficking	Can be filed any time

Often the fastest way for an adult victim to obtain ORR certification is through a grant of CP status. A Federal law enforcement agency handling the case can request CP for the victim from the Parole and Humanitarian Assistance Branch (PHAB) of the Department of Homeland Security, Citizenship and Immigration Services (CIS) Office of International Affairs. PHAB notifies ORR when it grants CP to a victim, and ORR issues the certification letter. When PHAB authorizes CP, the approved application is forwarded to CIS Vermont Service Center for production of an EAD, or work permit, and an I-94, Arrival/Departure Record. Even when CP is granted, the victim should still pursue T visa status for reasons noted in the table above.

When the Federal law enforcement agency handling a case does not apply to CIS for CP for the victim or has declined to investigate or prosecute the case, the adult victim may still be able to obtain ORR certification through the T visa application process.

[NOTE: TVPRA 2003 required (“shall”) the DHHS Secretary to consider statements from State and Local law enforcement officials, in certifying non-citizen victim eligibility for U.S. benefits and services, that the victim has been willing to assist in every reasonable way with respect to the investigation and prosecution of State and Local crimes such as kidnapping, rape, slavery or other forced labor offenses, where severe forms of trafficking appear to have been involved.]

After the submission of a T visa application, CIS Vermont Service Center conducts an initial review to determine if it is a bona fide application. The application is determined to be bona fide if:

- it is properly filed,
- There is no evidence of fraud, and
- The application is complete, including a law enforcement agency endorsement or other evidence that the victim is willing to assist law enforcement in any reasonable way.

Na Loio – Immigrant Rights and Public Interest Center, an organization in Hawaii that provides legal assistance to clients on immigration matters, including trafficking victims, shared that while the law authorizes ORR to certify a trafficking victim as eligible for U.S. benefits and services based on a bona fide application determination notice from the CIS Vermont Service Center, as a practical matter, Vermont rarely issues to ORR a determination notice that a T visa application is bona fide in advance of Vermont’s award or denial of T visa status for the applicant.

Na Loio believes that as a result of this practice many non-citizen TIP victims in Hawaii are without food, shelter and/or medical care while their T visa applications are pending at the Vermont Service Center.

Per TSA (Lisa Dunn), TSA can provide services to meet a victim's needs prior to ORR certification for non-citizen adult victims. Pre-certification emergency assistance is not dependent on proof of T visa status. Eligibility for TSA services is triggered at intake solely by law enforcement (Federal, State or Local) referral and a statement from law enforcement that the non-citizen person referred to TSA is a suspected trafficking victim.

Na Loio has provided the following data documenting the number and status of T visa applications they have filed for suspected TIP victims in Hawaii, where CP status was not sought or granted and the only remaining avenue for ORR certification would be a bona fide T visa application. Na Loio reports that there were 3 T visas granted in FFY2003, 3 in FFY 2004, and 3 in FFY 2005.

It is not clear why this data does not crosswalk with ORR data on certification letters issued to victims in Hawaii, of which all were through CP status, none through a bona fide T visa application determination. It is also not clear why this data does not crosswalk with TSA data on pre-certification clients served. We share this as a limitation in the data disclosure process and why it is difficult for us to validate anecdotal information on actual practice.

Additional information provided by Na Loio suggests that although there were 9 T visas granted between FFY 2003 and FFY 2005, there may not have been notice by law enforcement to ORR that the individuals were suspected TIP victims under TVPA and that they were willing to cooperate with law enforcement (investigation or prosecution). Therefore, no ORR certification letters were issued to these individuals who were granted T visa status. The additional information also suggests that no referrals were made by law enforcement to TSA for pre-certification emergency assistance and services.

Report from Na Loio on the Number of Non-Citizen TIP Victims in Hawaii
Where ORR Certification of Eligibility for U.S. Benefits and Services
Is Pending and Where:

- Information Has Been Provided to ORR That the Individual Is a Trafficking Victim under TVPA and Is Certified by Federal, State or Local Law Enforcement as Willing to Assist in Every Reasonable Way in Investigation and Prosecution of the Criminal Activity
- CP Status Has Not Been Requested or Granted, and
- Therefore, ORR Certification Depends on a Determination by the CIS Vermont Service Center That the Submitted T Visa Application Is Bona Fide or the T Visa Has Been Granted

FFY (Oct 1 through Sep 30)	No. and date of T visa applications filed for victims in Hawaii and where CP was not requested or granted	No and date when applications were determined as bona fide	No. and date when T visas were approved	Length of time from submission of application to decision that application was bona fide or T visa was granted
FFY 2001				
FFY 2002				
FFY 2003	4 Date filed: 5-03 3-21-03 5-14-03 5-14-03		4 Date T visa granted: 8-23-03 9-9-03 10-7-03, granted in FFY04 8-8-03	3 months 5 – 6 months 5 months 2 – 3 months
FFY 2004	5 Date filed: 1-24-04 3-15-04 3-25-04 4-22-04 8-17-04		5 Date T visa granted: 4-13-05, granted in FFY05 10-18-04, granted in FFY05 5-26-04 7-23-04 12-9-04, granted in FFY05	2 – 3 months 7 months 2 months 3 months 3 – 4 months
FFY 2005				
FFY 2006				
FFY 2007	1 Date filed: 8-2-07	Date determined as bona fide: Pending	Date T visa granted: Pending	
FFY 2008 (to date)	2 Date filed: 10-18-07 10-18-07	Date determined as bona fide: Pending Pending	Date T visa granted Pending Pending	

