



HUMAN TRAFFICKING

What Judges Need to Know

INSTRUCTOR GUIDE



THE NATIONAL
JUDICIAL COLLEGE



BJA
Bureau of Justice Assistance
U.S. Department of Justice



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FOREWORD

The United States of America is principally a transit and destination country for trafficking in persons. While accurate statistics are difficult to establish, it is estimated that 15,000 to 18,000 people, primarily women and children are trafficked to the U.S. annually. The Trafficking Victims Protection Act of 2000 and its reauthorizations enhance preexisting criminal penalties, afford new protection to trafficking victims, and make available certain benefits and services to victims of severe forms of trafficking. Furthermore, all 50 states have state statutes that address human trafficking which will result in a greater number of state prosecutions as human trafficking task forces and local law enforcement build cases against all forms of trafficking.

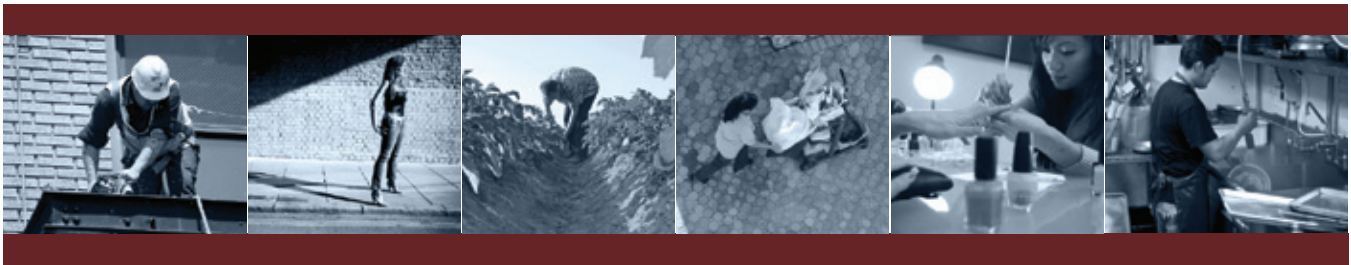
The National Judicial College drafted this curriculum for state trial judges who will confront these cases as task forces and law enforcement attack the problem. The curriculum is funded through the United States Department of Justice, Bureau of Justice Assistance in partnership with the Upper Midwest Community Policing Institute, the National Association of Attorneys General, and The National Judicial College.

The National Judicial College has presented educational sessions through webcasts and in-state conferences focusing on human trafficking awareness. The courses made use of group exercises, problem solving scenarios and cases studies. Participants engaged in learning through the application of adult learning principles to assist them in understanding the intricacies of the crime of human trafficking.

Human trafficking, also known as modern day slavery, has stirred many to action and sparked unprecedented reforms. The growing awareness has prompted important progress in combating this crime and assisting victims wherever they are found.

Dennis Cusick

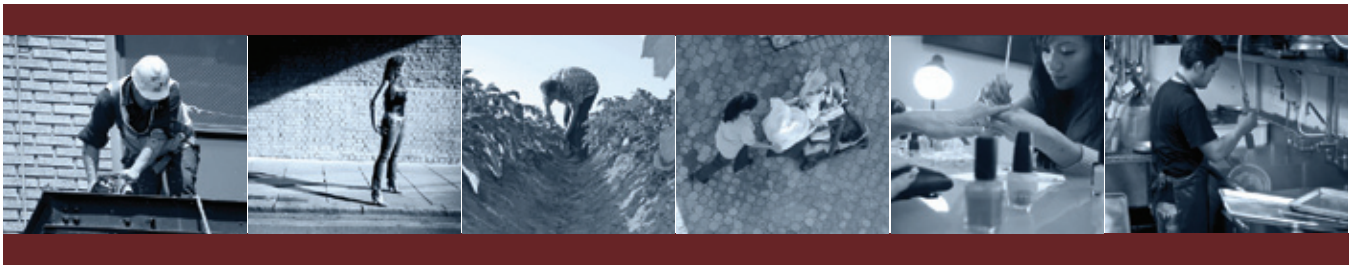
Director of the Upper Midwest Community Policing Institute



ACKNOWLEDGMENTS

The Bureau of Justice Assistance funded this project, which was directed by Executive Director Dennis Cusick, Upper Midwest Community Policing Institute. William Brunson, Esq., director, special projects, The National Judicial College (the NJC) was the primary author of the curriculum. In drafting the curriculum, two focus groups were held in Florida and Texas. In Florida, the following individuals provided much needed information and advice: Jack Blakey, chief of special prosecutions, Cook County State Attorney's Office, IL; Honorable Yolande Bourgeois, associate judge, Domestic Violence Division, Circuit Court of Cook County, IL; Honorable Callie Baird, associate judge, Circuit Court of Cook County, IL; Honorable Peg Chiampas, associate judge, Circuit Court of Cook County, IL; Terry Coonan, executive director, Center for the Advancement of Human Rights, associate professor of criminology and courtesy professor of law, Florida State University; Maria Jose Fletcher, VIDA Legal Assistance, Inc.; Nancy Gordon, consultant and trainer, Tampa Bay Center for Cognitive Behavior Therapy; Honorable Rosemary Grant Higgins, associate judge, Circuit Court of Cook County, IL; Eileen LaHaie, executive director, Florida Regional Community Policing Institute; Honorable Roberto Lopez, justice of the peace, DE; Patricia Manteiga, assistant state attorney, Sixth Judicial Circuit, FL; Jack McDevitt, Ph.D., associate dean for research, director, Center for Criminal Justice Policy and Research, director, Institute for Race and Justice, Northeastern University, MA; Beatriz Menanteau, staff attorney, Women's Human Rights Program, The Advocates for Human Rights; Roland Montas, Esq., victim services program specialist, Office of the Attorney General, Victim Services and Criminal Justice Division, FL; Donna Schulz, law enforcement coordination manager, United States Attorney's Office, Middle District of Florida; Alexis Upton, assistant state attorney, Office of the State Attorney, Sixth Judicial Circuit, FL; and William Williger, special agent, U.S. Department of Homeland Security, Immigration and Customs Enforcement.

In Texas, the following individuals provided their insights: Honorable Linda Chew, district court judge, TX; Elizabeth Fildes, investigator, deputy sheriff, Western New York Human Trafficking Alliance; Edward Gallagher, assistant U.S. attorney, deputy criminal chief, Major Offenders Unit, U.S. Attorney's Office - Southern District of Texas; Brooke Grona-Robb, assistant district attorney, Dallas County, TX; Honorable Brenda Kennedy, district court judge, Texas; Honorable Marilea Lewis, district court judge, TX; Krista Melton, assistant district attorney, Bexar County, TX; Honorable Chris Oldner, district court judge, TX; Randy O'Neal, director of enforcement, U.S. Department of Labor, TX; Ruben Perez, assistant U.S. attorney, chief, Civil Rights Unit, deputy coordinator-Human Trafficking Rescue Alliance, U.S. Attorney's Office - Southern District of Texas; Kristin Rehler, supervisory special agent, FBI; Constance Rossiter, director, YMCA, Trafficking Persons Assistance Program; Maria Sanchez-Gagne, assistant attorney general, New Mexico Attorney General's Office; Randall L. Sarosdy, executive director, Texas Center for the Judiciary; and Kaye Woodard-Hotz, Crime Victim Services Division, Texas Attorney General's Office.



The following individuals provided helpful information during the development process: Christina A. Bain, Carr Center for Human Rights Policy, Harvard Kennedy School; Honorable Susan M. Breall, superior court judge, CA; Honorable Charles W. Brown, district court judge, NM; Honorable Fernando Camacho, administrative judge for criminal matters, New York Supreme Court; Jill Laurie Goodman, counsel, New York State Judicial Committee on Women in the Courts; and Honorable Rick Magnis, district court judge, TX.

Terry Coonan, founding executive director, Florida State University Center for the Advancement of Human Rights, deserves special recognition for his tireless efforts in educating criminal justice professionals about these cases and for assisting in the development of this curriculum. He also taught hundreds of state trial judges about human trafficking and has been active in litigating on behalf of human trafficking victims, which provides him with a real-world perspective that makes his educational efforts all the more successful.

The staff of the Upper Midwest Community Policing Institute also provided invaluable assistance, especially Dennis Cusick, executive director. Likewise, the staff of the National Attorneys General Training & Research Institute of the National Association of Attorneys General provided research and assistance: Hedda Litwin, cybercrime counsel; and Judy McKee, acting director. The NJC's staff finalized the curriculum and made it ready for publication: Christina Nellemann, graphic designer; and Kelly Zahara, course administrator.

Opinions are those of the author, and any errors, omissions, and failures of understanding or communication are his and his alone.

– **William Brunson, director of special projects, The National Judicial College**



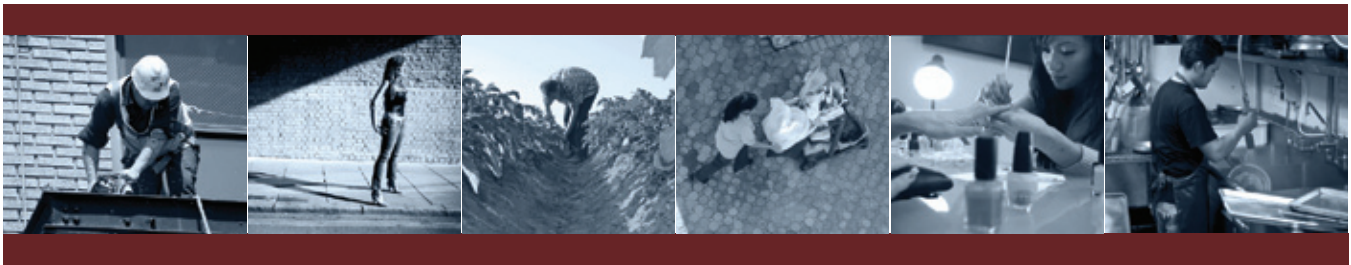
CURRICULUM OVERVIEW

This curriculum will assist trial judges in understanding the Trafficking Victims Protection Act (TVPA), human trafficking in the U.S., state laws regarding human trafficking, perpetrators and victims, immigration issues, penalties, sentencing issues, restitution and forfeiture. The curriculum was developed to be presented in three to five hours, depending upon the pace of the faculty member. Faculty members may customize the material for other timeframes. Using interactive teaching methods, which are strongly encouraged, require additional instructional time. Faculty members can review the resource materials included with the curriculum to give them additional background and information. The curriculum is designed for use at a national conference, but it can be modified for state or local judicial conferences.

Overall Learning Objectives

The National Judicial College (NJC) designed this curriculum as an introductory overview of human trafficking. Depending upon the methods and breadth of presentation, it will take approximately three to five hours to present in its entirety. At the conclusion of the entire curriculum, participants should be able to:

1. Define “human trafficking”;
2. Analyze human trafficking statutes;
3. Apply human trafficking statutes to case studies;
4. Identify the prevalence of the crime in the U.S.;
5. Differentiate the ways in which domestic victims are trafficked versus international victims;
6. Identify state statutory schemes for human trafficking;
7. Summarize methods of human traffickers;
8. Identify types of human traffickers;
9. Describe processes of domestic sex traffickers;
10. Identify international recruitment methods of victims;
11. Differentiate how domestic victims are targeted;
12. Define why victims don’t escape;
13. Identify ways that immigrant victims enter the country;
14. Differentiate different types of “aliens”;
15. Summarize different types of immigration remedies available to victims;
16. Identify the federal penalties for peonage, slavery, forced labor and trafficking;
17. Summarize sentencing factors that require consideration; and
18. Locate resources for assessing the risk of offenders.



SUGGESTIONS FOR THE JUDICIAL EDUCATOR

Faculty Selection

NJC designed the curriculum to be presented by a state trial judge. A judge-presenter may find it beneficial to co-teach with an expert on human trafficking. To locate a suitable expert, please contact William Brunson at brunson@judges.org. We encourage judicial branch educators to select presenters with a strong working knowledge of the covered materials so they can add their own ideas and experiences to the material. Past experience with facilitation and presentation is also valuable. The presenter should review this faculty manual, PowerPoint presentation, and other documents included with this model curriculum including those contained at this location: <http://tinyurl.com/NJC-Human-Trafficking>. The additional materials provide further information about human trafficking and will help prepare the presenter to teach on this important topic.

After the overview of each unit below, the curriculum features a reproduction of the PowerPoint slides and the accompanying presenter notes to assist the faculty member with teaching.

Modification of the Curriculum

NJC developed this curriculum as an introduction to the subject matter. The presenter may modify the presentation and exercises to meet the needs of the audience, the style of the presenter, and the amount of time allotted for the session. Indeed, we encourage presenters to tailor the content to identify information and issues specific to the audience. The presenter may modify the material for a more advanced audience with discussion questions that require the participants to use critical thinking. Please note that NJC developed the PowerPoint presentation using the Microsoft Office 2010 version of PowerPoint, but these slides may be used and modified with any version of Microsoft PowerPoint. For additional information on how to modify a PowerPoint presentation, please refer to the many Microsoft PowerPoint tutorials and references available at book stores and computer stores in the presenter's area. A particularly useful guide is *Microsoft PowerPoint Step By Step* published by Microsoft Press, as it can be used to reference any PowerPoint version available.

Presentation of the Curriculum

The PowerPoint presentation contains notes for the presenter within the slides. NJC developed these notes to assist the presenter with his or her presentation. If utilized for an in-state program, the presenter should review the notes and alter them to meet the needs of the particular audience. Once the presentation is in its final format, the presenter may wish to print the PowerPoint presentation as a handout for the participants. The best handout format is as follows:

- **Select “print”**
- **Choose “handouts” in the “print what” section**
- **Select 3 slides per page (this allows for note-taking lines on the right)**
- **Select “pure black and white” for color/grayscale.**



Note: We recommend that the presenter NOT print slides 79-80 and slides 85-86 (answers to quiz questions). To do this: (1) Hide the identified slides that the presenter doesn't wish to print by right clicking on the slide in the left navigation pane and selecting Hide Slide. (2) Select print and in the print dialog box, making sure Print Hidden Slides is not selected on the right hand side of the box. (3) Print the slides as defined above. (4) When the presenter is ready to present the PowerPoint presentation, he or she should remove the Hide Slide by again right clicking on the slide in the left navigation pane and deselecting Hide Slide. If the presenter does not do this, the presentation will skip past this slide in the presentation.

Equipment Needed

To present the curriculum, the presenter will need an LCD projector, computer with Microsoft PowerPoint software, and display screen. The presenter may also want to use an easel with pad for capturing participant comments regarding class discussions as well as a volunteer scribe. For large audiences, the presenter may wish to use a PowerPoint slide to collect the information. For instructions on how to do so, please contact William Brunson at brunson@judges.org.



LEARNING ACTIVITY GUIDELINES

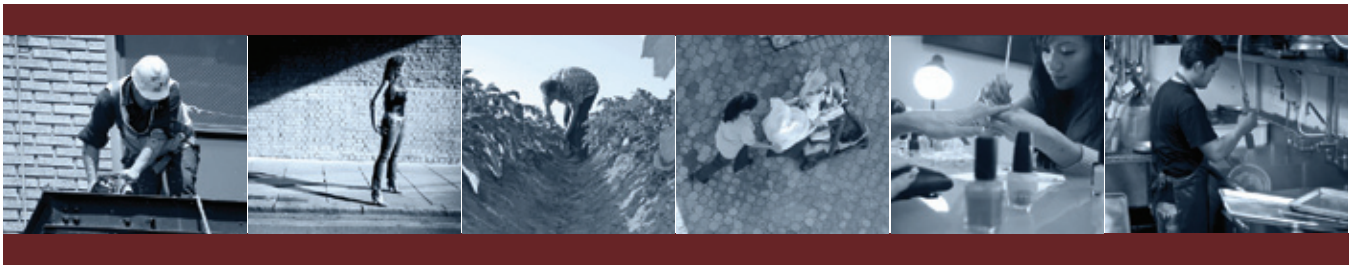
Many of the slides recommend the use of lectures, quizzes, small groups, large groups, and case studies, among others. For these exercises, please abide by the following guidelines.

Guidelines for Effective Lectures

- Lecture for relatively short periods. Adult education research has shown that lectures should generally last no longer than 15 to 18 minutes before another type of learning activity is utilized. See below for examples.
- Utilize learning objectives to establish what's in it for the participant. The learning objectives don't have to be the first thing the presenter discusses. Indeed, in many cases, the presenter may want to begin with an opening that captures the participants' attention, establishes credibility, and/or sets the stage for the remainder of the session. Nevertheless, identifying what the participant will gain from the presentation is quite important for focusing the participants' attention on the learning objectives.
- Reduce the major points in the lecture to key words that act as verbal subheadings or memory aids. In PowerPoint, the NJC recommends utilizing the 7x7 rule, which suggests having no more than seven phrases on each slide and seven words in each phrase, relying on key words and phrases instead of complete sentences. Maximum is 9x9 phrases and words.
- Don't read from the slides. The 7x7 rule and words and phrases helps eliminate this possibility.
- Offer examples. When possible, provide real-life illustrations of the lecture's main ideas.
- Use analogies. If possible, make a comparison between the content of the lecture and knowledge the participants already possess.
- Use audio-visual aids. Use a variety of media to enable participants to see as well as hear what is being said. The PowerPoint slides contained in the curriculum are a good beginning.
- Use vivid language and graphics. In creating new slides, use vivid language and graphics. The presenter may wish to use mnemonic devices and other aids to memory. Also, storytelling can be quite effective for improving retention.

