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Effective Implementation of the Trafficking of Persons and Involuntary Servitude Articles: Lessons from the Criminal Justice System Response to the Illinois Domestic Violence Act

Alison L. Stankus  
*Loyola University Chicago*, astank1@luc.edu

Jennifer A. Kuhn  
*Loyola University Chicago*, kuhnjen2@yahoo.com

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Article Abstract

Effective Implementation of the Trafficking of Persons and Involuntary Servitude Articles: Lessons from the Criminal Justice System Response to the Illinois Domestic Violence Act

By: Jennifer A. Kuhn and Alison L. Stankus

When the Illinois Domestic Violence Act was enacted in 1986, the General Assembly acknowledged that “the legal system has ineffectively dealt with family violence in the past … and has not adequately acknowledged the criminal nature of domestic violence; that, although many laws have changed, in practice there is still widespread failure to appropriately protect and assist victims.” However, despite these stated purposes, the criminal justice system response to the Act in the last twenty years has been slow to correct this failure. Last year, the Trafficking of Persons and Involuntary Servitude Articles were added to the Illinois Criminal Code. As hundreds of thousands of women and children a year are trafficked into the United States from other countries – many of them ending up in Chicago and the Midwest – the addition of these Articles to the Criminal Code is crucial in the effective prosecution and punishment of this growing criminal trend. Because of the similarity of populations that both the IDVA and the Articles address, unless the criminal justice system learns from its failure to effectively implement the IDVA, implementation of the Trafficking Articles will suffer the same fate. To explore this connection, this article critically analyzes the implementation of the IDVA to provide a roadmap for the criminal justice system’s response to the Trafficking Articles; using this analysis, it then predicts barriers to effective implementation of the Articles. Specifically, it reflects on how the type of law – here statutes aimed at protecting women and girls – factors into this lag from enactment to implementation. Finally, it recommends steps the criminal justice system can take to learn from its struggle to implement the IDVA, and to improve the chances for effective implementation of the Trafficking Articles.
Effective Implementation of the Trafficking of Persons and Involuntary Servitude Articles: Lessons from the Criminal Justice System Response to the Illinois Domestic Violence Act

By: Jennifer A. Kuhn* and Alison L. Stankus±

I. INTRODUCTION

When seventeen-year old Vika agreed to come to the United States from Latvia, she thought that she would be earning $60,000 a year at an upscale Chicago Club.¹ In contrast to the bleak social and economic conditions in Latvia, the dancing job in Chicago offered her the opportunity for a better standard of living than she could have hoped to obtain in her home country.² Instead, when Vika arrived in Illinois, the man who had arranged for her travel confiscated her passport, confined her to a small apartment with four other girls, and forced her to dance nude at a suburban club.³ Vika drank most

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¹ Jennifer A. Kuhn is the Chief of the Crime Victim Services Division in the Illinois Attorney General’s Office. In her work to serve victims of crime, Jennifer is committed to the promotion of a victim-centered service delivery across systems, creation of a seamless, multidisciplinary of service delivery and development of a consistent system of services for victims. Jennifer received her J.D. from Chicago-Kent College of Law in 1991, and she is a former Cook County State’s Attorney who specialized in domestic violence prosecutions. Additionally, Jennifer served as staff to President Clinton’s National Advisory Council on Violence Against Women in the creation of a comprehensive manual detailing the accomplishments of the violence against women movement and making recommendations for future action across all systems within our society.

² J.D. expected May 2008 from Loyola University Chicago. Alison L. Stankus is a ChildLaw Fellow through the Loyola University Chicago School of Law Civitas ChildLaw Center.

³ John Conroy, A Long Way from Latvia, CHI. READER, Sept. 13, 2002, at 1 [hereinafter Conroy], available at www.chicagoreader.com. Vika was the youngest of five Latvian women trafficked to the United States by Alexander Mishulovich in October 1996. Id. Mishulovich was arrested in 1999 and pled guilty to federal charges in exchange for his testimony against a co-conspirator. All five of the women, including Vika, have since been deported. CAROL J. GOMEZ, DONNA M. HUGES & JANICE G. RAYMOND, , COALITION AGAINST TRAFFICKING IN WOMEN, SEX TRAFFICKING OF WOMEN IN THE UNITED STATES: INTERNATIONAL AND DOMESTIC TRENDS 104 (2001), available at http://www.ojp.usdoj.gov/nij/international/programs/sex Traff us.pdf.

² Conroy, supra note 1, at 1. For example, at the time Mishulovich went to Latvia in search of women to bring back to Illinois, Latvians on average waited 6.8 years for installation of a phone line in their homes, and the per capita income was just $2,300 per year. Id.

³ Id. See also AMY O’NEILL RICHARD, CENTER FOR THE STUDY OF INTELLIGENCE, INTERNATIONAL TRAFFICKING IN WOMEN TO THE UNITED STATES: A CONTEMPORARY MANIFESTATION OF SLAVERY AND ORGANIZED CRIME 47 (1999) [hereinafter RICHARD], available at http://www.vawnet.org/Intersections/OtherViolenceTypes/trafficking/ciatraffic.pdf (describing in detail Mishulovich’s coercion and mistreatment of the five Latvian women).
nights to get through her shift, and was beaten when she did not make enough money or talked back to her captor. Similarly Olivia, a Chicago teenager, answered an ad in the Chicago Reader to become a dancer in the hopes of escaping poverty and a tumultuous childhood. Yet the glamorous lifestyle that she envisioned turned into years of sexual slavery as she was repeatedly shoved into cars and moved from one side of the city to another to perform sexual acts against her will.

Both Vika and Olivia are victims of human trafficking, a phenomenon that traps its victims in a cycle of violence and exploitation. In recent years, trafficking has been grouped with crimes like sexual assault and domestic violence that adversely affect women and girls in Illinois. To combat this effect, Governor Rod R. Blagojevich announced in September 2006 that $20 million in grants were made available for services for victims of gender-based crime in Illinois. Specifically, the state awarded a $1 million grant to the Chicago Foundation for Women (CFW) to initiate a comprehensive project to combat human trafficking, domestic violence and other forms of violence against

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4 Conroy, supra note 1, at 1.
5 Olivia Howard, trafficking survivor, Testimony at The Realities of Human Trafficking in Cook County: Strategies for Ending the Exploitation of Women and Girls (October 19, 2006) [hereinafter Howard].
6 Id. See also JODY RAPHAEL, LISTENING TO OLIVIA: VIOLENCE, POVERTY AND PROSTITUTION (2004) (chronicling Howard’s journey from teenage victim of prostitution and trafficking to her current work in addiction services at a community counseling program).
7 See RICHARD, supra note 3, at v (providing examples of the use of force and deception to ensnare women into exploitive situations). See also Tal Raviv, International Trafficking in Persons: A Focus on Women and Children – The Current Situation and the Recent International Legal Response, 9 CARDOZO WOMEN’S L.J. 659, 662-63 (2003) [hereinafter Raviv] (describing how traffickers prey on the vulnerability of their victims to exploit them in trafficking schemes).
women.\textsuperscript{10} The CFW intends to use these funds to investigate how to make Illinois the safest state in the country for women and girls.\textsuperscript{11}

Though the aim of this new initiative is commendable, Illinois has been grappling with violence against women issues for decades: the Illinois General Assembly first addressed the problem of domestic violence over twenty years ago by passing the Illinois Domestic Violence Act of 1986 (IDVA).\textsuperscript{12} The IDVA’s expressed purpose plainly states that the legislature’s intent was to legally recognize the deleterious effect of domestic violence on individuals and families in Illinois.\textsuperscript{13} Further, the IDVA recognized and enumerated the legal system’s ineffective response to the crime of domestic violence in the past, and acknowledged that “in practice there is still widespread failure to appropriately protect and assist victims.”\textsuperscript{14} In an attempt to remedy this historic failure on the part of the criminal justice system, the IDVA sought to clarify the responsibilities of


\textsuperscript{11} CFW Press Release, supra note 10.


\textsuperscript{13} 750 ILL. COMP. STAT. 60/102(1) (2006). The first enumerated purpose of the IDVA is to:

\hspace{1em} Recognize domestic violence as a serious crime against the individual and society which produces family disharmony in thousands of Illinois families, promotes a pattern of escalating violence which frequently culminates in intra-family homicide, and creates an emotional atmosphere that is not conducive to healthy childhood development.

\textsuperscript{14} Id. 750 ILL. COMP. STAT. 60/102(3) (2006). The third purpose of the IDVA states that the criminal justice system had ineffectively handled domestic violence matters in the past by “allowing abusers to escape effective prosecution or financial liability, and has not adequately acknowledged the criminal nature of domestic violence” \textit{Id}. 
law enforcement while expanding the civil and criminal remedies available for victims of domestic violence. 

Although the IDVA officially changed the law and resulted in reforms of certain aspects of the criminal justice system, over twenty years later the everyday practice of handling domestic violence cases in Illinois has in many ways stayed the same. Despite this initial progress on the legislative front, the response of the criminal justice system – including police officers, prosecutors and judges – has lagged far behind. The justice system’s failure to keep pace with legislative change in the area of domestic violence has left victims unprotected and helped perpetrators remain unaccountable for their acts.

Like domestic violence, human trafficking is a gender-based crime that affects tens of thousands of women and children in the United States every year, and which poses many of the same challenges to the criminal justice system as domestic violence.

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15 750 ILL. COMP. STAT. 60/102(5) (2006). Interestingly, this fourth purpose of the IDVA recognizes that law enforcement sometimes becomes “secondary victims” of domestic violence due to injuries received in responding to domestic violence situations. Id. But see, e.g. Joan Zorza, *The Criminal Law of Misdemeanor Violence*, 83 J. CRIM. L. & CRIMINOLOGY 1, 52-3 (1992) [hereinafter Zorza] (observing that police often used this purported danger to rationalize their lack of response to domestic violence cases, yet domestic disturbance incidents are one of the least dangerous to which police must respond).

16 750 ILL. COMP. STAT. 60/102(6) (2006); RUSSELL, *supra* note 12, at 3. Additionally, the federal Violence Against Women Act (VAWA) was passed in 1994, which created many protections for women and mandated action from the criminal justice system in the fight against domestic violence. VAWA was reauthorized by Congress in 2000 and 2005, and is due for reauthorization again in 2010.


18 Deborah Epstein, *Effective Intervention in Domestic Violence Cases: Rethinking the Roles of Prosecutors, Judges, and the Court System*, 11 YALE J.L. & FEMINISM 3, 4 (1999) [hereinafter Epstein]. Epstein advises that system reform should be specifically targeted to this gap between legislative enactment and judicial enforcement. Id.

19 ICADV GUIDE, *supra* note 17, at 1. Perpetrators may be charged with repeated acts of domestic violence without being convicted for any of those acts, free to perpetuate the abuse on the victim. Id.

20 See U.S. DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT 6 (2006) [hereinafter U.S. TRAFFICKING REPORT], available at http://www.state.gov/documents/organization/66086.pdf. The 2004 report data shows that of the estimated 600,000 to 800,000 men, women, and children trafficked across international borders each year, approximately 80 percent are women and girls, and up to 50 percent are minors. Id.
Statistics show that the majority of trafficking victims are forced into sexual slavery, while others are coerced into domestic servitude, sweatshops, and other service industries.\(^{21}\) Human trafficking is the second largest criminal industry in the world, and is the fastest growing.\(^{22}\) To combat this global problem in the United States, The Trafficking Victims Protection Act of 2000 (TVPA) defined and criminalized trafficking of persons for purposes of federal law.\(^{23}\) However, the TVPA contained limitations, for example only providing relief to trafficking victims who could demonstrate that their situation was “severe.”\(^{24}\) To encourage states to draft their own legislation, the Department of Justice drafted a model anti-trafficking statute, and the Senate subsequently passed a resolution encouraging states to adopt the model.\(^{25}\) Based on this model statute, the Illinois General Assembly added the Trafficking of Persons and Involuntary Servitude Articles (Trafficking Articles) to the Illinois Criminal Code on

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\(^{23}\) Cynthia Shepard Torg, Human Trafficking Enforcement in the United States, 14 Tulsa. Int’l & Comp. L. 503, 507 (2006) [hereinafter Torg]. The TVPA defines the crime of “severe forms of sex trafficking as in persons” as:

\(\text{(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or}\\ \text{(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting to involuntary servitude, peonage, debt bondage, or slavery.}\\


\(^{25}\) NCSC Trends Report, supra note 21, at 2. See 22 U.S.C. § 7105(b)(1)(A) (stating that in order to be eligible for benefits and services under the TVPA, a person must be a “victim of severe forms of trafficking in persons”).

Torg, supra note 23, at 512; NCSC Trends Report, supra note 21, at 2. As of May 2005, fifteen states had enacted or were attempting to pass anti-trafficking legislation. The model statute drafted by the Department of Justice is available at http://www.usdoj.gov/crt/crim/model_state_law.pdf.
January 1, 2006. The legislation added the offenses of involuntary servitude, sexual servitude of a minor, and trafficking of persons for forced labor and services. The Articles provided victims with access to federal assistance, restitution, and special visa status upon cooperation with a successful prosecution.

