

## Policy on Identity Protection for Survivors of Human Trafficking and Sexual Exploitation

**SMF Policy Formally Ratified by SMF Board of Directors:** January 23, 2013

**Responsible for Implementation:** Policy and Liaison Manager and Senior Director of Communications

**Date of Implementation of SMF Policy:** January 24, 2013 (soft implementation from December 20, 2012 utilizing grant partner AFESIP Cambodia's guidelines on privacy protections)

### **National and international legislation and policy which has helped inform this policy:**

- Article 12 of the *Cambodian National Minimum Standards for the Protection of Victims of Human Trafficking*, 2009
- Article 49 of the *Cambodian Law on the Suppression of Human Trafficking and Sexual Exploitation*, 2008
- Article 6.1 of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (The Palermo Protocol), 2000
- Sec107 (c)(1)(C)(ii) of the US Department of State *Trafficking Victims Protection Act*, 2000
- The United Nations *Convention on the Rights of the Child*, 1989 and the *Optional Protocol Optional Protocol on the Rights of the Child on the sale of children, child prostitution and child pornography*, 2000

### **Other documents which have helped to inform this policy:**

- The Cambodian Ministry of Justice, *Explanatory Notes for Each Article of the Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation*, 2012 (publication financed by UNICEF)
- The United Nations Inter-Agency Project on Human Trafficking, *Guide to Ethics and Human Rights in Counter-Trafficking*, 2008
- The United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons*, Tool 8.3: Protection, assistance and human rights, 2008
- UNICEF *Guidelines on the Protection of Child Victims of Trafficking*, 2006

### **Introduction and Aims:**

The Somaly Mam Foundation (SMF) commits to upholding the protection policies of our partner organizations.

In addition to, and/or in the absence of identity protection policies of our partners, SMF commits to the following points set out in this policy as a set of minimum standards in our work which directly involves victims and survivors of sexual exploitation and human trafficking, including members of our own Voices For Change (as defined below) and tertiary scholarship programs.

SMF believes that survivors should be entitled to privacy and confidentiality to protect their physical and psychological safety and dignity, in line with the above legislation and best practice guides.

SMF also values the voice and active participation of survivors within the broader counter-trafficking movement, and recognizes that for some adult survivors under certain circumstances, public speaking and sharing of their experiences in the media can be a source of empowerment.

This policy aims to provide a framework to enable the clear navigation of SMF's legal and ethical responsibilities to protect the identity of survivors, while supporting adults who wish to enter the public domain to do so in a safe and informed manner.

**Definitions:**

- **Recording:** A 'Recording' refers to audio and/or visual material in any format, moving or still, captured or broadcast on any equipment, including (but not limited to) analogue or digital camera, mobile phone or Personal Digital Assistant (PDA) camera, or video recorder.
- **Child:** A 'Child' shall mean any human being below the age of eighteen years, in accordance with the *United Nations Convention on the Rights of the Child*.
- **Beneficiary:** 'Beneficiary' refers to any individual who receives services either directly from SMF and our programs, or from SMF partner organizations, noting that such individuals may not necessarily be victims of trafficking or sexual exploitation; for example, cases that are receiving preventative care or services.
- **Survivor:** 'Survivor' shall mean any individual who has experienced human trafficking and/or sexual exploitation, whether or not they are receiving services from SMF or our partners.
- **Voices For Change (VFC):** 'Voices For Change' is a survivor advocacy program developed, managed and funded by SMF.
- **Voices For Change Members:** 'Voices For Change' Members' refers to Survivors over the age of eighteen years who have chosen to embark on careers in the counter-trafficking field, including public speaking and advocacy work, under the support of SMF's *Voices For Change* program.
- **Staff:** 'Staff' refers to any person employed or contracted by SMF. This includes unpaid volunteers and interns, as well as salaried members of staff and paid consultants.
- **Guest:** A 'Guest' is defined as any person not employed by SMF who has been granted permission by SMF to visit program sites and/or have direct contact with beneficiaries. This includes (but is not limited to) donors, supporters, partners, and members of the general public.
- **Approved Media Representative:** 'Approved Media Representative' is defined as any individual commissioned or granted permission by SMF to make Recordings of our sites, programs, activities and/or Beneficiaries or Survivors (whether or not payment is exchanged for this service). This includes journalists and Guests who have been granted express prior permission by SMF.
- **Internal Use:** 'Internal Use' refers to documents, presentations and any other communications that will be seen or used by SMF staff only. Examples include staff training events, database records, confidential documents, and reports.
- **External Use:** 'External Use' refers to any communications that will be seen or used by any person outside of SMF. This includes (but is not limited to) SMF website, SMF social media, websites and social media of partner organizations, annual reports, donor and partnership reports, press coverage, public events, newsletters, posters, flyers, brochures, and other marketing and awareness-raising products.