Guidelines for Tests and Quizzes

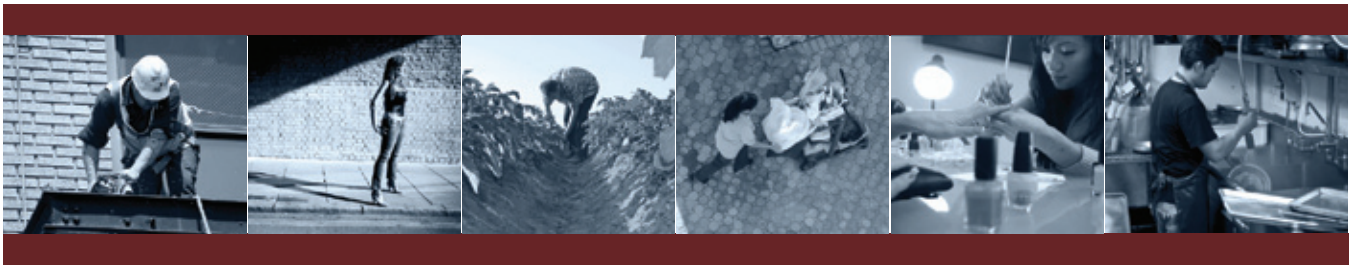
- Use pre-tests to assess participants' needs. Use of a pre-test before a course can provide you with a clear indication of how much the participants know at the outset of the presentation.
- Use short quizzes. Providing short quizzes during the presentation will aid in retention rates.
- Consider using a post-test. Use of a post-test at the end of a presentation provides a summary of how well the participants retained the information. However, be sure to allow sufficient time for feedback because the test will not be effective if the participants do not learn what they have misapprehended.
- Provide 3 to 5 choices for multiple choice questions. Adding implausible, incorrect choices doesn't add value to the question.



- Use incorrect choices in multiple choice questions that are possibly correct. The purpose of an incorrect answer is to reduce the chances that the participant can guess the correct answer.
- Avoid using negatives such as “which of the following is not” However, if you are assessing the participant’s verbal reasoning ability, negatives are appropriate.
- Write multiple choice responses so they are relatively equal in length. You don’t want to make it easy for the participant to guess the answer based upon the correct choice standing out due to its length.
- Use the same grammatical structure for each choice for the reason noted above.
- Don’t use language that tricks or confuses the participant. Test questions should measure what the participant knows about the subject matter.
- Avoid “All of the above.” All of the above is usually the correct answer and offers a good guess to a test-taker who doesn’t know the subject matter.

Guidelines for Large Group Discussions

- Plan key questions. Don’t ask, “Any questions?” Rather, provide direction in the question being asked about what you want to know. See below for examples.
- Start with simple questions. Questions should proceed from lower to higher level thinking according to Bloom’s Taxonomy:
 - Knowledge: The participant is able to identify and recall information: who, what, when, where, how. Example: What are the requirements to deport an alien for a crime involving moral turpitude?
 - Comprehension: The participant is able to present the information in his or her own words, not a mere mechanical repetition.
 - Application: The participant is able to apply theory to specific facts. Example: How do the grounds for deportation apply to these facts?
 - Analysis: The participant is able to separate the whole into component parts. Example: What does “moral turpitude” mean under the case law of the participant’s state?
 - Synthesis: The participant is able to construct ideas and concepts from multiple sources to form new, integrated information. Example: How do the grounds for deportation relate to other parts of the immigration code?
 - Evaluation: The participant is able to judge or assess ideas on the basis of specific standards and criteria. Example: How would the participant assess the effectiveness of the rules providing the grounds for deportation in ensuring that the U.S. retains aliens who will advance the interests of the U.S.?



Guidelines for Small Group Discussions

- Give all instructions before splitting participants into groups. Otherwise, the participants will begin forming relationships with their group members and miss the instructions.
- Develop explicit instructions concerning what the presenter want the participants to do. The presenter may want to try out the instructions on a few colleagues to ascertain if they understand the exercise.
- Provide a handout. Give written as well as oral instructions for the activity. Written instructions can assist the groups while they are working in their groups. This is especially important for large groups.
- Ask each group to select a reporter (if necessary – for reporting back to the larger class) and a recorder (if necessary – for producing a written product to be reported back to the larger class). This should be an explicit instruction. Otherwise, the group members will look at one another when the presenters asks for the report back, thereby delaying and likely resulting in less effective report backs.
- Set a time limit. The presenter can be flexible but give the participants some idea of how long the activity is anticipated to take.
- Give a time warning. Before ending the group work, give the participants a one-minute time warning telling them to wrap things up. This will assist the reporters in knowing they have just a minute to collect their thoughts.
- Be clear. If there is a report back, be clear in the instructions about what the reporters are to communicate. Obviously, the presenter doesn't want to embarrass the reporters as they report, so make the instructions as clear as possible.

Guidelines for Case Studies

- A good case poses a challenging problem. They can be quite detailed (e.g., 10 to 20 pages) or quite simple (e.g., half to one page). Case studies can be used to provide the facts to test a legal theory.
- Tell a “real” story. Participants prefer to work on problems that they're likely to confront in their work, so the more realistic, the better.
- Write the case study so that it ...
 - Raises a thought-provoking issue.
 - Has elements of conflict.
 - Promotes empathy with the central characters.
 - Lacks an obvious or clear-cut right answer.
 - Encourages participants to think and take a position.
 - Demands a decision.
- Is relatively concise. See Barbara Gross Davis, *TOOLS FOR TEACHING* 159, 162 (1993).



COMPONENTS OF THE CURRICULUM

In addition to this faculty guide, <http://tinyurl.com/NJC-Human-Trafficking> contains a PowerPoint presentation, learning materials to assist presenters in teaching, and additional materials to provide further background information about the topic.

Learning Materials

[Http://tinyurl.com/NJC-Human-Trafficking](http://tinyurl.com/NJC-Human-Trafficking) contains the following learning materials:

- Case Study, Financially Benefitting from Forced Labor
- Case Study, Guatemalan Commercial Sex Worker
- Case Study, Indonesian Laborer
- Case Study, Vietnamese Laborer
- Answers to Human Trafficking Questions

Additional Materials

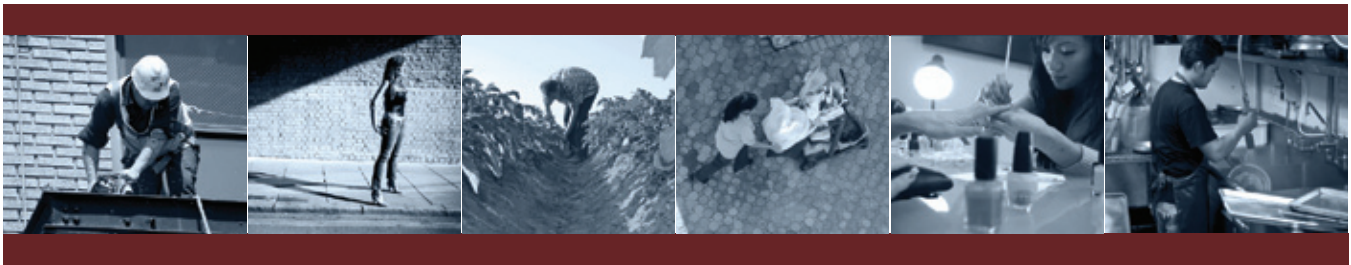
To learn how Polaris Project rated your state's law on human trafficking, go to <http://tinyurl.com/Polaris-State-Ratings>. [Http://tinyurl.com/NJC-Human-Trafficking](http://tinyurl.com/NJC-Human-Trafficking) contains several items to help the presenter learn more information about human trafficking and other relevant information. The items are as follows:

- U.S. Dep't of State, *TRAFFICKING IN PERSONS REPORT* (June 2013)
- Duren Banks & Tracey Kyckelhahn, *Characteristics of Suspected Human Trafficking Incidents, 2008-2010*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (Apr. 2011)
- *List of BJA / OVC Task Forces – 2010*
- The Nat'l Judicial College and the Center for Sex Offender Management, *Sentencing Sex Offenders: A Model Curriculum for Judges* (2010)



In addition, the presenter may benefit from reviewing the following:

- LAWYER'S MANUAL ON HUMAN TRAFFICKING (Jill Laurie Goodman & Dorchon A. Leidholdt, eds., 2011)
- Polaris Project, *In Their Shoes: Understanding Victims' Mindsets and Common Barriers to Victim Identification* 2-3 (2010), located at <http://tinyurl.com/HT-Resources> (visited Feb. 4, 2014)
- Charles Tucker, Kari Kammel, Heather Lehman, & Elisabeth Ward, *An Analysis of Human Trafficking for Sexual Exploitation in Vietnam and a Comprehensive Approach to Combating the Problem*, 16 U.C. DAVIS J. INT'L L. & POL'Y 437 (2010)
- Terry Coonan, *Anatomy of a Sex Trafficking Case*, 5 INTERCULTURAL HUM. RTS. L. REV. 313 (Nov. 2009)
- Melynda H. Barnhart, *Sex and Slavery: An Analysis of Three Models of State Human Trafficking Legislation*, 16 WM. & MARY J. WOMEN & L. 83 (Fall 2009)
- Linda A. Smith, Samantha Healy Vardaman & Melissa A. Snow, *The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children* at 8-9 (May 2009), located at <http://tinyurl.com/3zwqhu5> (visited July 1, 2011)
- M. Margaret McKeown & Emily Ryo, *The Lost Sanctuary: Examining Sex Trafficking Through the Lens of United States v. Ah Sou*, 41 CORNELL INT'L L.J. 739 (Fall 2008)
- Amy Farrell & Jack McDevitt, *Understanding and Improving Law Enforcement Responses to Human Trafficking Report* (June 2008) located at <http://tinyurl.com/Cops-and-HT> (visited Feb. 4, 2014)
- Kathleen Kim, *Psychological Coercion in the Context of Modern-Day Involuntary Labor: Revisiting United States v. Kozminski and Understanding Human Trafficking*, 38 U. TOL. L. REV. 941 (Spring 2007)
- Norma Hotaling, Kristie Miller & Elizabeth Trudeau, *The Commercial Sexual Exploitation of Women and Girls: A Survivor Service Provider's Perspective*, 18 YALE J.L. & FEMINISM 181 (2006)
- Kathryn A. Lloyd, *Wives for Sale: The Modern International Mail-Order Bride Industry*, 20 NW. J. INT'L L. & BUS. 341, 349 (Winter 2000)



MODULE 1: TRAFFICKING VICTIMS PROTECTION ACT (TVPA)

Description of Module 1

This module includes a variety of learning activities including lecture, large group discussions, small group discussions (if preferred), quizzes, and case studies. This module is the largest of the curriculum. It sets forth the federal statutory structure for human trafficking cases and provides the opportunity for the participants to apply them to case studies.

Approximate Time for Module 1

Module 1 will take between 1 and 1-1/2 hours, depending upon the amount and types of activities used and the personal style of the presenter.

Module 1 Learning Objectives

At the conclusion of this Module, participants will be able to:

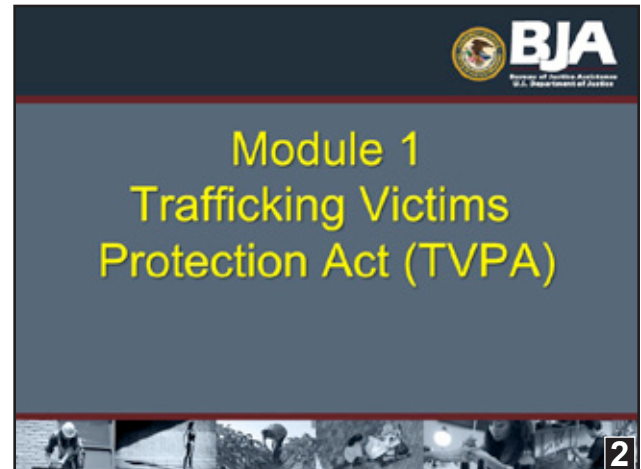
- Define “human trafficking”;
- Analyze human trafficking statutes; and
- Apply human trafficking statutes to case studies.

Supporting Documents

In addition to the PowerPoint slides printed three slides per page, the presenter may wish to use the following documents found here:

<http://tinyurl.com/NJC-Human-Trafficking>

- Case Study, Indonesian Laborer
- Case Study, Vietnamese Laborer
- Case Study, Guatemalan Sex Worker



Human Slavery – A 21st Century Problem

- Human Trafficking = Modern Day Slavery
- Slavery making a comeback
- 27 million people enslaved around the world
- More slaves now than ever
- U.S. recognition of the problem relatively recent

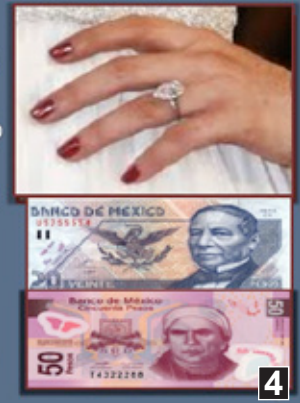


Lecture (1 to 3 minutes): Modern Day Slavery is the signature human rights issue of the 21st Century. Slavery is making a comeback. “Through Free the Slaves’ research, first published in Kevin Bales’ DISPOSABLE PEOPLE, our conservative estimate is that there are 27 million people in slavery today. This means that there are more people in slavery today than at any other time in human history.” See <https://www.freetheslaves.net/SSLPage.aspx?pid=301> (visited November 22, 2013). NOTE: No consensus exists among researchers concerning the number of slaves; 27 million people is a rough estimate. We can’t get accurate figures because this is a hidden crime.

The U.S. passed the Trafficking Victims Protection Action (TVPA) in 2000, so U.S. recognition of modern day slavery is relatively recent.

Luisa Cadena Case: The Lure

- Young attractive Mexican woman in fine clothes
- Brand new Ford Bronco
- Diamond ring
- Knocks on door of poor family
- Tells her story of success
- Gives money to family
- Provides the lure – will send money back



Case Study (3 to 5 minutes): “A young attractive Mexican woman in her 30’s would visit a poor family with a young daughter. She drove a brand new Ford Bronco, wore nice clothing, and had a diamond ring on her finger. The woman knew that the inhabitants of the home had a median income level of about \$40/week. The young woman would tell the parents, ‘10 years ago the Cadena family gave me the opportunity to work in the U.S. You can see that I’ve become a success. I was able to purchase this ring, nice clothing and the car outside.’ She would then put about \$5 dollars in Pesos on the table and say, ‘Here’s a down payment on the money that your daughter will send home. Every week, she will be able to send you \$200.’ The families she approached thought they had won the lottery to be selected this way. The families would freely give their daughters away because, in each case, they were marketed the American Dream. In Vera Cruz, Mexico, most of the girls dropped out of school to work as baby-sitters or to work in belt shops. In these poor families, the girls were seen as supplementary income. The Cadena organization also told the families that they wouldn’t have to pay the money upfront to smuggle their daughters to the U.S., which would normally be the case.” Terry Coonan, Human Trafficking Webcast for national audience (Nov. 12, 2013).

Luisa Cadena Case

- Trafficking case – origin Vera Cruz, Mexico
- Recruited 120 young girls to Florida
- Lure –promises of legitimate employment
- Worked as sex workers
- At time, largest sex trafficking case in U.S. history



Case Study (1 to 2 minutes): “A case that brought this issue to the attention of U.S. authorities was the Cadena case. The Trafficking case started in Vera Cruz, Mexico. The criminal mastermind was Luisa Cadena, an elderly woman. She would use young, attractive recruiters to lure young girls to Florida with promises of legitimate employment. Ultimately, the traffickers lured approximately 120 young girls to South Florida. Sixty of the young women were interviewed after their enslavement. It was the largest sex trafficking case in U.S. history. All were between 14 and 20 years of age from Vera Cruz, Mexico.” Terry Coonan, Human Trafficking Webcast for national audience (Nov. 12, 2013).

Luisa Cadena Case: The Reality

- Beaten, starved, and gang raped up to 6 times / day.
- 2 weeks of daily brutalization before they hardly knew their names
- Suffered PTSD / Experienced Stockholm Syndrome
- Transported to 2 dozen brothels in Miami, Boca Raton, and other FL cities



Case Study (3 to 5 minutes): “They were held in safe houses where they were beaten, starved, and gang raped up to six times per day. It only took about two weeks of daily brutalization before they hardly knew their names anymore, home lives, and families back home. The trauma that they showed was very like torture victims. They were suffering from Post-Traumatic Stress Syndrome (PTSD). The girls became very dependent upon their attackers. In many cases, it created a Stockholm or Patty Hearst syndrome. The Cadenas then transported them to two dozen brothels in Miami, Boca Raton, and other cities throughout Florida.” Terry Coonan, Human Trafficking Webcast for national audience (Nov. 12, 2013).

Luisa Cadena Case: Reality Sets In

- In 1998, what do you think it cost to smuggle someone across the border?
- Offer to allow smuggling repayment over time
- Transported to safe house in Houston, TX.
- Taken to Walmart, asked lingerie sizes
- Knew something was wrong



Case Study (cont.) (3 to 5 minutes):

Question to Audience: “What do you think it would cost to smuggle someone across the Rio Grande in 1998 or 1999? Answer: It was about \$2,000. The Cadenas promised to let the girls repay the amount over time. The Cadenas then smuggled the girls across the Rio Grande river where they were picked up and driven to Houston, Texas, to a safe house. On the outskirts of Houston they were brought to a Wal-Mart and asked their lingerie sizes. This is probably the first time that the girls knew that something was very wrong.” Terry Coonan, Human Trafficking Webcast for national audience (Nov. 12, 2013).

Luisa Cadena Case: Working Conditions

- Worked in trailers in migrant worker farm camps
- Worked 12-16 hours/day.
- \$20 for 15 minutes
- Clotheslines separated “rooms”
- Charged for lodging, food, alcohol to increase the debt owed
- Debt servitude



Case Study (3 to 5 minutes): “The girls were kept in trailers on the edges of migrant worker farm camps. The johns were migrant farm workers. There would be large groups of men who would be willing to pay for sex. A number of migrant workers were labor trafficking victims. The ‘brothels’ were nothing more than trailers. The girls were expected to work 12-16 hours/day. Clients would pay \$20 for 15 minutes of time. Clotheslines separated the ‘rooms.’ It was a bulk business. Once they were brought to Florida, they were told they owed \$2,000 in addition to fees charged for food, mattresses, alcohol and/or drugs. The Cadenas created debt servitude - the imposition of an imaginary debt where the debt exists in the mind of the victim.” Terry Coonan, Human Trafficking Webcast for national audience (Nov. 12, 2013).