When the governor signed the Trafficking Articles into law, he emphasized that the Articles “put strong penalties in the law to deal severely with perpetrators of human trafficking and involuntary servitude.” However, the law is only as effective as its system of implementation. Clearly, the Illinois criminal justice system has changed some of its practices in responding to domestic violence cases. But despite the explicit purposes in the IDVA to protect victims and bolster the commitment of law enforcement, the system still does not consistently treat domestic violence offenders as criminals twenty years after the law’s enactment. What does this mean, then, for the implementation of the Trafficking Articles, and most importantly, for the victims of

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26 Telephone interview with Phil Milsk, Lobbyist, Heartland Alliance, in Chicago, Ill. (Sept. 20, 2006) [hereinafter Milsk]. See also 720 ILL COMP. STAT. 5/10A (2006) (stating that the Trafficking Articles were effective Jan. 1, 2006).
29 720 ILL. COMP. STAT. 5/10A-15 (2006). Section 5/10A-15 specifically states that restitution is mandatory for offenses prosecuted under the Trafficking Articles, Id.
30 720 ILL. COMP. STAT. 5/10A-20 (2006). To obtain this visa status, a state or federal prosecutor’s office or law enforcement official must first certify that the person is a victim under one of the crimes enumerated in the trafficking articles, and that the person is cooperating with the prosecution of the offender. Id.
33 ICADV GUIDE, supra note 17, at 2. Repeat offenders of domestic violence of often not treated more harshly than first offenders. Even when offenders are found guilty, they rarely receive jail time. Id.
trafficking in Illinois? Unless the criminal justice system learns from its failure to overcome obstacles to effectively implement the IDVA, justice system implementation of the Trafficking Articles will likely suffer the same fate.

To explore this connection, this article will critically analyze the implementation of the IDVA to provide a roadmap for the criminal justice system’s response to the Trafficking Articles. Because understanding the history of domestic violence in Illinois is critical to understanding how to address the problem of human trafficking, Part II will first provide an explanation of the IDVA and related statutes, and will then examine the hesitancy of the criminal justice system to alter its procedures for handling domestic violence cases, and the changes a limited number of jurisdictions have implemented since the passing of the IDVA. Next, the Part III will present the Trafficking Articles’ legislative history and provisions. This section will also discuss the status of implementation of the Trafficking Articles to date. In Part IV, the analysis of these two pieces of legislation will then be used to predict barriers to effective implementation of the Trafficking Articles. Specifically, this section reflects on how the type of law – here statutes aimed at protecting women and children – factors into this lag from enactment to

34 See infra Part IV.A (comparing the similar characteristics in victims of domestic violence and human trafficking).
35 Compare Part II.B (exploring problems in criminal justice system implementation of the IDVA) with Part IV.B (explaining current barriers to justice system implementation of the Trafficking Articles).
36 See infra Parts II.B and IV (evaluating criminal justice system response to the IDVA, and then contrasting it to predictions of justice system implementation of the Trafficking Articles).
37 See infra Parts II.A and II.A (detailing the important statutory provisions of both the IDVA and Trafficking Articles).
38 See infra Part II.B (providing examples of ways in which the criminal justice system, from police officers to prosecutors to the courts, are not effectively implementing the IDVA and related laws).
39 See infra Part III.B (discussing efforts by the criminal justice system to utilize the Trafficking Articles since their enactment earlier this year).
40 See infra Part IV.B (using the analysis of implementation of the IDVA to assert three significant barriers to implementation of the Trafficking Articles).
implementation. Finally, Part V will recommend steps the criminal justice system can take to learn from its continuing struggle to implement the IDVA in practice, and improve the chances for effective implementation of the Trafficking Articles.

II. THE DECADES-LONG LAG FROM ENACTMENT TO IMPLEMENTATION OF THE ILLINOIS DOMESTIC VIOLENCE ACT

Two decades ago, increased public awareness of domestic violence prompted Illinois legislators to enact laws designed to protect the victims and prosecute the perpetrators of these crimes. Since then, the Illinois criminal justice system has been faced with the issue of how to enforce the IDVA and related laws in order to fulfill its stated purposes. In order to provide a framework within which to analyze the Trafficking Articles, this Part first describes the provisions of the IDVA and related statutes relevant to assisting victims of domestic violence. This Part then discusses how the courts must still enforce law enforcement compliance with the purposes of the IDVA two decades after its enactment, and examine current data regarding IDVA implementation by the criminal justice system.

41 See infra Part IV.A (comparing criminal justice system misunderstanding of domestic violence to current issues in recognizing the human rights component of human trafficking).
42 See infra Part V. (suggesting four action steps the criminal justice system can take to effectively implement the Trafficking Articles).
43 Leslie Landis, Executive Director of the Mayor’s Office on Domestic Violence, City of Chicago, Address at Loyola University Chicago School of Law (September 6, 2006); Emily J. Sack, Battered Women and the State: The Struggle for the Future of Domestic Violence Policy, 2004 Wis. L. Rev. 1657, 1666 [hereinafter Sack]. The domestic violence movement worked to change the public’s attitude toward domestic violence by pushing for funding for services, access to civil orders of protection, and increased protection and prosecution under criminal laws. Id.
44 ICADV GUIDE, supra note 17, at 2.
45 See infra Part II.A (discussing the responsibilities of law enforcement and remedies available to victims under the IDVA).
46 See infra Part II.B (discussing Illinois state cases affirming limited liability for law enforcement in domestic violence cases, and then exploring research results from the Cook Country criminal justice system).
A. Illinois’ Domestic Violence Laws: Victim Protections and Good Intentions

As recently as the late 1970s and early 1980s, the criminal justice system treated domestic violence as a private matter. When domestic violence victims – in most cases women – called police to intervene in domestic disputes, they delayed responding or ignored the calls altogether. Police temporarily removed the abuser from the home to “cool off” on occasion, but rarely made an arrest. Regarding prosecution of domestic violence, in 1991 thirty-one states still had some form of an exception in their criminal rape laws for marital rape. The only civil remedies available to victims were injunctions pursuant to a divorce or separation. No criminal penalty existed for violating an injunction. If the case went before a judge, the batterer would usually not get more than a reprimand, and many times the victim would be questioned about what she did to provoke the abuse.

Fortunately, changes in state and federal laws in the past twenty years have provided police, prosecutors and judges with a legal role in enforcing criminal penalties for domestic violence. In Illinois, the IDVA defines law enforcement responsibilities.

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47 Zorza, supra note 15, at 47; Murray A. Straus et al., Behind Closed Doors: Violence in the American Family 232 (1980).
48 Epstein, supra note 18, at 14. In this article, women and victims will be used interchangeably, as the majority of victims of domestic violence are women.
50 See Zorza, supra note 15, at 51 (explaining that at that time only nineteen states had completely abolished the marital rape exception). In some states where marital rape was not a crime, it was at least grounds for divorce. Id.
51 Id. at 52. Additionally, these injunctions were extremely limited. A victim had to be married to her abuser, and the injunction expired automatically shortly after the court case concluded. Id.
52 Peter Finn & Sarah Colson, Civil Protection Orders: Legislation, Current Court Practice and Enforcement 12-13 (1990) [hereinafter Finn & Colson].
53 Zorza, supra note 15, at 53.
54 See Epstein, supra note 18, at 4. (explaining that, by enacting laws to combat domestic violence, state legislatures charged prosecutors, judges and the court system with applying and enforcing the law).
processes for obtaining and enforcement of civil court orders of protection,\(^{56}\) and other remedies available to victims.\(^{57}\) Additionally, recently added domestic battery and other offenses related to domestic violence have increased the charges and penalties the criminal justice system can impose on offenders.\(^{58}\)

1. Proscribed Law Enforcement Responsibilities

Defining the role of law enforcement in addressing domestic violence is crucial because, as the first responders, the police often determine which cases make it into the criminal justice system.\(^{59}\) Police not only are the ones who arrest alleged perpetrators, but also may be the victim’s first contact for information about her rights and available protections under the law.\(^{60}\) For these reasons, the IDVA requires that all police departments “develop, adopt and implement written policies regarding arrest procedures for domestic violence incidents that are consistent” with the Act.\(^{61}\) The IDVA also encourages law enforcement to work with agencies which have expertise in handling domestic violence.\(^{62}\) The IDVA charges the Illinois State Police with maintaining a record of all valid orders of protection within the state, and individual officers investigating allegations of family violence must keep written reports of their investigations.\(^{63}\)

\(^{56}\) 750 ILL. COMP. STAT. 60/217-223 (2006).

\(^{57}\) 750 ILL. COMP. STAT. 60/214 (2006). See RUSSELL, supra note 12, at 14 (explaining that the IDVA was drafted so that petitioners could pick and choose which remedies they wished to seek).


\(^{59}\) FINN & COLSON, supra note 52, at 60.

\(^{60}\) Zorza, supra note 15, at 60. Without police assistance, many victims may not realize what their rights are under the laws. Id.

\(^{61}\) 750 ILL. COMP. STAT. 60/301.1 (2006); RUSSELL, supra note 12, at 73.

\(^{62}\) Id.

\(^{63}\) 750 ILL. COMP. STAT. 60/302 (2006); 750 ILL. COMP. STAT. 60/303 (2006). Additionally, the IDVA provides that:

Each order of protection shall be entered in the Law Enforcement Automated Data System on the same day it is issued by the court. If an emergency order of protection was
Moreover, the IDVA outlines the assistance law enforcement officers must provide suspected victims of domestic abuse, including arresting the abuser, seizing of weapons, accompanying the victim to her residence to remove personal belongings, and offering the victim adequate information of available relief.\(^{64}\) An officer must use all reasonable means to prevent further abuse in a domestic violence situation.\(^{65}\) If an officer does not employ his arrest powers, the IDVA still mandates that an officer make a report of the investigation, inform the victim of her right to request criminal proceedings, and advise the victim of the importance of seeking medical treatment and preserving evidence.\(^{66}\)

2. The Most Important Tool for Victims: Orders of Protection

One of the domestic violence victim’s most powerful remedies under the IDVA is an order of protection.\(^{67}\) The IDVA defines three types of orders which provide protection to victims for different periods of time.\(^{68}\) Emergency orders are issued for a period of time between fourteen and twenty-one days,\(^{69}\) interim orders are valid for up to thirty days,\(^{70}\) and plenary orders are issued for a period of time no longer than two years.\(^{71}\) Each type of order has requirements for notice and jurisdiction, and these requirements specifically include or exclude the addition of other remedies depending on

\(^{64}\) 750 ILL. COMP. STAT. 60/302(a). This Section also provides that “reasonable means” includes providing a victim a referral to a service agency, and providing transportation to a medical facility and nearest available judge to file an emergency order of protection after the close of court business hours. Id.

\(^{65}\) 750 ILL. COMP. STAT. 60/304(a) (2006).

\(^{66}\) Id.; RUSSELL, supra note 12, at 73. Though this section of the IDVA lists examples of mandatory assistance, law enforcement is not limited to this list. Id. at 74.

\(^{67}\) See Simon, supra note 12, at 721 (stating the significance of the various remedies of the IDVA).

\(^{68}\) See infra notes 68-70 and accompanying text (explaining the time limits for the three types of orders).

\(^{69}\) 750 ILL. COMP. STAT. 60/220 (a)(1) (2006).

\(^{70}\) 750 ILL. COMP. STAT. 60/220(a)(2) (2006).

\(^{71}\) 750 ILL. COMP. STAT. 60/220(b) (2006). See RUSSELL, supra note 12, at 52-52 for a detailed explanation of the duration of plenary orders in issued conjunction with either civil or criminal cases.
the type of order. Importantly, a court cannot require a showing of physical abuse for issuance of an order.

Victims can file a petition for an order of protection as an independent proceeding, or in conjunction with a civil or criminal proceeding. The IDVA mandates that court clerks must provide form petitions for use by pro se domestic violence victims. Also, the IDVA provides other procedural guarantees for victims on an order of protection, including facilitation of safe service of process, non-disclosure of address and prohibition of a filing fee. The courts can enforce an order once it is issued, but the respondent must have actual knowledge of the order. Additionally, an Illinois court can enforce a valid order of protection from another state.

