

USD POLICY ADVOCACY COLLABORATIVE (UPAC)

CASE STUDY: FREE TO THRIVE'S ADVOCACY FOR CHANGES IN HUMAN TRAFFICKING POLICIES

This case describes and draws lessons from 2021 legislative advocacy led by Free to Thrive (FTT), a San Diego nonprofit that provides free, holistic, and trauma-informed legal services for victims of human trafficking. The case is organized around the “circles framework” in UPAC’s *Policy Advocacy 101* paper. See Appendix 1 for a brief overview and graphic depiction of the framework.

BACKGROUND

Human trafficking, the origins of Free to Thrive, and its advocacy commitment were discussed in a January 2021 TEDx talk¹ by Jamie Beck, a USD law school alumna and the organization’s founder. In her own words:

I was working as an attorney in one of San Diego's largest law firms when I first met Sarah. She was a young 20 something woman who was beautiful and intelligent. And she had been trafficked when she was just 16 years old. By her boyfriend, Darrin. It's not what you're thinking. He didn't kidnap her or hold her against her will. No, it was much more nuanced than that. Darrin used his charisma and his charm to get Sarah to fall in love with him. And after a few months, he asked her if she could help him make some extra money. By this time, she was madly in love with Darrin, and she wanted to do whatever she could to help out. He told her he wanted her to go on dates with men. Now, as a naive 16-year-old girl, Sarah didn't understand at the time that those men that she went on dates with would expect to have sex with her. If she refused, Darrin would beat her into submission. He took every penny she earned, and he demanded a \$1,000 a day quota. If she didn't make it, she wouldn't be allowed to eat or sleep. This went on for quite a while, and Sarah felt trapped. She didn't know how to get away from him. Every time she tried to leave him, Darrin would threaten to harm her family. Until one day she had a date with a man at a hotel. They agreed on a price and then immediately he identified himself as an undercover cop. At first Sarah thought finally, someone's going to help me escape from Darrin. But that's not what happened. The cops arrested her for crimes that Darrin had forced her to commit.

Now there's a lot of misinformation out there about human trafficking. So, let's just make sure we understand what we were talking about. Human trafficking is the exploitation of another person by means of force, fraud, or coercion for purposes of commercial sex or labor. Human trafficking is also exploiting a child for sex. There doesn't need to be force, fraud or coercion, because a child can't consent to be sold for sex.

No one is immune from human trafficking. It impacts boys, girls, men, and women. All races, all nationalities can be trafficked, but there are some groups that are more vulnerable. For example, foster kids, victims of poverty and abuse, LGBTQ individuals. And what most people assume about human trafficking is that when law enforcement shows up on the scene of a crime where human

¹ https://www.ted.com/talks/jamie_beck_rising_above_the_criminalization_of_human_trafficking_survivors

trafficking has been committed, they think that law enforcement helps the victim and arrests the perpetrator. But unfortunately, that is not the experience of most human trafficking survivors. A study by the National Survivor Network found that 91% of survivors surveyed had been arrested at least once; over half had been arrested for the first time as a child; and over 40% had been arrested more than nine times! Having an arrest or criminal record of any kind is devastating for anyone. It's hard to get a job. It's hard to get a place to live, student loans or public benefits. For human trafficking survivor, having a criminal record traps them into a life of abuse, exploitation and poverty.

I know it sounds cliché, but I went to law school to help people. When I started law school, I didn't know exactly how I was going to help people. But I assumed I would figure it out along the way. When I graduated from law school, I was fortunate to get a clerkship working for a federal judge in San Diego. And that clerkship opened up the door for me to work at a big law firm in San Diego. While I knew I wanted to help people as a lawyer, I also knew that I had student loans. So, I figured I would work at this big law firm, pay off my student loans, get some great legal experience, and I could volunteer in order to fulfill my desire to help people.

When I first learned about human trafficking, I was appalled at how prevalent it was in our community. I asked one simple question, what can I do to help? And the answer I got over and over again was we need lawyers. We need lawyers to help survivors. So, I founded the Lawyers Club of San Diego's Human Trafficking Collaborative to engage the legal community in the fight against human trafficking. It was around this time that I first met Sarah. She was a bright and bubbly young woman. And she was so resilient. Sara changed my life. She never let anything come in the way of her achieving her dreams. And with all she'd overcome, and all she had done to move past her exploitation, she still had these criminal issues hanging over her head. Survivors like Sarah, they need a fresh start, and they need a clean criminal record.

At that time, there were a number of states that had laws to help survivors clean up their records, called vacatur laws. Unfortunately, California didn't have such a law. So, I worked with Lawyers Club of San Diego to advocate for vacatur law in California. And when we passed that law, Sarah was my very first client. I knew that there were so many other survivors out there like Sarah who needed help cleaning up their records. And that's when I knew exactly what I was supposed to do with my law degree. And so it was around that time that I decided to quit my job at the law firm and start a nonprofit called Free to Thrive to help human trafficking survivors with their legal needs. When I started Free to Thrive, we had one year of funding, and I was the only employee. But I quit my job with a hope and a prayer. And after almost four years, we have 12 employees, and we've helped almost 200 human trafficking survivors. People often ask me, "why would you quit a lucrative law firm job to go start a nonprofit?" The honest answer is there was never a thought in my mind not to.

