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**Administrative Directive**

**Section 1**

<b>Transmittal:</b>	OTDA 09-ADM-01/ 09-OCFS-ADM-01
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	OTDA Center for Specialized Services OCFS Office of Strategic Planning and Policy Development
<b>Date:</b>	January 7, 2009
<b>Subject:</b>	New York State Anti-Trafficking Statute
<b>Suggested Distribution:</b>	TA Directors Food Stamp Directors Directors of Services MA Directors Staff Development Coordinators Adult Services Directors Domestic Violence Liaisons
<b>Contact Person(s):</b>	See Page 10
<b>Attachments:</b>	Attachments 1a through c: Notification Letter Templates Attachment 2: LDSS Disposition Report of Trafficked Persons (HTV) Notification Attachment 3: List of Response to Human Trafficking Program (RHTP) Regional Case Management Service Providers
<b>Attachments Available On – Line:</b>	yes

## Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			Chapter 74 of the Laws of 2007		

## Section 2

### I. Summary

This Administrative Directive (ADM) provides local districts with information about Chapter 74 of the Laws of 2007 [hereinafter referred to as the “NYS Anti-Trafficking Statute” or “Statute”] and policy and procedural guidance related to the implementation of this statute.

### II. Purpose

This directive informs local districts (LDSS) of their responsibilities under the NYS Anti-Trafficking Statute, which include:

- Designating a Human Trafficking Liaison;
- Determining eligibility for assistance to state-confirmed trafficking victims who are United States citizens;
- Determining eligibility for assistance to state-confirmed trafficking victims who are qualified aliens or aliens with a satisfactory immigration status;
- Providing assistance to minor victims of human trafficking;
- Facilitating the provision of services to state-confirmed trafficking victims who are aliens without a satisfactory immigration status by referrals to the regional case management agency under the OTDA Response to Human Trafficking Program; and
- Reporting to the New York State Anti-Trafficking Program Coordinator at the Office of Temporary and Disability Assistance, Bureau of Refugee and Immigrant Assistance (BRIA) the results of the referrals of confirmed trafficking victims received by the district.

### III. Background

On November 1, 2007, the New York State Anti-Trafficking Statute took effect and established human trafficking as a state crime and established a process to “confirm” victims of human trafficking under the state law, as a means of providing assistance to confirmed victims, including those who would not be otherwise eligible for assistance due to their immigration

status. Confirmed victims, if otherwise eligible, are eligible for benefits and services in accordance with their citizenship or immigration status. This legislation includes the following provisions:

- Creates a class B felony under the Penal Law for those who commit sex trafficking;
- Creates a class D felony under the Penal Law for those who commit labor trafficking; and
- Adds a new Article 10-D to the Social Services Law, which provides for services for certain state confirmed trafficking victims.

The New York State Anti-Trafficking Statute requires the New York State Division of Criminal Justice Services (DCJS) and the New York State Office of Temporary and Disability Assistance (OTDA) to accept referrals of potential victims from local law enforcement agencies or local district attorney offices. DCJS, in consultation with OTDA, must determine whether to confirm the referred person as a human trafficking victim (HTV) under state law.

Once confirmed, victims are directed to either the LDSS or the Response to Human Trafficking Program (RHTP) service provider network based on factors described in more detail below. Article 10-D of the legislation authorizes OTDA to coordinate and assist local law enforcement agencies and local district attorneys' offices to access appropriate services for victims of the new state trafficking crimes. It also gives OTDA authority to enter into contracts with non-government organizations for providing services to certain confirmed trafficking victims who would not otherwise be able to access federal, state or local benefits due to their immigration status.

This directive explains the process for handling cases involving victims of human trafficking who are directed to the local districts and what local district responsibilities are for assisting such victims.

#### **IV. Program Implications**

New York State now has the capacity to address the trafficking of human beings as a crime against the laws of the state, and to provide certain services to the victims of those crimes. Persons that may be referred by a law enforcement agency and/or a District Attorney's office for confirmation as a state trafficking victim include:

1. U.S. Citizens;
2. Aliens with a qualified immigration status or aliens with a satisfactory immigration status<sup>1</sup>;

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<sup>1</sup> Aliens with a satisfactory immigration status are those aliens referenced in Section 122 of the Social Services Law. These aliens include qualified aliens and persons permanently residing under color of law. Contact OTDA Legal Affairs with questions regarding whether a subject of referral is a qualified alien or an alien with another satisfactory immigration status.

3. Undocumented aliens, who appear to be covered by the Federal Trafficking Victim Protection Act of 2000, Pub. L. 106-386 (TVPA) as amended, and may be certified by the Department of Health and Human Services Office of Refugee Resettlement (ORR) as a “victim of a severe form of trafficking in persons” consistent with that law; and
4. Victims of human trafficking who are minors.

