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# WHERE ARE THE VICTIMS? THE CREDIBILITY GAP IN HUMAN TRAFFICKING RESEARCH<sup>±</sup>

JOHNNY E. MCGAHA\* & AMANDA EVANS†

## *I. Introduction*

Nothing drives the passion and stirs the emotion, especially in the U.S., more than the horrendous stories of modern-day human slavery. Whether sexual, domestic, or labor, the terror and horror that human trafficking victims have endured defies the scope of our sensitivities. Most who work in human service fields have heard many stories of these survivors.<sup>1</sup> The dedication of the practitioners and law enforcement officers who are involved in the apprehending and prosecution of offenders, and advocate for victims in these very complex cases, is evident in this symposium alone.<sup>2</sup> As a nation, the

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<sup>±</sup> ACKNOWLEDGEMENTS: We would like to thank Dr. Roza Pati for inviting us to be part of this very important symposium on “Human Trafficking: Global and Local Perspectives” held on February, 12, 2009 at St. Thomas University School of Law in Miami, Florida. We would also like to acknowledge the vast work St. Thomas University does on the issue of human trafficking. We were particularly interested in the varying viewpoints on the issues of human rights vs. criminal rights. This symposium highlights the dedication of advocacy groups across disciplines and demonstrates the potential for sustainable improvements in detection of modern day slavery victims, apprehension and prosecution of traffickers, and recovery services for victims.

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<sup>1</sup> Both authors have worked as victim advocates and continue community involvement with providers of victim services in Fort Myers, Florida.

<sup>2</sup> The symposium on human trafficking held at St. Thomas School of Law on February 12, 2009 included panelists who were experts on human rights issues, victim advocates, immigration attorneys, and direct service providers for victims of human trafficking.

stain of slavery has tarnished the idealism of freedom that this country cites as its foundation. In response to the concerns about rising human trafficking in the U.S., Congress passed the Trafficking Victims Protection Act of 2000.<sup>3</sup> Since Congress first acted on this, the federal government has supplied more than 150 million dollars to establish task forces to fight human trafficking in the U.S. alone.<sup>4</sup> However, the most recent data suggests that there are tens of thousands fewer victims than originally cited.<sup>5</sup> The gap between the original number of victims trafficked and the data that currently exists is of concern to these authors.<sup>6</sup> The purpose of this article is to: (1) examine the gaps between the numbers originally presented and those currently reported; (2) identify the language commonly used when discussing human trafficking that may undermine credibility related to victims; and (3) provide suggestions for action that would strengthen future arguments for federal funds to serve victims of human trafficking.

## *II. Background of Current U.S. Policy to Human Trafficking*

Since the mid 1990's, the United States has played a leading role in putting trafficking in person on the global community's radar screen and in addressing trafficking in the U.S.<sup>7</sup> However, prior to

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<sup>3</sup> Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, §§7101(a), 7101(b)(1), 701(b)(3), 114 Stat. 1464 (2000) [hereinafter *TVPA*].

<sup>4</sup> See U.S. GOV'T ACCOUNTABILITY OFFICE, *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-trafficking Efforts Abroad*, G.A.O. 06-825 (2006), available at <http://www.gao.gov/new.items/d06825.pdf> [hereinafter *GAO*].

<sup>5</sup> See TRACEY KYCKELHAHN et al., U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, CHARACTERISTICS OF SUSPECTED HUMAN TRAFFICKING INCIDENTS 2007-8, NIJ22456 (2009), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/cshti08.pdf>.

<sup>6</sup> The authors posit that the difference between the numbers originally presented to Congress that resulted in the passing of the TVPA and the current much lower numbers reported by the BJA may raise concerns about the credibility of legitimate human trafficking cases.

<sup>7</sup> Sara Leevan, *Comparative Treatment of Human Trafficking in the United States and Israel: Financial Tools to Encourage Victim Rehabilitation and Prevent Trafficking*, 6 CARDOZO PUB. L. POL'Y & ETHICS J. 773, 775 (2008).

2000 there was no comprehensive law on the federal level, other than the 13<sup>th</sup> Amendment to the U.S. Constitution, that protected victims of trafficking or enabled the prosecution of their traffickers.<sup>8</sup> The passage of the TVPA<sup>9</sup> made human trafficking a federal crime and was enacted to assist countries<sup>10</sup> in combating human trafficking overseas, to protect victims in the U.S. and help them rebuild their lives,<sup>11</sup> and to strengthen laws of arrest and prosecution of traffickers with federal penalties which can include life in prison, or the death penalty.<sup>12</sup> The TVPA, passed in 2000, and subsequent reauthorizations, made it illegal to obtain or maintain persons for commercial sexual activity by using fraud, force, or coercion for those 18 years of age or older. For victims who are children under the age of 18, proof of force, fraud, or coercion is not required. The law also criminalizes the use of force or coercion to provide, or obtain, persons for any labor or services (farm work, factory work or household service).<sup>13</sup> The TVPA also updated and supplemented

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<sup>8</sup> ANTHONY DESTEFANO, *THE WAR ON HUMAN TRAFFICKING: U.S. POLICY ASSESSED XVI* (New Brunswick) (2007).

<sup>9</sup> Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, §1701, 114 Stat. 1464 (2000), *available at* <http://www.state.gov/documents/organization/10492.pdf>.

<sup>10</sup> Susan W. Tiefenbrun, *Sex Slavery in the United States and the Law Enacted to Stop it Here and Abroad*, 11 WM. & MARY J. WOMEN & L. 317, 340 (2005) (“[t]he TVPA establishes a multilateral effort to prevent trafficking, protect victims, and prosecute traffickers in the United States and abroad by allocating funds, establishing international and domestic programs to accomplish these goals, and offering real economic and social incentives to victims who are willing to assist in the prosecution of traffickers”).

<sup>11</sup> TVPA, *supra* note 3, §§7105(b)(1)(A), 7105(b)(1)(B), 7105(c)(3), 7105(f)(1)(C)(ii), 1101(4)(2) (the TVPA provides desirable financial assistance, benefits, protection, services, and education to victims of trafficking, both in the United States and abroad, as well as the right to permanent residency in the United States and a work permit if the trafficked victim cooperates in the prosecution of her trafficker[s]).

<sup>12</sup> *See* 18 U.S.C. §1591(77) (2007).