So, you may be wondering, whatever happened to Sarah? Well Sarah got her GED while she was in the residential program where we first met, and then she went off to college, where she got straight A's and was on the Dean's honor roll. And with the help of Free to Thrive, Sara became one of the first human trafficking survivors in the state of California to clear their record using California's vacatur law. Now, with this new law, we can help survivors clean up their records after the fact.

In an interview, Jamie provided some insightful background about the advocacy involved in passing that vacatur bill. The Lawyers Club of San Diego (LCSD), founded in 1972, is an association of feminist attorneys (Jamie clarified that the membership is "not only women, but all feminists"). In October 2015, LCSD's Human Trafficking Collaborative convened a

Legislative Roundtable with local policy makers to discuss opportunities to improve the laws to support human trafficking survivors. Vacatur, the need to clear a victim's criminal records, emerged as a top priority.

A key member of San Diego's legislative delegation, Democratic State Senator Marty Block, was eager to address the issue and the very next month introduced Senate Bill 823 (SB-823) in the 2016 legislative session to add vacatur to the California criminal code. In support of this effort, Jamie provided Senator Block with model legislation from some other states and brought in experts to help craft the language of the bill.

However, when Jamie sought to involve LCSD in supporting Senator Block's bill, she discovered that her first task was to overcome a common belief -- held by the LCSD's leadership and leaders of many other nonprofits -- that you cannot have tax exempt status and also do lobbying or other forms of policy advocacy.² Jamie knew the law allows a substantial level of such activities, but to fully convince the doubters, she dug into the LCSD's history and discovered that, when it was established in the early 1970s, the initial focus of the its "founding mothers" was advocacy for the California legislature to ratify the Equal Rights Amendment! She also found multiple other examples of policy advocacy in subsequent decades.

After persuading LCSD that it can and should engage in legislative advocacy, the Human Trafficking Collaborative focused on educating policy makers and their staff members as SB-823 moved through the committees and two houses of the California legislature. Fortunately, Block was an effective advocate for his own bill and other anti-human trafficking organizations added their support. And, by the end of 2016, SB-823 was passed by legislature and signed into law by the governor. Jamie describes the success as a "unicorn experience," since the legislative process, as we shall see, is rarely so smooth. (The more typical experience is often described as "making sausage.")

As Jamie described in the TEDx Talk, she started Free to Thrive in order to provide legal support for trafficking victims, with a special focus on helping survivors clear their criminal records using the new vacatur law. However, her talk concluded with the recognition that many more policy changes are still needed:

But there are so many survivors who are serving time in prison, who are just like Sarah. So now we're advocating for a new law to help survivors out of prison. This law would allow judges to reduce sentences for human trafficking survivors. And when we pass it, we're going to help survivors get out of prison. But even this new law doesn't go far enough. We have to change the paradigm. We have to stop criminalizing human trafficking survivors. And in this moment of reckoning over the racial inequality in our society, we have to acknowledge that survivors of color are criminalized at higher rates than white survivors. Therefore, we need to educate our judges, law enforcement and prosecutors about the racial inequalities in our criminal justice system and work to address them.

² There are numerous guides about the laws related to nonprofit lobbying and advocacy, including an excellent chapter in *The Lobbying Strategy Handbook* by Pat Libby, which is required reading in the policy advocacy courses offered by USD's M.A. in Nonprofit Leadership and Management program. One can find similar resources online, including on the Bolder Advocacy website (<https://www.afj.org/our-work/bolder-advocacy/>).

2021 LEGISLATIVE ADVOCACY: A TALE OF TWO BILLS

Per the commitments Jamie referred to at the end of her TEDx Talk, Free to Thrive played a leadership role in the advocacy for two bills during the 2021 legislative session. The following is a brief description and analysis of that advocacy organized around the we, what, who and how questions described in UPAC's *Policy Advocacy 101* paper. The case study concludes with some general lessons that can be learned from their efforts.

WE – Advocates

UPAC's Policy Advocacy 101 paper describes a set of questions that the "we" or the advocates need to answer: Are we already part of a group or organization that is ready to be engaged in policy change -- or do we need to create a new group? What capacities and resources does our group have now? What can we do to fill in any gaps?

Free to Thrive, as noted, was already engaged in advocacy, and it brought significant capacities and resources to the 2021 advocacy. They include:

- As an organization that provides legal services for trafficking survivors, FTT has an in-depth knowledge and understanding of the full range of problems the survivors face. The staff are deeply aware of the trauma that survivors experience, the many challenges they face in relation to police, the courts and jails, and how difficult it is to build a life after escaping exploitation.
- As lawyers, they also understand the complex criminal code and other laws that need to change in order to solve those problems.
- They generate important credible evidence to support their arguments based on their own client records.
- Their track record of working directly with survivors adds to their credibility when making those arguments.
- Their work with victims results in deep relationships with survivors whose stories of lived experience are powerful in influencing policy makers and other influencers (e.g., media).
- They also understand how sharing those stories can be re-traumatizing and are committed, to the extent possible, that those who are ready to share are safe and are compensated for their important advocacy contributions.
- Their work has built relationships with many other anti-trafficking and social justice organizations, including survivor organizations, with whom they can form alliances and coalitions.

