

## Testimony of Shamere McKenzie

Hearing on “Oversight of Federal Efforts to Combat Human Trafficking”

U.S. House of Representatives

House Committee on the Judiciary

Subcommittee on Crime, Terrorism, and Homeland Security

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Chairwoman Lee, Ranking Member Biggs, Vice Chair Bush, and Members of the Committee, good morning. My name is Shamere McKenzie and I am in awe just being in your presence this morning. This emotion is not driven by your titles but through our connection as human beings. Human beings, the core of the subject matter that brought me before you today – human trafficking.

I want us all to think about our younger selves. As children we all imagined what our lives would be like as adults. My dream was to be an attorney but now as an adult my dream is to run for office. As a child, I never imagined being robbed of the first pillar of freedom - my autonomy which violates my basic human rights under the 13th Amendment. I never imagined being held in bondage in the land of the free – suffering both mental and physical torture. I never imagined being forced into commercial sexual exploitation by a man who used physical violence and psychological coercion to maintain control and power over me for his own profit. I never imagined being brutally traumatized to the point where I developed a compliant behavior simply to survive.

There are severe consequences for not carrying out a trafficker’s demands which could even lead to death. I know this all too well. When I refused my trafficker’s orders to drive, he asked me to choose between death and driving. At that point I had lost all hope in life and begged for death in order to end my misery. I chose death. On one occasion, my trafficker responded by placing a gun in my mouth and pulling the trigger. There are many other attempts where I begged death to take me, to include unsuccessful suicidal attempts. In my opinion, death was my escape from the grips of a man who saw me not as a human being but as a product to be sold for his own profit.

Death refused me but my trafficker created a scheme to ensure the legal system saw me not as a victim but treated me as a criminal for the crimes he forced me to commit. I took a plea to Conspiracy of the Mann Act or as some may know it, the White Slavery Act. This plea further led me to register as a sex offender, barred me from certain scholarships, certain forms of employment and most importantly impacted my healing. I wish I had more time to share with you the details of my story but I really want to utilize my privilege and inform you that this is not just my story but the story of many other survivors who were charged on a federal level as a direct result of their victimization and don’t have the opportunity share their experience and perspective with you.

For the last 11 years, I have dedicated my life and have worked on and continue to work in several sectors of the anti-trafficking movement where I have moved from victim, to survivor to now the CEO of the Sun Gate Foundation and the first appointed Anti-Trafficking Ambassador to Jamaica.

I also serve as Training Manager for the National Human Trafficking Hotline at Polaris, I can tell you that based on the calls that come into the hotline, survivors who are no longer actively being trafficked are still negatively impacted by the trauma that they have survived. Survivors who have been criminalized face significant barriers as we try to reintegrate into society.

I am a member of the Just Exits Advisory Council along with seven other amazing survivor leaders who not only have lived experience, but also now, years of professional experience training and providing technical assistance. As part of the Just Exits Initiative, I have provided proactive and responsive, state-specific, discipline-specific, and multi-disciplinary training and technical assistance on a variety of advanced human trafficking topics, including assessing culpability and combatting common defenses using expert witnesses.

Criminalization of victims is one of the most pressing issues that must be addressed as it relates to human trafficking. Criminal record relief is often inaccessible to survivors because the laws are not sufficient, they are overly burdensome, and/or they do not reflect the reality and pervasiveness of forced criminality within all forms of human trafficking. We have over 43 states that have implemented some form of criminal relief but according to Polaris' State Report Cards,<sup>1</sup> many of the laws don't truly help survivors. There currently is no federal statute providing criminal record relief to criminalized victims of human trafficking. Victims of trafficking continue to be charged as perpetrators or co-conspirators, alongside their trafficker. Traffickers have gone as far as to write books teaching others how to evade criminal charges, one said, "your hands are never soiled by mistakes or nasty deeds. Maintain such a spotless appearance by using others as scapegoats and cat's-paws to disguise your involvement."