<sup>13</sup> *See* 18 U.S.C. §§ 1581, 1584 (the Involuntary Servitude and Peonage Section 1584 of Title 18 makes it unlawful to hold a person in a condition of slavery, that is, a condition of compulsory service or labor against his/her will. Section 1584 also prohibits compelling a person to work against his/her will by creating a “climate of fear” through the use of force, the threat of force, or the

existing involuntary servitude statutes used to prosecute trafficking crimes, enhanced the penalties for trafficking crimes, and provided a range of new protections and assistance for victims of trafficking.<sup>14</sup>

In examining the gap in reported data as discussed above, it is important to understand how the issue of human trafficking was reported to members of Congress initially. Prior to the passage of the TVPA, legislators were educated about the horrors of trafficking in human beings through the testimony of practitioners and rescued victims at a 1999 Congressional hearing on human trafficking.<sup>15</sup> Victims testified about the terror and brutality they endured as modern day slaves.<sup>16</sup> As a result of these testimonies, Congressmen requested data related to the scope of human trafficking in the U.S.<sup>17</sup> The data presented to them were provided by the Department of State and the Central Intelligence Agency. The data presented estimated that there were as many as 50,000 modern day slaves trafficked in the U.S. every year and 700,000 victims were trafficked globally each year.<sup>18</sup> It was on acceptance of these data that Congress passed the Trafficking Victims Protection Act of 2000.<sup>19</sup>

However, in the 2003 revision of the assessed number of human trafficking victims in the U.S., the number of victims was revised by the Department of Justice to 18,000 to 20,000 people trafficked

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threat of legal coercion which is sufficient to compel service against a person's will. Section 1581 prohibits using force, the threat of force, or the threat of legal coercion to compel a person to work against his/her will. In addition, the victim's involuntary servitude must be tied to the payment of a debt).

<sup>14</sup> *Id.*

<sup>15</sup> See generally *Trafficking in Persons Report Committee Hearing*, Committee on Energy and Natural Resources, 106<sup>th</sup> Congress, 1999.

<sup>16</sup> *Id.*; see also U.S. DEP'T OF JUSTICE, ASSESSMENT OF U.S. ACTIVITIES TO COMBAT TRAFFICKING IN PERSONS 39 (2004), available at [http://www.usdoj.gov/crt/crim/wetf/us\\_assessment\\_2004.pdf](http://www.usdoj.gov/crt/crim/wetf/us_assessment_2004.pdf) [hereinafter *US Activities*].

<sup>17</sup> See A Web Resource for Combating Human Trafficking, <http://www.humantrafficking.org/updates/711> (last visited Apr. 1, 2009).

<sup>18</sup> See *US Activities*, *supra* note 16.

<sup>19</sup> Jerry Markon, *Human Trafficking Evokes Outrage, Little Evidence*, WASHINGTON POST, Sept. 23, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/09/22/AR2007092201401.html>.

annually in the U.S.<sup>20</sup> It is important to note, that the decline from 50,000 estimated victims as reported to Congress in 1999, to the revised number of 18,000 to 20,000 does not reflect a reported drop in the crime of human trafficking.<sup>21</sup> Instead, it reflects a revision of the methodology used to estimate these data.<sup>22</sup> For example, the U.S. Department of Justice estimate is based upon a statistical method called “Markov Chain Monte Carlo,”<sup>23</sup> a statistical method often used in medical studies and complex surveys. This method replaces unknown or missing data by making use of plausible values for unknown information. It creates estimates of what is unknown.<sup>24</sup> These estimates went through an additional analysis, a Bayesian analysis,<sup>25</sup> which integrates previous estimates of human trafficking, or when those estimates are missing, expert surveys. The data provided then are, according to the Department of Justice, estimates of estimates, rather than reporting of known cases.<sup>26</sup>

The large gap in estimates may call into question the reliability of any information provided and has potential consequences for future policy and funding issues related to this crime. Even though the U.S. is widely regarded as a destination country for trafficking of persons, the exact number of human trafficking victims within the United State has remained largely undetermined.<sup>27</sup>

### *III. The Hidden Crime: Reasons for Potential Underreporting*

As discussed during the symposium on Human Trafficking: Global and Local Perspectives on February 12, 2009, by the very nature of the crime, human trafficking is largely hidden, and accurate data on the extent and nature of human trafficking is hard to

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<sup>20</sup> See *US Activities*, *supra* note 16, at 7.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 8.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 8 n.1.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> See *GAO*, *supra* note 4, at 10.

calculate. The 2007 – 2008 Bureau of Justice Statistics report<sup>28</sup> cites that only 54.7 % of victims reported by the task forces across the U.S. were U.S. citizens. These data highlight the additional fear that victims may experience due to citizenship issues. Trafficking victims are often in dangerous positions and may be unable, or unwilling, to jeopardize their lives to report to or seek help from the relevant authorities.<sup>29</sup> Victims may live daily with emotional and physical abuse, inhumane treatment, and threats to their families.<sup>30</sup> They may fear authority figures and are often told that if discovered, they would be imprisoned, deported, or tortured.<sup>31</sup> Visas and other identify documents, if any exist, are often taken by their traffickers as an addition method of detaining the victims.<sup>32</sup>

Fostering fear of authority in victims is a common contributor to poor detection of human trafficking victims.<sup>33</sup> Douglas Blackmon<sup>34</sup> compares the current issue of human trafficking to the past history of post-abolition slave treatment in the U.S. in the late 1800's. According to Blackmon, for decades after the emancipation of slaves, and ratification of the 13<sup>th</sup> Amendment to the U.S. Constitution which abolished slavery in all forms in every state, thousands of African Americans were still forced into labor after charges were made against them through by white business owners. Through the criminal justice system, the former slaves were required to pay off these so-called debts by working for landowners without, or at best minimal, compensation.<sup>35</sup> This method of control is similar to many founded cases of human trafficking today as

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<sup>28</sup> KYCKELHAHN, *supra* note 5.

<sup>29</sup> See generally T.K. Logan, Robert Walker & Gretchen Hunt, *Understanding Human Trafficking in the United States*, 10 TRAUMA, VIOLENCE, & ABUSE: A REVIEW JOURNAL 3 (2009).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> DESTEFANO, *supra* note 8, at xxiii.

<sup>33</sup> *Id.*

<sup>34</sup> See generally DOUGLAS A. BLACKMON, *SLAVERY BY ANOTHER NAME: THE RE-ENSLAVEMENT OF BLACK AMERICANS FROM THE CIVIL WAR TO WORLD WAR II* (Random House 2008).

<sup>35</sup> *Id.*

evidenced by cases of human smuggling in which the smuggler adds hidden fees to bring an individual, or family, into the country then detains the person smuggled into the country to work until the debt is paid.<sup>36</sup> There are also similar cases found in labor camps where the cost to live exceeds the wages paid to the worker so that amount of debt owed ensures that the worker is not free to leave.<sup>37</sup>

Due to the reasons mentioned above, many professionals have reached the conclusion that human trafficking is an underreported crime, unlike domestic violence and rape which are more frequently reported. Victims of domestic violence and rape seem better able to face their accusers in court as a result of the trusted relationship they have with the police officers, prosecutors, and victims services organizations.<sup>38</sup> The fact that human trafficking victims are often from other countries and cultures that do not value women, as well as being unfamiliar with the language or culture here, may magnify distrust of authority and unwillingness to come forward.<sup>39</sup> Another contributing factor is some victim's fear of access to justice because of their own immigration status.<sup>40</sup> Victims who entered this country without proper documentation have a limited understanding of their legal rights.<sup>41</sup> According to Logan, Walker, and Hunt, human trafficking perpetrators often use victims for criminal activity and victims fear that they will be perceived as criminals as well if they attempt to seek help.<sup>42</sup>

Identifying human trafficking crimes continues to present special challenges to federal investigators and prosecutors because the primary eyewitness to, and evidence of, the crime is typically the trafficking victim.<sup>43</sup> The first step in pursuing these crimes is usually

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<sup>36</sup> DESTEFANO, *supra* note 8, at xxiv.