Perhaps the major gap in Free to Thrive's advocacy capacity is one common to most service-focused nonprofits: staff were overextended just trying to meet the many needs of their clients. Thus, the policy advocacy work often falls on shoulders of even more over-extended executive directors. For FTT, this was partially addressed through hiring Pallavi Garg as a Staff Attorney and Criminal Justice Program Coordinator and a new co-leader of their advocacy. Her prior work as a prosecutor added a new depth to that work. And, as a woman of color, Pallavi added insights about how persons from marginalized groups are too often treated when attempting to influence policy makers.

WHAT – Policy Issues

UPAC’s Policy Advocacy 101 paper describes a set of “what” or policy issue questions that advocates need to answer: What are the problems we wish to solve and what are their causes? What policy decisions do we need to change and/or create in order to resolve the problems? What evidence do we have to support our arguments?

Building on its deep understanding of the many problems victims experience, how current policies contribute to those problems, and the policy changes needed to help solve them, Free to Thrive prioritized two sets of policy changes for the 2021 California legislative session. These were formalized in two different bills.

(1) **Assembly Bill 262 (AB-262)**, titled **Human Trafficking: Vacatur Relief for Victims**, was an effort to fix a gap in the vacatur legislation passed in 2016. Appendix 2, the bill’s fact sheet provides a comprehensive overview of the context, problems, causes and solution. But, in brief, the parts that Free to Thrive added to the bill were:

Problems and causes: While the 2016 bill had created the right for victims to have their convictions vacated, it did not adequately require all records related to the conviction to be eliminated or done so in a timely manner. In some cases, DNA records and other data maintained by police or other authorities could still become an obstacle for a victim achieving the “clean record” that the vacatur was supposed to provide.

Solution: AB-262 would further amend California statutes to compel all authorities to eliminate those records, do so within a shorter time period, and make it easier for victims and their lawyer to monitor the process.

Evidence: FTT was able to cite numerous cases when not all of a client’s records were eliminated or the process had been unduly delayed.

(2) **Assembly Bill 124 (AB-124)**, titled **Justice for Survivors**, was more ambitious. The bill was not limited to survivors of human trafficking; it also included persons who have experienced trauma as a result of intimate partner violence and sexual violence. Moreover, the bill focused on improving the treatment of survivors at every step of the criminal process, including affirmative defense, plea bargaining, sentencing, and resentencing. It also expanded the vacatur law to include survivors of intimate partner and sexual violence.

Appendix 3, the bill’s fact sheet provides an analysis of the problems, causes and solutions related to the experience of persons who have been trafficked and/or experienced other forms of sexual violence. In brief:

Problem: The crimes committed by survivors of trafficking, intimate partner violence and sexual violence are often the result of their traumatic experiences. In many cases, the survivors are forced or coerced by their traffickers or abusive partners to commit the crimes and/or do so protect themselves from further violence. But when they are arrested, prosecutors and judges are expected to focus solely on *if* a crime was committed and not

the context or *why* it was committed – often resulting in unjustly long sentences and penalties.

Solution: Amend language in applicable provisions of the criminal code so that prosecutors and judges are encouraged to better identify and address abuse and trauma in making criminal charges and sentencing decisions. And create a path to remedy past injustices through resentencing and expanded vacatur.

Evidence: The advocates cite data from research by the ACLU, the American Academy of Pediatrics and other sources that show how many persons, especially women, who are serving sentences in jails and prisons are victims of sexual violence. Their data also indicates the degree to which persons of color and LGBTQ persons are disproportionately impacted.

More specific to persons who have been trafficked, Free to Thrive reported that 70% of their clients have a criminal record. Over 88% are also victims of domestic violence. Based on survivor centered surveys of where the gaps are from their experiences in the criminal legal system, an overwhelming number of their clients reported that that no one - not a police officer, defense attorney, prosecutor, or judge -- inquired about their past trafficking or domestic violence abuse.

WHO – Political Map

UPAC's Policy Advocacy 101 paper describes a set of "who" or political map questions that advocates need to answer: Who exactly (which specific person[s] in which institutions) has the power to make the decisions we want? Who will work with us to influence those decisions? Who will oppose us?

Policy decision makers:

For each of the two bills, the *who* has the power was, on one level, quite clear. Once a legislator introduces or authors a bill, it must be passed by a majority of members of the relevant Assembly and Senate committees (for these bills, the Public Safety and Appropriations Committees), then by a majority of the full membership of each chamber. If the bill passes all those hurdles, it must be signed by the Governor.

In 2021, Democrats were the majority in both chambers (in fact a super-majority in the Senate), thus all committee chairs were Democrats, and the Governor was a Democrat. Therefore, one might think that it should be simple to pass any bill introduced by a Democrat. As we will see, that would be an oversimplification. Within each party there is diversity in terms of the districts represented, influence of special interests and campaign donors, policy priorities, beliefs and biases that can result in different understandings of and interests in the complex issues of human trafficking, intimate partner violence and sexual violence. Moreover, not all legislators have equal power. Committee chairs, for example, are often able to expedite or stall action on a bill.

One of the most important legislators for securing majority support is often the one who introduces or authors the bill. Ideally, the author and her or is staff work closely with the

advocates, sharing inside information, planning testimony and other actions as part of a joint strategy.

