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May 21, 2018

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

Darlene Hutchinson Biehl
Director, Office for Victims of Crimes

Re: 2018 Human Trafficking Funding Restriction

Dear AAG Hanson and Director Hutchinson Biel:

We write on behalf of the Association of Pro Bono Counsel (APBCo), a membership organization of more than 225 law firm *pro bono* practice leaders, to express concern about a new restriction on using Trafficking Victims' Protection Act (TVPA) funds for vacatur and criminal expungement representation. Our concern focuses on the negative impact that this funding restriction will have on the ability of private lawyers to provide *pro bono* assistance to trafficking survivors trapped by the criminal histories that resulted from their victimization.

Background

Criminal records impede the ability of trafficking victims to build safe and independent lives for themselves and their families. Post-conviction relief for trafficking survivors has grown by virtue of a multi-disciplinary collaboration between law enforcement, prosecuting agencies, lawmakers, social services organizations, legal services organizations (LSOs), the private bar, and survivor leaders. When survivors are represented by counsel, their eligibility for vacatur and/or expungement is well analyzed and their motions are well-prepared and documented. Survivors often have multiple charges from multiple jurisdictions. Without counsel, it is difficult, if not impossible, for survivors to understand the pertinent (and potentially differing) state laws, and to collect the necessary documentation of the criminal records, the context of the arrest(s), and evidence of their victimization. Since New York passed the first vacatur law in 2010, law firms around the country have worked in partnership with local and national LSOs to represent trafficking survivors *pro bono* in their motions for post-conviction relief.

Pro Bono Representation Depends on LSO and Nonprofit Providers

The new funding restriction on the use of TVPA funds for vacatur and expungement representation threatens the ability of law firms to continue to do this important work. Effective *pro bono* representation by attorneys at private law firms is only possible when the organizations with whom we partner (and on whom we rely) are fully funded to work with us. First, LSOs work comprehensively with trafficking survivors on a range of legal needs and they are best positioned to assess their clients' eligibility for vacatur and/or expungement and to refer eligible individuals to *pro bono* attorneys. This process ensures that

eligible individuals are identified in the first instance and informed of vacatur remedies and that *pro bono* resources are used efficiently to assist those with colorable claims. Private law firms need the LSOs to identify and reliably screen potential cases.

Second, our members rely heavily on the expertise and guidance of LSO attorneys who specialize in this area of the law to train our firms' volunteer lawyers and mentor their work. If the funding restrictions remain in effect, many of these organizations will lose the capacity to support private attorneys, with a consequential drop in the ability of the private bar to continue to assist trafficking survivors in this important way.

We urge you to remove this restriction immediately from all FY18 funding.

Should you have any questions or wish to discuss this matter, please contact us at apbco@apbco.org.

Sincerely,

The Association of Pro Bono Counsel

By: Allegra R. Nethery
Allegra R. Nethery
President