<sup>37</sup> *Id.* at xxvi.

<sup>38</sup> Frank Laczo & Marco A. Gramegna, *Developing Better Indicators of Human Trafficking*, 10 BROWN J. WORLD AFF. 179, 183 (2003).

<sup>39</sup> Conference Panels: "Human Trafficking: Global and Local Perspectives". St. Thomas University School of Law, February 12, 2009.

<sup>40</sup> *Id.*

<sup>41</sup> Logan, Walker & Hunt, *supra* note 31.

<sup>42</sup> *Id.*

<sup>43</sup> U.S. DEP'T OF STATE, BUREAU OF PUBLIC AFF, *Facts About Human*



to discover the victims. Yet these victims are often hidden from view, employed in legal or illegal enterprises, do not view themselves as victims, or are considered to be criminals or accessories to crimes such as prostitution or smuggling. Average citizens, or even state and local law enforcement working in the community may be the first point of contact for a trafficking victim, rather than federal law enforcement.<sup>44</sup> Moreover, human trafficking cases are difficult to pursue because they are complex, multifaceted, and resource-intensive, and a single case may involve multiple victims requiring a variety of services including food, shelter, counseling, protection, etc.<sup>45</sup>

Federal agencies must determine whether those identified as a potential victim have in fact been trafficked and then secure their cooperation in order to pursue the investigation and prosecution of the traffickers.<sup>46</sup> Victims may be reluctant to testify because of fear or loyalty to the trafficker, or distrust of law enforcement.<sup>47</sup> Crimes against trafficking victims may involve labor exploitation, sex exploitation, alien smuggling, organized crime and financial crimes.<sup>48</sup> The scope of human trafficking is broad and transnational.<sup>49</sup> The transnational component of this crime requires collection of evidence from multiple jurisdictions from overseas and

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*Trafficking*, May 24, 2004, <http://www.state.gov/documents/organization/33216.pdf> [hereinafter *Trafficking Facts*].

<sup>44</sup> See GAO, *supra* note 4.

<sup>45</sup> See *Trafficking Facts*, *supra* note 43; INT'L ASS'N OF CHIEFS OF POLICE, *The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation* 15 (2006), available at <http://www.theiacp.org/LinkClick.aspx?fileticket=W7b9hV6wn%2bA%3d&tabid=372> [hereinafter *Police Guide*].

<sup>46</sup> See generally *Police Guide*, *supra* note 47; see also MARIA MAGDALENA RADULESCU & PAUL HOLMES, BEST PRACTICE LAW ENFORCEMENT MANUAL FOR FIGHTING AGAINST TRAFFICKING OF HUMAN BEINGS 16, 19 (UNDP Romania, 2003).

<sup>47</sup> RADULESCU & HOLMES, *supra* note 46.

<sup>48</sup> U.S. DEP'T OF STATE, MAJOR FORMS OF TRAFFICKING IN PERSONS, *Trafficking in Persons Report* 19-25 (June 2008), available at <http://www.state.gov/documents/organization/105501.pdf> [hereinafter *Trafficking Report*].

<sup>49</sup> *Trafficking Facts*, *supra* note 43 (“Transnational” means transported across national borders).

may involve violations of labor, immigration, antislavery, and other criminal laws.<sup>50</sup> Despite international acknowledgment of the trafficking problem as a human rights violation, estimates of the number of victims remains an even a larger challenge internationally than in the U.S. for a number of reasons including poor data collection cooperation, corrupt governments, and disorganized victim assistance initiatives.<sup>51</sup>

#### *IV. Office to Monitor Trafficking in Persons:*

##### *A New Bureaucracy is Formed*

Complexities in the U.S. system are also a hindrance in understanding the scope of human trafficking.<sup>52</sup> One attempt to address the complex U.S. bureaucracy was addressed by the passage of the TVPA and requires the creation of a new agency that attempts to consolidate several major federal departments and agencies under one roof to deal exclusively with human trafficking. The new agency is called the Office to Monitor Trafficking in Persons and consolidates the anti-trafficking activities of the Department of State, Health and Human Services, Homeland Security, Labor and is housed in the Department of State.

The Trafficking of Victims Protection Reauthorization Act of 2005 states that state and local authorities begin collecting and reporting data on human trafficking.<sup>53</sup> Across the U.S., over 40 local human trafficking task forces were established with federal aid but it was not until January 2008 that these task forces were required to enter any data with the Bureau of Justice Statistics.<sup>54</sup> The lack of accountability regarding data meant that the funds dispersed prior to January 2008 had very few restrictions on how they could be used.<sup>55</sup>

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Trafficking Facts*, *supra* note 43; Police Guide, *supra* note 47.

<sup>53</sup> KYCKELHAHN, *supra* note 5.

<sup>54</sup> *Id.*

<sup>55</sup> See 22 U.S.C. § 7105(b)(2)(A); see also U.S. Gov't Accountability Office, G.A.O. 07-915, *Human Trafficking: A Strategic Framework Could Help Enhance*

In essence, funds were being dispensed without accurate data on the number of victims involved in human trafficking. There were no criteria that required that a funding recipient actually service human trafficking victims prior to receiving grant money.<sup>56</sup> As a result, tax dollars are used to provide solutions before we know the extent of the problem. For example, it is acceptable to use this funding to purchase designated vehicles and fund special deputy positions designated to human trafficking even if there are no reported victims in the funded task force's community.<sup>57</sup> There was no requirement as to how often the task forces were to meet or even who was to be on the task force.<sup>58</sup> The obvious purpose and goal was to establish a mechanism for the major stakeholders, federal and state law enforcement, prosecution, victim's service providers and other Non-

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*the Interagency Collaboration Needed to Effectively Combat Trafficking Crimes* 33 (July 2007), available at <http://www.gao.gov/new.items/d07915.pdf> [hereinafter *GAO-07-915*]; see also U.S. Dep't of Justice, *Joint Call for FY 2005 Human Trafficking Task Force and Victim Services Concept Papers* 3, available at <http://www.ojp.usdoj.gov/BJA/grant/05HTTFsol.pdf> [hereinafter *FY2005 Taskforce*].

<sup>56</sup> See 22 U.S.C. § 7105(b)(2)(A); see also *GAO-07-915*, *supra* note 55; see also *FY2005 Taskforce*, *supra* note 55, at 3.

<sup>57</sup> See generally, OVC-FUNDED GRANTEE PROGRAMS TO HELP VICTIMS OF TRAFFICKING, <http://www.ojp.usdoj.gov/ovc/help/traffickingmatrix.htm> (last visited Apr. 3, 2009); see also, U.S. DEP'T OF JUSTICE, *Law Enforcement Task Forces and Services for Human Trafficking Victims* 4 (2006), available at [http://www.ojp.usdoj.gov/BJA/grant/06\\_Trafficking\\_Victims.pdf](http://www.ojp.usdoj.gov/BJA/grant/06_Trafficking_Victims.pdf) [hereinafter *Law Enforcement Task Force*].