Local districts will be directly notified by the BRIA Anti-Trafficking Program Coordinator of a human trafficking victim, primarily in two main instances:

1. When a potential applicant is a United States citizen or may otherwise be eligible for benefits has been confirmed as a victim of human trafficking; and
2. When any minor victim of human trafficking is referred to OTDA. For minors, there are two required notifications that the district will receive. First, notification to the local district must be made by BRIA for any minor that has been identified. Second, if a minor is confirmed under the state process, then a subsequent confirmation notification is sent to the district.

More detailed procedures involving minors are found further in this section and in Section V.B. Minor Victims, below.

#### *Adult victims*

BRIA will refer to the local district those state-confirmed adult victims of human trafficking who are U.S. citizens or aliens who may be otherwise eligible to receive assistance. The local district shall screen and assess these victims in the same manner as any other applicant, with a few additional considerations.

The local district must complete a report and transmit it to OTDA, in the confidential manner described below in Section D, to indicate the final disposition of the victim’s eligibility determination.

By the time that a victim is received at the local district, the victim should have received a letter from OTDA indicating that he/she is a state-confirmed trafficking victim (see Attachment 1a through 1c). Some of the required information for the disposition report is available in this confirmation letter. If the victim does not present the letter to the intake worker (or if he/she does not appear to have a letter) or if additional information about the case is needed, the local district is instructed to contact the BRIA Anti-Trafficking Program Coordinator.

Trafficking victims are at a high risk of re-victimization during the period immediately following their rescue. Since it is likely that a confirmed trafficking victim will be homeless and may be in need of immediate assistance, a confirmation letter should prompt local districts to take appropriate action to meet a confirmed trafficking victim’s housing and other emergency needs. Districts need to be sensitive to the safety of trafficking victims while making emergency shelter placements and other arrangements. Districts should confer with the BRIA Anti Trafficking Coordinator if there are any safety concerns regarding a confirmed trafficking victim.

Confirmed victims may have also suffered significant psychological, physical, and sexual abuse and may exhibit anxiety, depression, and Post-traumatic Stress Syndrome (PTSD). An interview should be conducted in an environment that protects confidentiality and is sensitive to the victim's circumstances. Determinations of a confirmed trafficking victim's eligibility for benefits should be completed as soon as practicable. Districts should be aware that a confirmed victim's past experiences may least initially present a barrier to the victim's full participation in employment programs. As part of the eligibility interview, the intake worker will screen the trafficking victim for domestic violence and the client should be given information about the Family Violence Option.

If the state-confirmed trafficking victim is determined by the LDSS to be an alien without a satisfactory immigration status, districts should contact the BRIA Anti-Trafficking Program Coordinator. BRIA will then refer the victim to a specific regional case management agency and/or any other local resources that may be able to assist this victim (see Attachment 3).

Should the local district come into contact with a person believed to be a trafficking victim, the district should contact the BRIA Coordinator, who will contact DCJS to initiate a referral.

As requested in the **Required Action** section, the local district should designate a Human Trafficking Liaison. The liaison is to ensure that the applicant is appropriately assessed and assure that required dispositional reports are filed with OTDA/BRIA. The liaison also should gain knowledge of local resources for human trafficking victims. The LDSS should consider designating as the Human Trafficking Liaison a staff person that has been trained in victim issues since there are commonalities of approach that should be employed. The liaison must assure the confidentiality of the person referred and must assure that the information gathered for the required disposition report is secured.

### *Minor Victims*

Local districts are also required to provide necessary services, or make referrals for such services, for minor human trafficking victims who are referred by OTDA through written notification. Should the minor need some form of residential services, social services districts would be expected to assess the minor's individual needs and circumstances and take the appropriate legal and/or service delivery mechanism(s) that will provide both safe haven and be responsive to the minor's status as a victim and her/his culture. No interventions should be undertaken without consulting with the minor and her/his family (when known, accessible and appropriate). Please note that OTDA will notify the appropriate LDSS of a minor referred for confirmation immediately upon referral and before a confirmation decision is made. The LDSS is required to serve minor human trafficking victims referred by OTDA, as eligibility requirements dictate, regardless of whether these minors have been confirmed.

Local districts are advised to consider the Unaccompanied Refugee Minor (URM) Program as a potential resource for trafficked minors who are non-qualified aliens under 18 years of age. URM eligibility is determined by the Director of ORR, upon a request by the State Refugee Coordinator, who is also the Director of the OTDA Bureau of Refugee and Immigrant Assistance. For further information and guidance regarding the URM Program, see [07 ADM-07](#).