AB-262 was in fact introduced by a Republican, Assemblyperson James Patterson from Fresno. A former businessman, he was first elected in 2012. In 2020, after hearing the story of one of his constituents whose vacatur process was complicated by several procedural limitations in the existing law, he introduced a bill to address those limitations. Made for Them, a Fresno nonprofit that provides training and employment to victims of trafficking, worked with Patterson’s staff as the bill’s sponsor. Free to Thrive offered their support. When the bill did not pass and was reintroduced in 2021, Free to Thrive was prepared to become a co-sponsor and add the additional policy changes related to insuring complete and timely expunging of records. Thirteen legislators co-sponsored the new bill, nine Republicans (including Assemblyperson Brian Jones, the one Republican from San Diego County) and four Democrats.

AB-124 was introduced by a Democrat, then Assemblyperson Sydney Kamlager from Los Angeles. (Midway through the 2021 session, she won a special election to fill a vacant seat in the California Senate.) Kamlager is well-known advocate of racial and social justice; during her three years in the Assembly, she had a strong track record in passing legislation related to criminal justice reform (including what her website describes as the “most transformative probation reform law in the country”), health care equity, environmental protections, affordable housing, and implicit bias training for health care professionals and court employees. Six members of the Assembly, all Democrats (though neither of the two from San Diego County), signed on as legislative co-sponsors of AB-124.

Allies and Supporters:

For **AB-262**, Free to Thrive’s primary ally was the bill’s co-sponsor, Made for Them. In addition, a legislative committee document lists 10 organizations that were on record supporting the bill. These ranged from local organizations in Patterson’s Fresno area district (e.g., Every Neighborhood Partnership, the San Joaquin Valley Manufacturing Alliance and the City of Clovis) to larger professional associations and networks (e.g., the American Academy of Pediatrics and California and the Alliance of Child and Family Services). And, very significantly, the California District Attorneys Association and the California Public Defenders Association also went on record supporting the bill.

For **AB-124**, Free to Thrive co-organized a formal, diverse, and active coalition with eight other organizations that met regularly to plan and co-sponsor the bill and advocate throughout the legislative session.

- Black Futures Lab Public Policy Institute
- California Coalition for Women Prisoners
- Dr. Beatriz María Solís Policy Institute (SPI) - Women’s Foundation of California
- Human Rights Watch
- National Center for Youth Law
- Survived & Punished
- USC School of Law Post Conviction Justice Project

- Young Women’s Freedom Center

Each member brought its own networks to support the bill and contributed a range of capacities and resources. Importantly, several of the coalition members were founded and led by survivors and individuals with lived experiences. Some organizations were experts in policy research and analysis. Some had staff dedicated to advocacy. One was able to hire a lobbyist to work on the bill. In addition, the bill’s fact sheet lists an additional 100 organizations that went on record as supporters.

Opponents:

Divisions within the California Department of Justice and powerful associations that represent law enforcement, district attorneys, and the courts often “push back” against legislation related to criminal code reforms. Many of them have full-time lobbyists in Sacramento. In addition, many Republican legislators view legislation from a “law and order” frame and oppose reforms that they believe might undermine public safety.

However, for AB-262 the legislative committee document does not list a single organization on record as opposing the bill. In fact, as noted above, the California District Attorneys Association *supported* the bill.

On the other hand, for AB-124 there was significant opposition – including the California District Attorneys Association. One committee document also lists the California State Sheriff’s Association, the California Narcotics Officers’ Association, and Crime Victims United of California as opposing the bill.

HOW – Advocacy Strategy

UPAC’s Policy Advocacy 101 paper describes a set of “how” or strategy questions that advocates need to answer: How will we persuade and/or pressure the person(s) with the power to make the decisions we want? Which actions, in what order, will most effectively and efficiently influence them? How will we monitor progress and make adjustments as necessary?

The strategies for persuading a majority of legislators to pass the bills and the governor to sign AB-262 and AB-124 reflected the different policy goals of each bill and the political map described above.

For **AB-262**, the policy changes the advocates wanted were, in Jamie’s words, “wonky” – a set of technical fixes to make an existing law better accomplish what it was designed to do. Legislators didn’t need to fully understand those fixes because it had no formal organization and was even supported by the district attorneys. Since it was introduced by a Republican and the majority of its legislative co-sponsors were Republicans, the “law and order” party was not concerned. The four Democrats who signed on as legislative co-sponsors projected bi-partisan support.

Thus, the AB-262 strategy was to keep a low profile and move the bill smoothly through each of the legislative steps. There were no hearings in any of the committees. It was passed without a

single no vote in the Public Safety and Appropriations committees of both the Assembly and Senate and then again unanimously by the full membership of each chamber. The Governor signed the bill. A complete victory.

For **AB-124**, the policy changes the advocates wanted were new and more profound. There was formal opposition, from some of the usual sources that oppose many criminal justice reforms. Only one Republican ended up voting for the bill; even Patterson, who had introduced AB-262, voted against it. On the other hand, the coalition that sponsored the bill was well organized, and there were many other supporters. The bill's author was an influential legislator with a strong record of passing criminal justice reforms, and she and her fellow Democrats had enough votes to pass any bill if their members were united.