<sup>58</sup> As local law enforcement and community-based organizations are the ones who initially encounter crimes of trafficking, local level policing tuned to identify victims and working collaboratively with the U.S. Attorney's Office and other federal and state agencies is regarded as a formidable force for the investigation and prosecution of human trafficking. Accordingly, the federal government provides support to "state and local law enforcement to work collaboratively with victim and social services organizations and federal agencies in the identification of human trafficking victims who are in the United States and to provide enhanced enforcement efforts in communities that currently have or will provide comprehensive services to victims of trafficking with the close support and, if necessary, guidance of the U.S. Attorney." See U.S. DEP'T OF JUSTICE, *FY 2004 Law Enforcement and Service Provider Multidisciplinary Anti-Trafficking Task Forces* 5, available at <http://www.ojp.usdoj.gov/BJA/grant/04HumTraffic.pdf> [hereinafter *FY2004 Taskforce*].

government Organizations (NGOs) to communicate and collaborate in a formal way on the human trafficking issues and cases in a particular region.<sup>59</sup> However, without guidelines as to how communication and collaboration is to occur, the results can be disappointing.<sup>60</sup> The lack of clarity related to grand funding outcome requirements are only one part of the credibility issue related to human trafficking. An additional issue is the lack of identified victims nationwide. According to an exposé printed in the *Washington Post*, in September, 2007<sup>61</sup> the Department of Health and Human Services (HHS) was paying people to find victims. What the article refers to was the fact that the Bush<sup>62</sup> administration paid a New York public relations firm \$12 million to launch a major campaign to train people to find victims. In fall of 2008, HHS announced the funding of an additional \$3.4 million in new awards for 22 agencies and groups nationwide to conduct outreach in their communities. The recipients were to provide train-the-trainer workshops in settings such as hospitals, schools, and clinics across the community in an attempt to identify more victims.<sup>63</sup> The *Washington Post* article raises the concern of the amount of funds awarded to agencies and the small number of victims identified despite their efforts. Specifically, the *Washington Post* article cited an agency in Dallas, Texas who received \$125, 000 to increase awareness and educate area hospitals, police departments, domestic violence shelters and any other agency that might come in contact with victims of human trafficking over a year.<sup>64</sup> To date, three

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<sup>59</sup> The Federal government (specifically, the Department of Justice and its agency, the Bureau of Justice Assistance), has articulated its commitment to a greater collaborative effort in combating human trafficking. *Id.*; see also Law Enforcement Task Force, *supra* note 57.

<sup>60</sup> See G.A.O. 07-915, *supra* note 55 (the Department of Justice has acknowledged the need for additional technical assistance, education and training for local task force).

<sup>61</sup> See GAO, *supra* note 4.

<sup>62</sup> As a result of criticism of how lack of accountability has wasted tax dollars, the administration of George W. Bush paid a New York public relations firm 12 million dollars to launch a major campaign to train people to find victims.

<sup>63</sup> Markon, *supra* note 19.

<sup>64</sup> *Id.*

victims have been reported.<sup>65</sup>

### *A. The U.S. Trafficking in Persons Report*

One of the major responsibilities of the Office to Monitor Trafficking in Persons is to prepare the U.S. Government's Official Report (TIP) on trafficking annually.<sup>66</sup> The TIP report is considered to be the most comprehensive anti-trafficking review issued by any single government.<sup>67</sup> The reports over the years since the TVPA was enacted in 2000 varied considerably in official yearly estimates of human trafficking into the U.S.<sup>68</sup> The report quoted from 45,000 and 50,000 persons trafficked into the U.S. that was reflected in the 2002 report included only estimates of females that were trafficked into the U.S. for sexual exploitation.<sup>69</sup> The first year, the estimates clearly did not include labor trafficking or adult males.<sup>70</sup> "In 2003, the TIP Report estimate [mysteriously] dropped to between 18,000 and 20,000 . . . [and] dropped again in 2004 . . . [to] between 14,500 and 17,500 . . ."<sup>71</sup> Similar discrepancies exist in the U.S. TIP Global estimates the 2001 and 2002 TIP Reports estimated worldwide trafficking to be 700,000.<sup>72</sup> This estimate increased to 800,000 to 900,000 in the 2003 report then decreased to a range of

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<sup>65</sup> U.S. DEP'T OF STATE, *Victims of Trafficking and Violence Protection Act 2000: Trafficking in Persons Report* (June 2008), available at <http://www.state.gov/documents/organization/105501.pdf> [hereinafter *Trafficking 2008*].

<sup>66</sup> See U.S. Gov't Accountability Off., *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-trafficking Efforts Abroad*, G.A.O. 06-825 (2006), available at <http://www.gao.gov/new.items/d06825.pdf> [hereinafter *U.S. Anti-trafficking*].

<sup>67</sup> TVPA, *supra* note 3, §104(a)(1).

<sup>68</sup> See *Trafficking 2008*, *supra* note 66.

<sup>69</sup> *Id.*

<sup>70</sup> Heather J. Clawson, *Estimating Human Trafficking into the United States: Development of a Methodology Final Phase Two Report 4* (Dec. 2007), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/221035.pdf>.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

600,000-800,000 in 2004.<sup>73</sup>

*B. Methodology Questions and Issues*

A wide range of estimates continue to exist on the scope and magnitude of human trafficking, both internal<sup>74</sup> and transnational.<sup>75</sup> The U.S. Department of State continues to produce estimates of the annual worldwide trafficked population at 800,000 to 900,000, with 14,500 to 17,500 trafficked in the U.S. alone.<sup>76</sup> These estimates, while widely quoted, are questioned by more than the *Washington Post*. In point, the U.S. Government Accountability Office (GAO), reviewed the estimation methods used by the U.S. government, International Labor Organization, the United Nations Office on Drugs and Crime (UNODC) and the International Organization for Migration (OM).<sup>77</sup> The GAO found that all of these estimates are questionable because of methodological weaknesses in data collection and lack of standardized scientific method. Limitations also include the inability to replicate estimates based on potentially unreliable estimates not suitable for analysis over time.<sup>78</sup> The GAO report further states that transnational country data are generally not reliable, if even available, and that there is a considerable discrepancy between the numbers of observed and estimated victims of human trafficking.<sup>79</sup>

The Government's Official Report on Trafficking, the annual TIP report, shows considerable fluctuation in official yearly estimates of human trafficking into the U.S. The 2000 report, for example, stated that there were between 45,000 and 50,000 persons trafficked into the U.S. The 2002 report stated that 50,000 females

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<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> JEREMY M. WILSON & ERIN DALTON, HUMAN TRAFFICKING IN OHIO: MARKETS, RESPONSES, AND CONSIDERATIONS 11 (RAND Corporation 2007).

<sup>77</sup> See G.A.O. 07-915, *supra* note 55.

<sup>78</sup> *Id.* at 13 (particularly, this section of the report explains the unreliability of estimates in human trafficking).