Luisa Cadena Case: Victim Movement

- Girls held for 3 years
- Monday was moving day
- Why move the girls?
- "Invisible Chains"



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Case Study (3 to 5 minutes): "The Cadenas held the girls for three years. Every Monday was moving day where they were moved to a different labor camp. **Question to Audience:** Why move them every 7 days? What is the advantage? **Answer:** The victims don't know where they were. They become isolated. They are often moved before they can form a relationship with a john or anyone else, who may feel sorry for them. They have 'invisible chains' because they didn't have to be held at gunpoint. They believed they owed a debt, and they were threatened with statements like, 'we know where your mother and sister live. We will rape and kill your family in Vera Cruz. We will kill your child if you try to escape (for those who were single mothers).'" Terry Coonan, Human Trafficking Webcast for national audience (Nov. 12, 2013).

Luisa Cadena Case: Prosecution

- How did the case break?
- Another use for Telenovelas?
- Victims afraid of U.S. law enforcement
- Victims deported
- Other mistake: Placed victims with "enforcers" in in detention centers



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Case Study (3 to 5 minutes): "How did the case finally break? The girls were wiring money back to their families in Mexico, and they were forced to write letters saying how great the living conditions were. So, the parents didn't suspect anything. The girls were completely isolated. Two girls escaped and went to the Mexican Consulate. To get evidence, the government tried to use a Cuban, Spanish-speaking man to visit the brothel as a john. He wasn't allowed in because he spoke the wrong kind of Spanish, and he didn't have any dirt under his fingernails. Later, the government got a break because the girls in the trailer demanded the installation of cable so they could watch telenovelas. **Question to Audience:** What are telenovelas? **Answer:** They are the equivalent of Spanish soap operas that are very popular in Latin American countries." Terry Coonan, Human Trafficking Webcast for national audience (Nov. 12, 2013).

"The FBI sent an agent to investigate disguised as a cable installer. He provided sufficient evidence to have a search warrant issued. During the investigation, one of the mistakes the FBI made was to house the girls in an immigration detention center. However, unbeknownst to law enforcement, female enforcers were housed with victims. Victims wouldn't say anything because the enforcers shared their cells. Also, the girls had been brainwashed to believe that the police would beat and rape them. The traffickers told them that they paid off local law enforcement. Other common mistakes in human trafficking cases are to deport the victims which would result in no prosecutions because the witnesses were no longer available." *Id.*

Luisa Cadena Case: Aftermath

- Used RICO statutes
- No remedies for victims re: deportation
- No help for victims in justice system
- Prosecuted Cadena nieces and nephews
- Luisa Cadena not prosecuted
- Lives in Vera Cruz mansion. Bribery?



Case Study (3 to 5 minutes): “The prosecution used RICO statutes to reach into the criminal enterprise. At the time, there were no remedies for the victims with regard to deportation. There weren’t entities to help them navigate the U.S.. justice system. The prosecutors were able to prosecute Cadena nieces and nephews. Luisa Cadena, the elderly ring leader, has never been prosecuted. She lives in a palace in Vera Cruz, Mexico. She obviously paid off local law enforcement. Luisa Cadena made about two to three million in the criminal enterprise.” Terry Coonan, Human Trafficking Webcast for national audience (Nov. 12, 2013).



Module 1 Trafficking Victims Protection Act (TVPA)



Learning Objectives

After this session, you will be able to:

- Define “human trafficking”
- Analyze human trafficking statutes
- Apply human trafficking statutes to case studies



Lecture (1 to 2 minutes): Stress what’s in it for the participants. After participating in this session, YOU (the participants) will be able to:

- Define “human trafficking”;
- Analyze human trafficking statutes; and
- Apply human trafficking statutes to case studies.

Trafficking Victims Protection Act (TVPA)

TVPA goals:

- Prevent HT overseas
- Protect & help victims to rebuild lives in U.S. with federal & state support
- Prosecute traffickers under stiff federal penalties
- Codified in various locations in U.S. Code (18 U.S.C. §§ 1589, 1592(c), 1962; 22 U.S.C. § 7101 *et seq.*)



Lecture (2 to 3 minutes): The Goals of the Trafficking Victims Protection Act (TVPA) are to prevent human trafficking overseas; protect and help victims to rebuild their lives in the U.S. with federal and state support; and prosecute traffickers under stiff federal penalties. The TVPA (Public Law 106-386) is codified in various locations in the U.S. Code, such as 18 U.S.C. §§ 1589, 1592(c), 1962; 22 U.S.C. § 7101 *et seq.* Emphasize that the federal law does not address the needs of domestic victims of human trafficking.

Instructor's Note: TVPA slides can be replaced with state-specific statutes and information for an in-state judicial education program. See <http://tinyurl.com/NJC-Human-Trafficking> for PowerPoint presentations that Professor Terry Coonan presented in Arkansas, Georgia, Indiana, Kentucky, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, and Utah if you would like to see some ideas for the types of slides to include. Also, see <http://www.polarisproject.org/state-map> for a head start on the research for your state.

TVPA = Victim-Centered Law

- Trafficking victims, even if in U.S. illegally, viewed as crime victims. 22 U.S.C. § 7101(b)(19)
- Programs created to assist victims including immigration remedies. 22 U.S.C. § 7101
- Benefits afforded refugees given to HT victims willing to assist in prosecution. 22 U.S.C. § 7105(a) for victims in other countries; 22 U.S.C. § 7105(b) for victims located in U.S.



Lecture (2 to 3 minutes): The 2000 TVPA is a victim-centered law. Trafficking victims are to be seen and treated as victims, not as criminals, even if they are in the country illegally. More specifically, 22 U.S.C. § 7101(b)(19) (2000) provides:

Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

Benefits afforded refugees are given to human trafficking victims who are willing to assist in the prosecution of their traffickers. The benefits are for international victims of crime, not domestic. See 22 U.S.C. § 7105(a) for international victims in other countries and 22 U.S.C. § 7105(b) for international victims located in the U.S.

§ 1584: Involuntary servitude – mens rea is knowingly and willfully; § 1589 Forced labor – mens rea is knowingly. Threats of serious harm or physical restraint, scheme, plan or pattern intended to instill fear of serious harm or physical restraint OR abuse or threatened abuse of legal process. § 1591 – sex trafficking: two knowledge requirements: “knowingly” recruits, entices, harbors, transports, provides, or obtains a person for commercial sex. “Knowing” that force, fraud or coercion would be used OR that victim was under 18. (Knowing includes “conscious disregard.”) In or affecting interstate commerce.

Instructor's Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

"Human Trafficking" Defined

The TVPA defines "severe forms of Trafficking" as:

- 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 an act has not attained 18 years of age; or



Lecture (3 to 5 minutes): Under the Trafficking Victims Protection Act (TVPA), "human trafficking" is not defined. Rather, it defines "severe forms of trafficking" as follows:

Severe forms of trafficking in persons: The term "severe forms of trafficking in persons" means—
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
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. 22 U.S.C. § 7102 (8) (2013).

Note: The United Nations Convention against Transnational Organized Crime (UNTOC) entered into force on September 2003. Under UNTOC, states commit to taking specific measures against transnational organized crime.

Instructor's Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

"Human Trafficking" Defined

- 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 subjection to involuntary servitude, peonage, debt bondage, or slavery.



Lecture (cont.): Note the repetition of the words "force, fraud, or coercion" in the definition in the TVPA. Sec. 103(2) Coercion is defined as (a) threats of serious harm to or physical restraint against any person; (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of the legal process; 103(3) defines debt bondage as the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. (5) defines involuntary servitude as a condition of servitude induced by any means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint or the abuse or threatened abuse of the legal process.

Instructor's Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

"Human Trafficking" Defined (cont.)

A simpler definition – human trafficking is "compelled service."



Lecture (1 minute): "Numerous people in the field have summed up the concept of human trafficking as 'compelled service.'" See <http://www.polarisproject.org/human-trafficking/overview> (visited Nov. 22, 2013).

Human Trafficking Quiz

True or False.

Trafficking is a crime that must involve some form of travel, transportation, or movement across state or national borders.



Quiz or Large Group Discussion (1 to 2 minutes): The answer is false. A victim need NOT be physically transported from one location to another in order for the crime to fall within these definitions. 22 U.S.C. § 7102 (8) (2013).

Instructor's Note: All quiz questions in this program can be re-phrased as large group discussion questions. In this case, the large group discussion question would be:
Is trafficking a crime that must involve some form of travel, transportation, or movement across state or national borders?

Human Trafficking v. Smuggling

Human Trafficking

- No consent or defrauded
- Exploitation of victim benefiting trafficker
- Movement of victim not necessary

Smuggling

- Consent usually present
- Breach of nation's borders
- Movement is transnational



Lecture (2 to 3 minutes): Many participants confuse human trafficking with migrant smuggling.

Human Trafficking

- Victims either do not consent to their situations, or if they initially consent, that consent is rendered meaningless by the actions of the traffickers.
- Ongoing exploitation of victims to generate illicit profits for the traffickers.
- Trafficking need not entail the physical movement of a person (but must entail the exploitation of the person for labor or commercial sex)

Migrant Smuggling

- Migrant smuggling includes those who consent to being smuggled.
- Smuggling is a breach of the integrity of a nation's borders.
- Smuggling is always transnational.

See U.S. Department of Health and Human Services, Administration for Health and Human Services, *Fact Sheet: Human Trafficking*, at http://www.acf.hhs.gov/trafficking/about/fact_human.html (visited Nov. 22, 2013).

Physical Force Required?

- Physical force is no longer required element to prove that someone has been enslaved
- Showing of **psychological** coercion now suffices



Lecture (1 to 2 minutes): Physical force is no longer a required element to prove that someone has been enslaved. A showing of **psychological** coercion now suffices. *See* 18 U.S.C. § 1591(e)(4) (2013):

The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

Similarly, 18 U.S.C. § 1589(c)(2) provides a definition of “serious harm” with relation to forced labor.

Instructor’s Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Types of Human Trafficking

- Massage parlors
- Hotel services
- Hospitality
- Agriculture
- Manufacturing
- Janitorial services
- Construction
- Health and elder care
- Domestic service



Lecture (1 to 2 minutes): “Trafficking can occur in many licit and illicit industries or markets, including in brothels, massage parlors, street prostitution, hotel services, hospitality, agriculture, manufacturing, janitorial services, construction, health and elder care, and domestic service.” U.S. Dep’t of State, *TRAFFICKING IN PERSONS REPORT 2013* (hereafter TIP Report) at 381. “Individuals who entered the United States without legal status have been identified as trafficking victims, as have participants in visa programs for temporary workers who filled labor needs in many of the industries described above.” *Id.*

Human Trafficking Locations

- Bars
- Farm worker camps
- Sweatshops
- Restaurants
- Suburban homes
- Private clubs
- Karaoke bars
- Strip clubs
- Health clubs
- Massage parlors
- Nightclubs
- Saunas / Spas
- Modeling studios
- Escort services
- Brothels*



Lecture (2 to 3 minutes): “Although trafficking victims can be found in many places, federal law enforcement experience and research by anti-trafficking experts show they are usually found in the following places: bars, farm worker camps, sweatshops, restaurants, suburban homes, sex entertainment and prostitution enterprises, private clubs, karaoke bars, strip clubs, health clubs, massage parlors, nightclubs, adult bookstores, modeling studios, saunas, spas, the streets, escort services, and makeshift brothels, including brothels in apartments, residential housing, commercial buildings, trailers, lounges, or even open fields. Unfortunately, as this list shows, victims can be found almost anywhere.” John Tanagho, Comment, *New Illinois Legislation Combats Modern-Day Slavery: A Comparative Analysis of Illinois Anti-Trafficking Law with Its Federal and State Counterparts*, 38 LOY. U. CHI. L.J. 895, 911-12 (Summer 2007) (citations omitted).

Instructor’s Note: You may want to explain the different locations of brothels. Many have the misconception that brothels are in “bad neighborhoods.” However, in the age of the Internet, brothels can be at any location. Sites like *backpage* solicit commercial sex consumers and the commercial sex can occur in residential neighborhoods (sometimes in exclusive neighborhoods), industrial areas, business areas, etc.

Optional Large Group Discussion (1 to 3 minutes): Do any of the locations on this list surprise you?

Human Trafficking Quiz

True or False.

The fact that a person consented to be smuggled into the U.S. illegally precludes him or her from becoming a trafficking victim.



Quiz (1 to 3 minutes): The answer is false. The fact that a person consented to be smuggled into the U.S. illegally does not preclude him or her from becoming a trafficking victim.

Optional Follow-Up Question: What are the ramifications of this fact? **Answer:** Even though the person committed an illegal act in coming into the U.S., it does not preclude the individual from being able to access victim’s services (e.g., T visa).

Likewise, the fact that a victim may have initially consented to perform an illegal act (such as prostitution) does not absolve the trafficker.

TVPA – Force and Fraud

- **Force:** physical violence that may take the form of beatings, rape, shootings, starvation, or physical confinement
- **Fraud:** can include false or deceptive offers of employment, marriage, or a better life



Lecture (1 to 2 minutes): Note that the TVPA does not define these terms. Nevertheless, these are illustrations of types of force and fraud.

Instructor's Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

"Coercion" under TVPA

- Threats of serious harm to or physical restraint against any person;
 - Any scheme, plan, or pattern intended to cause person to believe that failure to perform act would result in serious harm to or physical restraint against any person; or
 - The abuse or threatened abuse of the legal process (e.g., threat of deportation)
- 22 U.S.C. § 7102(2)



Lecture (2 to 4 minutes): The TVPA defines coercion as follows:

The term "coercion" means--

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process. 22 U.S.C. § 7102(2) (2013)

Instructor's Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

"Debt Bondage" under TVPA

- Status or condition of a debtor arising from the debtor's pledge
- of personal services (or of those of a person under his or her control)
- as a security for debt,
- if the value of those services (as reasonably assessed) is not applied toward the debt's liquidation or length & nature of services not respectively limited & defined



Lecture (2 to 4 minutes): The term "debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. 22 U.S.C. § 7102(4) (2013).

Instructor's Note: This definition of "debt bondage" under the TVPA will be helpful in the case study that follows.

Case Study – Thai Laborer

- Niran is a young Thai from a poor family.
- Recruiter offers him job on pineapple plantation in Hawaii. Niran ...
 - Agrees that portion of his pay can go to transportation costs.
 - Enters U.S. legally with agriculture visa.
 - Is housed in an unventilated trailer with five other workers



Case Study (3 to 5 minutes): Read the following case study or provide it to participants for their review (See <http://tinyurl.com/NJC-Human-Trafficking>):

Niran is a young Thai from a very poor family. A recruiter offers him a position on a pineapple plantation in Hawaii. He agrees that a portion of his pay can go to his transportation costs. He enters the country legally with an agriculture visa. He is housed in an unventilated trailer with five other workers, is given no safety gear when using pesticides and herbicides, and does not receive the lessons in English that he was promised. Is Niran an HT victim?

See next slide.

Case Study (Cont.)

- Is given no safety gear when using pesticides and herbicides
- Does not receive the lessons in English that the recruiter promised
- Is Niran an HT victim?



Case Study (Cont.): Questions: Is he receiving minimum wage? Does he have his passport? Is there any force, fraud, coercion? Would this be considered “debt bondage.” If not, what further facts would you need?

Teaching point: Unsafe working conditions alone do not create an HT victim. Discuss how different facts could turn this into an HT case. Evidence of human trafficking would be the following: (a) Withholding his passport; (b) paying less than minimum wage; (c) not paying overtime as required under the Fair Labor Standards Act; (d) any evidence of force, fraud or coercion in getting him into the country; (e) logs showing no diminution in his debt despite his work; etc.

"Involuntary Servitude"

Servitude induced by means of—

- A. any scheme, plan, or pattern intended to cause person to believe that, if person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or
- B. the abuse or threatened abuse of the legal process.



Lecture (2 to 3 minutes): The TVPA defines “involuntary servitude” as follows:

The term “involuntary servitude” includes a condition of servitude induced by means of—

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process. 22 U.S.C. § 7102 (5) (2013).

Instructor’s Note: See slide 81 for further information on why the victims don’t simply run away. Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Forced Labor

Providing or obtaining the labor or services of a person through:

- Force or threat of force
- Serious harm or threats of serious harm to that person or another
- Any scheme, plan, or pattern that places the victim in fear of serious harm, or
- The abuse or threatened abuse of the legal process



Lecture (2 to 4 minutes): 18 U.S.C. § 1589 (2008), “Forced labor,” provides as follows:

Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means—

(1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;

(2) by means of serious harm or threats of serious harm to that person or another person;

(3) by means of the abuse or threatened abuse of law or legal process; or

(4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint, shall be punished as provided under subsection (d).

Instructor’s Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Document Servitude

- Holding an actual or **purported** identity document of a victim in the course of committing any trafficking crime



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Document Servitude (Cont.)

- Documents held by the trafficker need not be genuine, and even holding a victim's fraudulent passport is punishable



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Lecture (1 to 2 minutes): 18 U.S.C. §1592 (2008), “Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor,” provides as follows:

(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person--

(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or

(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

shall be fined under this title or imprisoned for not more than 5 years, or both.

(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

(c) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (a).

Instructor's Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Case Study – Vietnamese Laborer

- Vietnamese welder with work visa
- Promised work at \$20/hr. Visa for 2 yrs.
- Transportation debt: \$7,000; \$750/mo. housing with 5 other workers in rundown apt.
- \$2,500 mo. paycheck. Out of his check, he receives only \$300 with \$200 going to family.
- He is told he cannot leave until debt paid.
- Passport seized; not allowed computer access.



Case Study (5 to 7 minutes): Read the following case study or provide it to participants for their review (See <http://tinyurl.com/NJC-Human-Trafficking>):

Boon Pak is a Vietnamese welder who comes to the U.S. under a work visa. He is promised work at \$20 an hour and guaranteed that his visa will be good for at least two years. Once in the States, he is told that he has to pay transportation costs of \$7,000. He is housed with five other workers in a run-down apartment and charged \$750 a month for housing. Out of his \$2,500 a month paycheck, he receives only \$300 with \$200 going to his family. He is told he cannot leave until his debt is paid. His passport is seized, and he is not allowed computer access.

Questions for discussion: Is Boon Pak an HT victim? If so, what facts are there to support the finding? If not, what facts are needed? If his passport had not been seized, would that change your answer?