For those reasons, the AB-124 strategy was more typical of sponsored bills. The advocates met with key legislators and provided testimony when the bill came before each of the four committees. The advocates shared their policy analysis and evidence. In testimony before the finance-focused appropriations committees, the advocates presented arguments about how reducing the costs of jail and prison time would offset any additional costs of implementing the bill's mandates.

In each of those meetings and testimonies, coalition members who were survivors of human trafficking, intimate partner violence, and sexual violence told and re-told their stories about their trauma, their experience in the criminal legal system, and how their traumatic histories had not been considered by prosecutors and judges in sentencing and other decisions.

The advocates facts and stories were powerful. However, they faced a number of nuanced challenges in winning full support from policy makers, including Democrats.

For example, while the bill only required that a person's past trauma be considered in sentencing, many in the opposition mischaracterized the bill as a "get out of jail free card" for persons who commit crimes. While vacatur was relief for those who had already served time and paid the price for their crimes, some policy makers and opponents viewed AB-124 primarily as an attempt to reduce that price. Since prosecutors are publicly elected and judged on their track record of putting "criminals" in jail, most likely some felt, again incorrectly, that the bill would impede their ability to be tough on crime, especially those crimes that receive media attention.

A related challenge had to do with the advocates' decision to label the persons who would benefit from AB-124 as "survivors" rather than "victims" – both in the bill's title, "Justice for *Survivors*," and all other communications. (In contrast, the title of AB-262 was "Human Trafficking: Vacatur Relief for *Victims*.") Understandably, many with lived experience of the abuse and trauma – including leaders within the coalition -- feel the term "victim" is disempowering, while "survivor" more accurately expresses the hard work they have done to cope with or overcome those experiences. On the other hand, in our culture and institutions, including in the criminal justice system and among many policy makers, there is a strong focus on protecting victims. The survivors are of course victims of the traffickers, intimate partners, or others who sexually assaulted them. But in some cases, the crimes they commit also have other victims. And so, the bill was seen by some, again incorrectly, as not adequately protecting those

other victims. The opposition of the Crime Victims United of California no doubt reflected that misinterpretation of the bill's intent.

Yet another challenge the advocates faced was the fact that Assemblyperson Kamlager was distracted in the middle of the legislative session as she campaigned to win the special election to fill the vacated seat in the Senate. Once elected, Senator Kamlager then had to adjust to the politics of a new chamber and new Senate committee assignments (which included both Public Safety and Appropriations). The change had an unavoidable impact on the amount of attention she could give to the bills she had introduced and the level of communication with their sponsors, including the AB-124 advocates.

Despite the challenges, the coalition's advocacy was effective, and the bill was approved by a 6-2 vote in the Assembly's Public Safety Committee, then by a 12-4 vote in the Appropriations Committee, and finally by a 54-12 vote by the full Assembly. It then went to the Senate, where in July it passed by a 4-0 vote in the Public Safety Committee.

In August, AB-124 also passed in the Senate's Appropriations Committee by a 5-2 vote, but not before there were amendments to several of provisions that were very important to the coalition. The greatest of those was an amendment that made persons who had committed a violent crime ineligible to receive consideration of their trauma during sentencing or to be able to apply for vacatur. The amendments had been negotiated behind closed doors – likely to gain the support needed to secure a majority vote, and the coalition had not been alerted to those discussions. Jamie and Pallavi described these amendments as a “gut punch.” Among the survivors who had powerfully told and re-told their stories during the many meetings and hearings were those who had been convicted of violent crimes and thus would now themselves be ineligible for vacatur.

At that point, the coalition needed to respond. It made the difficult choice to continue advocating for the compromised bill in order to secure many if not all of the goals it was seeking. The bill was passed by the full Senate and, since it had been amended, by another vote by the full Assembly. The coalition's letter urging the Governor to sign the bill described the benefits for survivors, as well as how it had accommodated others' concerns about violent offenses and other provisions in the bill. The Governor signed the bill into law. A partial, but significant, victory.

Free to Thrive posted an announcement that thanked its coalition partners and the policy makers for their efforts to pass the bill, highlighted the positive changes that would now become law.

The advocates then regrouped. It began by taking the time to process the painful impact of the amendments and the decision to support the compromised bill. It is not uncommon for coalitions fracture over such decisions. However, by taking time to first address the personal dimensions of the loss, the members were able to make the political decision to move forward as a united coalition. They now plan to use the next year to educate and expand the support needed to pass a 2023 bill that will provide trauma survivors who have committed violent crimes the same benefits that that the passage of AB-124 provided to those accused of nonviolent crimes.

LESSONS

Free to Thrive's work to pass AB-262 and AB-124 illustrates a number of lessons about effective advocacy.

Perhaps the most obvious is that good advocates realize that no two advocacy efforts will be the same – even, as in these cases, when the policy makers are exactly the same. Each bill needed to be approved in the same two Assembly committees and the full Assembly, the same two Senate committees and the full Senate, and the same Governor.

Thus, while Free to Thrive and its allies did not intentionally utilize the conceptual framework outlined in UPAC's Policy Advocacy 101 paper, they did give careful attention to answering the inter-related questions that UPAC clusters under the labels we, what, who and how. And, in doing so, they were able to develop two very different advocacy strategies that reflected their answers.