<sup>79</sup> TVPA, *supra* note 3, §104(a)(2).

alone were trafficked into the U.S. for sexual exploitation purposes.<sup>80</sup> The concern related to using these data relates to the credibility of the larger issue which is human trafficking.<sup>81</sup> Funding for concerns such as human trafficking can often be emotion-based.<sup>82</sup> Just as the initial funding was largely due to the emotion stirred by the figures reported, current funding can be reduced drastically if the perception is that the issue has been inflated and the funds have been used ineffectively for assisting victims or catching perpetrators.<sup>83</sup> In a depressed economy, accountability should increase in order to protect the human rights of all persons.<sup>84</sup> These data are too easy to challenge due to their unreliability and uneven quality, and we suspect the challenges are coming (based on the global outrage).<sup>85</sup> Considering the hundreds of millions of dollars allocated and the apparent disparity in how these funds are allocated, almost no research has been done on the effectiveness on the anti-trafficking efforts in the U.S. or abroad.<sup>86</sup> Little is known about what really works and what does not. “Measuring Human Trafficking success remains one of the most problematic and least well-developed areas of human trafficking research,”<sup>87</sup> admitted the U.S. Department of

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<sup>80</sup> U.S. DEP’T OF STATE, *Victims of Trafficking and Violence Protection Act 2000: Trafficking in Persons Report* (June 2002), available at <http://www.state.gov/documents/organization/10815.pdf>.

<sup>81</sup> See Crystal Y. Twitty, *Pretty Pennies for Pretty Faces: Trafficking of Women for the International Sex Trade*, 2 REGENT J. INT’L L. 115 (2003).

<sup>82</sup> See Jennifer S. Nam, *The Case of the Missing Case: Examining the Civil Right of Action for Human Trafficking Victims*, 107 COLUM. L. REV. 1666-67 (2007).

<sup>83</sup> *Id.*

<sup>84</sup> Martina Vandenberg, *Complicity, Corruption, and Human Rights: Trafficking in Human Beings*, 34 CASE W. RES. J. INT’L L. 333 (2002).

<sup>85</sup> Martti Lehti & Kauko Aromaa, *Trafficking for Sexual Exploitation*, 34 CRIME & JUST. 133, 145 (2006).

<sup>86</sup> Mohamed Y. Mattar, *Comparative Models of Reporting Mechanisms on the Status of Trafficking in Human Beings*, 41 VAND. J. TRANSNAT’L L. 1355, n.224 (2008).

<sup>87</sup> OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS AND THE BUREAU OF INTELLIGENCE AND RESEARCH, *Seminar on Trafficking in Persons Research: Fact Sheet* (2005), available at <http://2001-2009.state.gov/g/tip/rls/fs/2005/59133.htm>.

State after their Seminar on Trafficking in Persons Research in 2005.<sup>88</sup>

The U.S. government has spent over \$5 million on combating human trafficking worldwide.<sup>89</sup> However, as financial resources in these tough economic times are being drastically cut and/or reallocated, how do we keep close the credibility gaps between anecdotal data, case studies, and hard concrete actual confirmed cases? In essence, how do we keep the momentum that the TVPA has generated alive?

#### *IV. Comments from Local DOJ Funded Task Forces*

The Justice Department's human trafficking task force in Washington D.C., according to the *Washington Post* report, mounted an aggressive effort to find victims.<sup>90</sup> In spite of the thousands of law enforcement officials and other first line responders nationwide who have been trained by the 42 task forces funded nation-wide in how to identify crimes of trafficking, the results are comparably small in comparison to the expected outcomes. This is evidenced by the BJS report that stated only 1,229 cases were reported by the 42 task forces nationwide.<sup>91</sup>

##### *A. Orange County, California*

The concern about lack of communication and cooperation among some task force members who work within in the same region with each other are cited by the Orange County California Anti-trafficking Task Force.<sup>92</sup> The Orange County anti-trafficking

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<sup>88</sup> *Id.*

<sup>89</sup> U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT: JUNE 2008*, available at <http://www.state.gov/documents/organization/105501.pdf>.

<sup>90</sup> Markon, *supra* note 19.

<sup>91</sup> KYCKELHAHN, *supra* note 5.

<sup>92</sup> U.S. DEP'T OF HEALTH AND HUMAN SERVICES, *Over \$1.2 Million Awarded to Assist Victims of Human Trafficking* (Feb. 19, 2008), [http://www.acf.hhs.gov/news/press/2008/public\\_awareness\\_act.htm](http://www.acf.hhs.gov/news/press/2008/public_awareness_act.htm).



task force applied for, and received, an additional \$1.2 million. Officials from the Westminster Police Department maintained that human trafficking was a considerable problem in Orange County. Half of the human trafficking task force funds were to be used by the Police Department and the other half by the local Salvation Army for victim's services.<sup>93</sup> These funds are in addition to the \$450,000 funds previously received for the Department of Justice funded local task force. The gap between estimates and actual measures and the nebulous outcome expectations from the funding sources may contribute to the reluctance of local law enforcement to dedicate resources and personnel to human trafficking task forces and enforcement efforts.<sup>94</sup> Lt. Dereck Marsh who represents the Westminster Police Department on the human trafficking task force in Orange County stated that law enforcement does not appear to be motivated to participate simply because a local task force has received funding. It is his suggestion that funding opportunities should be tied to local agency participation not just attending a task force meeting.<sup>95</sup>

### *B. San Diego, California Task Force*

According to an article published in the *North County (San Diego) Times*,<sup>96</sup> a \$448,134 federal grant to establish a multi-agency human trafficking task force in San Diego County was used to train officers and improve community awareness.<sup>97</sup> However, the article states that the efforts have not resulted in increased prosecutions.<sup>98</sup> The article further outlines that area law enforcement officers remain

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<sup>93</sup> *Id.*

<sup>94</sup> Lt. Derek J. Marsh, *Issues Impacting Human Trafficking Collaborations: A Local Law Enforcement Perspective*, Orange County Human Trafficking Taskforce Symposium, at 5, 6 (2007), available at <http://homeland.house.gov/Site/Documents/20070321101447-62337.pdf>.

<sup>95</sup> *Id.*

<sup>96</sup> Jo Moreland, *Human Trafficking Grant Has Paid to Train Officers, Improve Awareness*, NORTH COUNTY TIMES, Apr. 23, 2006, available at [http://www.nctimes.com/articles/2006/04/24/news/top\\_stories/42306182743.txt](http://www.nctimes.com/articles/2006/04/24/news/top_stories/42306182743.txt).

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

skeptical about the extent of human trafficking in the area.<sup>99</sup> At the time the San Diego California Task Force received a three-year grant in 2005, it was estimated that there were more than 50 victims in North County alone.<sup>100</sup> So far there are a dozen open cases which have yet to be verified as human trafficking victims.