## **V. Required Action**

### **A. Adult Human Trafficking Victims**

As described above, adults who are state-confirmed victims of human trafficking will be directed to local districts by OTDA via the notification letter (See Attachments 1a through c). Local districts must do an eligibility determination on all referred adult state confirmed trafficking victims. For victims who are U.S. citizens or aliens with satisfactory immigration status, local districts must provide all benefits available to such state-confirmed trafficking victims provided they meet requisite eligibility requirements. Districts must notify OTDA of state-confirmed trafficking victims who are determined to be aliens without a satisfactory immigration status. OTDA must refer these aliens to the nearest regional service providers under contract with OTDA (listed in Attachment 3). The regional service providers will assist these victims to obtain services available to them.

State-confirmed trafficking victims who are initially assisted by a regional service provider (RHTP) will be referred back to the appropriate local district if they receive certification from the federal Office of Refugee Resettlement (ORR) as a victim of a severe form of human trafficking. Local districts shall determine eligibility through the usual procedures and provide benefits to these federally certified victims as if they were a refugee. (Please see 04 ADM-08 for more information).

Human trafficking victims may have difficulty with specific program requirements due to safety implications. The Family Violence Option (FVO) is one avenue that must be considered for those victims who complete the Domestic Violence Screening Form (LDSS 4583) and/or agree to meet with the Domestic Violence Liaison (DVL). If the DVL determines that the victim meets the definition of a domestic violence victim as described in 98 ADM-03, they can then determine what waivers the victim might be eligible for. All FVO procedures and regulations remain the same for trafficking victims as for any applicant/recipient of temporary assistance. Victims who do not meet the criteria for waivers under the FVO should be considered for good cause when applicable and there are safety concerns with required eligibility and program requirements.

Local districts should be aware that state-confirmed human trafficking victims may not have access to identity documents. Traffickers frequently confiscate trafficked persons' identity and travel documents as a means of controlling them and therefore trafficked persons may not be able to prove their identities. Local districts must assist U.S. born victims to obtain a copy of their birth certificate using current procedures. Districts should refer state-confirmed victims who claim to have a satisfactory immigration status to Legal Aid for assistance in obtaining their immigration documents and applying for any needed fee waivers for cost of replacement documents. The LDSS should take these steps before denying an application for failure to provide documents.

### **B. Minor Human Trafficking Victims**

The LDSS must initiate an immediate assessment of the situation of a trafficked minor and should incorporate the following considerations:

- If there is reasonable cause to suspect child abuse or maltreatment, a Child Protective Services (CPS) report to the Statewide Central Register of Child Abuse and Maltreatment must be made. CPS may consider filing an Article 10 petition for a fact finding and disposition that may include placement.
- Local districts should consider whether parents and guardians were involved in trafficking minors. In addition, local districts should be aware that trafficked persons are often unaware that they have been victimized. The victim's emotional relationship to the trafficker could be complex and may impact the minor when separation occurs. Thus, LDSSs should investigate the circumstances of the trafficking and the trafficked person's mental state carefully during the investigative phase of the case and well before making reunification plans with parents or guardians.
- As mentioned above, the URM program should be explored as a placement option but this may take some time. Other possible placement options include the filing of a person in need of supervision (PINS) petition; the filing of a juvenile delinquency petition; if the minor victim is found to be destitute, as defined in SSL 371.3, the LDSS is authorized to assume charge of and provide support to the minor (Section 398(1) of the SSL); or if the parents can be located, but are not a resource for the minor, a voluntary placement could be undertaken. Care of a minor as a destitute child is a local charge.
- If foster care would not be the best choice, placement in a runaway and homeless youth agency (RHYA) program, or a transitional independent living program (TILP) might be considered. Again, safety concerns should be thoroughly explored.

If the minor is an ineligible alien and is determined by the Office of Refugee Resettlement to not be eligible as a "victim of a severe form of trafficking in persons", he or she may be placed in foster care. However, except for child protective services and emergency services, no Federal funds may legally be used to assist the minor. In such circumstances, the local district must explore what help may be available from other agencies in the community.

Law enforcement intervention in human trafficking cases may occur at all hours of the day and on every day of the week. As such, it is possible that a trafficking victim will need some form of residential care at a time when the office is closed but where assistance cannot wait. In such an event, a LDSS should utilize whatever form(s) of child welfare emergency intervention/assistance it relies upon for non-human trafficking minors, including the possible use of CPS on-call staff.

