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VIA EMAIL

Alan Hanson
Acting Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
810 Seventh Street NW
Washington, DC 20531

Darlene Hutchinson Biehl
Director, Office for Victims of Crime
810 Seventh Street NW., Second Floor
Washington, DC 20531

Re: FY 2018 TVPA Human Trafficking Funding Restriction

Acting Assistant Attorney General Hanson and Director Hutchinson Biehl:

On behalf of the American Bar Association (ABA) and its over 400,000 members nationwide, I write to share our concern with the Department of Justice Office for Victims of Crime's new restriction on using Trafficking Victims Protection Act funds for vacatur and expungement representation. The ABA has a long history of strongly supporting your efforts to provide continued funding for services that support victims of human trafficking.

The ABA has taken a leadership role in addressing sexual violence and human trafficking and recognizes the important role of the legal profession in addressing criminal justice issues. Since 1994, the Association's Commission on Domestic & Sexual Violence has worked to increase access to justice for victims of domestic and sexual violence, including human trafficking survivors. The Commission addresses the acute need to increase the number of well-trained and supported attorneys providing representation to victims. Trafficking survivors are often further victimized by criminal histories resulting from the force, fraud and coercion perpetrated by their traffickers. Vacatur and expungement are necessary final escapes from their trafficking victimization and moving on to lives that are free from trafficking exploitation. Addressing this legal need with high-quality representation and training is an essential component of appropriate victims' services and a core project and policy of the ABA.

With the support of the Office for Victims of Crime at the Department of Justice, the ABA Commission on Domestic & Sexual Violence launched the Survivor Reentry

Project (SRP). SRP provides national training and technical assistance for attorneys working with survivors of human trafficking who have been convicted of a crime because of their victimization. Many trafficking survivors are arrested and prosecuted for acts directly related to having been trafficked. For a huge number of these survivors, pursuing stability and independence once they are no longer trafficked is hindered by their own criminal records. Survivors are denied employment and housing due to their criminal histories. Many survivors live in fear of their criminal records' coming to light because of the severe negative consequences that can cause.

More than half the states in the United States have passed vacatur laws allowing survivors to petition to have their records cleared if they can show that their crimes arose from their victimization. The practice, however, has been slow to build. Most survivors do not know they are potentially eligible for vacatur, and the legal community has not developed the capacity to handle these cases in large numbers. Resource constraints limit the ability of criminal and civil legal services providers to offer representation. Additionally, many attorneys lack training or specific expertise to engage in post-conviction advocacy. SRP has raised awareness of vacatur remedies for survivors and built sustainable vacatur practices in key locations across the country. The project has offered national training on vacatur remedies for prosecutors, legal services lawyers, pro bono attorneys, law students, and judges.

Fortunately, the Trafficking Victims Protection Act explicitly provides that victims “should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked.” 22 U.S.C. § 7101(19). The support and resources provided to SRP and other programs providing vacatur and expungement representation to human trafficking survivors responds to this legislative directive and is completely in line with U.S. law and practice as it has developed over the last decade.

These newly proposed restrictions would create dangerous and troubling gaps in services for victims of human trafficking. The final shackles of their trafficking victimization would remain tightly bound were vacatur and expungement not provided through critical legal services.

The ABA appreciates your leadership in bringing visibility and resources to improving the safety of our communities for all. We respectfully urge you to reinstate funding to help victims clear their record of crimes they were forced to commit.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas M. Susman", with a long horizontal flourish extending to the right.

Thomas M. Susman