For the more challenging strategy to pass AB-124, Free to Thrive realized the need to co-create a strong core coalition that was (a) large enough to reflect the diversity of persons who would benefit from the policy changes they were seeking and pooled capacities and resources that no one member, including Free to Thrive, had by itself, yet (b) small enough to be an effective working team.

They also realized that effective coalitions give attention to both the process and task dimensions of their work together. In the case of AB-124, attention to process allowed the coalition to prioritize the perspectives and leadership of persons with lived experience and to hold together in the face of setbacks that directly impacted some of those leaders and many other survivors.

Free to Thrive and its coalition partners understood that effective advocates need to recognize and respond to factors over which they had no control. These include ones that could be anticipated (for example, the oppositions' mischaracterization of the purpose and costs of AB-124) and those they couldn't (the timing of a special election that diverted the time and attention that their bill's author).

Free to Thrive recognized that policy change is a long-term process. It involves monitoring the implementation of previous victories and making additional changes when necessary – as was the case with the 2016 vacatur law. (In fact, Free to Thrive now plans to address one additional ambiguity in that law having to do with the process for non-citizens to petition for vacatur.) The long-term process also involves winning partial victories and then continuing to work to address the changes that are still needed – as will be the case with AB-124.

At the same time, Free to Thrive understood sustaining long-term advocacy includes claiming credit for and celebrating each incremental victory and thanking those who have supported those efforts.

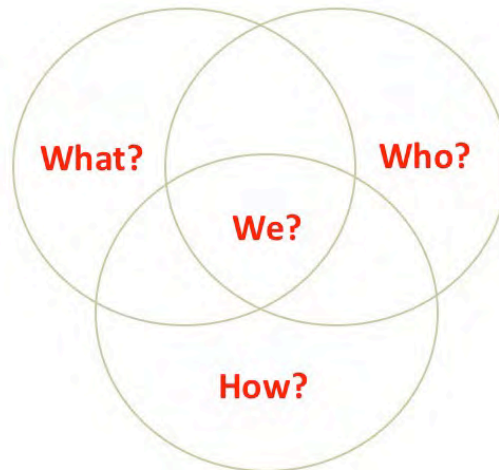
Appendix 1

UPAC'S ADVOCACY CIRCLES DIAGRAM

Effective advocacy involves answering four sets of inter-related questions:

- (1) **We:** Are we already part of a group or organization that is ready to be engaged in policy change -- or do we need to create a new group? What capacities and resources does our group have now? What can we do to fill in any gaps?
- (2) **What:** What are the problems we wish to solve and what are their causes? What policy decisions do we need to change or to create in order to resolve the problems? What evidence do we have to support our arguments?
- (3) **Who:** Who exactly (which specific person[s] in which institutions) has the power to make those decisions? Who will work with us to influence those decisions? Who will oppose us?
- (4) **How:** How will we persuade and/or pressure the person(s) with the power to make the decisions we want? Which actions, in what order, will most effectively and efficiently influence them? How will we monitor progress and make adjustments as necessary?

Rarely will you be answer all of those questions before you begin or answer them in that order. For example, as you learn about the “who” you need to influence, you may need to modify the “what” you will attempt to change -- at least in the short run. And your plans for “how” will be either be shaped by your group’s resources and capacities and/or inform what new ones you need develop. For that reason, we use the following “circles diagram” that emphasizes how all of the above overlap.



Appendix 2



ASSEMBLYMAN JIM PATTERSON, 23RD DISTRICT

AB 262 (PATTERSON)

IMPROVING THE RECORD-CLEARING PROCESS FOR HUMAN TRAFFICKING VICTIMS

SUMMARY

In 2019, the U.S. State Department identified 24.9 million victims of human trafficking globally.¹ Within the United States alone, there are hundreds of thousands of identified victims. Just last year, the National Human Trafficking Hotline received 23,784 calls of suspected trafficking instances and reported 4,585 cases.²

Once free from trafficking, victims desire a fresh start on life and seek out secure housing, employment, counseling and involvement within their community. However, many victims possess criminal records that can hinder their work towards a new life on numerous levels, such as finding employment or volunteering for work experience or even volunteering in their child's classroom.

The first and most important step for a fresh start requires victims to first petition the courts to have their records cleared. Many of these offenses come with fines and a sentence of probation. Current law is interpreted as requiring victims to pay all fines and satisfy all probation requirements before petitioning a court to have their record cleared (referred to as vacatur relief).

This is a lengthy process, with victims needing to meet many requirements before the petition is considered. AB 262 seeks to smooth it out by 1) Preventing unpaid fines and/or unfinished probation from inhibiting a victim's ability to petition a court for vacatur relief; 2) Allowing victims to file a petition at any time; and 3) Allowing victims to appear at a court hearing by counsel rather than in-person. If the court opposes this, the victim may request to appear by electronic means established by the court.