Victims of severe forms of trafficking who are minors (under age 18) are not subject to the ORR certification process and are immediately eligible for benefits based on the recommendation of a law enforcement agency. Minor victims do not need to apply for a T visa or get CP status. Instead, once ORR has received notice from Federal, State or Local law enforcement that the minor is a suspected victim of a severe form of trafficking, ORR issues a letter of eligibility for public benefits to the minor.

Benefit granting agencies must accept ORR certification and eligibility letters in place of immigration documentation in determining benefits eligibility. Trafficking victims are not required to provide any proof of their immigration status. Benefit granting agencies are to call the ORR trafficking verification line at (202) 401-5510 to verify an applicant's status as a trafficking victim. Pending verification, benefit-granting agencies cannot deny, delay, reduce or terminate an applicant's eligibility for benefits on the basis of immigration status (42 USC Sec. 1320b-7(d)(4)(B)(ii)).

At present, the computerized Systematic Alien Verification for Entitlements (SAVE) does not contain information about trafficking victims. SAVE is a system used by some welfare agencies, like Hawaii DHS, to verify an applicant's immigration status.

Many trafficking victims do not have standard identity documents (undocumented). Thus, agencies that have difficulty in confirming identity should not automatically deny benefits, but should call the ORR trafficking verification line.

Agencies may not require applicants for ORR-funded assistance and services to provide Social Security Numbers (SSN). Other Federal benefit programs, such as Medicaid, Temporary Assistance for Needy Families (TANF), and Food Stamps eligibility rules require applicants who do not have SSN to apply for them. However, the eligibility determination agency for these programs may not deny, delay or discontinue assistance pending issuance of the applicant's SSN. Instead, the agency should follow ORR instructions to assist victims in obtaining non-work SSN.

How many non-citizen adult (age 18 or older) victims of severe forms of trafficking in Hawaii have been identified and issued certification letters to apply for U.S. benefits and services? How many non-citizen minor (under age 18) victims in Hawaii have been identified and issued letters of eligibility?

Number of Non-Citizen Victims of Severe Forms of Trafficking in Hawaii – Adults and Minors - Issued Certification or Eligibility Letters as Proof They Are Eligible to Apply for U.S. Benefits and Services, as of November 2007 (Source: Multiple; Primary Source: ORR)				
FFY (October through September)	Number of Adult Victims Issued Certification Letters	Through T Non-immigrant Visa or Continued Presence (CP) Status?	Type of Trafficking; Related Case; Location	Number of Minor Victims Issued Eligibility Letters
2001	40	CP	Labor trafficking; Daewoosa case; American Samoa	0
2002	0			0
2003	6	CP	Labor trafficking; Maka case; Hawaii/Waianae Coast	0
2004	1	CP	Labor trafficking; Maka case; Hawaii/Waianae Coast	0
2005	0			0
2006	0			0
2007	2	CP	Sex trafficking; American Samoa	0
2008 (to date)	2	CP		0

Number of Non-Citizen Trafficking Victims in or through Hawaii Provided Assistance Pre-Certification, as of October 18, 2007
 (Source: The Salvation Army – Hawaii)

Case originating from	Type of trafficking case	No. of victims	Victim is citizen of	Intake date	Termination date	Reason for termination of services	Case status	Services provided while active
Saipan	Sex	22	China Philippines	4/06	11/06	New Saipan DOJ grant for pre-certified trafficking victims	Transferred	Case management/ case coordination Shelter Food Medical Hygiene supplies Household supplies Legal and social advocacy Transportation Pre-employment services ESL classes
Guam	Labor	7	Philippines	7/06	8/06	Determined to be a case of public fraud and not trafficking	Closed	Case management/ case coordination Shelter Food Clothing Hygiene supplies Household supplies
American Samoa	Sex	3	China	9/06	2 victims – 11/07 1 victim – 5/07	For 2 victims, case transferred to Susannah Wesley, 1 of 40+ subcontracted by USCCB to provide per capita services and case management to certified non-citizen victims of trafficking 1 of the 3 was determined not a trafficking victim	Closed	Case management/ case coordination Shelter Food Clothing Medical Hygiene supplies Household supplies Legal and social advocacy Transportation Pre-employment services ESL classes
Hawaii*	Sex	2					Active	Case management/ case coordination Transportation Medical Pre-employment services ESL classes

* Some information withheld in order not to jeopardize the investigation.

Number of Certified Trafficking Victims in Hawaii Provided Comprehensive Case Management and Services as of November 28, 2007
(Source: Susannah Wesley Community Center)

Case originating from	Type of trafficking case*	No. of victims	Victim is citizen of	Intake date*	Termination date	Reason for termination of services	Case status	Services provided while active*
		1	Samoa				Active	
American Samoa	Sex	1	China				Active	
Hawaii*	Sex	2	Korea				Active	
New York	Sex	1	Korean				Active	

* Some information withheld or restricted. In regards to intake dates, 2 of the 5 clients came to Susannah Wesley on about 4/07 and 5/07; 3 came through USCCB client enrollment authorizations (1 on 6/25/07 and 2 on 11/19/07).