3. Additional Remedies Provide Even Greater Protection

As part of an order of protection, the IDVA includes seventeen specific remedies and one general injunctive relief remedy available to victims of domestic violence with the order of protection. Examples of remedies include prohibition against further abuse; exclusive possession of residence; counseling for the respondent; physical care and possession of minor children; temporary custody of minor children; and orders of

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72 See Russell, supra note 12, at 51-54 (explaining the requirements and remedies allowed for each type of order). See also infra notes 78-82 accompanying text (discussing other remedies available to victims under the IDVA).
74 750 Ill. Comp. Stat. 60/202 (2006); Russell, supra note 12, at 54.
75 750 Ill. Comp. Stat. 60/202; Russell, supra note 12, at 55.
77 750 Ill. Comp. Stat. 60/223(d) (2006). The respondent must have actual notice by service, delivery, notice under Section 210, 210.1, or 211, or by other means demonstrating actual knowledge of the order. Id.
78 750 Ill. Comp. Stat. 60/223(b) (2006).
79 See Hollis L. Webster, Enforcement in Domestic Violence Cases, 26 Loy. U. Chi. L.J. 663, 665-67 (1999) [hereinafter Webster] (listing the available remedies). See also Russell, supra note 12, at 14. For a remedy to be available to a victim the court must (1) have jurisdiction and (2) find that there is a familial relationship between the parties, the alleged abuse has occurred or is likely to occur, and that the standards and notice requirements have been met. Id.
payment of support and shelter services. The IDVA allows victims to request the specific remedies they need, as long as the remedies are not in conflict. The IDVA also includes factors the court should consider in determining whether to grant one of these remedies, including the nature and frequency of past abuse. A court cannot deny one of these remedies based on evidence that the victim acted in self-defense or failed to leave the home to avoid further abuse.

To provide additional protections for domestic violence victims, the IDVA provides guidelines for enforcement of orders of protection. The IDVA enumerates the penalties for violations of orders of protection, including imprisonment and a mandatory fine. Courts can charge offenders who violate orders of protection under the Criminal Code, or with either civil or criminal contempt of court.

4. Additional Offenses Create Increased Penalties for Offenders

Finally, the legislature has continued to address domestic violence in Illinois by increasing criminal penalties for offenders. Since the enactment of the IDVA, the legislature has created the offenses of domestic battery, aggravated domestic battery.

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80 750 ILL. COMP. STAT. 60/214 (2006). See generally RUSSELL, supra note 12, at 15-41 (providing detailed definitions of remedies and explanation of requirements).
81 RUSSELL, supra note 12, at 14.
82 750 ILL. COMP. STAT. 60/214(c) (2006). Other relevant factors include the danger that a minor child will be abused or neglected and hardship to the respondent. Id.
83 750 ILL. COMP. STAT. 60/214(e) (2006).
84 750 ILL. COMP. STAT. 60/223 (2006); RUSSELL, supra note 12, at 65.
85 750 ILL. COMP. STAT. 60/223(g) (2006). Penalties can also include payment of restitution, payment of attorney’s fees and costs, or community service. Additionally, the court can take any aggravating or mitigating circumstances into account when deciding the penalty for violation of an order of protection. Id.
86 750 ILL.COMP. STAT. 60/223(a) and (b) (2006); 720 ILL. COMP. STAT. 5/12-30 (2006); Webster, supra note 79, at 669.
87 TRENDS IN DOMESTIC VIOLENCE, supra note 58.

A person commits domestic battery if he intentionally or knowingly without legal justification by any means:
(1) Causes bodily harm to any family or household member as defined in subsection (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, as amended;
unlawful visitation interference,\textsuperscript{90} violation of domestic violence bail bond conditions,\textsuperscript{91} and interfering with the reporting of domestic violence.\textsuperscript{92} These offenses provide prosecutors and the courts with the ability to more severely penalize perpetrators of domestic violence.\textsuperscript{93}

First, the addition of these offenses expands the number of crimes with which the criminal justice system can charge an offender.\textsuperscript{94} Second, while first offenses for most of these crimes are misdemeanors, some second offenses can be charged as felonies.\textsuperscript{95} For example, though first offenses for battery and domestic battery are both charged as Class A misdemeanors,\textsuperscript{96} previous convictions for domestic battery or other domestic offenses (2) Makes physical contact of an insulting or provoking nature with any family or household member as defined in subsection (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, as amended. 720 ILL. COMP. STAT. 5/12-3.2(a).

\textsuperscript{89} 720 ILL. COMP. STAT. 5/12-3.3 (2006). A person who, in committing a domestic battery, intentionally or knowingly causes great bodily harm, or permanent disability or disfigurement commits aggravated domestic battery. 720 ILL. COMP. STAT. 5/12-3.3(a).

\textsuperscript{90} 720 ILL. COMP. STAT. 5/10-5.5(c) (2006). Every person who, in violation of the visitation provisions of a court order relating to child custody, detains or conceals a child with the intent to deprive another person of his or her rights to visitation shall be guilty of unlawful visitation interference. \textit{Id.}

\textsuperscript{91} 720 ILL. COMP. STAT. 5/12-6.3(a) (2006).

\textsuperscript{92} 720 ILL. COMP. STAT. 5/12-6.3(a) (2006).

Whoever, having been admitted to bail for appearance before any court of this State, while charged with a criminal offense in which the victim is a family or household member as defined in Article 112A of the Code of Criminal Procedure of 1963, knowingly violates a condition of that release as set forth in Section 110-10, subsection (d) of the Code of Criminal Procedure of 1963, commits a Class A misdemeanor. 720 Ill. Comp. Stat. 5/32-10(b).

\textsuperscript{93} See infra notes 88-92 and accompanying text (listing the additional crimes the criminal justice system can charge a domestic violence offender).

\textsuperscript{94} See infra notes 96-97 and accompanying text (explaining the jump in penalties for second offenses of domestic battery).

\textsuperscript{95} See infra notes 96-98 and accompanying text (providing an example where a second offense is charged as a felony).

\textsuperscript{96} 720 ILL. COMP. STAT. 5/12-3(b) (2006); 720 ILL. COMP. STAT. 5/12-3.2(b) (2006).
allows for charging subsequent domestic violence arrests as Class 4 felonies.\(^{97}\)

Convictions for aggravated domestic battery and second convictions for domestic battery also include mandatory imprisonment periods in addition to other sentences.\(^{98}\) Lastly, additional consequences to the offender—such as the ability to get an order of protection, economic relief, and removal of firearms—attach to domestic battery and other domestic offenses.\(^{99}\) All of these penalties specifically aim to further punish and deter offenders of domestic violence crimes.\(^{100}\)

**B. Resistance and Reluctance of the Criminal Justice System to Enforce the IDVA**

Despite this comprehensive legislation, implementation of domestic violence laws in Illinois can and should be more effective.\(^{101}\) Although on the books the penalties for domestic violence offenses are severe, cases are often pled down to lesser charges, dismissed, or result in acquittals.\(^{102}\) Worse still, orders of protection, perhaps the most important protection created by the IDVA, are not always enforced when they are

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\(^{97}\) Compare 720 ILL. COMP. STAT. 5/12-3(b) with 720 ILL. COMP. STAT. 5/12-3.2(b).

Domestic battery is a Class 4 felony if the defendant has any prior conviction under [the] Code for first degree murder, attempt to commit first degree murder, aggravated domestic battery, heinous battery, aggravated battery with a firearm, aggravated battery of a child, aggravated battery of a senior citizen, stalking, aggravated stalking, criminal sexual assault, aggravated criminal sexual assault, kidnapping, aggravated kidnapping, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, unlawful restraint, aggravated arson, or aggravated discharge of a firearm, or any prior conviction under the law of another jurisdiction for any offense that is substantially similar to the offenses listed in this Section, when any of these offenses have been committed against a family or household member as defined in Section 112A-3 of the Code of Criminal Procedure of 1963.

720 ILL. COMP. STAT. 5/12-3.2(b).

\(^{98}\) 720 ILL. COMP. STAT. 5/12-3.3 (b); 720 ILL. COMP. STAT. 5/12-3.2(b). However, court supervision is not allowed as a sentence for domestic battery, which precludes offenders who are charged with domestic battery instead of simple battery from getting needed supervision from the system. This practice is counterproductive to the intent of the domestic battery legislation.

\(^{99}\) ICADV GUIDE, supra note 17, at 16.

\(^{100}\) TRENDS IN DOMESTIC VIOLENCE, supra note 58.

\(^{101}\) ICADV Guide, supra note 17, at 2.

\(^{102}\) See id. (explaining that the criminal justice system does not provide perpetrators of domestic violence in Illinois with meaningful consequences for their offenses).
violated. Though the IDVA was enacted more than twenty years ago, the Illinois justice system continues to struggle with how to effectively handle domestic violence cases at all points in the system, from arrest to prosecution to the supervision of a probation sentence.

1. Law Enforcement Challenges to the IDVA

Because police officers are usually the first responders to reports of domestic violence, implementation of the IDVA can only be as effective as their compliance with the law. In Chicago in 2003, approximately twenty-five percent of domestic battery reports resulted in arrest. But in the same year, only half of the reports for violations of orders of protection in Chicago resulted in an arrest. Moreover, the percentage of reports for violations of orders of protection that resulted in arrests for all of Cook County remained at less than fifty percent between 2001 and 2003. Though the IDVA does not mandate arrest for all domestic violence crimes, a police officer’s decision not to arrest for a domestic violence incident can result in great harm to the victim.

103 Id. Without valid enforcement, an order of protection may actually increase a victim’s danger by allowing the victim to think she is safe, when she really may not be. Webster, supra note 79, at 668-69.
104 See, e.g., JODY RAPHAEL, DEPAUL COLLEGE OF LAW SCHILLER DU CANTO & FLECK FAMILY LAW CENTER, HARD FACTS: AN ANALYSIS OF INTIMATE PARTNER VIOLENCE AND SEXUAL ASSAULT DATA FROM THE COOK COUNTY LEGAL SYSTEM (2005) [hereinafter RAPHAEL] (reporting results of a survey of the Cook County criminal justice system).
105 See Webster, supra note 79, at 673 (noting that any law enforcement protocol is only as effective as officer education and training).
106 RAPHAEL, supra note 104, at 3. However, Raphael notes data limitations due to reporting inconsistencies in Chicago Police Department records. Id. at 10.
107 Id. at 19.
108 Id. at 19. According to Table 9: “Total Incident Reports and Arrests for Violations of Orders of Protection in Cook County,” the percentage of incident reports to arrests was 42% in 2001, 40% in 2002, and 41% in 2003. Id.
109 Id. at 18.
110 See Wanless, supra note 49, at 533 (discussing mandatory arrest laws as a means to protect victims of domestic violence).
Like with any other crime, the IDVA protects police officers who act in good faith when responding to domestic violence incidents. However, the IDVA plainly states that officers can be held civilly liable in domestic violence cases if their act or omission to act is “a result of willful or wanton misconduct.” Yet although the IDVA clearly establishes this limited liability for police officers responding to domestic violence cases, Illinois state courts have had to repeatedly reinforce this provision with law enforcement during the past twenty years.

\[ a. \text{Round One: Affirming the IDVA’s Limited Liability for Law Enforcement in Domestic Violence Cases} \]

In the seminal case on this issue, \textit{Calloway v. Kinkelaar}, the victim’s husband was physically and mentally abusive to her and her children. The victim was granted a plenary order of protection, which prohibited harassment of her or her children, entering her place of employment, phoning her workplace, or remaining at her parents’ home. However, the respondent violated the order by calling her numerous times at work and threatening to kill himself in front of their five-year-old daughter, and later threatening to kill the victim’s father. The victim then reported the calls to the sheriff’s department as a violation of the order, explaining to the dispatcher that her husband was with her child.

\[ 111 \text{ 750 ILL. COMP. STAT. 60/305 (2006); RUSSELL, supra note 12, at 73.} \]
\[ 112 \text{ 750 ILL. COMP. STAT. 60/305.} \]
\[ \text{Any act of omission or commission by any law enforcement officer acting in good faith in rendering emergency assistance or otherwise enforcing this Act shall not impose civil liability upon the law enforcement officer or his or her supervisor or employer, unless the act is a result of willful or wanton misconduct [emphasis added by authors].} \]
\[ \text{Id.} \]
\[ 114 \text{Calloway, 659 N.E.2d at 1324.} \]
\[ 115 \text{Id.} \]
\[ 116 \text{Id.; Licia A. Esposito, Liability of Municipality or Other Governmental Unit for Failure to Provide Police Protection from Crime, 90 A.L.R. 5th 273, *9a (2001) [hereinafter Esposito].} \]
and that he possessed a gun. In addition, she provided the dispatcher with her husband’s address.

Though the sheriff went to the address the victim provided, he drove off without going inside or investigating further. The victim then received additional threatening calls from her husband, stating that he had seen the sheriff’s car at the house. Again, the victim reported the calls to the police, emphasizing that the threats were violations of her order of protection. Though the police dispatcher was already aware of the order and even had a copy, the only other response the victim received from the sheriff’s department was a directive to contact her attorney. Ten minutes later, the victim’s husband went to her work, and took her away in his car by gunpoint. When police stopped the vehicle, the victim jumped out, and her husband shot himself.