¹ U.S. Department of State 2019 Trafficking in Persons Report

² National Human Trafficking Hotline, 2019 Statistics

EXISTING LAW

Current law provides that a victim of human trafficking may petition the court for vacatur relief of nonviolent offenses including, but not limited to, prostitution.³ The petitioner (victim) must establish through clear and convincing evidence the offenses are a direct result of being a victim of human trafficking.⁴

Current code does not specify a period for when a victim must petition the court for relief. Instead, current law states the petition can occur within a reasonable time after the victim has ceased to be in trafficking or after they have sought services, whichever is later.⁵

Current code also states that the government agency in charge of purging records of human trafficking survivors be three years from the date of the arrest or within one year after the court order is granted.

Once a victim begins the petition process, current law allows victims of human trafficking to be excused from appearing at the court hearing in person and instead appear through electronic means established by the court.⁶ Permission is granted only if the court finds compelling reasons why the victim cannot appear in person.⁷ Current law also requires any individual, including these victims, to pay all fines and meet all probation requirements before petitioning the court to clear their record.⁸

PROBLEM

Current law is problematic for victims of trafficking who, because of their record, often have difficulty finding a

³ CA Penal Code, Section 236.14(a)

⁴ Ibid.

⁵ CA Penal Code, Section 236.14(l)

⁶ CA Penal Code, Section 263.14(n)

⁷ Ibid.

⁸ CA Penal Code, Section 1203.4 & 1203.4a

job and therefore cannot afford to pay their fines. In some counties, the court chooses to waive this requirement while others do not—it is up to the discretion of the judge and their interpretation of code. It is a catch 22: having a record prevents victims from building a successful life and finding meaningful employment, yet they cannot petition to have their records cleared until all fines and fees are paid in full. This barrier stops victims from addressing one of the most vital issues preventing them from starting a new life: clearing their record.

Current law is also unclear about how long a victim may have to file a petition to have their record cleared.

Currently law also makes it difficult for victims to clear their name in a timely manner. Three years from the date of arrest or one year after the court order is granted is too long a time for these victims to seek relief from a crime they are a victim to. This presents a problem when trying to clear the victim's records because counsel may have to wait over one year in order to get started on clearing the victim's name. This leaves the victims susceptible to further abuse since they are unable to receive housing or get employment.

Additionally, while the law states a victim *may* be excused from appearing in person at a hearing and instead appear through electronic means, this discretion is not always granted. Many victims have multiple offenses in multiple counties, which requires travel to locations where they were either trafficked or lived while in trafficking. Allowing victims to appear at court hearings by representation from the beginning greatly eases the record clearing process.

SOLUTION

In order to smooth the pathway for victims' vacatur relief process, AB 262 will prevent a court from refusing to hear a victim's petition due to unpaid fines and fees owed or failure to meet probation conditions. With the exception of restitution, this bill will additionally place fines and fees owed by a victim on hold while the petition is pending.

AB 262 also seeks to clarify and expand the Penal Code statute so victims may petition the court at any time, and will specify there is no time limit on when a victim can petition the court for vacatur relief once removed from trafficking.

AB 262 also seeks to reduce the timeframe agencies have to clear the victim's records from three years after the arrest to one year and from one year after the court order to destroy records to 90 days. This shortened time frame will help victims be able to clear their records faster since counsel will no longer have to wait a year after a court order to follow up and begin their case of clearing the victim's name.

Lastly, this bill will allow victims to appear via counsel rather than in person for court hearings. Should the court deny this, the victim would then be able to petition to appear through electronic means, as established by the court. Not only will this ease the burden and cost of travel for victims, but it will also prevent them from having to return to locales where they endured traumatic experiences.

Victims of human trafficking are commonly forced to commit various crimes and do so to survive. For those who only have a criminal record as a result of their victimhood, AB 262 will help victims get their lives back and put their traumatic pasts behind them.

SPONSOR

This bill is co-sponsored by Made For Them (an anti-human trafficking 501(c)(3) in Fresno, California) and Free to Thrive a Southern-California 501(c)(3) nonprofit that provides legal services and other support to human trafficking survivors.

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Appendix 3



AB 124 – Justice for Survivors Senator Sydney Kamlager, District 30

IN BRIEF

AB 124: Justice for Survivors would support survivors of violence, including intimate partner violence, sexual violence, and human trafficking, by allowing the criminal justice system to consider the full context of a person's circumstances and experiences throughout the court process.

BACKGROUND & PROBLEM

According to the ACLU, nearly 60% of female state prisoners nationwide and as many as 94% of certain female prison populations experienced physical or sexual abuse before being incarcerated. Black women make up 25% of the incarcerated population in California, yet are only 5% of the adult population, demonstrating an overrepresentation of Black women in prison. Similar disparities exist for other individuals of color, including Latinx, Asian and Pacific Islander, and indigenous communities.

According to the American Academy of Pediatrics, transgender and gender non-conforming people are six times more likely to be sexually assaulted as children and have a greater risk of sexual violence across their lifetimes. Trans and non-binary survivors are vastly overrepresented in prisons. Less than 1% of California's population identifies as transgender, nonbinary, or intersex, yet make up 1% of the prison population.

Survivors of sexual violence, intimate partner violence, and other severe forms of trauma are more likely to land in the criminal justice system, yet California's current legal framework lacks clear mechanisms to consider relevant factors and experiences that contributed to the commission of the offense. The societal trauma caused by criminalizing these individuals spans generations as this often results in separating families and perpetuating cycles of abuse and trauma. Additionally, criminalizing victims and incarcerating them for long and harsh sentences imposes tremendous costs on the public.