Number of Certified Trafficking Victims and Their Family Members Provided Employability and Support Services, Including Case Management, for Up to 8 Months from Date on Certification Letter by NGO, Child and Family Services, from August 2003 Through November 2006
(Source: Child and Family Services, November 2006)

Participation in this service is required to receive 100% Federally funded Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) benefits			
	Daewoosa Case, Labor Trafficking, American Samoa	Maka Case, Labor Trafficking, Hawaii, Waianae Coast	Wang & Kuo Case, Sex Trafficking, American Samoa
Certified TIP victims	12 (10 female, 2 male)	7 male (Tongan)	3 female (Chinese)
T visa derivative 1 (adult family members)	5 of their adult family members 2 females; 3 males)	1 adult female family member	
T visa derivative 2 (children of principal client)	1 male child		

FINDINGS:

1. TVPA provides non-citizen victims of severe forms of human trafficking access to public benefits and services, from which they would have been otherwise barred, through certification by ORR.

The annual number of ORR certified victims in Hawaii has been small but, as demonstrated in FFY 2001, all it takes is one big case, like the American Samoa Daewoosa case, to skew and tax system response to service needs.

No minor (under age 18) non-citizen TIP victims in Hawaii have been identified and reported to ORR since FFY 2001.

2. Two Federal agencies are identified as responsible for victim assistance and services specific to non-citizen victims of severe forms of TIP: OVC and ORR (Anti-Trafficking in Persons Program).
3. They have contracted/sub-contracted short-term comprehensive case management and services responsibilities to 2 NGOs in Hawaii.

The designation of lead agency responsibility for comprehensive case management and services for TIP victims is important because it assigns responsibility to assess client needs and responsibility to meet those needs through service coordination and funding flexibility for service provision where needed. Time-limited, goal-oriented case management means focusing services to ensure the safety of victims that have come forward to assist in the investigation and prosecution of human trafficking, to stabilize their living situation, and to promote self-sufficiency.

OVC has contracted comprehensive case management and services responsibilities for **pre-certified** victims in Hawaii to **The Salvation Army (TSA)** for the period of time between when they are rescued by law enforcement and when they are certified through ORR to receive benefits/services. Although there have been no pre-certification referrals from the Neighbor Islands, TSA believes it has the capacity to provide services throughout the State.

The ORR Anti-Trafficking in Persons Program has contracted with the U.S. Conference of Catholic Bishops (USCCB) and USCCB has subcontracted with **Susannah Wesley** in Hawaii for comprehensive case management and services responsibilities specific to **certified** victims for a period of up to 4 months with provisions to flexibly allow victims to receive vital emergency services prior to receiving certification, if OVC-funded pre-certification case management and services are not available. Because of the OVC contract with TSA, Susannah Wesley can focus its resources on victim needs post certification.

4. Strengths and limitations of the ORR/USCCB contract and the challenges for subcontractor Susannah Wesley:
 - a. The period of service for certified clients is 4 months and the subcontractor is paid on a per capita basis. The subcontractor is paid a fixed administrative rate of \$500 per month per certified client and is reimbursed for allowable client expenses up to \$400 a month per certified client. Implicit in the rate structure is the need to know of, tap into, manage access to and maximize, with the client and based on client need, the array of available benefits and services that the client may qualify for

(e.g., cash assistance, food assistance, medical assistance, housing assistance, etc.) while ensuring client safety and pursuing self-sufficiency within a 4 month time frame.

The subcontracted service provider and others have said that it is fortunate that Susannah Wesley already has an existing base of bilingual case managers with experience in assisting clients in obtaining and utilizing mental health services, and receives funding from other major funding sources, e.g., the State Adult Mental Health Division (AMHD) and the APS Healthcare, Community Care Services (CCS) Program to sustain staffing capacity on Oahu. Otherwise, USCCB funding would not be sufficient.

	Administrative expenses (Fixed rate/month)	Client expenses (Cost reimbursable/ month)	Total/month/client
Certified clients	\$500	Up to \$400	Up to \$900
Pre-certified clients <i>(for information only; not allowable because Hawaii has OVC funds for pre-certified clients)</i>	\$700	Up to \$600	Up to \$1,300

Susannah Wesley has a staff of 9 bilingual case managers:

- 1 Vietnamese speaking male
- 1 Korean speaking female
- 1 Thai and Laotian speaking female
- 1 Ilokano speaking female
- 1 Mandarin and Cantonese speaking female
- 1 Chuukese speaking female
- 1 Samoan speaking male
- 1 Vietnamese speaking female, and
- 1 part-time, Korean speaking female.

b. It is also fortunate that the certified victims have all been on Oahu thus far because services are primarily located on Oahu and designed for Oahu. Susannah Wesley is reviewing capacity to serve the Neighbor Islands, if needed. Part of such analysis would involve examining the availability and sufficiency of resources on the Neighbor Islands and the adequacy of the per capita reimbursement rate structure to sustain services.