Subsequently, the victim brought a claim against the sheriff’s department, alleging that the police willfully and wantonly breached their duties to protect her and enforce her order of protection under the IDVA. The Illinois Supreme Court found that she adequately stated a cause of action because the IDVA created “a specially protected class of individuals to whom statutorily mandated duties are owed.” The court especially noted that because the IDVA requires officers to take specific steps to

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117 Calloway, 659 N.E.2d at 1324.
118 Id.
119 Esposito, supra note 116, at *9a.
120 Id.; Calloway, 659 N.E.2d at 1324.
121 Calloway, 659 N.E.2d at 1324.
122 Id.
123 Id. at 1324-25; Esposito, supra note 116, at *9a.
124 Calloway, 659 N.E.2d. at 1325.
125 Id. at 1324.
126 Id. at 1331, 1327.
assist victims of abuse, the IDVA imposed a duty on the officers to take all reasonable action to assist the victim in this case. Further, the court stressed the express purposes of the IDVA, namely to protect and provide assistance to victims of domestic abuse, justified the grant of only partial immunity to law enforcement in domestic violence cases.

Though the majority opinion in Calloway strengthened the legislative purposes of the IDVA’s law enforcement responsibility provisions, a quote from one of the dissenting opinions, which the chief justice joined, illuminated lingering judicial reluctance to acknowledge the need for the protections of the IDVA:

In Cook County alone, there were 21,679 orders of protection entered in 1994. … Extraordinary resources will have to be expended if police officers are now required, under the threat of tort liability, to arrest each person who is allegedly in violation of an order of protection or to provide or arrange transportation for the protected individual to a place of safety.

Because of the large number of domestic incidents reported to police, the dissent viewed the application of the IDVA’s limited liability provision as a departure from both “common sense and legislative intent,” maintaining that – despite the IDVA’s stated purposes – that the officers inaction in this case did not rise to the level of willful and wanton conduct. Written almost ten years after the enactment of the IDVA, these statements not only revealed a continued reluctance by the justice system to correct the failures that the IDVA had hoped to remedy, but provided justification for criminal

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127 Id. at 1327. The court quoted from 750 ILL. COMP. STAT. 60/304, which reads “the officer shall immediately use all reasonable means to prevent further abuse, neglect or exploitation …” Id.
128 Id. at 1339; Esposito, supra note 116, at *9a.
129 Calloway, 659 N.E.2d at 1327.
130 Id. at 1338 (Heiple, J., dissenting) (holding that the facts of the case did not indicate that the officer’s response rose to the level willful and wanton conduct).
131 Id. (Heiple, J., dissenting) (stating that the victim’s complaint pled only “mere negligence”). The dissent believed that the officer’s drive past the house and phone call advising she call her attorney was sufficient action to avoid liability under the IDVA. Id.
justice system professionals to avoid taking domestic violence laws in Illinois seriously.\textsuperscript{132}

\textit{b. Round Two: Affirming Limited Liability, Again}

After establishing in \textit{Calloway} that Section 305 of the IDVA created a special duty for law enforcement officers,\textsuperscript{133} less than five years later the Illinois courts reinforced that the limited immunity provision of the IDVA, and not general governmental tort immunity, applied to police officer’s actions in response to domestic violence cases.\textsuperscript{134} In \textit{Sneed v. Howell}, the police took no action when the victim’s ex-husband repeatedly violated her plenary order of protection.\textsuperscript{135} The ex-husband slashed her tires and stalked her at work, all actions prohibited by the order.\textsuperscript{136} Not only did the victim report these violations to the police, but in addition a witness identified him in a line-up as the person who slashed the tires.\textsuperscript{137} Three days later, during which time the police failed to respond to the violations, the ex-husband forced the victim into his car at gunpoint, and shot her in the chest; she bled to death while he continued to drive.\textsuperscript{138}

In deciding this case, the Fifth District of the Appellate Court of Illinois – like the Illinois Supreme Court in \textit{Calloway} – noted that the IDVA specifically outlines the responsibilities of law enforcement in protecting persons who have an order of protection, and that officers are protected from liability only for good faith efforts in enforcing the

\begin{itemize}
  \item \textsuperscript{132} \textit{See supra} notes 130-31 and accompanying text (examining the dissent’s reluctance to view the police’s officer’s response in \textit{Calloway} as willful and wanton).
  \item \textsuperscript{133} \textit{Calloway}, 659 N.E.2d at 1327.
  \item \textsuperscript{134} \textit{See} \textit{Sneed v. Howell}, 716 N.E.2d 336 (1999) (alleging that the Jefferson City Police Department’s omissions should not be analyzed as willful and wanton conduct under the IDVA).
  \item \textsuperscript{135} \textit{Sneed}, 716 N.E.2d at 338.
  \item \textsuperscript{136} \textit{Id}.
  \item \textsuperscript{137} \textit{Id}.
  \item \textsuperscript{138} \textit{Id} at 339.
\end{itemize}
IDVA. But despite these purposes and the precedent in Calloway – in addition to the facts that the victim had obtained an order of protection, made numerous reports, and even had an eyewitness corroborate her ex-husband’s stalking behavior – the officers contended that their conduct did not constitute willful and wanton negligence under the IDVA. Noticeably, the court still needed to lay out these reasons to hold that the officer’s inactions were willful and wanton, and thus triggered liability of the IDVA.

c. Round Three: Twenty Years Later, Limited Liability Still Applies

Despite these unambiguous holdings, the Illinois Supreme Court again was called to reaffirm in April of this year that police officers have only limited immunity, and not governmental absolute immunity, in domestic violence cases. Like in both Calloway and Sneed, the victim in Moore v. Green had an order of protection against her abuser, in this case her husband. Also similar to the victims in these previous cases, the victim reported violations of her order to the police. In Moore, after Chicago police were informed that the victim’s husband had entered her home with a gun, officers drove to the house, waited briefly, and then drove off without investigating or assisting the victim. Five minutes later, she was shot and killed by her husband. When the case reached the Illinois Supreme Court on the question of the police officers’ liability in the victim’s death, the defendant officers and the Illinois Municipal League argued that the

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139 Id. at 343. See 750 ILL. COMP. STAT. 60/301(a) and 60/305 (defining law enforcement responsibilities and liability in domestic violence cases).
140 See id. at 344 (stating the issue in the case as whether the officer’s failure to act was simple or willful and wanton negligence).
141 See id. (reasoning that consideration of the victim’s actions, the requirements of the IDVA, and the holding in Calloway allowed a finding that the complaint sufficiently pled a cause of action for willful and wanton conduct).
143 Id.
144 Id.
145 Id.
146 Id.
combination of sympathetic domestic violence cases and the overly broad duties imposed by the IDVA would lead to increased litigation and disastrous damage awards.\textsuperscript{147} Despite the fact that the officer’s failure to act was in direct opposition to their duties under the IDVA, the officers still sought immunity for their actions.\textsuperscript{148}

In affirming once again that Section 305 of the IDVA controlled for evaluating the police officers’ liability,\textsuperscript{149} the court explained that the underlying purposes of the IDVA, specifically enumerated in the legislation, still necessitated application of limited liability to the officers’ omissions.\textsuperscript{150} The court emphasized that this “unmistakable legislative intent” reflected the legislature’s desire to reform the criminal justice system’s historically inadequate response to domestic violence,\textsuperscript{151} and held that the officers in \textit{Moore} acted in contravention to their responsibilities enumerated in the Act.\textsuperscript{152} Further, the court noted that the officers’ claims of complete immunity were in direct conflict with the intent of the IDVA to expand the civil remedies for victims of domestic violence.\textsuperscript{153} Instead of bolstering their claim for complete immunity, the police officers’ arguments in \textit{Moore} plainly illustrated the reasons for the continued need of the IDVA’s limited liability provision for law enforcement twenty years after the law’s enactment.\textsuperscript{154}

\textsuperscript{147} \textit{Id.} at 1027.
\textsuperscript{148} \textit{Id.}
\textsuperscript{149} \textit{Id.}
\textsuperscript{150} \textit{Id.} at 1021. The court noted that 750 ILL. COMP. STAT. 60/102 states that the IDVA “should be liberally construed and applied to promote its underlying purposes.” \textit{Id.}
\textsuperscript{151} \textit{Id.} at 1026.
\textsuperscript{152} \textit{See id.} at 1022 (stating that the IDVA provides that law enforcement can arrest persons who violate orders of protection, and shall take all reasonable steps to prevent further abuse by that person).
\textsuperscript{153} \textit{Id.} at 1027.
\textsuperscript{154} \textit{See supra} notes 143-48, 153 and accompanying text (discussing the officer’s lack of investigation of the victim’s reports of abuse, and the officer’s claim that they should have immunity for this inaction).
2. Problems with Prosecutions Under the IDVA

Certainly, enforcement of the IDVA is not the responsibility of the police alone.\textsuperscript{155} Once an officer makes an arrest, the criminal justice system is still accountable for the prosecution of the perpetrator.\textsuperscript{156} Delays between arrest and case disposition also contribute to ineffective enforcement of the IDVA and related laws that aim to protect victims of domestic violence.\textsuperscript{157} As another purpose of the IDVA is to prohibit abusers from evading prosecution, prosecutors and judges also play an important role in effective implementation.\textsuperscript{158}

A recent report on intimate partner violence in Cook County analyzed data from 2001-2003 from the Chicago Police Department, the Cook County Circuit Court, and the Illinois Uniform Crime Reporting Program.\textsuperscript{159} Though researchers noted data limitations, key findings from this report included: low numbers of plenary orders of protection were issued in general, and declining numbers of orders of protections were issued in Cook County criminal courts; few violations of orders of protection were prosecuted as felonies, and large percentages of these violations were dismissed without a finding of guilt or innocence; and, though the number of prosecutions for domestic battery increased, the number of these cases dismissed before trial also increased.\textsuperscript{160} Even with the above-

\textsuperscript{155} Zorza, supra note 15, at 60.
\textsuperscript{156} See Matthew Litsky, Note, Explaining the Legal System’s Inadequate Response to the Abuse of Women: A Lack of Coordination, 8 N.Y.L. SCH. J. HUM. RTS. 149, 166-173 [hereinafter Litsky] (explaining the importance of the prosecutorial and judicial role in domestic violence cases).
\textsuperscript{157} ICADV GUIDE, supra note 17, at 2.
\textsuperscript{158} See 750 ILL. COMP. STAT. 60/102(3) (recognizing that the system has historically allowed abusers to escape effective prosecution and financial liability).
\textsuperscript{159} RAPHAEL, supra note 104, at 8.
\textsuperscript{160} Id., at 3-4. Raphael notes three “consistent data limitations” throughout the report: (1) a different definition of “domestic, “broadening the number of family and household members, is used by police and courts; (2) arrest data do not completely reflect the true number of domestic offenders because, inter alia, the Chicago Police Department reports only the highest ranking charge when making an arrest; and (3) data from suburban Cook County police departments may be incomplete because, although they were required
mentioned statistical restrictions, these findings illustrate the continued need for effective prosecutorial and courtroom implementation of the IDVA twenty years after its enactment, and are examined in detail in this Part.\textsuperscript{161}

\textit{a. Orders of Protections: Protecting Victims?}

For a victim, issuance of an order of protection from either civil or criminal court can be the most important remedy in a domestic violence case.\textsuperscript{162} The order of protection provides not only safety, but many additional remedies for the victim and her children.\textsuperscript{163} Though civil courts in Cook County issued an increased number of orders,\textsuperscript{164} the number of orders issued in criminal courts declined steadily in the same period.\textsuperscript{165} However, the number of criminal domestic battery cases filed during the corresponding time did not likewise decrease.\textsuperscript{166} Based on this data, it appears that prosecutors in criminal court may not be pursuing orders of protection for victims in their domestic violence cases.\textsuperscript{167}

\textsuperscript{161} \textit{See infra} Part II.B.2.a-b (discussing the findings of the study of the Cook County criminal justice system response to the IDVA).

\textsuperscript{162} Simon, \textit{supra} note 12, at 721. In Illinois, unlike many other jurisdictions, a victim can obtain an order of protection in either civil or criminal court. \textit{Russell, supra} note 12, at 54.

\textsuperscript{163} \textit{See supra} Part II.A.2-3 (discussing orders of protection and remedies attached).

\textsuperscript{164} \textit{Raphael, supra} note 104, at 11. Table 2: Domestic Violence Orders of Protection Cook County 1995-2004 depicts an increase in the number of orders of protections issued from civil courts since 1995. A large increase, from 17,526 to 22,225, occurred between 2002 and 2003, and increased even further in 2004 to 24,479. \textit{Id.} at 13.