### *C. Lee County, Florida*

In one local Southwest Florida task force that has been provided Department of Justice DOJ funds for the past three years, there is often only one law enforcement member present at the meetings and his attendance is infrequent.<sup>101</sup> The funding for this detective's position is entirely from the DOJ grant.<sup>102</sup> The detective cites his lack of cases to investigate for his lack of enthusiasm related to human trafficking.<sup>103</sup> He voices little need for such specialized investigative services when there are so many other crimes and victims.<sup>104</sup> In Lee County, during the previous three years of funding, despite many investigations, there have not been any confirmed and certified human trafficking cases. Out of the 42 potential human trafficking cases referred to this Task Force in 2008, none were confirmed as true human trafficking cases.<sup>105</sup> Even so, Lee County, Florida has just received an additional \$250,000 in federal funds for the task force and the Office for Victims of Crime has just provided \$260,000 to Catholic Charities for comprehensive victim's services in Lee County for the next 18 months (ending in 2010).<sup>106</sup> Additionally, the Department of HHS continues to fund

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<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> See generally Kathryn Simmons, *Task Force Tackles Human Trafficking Problem*, NBC News, Nov. 14, 2006, available at <http://www.nbc-2.com/Articles/readarticle.asp?articleid=9760&z=3&p=>.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> This information reflects author McGaha's notes and personal knowledge as co-chair of Lee County Human Trafficking Task Force.

<sup>106</sup> U.S. DEP'T OF JUSTICE, *Attorney General's Annual Report to Congress and Assessment of the U.S. Government Activities to Combat Trafficking in Persons*

victim awareness and services through its Rescue and Restore initiatives in the same area, often duplicating efforts with little communication and/or coordination with the task forces in the area.<sup>107</sup>

#### *D. Rand Corporation – Ohio Study*

The Rand Cooperation was awarded a large DOJ grant to study human trafficking in Ohio.<sup>108</sup> In this study of human trafficking,<sup>109</sup> a content analysis identified concrete cases for the years 2003 to 2006.<sup>110</sup> There were only 15 actual cases identified in the two study areas of Columbus and Toledo during this three year period.<sup>111</sup> The study revealed that victim service provider respondents stated that even though there are few identified cases relative to other crimes most believe that the problem is significantly larger than the known cases imply.<sup>112</sup> A few victim service providers stated that they believed that there are as many as 3 to 10 trafficking victims for every one identified.<sup>113</sup> Other practitioners around the country also mirror these beliefs. The authors of the DOJ funded study summarize their findings by stating that policy makers and practitioners must carefully weigh their response to this crime relative to others.<sup>114</sup>

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*Fiscal Year 2007 13* (2008), available at <http://www.usdoj.gov/ag/annualreports/tr2007/agreporhumantrafficking2007.pdf>.

<sup>107</sup> *Id.*

<sup>108</sup> See RAND Corporation, *Safety and Justice*, [http://www.rand.org/pubs/monographs/2007/RAND\\_MG689.sum.pdf](http://www.rand.org/pubs/monographs/2007/RAND_MG689.sum.pdf).

<sup>109</sup> WILSON & DALTON, *supra* note 76.

<sup>110</sup> *Id.* at 14.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* at 14.

<sup>114</sup> *Id.*

*V. Improving Credibility: Data Collection Efforts*

In an attempt to address the lack of data being collected by participants in funding for human trafficking, the DOJ provided funding to the Institute on Race and Justice at Northeastern University in collaboration with Urban Institute to develop a standardized and reliable way to routinely collect data from the funded task forces around the country.<sup>115</sup> The program is called the Human Trafficking Reporting System (HTRS). The result is a collection of the number, characteristics, and other variables in human trafficking reports, investigations, arrests, and prosecutions across the nation.<sup>116</sup> It is expected that these data will assist the Department of State, and others, in the assessment of the success of human trafficking prevention and intervention strategies.<sup>117</sup> The Human Trafficking Reporting System (HTRS) is designed to provide systematic information on cases of human trafficking that have come to the attention of law enforcement and to establish a sustainable data collection and reporting mechanism specific to the problem of human trafficking.<sup>118</sup>

*A. Initial Findings of the Human Trafficking Reporting System*

The initial findings of the HTRS were released in January, 2009 by the Bureau of Justice Statistics (BJS).<sup>119</sup> In the first 21 months of operation, the HTRS gathered data from 38 of the 42 DOJ funded task forces around the country of human trafficking incidents that involved 871 suspects and 1,442 potential victims.<sup>120</sup> Sex trafficking accounted for 83% of the 1,229 alleged incidents of human trafficking reported, labor trafficking 12% and other 5%.<sup>121</sup> Forced

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<sup>115</sup> Human Trafficking Data Collection and Reporting Project, *Goals of Human Trafficking Reporting System*, NORTHEASTERN UNIVERSITY, <http://www.humantrafficking.neu.edu/> (last visited Apr. 29, 2009).

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> KYCKELHAHN, *supra* note 6.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 2.

prostitution (46%) and child sex trafficking (30%) represented the largest categories of confirmed human trafficking investigations that were ultimately found not to involve human trafficking elements.<sup>122</sup> However, of the 1,229 suspected incidents of human trafficking that were investigated less than 10% were confirmed as human trafficking case.<sup>123</sup> Ten (10%) were pending confirmation and 23% had been determined not to involve human trafficking.<sup>124</sup> The remaining 58% lacked information on whether the alleged incident was confirmed human trafficking case.<sup>125</sup> About 78% of the cases were reportedly still under investigation and 22% of the cases had been closed.<sup>126</sup>

The 38 task forces also reported on the citizenship status of 112 suspects in confirmed human trafficking incidents. Overall, 56% of suspects were U.S. citizens, 21% were undocumented aliens, and 11% qualified aliens. U.S. citizens (64%) constituted the largest percentage of suspects in confirmed sex trafficking incidents.<sup>127</sup> Among the 16 suspects in confirmed labor trafficking incidents, 8 were qualified aliens and 2 were undocumented aliens.<sup>128</sup> Over 90% of the alleged human trafficking incidents were female and 40% of labor trafficking victims were female, while 99% of the sex trafficking incidents were female.<sup>129</sup> Hispanics accounted for the largest percentage (40%) of victims and an equal number were white (23%) or black (21%). Asians represented 10% of sex trafficking victims and 31% of labor trafficking victims.<sup>130</sup>

### *B. Government Accountability Reports (GAO)*

#### Concerns over the credibility of human trafficking case

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<sup>122</sup> *Id.* at 3.

<sup>123</sup> *Id.* at 2.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.* at 6-10.

estimates are cited within the government itself. The GAO criticized the method the U.S. government used to estimate that 600,000 to 800,000 people were trafficked worldwide annually.<sup>131</sup> According to the GAO report, the U.S. Department of State as not yet established an effective mechanism for estimating the number of victims, or for conducting ongoing analysis of trafficking related data kept by government entities.<sup>132</sup> The report calls into question the U.S. government estimates stating that the accuracy of the estimates is in doubt because of methodological weaknesses, gaps in data, and numerical discrepancies.<sup>133</sup> It continues to identify many of the challenges associated with accurately representing human trafficking activities and victims.<sup>134</sup> The GAO report was particularly critical of the lack of performance measures, which have led to vague outcomes.<sup>135</sup> These vague outcomes are a consequence of the disparity between the definitions<sup>136</sup> of trafficking at the federal and state levels of government.