Sex Trafficking

The recruitment, harboring, transportation, provision, or obtaining of a person through force, fraud, or coercion, for the purpose of a commercial sex act, or in which the person induced to perform such an act is under 18 years of age



Lecture (2 to 3 minutes): 18 U.S.C. § 1591 (2008), “Sex trafficking of children or by force, fraud, or coercion,” provides as follows:

- (a) Whoever knowingly –
- (b) (1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, or maintains by any means a person; or
- (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),
- knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

Instructor’s Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Minor Sex Trafficking

When a minor is trafficked for a commercial sex act, there is **no** need to prove force, fraud, or coercion

Lecture (1 to 2 minutes): When a minor is trafficked for a commercial sex act, there is NO need to prove force, fraud or coercion, clarifying the language, “or in which the person induced to perform such an act is under 18 years of age.”

Instructor’s Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Case Study – Guatemalan Sex Worker

- Guatemalan citizen worked as prostitute to support herself & 2 yr old son in Guatemala
- Recruited to continue profession in U.S.
- Transported from city to city with 4 other girls, servicing primarily Hispanic clients.
- Turns all earnings over to “Daddy,” receiving \$5 a day for incidentals. 40 clients a day.
- Witnesses Daddy beating and raping girls who try to leave. Is Maria an HT victim?

Case Study (3 to 5 minutes): Read the following case study or provide it to participants for their review (See <http://tinyurl.com/NJC-Human-Trafficking>):

Maria is a Guatemalan citizen who worked as a prostitute to support herself and her two-year old son. She is recruited to continue her profession in the U.S. Once here, she is taken from city to city with four other girls, servicing primarily Hispanic clients. She turns all of her earnings over to her “Daddy,” receiving \$5 a day for incidentals. She services up to 40 clients a day. She witnesses Daddy beating and raping girls who try to leave.

Questions for discussion: (1) Is Maria a human trafficking victim? **Answer:** While Maria herself has not experienced force or fraud, she certainly has experienced coercion through her witnessing of rape and assault, and battery. (2) Is there force, fraud, or coercion? **Answer:** Yes. (3) If yes, what facts constitute force, fraud or coercion? **Answer:** The beating and raping of other girls who try to leave provides sufficient evidence of coercion. (4) If no, what facts would be needed to show force, fraud or coercion? **Answer:** Because there is sufficient coercion in this case, no discussion of this question is necessary. However, if Maria had not witnessed any violence or rape, she could still be a human trafficking victim if there was any other form of coercion (e.g., confiscation of her passport or other documents; extraordinary debts based on provisions; etc.) (5) Does it make a difference that she was a prostitute in Guatemala and knew she would be a prostitute in the U.S.? Explain. **Answer:** Generally, that would be a relevant inquiry; however, in this case, her witnessing of violence and rape provides sufficient evidence of coercion. (6) Does it make a difference if Maria is 15 years old? Explain. **Answer:** Assuming the age of consent in the jurisdiction is 16, Maria cannot consent to sex. As such, there wouldn’t need to be a showing of force, fraud or coercion. Even if Maria appeared to be older than 15, that wouldn’t be relevant.

Other TVPA Provisions – Attempt

- TVPA Attempt: allows law enforcement to focus on perpetrator’s **intent** rather than proving victim’s will was overcome
- Focus is on what the perpetrator intended – burden shifted away from victim
- Punishable to same extent as completed trafficking crimes

Lecture (2 to 4 minutes): The **attempt** provision of the TVPA is crucial – it allows law enforcement to focus on the **intent** of the perpetrator rather than having to prove that a victim’s will was overcome. The focus is on what the perpetrator intended – burden is shifted away from the victim. **Attempt** is punishable to the same extent as completed trafficking crimes. See 18 U.S.C. § 1594(a) (2008) which provides, “Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.”

Instructor’s Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

TVPRA 2008 – Updates

- Adds a conspiracy statute
- Adds penalties for benefitting financially
- Clarifies the forced labor statute
- Expands the crime of sex trafficking by force, fraud, or coercion
- Expands crime of minor sex trafficking



Lecture (3 to 5 minutes): The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008:

1. Prohibits conspiring with another person to commit the offenses of peonage, enticement into slavery, forced labor, trafficking, sex trafficking, and document servitude. 18 U.S.C. § 1594(b) (2008). The penalty is equal to the penalty for the underlying substantive offense except that there is no minimum mandatory penalty for conspiring to commit sex trafficking.
2. Prior to the new legislation the sex trafficking statute imposed criminal liability on those who knowingly benefitted financially from participating in a venture that engaged in sex trafficking acts, but other trafficking acts did not contain such a provision. Section 1593A now makes it a crime to benefit financially from participating in a venture that engaged in peonage, forced labor, or document servitude, knowing or in reckless disregard of the fact that the venture engaged in such a violation. 18 U.S.C. § 1593A (2008).
3. Clarifies the forced labor statute by adding “force” to serious harm, scheme/plan, and abuse of the law as a means by which the labor statute can be violated. The statute specifies that these are not separate elements and the violation can occur by one or a combination of these four means. 18 U.S.C. § 1589(a)(1)-(4) (2008).
4. Eases the mens rea requirement to include reckless disregard as well as knowledge. 18 U.S.C. § 1589(b) (2008); see also 18 U.S.C. § 1593A (2008). Thus, under the TVPRA 2008, the government need only prove that the defendant acted in reckless disregard of the fact that force, fraud, or coercion would be used.
5. Under the previous statute, the government had to prove that the defendant knew the person engaged in the commercial sex act was a minor. Now, the government need only show that the defendant had a “reasonable opportunity” to observe the minor. 18 U.S.C. § 1591(c) (2008).

Instructor’s Note: Replace this slide and the next with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Prevention, Protection, Prosecution

- Prevention: authorization of educational and public awareness programs
- Protection: issuance of a T/U or other visa to foreign victims under certain circumstances
- Prosecution: stiff penalties



Lecture (2 to 3 minutes): This serves as a summary of the TVPA and its design to prevent, protect and prosecute HT.

As an example of the stiff penalties, if a trafficking crime results in death or the crime includes kidnapping, attempted kidnapping, aggravated sexual abuse, attempted aggravated sexual abuse, or an attempt to kill, the trafficker is subject to life in prison. 18 U.S.C. § 1583 (2008). Traffickers who exploit children under 14 using force, fraud or coercion for the purpose of sex trafficking are subject to life imprisonment, and not less than 15 years. 18 U.S.C. § 1591(b) (2008). If the child is between 14 and 18 and sex trafficking did not involve force, fraud, or coercion, the trafficker is subject to not less than 10 years’ imprisonment. *Id.*

Note: Secretary of State Hillary Rodham Clinton wrote the following in an editorial to the Washington Post on June 17, 2009, adding a fourth P for partnerships:

We must build on this work. When I began advocating against trafficking in the 1990s, I saw firsthand what happens to its victims. In Thailand, I held 12-year-olds who had been trafficked and were dying of AIDS. In Eastern Europe, I shared the tears of women who wondered whether they’d ever see their relatives again. The challenge of trafficking demands a comprehensive approach that both brings down criminals and cares for victims. To our strategy of prosecution, protection and prevention, it’s time to add a fourth P: partnerships.

The criminal networks that enslave millions of people cross borders and span continents. Our response must do the same. The United States is committed to building partnerships with governments and organizations around the world, to finding new and more effective ways to take on the scourge of human trafficking. We want to support our partners in their efforts and find ways to improve our own.

See <http://tinyurl.com/Clinton-on-HT> (visited Feb. 4, 2014).

Other TVPA Provisions – Protections

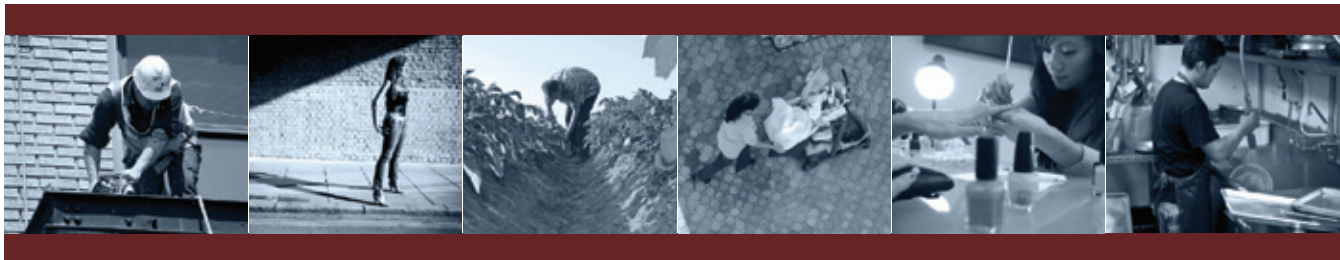
Enable trafficking victims to:

- Obtain medical care, witness protection, housing assistance, other social services
- Obtain temporary legal immigration status if willing to cooperate with law enforcement
- Obtain civil remedies for financial detriment they have suffered



Lecture (2 to 4 minutes): The TVPA enables trafficking victims to: (1) Obtain medical care, witness protection, housing assistance, and other social services; (2) Obtain temporary legal immigration status if they are willing to cooperate with law enforcement; (3) Obtain civil remedies for financial detriment they have suffered. See 22 U.S.C. § 7105 (2013) (“Protection and assistance for victims of trafficking”).

Instructor’s Note: See slide 132, “Restitution,” which states: “The order of restitution . . . shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses.” Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.



MODULE 2: HUMAN TRAFFICKING IN THE U.S.

Description of Module 2

This module includes lectures and a quiz. In this Module, the participants will be able to explore the difference between deportability and inadmissibility. Also, they will learn about permanent bars to naturalization.

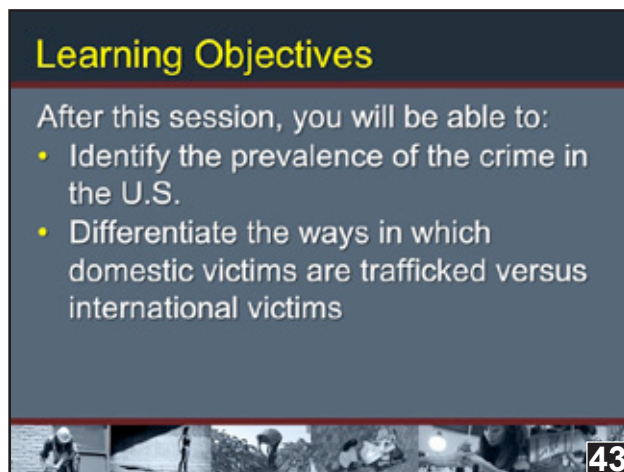
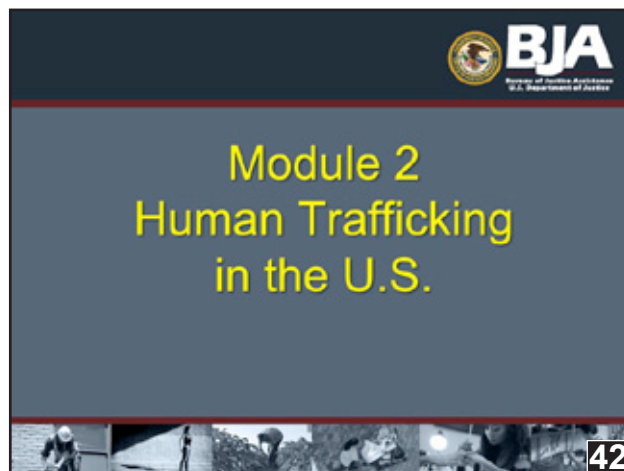
Approximate Time for Module 2

Module 2 will take between 1/4 and 1/2 hour, depending upon the amount and types of activities used and the personal style of the presenter.

Module 2 Learning Objectives

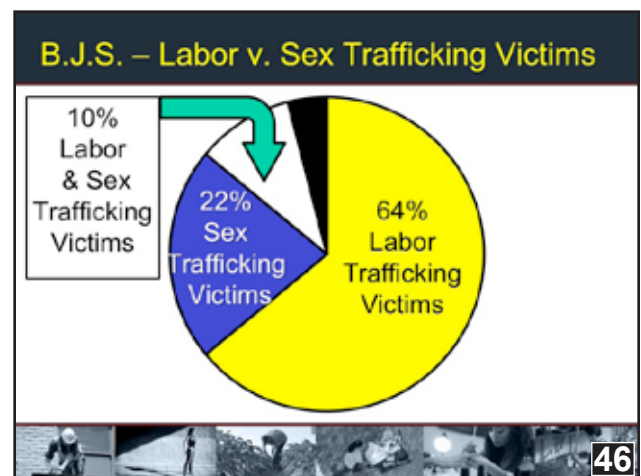
At the conclusion of this Module, participants will be able to:

- Identify the prevalence of the crime in the U.S.; and
- Differentiate the ways in which domestic victims are trafficked versus international victims.





Lecture (1 to 2 minutes): “Four-fifths of victims in confirmed sex trafficking incidents were identified as U.S. citizens (83%), while most confirmed labor trafficking victims were identified as undocumented aliens (67%) or qualified aliens (28%).” Duren Banks & Tracey Kyckelhahn, *Characteristics of Suspected Human Trafficking Incidents, 2008-2010*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, at 1 (Apr. 2011) located at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cshti0810.pdf> (visited Nov. 22, 2013). **Note:** The Bureau of Justice Statistics did not identify the other 5%.



Lecture (1 to 2 minutes): “TIMS [Trafficking Information Management System] data consistently show that the majority of victims served are classified as labor trafficking victims. Between January 2008 and June 2009, 64% of the victims served by OVC-funded service providers were identified as victims of labor trafficking only, 22% as victims of sex trafficking only, and 10% as victims of both labor and sex trafficking.” Duren Banks & Tracey Kyckelhahn, *Characteristics of Suspected Human Trafficking Incidents, 2008-2010*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, at 7 (Apr. 2011) located at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cshti0810.pdf> (visited Nov. 22, 2013). **Note:** The Bureau of Justice Statistics did not identify the other 4%.



Lecture (1 to 2 minutes): “Four-fifths of victims in confirmed sex trafficking incidents were identified as U.S. citizens (83%), while most confirmed labor trafficking victims were identified as undocumented aliens (67%) or qualified aliens (28%).” Duren Banks & Tracey Kyckelhahn, *Characteristics of Suspected Human Trafficking Incidents, 2008-2010*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, at 1 (Apr. 2011) located at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cshti0810.pdf> (visited Nov. 22, 2013).



Lecture (3 to 5 minutes): The Bureau of Justice Statistics, which has a solid research reputation, has tracked the number of cases brought by federally funded human trafficking task forces. Duren Banks & Tracey Kyckelhahn, *Characteristics of Suspected Human Trafficking Incidents, 2008-2010*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, at 1 (Apr. 2011) located at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cshti0810.pdf> (visited Nov. 22, 2013). Task forces opened 2,515 suspected incidents of human trafficking for investigation between January 2008 and June 2010. See graph. “Most suspected incidents of human trafficking were classified as sex trafficking (82%), including more than 1,200 incidents with allegations of adult sex trafficking and more than 1,000 incidents with allegations of prostitution or sexual exploitation of a child. Eleven percent of the suspected incidents opened for investigation were classified as labor trafficking, and 7% had an unknown trafficking type.” *Id.*

Note, however, that statistics on human trafficking are difficult, if not impossible, to establish:

“Identifying traffickers, trafficking operations, and victims is an initial and major obstacle. Trafficking is an underground activity, intentionally hidden from outside eyes. Victims rarely break free, and, when they do, they are often too wary of authorities or too traumatized by their experiences to be able or willing to describe publicly or even privately what happened to them. Researchers have relatively small data bases from which to work, and the cases on which they depend inevitably reflect the biases of their sources, including those of laws and law enforcement. The many guises of human trafficking and the numerous cultures within which it flourishes complicate the work of researchers further.” *LAWYER’S MANUAL ON HUMAN TRAFFICKING 1* (Jill Laurie Goodman and Dorchon A. Leidholdt, eds., 2011).

Human Trafficking in the U.S.

- Source country
- Transit country
- Destination country

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Lecture (1 to 2 minutes): The purpose of this part of the curriculum is to raise awareness about human trafficking for judges who may operate under a number of preconceptions about the topics such as: (1) human trafficking occurs in other countries, not the U.S.; (2) human trafficking is primarily about commercial sexual services; (3) human trafficking involves international visitors to the U.S., usually undocumented aliens (a.k.a., illegal aliens); etc.

“The United States is a source, transit, and destination country for men, women, and children—both U.S. citizens and foreign nationals—subjected to forced labor, debt bondage, involuntary servitude, and sex trafficking.” TIP REPORT at 381. “Source country” signifies that the U.S. is a country from which people are trafficked. In other words, the U.S. has domestic victims of human trafficking. “Transit country” signifies that the U.S. is a temporary stop on the journey of the trafficking victims to the country where they will ultimately be enslaved (for instance, Canada). “Destination country” signifies that the U.S. is a country where trafficked persons ultimately reside. *Id.*

Studied Pathways of HT Involving U.S.

- South Koreans (source country) → Canada (transit country) → U.S. (destination country)
- Central America, Caribbean, Eastern Europe, Asia (source countries) → Mexico (transit country) → U.S. (destination country)
- South Korea also source country for U.S. sex tourists, among other Asian countries.



Lecture (2 to 3 minutes): “Canada is ... a transit state for South Koreans on their way to the United States, and it is both a source country and destination for sex tourists. Mexico is a transit stop for victims from Central America, the Caribbean, Eastern Europe, and Asia destined for the United States; a source country for women and children trafficked to the United States for sexual exploitation, as well as men and women trafficked for labor in agriculture and sweatshops; and a destination for sex tourists from the United States, Canada, and Western Europe.” *LAWYER’S MANUAL ON HUMAN TRAFFICKING* 2-3 (Jill Laurie Goodman & Dorchon A. Leidholdt, eds., 2011) (*citing* TIP Report 2010 at 98-99 and 206).