\textsuperscript{165} \textit{Id.} at 12. The report notes that the corresponding increase in civil courts and decrease in criminal courts could indicate that domestic violence cases which the perpetrator should be prosecuted in criminal court are being directed to the civil side instead. \textit{Id.}

\textsuperscript{166} \textit{See id.} at 14 (showing the decline in criminal orders, but increase in orders overall in Figure 2: Orders of Protection Cook County 1995-2004)

\textsuperscript{167} \textit{Id.} at 17. The report observes that it is possible that some of the victims in these cases received an order through civil court. However, even if this is true, many victims involved in criminal court cases may be without an order of protection, and thus also without the safety and remedies that accompany the order. Raphael recommends an investigation, including interviews of state’s attorneys and judges, to determine reasons for this lack of protection for victims in criminal cases. \textit{Id.} at 12, 17.
In addition to providing victims with access to orders of protection, prosecution of violations of orders of protection is crucial to protecting victims under the IDVA.\textsuperscript{168} Specifically, a conviction for a violation of an order of protection raises the potential penalty of a subsequent conviction for domestic battery from a Class A misdemeanor to a Class 4 felony.\textsuperscript{169} For the past three years, the number of misdemeanor and felony cases filed in Cook County for violations of orders of protections remained stable.\textsuperscript{170} Yet more than half of the total of these cases were dismissed before prosecution was completed.\textsuperscript{171} Moreover, only a low number of emergency orders become plenary orders.\textsuperscript{172} Many of these emergency orders will thus expire and cannot be enforced by prosecution for their violation.\textsuperscript{173}

\textit{b. Pleading Down Domestic Battery Cases}

Like charging violations of orders of protection, instituting consistent policies for prosecuting domestic offenses can also protect victims from harm.\textsuperscript{174} The addition of the offenses of domestic battery and aggravated domestic battery to the Illinois Criminal Code has allowed prosecutors and courts to charge perpetrators with increased penalties for domestic abuse.\textsuperscript{175} In particular, domestic battery can be charged as a felony if a perpetrator has already been convicted of another domestic violence crime.\textsuperscript{176} However,

\begin{footnotesize}
\begin{itemize}
  \item \textsuperscript{168} \textit{Id.} at 11.
  \item \textsuperscript{169} 720 ILL. COMP. STAT. 5/12-3.2 (b); RAFAEL, \textit{supra} note 104, at 11.
  \item \textsuperscript{170} RAFAEL, \textit{supra} note 104, at 19. See Table 10: Misdemeanor and Felony Violations of Order of Protection Cases Filed in Cook County for exact figures for 2001-2003. \textit{Id.} at 20.
  \item \textsuperscript{171} \textit{See id.} at 20. According to the calculations in Table 10, 52\% of cases filed in 2001 were dismissed, 55\% in 2002, and 54\% in 2003. \textit{Id.}
  \item \textsuperscript{172} ICADVA \textit{GUIDE}, supra note 17, at 3. The Executive Summary states that issuance of plenary orders, which provide protection for up to two years, have steadily declined. \textit{Id.}
  \item \textsuperscript{173} \textit{Id.} at 18.
  \item \textsuperscript{174} Webster, \textit{supra} note 79, at 668-69.
  \item \textsuperscript{175} \textit{See supra} Part II.A.4 (discussing that new offenses related to domestic violence have increased the penalties for these crimes).
  \item \textsuperscript{176} \textit{See supra} Part II.A.4 (explaining that subsequent offenses for domestic crimes can be charged as Class 4 felonies instead of Class A misdemeanors).
\end{itemize}
\end{footnotesize}
prosecutors may agree to reduce domestic battery charges to battery in exchange for a guilty plea or other agreement. But if a perpetrator again commits a domestic battery after receiving this reduction, the prosecutor can only charge him with a misdemeanor. Moreover, when cases are pled down to simple batteries, the perpetrator can evade these future enhanced penalties and other essential consequences – like providing economic relief to the victim, confiscation of firearms, and retaining domestic battery convictions as part of a permanent criminal record – expressly included by the legislature in the domestic battery statutes. This practice reduces the deterrent effect intended by the law.

Notably, domestic battery cases filed in Cook Country increased from 2000 to 2003, yet at the same time the number of felony cases filed in the corresponding period remained particularly low in comparison. In 2003, for example, prosecutors filed 18,984 misdemeanor domestic battery charges, while only 92 felony domestic battery charges were filed. Additionally, the percentage of domestic battery cases dismissed prior to a finding of guilt or innocence increased: between 2000 and 2003, the percentage

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177 ICADV GUIDE, supra note 17, at 16. The Guide explains that “the rationale for the reduction is that it provides the State with some leverage in order to get a guilty finding since perpetrators are more likely to plead guilty to a battery than a domestic battery.” Additionally, prosecutors may recommend and judges may agree to this reduction in order to obtain court supervision over a defendant instead of a conviction as required under the law. But a defendant who is found guilty of simple battery cannot be charged with a felony domestic violence crime for a second offense because supervision is not a conviction for purposes of the statute. Id.

178 See 720 ILL. COMP. STAT. 5/12-3.2(b) (stating that a first conviction for domestic battery can be charged as misdemeanor only).

179 ICADV GUIDE, supra note 17, at 16.

180 See id. (explaining how continuing these practices lessens offender accountability).

181 RAPHAEL, supra note 104, at 25. The report notes that there was a large increase (9,583 to 18,275) between 2000 and 2001. Though the data did not provide an explanation for this marked increase, domestic violence advocates believe that some cases formerly charged as sexual assault, which was eliminated from the Code in 2000, are now being charged as domestic batteries. Id.

182 Id. See Table 17: Domestic Battery Charges in Cook County 2000-2003 for statistics for years 2000-2002. Id.
of dismissed misdemeanor domestic battery cases increased from 71% to 75%. Based on these statistics, perpetrators who have a history of domestic abuse may often be treated as first-time offenders by the courts. Thus, offering simple battery pleas and dismissing cases before adjudication circumvents the law, and is an ineffective implementation of the IDVA and the domestic battery statutes.

III. ILLINOIS RESPONDS TO HUMAN TRAFFICKING

Similar to law enforcement’s challenges in addressing domestic violence in the 1908s, law enforcement faces many challenges to understanding human trafficking as a criminal offense. Instead of viewing trafficked persons as victims, the criminal justice system focused on their status as illegal immigrants or offenders, unwilling to view the trafficking problem as a human rights and gender violence issue. To understand the current treatment of trafficking victims, this Part first explains the legislative history and provisions of the recently enacted Trafficking Articles, and will then explore how the justice system has utilized the Trafficking Articles since their enactment last year.

A. The Recent Development of Illinois’ Human Trafficking Legislation

Previously, victims of human trafficking were identified solely as illegal immigrants, and were deported and left without needed protection from the traffickers in

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183 Id. These percentages include both misdemeanor and felony cases. Id.
184 ICADV GUIDE, supra note 17, at 17.
185 Id. When perpetrators are treated as first time offenders by the criminal justice system, the deterrent effect of the IDVA is lost. Id.
187 Neville & Martinez, supra note 186, at 555. The consequences of this treatment of trafficking victims as illegal immigrants had grave consequences for victims: when deported back to their home countries, they were then at risk for retaliation from the traffickers or condemned by their families. Id.
188 See infra Part III.B. (discussing steps taken thus far toward implementation of the Trafficking Articles).
their home country. In some cases, the trafficking victims themselves were jailed because they had been coerced into committing criminal acts such as prostitution. Moreover, trafficking victims were not eligible to receive victim services, legal assistance or government benefits, largely in part because of their “offender” status. Not only were there no protections for victims, but criminal penalties for traffickers were minimal. Until a few years ago, no specific laws criminalizing modern human trafficking existed in the United States.

1. Distinguishing Human Trafficking in the United States

The Trafficking Victims Protection Act (TPVA), enacted in 2000, for the first time defined and criminalized human trafficking as a federal offense. The TVPA defines “severe forms of trafficking in persons” as (1) “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age”; or (2) “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” Traffickers typically deceive their victims, and seek an ongoing, profitable relationship.

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189 Neville & Martinez, supra note 186, at 555. Deportation also barred victims from receiving damages or participating in the prosecution of their traffickers. Id.
190 Richard, supra note 3, at 39.
191 Neville & Martinez, supra note 186, at 556.
192 See id. at 556 (explaining that traffickers faced a low risk of prosecution, and even when convicted, sentences were low).
To distinguish human trafficking from the related offense of immigrant smuggling (where the smuggler arranges for the illegal entry of a non-citizen into the United States), the regulations that accompany the TVPA clarify that trafficking must also involve a “particular means” and a “particular end.” Unlike smuggling, a trafficker’s goal is to not only transport people across a border, but to force them into work once they arrive. Additionally, trafficking does not require the crossing of international borders, while smuggling does. Victims of trafficking schemes are either “international,” foreign citizens who are trafficked from other countries (and who also may cross state lines or be moved within a state), or “domestic,” U.S. citizens who are trafficked within states and across state lines.

2. The Need to Define Human Trafficking in Illinois

Human trafficking has had increasingly local implications in Illinois in recent years. In addition to uncovering the sex trafficking of the Latvian women, last year federal prosecutors shut down health spas in Rockford that were alleged to be operating as brothels staffed by female Korean trafficking victims. In another example, an

197 See New Classification for Victims of Severe Forms of Trafficking in Person, Eligibility for “T” Nonimmigrant Status, 67 Fed. Reg. 4786-87 (Jan. 31, 2002) (providing examples of “particular means” as force, fraud or coercion, and sex trafficking, involuntary servitude, peonage, debt bondage, and slavery as illustrations of a “particular end”).
198 See RICHARD, supra note 3, at 5 (explaining that traffickers promise women jobs as in the food service industry or factories, as domestic servants, or exotic dancers).
199 Neville & Martinez, supra note 186, at 559. However, once a smuggling victim arrives in the United States, she may also become a trafficking victim if, for example, the smuggler uses threats or physical restraint to coerce her into involuntary servitude or forced labor. Id.
200 See U.S. TRAFFICKING REPORT, supra note 20, at 6 (discussing transnational victims of human trafficking).
201 Torg, supra note 23, at 515-16. Like international victims, American women also become involved in situations where they are forced into labor or sexual slavery against their will. Kari Lyderson, Women and Children First: The Economics of Sex Trafficking, April 15, 2002 [hereinafter Lyderson], www.lipmagazine.org.
203 See supra notes 1-4 and accompanying text (discussing case involving sex trafficking of the Latvian women); Gov. Blagojevich Press Release, supra note 27.
immigrant rights group recently assisted a ten-year-old African girl who was brought to Chicago and forced into domestic servitude. She was physically and sexually abused, and barred from attending school or even from leaving the house. However, until last year, trafficking victims in Illinois had few places to turn for help.

At last, in 2005 Illinois addressed the need for state laws criminalizing human trafficking and acknowledged the victims, as well as the true offenders, of these crimes. Specifically, the legislature recognized that human trafficking was not just a “third world” problem, but one that was directly affecting communities in Illinois. Moreover, the legislature also hoped to correct deficiencies in the law at that time.

Though other sections of the Criminal Code, such as kidnapping, captured aspects of trafficking offenses, no offense captured all of the elements of human trafficking. In addition to the crime of trafficking, the Trafficking Articles criminalized and defined involuntary servitude as “subject[ing], attempt[ing] to subject, or engag[ing] in a conspiracy to subject another person to forced labor or services,” and added to the

205 Id.
206 Greg Diephouse, Illinois Department of Human Services, Testimony at The Realities of Human Trafficking in Cook County: Strategies for Ending the Exploitation of Women and Girls (October 19, 2006) [hereinafter Diephouse]. Beginning with the enactment of the Trafficking Articles and the initiation of the Illinois Rescue & Restore Campaign, Illinois for the first time addressed the issue of human trafficking. Id.
208 See id. (quoting Rep. Chavez that something needed to be done in Illinois to assist victims of trafficking).
209 Milsk, supra note 26.
210 Id.
211 720 ILL. COMP. STAT. 5/10A-10(a) (2006). A person commits involuntary servitude:
(1) by causing or threatening to cause physical harm to any person;
(2) by physically restraining or threatening to physically restrain another person;
(3) by abusing or threatening to abuse the law or legal process;
Code a separate offense for involuntary servitude of a minor.212 Most importantly, passage of the Trafficking Articles gave local prosecutors the authority to charge offenders with trafficking offenses.213 Finally, the Trafficking Articles allow for the prosecution of trafficking cases that fall outside of the limited federal definition.214

By criminalizing the offenses of involuntary servitude, involuntary servitude of a minor, and trafficking of persons for forced labor or services, the legislature empowered judges hearing these cases to increase offender accountability by providing higher penalties than were possible in the past.215 The Trafficking Articles also allow judges to consider if the victim was injured, for how long the victim was held in servitude, and the number of victims when sentencing offenders.216 Moreover, persons who commit either involuntary servitude, involuntary servitude of minors, or trafficking of persons are required to forfeit to the state any interest or property “acquired or maintained” as a result

(4) by knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of another person;

720 ILL. COMP. STAT. 5/10A-10(a)(1-5).

212 720 ILCS 5/10A-10(b) (2006). A person commits involuntary servitude of a minor if he:
knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, provide or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually explicit performance, or the production of pornography, or causes or attempts to cause a minor to engage in commercial sexual activity, a sexually explicit performance, or the production of pornography.