The GAO report also maintains that existing estimates of the scale of trafficking at the global level are also questionable and improvements in data collection have not yet been implemented.<sup>137</sup> Also, country data are generally not available, reliable, or comparable and there remains considerable discrepancy between the numbers of observed and estimated victims of human trafficking.<sup>138</sup> The U.S. government has not yet established an effective mechanism for estimating the number of victims or for conducting ongoing analysis of trafficking related data that resides within various

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<sup>131</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, HUMAN TRAFFICKING: BETTER DATA, STRATEGY, AND REPORTING NEEDED TO ENHANCE U.S. ANTI-TRAFFICKING EFFORTS ABROAD, G.A.O. 06-825 (2006), *available at* <http://www.gao.gov/new.items/d06825.pdf> [hereinafter *U.S. Anti-trafficking*].

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> See U.S. Anti-trafficking, *supra* note 131; *TVPA*, *supra* note 3, § 102(b) para. 9, 14-15.

<sup>137</sup> See *U.S. Anti-trafficking*, *supra* note 131.

<sup>138</sup> *Id.*

government agencies.<sup>139</sup> The U.S. government and three<sup>140</sup> credible global organizations gather data on human trafficking, but methodological weaknesses affect the accuracy of their information.<sup>141</sup> Efforts to develop accurate trafficking estimates are further frustrated by the lack of country data resulting in a potential and considerable discrepancy.<sup>142</sup>

*C. Attorney General's Annual Report to Congress on Human Trafficking*

The Department of Justice, through the Attorney General's office, in accordance with the TVPA is required to provide Congress a comprehensive update on human trafficking efforts annually.<sup>143</sup> According to the most recent Attorney General's report,<sup>144</sup> the only verifiable U.S. data document the number of trafficking victims officially certified by the Department of Health and Human Services. Since 2001, the Office of Refugee Resettlement issued 1,974 certifications or letter of eligibility to receive federally funded benefit as trafficking victims.<sup>145</sup> Clearly, this also is indicative of the huge discrepancy between the number of certified victims per year and the number of estimated trafficking victims in the US annually.<sup>146</sup> This raises questions about whether the estimates are extremely exaggerated, or victims are hidden, or whether trafficking victims are not being processed as trafficking victim by the federal government. According to the Attorney General's report on human trafficking from 2003 to 2007, the OVC grantees report that they have provided services to 1,924 pre-certified trafficking victims and

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<sup>139</sup> *Id.*

<sup>140</sup> *Id.*; International Labor Organization (ILO), International Organization for Migration (IOM), and UN Office on Drugs and Crime (UNODC).

<sup>141</sup> *Id.*

<sup>142</sup> *See supra* text accompanying note 7.

<sup>143</sup> KYCKELHAHN, *supra* note 5, at 1.

<sup>144</sup> *Id.* at 3.

<sup>145</sup> *Id.* at 4.

<sup>146</sup> *Id.* at 5.

trained over 78,000 practitioners from all stakeholders.<sup>147</sup> According to the AG's report, both DOJ and DHHS coordinate to ensure that providers do not "double dip" and receive funding from both DHHS and OVC to serve any trafficking victim, pre-certified or certified.<sup>148</sup> However, the findings from a recent program evaluation demonstrate that this does indeed occur.<sup>149</sup> Even though the formal processing of trafficking crimes under the TVPA is extremely low compared to the estimates, the numbers are increasing.<sup>150</sup> During fiscal year 2007, for example, the Attorney General's reported that the FBI opened 120 trafficking investigations, filed 92 indictments, made 155 arrests and obtained 57 convictions.<sup>151</sup> This was an increase from the 54 cases opened, 29 indictments, 68 arrests and 15 convictions that were reported the initial year after the passage of the TVPA.<sup>152</sup>

#### *VI. Summary*

Upon review of the implementation of programs since the TVPA, the following suggestions are offered to anticipate arguments over the viability of funding human trafficking efforts in the future. It is suggested that each stakeholder in the area of human trafficking embark on a similar exercise to ensure that credibility is sustained related to the crime of human trafficking.

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<sup>147</sup> *Id.* at 11.

<sup>148</sup> *Id.* at 12.

<sup>149</sup> Johnny McGaha, Program Evaluation on Victim's Services for Lee County Task Force on Human Trafficking, (Jan. 2009) (on file with author).

<sup>150</sup> See KYCKELHAHN, *supra* note 5, at 20-21.

<sup>151</sup> LAURENCE E. ROTHENBERG, DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY, U.S. DEP'T. OF JUSTICE, ADDRESS BEFORE THE H. COMM. ON THE JUDICIARY: COMBATING MODERN SLAVERY: REAUTHORIZATION OF ANTI-TRAFFICKING PROGRAMS (2007).

<sup>152</sup> See G.A.O.-07-915, *supra* note 55, at 55.



*VII. Recommendations*

1. All Task Forces, OVC funded agencies, and HHS recipients who are receiving federal funding should have clear and measurable expectations and defined outcomes. The current requirements focus on frequency counts with no expectations for outcomes.<sup>153</sup> Reliance on frequencies or antidotal evidence and case studies leave a huge accountability gap.<sup>154</sup> This gap could ultimately negatively impact policy and interest in this critical area. As the pendulum swings from the passion that fueled this effort initially to serious questions about the measurable extent of the human trafficking problem in the U.S., the efforts begun to date could be seriously undermined.

2. Local Task Force leaders need better methods to collect and analyze data. The only way that researchers can evaluate the effectiveness of these task forces in the long term is through adequate and consistent data collection. The current focus just on quantitative numbers must be enhanced with qualitative information on the specific cases themselves.<sup>155</sup> Prosecution of one case with multiple defendants may impact many victims. Information on the system effect of this prosecution needs to be quantified and reflected in the task force reporting system.

3. Victim advocates, community educators, and all stakeholders should use caution when citing estimates of human trafficking as known facts. The actual known numbers are horrific enough. Inflating numbers in an attempt to increase awareness or funding ultimately results in discrediting the entire message. State what is known, then discuss concerns about the hidden nature of the crime and why we need a community awareness to combat this issue.

4. There is a need for greater awareness of human trafficking among the general public, potential first responders (including child welfare

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<sup>153</sup> DEP'T OF HEALTH & HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES, RESCUE & RESTORE VICTIMS OF HUMAN TRAFFICKING REGIONAL PROGRAM: FUNDING OPPORTUNITY 31 (Nov. 5, 2008), *available at* <http://www.acf.hhs.gov/grants/pdf/HHS-2009-ACF-ORR-ZV-0027.pdf> (outlining the expectation requirements for obtaining federal funding).

<sup>154</sup> *Id.*

<sup>155</sup> *See G.A.O.-07-915, supra* note 55.

caseworkers, doctors, nurses, hospital personnel, law enforcement officials, teachers, and school resource officers). There is widespread agreement that training to make stakeholders more aware of human trafficking increases the number of cases identified.<sup>156</sup> Training should be expanded to include all stakeholders. Currently, this only occurs in the 42 areas that have funded task forces.<sup>157</sup>

5. Human trafficking awareness training could be provided in two parts. First, all stakeholders could receive the same general awareness information, such as to identify human trafficking victims, what types of cases exist and their typical fact patterns.

6. A protocol on what to do and who to contact should be developed in cooperation with others on the task force.

7. The training should include discipline specific information. For example, training for law enforcement could find information on available social service programs for victims, questions to investigate in suspected human trafficking cases and the legal elements of human trafficking and the evidence required to support them. Training for health service staff could include characteristics and the warning signs associated with victims of human trafficking when they seek medical attention. More generally, outreach and education could also be used to improve the awareness of the community at large with regard to human trafficking. Many human trafficking cases have been discovered by a community member who saw something that did not look right and somehow intervened.

