





fall squarely within the mainstream narrative of what constitutes a human trafficking survivor. Still, the consequences of failing to identify a survivor are extreme. In addition to not receiving the immigration relief and plethora of social services that survivors qualify for in New York City, it is likely that these individuals will not be able to escape their traffickers, will be forced to navigate the world with criminal convictions, and continue to be exploited. They will remain invisible despite the fact that they are standing right in front of us.

This problem is exacerbated by the lack of research specifically focusing on the experiences of survivors in the criminal justice system, which, in turn, leads to minimal efforts to educate criminal justice system advocates about how to identify survivors.<sup>8</sup> Clearly, this is a vicious cycle.

The goal of this article is to fill that gap by (1) detailing why human trafficking survivors remain unidentified specifically in the

criminal justice system, and (2) discussing why professionals working in the criminal justice system can become the new front line of individuals identifying human trafficking survivors.

Survivors are unidentified in the criminal justice system due to

titution, to children, to the rising levels of migration, to labor supply and demand, to criminality, and/or to human rights.”<sup>10</sup> Most existing definitions are based on the Palermo Protocols, which was adopted by the UN General Assembly in 2000.<sup>11</sup> On a national level, the Trafficking Victims Protection Act of 2000<sup>12</sup> (“TVPA”) is the cornerstone of federal human trafficking legislation in the United States. The

TVPA has established several methods of prosecuting traffickers

can trafficked into the U.S. each year.<sup>18</sup> From 2001 to 2005, only 1,000

victims had been assisted.<sup>19</sup>

Immigration and Customs Enforcement opened 1,025 investigations, the FBI formally opened 220 human trafficking investigations, and there were 161 federal human trafficking prosecutions, resulting in















flected in academic research as well, where in literature reviews on human trafficking about two thirds of the studies focus solely on trafficking for the purposes of prostitution.<sup>65</sup> The problem with this is that when the public is led to believe that only one aspect of trafficking is recognizable or relevant, we miss the opportunity to recognize and assist other types of trafficking victims.

### **“Chained to a Bed”<sup>66</sup>**

Another view promoted by the mainstream media is that young innocent female survivors are “chained to a bed” and are only recognized when they are “rescued” by law enforcement. “Most victims of human trafficking are not ‘rescued’ by anyone. They are not found by law enforcement, chained to a bed in a brothel.”<sup>67</sup> They are not res-

tims of trafficking find their way out of their situation after much psychological, emotional, physical, or sexual abuse, and some eventually make their way to a shelter, a hospital, an advocate, or a victim’s service provider.”<sup>68</sup> The false assumption that real victims are those who are rescued by anyone, let alone by a federal agent, and the converse assumption that those who rescue themselves are not or are less











They sentenced me and I had to go upstate to a prison. I'm now in immigration court and I think I have to go back to Jamaica.<sup>86</sup>

(2) The Unique Position of Criminal Justice Professionals in Identifying Survivors

There are two general points of significance pertaining to survivor identification when looking at this chart. First, survivors interact with the same parties on a frequent basis over a prolonged period of time. They appear with the same Public Defender or immigration attorney, against the same Assistant District Attorney, in front of the same judge, meeting with the same probation officer, and interacting on a daily basis with the same staff at Rikers or in an upstate prison. This is very different from the typical one-off interaction a survivor

has with a law enforcement officer, nurse, or other traditional front

line responders. Second, these parties can potentially deduce if the criminal standing in front of them is a survivor because they have unique tools to analyze a survivor's criminal history that the typical front line trafficking responder does not have. For example, a RAP sheet can indicate the kinds of crimes a survivor has been charged with. An FBI criminal check will state if the survivor has been arrested in other states and if they are a non-citizen. The types of crimes







friend of mine told me that she had stolen checkbooks from her