Id.

213 Milsk, supra note 26. See also Gov. Blagojevich Press Release, supra note 27 (quoting Rep. Chavez, sponsor of the House bill, that the bill will give prosecutors the tools to handle human trafficking cases on the local level).

214 See Torg, supra note 23, at 513; NCSC TRENDS REPORT, supra note 21, at 2 (both explaining that the federal definition of “severe” forms of trafficking limits the kinds of cases that can be brought under the TVPA).

215 See Gov. Blagojevich Press Release, supra note 27 (explaining that the Articles would “put strong penalties into the law”).

216 720 ILL. COMP. STAT. 5/10A-10(2)(A-B) (2006). There are increased penalties for cases in which the victim was held for between 180 days and one year, and increased penalties for cases in which the victim was held for more than one year. 720 ILL. COMP. STAT. 5/10A-10(2)(A). Additionally, the sentencing court may consider “substantially-increased sentences” in cases with more than 10 victims. 720 ILL. COMP. STAT. 5/10A-10(2)(B).
of committing one of these offenses. Upon conviction of one of these offenses, the court may order one-half of all forfeited monies and proceeds from other property to be deposited into the Violent Crimes Victims Assistance Fund for services for victims of these offenses, while the other half of these monies is distributed to law enforcement agencies responsible for the investigation of these crimes.

The Trafficking Articles not only provide the criminal justice system with the means to prosecute and punish offenders, but also provide victims with access to services and other remedies. The Articles give the Illinois Department of Human Services (IDHS) the responsibility to provide victims with emergency services. Most importantly for victims, if a law enforcement official certifies that a victim cooperates with the investigation or prosecution under the Trafficking Articles (and the victim qualifies under federal law), the victim is eligible for a special immigrant visa and other federal benefits. Lastly, the Trafficking Articles mandate restitution for victims of trafficking, involuntary servitude, and involuntary servitude of a minor.

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218 720 ILL. COMP. STAT. 5/10A-15(d-e) (2006). The other half of funds received from sale or forfeiture are divided equally among any state and federal agencies who conducted the investigation that led to the proceedings. 720 ILL. COMP. STAT. 5/10A-15(e)(1).
219 See Gov. Blagojevich Press Release, supra note 27 (quoting Sen. Cullerton that the “real benefit of signing this bill into law is that victims will have access to federal assistance after successful state prosecution”).
220 720 ILL. COMP. STAT. 5/10A-10(f) (2006). However, this provision does not provide IDHS with a funding source to carry out this provision. Diephouse, supra note 206.
222 720 ILL. COMP. STAT. 5/10A-10(e) (2006). This provision allows victims to recover:

The greater of (1) the gross income or value to the defendant of the victim’s labor or services or (2) the value of the victim’s labor as guaranteed under the Minimum Wage law and overtime provisions of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is greater.

Id.
B. Evolving Efforts to Implement the Trafficking Articles

As the criminal justice system continues to work toward full and fair implementation of the IDVA, the system similarly must now work to put the Trafficking Articles into practice. Both public and private actors in the system have labored to apply the Trafficking Articles to instances of trafficking and involuntary servitude in Illinois since the Articles became effective on the first of this year. This Part first discusses the applicability of the Trafficking Articles to cases currently confronting the Illinois criminal justice system, and then examines current coalition efforts to encourage state-wide implementation.

1. Lack of Application of the Trafficking Articles To Date

Though trafficking legislation is a fairly new global trend, governmental policies consistently include the “three Ps” of anti-trafficking strategy: (1) prosecution of traffickers through enhanced penalties and investigative priorities; (2) protection of victims; and (3) prevention of future trafficking. Federal anti-trafficking policy in the United States has integrated these objectives to form a multidisciplinary and victim-

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223 See RAPHAEL, supra note 104, at 7 (noting that, for example, the Chicago metropolitan area has developed policies to address domestic violence cases); see infra Part III.B.1 (discussing utilization of the Trafficking Articles to date).
225 See infra Part III.B.1. (discussing criminal justice system application of the Trafficking Articles to trafficking in Illinois).
226 See infra Part III.B.2. (providing an summary of the state and local trafficking task forces and coalitions).
227 Torg, supra note 23, at 503. Additionally, the Department of State also notes that a victim-centered approach to trafficking must address the “three Rs” of (1) rescue, (2) rehabilitation, and (3) reintegration. U.S TRAFFICKING REPORT, supra note 20, at 5.
centered approach. Similarly, Illinois’ efforts have focused on the dual objectives of increasing criminal penalties for offenders and targeting services to victims.\footnote{Torg, supra note 23, at 503. However, thus far only a small percentage of the victims that were targeted for protection under the federal TVPA have benefited from this legislation. For example, when Congress passed the TVPA many advocates were concerned that the Act’s allowance of only 5,000 “T” visas for trafficking victims per year would be too low to meet the forecasted need. Yet as of 2003, the U.S. Justice Department reported that victims filed only 453 “T” visa applications in the first year and a half of the program. Neville & Martinez, supra note 100, at 556, 566; U.S. DEPARTMENT OF JUSTICE, ASSESSMENT OF U.S. ACTIVITIES TO COMBAT TRAFFICKING IN PERSONS (2003), available at www.usdoj.gov/ct/crim/wett/us_assessment.pdf.}

The Trafficking Articles, enacted over one year ago, authorize tough penalties for perpetrators of trafficking and involuntary servitude in Illinois.\footnote{Summary of Illinois Trafficking Activities, supra note 224.} Unfortunately, prosecutors, at least in Cook County, have yet to charge a perpetrator under the Trafficking Articles, instead turning the case over to the federal government for prosecution.\footnote{See supra notes 207-14 and accompanying text (explaining the passage and enactment of the Trafficking Articles).} The impact of the Trafficking Articles will be superficial at best if police and prosecutors do not expressly seek to bring cases under state instead of federal statutes.\footnote{Larry Sachs, Chicago Police Department – Chicago Regional Human Trafficking Task Force, Testimony at The Realities of Human Trafficking in Cook County: Strategies for Ending the Exploitation of Women and Girls (October 19, 2006)[hereinafter Sachs]. Additionally, though more than sixty cases have been brought in recent years in Illinois under federal statutes, the system has yet to successfully prosecute a trafficker to conviction. \textit{Id.}} Further, if perpetrators of these crimes are not charged under the Trafficking Articles, the new, harsher penalties cannot accomplish their clear purpose to punish and deter cases of local trafficking.\footnote{Id.}

In addition to lack of overall prosecutions under the Trafficking Articles, advocates for trafficking victims note that implementation thus far has ignored victims of domestic trafficking.\footnote{See supra note 215 and accompanying text (discussing one of the goals of the Trafficking Articles as increasing penalties for traffickers).} First, law enforcement may not recognize domestic citizens as
trafficking victims, and thus when arresting their perpetrators will charge them with pimping, kidnapping, or other related offenses.\textsuperscript{235} Correspondingly, if perpetrators are not charged under the Trafficking Articles, then their victims are not eligible for the benefits enumerated in the Articles.\textsuperscript{236} Advocates are also concerned about the lack of public and private services available to domestic trafficking victims.\textsuperscript{237} They recommend that both state and private service providers direct trafficking resources to domestic victims, and not just international victims.\textsuperscript{238}

Finally, one of the biggest gaps in the reach of the Trafficking Articles is the lack of attention to the psychological abuse inherent in trafficking offenses.\textsuperscript{239} Specifically, trafficking offenses may often include threats of abuse to the victim and the victim’s family members.\textsuperscript{240} While legislation has focused on penalizing physical harm like sexual slavery and forced labor, it has not stressed holding perpetrators accountable for the psychological harms they exact on their victims.\textsuperscript{241} As more cases of trafficking are identified in Illinois, law enforcement must not overlook prosecuting psychological abuse of trafficking victims under the Trafficking Articles.\textsuperscript{242}

\begin{footnotes}
\item[235] Brenda Myers-Powell, trafficking survivor, Testimony at The Realities of Human Trafficking in Cook County (October 19, 2006) [hereinafter Meyers-Powell].
\item[236] \textit{Id.}
\item[237] Muskovitz-Sweet, supra note 234. Though there are some services in place for international victims, there are virtually not services specifically for domestic victims. \textit{Id.}
\item[238] \textit{Id.}
\item[239] Katharine Kaufka, Heartland Alliance, Testimony at The Realities of Human Trafficking in Cook County: Strategies for Ending the Exploitation of Women and Girls (October 19, 2006) [hereinafter Kaufka].
\item[240] \textsc{Richard}, supra note 3, at 5. Psychological abuse of trafficking victims includes threats of abuse of themselves and family members, fear of arrest and deportation, and being kept in solitude or isolation. \textit{Id.}
\item[241] Kaufka, supra note 239.
\item[242] \textit{See supra} notes 239-41 (explaining the importance of holding traffickers accountable for the psychological abuse of their victims).
\end{footnotes}
2. Creating Coalition Support for the Trafficking Articles

In addition to increasing penalties and encouraging prevention, another key to the successful prosecution of trafficking and involuntary servitude cases is the creation of interagency task forces and coalitions. This coordinated response necessitates cooperation between agencies – including sharing of information and pooling resources – to effectively investigate cases, prosecute the offenders and identify and assist victims. To date, Illinois agencies have formed or are members of numerous coalitions to combat trafficking on the state and local levels.

When the governor signed the Trafficking Articles into law, he also introduced a state-wide public awareness campaign to address human trafficking. The Illinois Rescue & Restore Campaign Against Human Trafficking and Slavery (Rescue & Restore) is a partnership between the Illinois Department of Human Services (IDHS) and the U.S. Department of Health and Human Services (HHS). Rescue & Restore combines federal and state resources to provide outreach and training to “first responders,” professionals such as local law enforcement, health care workers, and community social service agencies most likely to encounter victims of trafficking. The

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243 Torg, supra note 23, at 514. According to Torg, task forces “set the benchmark for effective cooperation and prosecutorial success.” For this reason, the Department of Justice has set up anti-trafficking task forces in jurisdictions most at risk for trafficking schemes. Id. at 514-15. One of these jurisdictions is Chicago. See infra note 254 and accompanying text (discussing this interagency task force).

244 Torg, supra note 23, at 518.

245 See supra notes 246-54 and accompanying text (detailing the various coalitions Illinois agencies of which Illinois agencies are a part).


248 Press Release, Heartland Alliance/Midwest Immigrant and Human Rights Center, Heartland Alliance Lauds New Legislation and Launch of Illinois Campaign to Combat Human Trafficking (June 7, 2005) [hereinafter Heartland Alliance Press Release], http://www.immigrantjustice.org/documents/PRel-RescueandRestoreCampaignFINAL2005.06.pdf. The five goals of Rescue & Restore are: (1) train “first
initiative includes training for 1,800 state police officers and 700 workers with the Department of Children and Family Services. Additionally, the campaign seeks to educate the public by creating increased awareness about trafficking in Illinois.

Other state and local taskforces with similar goals have been formed by public and private agencies. For instance, Illinois entities such as the Circuit Court of Cook County are part of the Salvation Army PROMISE Initiative, a collaboration on the state and local level that advocates for an end to the commercial sexual exploitation of children in the United States. On the local level, state and federal law enforcement and prosecutors’ offices have joined together to form a regional human trafficking task force for Chicago. These collaborations aim to take a zero tolerance position on human trafficking in Illinois. Further, they hope to rethink and reframe the ways in which their responders” to help identify and assist possible victims; (2) coordinate victim services; (3) conduct outreach with posters, brochures, and fact sheets with hotline information; (4) prosecute offenders; and (5) collect data on the issue. Summary of Illinois Trafficking Activities, supra note 224.


Irvin Ashford, Circuit Court of Cook County, Testimony at The Realities of Human Trafficking in Cook County: Strategies for Ending the Exploitation of Women and Girls (October 19, 2006) [hereinafter Ashford].


Sachs, supra note 231. The Chicago Regional Human Trafficking Task Force (CTTF) was formed at the urging of the Department of Justice, and receives funding from that entity. Members include the Federal Bureau of Investigations, Office of the U.S. Attorney General, Officer of the Illinois Attorney General, the Department of Labor, Illinois State Police, National Immigrant Justice Center, the mayor’s office (Chicago) and state’s attorneys offices. Id.