5. DHHS has identified 4 areas of general need for non-citizen TIP victims:

- Immediate assistance to meet basic needs – housing, food, medical, safety and security
- Mental health assistance – counseling
- Income or cash assistance

- Legal assistance on matters related to legal status – immigration and certification of eligibility for benefits and services

OVC, through grantees reporting, found that the top 10 pre-certification services provided to trafficking victims were:

- Transportation
- Emotional support
- Interpreter services
- Legal assistance, including immigration advocacy
- Explanation of legal rights and protections
- Information referrals
- Mental health counseling
- Food and clothing
- Medical care
- Other services such as general communications and follow-up visits

Like refugees, certified adult and eligible minor non-citizen TIP victims who meet program qualifications can access benefits and services available to U.S. citizens including:

- Available housing or shelter assistance
- Food assistance
- Income or cash assistance
- Health care assistance
- Mental health services
- Employment assistance
- English language training
- Interpreter assistance

In addition, as crime victims, they have access to:

- Victim protection and assistance, including certain Victims of Crime Act (VOCA) funded services
- Victim compensation, provided they meet program qualifications

Some benefits and services available to certified and eligible victims are subject to the same program qualifications and program limitations applicable to U.S. citizen, e.g., has to meet the program criteria for qualification, may be subject to waitlists (public housing, Section 8 vouchers), may be subject to resource limitations.

To date, the numbers served in Hawaii are small.

See table below for a list of benefits and services available to certified adult and eligible minor non-citizen victims in Hawaii, provided they meet program qualifications.

Legend for Acronyms Used in Table Below:				
CFS	Child and Family Services			
DHHS-ACF-ORR	U.S. Department of Health and Human Services-Administration for Children and Families – Office of Refugee Resettlement			
DHHS-CMS	U.S. Department of Health and Human Services-Centers for Medicaid and Medicare Services			
DHS-BESSD	Department of Human Services-Benefits, Employment and Support Services Division			
DHS-MQD	Department of Human Services-Med QUEST Division			
DLIR	Department of Labor and Industrial Relations			
DLIR-OCS	Department of Labor and Industrial Relations-Office of Community Services			
DOH-AMHD	Department of Health-Adult Mental Health Division			
DOJ-OVC	U.S. Department of Justice-Office for Victims of Crimes			
DOL-ETA	U.S. Department of Labor-Employment and Training Administration			
DPS	Department of Public Safety			
DUCS	Division of Unaccompanied Children's Services			
EAD	Employment Authorization Document			
EBT	Electronic Benefits Transfer			
FBI	Federal Bureau of investigation, U.S. Department of Justice			
HUD	U.S. Department of Housing and Urban Development			
ICE	Immigration and Customs Enforcement, U.S. Department of Homeland Security			
LASH	Legal Aid Society of Hawaii			
LSC	Legal Services Corporation			
NGO	Non Government Organization			
RCA	Refugee Cash Assistance			
RMA	Refugee Medical Assistance			
SCHIP	State Children's Health Insurance Program			
SSA	U.S. Social Security Administration			
SSI	Supplemental Security Income			
TANF	Temporary Assistance for Needy Families			
TAONF	Temporary Assistance for Other Needy Families			
TIP	Trafficking in Persons			
TSA-HI	The Salvation Army - Hawaii			
URM	Unaccompanied Refugee Minors Program			
USCCB	United States Conference of Catholic Bishops			
USDA	United States Department of Agriculture			
VOCA	Victims of Crime Act			

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>Comprehensive Case Management and Services for Non-citizen TIP Victims – Pre-certification Period</p> <p>Comprehensive service grants are to provide direct services to meet the broad range of</p>	DOJ-OVC	\$700,000, 3-year (January 2006 - January 2009) OVC discretionary grant to TSA-HI for comprehensive case management and services to pre-	Yes	Yes

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>trafficking victim needs including case management, legal advocacy, medical, dental and mental health services, housing, clothing and daily sustenance, interpretation, transportation, job skills training, education and other social services.</p> <p>The grants are primarily to assist victims for the period of time between when they are rescued by law enforcement and when they are certified to receive benefits through DHHS.</p>		certified victims		
<p>Comprehensive Case Management and Services for Certified Non-citizen TIP Victims with Funding Flexibility for Services Pre-certification</p> <p>In April 2006, ORR entered into a contract with USCCB to provide comprehensive case management and services to certified victims of human trafficking.</p> <p>Through this contract, ORR also provided a mechanism for victims to receive emergency services prior to receiving certification, especially if OVC-funded pre-certification services are not available.</p> <p>The contract with USCCB provides per capita services through a case management model to certified victims with the flexible ability to fund emergency services prior to receiving certification.</p> <p>Comprehensive case management and services are limited to 4 months for certified victims.</p>	<p>DHHS-ACF-ORR-Anti-Trafficking in Persons Program-USCCB (contractor) with 40+ subcontracts; \$2.5 million</p>	<p>Susannah Wesley (subcontractor) – comprehensive case management for certified victims plus per capita services reimbursement to help meet range of victim needs</p> <p>Service period limited to 4 months. Per Susannah Wesley, USCCB contract not clear if the 4 month limit is from the date of the certification letter or from the date of referral to the agency.</p> <p>Contract period: April 2007 – April 2008.</p>	Yes	Yes
<p>Unaccompanied Refugee Minors (URM) Program</p> <p>Unaccompanied minors who are non-citizen TIP victims are eligible for foster care and independent living services through the URM.</p>	<p>DHHS-ACF-ORR-Division of Unaccompanied Children's Services (DUCS)</p>	<p>Not available in Hawaii. Eligible minor non-citizen victims can access URM foster care available in 14 contracted states through DUCS.</p>	No	Yes