A 2016 member survey conducted by the National Survivor Network<sup>2</sup> found that 91 percent of 130 trafficking survivor respondents reported having been arrested. Forty two percent reported that they were arrested as minors, and over 40 percent reported being arrested 9 times or more. Survivors are regularly criminalized for activity related to their victimization. The study explicitly informs us that victims of trafficking are not only forced to commit acts of prostitution, but they are forced to commit other criminal acts and forced to be complicit in trafficking operations.

Over the last 22 years since the passage of the Trafficking Victims Protection Act, the anti-trafficking field has come to recognize that criminalizing trafficking victims does not help victims. I strongly believe that we have enough evidence to stop criminalizing victims. My fellow Just Exits consultant, Joy Friedman, posed this question, "when do victims of trafficking stop paying the price?" The answer must be, "now." We need Congress to lead the way in putting an end to this practice. .

For decades systems-actors have been doing the traffickers' job for them by treating victims the way that traffickers have promised would happen – we have been arrested, assaulted, raped, deported, disbelieved, our children have been taken away... and for the most part, our traffickers have escaped accountability. Because of this historical, and sometimes current, relationship with law enforcement and other government systems, victims and survivors have limited faith in the criminal justice and other systems<sup>3</sup>.

I have 6 ways in which Congress can provide a victim-centered, trauma-informed response to this pressing issue of the criminalization of victims.

1. Create, support and pass a comprehensive federal vacatur legislation that will allow victims and survivors to walk in true freedom. (insert something here) This can provide support to states to raise the bar and improve their grades given to them by Polaris.
2. Pass "Sara's Law" named in honor of a child sex trafficking survivor, Sara Kruzan, who killed her trafficker and rapist and was then sentenced to life without parole. This would allow courts to have as much flexibility as possible in creating a trauma-informed and age-appropriate

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<sup>1</sup> <https://polarisproject.org/wp-content/uploads/2019/03/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf>

<sup>2</sup> <https://nationalsurvivornetwork.org/wp-content/uploads/2017/12/VacateSurveyFinal.pdf>

<sup>3</sup> <https://www.ncjrs.gov/pdffiles1/nij/grants/251631.pdf>

response, including suspending any sentence or transferring a child victim into the juvenile or child welfare system for treatment and services.

3. Reauthorize the Trafficking Victims Protection Act, up for reauthorization in 2022 including provisions that allow judges to deviate from mandatory minimums and suspend sentences for child sex trafficking victims who commit crimes against their traffickers. In addition, the reauthorization should allow trafficked children who are given lengthy prison sentences to petition courts to have their sentences reviewed after no more than 20 years.
4. Increase funding for the development and delivery of trainings aimed at advanced human trafficking topics:
  - a. Trainings on forced criminality beyond forced prostitution.
  - b. Trainings on forced complicity in trafficking operations.
  - c. Trainings should include topics on both sex and labor trafficking.
5. Increase funding for the development and delivery of training for defense attorneys, specifically public defenders, who are perhaps best-positioned to identify victims and survivors who have entered the criminal justice system as defendants.
6. Increase funding for the development and delivery of training for prosecutors who can act as gatekeepers, closing on ramps into and opening off ramps from the criminal justice system for victims and survivors who have been implicated in criminal activity related to their victimization. This training should include assessing culpability of victims and survivors as defendants and the use and expansion of current post-conviction relief statutes. An example of one such initiative is AEquitas' survivor-driven Just Exits Initiative. While initially privately-funded, that funding is coming to an end and this important initiative is in danger of ending.

The time to act is now. Each day we delay is another day where victims are pushed further into this dark world of trafficking. Each day we delay we uphold the lies constantly told to victims by traffickers. So I ask members of this sub-committee to do the right thing and respond to the gap in place and pass a federal vacatur bill. Thank you for the opportunity to share my perspective before this subcommittee.