## **1. WHO THIS POLICY APPLIES TO**

### **1.1. Guests**

- 1.1.1.** Guests are forbidden from bringing cameras or other Recording devices to any SMF or partner program sites where Survivors are present.
- 1.1.2.** If photographs or recordings are requested by our partners and supporters, they can be requested from SMF staff who will supply approved material in a timely fashion.

### **1.2. Staff**

- 1.2.1.** Staff must ask verbal permission before taking pictures of Beneficiaries or Survivors. Beneficiaries and Survivors always have the right to refuse.
- 1.2.2.** Staff are not permitted to take pictures or make Recordings on personal cameras or devices, including mobile phones. Only SMF-owned cameras can be used for photographing Beneficiaries, unless written permission has been sought from SMF's Protection Policy and Standards Manager.
- 1.2.3.** All images captured of Beneficiaries and Survivors remain the property of SMF.

### **1.3. Approved Media Representatives**

- 1.3.1.** Approved Media Representatives must have been granted permission by SMF prior to arrival at SMF/partner program sites.
- 1.3.2.** Approved Media Representatives must have signed and agreed to this policy, as well as SMF's Media Guidelines, and any other relevant policies of involved partner organizations, prior to commencing any Recordings.
- 1.3.3.** Approved Media Representatives must remain with a designated member of SMF or partner organization staff and only Record in locations permitted by SMF. Photography or Recording in changing, toilet, and shower areas of Beneficiaries is not permitted under any circumstances.

## **2. USE OF RECORDINGS AND IDENTIFYING INFORMATION**

SMF is committed to upholding national laws pertaining to identity protection of victims and Survivors in the countries in which it operates, specifically Article 49 of the Cambodian national Law on Suppression of Human Trafficking and Sexual Exploitation, as well as best practice standards defined by the United Nations.

**2.1.** Under no circumstances shall SMF staff (as defined) publish, broadcast or disseminate, or assist, encourage, or incite the publication, broadcast or dissemination of any information (including photographs and other media) relating to:

- 2.1.1.** any case still under police or judicial investigation;
- 2.1.2.** any case under trial where releasing such information may prejudice the rights of the accused to a fair trial;



2.7. SMF will supply images approved for External Use to partners, supporters, Guests and members of the public as reasonably requested for use in their own communications.

### **3. PUBLIC EVENTS**

3.1. SMF considers public speaking by Beneficiaries and Survivors to pose similar implications for identity revelation as participation in Recordings and media. Case-by-case decisions regarding adult Beneficiary and Survivor participation in public speaking activities must be made in accordance with SMF's Informed Consent Guidelines, and Section 4 of this policy.

3.2. In accordance with UNIAP's *Guide to Ethics and Human Rights in Counter-Trafficking*, 2008, SMF should not facilitate or invite the presence of media at events such as raids, rescues, or repatriations.

### **4. INFORMED CONSENT**

In cases where adult Beneficiaries or Survivors wish to identify themselves publicly, through participation in Recordings, media or other public speaking, informed consent must be obtained. Informed consent is only considered an appropriate option under limited circumstances. SMF's Informed Consent Guidelines must be consulted in making case-by-case decisions on the ethics and appropriateness of obtaining informed consent from Beneficiaries and Survivors.

4.1. Informed consent applies only to Survivors over the age of eighteen years.

4.2. SMF's Informed Consent Guidelines must be strictly adhered to, and the SMF Media Release & Informed Consent Form must be completed and signed, available in both Khmer and English. If the Beneficiary or Survivor cannot read in either language, a member of Staff must read aloud to them. If neither Khmer nor English is the first language of the Beneficiary or Survivor, they must be provided with a translation in their first language.

4.3. SMF Staff obtaining Informed Consent must ensure that there is no element of coercion in this process (see Informed Consent Guidelines).

4.4. Informed consent means that the Beneficiary or Survivor fully understands and agrees to all elements detailed in Section 2.2. of the Informed Consent Guidelines, pertaining to the process, context and risks of revealing their identity.

### **5. CHILD BENEFICIARIES AND SURVIVORS**

Recognizing that Children under the age of 18 years cannot give informed consent, SMF commits to protecting the identities of Child Beneficiaries and Survivors under all circumstances. This is in accordance with Article 8.1.(e) of the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*.

5.1. It is never appropriate for Child Beneficiaries or Survivors to speak publicly on behalf of or facilitated by SMF.

5.2. It is never appropriate to publish recordings for External Use which may identify Child Beneficiaries or Survivors.