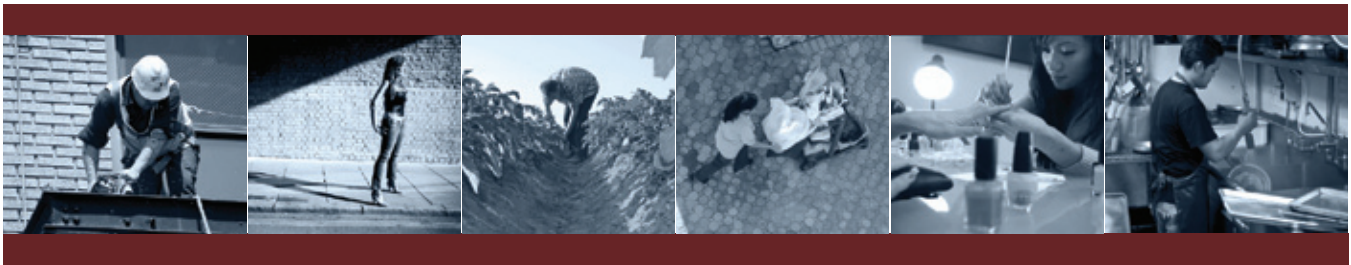
Human Trafficking Quiz

True or False.

The International Labour Organization (ILO) estimates that for every trafficking victim subjected to forced prostitution, 9 people are forced to work.



Quiz (1 to 3 minutes): The answer is true. You may want to note that the fact that cases have been opened primarily for sex trafficking doesn’t necessarily signify that there are more sex trafficking cases than labor trafficking. Indeed, the International Labour Organization (ILO) “estimates that for every trafficking victim subjected to forced prostitution, nine people are forced to work.” See TIP Report 2010 at 8. For the reasons noted previously, there are currently no reliable statistics.



MODULE 3: STATE LAWS REGARDING HUMAN TRAFFICKING

Description of Module 3

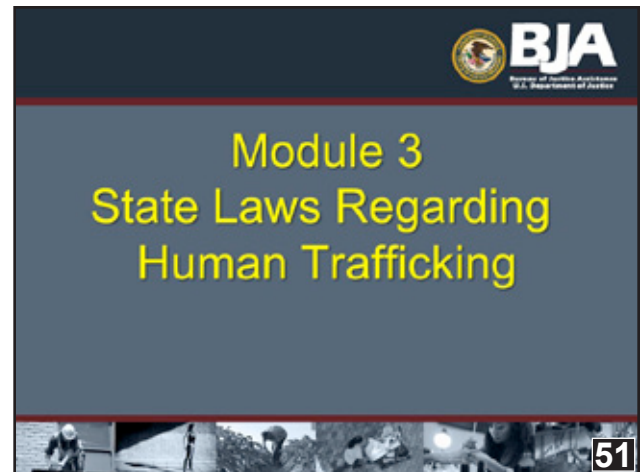
This Module includes lecture. In this Module, the participants will explore the differing state statutory structures for the crime of human trafficking.

Approximate Time for Module 3

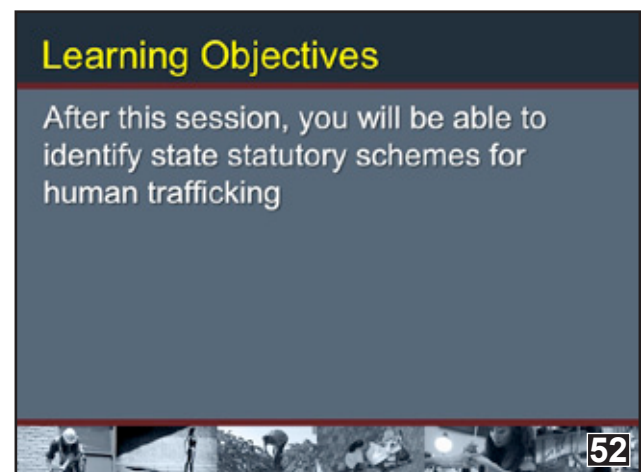
Module 3 will take between 7 and 12 minutes, depending upon the amount and types of activities used and the personal style of the presenter.

Module 3 Learning Objectives

At the conclusion of this Module, participants will be able to identify state statutory schemes for human trafficking.



Instructor's Note: This presentation was designed for a national audience. If presented in an in-state program, you will likely want to replace this section and all federal statutory slides with state-specific content.



Human Trafficking State Statutes



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Lecture (1 to 2 minutes): “Polaris Project has rated all 50 states and the District of Columbia based on 10 categories of laws that are critical to a basic legal framework that combats human trafficking, punishes traffickers and supports survivors. 39 states passed new laws to fight human trafficking in the past year. As of July 31, 2013, 32 states are now rated in Tier 1 (7+ points), up from 21 states in 2012. New Jersey and Washington have perfect scores, meaning they have laws fulfilling all 10 categories. 4 states were most improved this year: Arkansas, Wyoming, Mississippi and New Jersey.”

Polaris Project, *State Ratings on Human Trafficking Laws*, <http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/state-ratings-on-human-trafficking-laws> (visited Nov. 25, 2013).

Model State HT Statutes – 10 Provisions

Model statutes contain ten provisions:

1. Sex trafficking provision
2. Labor trafficking provision
3. Asset forfeiture and/or investigation tools
4. Training and/or human trafficking task force
5. Posting human trafficking hotline



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Lecture (2 to 3 minutes): Polaris Project, *State Ratings on Human Trafficking Laws*, <http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/state-ratings-on-human-trafficking-laws> (visited Nov. 25, 2013).

Model State HT Statutes – 10 Provisions

Model statutes contain ten provisions:

6. Safe harbor: protecting minors
7. Lower burden of proof for sex trafficking of minors
8. Victim assistance
9. Access to civil damages
10. Vacating convictions for sex trafficking victims



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Lecture (2 to 3 minutes): Polaris Project, *State Ratings on Human Trafficking Laws*, <http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/state-ratings-on-human-trafficking-laws> (visited Nov. 25, 2013).

Model HT Statutes – Key Provisions

- **Asset Forfeiture for Human Trafficking:** A statute that provides for forfeiture of assets used in course of crime or acquired with proceeds from HT crime.
- **Investigative Tools for Law Enforcement:** Statute that amends existing RICO statutes to include HT crime or authorizes law enforcement to use of wiretapping in HT investigations.



Model HT Statutes – Key Provisions

- **Posting a Human Trafficking Hotline:** Statute that mandates or encourages public posting of a HT hotline (either national or state)



Lecture (2 to 3 minutes): State Ratings Category Descriptions:

1. **Sex Trafficking:** A statute that criminalizes sex trafficking and includes elements of inducing another through force, fraud, or coercion to engage in a commercial sex act. Some states have related laws in the prostitution code and were given credit if they had the same criminal elements.
2. **Labor Trafficking:** A statute that creates the crime of labor trafficking or trafficking in persons, in which a person is compelled through force, fraud, or coercion into providing labor or services.
3. (a) **Asset Forfeiture for Human Trafficking:** A statute that provides for the forfeiture of assets used in the course of the crime or acquired with proceeds from the crime of human trafficking.
(b) **Investigative Tools for Law Enforcement:** A statute that amends existing Racketeering (RICO) statutes to include the crime of human trafficking or authorizes the use of wiretapping by law enforcement in human trafficking investigations.
4. (a) **Training on Human Trafficking for Law Enforcement:** A statute that mandates or encourages law enforcement to be trained in human trafficking issues and the law.
(b) **Human Trafficking Commission or Task Force:** A statute that creates, establishes, or encourages a task force, commission or advisory committee dedicated to addressing human trafficking.
5. **Posting a Human Trafficking Hotline:** A statute that mandates or encourages the public posting of a human trafficking hotline, such as the National Human Trafficking Resource Center hotline or a state human trafficking hotline.

Polaris Project, *State Ratings on Human Trafficking Laws*, <http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/state-ratings-on-human-trafficking-laws> (visited Nov. 25, 2013).

Model HT Statutes – Key Provisions

- **Safe Harbor - Protecting Sexually Exploited Minors:** Statute that recognizes sexually exploited individuals under 18 as victims of a crime in need of protection and services
Grants immunity from prosecution or diverts minors from juvenile delinquency proceedings; instead, directs them to child welfare services.



Model HT Statutes – Key Provisions

- **Lower Burden of Proof for Sex Trafficking of Minors:** Statute that ensures that elements of force, fraud, or coercion are not required for a trafficker to be prosecuted for the sex trafficking of a minor. Statute must be under sex trafficking section for the state to receive credit.



Model HT Statutes – Key Provisions

- **Victim Assistance:** Statute that provides assistance, mandates creation of victim services plan, or funds programs to help HT victims. Victim services and protection may include counseling, job assistance, housing, continuing education, legal services, and/or a HT caseworker privilege.



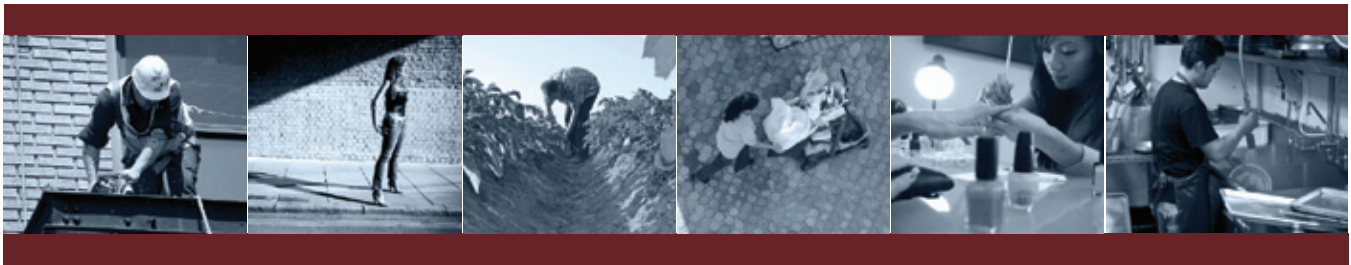
Model HT Statutes – Key Provisions

- **Access to Civil Damages:** Statute that provides HT victims with ability to seek civil damages from their traffickers.
- **Vacating Convictions for Sex Trafficking Victims:** Statute that permits victims to have convictions for prostitution that were committed as a result of being trafficked vacated from criminal records.



6. **Safe Harbor - Protecting Sexually Exploited Minors:** A statute that recognizes sexually exploited individuals under 18 as victims of a crime in need of protection and services by granting immunity from prosecution or diverting minors from juvenile delinquency proceedings, and instead directing them to child welfare services. In order to receive full credit, the state must have provisions that relate to both immunity or diversion and services for the child.
7. **Lower Burden of Proof for Sex Trafficking of Minors:** A statute that ensures that the elements of force, fraud, or coercion are not required for a trafficker to be prosecuted for the sex trafficking of a minor. This statute must be under the sex trafficking section in order for the state to receive credit.
8. **Victim Assistance:** A statute that provides assistance, mandates the creation of a victim services plan, or funds programs to help victims of human trafficking. Victim services and protection may include counseling, job assistance, housing, continuing education, legal services, and/or a human trafficking caseworker privilege.
9. **Access to Civil Damages:** A statute that provides victims of human trafficking with the ability to seek civil damages from their traffickers.
10. **Vacating Convictions for Sex Trafficking Victims:** A statute that permits victims to have convictions for prostitution that were committed as a result of being trafficked vacated from their criminal records.

Polaris Project, *State Ratings on Human Trafficking Laws*, <http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/state-ratings-on-human-trafficking-laws> (visited Nov. 25, 2013).



MODULE 4: HUMAN TRAFFICKERS: UNDERSTANDING THE PERPETRATORS

Description of Module 4

This module includes lectures and a quiz. It assists the participants in understanding the nature of the perpetrators of the crime of human trafficking.

Approximate Time for Module 4

Module 4 will take between 1/4 and 1/2 hour, depending upon the amount and types of activities used and the personal style of the presenter.

Module 4 Learning Objectives

At the conclusion of this Module, participants will be able to:

- Summarize methods of human traffickers;
- Identify types of human traffickers; and
- Describe processes of domestic sex traffickers.

Methods of Human Traffickers

- Primarily target women and girls because they are disproportionately affected by poverty, no access to education, chronic unemployment, discrimination, and lack of economic opportunities
- Lure women and girls into networks through false promises of decent working conditions at relatively good pay



Lecture (2 to 3 minutes): 22 U.S.C. § 7101(b)(4) (2000) provides:

Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay

Methods of Human Traffickers (Cont.)

- Recruit as nannies, maids, dancers, factory / restaurant workers, sales clerks, or models.
- Also buy children from poor families and sell them into prostitution or forced labor
- Often transport victims from home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support



Lecture (2 to 3 minutes): 22 U.S.C. § 7101(b)(4) (2000) provides:

Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.

22 U.S.C. § 7101(b)(5) (2000) provides:

Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.

Methods of Human Traffickers (Cont.)

- Often make representations to their victims that physical harm may occur to them or others should victim escape or attempt to escape.
- Representations can have same coercive effects on victims as direct threats to inflict such harm



Lecture (2 to 3 minutes): 22 U.S.C. § 7101(b)(7) (2000) provides:

Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.

Human Trafficking Quiz

Human Traffickers are:

- A. Complex transnational crime rings
- B. Families
- C. Individuals
- D. All of the above.
- E. A. and B.



Quiz (2 to 3 minutes): The answer is D. “The types of traffickers and the methods they employ are equally diverse. They vary from complex transnational crime rings to small-scale family-style channels to individuals. Trafficking generally involves some network, whether organized or not, including recruiters, document forgers, transporters, and contractors.” Kathleen Kim, *Psychological Coercion in the Context of Modern-Day Involuntary Labor: Revisiting United States v. Kozminski and Understanding Human Trafficking*, 38 U. Tol. L. Rev. 941, 957-58 (Spring 2007). Many cases are reported where the traffickers are families and extended families, both here and abroad. In some cases, it may be an individual who is trafficking another individual (usually for forced labor and/or sex) in his or her home.

See also 22 U.S.C. § 7101(b)(8) (2000). It provides:

Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

Recruiters for Human Traffickers

Relationship to Victim

- Complete stranger
- Romantic relationship
- Family friend
- Employment agency
- Someone trusted and well known in community



Lecture (1 to 2 minutes): A trafficking recruiter can be a family friend, an employment agency, or even someone trusted and well known within the community. People may accept jobs that they know to be risky and become trafficked when exploitative working conditions replace the promised employment terms. Kathleen Kim, *Psychological Coercion in the Context of Modern-Day Involuntary Labor: Revisiting United States v. Kozminski and Understanding Human Trafficking*, 38 U. Tol. L. Rev. 941, 958 (Spring 2007). In other cases, the trafficker may be a complete stranger, a boyfriend, etc.

Domestic Sex Trafficker Process

"Smooth Talking Players" . . .

- Give attention and affection
- Give pet names to victims
- Buy them flashy new clothes & jewelry
- Then ... "baby, if you really loved me..."; "you'll only need to do it for a little while, while I get on my feet." It's "for us."
- After first "date," verbal, physical and sexual abuse begins



Lecture (2 to 3 minutes): "The strategy of befriending and love is designed to fit the vulnerabilities of its potential victims, conning them into dependency, fear, and submission before 'turning them out' into the sex trade. SAGE clients report that smooth-talking players' recruitment process includes attention and affection, pet names, flashy new clothes, and jewelry. The 'affection' is followed by manipulative lines such as: 'baby, if you really loved me . . .'; 'you only need to do it for a little while, until I get on my feet'; 'for us'; or 'until you get enough money for me to buy some stash, then I'll take care of us.' Shortly after the first 'date,' the verbal, physical, and sexual abuse begins." Kristie Miller & Elizabeth Trudeau, *The Commercial Sexual Exploitation of Women and Girls: A Survivor Service Provider's Perspective*, 18 YALE J.L. & FEMINISM 181, 185 (2006) (citations omitted).

Domestic Sex Trafficker Process (Cont.)

"Smooth Talking Players" . . .

- Demand that they receive all money
- Put a quota on the victim & increase it over time
- Break the victim by calling her a "whore, nothing but a whore"
- Tell her no one else would have her.
- Beat, rape and only give "affection" when demands met



Lecture (2 to 3 minutes): "The pimp demands that he receive all the money. He puts a quota on her, increases it over time, and breaks her by calling her a 'whore, nothing but a whore.' He tells her that no one else would have her. He begins to beat her into submission, raping her, increasing her financial quota, and only giving her 'affection' after she has submitted to his demands." *Id.*

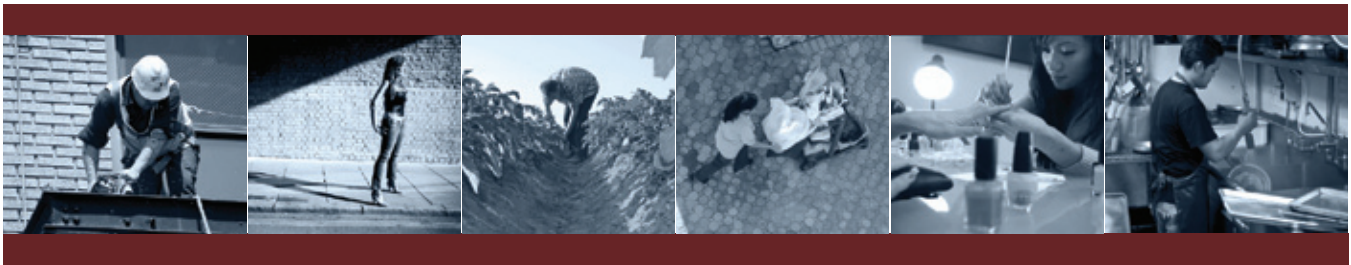
Domestic Sex Trafficker Process (Cont.)

"Guerilla Pimps" . . .

- Break down their "prey"
- Socially isolate them from family & friends
- Use severe and immediate violence to force victims into commercial sex
- Get victims addicted to drugs
- May transport victim in car trunk to other cities throughout U.S.



Lecture (2 to 3 minutes): "[Guerilla] pimps and traffickers systematically and methodically break down their 'prey,' socially isolating them away from family and friends. Their victims become embedded in a social system typified by living in transient hotels close to the 'whore strolls,' traveling from city to city, and socializing with other transient persons also involved in prostitution. These pimps use severe and immediate violence to force their victims to participate in the sex industry. A common theme reported by SAGE clients about guerilla pimping is that a woman or girl is physically picked up, thrown into a trunk, and transported to cities throughout the United States. SAGE has rescued individuals who did not know what city they were in or even what cities they had been trafficked through while forced to work in the sex trade, which includes prostitution, strip clubs, escort services, and websites such as Craigslist and sites created by the pimps themselves. They were sold on the back pages of alternative newspapers and sex trade magazines. They had been transported in trunks of cars and isolated in out-of-the-way motels and single-room occupancy hotels throughout the country while being brutalized, raped, tortured, and repeatedly sold to those who demand them. Harsher methods reported by SAGE clients involve beating, raping, sodomizing, drugging, and starving a woman or girl before 'turning her out' on the streets or other sex industry arenas." *Id.* at 185-86 (citation omitted).