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
		No minor non-citizen TIP victims in Hawaii since FFY 2001.		
<p>Refugee Social Services Formula Grant</p> <p>As a condition for receipt of RCA assistance, certified victims who are RCA recipients must register for employment services and participate in an employability plan intended to result in their earliest possible employment.</p> <p>Employability services may include case management, job orientation, aptitude and skills testing, on-the job training, English language instruction, child care, transportation, and assistance in obtaining EAD, or work permit.</p> <p>Other refugee social services include health-related information and counseling, home management services and citizenship and naturalization preparation.</p> <p>Service period is 8 months from the certification letter date.</p>	DHHS-ACF-ORR—Division of Refugee Assistance	<p>DLIR-OCS Contracted NGO, CFS, to provide employability services to refugees, including certified TIP victims, on Oahu only</p> <p>DLIR-OCS has to determine how it will serve certified TIP victims on the Neighbor Islands.</p> <p>Per CFS, the title of their contract is “Employment Core and Support Services for Refugees.”</p> <p>CFS clarified that they do not provide on-the-job training, but refer to employers who provide this service.</p> <p>CFS assists with referrals for childcare but does not specifically fund this.</p> <p>Does not generally serve refugee minors, including minor TIP victims, unless there is a legal guardian present.</p> <p>As reported in 11/2006, they served 22 certified victims and 6 of their adult family members (T visa derivatives) from August 2003 through November 2006:</p> <p>→ Daewoosa labor trafficking case – 12 certified victims (10 female, 2 males) and 5 of their adult family</p>	Yes	No

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
		<p>members (T visa derivatives)</p> <p>→ Maka labor trafficking case – 7 male certified victims and 1 adult female family member (T visa derivative)</p> <p>→ Wang and Kuo case – 3 female certified victims of sex trafficking</p>		
<p>Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA)</p> <p>RCA is a refugee-specific cash assistance program, 100% Federal-funded, for refugees who do not qualify for TANF or SSI. Because TANF is for low income families with dependent children and SSI is for the elderly and persons with disabilities, RCA is primarily available to non-disabled adult applicants who do not have minor children, or whose minor children are residing abroad, and two-parent households who do not qualify for TANF.</p> <p>The goal of the RCA program is for the recipients to achieve economic self-sufficiency as early as possible. RCA recipients must participate in employability services, although refugee resettlement agencies may establish exemptions from this requirement. Full-time students enrolled in higher education programs are not eligible for RCA.</p> <p>Certified victims, like refugees, are eligible for this benefit. RCA benefits are limited to the first 8 months of certification so TIP victims should apply for this benefit as soon as possible.</p> <hr/> <p>RMA is a refugee-specific health insurance program available to trafficked persons who are ineligible for QUEST,</p>	DHHS-ACF-ORR	<p>DLIR-OCS passes through funds to DHS-BESSD (100% Federal reimbursement for 8 months from date of certification letter)</p> <p>Only if do not qualify for Federal funded cash assistance such as TANF or SSI, or Federal funded Medicaid. State will tap Federal RCA or RMA benefits before tapping 100% State funded GA or TAONF.</p>	Yes	No

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>Medicaid Fee for Service (Aged, Blind and Disabled) or SCHIP.</p> <p>Like the RCA, RMA is primarily available to non-disabled adult applicants who do not have dependent children.</p> <p>RMA eligibility is determined based on income and resources on the date of application. A recipient's subsequent earnings do not affect his or her continued eligibility for RMA. A full-time student enrolled in higher education is not eligible for RMA unless the enrollment is approved as part of an employability plan or a plan for an unaccompanied minor.</p>				
<p>Voluntary Agency Matching Grant Program</p> <p>As an alternative to RCA, refugees can choose to receive a cash allowance and intensive employment training through the Matching Grant Program funded by ORR.</p> <p>Certified TIP victims, like refugees, can enroll in this program; enrollment must be within 31 days of certification.</p> <p>The goal of the Matching Grant Program is to achieve economic self-sufficiency within 4 months of ORR certification.</p> <p>The program emphasizes employment, English language training and case management.</p> <p>The certified victim cannot apply for RCA but can still apply for RMA.</p> <p>Recipients who are unemployed at the end of the 4 month may be referred to TANF or GA to see if they qualify.</p> <p>Past national data show that most certified TIP victims who applied for benefits and possessed a valid EAD were</p>	DHHS-ACF-ORR-	Pacific Gateway	Yes	Yes