Id.
partner agencies think about, investigate, prosecute and work with victims in handing trafficking and involuntary servitude cases.\textsuperscript{256}

**IV. MOVING TOWARD BETTER IMPLEMENTATION OF THE TRAFFICKING ARTICLES**

Like domestic violence, trafficking and involuntary servitude is a violence issue that disproportionately confronts women and girls.\textsuperscript{257} This Part first compares the populations victimized by domestic violence and human trafficking, suggesting that the similarities in these populations provides insight into obstacles facing the criminal justice system in identifying and assisting trafficking victims.\textsuperscript{258} Based on the comparison, the Part predicts barriers to effective criminal justice implementation of the Trafficking Articles.\textsuperscript{259}

\textbf{A. The Social Stigma of Violence Against Women Crimes: “Why Doesn’t She Just Leave?”}

Despite increased awareness in recent years, many people still find it hard to believe that both domestic and international trafficking and involuntary servitude occurs in the United States.\textsuperscript{260} Twenty years ago, the general public similarly did not recognize the pervasiveness of domestic violence in our society.\textsuperscript{261} Unfortunately, these societal misunderstandings are also accepted by the criminal justice system, and can have far

\begin{itemize}
  \item \textsuperscript{256} Ashford, \textit{supra} note 252.
  \item \textsuperscript{257} CFW Press Release, \textit{supra} note 10. \textit{See also supra} notes 8-9 (categorizing trafficking as a gender-based crime).
  \item \textsuperscript{258} \textit{See infra} Part IV.A (exploring the similarities between victims of domestic violence and human trafficking, explaining that the justice system must overcome societal misunderstandings of these populations to affectively assist trafficking victims).
  \item \textsuperscript{259} \textit{See infra} Part IV.B (discussing three barriers to implementation of the Trafficking Articles by the criminal justice system, based on the earlier analysis of the system’s implementation of the IDVA).
  \item \textsuperscript{260} Kathleen A. McKee, \textit{Modern Day Slavery: Framing Effective Solutions for An Age-Old Problem}, 55 CATH. U. L. REV. 141, 144-45 (2005).
  \item \textsuperscript{261} Sack, \textit{supra} note 43, at 1666.
\end{itemize}
reaching consequences for enforcement of laws protecting women and girls.\textsuperscript{262} This Part discusses how this lack of understanding and awareness creates barriers to effective implementation of the laws that are meant to protect women and girls and consistently prosecute their perpetrators.\textsuperscript{263}

The biggest challenge in assisting trafficking victims is that they are not a self-identifying population.\textsuperscript{264} Like victims of domestic violence, trafficking victims are vulnerable and isolated, subjected to physical, emotional and mental abuse.\textsuperscript{265} Factors like poverty, homelessness and substance abuse – all risk factors for domestic violence – are also predictors for trafficking.\textsuperscript{266} Moreover, international trafficking victims are disconnected from the general public by their language and cultural differences.\textsuperscript{267} Language and cultural barriers in particular prevent a victim from knowing or understanding her rights under the law.\textsuperscript{268}

Additionally, both domestic violence and trafficking victims fear law enforcement.\textsuperscript{269} Just as domestic abusers threaten legal action against their victims if the victims report the abuse to the police, perpetrators of trafficking intimidate their victims

\begin{itemize}
\item \textsuperscript{262} See Litsky, supra note 156, 169 (stating that judicial response to domestic violence has been shaped by general misconceptions about the nature of violence against women crimes).
\item \textsuperscript{263} See infra notes 264-79 and accompanying text (exploring misunderstandings of both domestic violence and trafficking victims).
\item \textsuperscript{264} Kaufka, supra note 239; Neville & Martinez, supra note 186, at 555.
\item \textsuperscript{265} Lyderson, supra note 201; Neville & Martínez, supra note 186, at 559.
\item \textsuperscript{266} See CHICAGO COALITION FOR THE HOMELESS, HOMEWARD BOUND: THE FACTS BEHIND THE FACES 1 (2001) (homelessness and other vulnerabilities as factors in sexual abuse of women). Notably, the most significant predictor of entry into the sex trade is homelessness. Daria Mueller, Chicago Coalition for the Homeless, Testimony at The Realities of Human Trafficking in Cook County: Strategies for Ending the Exploitation of Women and Girls (October 19, 2006).
\item \textsuperscript{267} Muskovitz-Sweet, supra note 234.
\item \textsuperscript{268} Id.
\end{itemize}
with legal repercussions for their involvement in trafficking schemes.\textsuperscript{270} Domestic violence victims fear losing their children due to court involvement in the family, while trafficking victims fear deportation.\textsuperscript{271} Because of this fear, victims of these violence crimes usually cannot escape their abusers or captors without assistance.\textsuperscript{272} Thus, prosecutors may have a difficult time bringing cases against the perpetrators unless they help victims obtain services.\textsuperscript{273} Further, victims are unlikely to be able to recover and rebuild their lives without assistance with rehabilitation and reintegration.\textsuperscript{274}

Lastly, because of the punitive nature of law enforcement, many victims of domestic violence and trafficking are blamed for their complicity in these crimes.\textsuperscript{275} Like domestic violence victims before them, victims of trafficking are asked why they do not leave their captors.\textsuperscript{276} This demonstrates a refusal to acknowledge that victims in both of these situations are controlled both physically and mentally by their abusers or captors.\textsuperscript{277} Victims of trafficking are targeted and recruited because of their vulnerability, and they are used as a commodity.\textsuperscript{278} By reproaching victims of trafficking, police, prosecutors,

\begin{footnotesize}
\begin{enumerate}
\item Goelman, supra note 269, at 106; RICHARD, supra note 3, at 5.
\item Candes, supra note 269, at 602; Goelman, supra note 269, at 106. Candes believes that trafficking victims’ fears of deportation are one of the main obstacles to the effective implementation of trafficking legislation. Candes, supra note 269, at 602.
\item Raviv, supra note 7, at 663.
\item See Kathleen Muldoon, Assistant State’s Attorney, Sex Crimes, Cook County, Testimony at The Realities of Human Trafficking in Cook County: Strategies for Ending the Exploitation of Women and Girls (October 19, 2006) (discussing the difficulty of these cases and the courage victims, especially young girls, need to come forward).
\item See Raviv, supra note 7, at 663 (noting that victims need shelter, medical assistance, and other services).
\item See Annie Sweeney, U.S. Kids Coerced Into Prostitution, CHICAGO SUN-TIMES, Aug. 9, 2005, Special Report (discussing how child victims of trafficking and prostitution are viewed by law enforcement as the blame-worthy party).
\item Howard, supra note 5. Howard testified that she was asked by law enforcement numerous times why she did not leave her captors. Id.
\item Meyers-Powell, supra note 235 (explaining the clear connection between abuse of women in domestic and trafficking situations); RICHARD, supra note 3, at 5.
\item Howard, supra note 5; Meyers-Powell, supra note 235.
\end{enumerate}
\end{footnotesize}
and the courts support an already inequitable system to further oppress female victims of violent crimes.\textsuperscript{279}

Though the legislature may pass laws enforcing a woman or girl’s individual rights, her position in society may in effect negate these rights.\textsuperscript{280} Crimes like rape, murder and abuse of women and girls are reported by the media on an almost daily basis.\textsuperscript{281} As a society, we are no longer shocked by violence against women, instead accepting this violence as an expected occurrence.\textsuperscript{282} The criminal justice system must strive to overcome this acceptance in order to effectively protect women and girls who are victimized by trafficking, and to implement the Trafficking Articles as the legislature intended.\textsuperscript{283}

B. \textit{Barriers to Effective Implementation of the Trafficking Articles}

With the enactment of the Trafficking Articles, the legislature placed the tools to prosecute the perpetrators and protect the victims of trafficking and involuntary servitude in the hands of the criminal justice system.\textsuperscript{284} However, the IDVA likewise placed tools in the hands of the justice system twenty years ago, tools which law enforcement, prosecutors and the courts have not yet used as effectively as directed by the

\textsuperscript{279} See Ali Miller & Alison N. Stewart, \textit{Report From the Roundtable of the Meaning of “Trafficking in Persons”: A Human Rights Perspective}, 20 WOMEN’S RTS. L. REP. 11, 18 (1998) (discussing the unequal status of women as one of the reasons women are vulnerable to trafficking).
\textsuperscript{282} Id. Herbert reflects on the targeting of girls in a shooting at an Amish schoolhouse, and opines that if children had been targeted because of their race or religion – instead of gender – there would have been a greater public outcry. He argues that this did not happen because the victims were “just girls.” \textit{Id.}
\textsuperscript{283} See \textit{supra} notes 275-82 (discussing the societal and criminal justice misunderstanding of the trafficking victims as a barrier to implementation of trafficking legislation).
\textsuperscript{284} Kaufka, \textit{supra} note 239.
Based on the analysis of the IDVA, this Part will assess three barriers to the implementation of the Trafficking Articles in the criminal justice system.

1. Law Enforcement Misunderstanding of Trafficking Victims

The first barrier to effective implementation is a misunderstanding on the part of law enforcement of the nature of trafficking and involuntary solitude. Domestic violence case law suggests that police have been reluctant to provide victims with protection and immediate assistance even with the limited liability provisions of the IDVA. In cases of human trafficking, police are arresting and detaining trafficking victims instead of protecting them. For example, the Korean women found in the health spas in Rockford, thought to be trafficked into Illinois, were arrested for prostitution and are awaiting deportation at this time. In cases like this, the victims – and not those committing and profiting from the crimes – are being punished by the criminal justice system.
This punitive treatment of victims of trafficking indicates that law enforcement is misinterpreting its role in these kinds of cases.\textsuperscript{292} Police appear to be trapped in old ways of thinking about sex offenses like prostitution when they arrest victims of trafficking instead of the traffickers.\textsuperscript{293} Law enforcement personnel who are responsible for responding to incidents of trafficking must be held accountable for investigating the true offenders, and not the victims, in these cases.\textsuperscript{294} Moreover, in addition to targeting the traffickers, law enforcement must also focus its efforts on encouraging prosecution of the solicitors of trafficking victims and others, in addition to the traffickers, who are also complicit in these crimes.\textsuperscript{295}

2. Prosecuting Trafficking Offenses Under Other, Related Crimes

Another significant barrier to implementation is the system’s inclination to prosecute trafficking or involuntary servitude as a related crime like pimping or kidnapping.\textsuperscript{296} As prosecutors and judges are more familiar with these criminal charges, it is likely that it will take some time for them to begin to utilize the new definitions provided by the Articles to analyze trafficking cases.\textsuperscript{297} However, like charging domestic abusers with simple battery instead of domestic battery, the criminal justice system’s use

\begin{itemize}
\item \textsuperscript{292} See Lyderson, supra note 201 (quoting a victim advocate as stating that systemic change is needed to alter policies that currently criminalize victims).
\item \textsuperscript{293} See id. (stating that law enforcement and immigration officials may still be “far from sensitive” when they penalized trafficking victims by arresting or deporting them).
\item \textsuperscript{294} Jennifer M. Chacon, Misery and Myopia: Understanding the Failures of U.S. Efforts to Stop Human Trafficking, 74 FORDHAM L. REV. 2977, 3040 (2006).
\item \textsuperscript{295} Myers-Powell, supra note 235. Myers-Powell testified that, for example, people renting apartments to traffickers should also be prosecuted as part of the trafficking scheme. Id.
\item \textsuperscript{296} See infra note 297-302 (naming the prosecution of trafficking as another crime as the second barrier to criminal justice system implementation of the Trafficking Articles).
\item \textsuperscript{297} See Torg, supra note 23, at 513 (explaining that before the passage of state legislation, most traffickers were prosecuted for assault, workplace violations, or other prosecutable offenses).
\end{itemize}
of related charges instead of trafficking or involuntary solitude circumvents the legislature’s purposes for enacting the Trafficking Articles.298

In particular, the prosecution of trafficking under other criminal statutes first denies victims the protections and benefits expressly included by the legislature, including social services, immigration assistance and financial support.299 In order for victims to realize these protections, the criminal justice system must consistently charge perpetrators of these crimes under the Trafficking Articles.300 Second, charging perpetrators with pimping or kidnapping does not hold them accountable for the gravity of their criminal actions as the legislature intended.301 This is especially true in cases involving multiple victims, where prosecution under the Trafficking Articles can result in even higher penalties for perpetrators.302

3. Failure to Aggressively Seek Victim Protections and Benefits

The third major barrier to implementation is the lack of enforcement of the protections and benefits for victims expressly included in the law.303 As seen in the study of the Cook County criminal justice system, the system does not consistently petition for, and enforce violation of, orders of protection, arguably the most important protection for

298 See supra notes 174-85 and accompanying text (discussing the reduction of domestic battery to battery cases); see also supra notes 209-14 (noting that one of the legislative purposes of the Trafficking Articles was to be able to prosecute traffickers as traffickers, and to fill gaps in existing law).
299 See supra notes 217-22 and accompanying text (discussing the numerous protections and benefits included by the legislature).
300 See supra note 213 and accompanying text (stating that the Trafficking Articles gave local prosecutors the ability to charge perpetrators of trafficking).
301 See supra note 215 and accompanying text (noting increased offender accountability as one of the advantages of the Trafficking Articles).
302 See supra note 216 (explaining that the Trafficking Articles direct judges to take the number of victims into account when deciding sentences for traffickers).
303 See infra notes 304-9 and accompanying text (exploring the failure to aggressively seek victim protections and benefits as the last identified barrier to criminal justice system implementation of the Trafficking Articles).
victims under the IDVA. Consequentially, victims are consistently denied access to remedies explicitly included in the IDVA by the legislature. 