AB 124 works to address the gaps and failures of the current legal system by allowing the court to consider how the defendant's own trauma contributed to the commission of the offense and/or conviction.

SOLUTION

AB 124 would create just outcomes moving forward, provide full context of the experiences that contributed to a survivor's actions or inactions, and use a more humanizing and trauma-informed response to criminal adjudication. This legislation will:

- Extend the existing affirmative defense statute, which currently applies to human trafficking survivors, to also include survivors of intimate partner violence and sexual violence;
- Require prosecutors to consider the impact of violence experienced by the survivor, whether the individual was a youth at the time of the commission of the offense, or whether the individual was a victim of intimate partner violence, sexual violence, or human trafficking during plea negotiations;
- Create a presumption that judges should start at the lower term when sentencing a survivor to prison if trauma, age, or victimization contributed to the commission of the offense, while maintaining a judge's discretion to order the middle or high term if the aggravating factors outweigh the mitigating factors;
- Encourage judges to consider whether the survivor's experience of trauma, intimate partner violence, sexual violence, and human trafficking was a contributing factor in the commission of the offense when evaluating a survivor's petition for resentencing; and
- Expand the vacatur law to allow survivors to petition the court to vacate convictions and expunge arrests for nonviolent offenses that were the direct result of being a victim of intimate partner violence or sexual violence.

SPONSORS

- Black Futures Lab Public Policy Institute
- California Coalition for Women Prisoners
- Dr. Beatriz María Solís Policy Institute (SPI) - Women's Foundation of California
- Free to Thrive
- Human Rights Watch
- National Center for Youth Law
- Survived & Punished
- USC School of Law Post Conviction Justice Project
- Young Women's Freedom Center

SUPPORTERS

- 3Strands Global Foundation
- Alliance for Children's Rights
- Alum Rock Counseling Center
- American Civil Liberties Union (ACLU) California Action
- Anti-Recidivism Coalition (ARC)
- Art of Yoga Project
- Asian Prisoner Support Committee
- Black to the Future Action Fund
- California Against Slavery
- California Alliance for Youth and Community Justice (CAYCJ)
- California Attorneys for Criminal Justice
- California Catholic Conference
- California Legislative Women's Caucus
- California Partnership to End Domestic Violence
- California Prison Focus
- California Public Defenders Association (CPDA)
- Californians for Safety and Justice
- Californians United for a Responsible Budget
- Center for Community Action and Environmental Justice
- Center for Justice and Reconciliation at Point Loma Nazarene University
- Ceres Policy Research
- Children's Advocacy Institute
- Children's Defense Fund California
- Children's Law Center of California
- Citizens for Choice
- Clergy and Laity United for Economic Justice
- Coleman Advocates for Children and Youth
- Communities United for Restorative Youth Justice (CURYJ)
- Community Against Sexual Harm (CASH)
- Community Legal Services in East Palo Alto
- Community Works
- ConXion to Community
- Crime Survivors for Safety and Justice
- Cure Violence Global
- Dignity and Power Now
- Ella Baker Center for Human Rights
- Empowering Pacific Islander Communities (EPIC)
- End Solitary Santa Cruz County
- Essie Justice Group
- Fair Chance Project
- Family Assistance Program
- Felony Murder Elimination Project
- Forever Found
- Fresno Barrios Unidos
- I-5 Freedom Network
- Initiate Justice
- John Burton Advocates for Youth (JBAY)
- Journey House Beyond Foster Care Program
- Journey Out
- Justice for Josiah
- JusticeLA
- Kern County Participatory Defense
- LA Best Babies Network
- Legal Services for Prisoners with Children
- Los Angeles Center for Law and Justice
- Los Angeles County Democratic Party
- Los Angeles LGBT Center
- Mental Health Advocacy Services
- Mirror Memoirs
- Monarch Services - Servicios Monarca
- NARAL Pro-Choice California
- National Association of Social Workers, California Chapter
- National Institute for Criminal Justice Reform
- North County Lifeline
- Office of Sexual Harassment and Assault Response and Prevention
- Palms Empowerment Women's Network
- Parenting for Liberation
- People's Pottery Project
- The Praxis Project
- Prison Activist Resource Center
- Prison Yoga Project
- Prisoner Advocacy Network
- Public Law Center
- Re:Store Justice
- Rights4Girls
- San Diego City Attorney's Office
- San Diego County Regional Human Trafficking & CSEC Advisory Council
- San Diego Public Defender
- San Diego Workforce Partnership, Inc.
- San Diego Youth Services
- San Francisco Public Defender
- Shared Hope International
- Showing Up for Racial Justice (SURJ) Bay Area
- Sister Warriors Freedom Coalition San Jose
- Somos Mayfair

- Sonoma County Black Coalition
- Starting Over, Inc.
- Survivor Leader Network of San Diego
- Time for Change Foundation
- Transformative In-Prison Workgroup
- Transgender Advocacy Group
- Treasures
- Uncommon Law
- Underground Grit
- The Unity Council
- Urban Strategies Council
- University of Southern California Unchained Scholars
- W. Haywood Burns Institute
- The Well Path
- Women's Foundation of California
- YWCA Glendale and Pasadena

FOR MORE INFORMATION

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