8. Considerations should be made for task forces to become regional related to the scope of the U.S. Attorney's office. Funding for county specific task forces, especially if the county has low victim counts, appears to be inefficient.<sup>158</sup> Within the jurisdiction of one

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<sup>156</sup> U.S. Att'y Hosts Joint Florida Law Enforcement Task Force Meeting, *Clearwater Area Task Force on Human Trafficking (CATF): A Law Enforcement and Social Services Coalition to Fight Human Trafficking in the Tampa Bay Area*, 1, June 18, 2008, available at [www.catfht.org/news/CATF\\_News\\_Vol1-2.pdf](http://www.catfht.org/news/CATF_News_Vol1-2.pdf).

<sup>157</sup> *Id.*

<sup>158</sup> U.S. DEP'T OF JUSTICE, OFFICE OF THE INSPECTOR GENERAL, AUDITS OF OJP GRANTS TO STATE AND LOCAL ENTITIES: SEMIANNUAL REPORT TO CONGRESS, OFFICE OF JUSTICE PROGRAM (2008), available at <http://www.usdoj.gov/oig/>

U.S. attorney, there is currently the possibility of several county specific task forces with no collaboration between them.<sup>159</sup> According to data provided, most areas do not have enough victims to justify funding single county entities.<sup>160</sup>

The concerns cited in this review are intended to convey the risks of losing credibility related to a very serious crime, not to criticize any entity that has received funding for human trafficking. Having the ability to approach these concerns as a formative program

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semiannual/0811/ojp.htm; *Human Trafficking in California: Final Report, of the California Alliance to Combat Trafficking and Slavery Task Force*. California Attorney General Office, Crime and Prevention Center, October 2007 at 6. [safestate.org/index.cfm?navid=1435](http://safestate.org/index.cfm?navid=1435); see also Jim Kouri, *US Continues Combating Human Trafficking*, AM. CHRONICLE, Aug. 6, 2007, available at <http://www.americanchronicle.com/articles/view/34259>. Although the Bureau of Justice has awarded up to \$450,000 to establish the 42 task force offices, there is no technical assistance plan to aid training for trainers of the task force offices.

<sup>159</sup> Letter from The Honorable Ileana Ros-Lehtinen, Ranking Member, Committee of Foreign Affairs, House of Representatives, *Human Trafficking: A Strategic Framework Could Help Enhance the Interagency Collaboration Needed to Effectively Combat Trafficking Crimes*. U.S. GOV'T ACCOUNTABILITY OFFICE: REPORT TO CONGRESSIONAL REQUESTERS 6 (July 2007), <http://www.gao.gov/new.items/d07915.pdf>. Current coordinating mechanisms do not address the federal interagency collaboration needed, and individual agency plans only address individual agency goals linked to agency missions. Neither group is linked to a common government-wide outcome for investigating and prosecuting human trafficking crimes.

<sup>160</sup> AUDITS OF OJP GRANTS TO STATE AND LOCAL ENTITIES: SEMIANNUAL REPORT TO CONGRESS, OFFICE OF JUSTICE PROGRAM, OFFICE OF THE INSPECTOR GENERAL. April 1, 2008 - September 30, 2008, <http://www.usdoj.gov/oig/semiannual/0811/ojp.htm>. The Office of Justice Program's (OJP) grant programs were not effective in identifying and serving significant numbers of trafficking victims and an audit revealed that the service providers were reaching a small number of victims. From 2005 through 2007 the task forces reported identifying 2,103 potential victims in the United States, and the service providers reported serving 1,444 victims. The report also revealed that OJP's agreement award process resulted in a wide variation in funds awarded compared to the number of victims. For example, one service provider received nearly \$1.9 million to supply services to an estimated 100 victims over the 3-year agreement period (\$18,965 per estimated victim) and another provider received only \$490,829 to service an estimated 100 victims over the 3-year agreement period (\$4,908 per estimated victim). The amounts awarded ranged from a high of \$33,333 to a low of \$2,500 per victim.

evaluation issue rather than a summary criticism of what has occurred is beneficial to program development. Due to the covert nature of the crime, accurate statistics on the nature, prevalence, and geography of human trafficking are difficult to calculate. Trafficking victims are closely guarded by their captors, many victims lack accurate immigration documentation, trafficked domestic servants remain invisible in private homes, and private businesses often act as a front for back-end trafficking operation, which make human trafficking a particularly difficult crime to identify and count.<sup>161</sup> However, a method to obtain valid and reliable estimates of this inherently hidden problem is critical for planning and assessing national and international interdiction and prevention initiatives.

The focus on human trafficking has grown considerably in the U.S. since the passage of the TVPA in 2000 and its subsequent reauthorizations in 2003, 2005, and 2007. More recently, there has

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<sup>161</sup> Elzbieta M. Gozdziaik & Margaret MacDonnell, *Closing the Gaps: The Need to Improve Identification and Services to Child Victims of Trafficking*, 66 HUMAN ORG. 171 (2007); see also Michael C. Payne, *The Half-Fought Battle: A Call for Comprehensive State- Anti-Human Trafficking Legislation and a Discussion of How States Should Construct Such Legislation*, 16 KAN. J.L. & PUB. POL'Y 48, 49-50 (2006). The human trafficking industry lurks in the shadows, affecting victims who are unsure of how to escape and report the crime. Many victims who might be able to escape are unsure if they should to avoid they or their families from suffering retribution by their captors or punishment at the hands of the U.S. government for violating its immigration laws. The ignorance of the American people contributes to its existence, where trafficking victims who work as laborers and in the sex industry are essentially invisible. These, unfortunately, are industries that the vast majority of Americans ignore. See Gordon Hill, Comment, *The Use of Pre-Existing Exclusionary Zones as Probationary Conditions for Prostitution: A Call for the Sincere Application of Heightened Scrutiny*, 28 SEATTLE U. L. REV. 173, 201-202 (2004). Another contributing factor that occurs with often "imp-procured prostitutes" is "Stockholm Syndrome," which is a process by which a hostage comes to bond and identify with her captor and his perspective on the world. Potential manifestations of this syndrome include a denial of the captor's violence against her and a focus on the captor's positive side. This leads the captive prostitute to feel and desire the captor near than to persons with whom she has an empowering relationship. This causes the captive to take on the captor's perspective as her own, finding it psychologically and emotionally difficult or impossible to physically leave or emotionally detach from the captor, particularly if the captor does not want her to leave.

been an interest in research on the topic, spurred in part by the horrific stories and fueled by the high estimates of the extent of trafficking in our country. Unfortunately, existing research on human trafficking has yet to move the field beyond estimating the scale of the problem and the difficulty of determining how to count human-trafficking victims. Much of the existing research on trafficking attempts to validate the extent of the crime by relying on overviews, commentaries, and anecdotal information. Therefore, all stakeholders in this important issue are called upon to help develop measurable and defensible outcomes to justify the use of federal funds within their respective agencies.