

June 6, 2018

Alan Hanson
Principal Deputy Assistant Attorney General, Office of Justice Programs

Darlene Hutchinson Biehl
Director, Office for Victims of Crime

VIA EMAIL

RE: FY2018 Human Trafficking Funding Restriction

AAG Hanson and Director Hutchinson Biehl:

We, the undersigned are prosecutors and other members of law enforcement working to combat human trafficking in the United States. Across the country, we work for the lead agencies investigating and prosecuting sex and labor trafficking and working to assist victims. We write to register our concern with a new restriction on using Trafficking Victims' Protection Act funds for vacatur and expungement representation for victims.

Our agencies prioritize a comprehensive and victim-centered response to human trafficking. Although we work tirelessly to try to prevent victims from being arrested and prosecuted for acts related to their trafficking in the first place, we understand that this continues to happen. Additionally, many victims were arrested and prosecuted before the current laws criminalizing human trafficking were enacted, and before we developed the understanding of the issue that exists today. As a result, many of the victims we encounter have criminal records directly related to their victimization. Their records render them even more vulnerable to a trafficker's abuse and ongoing exploitation. Vacatur and expungement are, therefore, critical to our effort to help victims truly escape trafficking and become independent and safe.

Over the last several years, as state laws providing for vacatur and expungement relief for trafficking victims have passed across the country, we have seen how impactful this relief is for the victims we work with every day. Post-conviction relief for trafficking survivors has grown by virtue of truly multi-disciplinary collaboration between law enforcement, prosecuting agencies, lawmakers, legal and social service providers, the private bar and survivor leaders.

When victims are represented, their eligibility for vacatur and/or expungement is well analyzed and their motions are well-prepared and documented. This allows us to assess the viability of their claims much easier. Alone, it is difficult, if not impossible, for victims to collect the necessary documentation of the criminal records, the context of the arrest, and evidence of their victimization. With representation, motions are clearly presented and, therefore, much easier for prosecutors to review and respond to. They take fewer judicial resources and are more likely to end in a just result. We strongly support victims' eligible petitions for vacatur and expungement.

This part of our anti-trafficking response is indispensable and does not represent a significant drain or consumption of our resources.

On the other hand, if organizations are restricted from using OVC funding to provide high-quality representation to victims, this would impact our resources and our ability to work our cases. To begin with, if victims remain burdened by their records, it will be much more difficult to engage them in investigations. If victims are forced to attempt to secure relief without counsel, courts will be plagued with pro se petitions that are not properly compiled, investigated or presented. Another foreseeable consequence is all the work we have done to repair victims' view of, and trust in, law enforcement and the criminal legal system will be diminished.

Identifying victims' vacatur and expungement needs, and providing high-quality representation and training, is a central component of a victim-centered comprehensive service response to human trafficking. These new funding restrictions would create a dangerous, and troubling, gap in services for victims.

We are confident this problematic provision was included as a result of a simple oversight, not a deliberate decision to undermine trafficking victims' ability to exit dangerous abuse and exploitation. We trust that you will take immediate steps to remove this funding restriction. We strongly urge you to immediately remove this restriction from all FY18 funding.

Sincerely,

- Cyrus R. Vance, Jr., District Attorney of New York County (NY)
- Summer Stephan, San Diego County District Attorney (CA)
- Greg Peterson, Chief of Police, Grand Chute Police Department (WI)
- Nancy O'Malley, Alameda County District Attorney (CA)
- Mike Feuer, Los Angeles City Attorney (CA)
- Susan French, Retired Prosecutor, Department of Justice
- Detective Leon D. Florez (FL)
- Barry C. Slagle, Court Commissioner District 1 Ret. (WI)
- Angelo J. Onifri, Mercer County Prosecutor (NJ)