MODULE 5: UNDERSTANDING HUMAN TRAFFICKING VICTIMS & RECRUITMENT METHODS

Description of Module 5

This module includes lectures, large group discussions, and small group discussions (if preferred). It helps the participants to understand international and domestic recruitment methods, and to define why more cases aren't brought and why the trafficking victims don't escape.

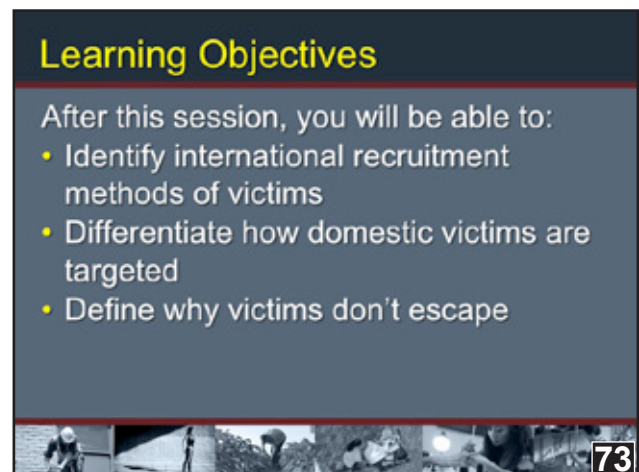
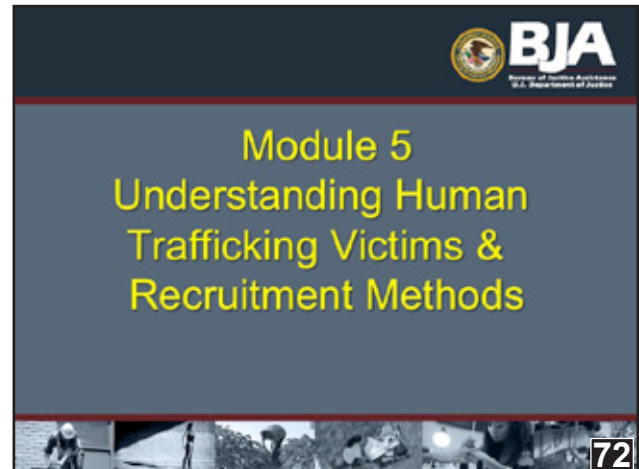
Approximate Time for Module 5

Module 5 will take between 1/2 and 1 hour, depending upon the amount and types of activities used and the personal style of the presenter.

Module 5 Learning Objectives

At the conclusion of this module, participants will be able to:

- Identify international recruitment methods of victims;
- Differentiate how domestic victims are targeted; and
- Define why victims don't escape.



International Recruitment Methods

- Deceit
- Coercion
 - Debt bondage
 - Confiscation of documents
 - Threats of deportation
- Physical force (i.e., kidnapping)



Lecture (3 to 5 minutes): Perpetrators use a variety of methods to recruit victims, ranging from deceit to forced abduction. Charles Tucker, Kari Kammel, Heather Lehman, & Elisabeth Ward, *An Analysis of Human Trafficking for Sexual Exploitation in Vietnam and a Comprehensive Approach to Combating the Problem*, 16 U.C. DAVIS J. INT'L L. & POL'Y 437, 445 (2010). The vast majority of victims are not physically abducted, however. *Id.* The methods may involve deceit, coercion, physical force, or all three methods. *Id.*

Int'l Recruitment Methods (Cont.)

- Families pay traffickers to take children for "better life" or education
- Use of Internet to lure
- "Overseas study programs"
- Mail-order brides



Lecture (3 to 5 minutes): "The U.S. State Department reports that some trafficking victims are 'sold by their families as domestic workers or for sexual exploitation.'" *Id.* (quoting U.S. Dep't of State, Country Reports on Human Rights Practices 2006, at 28, <http://www.state.gov/g/drl/rls/hrrpt/2006/78796.htm>). Some families actually pay traffickers to take their children, believing their children will find safe and gainful employment abroad. *Id.* "The U.S. State Department reports other common methods of recruitment such as '[f]alse advertising, debt bondage, confiscation of documents, and threats of deportation.'" *Id.* (quoting *Border Guards Smash Child Trafficking Ring, VietNamNet Bridge*, Apr. 13, 2009 available at <http://english.vietnamnet.vn/social/2009/04/841705/>). "Likewise, recruitment over the Internet has gained popularity in Vietnam, as has enticing victims into so-called 'overseas study programs.'" *Id.* (citing *Vietnam Committee on Human Rights, Violations of the Rights of Women in the Socialist Republic of Vietnam* (2007), available at http://www.queme.net/eng/doc/VCHR_Alternative_Report_on_CEDAW_2007.pdf).

"The mail-order bride industry is virtually unregulated throughout most of the world. The international law-making community has paid little attention to the open trafficking of women in this form, instead concentrating on forced prostitution and trafficking of children. Acting individually, several countries have attempted to regulate particular elements of the industry. However, these efforts have had virtually no effect on the trafficking of brides." Kathryn A. Lloyd, *Wives for Sale: The Modern International Mail-Order Bride Industry*, 20 NW. J. INT'L L. & BUS. 341, 349 (Winter 2000) (citation omitted).

Preference for Domestic Victims?

- Some report that domestic child victims are easier targets than adults or foreign nationals
- Reason: Recruitment and transportation of HT victims across borders is more difficult and dangerous




Lecture (2 to 3 minutes): “American children are victims of sex trafficking within the United States. Domestic child victims tend to be easy targets and carry less risk for the traffickers and buyers than adults and foreign nationals. For example, in San Antonio, Texas, a human trafficker named Timothy Gereb had an order for 10 female sex slaves to sell to a brothel in Louisiana. Gereb and his accomplices were only able to traffic two girls from Mexico, so he began to recruit local girls from San Antonio to fill his quota. He was apprehended, pled guilty, and was sentenced to 10 years. This case demonstrates a potential trend of traffickers to view local youth as viable product in the criminal market of commercial sexual exploitation as the recruitment and transportation of human trafficking victims across borders becomes increasingly difficult and dangerous.” Linda A. Smith, Samantha Healy Vardaman & Melissa A. Snow, *The National Report on Domestic Minor Sex Trafficking: America’s Prostituted Children at 8-9* (May 2009), located at <http://tinyurl.com/3zwqhu5> (visited July 1, 2011) (citations omitted).

Domestic Recruiting Locations


- Schools
- Streets
- Shopping malls
- Bus stations



Lecture (1 to 2 minutes): “Everyday, young women and girls are recruited from our schools, streets, and shopping malls by violent or smooth-talking pimps and trafficked throughout the United States and around the world.” Norma Hotaling, Kristie Miller & Elizabeth Trudeau, *The Commercial Sexual Exploitation of Women and Girls: A Survivor Service Provider’s Perspective*, 18 YALE J.L. & FEMINISM 181, 184 (2006). Bus stations also are reported to be a common recruitment location.



Who are potential targets for domestic recruitment?



Large or small group discussion (3 to 5 minutes): The answers are contained on the next two slides, so you may wish to hide the slides for printing purposes.

Domestic Recruitment Targets

- Runaways
- Young women
- Girls exhibiting acting-out behavior associated with trauma
- Girls from abusive backgrounds with low self esteem and confidence



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Lecture (1 to 3 minutes): “[M]ost of the young girls recruited or coerced into prostitution are done so by abusive pimps who initially act as boyfriends or lovers. The most common guises are the ‘smooth-talking player’ and the ‘guerilla pimp.’ Smooth-talking players target runaways, young women, girls exhibiting acting-out behavior associated with trauma, and girls that come from abusive backgrounds who have low self-esteem and confidence. Smooth-talking players begin by befriending the girls and young women, and then calculate a romantic connection.” Norma Hotaling, Kristie Miller & Elizabeth Trudeau, *The Commercial Sexual Exploitation of Women and Girls: A Survivor Service Provider’s Perspective*, 18 YALE J.L. & FEMINISM 181, 185 (2006).

Domestic Recruitment Targets (Cont.)

- Variety of socio-economic backgrounds, geographical areas & ethnicities
- Youth in child welfare system
- Middle class girls with history of sexual or physical abuse

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Lecture (1 to 3 minutes): “Domestic child victims of sex trafficking come from a variety of socio-economic backgrounds, geographic areas, and ethnicities. A 2007 New York State Office of Children and Family Services report states that in New York City, sexually exploited youth tended to be ‘female and black, having sex with strangers in hotel rooms or outside.’ In contrast, ‘Upstate, the youth were younger, more likely to be white, and were often exploited at home by adult friends or acquaintances.’ In the Midwest, a child protection services officer in Kansas City related that approximately 84 child victims of prostitution had been identified since 2000 in Jackson County, Missouri. Of those 84 victims, 10 were local to Jackson County. Ages ranged from 12 to 16 years old. Many victims are youth in the child welfare system and/or runaways, but some are recruited from middleclass homes as well. A common factor is the history of child physical and sexual abuse in the home or the extended family. In Las Vegas, Nevada, statistics indicate that from January 2004 through December 2006, nearly 41% of juveniles suspected of being involved in prostitution-related offenses had been victims of sexual assault. Additionally, 21% were victims of familial molestation. However, the one single vulnerability factor making domestic youth targets for sex trafficking is simple: their age.” Linda A. Smith, Samantha Healy Vardaman & Melissa A. Snow, *The National Report on Domestic Minor Sex Trafficking: America’s Prostituted Children at 9* (May 2009), located at <http://tinyurl.com/Natl-Report-DMST> (visited Feb. 6, 2014) (citations omitted) (emphasis in original).

Why Don't the Victims Escape?

- Captivity / confinement
- Frequent accompaniment / guarded
- Use and threat of violence
- Fear
- Use of reprisals or threats of reprisals against loved ones or 3rd parties
- Shame
- Self-blame



Lecture (3 to 5 minutes): The Polaris Project identified the following variety of both physical and psychological reasons why trafficked persons cannot or will not leave a trafficking situation. The list includes both sex and labor trafficking operations, as well as foreign-born and U.S. citizen victims. Note: Not all items are present in all trafficking cases and the list is not exhaustive.

Captivity/Confinement: Past examples have included victims being locked indoors, held in guarded compounds, or locked in trunks of cars.

Frequent accompaniment/guarded: In many trafficking networks, victims' public interactions are mediated, monitored, or entirely controlled. In certain severe cases, victims have been controlled by armed guards.

Use and threat of violence: Severe physical retaliation (e.g., beatings, rape, sexual assault, torture) are combined with threats to hold victims in a constant state of fear and obedience.

Fear: Fear manifests in many ways in a trafficking situation, including fear of physical retaliation, of death, of arrest, or of harm to one's loved ones.

Use of reprisals and threats of reprisals against loved ones or third parties: Traffickers target reprisals at children, parents, siblings, and friends, or other trafficking victims.

Shame: Victims from all cultures and in both sex and labor cases may be profoundly ashamed about the activities they have been forced to perform. Self-blame links closely to low self-esteem.

Self-blame: In the face of an extremely psychologically manipulative situation, trafficked persons may engage in self-blaming attitudes and blame themselves for being duped into a situation beyond their control. Self-blaming attitudes are often reinforced by the traffickers and can serve to impede the victim from testifying against or faulting the trafficker.

Polaris Project, *In Their Shoes: Understanding Victims' Mindsets and Common Barriers to Victim Identification 1* (2010), located at <http://www.polarisproject.org/resources/resources-by-topic/human-trafficking> (visited Feb. 6, 2014).

Why Don't the Victims Escape? (Cont.)

- Debt bondage
- Traumatic bonding to trafficker
- Language and social barriers
- Distrust of law enforcement / service providers
- Isolation
- False promises
- Hopelessness and resignation



Lecture (2 to 3 minutes):

Debt bondage: Traffickers create inflated debts that victims cannot realistically pay off. These debts are often combined with accruing interest or small fees to ensure that the victim stays in the debt situation.

Traumatic bonding to the trafficker: In many trafficking cases, victims have exhibited commonly-known behaviors of traumatic bonding due to the violence and psychological abuse (a.k.a., Stockholm syndrome).

Language and social barriers: Feelings of unfamiliarity or fear of the unknown provide obstacles to leaving a trafficking situation. These feelings are exacerbated by language and social barriers.

Distrust of law enforcement or service providers: In many cases, traffickers are known to brainwash victims into a false distrust of law enforcement, government officials, and service providers. Victims also may have had negative past experiences with institutional systems, which also impact trust levels.

Isolation: Traffickers purposefully isolate victims from a positive support structure and foster controlled environments where the victim is kept in a state of complete dependency. High levels of dependency and learned helplessness often lead victims to "prefer the hell they know" than face the uncertainty of adapting to a new world of independence.

False promises: Traffickers use sophisticated methods of manipulating the human desire to hope through false promises and lies about a future better life. Victims who are children are especially vulnerable to these false promises.

Hopelessness and resignation: In the face of extreme control, violence, and captivity, notions of hope may fade over time towards states of hopelessness and resignation.

Polaris Project, *In Their Shoes: Understanding Victims' Mindsets and Common Barriers to Victim Identification 1-2* (2010), located at <http://www.polarisproject.org/resources/resources-by-topic/human-trafficking> (visited Feb. 6, 2014).

Why Don't the Victims Escape? (Cont.)

- Facilitated drug addiction
- Psychological trauma (disassociation, depression/anxiety, PTSD)
- Lack of awareness of available resources
- Low levels of self-identifying as victims
- Normalization of exploitation
- Belief that no one cares to help



Lecture (2 to 4 minutes):

Facilitated drug addiction: In certain trafficking networks, traffickers provide addictive substances to their victims to foster longer-term drug addiction and monetary dependency.

Psychological trauma: Many trafficking victims experience significant levels of psychological trauma due to the levels of abuse they have endured. In certain cases, this trauma leads to disassociation, depression, anxiety disorders, and post-traumatic stress disorder (PTSD), which in turn affects daily functioning and levels of agency.

Lack of awareness of available resources: Victims may not leave a situation due to a lack of awareness of any resources or services designed to help them. Traffickers purposefully control the information that victims receive.

Low levels of self-identifying as trafficking victims: The majority of trafficking victims do not self-identify as victims of human trafficking. They may be unaware of the elements of the crime or the Federal criminal paradigm designed to protect them.

Normalization of exploitation: Over a long period of enduring severe levels of trauma, physical abuse, and psychological manipulation, victims demonstrate resilience strategies and defense mechanisms that normalize the abuse in their minds. In a relative mental assessment, what once may have been viewed as abuse may now be experienced as a normal part of everyday life. This changing “lens” on viewing the world impacts the ability to self-identify as a victim.

A belief that no one cares to help: Trafficking victims may believe that no one cares to help them, a belief that is reinforced both by traffickers’ lies but also when community members do not take a strong stance against trafficking. When the community is silent on the issue, traffickers’ power is increased and feelings of hopelessness are sustained.

Polaris Project, *In Their Shoes: Understanding Victims’ Mindsets and Common Barriers to Victim Identification 1-2* (2010), located at <http://www.polarisproject.org/resources/resources-by-topic/human-trafficking> (visited Feb. 6, 2014).



Why aren't more human trafficking cases brought?



Large or small group discussion (3 to 5 minutes): The answers are on the next two slides, so you may wish to hide those slides.

Why Aren't More Cases Brought?

- Frequent movement of victims → low likelihood of encounters with law enforcement
- Victims trained to tell lies or canned stories
- Victims don't come into contact with institutional systems
- Untrustworthy or corrupt interpreters



Lecture (2 to 4 minutes): “In addition to all the above-stated reasons [e.g., captivity / confinement, frequent accompaniment / guarded, use and threat of violence, debt bondage, traumatic bonding to trafficker, hopelessness and resignation, facilitated drug addiction, low levels of self-identifying as victims, etc.], numerous additional factors contribute to the difficulty of trafficking victim identification. These factors include:

- The frequent movement of victims fosters a low likelihood of multiple encounters with law enforcement or service providers. Victims may not be in one place long enough for a meaningful intervention.
- Victims may be trained to tell lies or canned stories to the organizations that are there to help them.
- Victims rarely come into contact with institutional systems.
- Untrustworthy or corrupt interpreters may impact the course of effective service provision.”

Polaris Project, *In Their Shoes: Understanding Victims’ Mindsets and Common Barriers to Victim Identification 2-3* (2010), located at <http://www.polarisproject.org/resources/resources-by-topic/human-trafficking> (visited Feb. 6, 2014).

Why Aren't More Cases Brought? (Cont.)

- As of 2008, majority of law enforcement (approx. 75%) perceive HT as rare or non-existent in their communities
- NOTE: When HT task force present, law enforcement perceives the problem is 2 to 3 times more prevalent than random sample for labor trafficking and 3 to 4 times more prevalent for sex trafficking.



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Lecture (2 to 3 minutes): Why aren't more cases brought? Because law enforcement in many states doesn't believe that human trafficking is occurring. If law enforcement doesn't look for the crime, they won't find it. "The majority, between 73 and 77 percent, of local, county and state law enforcement in the random sample (n=1661) perceive human trafficking as rare or non-existent in their local communities. There is little difference in perceptions of sex trafficking versus labor trafficking among local law enforcement - both types are perceived as rare or non-existent. Agencies serving larger communities (over 75,000 in population) are more likely to identify human trafficking, particularly sex trafficking as a more pervasive problem. More than 20 percent of law enforcement serving larger communities (n=392) perceive sex trafficking from outside the U.S. to be widespread or occasional and a little over 17 percent perceive sex trafficking from inside the U.S. to be widespread or occasional. Law enforcement agencies participating in human trafficking task forces perceive the problem of labor trafficking as 2 to 3 times more prevalent than the respondents from either the random sample or the medium to large agencies who do not participate in human trafficking task forces. The task force agencies perceived sex trafficking to be 3 to 4 times more prevalent than either the random sample or medium to large agencies." Amy Farrell & Jack McDevitt, UNDERSTANDING AND IMPROVING LAW ENFORCEMENT RESPONSES TO HUMAN TRAFFICKING REPORT (June 2008), located at <http://tinyurl.com/Law-Enforcement-HT> (visited Feb. 6, 2014).