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
enrolled in the Matching Grant Program.				
Services for Survivors of Torture	DHS-ACF-ORR-Services for Survivors of Torture Program 26 grantees in 17 states	Hawaii has no grantee	Yes	Yes
<p>Food Stamps Provides electronic benefit cards (EBT) to low income persons and families that can be used to buy food at participating stores.</p> <p>Because refugees are eligible to apply for Food Stamps, so are certified TIP victims.</p> <p>Unlike other Federal welfare benefits, Food Stamps are available to low income persons regardless of their age, health or household characteristics.</p> <p>To be eligible, some participants may have to be employed or participate in a work experience or job training program. However, certified TIP victims who participate at least half-time in employability programs approved or funded by ORR are exempt from Food Stamps work requirements and time limits.</p> <p>Certified TIP victims, like refugees, are exempt from restrictions on Food Stamp eligibility that apply to other qualified immigrants.</p>	USDA	DHS-BESSD	Yes	Yes
<p>TANF Is a Federal block grant that States can use to provide cash assistance and services to low income predominantly single parent households with children</p> <p>To be eligible, recipients may have to participate in work, education or training activities unless an exemption applies.</p> <p>TANF is a State-administered benefit, subject to the overall</p>	DHHS-ACF	DHS-BESSD	Yes	Yes

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>Federal requirement that adult recipients are limited to 5 years of benefits over a recipient's lifetime. Most States exempt certain families from the time limits, such as domestic violence survivors or persons with disabilities.</p> <p>Whether a family participates in TANF depends on the parent(s) meeting Federal eligibility requirements.</p> <p>Refugees or certified TIP victim parent(s) in households with dependent children may qualify for Federally funded TANF or a comparable State-funded program.</p> <p>Because refugees are eligible for TANF regardless of their entry date into the U.S., TIP victims and their families are also eligible.</p>				
<p>Supplemental Security Income (SSI) Provides monthly cash assistance to low income persons who are age 65 or older, are blind or disabled.</p> <p>To be eligible for disability benefits, an individual who is age 18 or older must be unable to do any kind of substantial or gainful work because of a diagnosed physical or mental impairment that has lasted or is expected to last for a continuous period of at least 12 months, or that is expected to result in death.</p> <p>A child must have "marked or severe" physical or mental disability that would keep him or her from working if an adult or would significantly interfere with daily activities.</p> <p>Because refugees are among the limited categories of non-citizens who may qualify for SSI benefits, certified TIP victims</p>	SSA	Local SSA office	Yes	Yes

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>and their eligible family members who are elderly, blind or disabled may also qualify.</p> <p>Like refugees, certified TIP victims are limited to a 7 year period of eligibility for SSI benefits. For TIP victims, the 7 year period starts on the date of the ORR certification letter.</p> <p>Because the SSI disability determination process can delay benefit receipt for up to 12 months, TIP victims who apply for SSI during the first 8 months of ORR certification are eligible to receive RCA benefits while waiting for an SSI determination.</p> <p>If an applicant is outside the RCA eligibility period, he or she may be eligible for State-funded GA benefits.</p>				
<p>State-funded General Assistance (GA) Provides 100% State-funded cash assistance to low income adults, age 18 through 64, without minor dependents, who are temporarily disabled and who do not qualify for SSI.</p> <p>Like refugees, certified TIP victims may qualify, but before they do they must utilize other Federally funded cash assistance for which they qualify, such as RCA.</p>		DHS-BESSD	Yes	No

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>TAONF 100% State funded program that provides the same benefits as the Federal TANF program but to household with dependent children that do not meet Federal TANF requirements.</p> <p>Families which include at least one non-citizen or in which at least one child has one or both of his or her parent(s) residing in the home are eligible, provided the parent(s) meet other qualification requirements.</p> <p>If certified TIP victims, like refugees, do not qualify for TANF, they may qualify for TAONF, but before they do, they must utilize other Federally funded cash assistance for which they qualify, such as RCA.</p> <p>Rules such as the 5 year ban for qualified aliens do not apply to refugees and certified TIP victims.</p>		DHS-BESSD	Yes	Yes
<p>Medicaid Is a health insurance program for certain categories of low income persons, including pregnant women, children and teenagers, and persons who are aged, blind, or disabled.</p> <p>Because Federally-funded Medicaid is available to qualifying refugees, it is also available to qualifying certified TIP victims.</p> <p>Like refugees, certified TIP victims are exempt from the 5 year ban for qualified aliens.</p> <p>Certified TIP victims who lose eligibility for Medicaid due to earnings can transfer to RMA without an income eligibility determination as long as they are still within the 8 month RMA eligibility period.</p>	DHHS-CMS	DHS-MQD	Yes	Yes