### **C. Local District Human Trafficking Liaison**

Local districts must designate a human trafficking liaison. The district's liaison will receive notifications and referrals, submit the required reports, and serve as the contact with OTDA, local case management agencies under contract with OTDA, law

enforcement agencies and district attorney's offices. LDSS must communicate who the designated liaison is, in writing or by email, within 60 days from the effective date of this policy directive to:

Christa Stewart, OTDA Anti-Trafficking Program Coordinator  
Bureau of Refugee and Immigrant Assistance  
317 Lenox Avenue, 9th Floor  
New York, NY 10027  
Phone: (212) 961-5688  
Fax: (212) 961-4441  
Email: [Christa.Stewart@otda.state.ny.us](mailto:Christa.Stewart@otda.state.ny.us)

#### **D. Human Trafficking Reports**

Local districts must file a report on the case disposition of all confirmed human trafficking victims referred to them as well as minor victims referred to them. Due to confidentiality and security concerns, the LDSS must complete these reports and fax them to the OTDA Human Trafficking Coordinator at: **(212) 961-8274** until such time as OTDA completes an online direct data entry reporting system. Districts' human trafficking liaison and other district designated staff will be given access to the online reporting system.

Local districts are required to complete the **LDSS - Disposition Report on Trafficked Persons (HTV) Notification** (shown in Attachment 2) and send it to the OTDA Human Trafficking Coordinator. The required information includes:

- Local district name, the full name of the victim, gender, date of birth, the date the notification was received, the immigration status, the dates when the victim applied for assistance, dates when the application(s) was (were) approved, denied, or withdrawn, as well as if the trafficked person did not apply for certain benefits.
- Generally, OTDA will require case and individual identifiers in order to access information at a later time from the system. Pursuant to this, the following data shall also be reported under each program (FS, TA, MA, and Services): case number(s), CIN number(s).
- There will be an open text box to capture "free form" information where the district will be able to write relevant actions, events or observations regarding the situation.
- If accessible districts should report the law enforcement or district attorney's office involved, and for each contact, the agency or office name and address, the primary contact's name, any other contact person relevant to the case, their phone, and their e-mail address, if available.

The report must be used for all confirmed victims, even in those rare cases where OTDA has notified the LDSSs that a victim has been referred to the LDSS, but the victim has



not been in contact with the LDSS. Information on this particular situation is to be made under item 9 of the report.

The LDSS must report on the disposition of each case within 60 days of receiving the notification from OTDA

### **E-Report**

The electronic data entry mentioned above will automatically generate an **LDSS - Disposition Report on Trafficked Persons (HTV) Notification**. This report is being developed and it will have its own set of instructions when it is released by WMS. The content of this E-Report will be substantially the same as the paper **LDSS - Disposition Report of Trafficked Persons (HTV) Notification**.

## **VI. Medical Assistance Implications**

State-confirmed human trafficking victims who are citizens or aliens with a satisfactory immigration status are eligible for Medical Assistance as any citizen or legal alien, if otherwise eligible. State-confirmed human trafficking victims without a satisfactory immigration status may receive coverage and care necessary for the treatment of *emergency* medical conditions. State-confirmed human trafficking victims who are pregnant may be provided Medicaid at any time without regard to immigration status.

Minor children who are state-confirmed trafficking victims may be provided medical assistance in the following manner: if the child has an emergent medical need, then treatment should be sought at the closest emergency room. The child, if otherwise eligible, would be eligible for the treatment of an emergency medical condition under children's Medicaid. In cases where the need is routine health care, timely enrollment into CHPlus should be pursued.

**The Office of Health Insurance Programs will provide further information of medical assistance implications for state confirmed human trafficking victims in a separate policy release.**

## **VII. Systems Implications**

There are no systems implications.

## **VIII. Contact Information**

Christa Stewart (Program Questions)  
OTDA Anti-Trafficking Program Coordinator  
Bureau of Refugee and Immigrant Assistance  
NYS OTDA  
317 Lenox Avenue, 9th Floor  
New York, NY 10027  
Fax: (212) 961-4441  
[Christa.Stewart@otda.state.ny.us](mailto:Christa.Stewart@otda.state.ny.us)

(212) 961-5688

Paul Dichian (TA Questions) (518) 474-0886  
[Paul.Dichian@otda.state.ny.us](mailto:Paul.Dichian@otda.state.ny.us)

For Questions about Child Welfare and Community Services, contact:  
Buffalo Regional Office – Mary Miller (716) 847-3145

[Mary.Miller@ocfs.state.ny.us](mailto:Mary.Miller@ocfs.state.ny.us)

Rochester Regional Office – Linda Kurtz (585) 238-8201

[Linda.Kurtz@ocfs.state.ny.us](mailto:Linda.Kurtz@ocfs.state.ny.us)

Syracuse Regional Office – Jack Klump (315) 423-1200

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Albany Regional Office – Kerri Barber (518) 486-7078

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Spring Valley Regional Office – Pat Sheehy (845) 708-2498

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NYC Regional Office – Patricia Beresford (212) 383-1788

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## **IX. Effective Date**

This directive is effective immediately on release.

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### **Issued By**

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