Florida Brothel



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Lecture (3 to 5 minutes): The pictures on this and the following slides give the participants an idea of what the conditions are in brothels and in labor camps and provide information about the types of physical evidence that may be present. These are designed to be shown quickly with your narrative.

Instructor's Note: If presenting in an in-state program, locating pictures from a case or cases that have occurred in your state will make the information even more salient.

Sex Trafficking in Washington DC



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Lecture (cont.): "Federal authorities have accused a man from Georgia of using Craigslist to pimp for an underage girl from a Virginia hotel. Eric Claiborne was charged with transporting a minor across state lines to engage in prostitution. Officials were led to Claiborne by a 17-year-old girl who was dropped off at a Marriott Hotel just two blocks from the White House, charging documents filed Friday in Alexandria's federal court said. At the hotel, the girl met with an undercover District detective who had solicited her by responding to a Craigslist advertisement." Freeman Klopott, Georgia man charged with pimping girl, 17, on Craigslist (June 8, 2009), <http://washingtonexaminer.com/article/98266> (visited Feb. 6, 2014).

Nebraska Brothel in Gated Community



Lecture (1 to 3 minutes): A brothel allegedly operated in Omaha, Nebraska, for 12 years at this home, located in a gated community. See John Keenan, Prostitution ring alleged, Omaha World-Herald (Apr. 24, 2010), <http://tinyurl.com/7fud5mu> (visited Nov. 25, 2013). Brothels in upscale neighborhoods are not uncommon. See stories in California, Florida, Georgia, Missouri, Nevada, New York, and Washington below:

Arcadia, CA: Alfred Lee, *Upscale Arcadia neighborhood harbors alleged brothel*, PASADENA STAR-NEWS, Dec. 4, 2008, <http://tinyurl.com/7pktbge> (visited Nov. 25, 2013).

Palm Beach, FL: Jane Musgrave, *Vigil meant to bring attention to stash houses for sex slaves in trendy neighborhoods*, THE PALM BEACH POST NEWS, Jan. 29, 2010, <http://tinyurl.com/74setqc> (visited Nov. 25, 2013).

Atlanta, GA: Associated Press, *Women accused of running high-end suburban brothel indicted*, ACCESSNORTHGA.COM, June 13, 2007, <http://tinyurl.com/78pgtcp> (visited Nov. 25, 2013).

Kansas City, MO: FOX4 KANSAS CITY, *Prostitution Bust Shocks Upscale Neighborhood*, <http://tinyurl.com/6uffzpp> (visited Nov. 25, 2013).

Las Vegas, NV: George Knapp, 8News Now, KLAS-TV, *Brothel Bust in Upscale Las Vegas Neighborhood*, <http://tinyurl.com/7pgs7bs> (visited Nov. 25, 2013).

Bedford Hills, NY: *Alleged brothel bust in upscale neighborhood*, ABC NEWS, Feb. 28, 2007, <http://tinyurl.com/7pktbge> (visited Nov. 25, 2013).

Mill Creek, WA: *Police: 6 arrests in Mill Creek prostitution sting*, KOMO NEWS.COM, Feb. 20, 2010, <http://tinyurl.com/73sjhsw> (visited Nov. 25, 2013).

Birmingham Brothel



Lecture (cont.): Five women believed to be sex-trafficking victims have been rescued by police during raids on nine suspected brothels in Birmingham. Police, who arrested two women and three men on suspicion of managing a brothel, said they were determined to put a stop to “modern day slavery” in the region. Three of the buildings raided by some of the 40 officers involved in the operation were found to be empty, but evidence at the scene suggested they had also been used as brothels. Officers from West Midlands Police seized mobile phones, cash, laptops and paraphernalia relating to prostitution.

Detective Inspector Darren Haynes said in the video: “We’ve seized laptops, satnavs, mobile phones, there’s clear evidence of large amounts of cash, receipts, the whole picture of this premises would lead me to believe that it is being used as an illegal brothel and perhaps the girls inside are being human trafficked. “The victims are lost, treated really badly and abused on a daily basis.”

The raids were part of Operation Sentinel, a crackdown on sex trafficking and exploitation in the region and were launched following intelligence gathered from local residents.

Officers seized a range of items as evidence As part of the operation the force is conducting a comprehensive review of the policies and procedures it uses to tackle human trafficking.

Detective Superintendent Tim Bacon said: “It’s hard to believe that modern day slavery is happening in the West Midlands, but sadly it’s on the increase and we’re determined to put a stop to it. Tonight’s action, first and foremost, is about protecting people who more often than not don’t even realize that they are victims.”

‘Sex Slaves’ Saved In Birmingham Brothel Raids, Sky News, Oct. 15, 2013, located at <http://news.sky.com/story/1154647/sex-slaves-saved-in-birmingham-brothel-raids> (visited Nov. 25, 2013).

Labor Trafficking in South Dakota



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Lecture (1-3 minutes): “Robert John Farrell and his wife, Angelita Magat Farrell, owners of a Comfort Inn & Suites hotel in Oacoma, S.D., were sentenced on Friday, Feb. 22, in federal court in Pierre, S.D., for peonage, document servitude, visa fraud, making false statements and conspiracy, the Justice Department announced. Robert John Farrell was sentenced to 50 months of imprisonment. Angelita Magat Farrell was sentenced to 36 months of imprisonment. Each defendant also was ordered to pay a \$15,000 fine and will be placed on three years of supervised release following their respective prison terms. . . . The [Philippine] victims described regularly working 16- to 18-hour days. When they finished their duties at the defendants’ hotel, the victims were then expected to work a second job at local fast food restaurants.” Dep’t of Justice, *South Dakota Hotel Owners Sentenced for Involuntary Servitude Offenses*, Feb. 25, 2008, <http://tinyurl.com/7a53j3n> (visited Nov. 25, 2013).

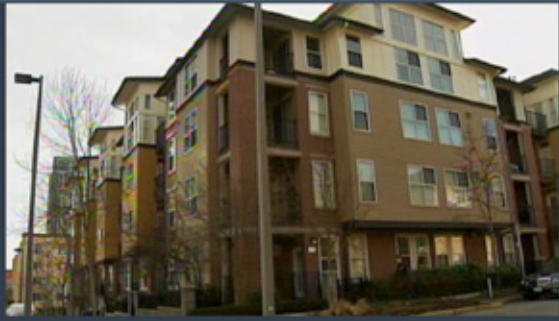
Wyoming Labor Trafficking



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Lecture (1-3 minutes): “Prosecutors charged Askarkhodjaev, Dougherty and 13 other individuals and companies with establishing temporary help agencies and hiring hundreds of mostly legal immigrants for work in hotels and casinos, according to the original 44-count indictment filed in May 2009 indictment and a superseding 143-count indictment filed in January. . . . The defendants allegedly used false information to acquire fraudulent work visas for these foreign nationals. Many of their employees were allegedly victims of human trafficking who were coerced to work in violation of the terms of their visa without proper pay and under the threat of deportation. The defendants also required them to reside together in crowded, substandard and overpriced apartments,” Whitworth said.” Tom Morton, *Worker abuse trial begins: Human-trafficking scheme sent immigrants to Wyoming hotels*, CASPER STAR-TRIBUNE THE BILLINGS GAZETTE (Oct. 20, 2010), <http://tinyurl.com/87tnhzw> (visited Nov. 25, 2013).

Human Trafficking in WA Apt. Complex



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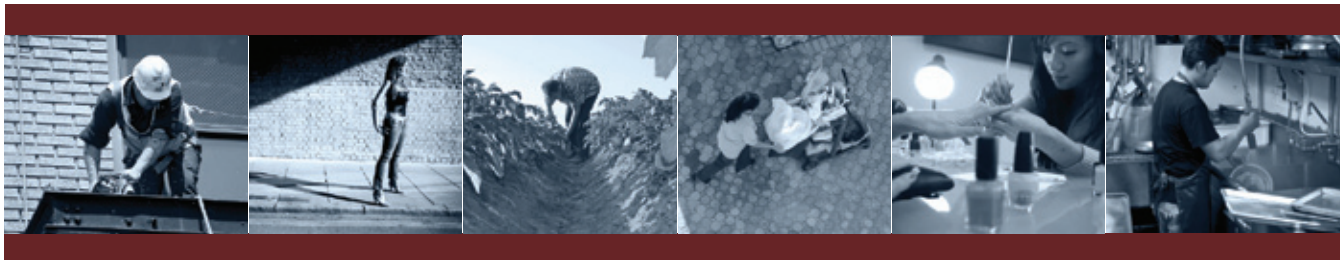
Lecture (1-3 minutes): BELLEVUE, Wash. —

Women were lured from Asia and forced into prostitution in Arizona, Illinois, Virginia and Washington, according to a federal indictment. Some of the women allegedly worked as prostitutes inside a Bellevue apartment building. According to court documents, undercover officers were directed to the Amli apartment complex, across from Bellevue Downtown Park, after following up on an ad for “sexy Asian women” in the “Body Rub” section of backpage.com. When an officer arrived at the apartment building, he was met by a woman who said she was from Thailand and offered sex for money. In the indictment, prosecutors accuse Unruean Abolulafia of being the ringleader and an illegal immigrant. They say five others, including her ex-husband, are part of a conspiracy that “enticed Asian women to travel to and within the US for prostitution,” to “profit financially ... from prostitution activities.”

Undercover officers also found sex trafficking of Asian women at other apartment complexes in Bellevue. Rajat Parsad, a resident of Amli, suspected that something was going on. “I just noticed some girls and they were sort of dressed up like you know, pretty scantily clad,” he said. “When I asked them what they did they were very shy about it.” The indictment said the apartment was leased by Jeff Chu. Chu was one of six people who were indicted for conspiracy on Monday in connection to the alleged crimes, but his lawyer said he is innocent. The indicted could face up to five years in prison on the sex trafficking charges and up to 20 years in prison for separate charges of money laundering to hide the illegal profits.

On Monday, the State Senate approved tougher new laws, adding “human trafficking” and “sex abuse of a child for money” to the list of crimes that require sex offender registration.

4-state sex trafficking web included Bellevue apartment building, KIRO TV, Mar. 4, 2013, located at <http://www.kirotv.com/news/news/4-state-sex-trafficking-web-included-bellevue-aptar/nWgt4> (visited Nov. 25, 2013).



MODULE 6: IMMIGRATION AND HUMAN TRAFFICKING VICTIMS

Description of Module 6

This module includes lectures and a quiz. It assists the participants in understanding different ways that aliens enter the U.S. and immigration remedies available to certain classes of human trafficking victims (e.g., continued presence and T, U and S visas).

Approximate Time for Module 6

Module 6 will take between 1/3 and 1/2 hours, depending upon the amount and types of activities used and the personal style of the presenter.

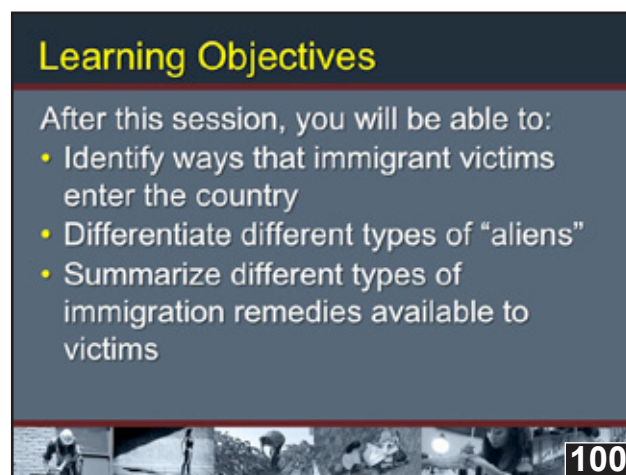
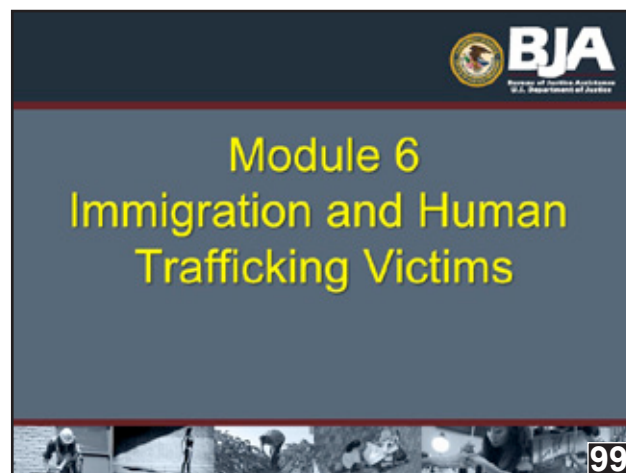
Module 6 Learning Objectives

At the conclusion of this module, participants will be able to:

- Identify ways that immigrant victims enter the country;
- Differentiate different types of “aliens”; and
- Summarize different types of immigration remedies available to victims.

Supporting Document

In addition to the PowerPoint slides printed three slides per page, the presenter may wish to use the following document: Answers to Human Trafficking Questions found on <http://tinyurl.com/NJC-Human-Trafficking>.



Immigrant Victims of Trafficking

- Many victims vulnerable to trafficking specifically because lack legal immigration status
- Some entered the country without inspection
- Others entered legally on a temporary visa and become vulnerable once that visa expired



Lecture (1 to 2 minutes): Many victims are vulnerable to human trafficking specifically because they lack legal immigration status. Some will have entered the country without inspection. Others will have entered legally on a temporary visa and become vulnerable once that visa expired.

Ways to Enter the United States

- Legally
 - Immigrant
 - Nonimmigrant
 - Refugee or asylee
- Illegally
 - Entry without inspection (EWI)
 - Fraudulent/counterfeit documents



Lecture (2 to 3 minutes): There are numerous ways to enter the U.S. Some aliens will enter legally as immigrants, non-immigrants, refugees or asylees. Others will enter illegally either without inspection or by utilizing fraudulent or counterfeit documents.

“Alien” Definitions

- “Alien”: any person not a citizen or national of U.S.
- “Arriving aliens”: Knock at the door to seek admission
- “Undocumented aliens”: Enter the U.S. without inspection or admission
- “Admitted aliens”: Knock at the door to seek admission, are inspected and admitted.



Lecture (2 to 3 minutes): The term “alien” means any person not a citizen or national of the United States. 8 U.S.C. § 1101 (a)(3) (2013).

There are three types of aliens. The first knock at the door to seek admission. They are referred to as “arriving aliens.” The second enter without inspection or admission. They are often referred to as “undocumented aliens.” The third are aliens who knock at the door, and are inspected and admitted. They are often referred to as “admitted aliens.” The role of the immigration judge is to determine whether an alien should be admitted to, or deported from, the U.S. and if so, if there is any relief from removal under the immigration laws to allow that alien to remain in the country.

Immigration Remedies for HT Victims

- **Continued Presence** – federal law enforcement tool that provides temporary victim/witness immigration relief while a severe HT case is investigated and prosecuted
- Issued by ICE
 - Provides lawful immigration status
 - Provides eligibility for work authorization
 - Federal law enforcement initiates application
 - Special allowances for minors



Lecture (2 to 3 minutes): “Continued presence is temporary status that law enforcement officers may seek on behalf of trafficking victims who are potential witnesses in the prosecution of traffickers. If granted by U.S. Immigration and Customs Enforcement [ICE], this status permits an alien to be legally present in the United States during the pendency of criminal investigation or prosecution. Although continued presence is initially authorized for one year and is renewable if the investigation is ongoing, ‘[t]he status may be revoked at any time should officials deem the victim uncooperative.’” M. Margaret McKeown & Emily Ryo, *The Lost Sanctuary: Examining Sex Trafficking Through the Lens of United States v. Ah Sou*, 41 CORNELL INT’L L.J. 739, 766 (Fall 2008) (citations omitted).

A request for continued presence may include an alien’s family member if the alien is under 21 or, if over 21, the family member is his or her spouse or child or the parent or sibling of the alien if they are in present danger due to the alien’s escape from trafficking or cooperation with law enforcement.

Continued Presence

- Initially granted for one year and may be renewed in one-year increments
- May be terminated if alleged victim is found not to be victim, loses contact with sponsoring law enforcement agency, or is granted a T visa
- Victim may be entitled to refugee benefits



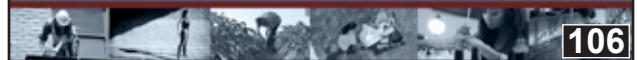
Lecture (2 to 3 minutes): Continued Presence (CP) was initially authorized under the TVPA at 22 U.S.C. 7105(c)(3) and reauthorized under the TVPRA. It allows a victim a legal means to temporarily live and work in the U.S. if the victim has suffered a “severe form of human trafficking.” See “Human Trafficking” Defined (slides 16-18).

If the alien has filed a civil action under 18 U.S.C. § 1595, then the CP remains in force until the civil litigation is concluded. Eligibility for CP does NOT depend on what is charged; that is, trafficking does not need to be charged. Victims are NOT required to cooperate with law enforcement requests for assistance in order to receive CP. Victims with a CP visa are eligible for refugee benefits.

Quiz

True or False.

T visas lead to **permanent** residence in the U.S.



Quiz (1 to 2 minutes): The answer is false. While a T visa can lead to permanent residence in the U.S. under 8 U.S.C. § 1101(a)(15)(T) (2013), it is not automatic.

Immigration Remedies: T Visa

- Relief that can lead to permanent residence. 8 U.S.C. § 1101(a)(15)(T)
- Provides eligibility for work authorization
- Benefits start with determination that a T- visa application is bona fide



Lecture (2 to 4 minutes): “The second form of immigration relief available to trafficking victims under the TVPA is a T-visa, for which victims may directly petition the U.S. Citizenship and Immigration Services. T-visa holders are granted work authorization and may remain in the United States for up to four years; after three years, T-visa holders may apply for legal permanent residence, subject to a number of statutory requirements.” M. Margaret McKeown & Emily Ryo, *The Lost Sanctuary: Examining Sex Trafficking Through the Lens of United States v. Ah Sou*, 41 Cornell Int’l L.J. 739, 769 (Fall 2008) (citations omitted). See 8 U.S.C. § 1101(a)(15)(T) (2013); Immigration and Nationality Act § 101(a)(15)(T).