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>Emergency Medicaid is available regardless of citizenship and immigration status.</p> <p>SSI recipients are automatically eligible for Medicaid.</p>				
<p>State Children’s Health Insurance Program (SCHIP) SCHIP is a federally funded health insurance program for children in low income working families. States have the option to implement SCHIP as a stand-alone program, a Medicaid expansion or a combination of the two. Hawaii has chosen the combination option.</p>	DHHS-CMS	DHS-MQD	No	Yes
<p>Public Housing and Section 8 Rental Assistance for Low Income Persons State and Local housing authorities administer these benefits.</p> <p>Certified TIP victims who qualify - like refugees - are eligible for Federally subsidized housing assistance.</p> <p>There are waitlists.</p>	HUD	State and local housing authorities or agencies	Yes	No
<p>Legal Services The Legal Services Corporation (LSC) is a private nonprofit corporation established by Congress that funds legal aid programs around the nation to help low income persons gain access to the civil justice system. Under § 107(b) of the TVPA, LSC must make legal assistance available to trafficking victims who often need assistance with immigration and other matters.</p> <p>TVPA provides that LSC grantees may represent any trafficked person for any purpose and without regard to immigration status, as long as the victim meets the statutory definition of “victim of a severe form of trafficking in persons” and is under the age of 18 or is</p>	LSC	<p>Legal Aid Services of Hawaii (LASH)</p> <p>Although Federal law says LASH may provide services to this target group, no additional funding has been provided to do so.</p> <p>The prevailing practice in Hawaii has been to defer to and call on Na Loio, the Immigrant Rights and Public Interest Law Center, for their specialized expertise in providing legal assistance on immigration matters, including legal help for trafficking victims.</p>	Yes	Yes

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>the subject of a victim certification by ORR.</p> <p>LSC grantees may represent the TIP victim in the ORR certification process.</p>				
<p>Mental Health Services</p> <p>To determine if a suspected TIP victim, including pre-certified or certified victims, qualifies for services from AMHD, contact the AMHD Access Line, a 24 hours a day, 7 days a week hotline (832-3100 for Oahu; 1-800-753-6879 for the Neighbor Islands).</p> <p>The individual will be scheduled for an eligibility determination assessment. If the individual is determined to be eligible for mental health services through AMHD the individual will be referred to a service provider and assigned a mental health case manager.</p> <p>The Access Line and eligibility determination assessment service is available to adults regardless of citizenship or immigration status.</p>		DOH-AMHD	Yes	No
<p>Crime Victim Compensation, Assistance and Services</p> <p>The Crime Victims Fund, established by the Victims of Crime Act of 1984 (VOCA), is a major funding source for victim services throughout the nation.</p> <p>Fund dollars to date have come from offenders convicted of Federal crimes, not from taxpayers.</p> <p>If you are a crime victim, you have rights and help may be available.</p> <p>VOCA Crime Victim Compensation Program: Every state administers a crime victim compensation program that reimburses Federal and</p>	DOJ-OVC	<p>FBI field offices, U.S. Attorney offices, and ICE.</p> <p>Local victim-witness coordinators and VOCA funded services</p> <p>Crime Victim Compensation Commission, Hawaii Department of Public Safety (DPS)</p>	Yes	Yes

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>State crime victims for crime-related expenses, such as medical costs, mental health counseling, funeral and burial costs, and lost wages or loss of support.. Although each State compensation program is administered independently, most have similar eligibility requirements and offers comparable range of benefits.</p> <p>The program typically requires victims to report crimes to law enforcement within 3 days of the offense and to file claims within a fixed period of time (usually 2 years). State can extend these time limits for good cause.</p> <p>If other financial resources are available to the victim, the program will pay only to the extent that those resources do not cover the loss.</p> <p>In Hawaii, certain victims of qualifying violent crimes may be eligible for compensation.</p> <p>VOCA Victim Assistance Funds: States get a base amount of \$500,000 annual for victim assistance. Northern Marianas Islands, Guam and American Samoa each receive a base amount of \$200,000. Additional funds are distributed based on population.</p> <p>Victim assistance funds may be used to fund a range of direct services that may include, but is not limited to:</p> <ul style="list-style-type: none"> • Crisis intervention • Emergency shelter • Emergency transportation • Counseling • Criminal justice advocacy <p>Funds to support the Federal victim notification system and to fund victim witness coordinator and specialist positions: Maintains the Victim-Witness Assistance Program to support investigation</p>				

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
<p>and prosecution, e.g., in FBI field offices, in ICE for special agents in charge of investigation, and in U.S. Attorney offices.</p> <p>The goal is to ensure that victims of crimes are treated fairly and with respect, are informed of their rights, and are informed of and receive the notification and services to which they are entitled.</p> <p>For example, with funding from OVC, the Department of Homeland Security, ICE Victim-Witness Assistance Program operates a Crime Victim Assistance Fund that is available to assist special agents in charge of investigation with emergency services for crime victims, including trafficking and related crimes victims, until they can be safely transferred to NGOs.</p> <p>In FFY 2005, ICE utilized the fund to provide emergency housing, food, clothing, personal hygiene items, health screening, tuberculosis testing, and interpreter/translation services.</p> <p>Sometimes it takes a year or a couple of years to complete an investigation, and additional time to pursue prosecution. Involvement with the respective victim-witness coordinator/specialist for investigation and for prosecution may continue after involvement with time-limited comprehensive case management agencies.</p>				
<p>One Stop Career Center System DOL offers programs such as job search, job placement assistance, job counseling, education and training, supportive services such as referral for transportation, child care, and housing assistance for</p>	DOL-ETA	DLIR and County programs		