Like the inclusion of the protections in the IDVA, the legislature also included numerous protections, options for services, and benefits in the Trafficking Articles. In order to adequately assist victims, the system must not only consistently seek prosecution of their traffickers, but the system must also endeavor to aid victims by providing access to these benefits. However, advocates note, for example, that they have encountered difficulties in enforcing judgments for mandatory restitution permitted to victims under the Trafficking Articles. The criminal justice system must anticipate these difficulties and endeavor to attend to these gaps and needs in order to adequately provide victims with the protections and benefits they were granted under the Trafficking Articles.

V. RECOMMENDATIONS FOR EFFECTIVE IMPLEMENTATION OF THE TRAFFICKING ARTICLES

One of the main purposes of criminal law is to deter crime. However, in order to have an impact on deterrence, a law cannot simply be enacted by the legislature; it

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304 See supra notes 162-73 and accompanying text (discussing the low numbers of orders of protection issued by criminal court, and the low number of violations charged).
305 See supra notes 79-83 (explaining the importance of an order of protection for a victim of domestic violence, and discussing the other remedies available under the IDVA).
306 See supra notes 217-22 and accompanying text (discussing the benefits and services provided to trafficking victims through the Trafficking Articles).
307 See U.S. TRAFFICKING REPORT, supra note 20, at 5 (noting that, in addition to prevention and prosecution, a successful approach to trafficking must include victim assistance with services and reintegration).
308 Kaufka, supra note 239. Kaufka noted that more advocacy is needed on the implementation of civil and criminal remedies for trafficking victims. Id.
309 See supra note 307 and accompanying text (explaining that enforcing victim protections is important for the justice system response to trafficking cases).
310 See, e.g., 720 ILL. COMP. STAT. 5/1-2(a) (2006). The first stated purpose of the Illinois Criminal Code is to “forbid and prevent the commission of offenses.” Id.
must, in turn, be implemented by the criminal justice system. Consequently, this Part will recommend four steps the criminal justice system should take to encourage effective implementation of the Trafficking Articles and deter the crime of human trafficking in Illinois.

A. Standardize and Coordinate Practices Across the System for Identifying and Handling Trafficking Cases

To effectively respond to the trafficking problem, Illinois criminal justice agencies must respond from a systems perspective. Law enforcement, prosecutors’ offices, corrections and the courts must create and standardize policies and protocols to identify victims and conduct successful prosecutions of trafficking cases, similar to system-wide protocols created for domestic violence and sexual assault cases. Additionally, the system should work to standardize practices between justice system partners – like hospitals, shelters and detention centers – that may come in contact with trafficking victims before they are identified by the police or the courts. A multi-

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311 See Susan W. Tiefenbrun, The Domestic and International Impact of the U.S. Victims of Trafficking Protection Act of 2000: Does Law Deter Crime 2 LOY. U. CHI. INT’L L. REV. 193, 195 (2005) (noting that TVPA will have little impact on both the domestic and international impact of sex trafficking if the laws are not enforced, or if they prove to be unenforceable). At the TVPA Implementation Hearing, Henry J. Hyde, Chairman of the Committee on International Relations of the U.S. House of Representatives, stated “A law without vigorous and effective implementation is worse than no law at all, because it lures us into the false sense that we have done something to solve the problem.” Henry J. Hyde, Testimony at the Implementation of the Trafficking Victims Protection Act: Hearing Before the Committee on International Relations, 107th Cong. 43 (2001), at 1.

312 See infra Part V. (discussing four action steps the Illinois criminal justice system should take to effectively implement the Trafficking Articles as the legislature intended).

313 See infra notes 314-16 (explaining how the justice system should effectively respond as a unit).

314 Muskovitz-Sweet, supra note 234; Hannah Rosenthal, Chicago Foundation for Women, Testimony at The Realities of Human Trafficking in Cook County: Strategies for Ending the Exploitation of Women and Girls (October 19, 2006) [hereinafter Rosenthal]. See DOMESTIC VIOLENCE TRAINING ADVISORY COMMITTEE MODEL DOMESTIC VIOLENCE PROTOCOL FOR LAW ENFORCEMENT (undated), (on file with authors). The project was supported by a grant from the Department of Justice, and includes polices and definitions for law enforcement response to domestic violence cases. The protocol also provides direct for two specific police departments in the state. Id.

315 Rosenthal, supra note 314.
disciplined, coordinated approach has the best chance for earlier identification and protection of trafficking victims.\footnote{316 See supra notes 314-15 (explaining the benefits of creating a standardized protocol for criminal justice system response to trafficking cases).}

Moreover, the criminal justice system must encourage the use of existing coalitions in responding to trafficking in Illinois.\footnote{317 See infra notes 318-20 (setting out reasons that existing coalitions should be used in this effort).} Many of the agencies that are beginning to collaborate on trafficking already have working relationships in place for handling domestic violence, sexual assault or related crimes.\footnote{318 Anton, supra note 289. Anton noted that he already works with many of the other professionals who testified at the Cook County Hearing, like Kathleen Muldoon, on other issues like sexual abuse cases. Id.} These already established collaborative associations can provide the framework to better coordinate trafficking cases as they come through the criminal justice system.\footnote{319 See supra note 318 and accompanying text (noting that strong, collaborative relationships are already in place between some of these entities).} Though it is important that trafficking is addressed as a separate issue, these agencies should employ the strength of these established task forces in tackling trafficking cases.\footnote{320 Id. However, some personnel note that task force members may already be stretched thin. For example, the Chicago Police Department Vice Squad already works on prostitution and gambling cases, in addition to trafficking. Lyderson, supra note 201.}

\textbf{B. Implement Methods of Data Collection}

After developing written policies and standardizing practices, the criminal justice system should employ a system to collect data on incidents of human trafficking.\footnote{321 Diephouse, supra note 206; Sachs, supra note 231. See Frank Laczko & Marco A. Gramegna, \textit{Developing Better Indicators of Human Trafficking}, 10 Brown Journal of World Affairs 179 (2003) (exploring reasons for the limited availability of reliable data of the scope of trafficking).} Currently, there is no mechanism to track or collect data on trafficking and involuntary servitude cases in Illinois.\footnote{322 See supra note 321-22 (noting the importance of data tracking trafficking cases in Illinois, but the lack of data collection practices at this time).} Without these statistics, it is difficult for the criminal justice system to know how to best utilize its resources to combat human trafficking.
As the system is in early stages of responding to trafficking, this would be an opportune time to institute a method of data collection.\textsuperscript{324} Statistics may help pinpoint the depth of the trafficking problem in Illinois.\textsuperscript{325} For instance, state agencies could measure hotline calls, and those numbers could be compared to arrest and prosecution statistics to determine the effectiveness of law enforcement response.\textsuperscript{326} In addition to tracking prosecution of perpetrators, data collection would also indicate areas and populations of victims in need of services.\textsuperscript{327} More importantly, data collection may assist the justice system in determining ways to prevent the growth of the trafficking phenomenon.\textsuperscript{328}

C. Apply the Trafficking Articles to Domestic Trafficking Cases

Next, the criminal justice system should utilize the penalties and protections of the Trafficking Articles in cases of domestic trafficking.\textsuperscript{329} To more broadly realize the purposes of the Trafficking Articles, the criminal justice system should apply its provisions not only to international trafficking cases, but also to cases that involve exploitation and servitude of U.S. citizens.\textsuperscript{330}

On the state level, there is no longer a distinction between local and international trafficking.\textsuperscript{331} Women and children can be trafficked from India, to Indiana, to the West

\textsuperscript{324} See RAPHAEL, supra note 104, at 5-6 (providing three data collection recommendations). Raphael also notes that effective data collection is necessary to determine the effectiveness of the justice system. However, as the police, courts, and the Illinois Crime Reporting Program use different methods, assessing this data currently is difficult. Id. at 8.

\textsuperscript{325} Diephouse, supra note 206.

\textsuperscript{326} Id.

\textsuperscript{327} See notes 325-26 (suggesting that data collection on criminal justice system effectiveness in responding to trafficking cases could better indicate gaps or needs in the response and implementation).

\textsuperscript{328} See supra notes 324-27 (suggesting data the system could track to better understand the issue of trafficking in Illinois).

\textsuperscript{329} See infra notes 330-35 and accompanying text (explaining why applying the Trafficking Articles to cases of domestic trafficking would allow for more effective criminal justice system implementation).

\textsuperscript{330} See infra notes 331-35 (reasoning that the application of the Trafficking Articles to cases of domestic trafficking would help with criminal justice system implementation).

\textsuperscript{331} See supra notes 202-6 and accompanying text (discussing the blurring of the line between local and international trafficking cases).
Because of this, the criminal justice system must reframe its thinking on trafficking cases to include victims of domestic trafficking as beneficiaries of the Articles.\textsuperscript{332} First, charging traffickers on domestic cases will more quickly familiarize the justice system with prosecuting trafficking cases.\textsuperscript{333} Second, as the line between domestic and international trafficking continues to blur, charging traffickers of domestic citizens under the Articles will contribute to the punishment and deterrence of all trafficking in Illinois.\textsuperscript{334}

**D. Prioritize Training and Education**

Finally, the criminal justice system should prioritize training and education of its personnel on human trafficking and involuntary servitude issues.\textsuperscript{335} Though funding is in place through the Rescue & Restore Campaign for training of some entities, the state should implement multi-disciplinary, system-wide training for all of its justice system personnel on victim identification, state trafficking laws, and relief available to victims.\textsuperscript{336}

As seen from law enforcement misunderstanding of domestic violence, police officer comprehension of victim issues is key to cases entering into the criminal justice system.\textsuperscript{337} Regarding trafficking, officers must be trained to view victims as victims, and

\begin{footnotesize}
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  \item \textsuperscript{332} Rosenthal, \textit{supra} note 314.
  \item \textsuperscript{333} \textit{See supra} note 330-31 and accompanying text (explaining that both domestic and international trafficking cases occur in Illinois).
  \item \textsuperscript{334} \textit{See supra} notes 231-32 (discussing the lack of cases brought under the Trafficking Articles to date).
  \item \textsuperscript{335} \textit{See supra} notes 310-11 (noting deterrence of crime as a major criminal justice system goal).
  \item \textsuperscript{336} \textit{See infra} notes 337-43 and accompanying text (recommending that the criminal justice system train all entities to allow for effective implementation of the Trafficking Articles).
  \item \textsuperscript{337} \textit{See supra} notes 248-49 and accompanying text (explaining Rescue & Restore’s training plan); \textit{see infra} notes 338-42 (explaining that training for all personnel is necessary for effective criminal justice system implementation).
  \item \textsuperscript{338} \textit{See supra} notes 47-9, 105-110 and accompanying text (discussing initial police response to domestic violence cases, and then observing the important role law enforcement plays in funneling domestic violence cases into the criminal justice system).
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not persons complicit in the crimes of their perpetrators. However, in order to be expected to effectively identify victims and arrest the perpetrators, law enforcement must be given adequate training and support. Additionally, personnel at other levels in the system should be trained on handling these cases to complement the training of officers in the field. For example, though the Rescue & Restore Campaign provided funding for education of police and DCFS workers, prosecutors – who have an extremely important role in the justice system’s response to trafficking cases – were left out of the training initiative. A multidisciplinary educational approach will ensure that personnel at all levels of the system will be adequately prepared to identify and prosecute cases under the Trafficking Articles.

VI. CONCLUSION

Through passage of the Trafficking Articles and initiation of efforts like the Rescue & Restore Campaign, the legislative and executive branches have taken the initial steps to combat trafficking of persons – in most cases women and girls – in Illinois. However, the criminal justice system’s struggle to implement the IDVA during the past twenty years has demonstrated that legislative action alone cannot positively affect victims of trafficking and involuntary servitude. Rather, the criminal justice system must take affirmative steps to implement the harsh penalties for perpetrators and deliver victim

339 See supra notes 287-95 and accompanying text (discussing the need for law enforcement to treat trafficking victims as crime victims).
340 See supra notes 338-39 (noting that law enforcement has historically misunderstood victim issues).
341 See infra note 342 and accompanying text (noting that not all criminal justice system personnel will be trained under the Rescue & Restore Campaign).
342 See supra notes 248-49 and accompanying text (explaining that Rescue & Restore only provides earmarked funding for training of state police officers and DCFS workers at this time).
343 See supra notes 336-42 and accompanying text (providing reasons why the Illinois criminal justice system’s effort to implement the Trafficking Articles would benefit from multidisciplinary training).
assistance as the legislature intended. The system must endeavor to identify and protect all victims of trafficking and involuntary solitude, and then prosecute all traffickers – both international and domestic – under the Articles’ provisions. Otherwise, despite the enactment of the Trafficking Articles, victims of trafficking and involuntary servitude in Illinois will be unprotected, and the perpetrators will continue to go unpunished just like many victims and perpetrators of domestic violence.