PUBLIC BENEFITS AND SERVICES THAT NON-CITIZEN TIP VICTIMS ARE LEGALLY AUTHORIZED TO ACCESS	Federal Oversight Agency	State/Local Administering Agency or NGO	Non-citizen Adult Victim	Non-citizen Minor Victim
certified TIP victims.				
Services generally available regardless of legal status: <ul style="list-style-type: none"> • Emergency medical services • Crisis hotlines/crisis intake and response • Health screenings, immunizations • Emergency shelters, including domestic violence and homeless shelters • Food Bank and food distribution programs • Emergency assistance programs, including TSA, that provides assistance with security deposits and first month rent, and other emergency needs 				

6. There were anecdotal reports of suspected labor and sex trafficking cases that have not been acted upon for various reasons or may not have been pursued under TVPA. Without going into specifics, these anecdotal examples were reported from the Big Island as well as Oahu. Three of the anecdotal reports involved suspected minor victims on the Big Island; one involved an adopted child (suspected labor trafficking), another a 15 year old girl brought in from Guatemala (suspected labor trafficking), and a third involved a young immigrant girl rented out by her boyfriend that surfaced because of mental health issues.

These examples were shared because of the reporters' concerns regarding the overall lack of awareness, the lack of information on how to report these suspected cases, what happens when you make a report, and concerns regarding the lack of resources on the Neighbor Islands to intervene and assist.

These reporters would like the Act 260 task force to continue its work in exploring and documenting how the system is working and how reports are being handled. They would like the task force to examine and document how suspected trafficking related crimes that are not pursued under TVPA are handled, and including U visa cases in that analysis. They would like the task force to examine and document the handling of child prostitution cases involving the trafficking of Hawaii minors who are U.S. citizens, including victim services for these minors. Even though there have been no reported minor non-citizen trafficking victims they would like the task force to further examine placement services in the URM foster care system. These are issues beyond the scope of this report and are offered for further consideration by HATTF II (Act 260 task force).

RECOMMENDATION

The existing public policy provides a means for continuous needs assessment and review of system capacity and resources. The process requires the partners

in this integrated strategy for combating human trafficking to work together in reviewing and improving system response. We recommend that HATTF II (Act 260 task force), if extended by the State Legislature, consider the preliminary findings of this report for discussion and action planning where beneficial.

ATTACHMENT A

THE SENATE
TWENTY-FOURTH LEGISLATURE,
2007
STATE OF HAWAII

S.C.R. NO. 220
S.D. 1

SENATE CONCURRENT RESOLUTION

*REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO CONDUCT A
STATEWIDE NEEDS ASSESSMENT OF NON-CITIZEN VICTIMS OF
HUMAN TRAFFICKING.*

WHEREAS, terrified and alone, many non-citizen victims of human trafficking escape to safety with only the clothes on their backs; and

WHEREAS, without resources to secure housing, food, medical care, or other basic necessities, non-citizen victims of human trafficking struggle to survive in our communities; and

WHEREAS, victim assistance and services for trafficked persons are constrained by factors such as legal provisions barring undocumented migrants from benefits and victim-related services; and

WHEREAS, individuals that are trafficked but are not identified or recognized by law enforcement as victims of a severe form of trafficking may be expeditiously removed or detained in criminal detention facilities across the country; and

WHEREAS, trafficking victims' fear of removal is exploited by traffickers to keep individuals isolated and under their control; and

WHEREAS, federal law may protect trafficked persons by providing immigration status, permission to work, and possible United States permanent residence once the victim is certified as a severe victim of trafficking; and

WHEREAS, once trafficked persons are identified, "certification" is a process by which trafficked persons are deemed eligible for benefits and services to the same extent as a refugee, namely federal and state benefits, including medical services, housing, legal services, protection, victim compensation and assistance, immigration benefits and programs, restitution, and translation and interpretation services; and

WHEREAS, because certification often requires a considerable length of time to process, typically six months, there is the need for pre-certification victim services from the time that individuals are identified as trafficked persons until they are certified by federal law enforcement, during which time trafficked persons may experience the greatest need for services; and

WHEREAS, trafficking victims are eligible for certain federally funded services, namely emergency Medicaid, immunizations, and access to domestic violence shelters and other exempt services but they are ineligible for other federally funded services such as cash assistance programs or state funded comprehensive health care services; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2007, the House of Representatives concurring, that the Department of Human Services is requested to conduct a statewide needs assessment of non-citizen victims of human trafficking; and

BE IT FURTHER RESOLVED that in completing the needs assessment, the Department of Human Services:

- (1) Collaborate with the task force that was established, to determine how Hawaii can best combat and deter human trafficking, pursuant to Act 260, Session Laws of Hawaii 2006;

- (2) Identify existing obstacles, in statute, rule, or policy, that limit or deny benefits to non-citizen victims of human trafficking; and
- (3) Identify appropriate social, financial, and other services for victims of human trafficking, in general, including gaps in the services offered by state, county, and private agencies for victims of human trafficking; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Director of Human Services and the Attorney General.