The victim files a petition for a T visa – this may include a supplemental law enforcement agency certification Form I-914B attesting that the victim is a victim of a severe form of trafficking, has information about the crime, and has cooperated. T visa recipients are eligible to be certified for refugee benefits that may include housing assistance, cash assistance, Medicaid, and other social services.

Only 5,000 T visas are authorized each year. 8 U.S.C. § 1184(o)(2). Family members, called “derivatives” may also apply.

Immigration Remedies: T Visa

- Relief that can lead to permanent residence. 8 U.S.C. § 1101(a)(15)(T)
- Provides eligibility for work authorization
- Benefits start with determination that a T- visa application is bona fide



Lecture (1 to 3 minutes) (cont.)

T Nonimmigrant Status

- T visa holders can apply for permanent residence . . .
 - After 3 years or
 - After conclusion of the criminal proceedings – whichever comes first.
- T visas expire after 4 years.



Lecture (2 to 4 minutes): “To be eligible, the applicant must satisfy four criteria: the applicant must (1) be a victim of ‘severe form of trafficking’; (2) be physically present in the United States or at a port-of-entry ‘on account of such trafficking’; (3) have complied with ‘any reasonable request for assistance in the investigation or prosecution of acts of such trafficking’ or be less than 18 years of age; and (4) face ‘extreme hardship involving unusual and severe harm upon removal.’” M. Margaret McKeown & Emily Ryo, *The Lost Sanctuary: Examining Sex Trafficking Through the Lens of United States v. Ah Sou*, 41 CORNELL INT’L L.J. 739, 769-70 (Fall 2008) (citations omitted). See 8 U.S.C. § 1101(a)(15)(T) (2013); Immigration and Nationality Act § 101(a)(15)(T).

Requirements for Getting a T Visa

- Victim of a severe form of trafficking
- Self-petitioning – victim or advocate must initiate application
- Physically present in U.S. b/c of trafficking
- Complied with any **reasonable** request to assist law enforcement (not a requirement for minors)
- Will face extreme and unusual hardship if removed

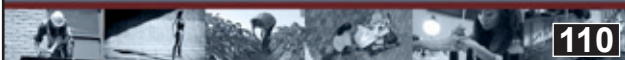


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Lecture (2 to 4 minutes): “To be eligible, the applicant must satisfy four criteria: the applicant must (1) be a victim of ‘severe form of trafficking’; (2) be physically present in the United States or at a port-of-entry ‘on account of such trafficking’; (3) have complied with ‘any reasonable request for assistance in the investigation or prosecution of acts of such trafficking’ or be less than 18 years of age; and (4) face ‘extreme hardship involving unusual and severe harm upon removal.’” M. Margaret McKeown & Emily Ryo, *The Lost Sanctuary: Examining Sex Trafficking Through the Lens of United States v. Ah Sou*, 41 CORNELL INT’L L.J. 739, 769-70 (Fall 2008) (citations omitted). See 8 U.S.C. § 1101(a)(15)(T) (2013); Immigration and Nationality Act § 101(a)(15)(T).

U Nonimmigrant Status

- Usually used in non-HT cases, although available to HT victims
- Available to victims of crime who have suffered substantial mental and physical abuse as a result and are willing to help law enforcement.
- Holders may apply for permanent residence after 3 years; visas expire after 4 years but may be extended.



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Lecture (2 to 3 minutes): Application for a U visa MUST have a Form I-918 accompany it. This visa is also self-petitioning. Family members are also eligible. Up to 10,000 a fiscal year are authorized. Individuals granted U visas are NOT eligible for refugee benefits. See 8 U.S.C. § 1101(a)(15)(U) (2013); Immigration and Nationality Act § 101(a)(15)(U).

S Nonimmigrant Visa

- S visas allow witnesses (and family members) to stay in U.S. if cooperate with law enforcement and can supply valuable information on criminal organizations or terrorist activities
- S visas expire after 3 years
- Law enforcement must apply for S visas.
- Must obtain the signature/endorsement of U.S. attorney for the jurisdiction.



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Lecture (2 to 3 minutes): Three types: S-5: only 200 are authorized per year. Available to an alien who possesses critical, reliable information concerning a substantial criminal matter and is cooperating with federal or state law enforcement and whose presence is essential to the success of a criminal investigation or prosecution of an individual involved in the criminal organization or enterprise. S-7 visas are for family members of “derivatives.” There is also an S-6 visa that involves terrorist activities. S visas expire after 3 years.

8 U.S.C. § 1101(a)(15)(S) (2013) provides as follows:

(a) As used in this chapter--

(15) The term “immigrant” means every alien except an alien who is within one of the following classes of nonimmigrant aliens--

(S) subject to section 1184(k) of this title, an alien--

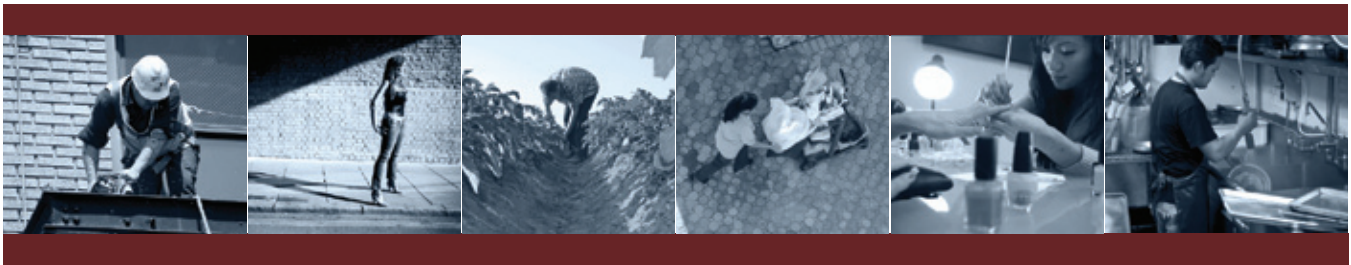
(i) who the Attorney General determines --

(I) is in possession of critical reliable information concerning a criminal organization or enterprise;

(II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and

(III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise

. . . . See Immigration and Nationality Act § 101(a)(15)(S).



MODULE 7: PENALTIES, SENTENCING ISSUES, RESTITUTION AND FORFEITURE

Description of Module 7

This module includes lectures, a large or small group discussion, and a case study. It assists the participants in understanding the federal penalties for human trafficking-related crime, appropriate sentencing factors, different screening instruments for assessing the trafficker, and restitution and forfeiture requirements under federal law.

Approximate Time for Module 7

Module 7 will take between 1/2 and 1-1/4 hours, depending upon the amount and types of activities used and the personal style of the presenter.

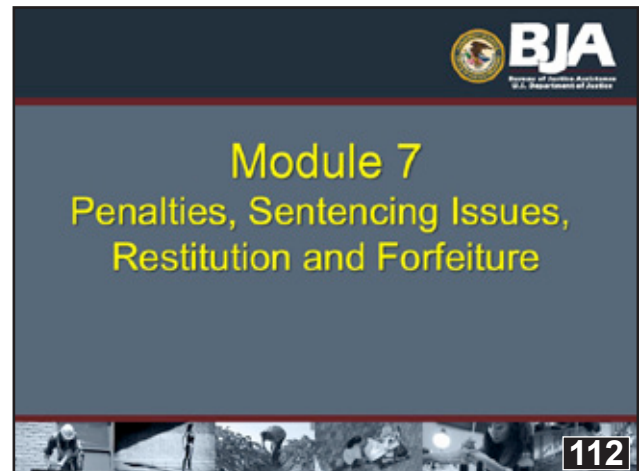
Module 7 Learning Objectives

At the conclusion of this module, participants will be able to:

- Identify the federal penalties for peonage, slavery, forced labor and trafficking;
- Summarize sentencing factors that require consideration; and
- Locate resources for assessing the risk of offenders.

Supporting Document

In addition to the PowerPoint slides printed three slides per page, the presenter may wish to use the following document: Case Study, Penalties for Financially Benefiting from Forced Labor, found on <http://tinyurl.com/NJC-Human-Trafficking>.



Learning Objectives

After this session, you will be able to:

- Identify the federal penalties for peonage, slavery, forced labor and trafficking
- Summarize sentencing factors that require consideration
- Locate resources for assessing the risk of offenders



Lecture (1 to 2 minutes): After this session, YOU, the participants, will be able to:

Identify the federal penalties for peonage, slavery, forced labor and trafficking;

Summarize sentencing factors that require consideration; and
Locate resources for assessing the risk of offenders.

Instructor's Note: Rewrite learning objective 1. to remove the word "federal" if this is being presented in an in-state program and replace federal with state statutes.

Federal Penalties for Peonage, Slavery, Forced Labor, and Trafficking

- Fine and/or imprisoned for not more than 20 years
- Fine and/or imprisoned for any term of years or life if crime involves ...
 - Death of victim
 - Kidnapping or attempt
 - Aggravated sexual abuse (or attempt)
 - Attempt to kill



Lecture (1 to 3 minutes): See 18 U.S.C. § 1581 (2000) (Peonage; obstructing enforcement); 18 U.S.C. § 1583 (2008) (Enticement into slavery); 18 U.S.C. § 1589 (2008) (Forced labor); and 18 U.S.C. § 1590 (2008) (Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor). You may want to advise the participants that 18 U.S.C. § 1589 doesn't include attempted aggravated sexual abuse in the enhancement section of the statute. Also, 18 U.S.C. § 1590 added obstruction to the statute in 2008, new section (b).

Note: The Peonage and Slavery statutes' sentences were increased from 10 years to 20 years in 2000; from 5 years to 10 years in 1996; and removed a cap on the fine of \$5,000 in 1994.

Instructor's Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Federal Penalties for Sex Trafficking

- Fine and imprisonment for any term of years **not less than** 15 years or for life if used force, threats of force, fraud or coercion, or if victim less than 14
- Fine and imprisonment for not less than 10 years or for life if no force, fraud or coercion and victim between 14 and 18.



Lecture (1 to 3 minutes): 18 U.S.C. § 1591(b) (2008) (Sex trafficking of children or by force, fraud or coercion) provides as follows:

- (b) The punishment for an offense under subsection (a) is--
- (1) if the offense was effected by means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means, or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or
 - (2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title and imprisonment for not less than 10 years or for life.

Obstruction or attempted obstruction carries a fine and/or imprisonment for a term not to exceed 20 years. See 18 U.S.C. § 1591(d) (2008).

Note: This statute was amended in 2006 to add “not less than 15 years” after any term of years and removed a 40 year cap on prison sentence in (2). In 2003, a 20 year cap on prison sentence was increased to 40 years.

Instructor’s Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Federal Penalties for Passport / Gov’t ID Possession, Confiscation or Destruction

- Fined and/or imprisoned for not more than 5 years if destroy, conceal, remove, confiscate, or possess actual or purported passport, other immigration document, or actual or purported gov’t ID
- While committing or attempting to commit trafficking, peonage, etc.



Lecture (1 to 3 minutes): 18 U.S.C. § 1592 (2008) provides: (a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person--

- (1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);
- (2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or
- (3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person’s liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, shall be fined under this title or imprisoned for not more than 5 years, or both.

(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

(c) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (a).

Instructor’s Note: You may want to note that HT victims are not subject to this provision. Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Penalties for Financially Benefitting from Forced Labor

- Read the case study
- Answer the three questions
- Be prepared to share answers with class



Case Study (5 to 7 minutes): See <http://tinyurl.com/NJC-Human-Trafficking> for Case Study. Ask the participants to read the case study, have them answer the questions and ask participants what they found. Address question 1. before moving on to questions 2 and 3. The statute in the case study is based on 18 U.S.C. § 1589 (b) (2008).

Note: There are similar financial benefit provisions for peonage (18 U.S.C. § 1593A (2008)), and for sex trafficking (18 U.S.C. § 1591(a) (2008)).

Instructor's Note: This case study can be modified for use at an in-state program assuming there is a state statute that addresses this type of crime.

HT Sentencing Factors

- The law
 - State prison mandatory?
 - Mandatory conditions of probation?
- The crime
 - Extreme violence?
 - Weapons?
 - Multiple victims?
 - Impact on victims?



Optional Lecture (1 to 3 minutes): This information is contained in the following document — The National Judicial College and the Center for Sex Offender Management, *Sentencing Sex Offenders: A Model Curriculum for Judges* 177 (2010) (“Sentencing Sex Offender Curriculum”). See <http://tinyurl.com/NJC-Human-Trafficking>. Despite the fact that the curriculum only addresses the sentencing of sex offenders, these considerations would be present even in a case involving labor trafficking.

Pre-Sentence Investigation Reports

What types of information do you want in a pre-sentence report or investigation?

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Large group or small group discussion (3 to 5 minutes): “The Pre-Sentence Investigation Report is the single most important document a court will have in deciding the appropriate sentence in a case. Ideally, the report will address all of the sentencing factors that [are contained in the slides following this one]. What does the judge do if the report is lacking in any significant aspect? Some information may come from private probation reports prepared by a person hired by the defendant. Depending on the background and completeness of the report, these documents can provide valuable insight into the defendant’s history, current mental state, treatment needs, and amenability to a grant of probation.” *Sentencing Sex Offender Curriculum* at 181.

Sentencing Factors

Defendant’s History

- Prior record
 - Prior sex or labor crimes?
 - Prior crimes of violence, weapons?
- Family history and structure
- Employment history
- Physical health

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Lecture (1 to 3 minutes): “Undoubtedly, the biggest single indicator of future risk of crime is the defendant’s criminal history. Not only will the court want to consider this factor on an intuitive level but . . . previous crimes are also a factor in certain formal risk assessments used for sex offenders. Family and employment history and physical health are important factors to assist in understanding the defendant; however, these factors will likely be secondary to the nature of the crime, the defendant’s criminal history, and the defendant’s formal risk assessment. These factors may become very relevant, however, if the court is considering probation. The presence or absence of these factors may be a strong indicator of whether the defendant will be successful on probation, and the level of services he [or she] will require.” *Sentencing Sex Offender Curriculum* at 178.

Sentencing Factors – Sex Trafficking

Defendant's Risk of Re-offending

- Actuarial assessment
 - Static-99
 - RRASOR
- Clinical
- Psych/sexual evaluation
- Motivation to change
- Community support



Lecture (3 to 5 minutes): “Psychological assessments have an important role in sentencing defendants. Unless state prison is mandated, courts frequently look to mental health professionals to determine the treatment needs of the defendant and whether the defendant is treatable at all. Responsible psychological evaluations of sex offenders do not rely on a single method of evaluation, but result from consideration of a number of methods of assessment.

Actuarial assessment: The most common are STATIC-99 and RRASOR. These assessments . . . review the history of the defendant in determining the defendant’s risk of reoffending. These assessments deal with ‘static,’ unchanging factors such as prior convictions, the nature of prior victims, and whether prior victims were strangers.

Clinical factors: This is an assessment by a trained mental health professional to determine the defendant’s current mental status. The assessment also may include ‘dynamic’ factors such as what treatment the defendant has undergone and how well he [or she] did in the program.

Psycho/sexual evaluation: This may involve the use of such techniques as the plethysmograph [pluh-thiz-muhgraf] or such other tools to determine how a defendant processes sexual images or thoughts.

Motivation to change and community support: Important secondary considerations assist in determining whether the defendant is suitable for probation and treatment.” *Sentencing Sex Offenders Curriculum* at 179.

Sentencing Factors – Sex Trafficking

Correctional and treatment resources

- Within institution
- Community-based
- Ability to pay
- Degree of supervision



Lecture (2 to 4 minutes): “Notwithstanding all of the defendant’s identified treatment needs, one of the most important considerations is whether the legal or penal system can realistically meet those needs. For example, a judge sentencing a sex offender to state prison must have a basic understanding of what treatment programs are available to prison inmates. Are there effective community based programs that can meet the defendant’s needs? What is the cost of the programs? Who is to pay for the programs? Can the defendant be effectively supervised in these programs?” *Sentencing Sex Offender Curriculum* at 180.

Pre-Sentence Investigation Reports - Risk Assessment Tools for Sex Traffickers

- Minnesota Sex Offender Screening Tool – Revised
- ACUTE- and STABLE-2007
- Sex Offender Risk Appraisal Guide
- Rapid Risk Assessment for Sexual Offense Recidivism
- Static-99
- Vermont Assessment of Sex Offender Risk



Lecture (2 to 3 minutes): “Based on the risk factors linked to recidivism among sex offenders, researchers have developed several sex offender-specific risk assessment tools. The tools listed on this slide are examples of the most commonly used risk assessment instruments in the field. (The presenter should be aware of any risk assessment tools used or under consideration by stakeholders in the jurisdiction in which the curriculum is being provided.) Some of these risk assessment tools focus primarily on static variables, others are used to assess dynamic variables, and some include both static and dynamic risk factors. Generally speaking, when assessments or evaluations include one or more of these tools, judges can have a greater degree of confidence in the findings. This is, of course, contingent upon the assessor’s training and expertise using these tools. Sometimes, evaluators may use tools that are not research supported, or that are not designed specifically to provide information about sex offenders’ risk, to base their decisions about risk. Or they may use the ‘right’ tools, but not use them correctly (e.g., incorrectly stating definitely that the tool indicates that a given sex offender will or will not reoffend). ...A brief discussion of each assessment tool follows on the next few slides.” *Sentencing Sex Offender Curriculum* at 182.

Minnesota Sex Offender Screening (MnSOST and MnSOST-R)

- Designed to predict sexual recidivism in rapists and intra-familial child molesters
- Uses 16 static and dynamic variables to distinguish 3 levels of risk



Lecture (1 to 2 minutes): “The Minnesota Sex Offender Screening (MnSOST) and revised assessment (MnSOST-R) were designed in response to the State of Minnesota’s demands for a more formal and uniform process to identify violent sex offenders. It is composed of 21 survey items that address sexual and non-sexual offense history, substance abuse history, and treatment compliance among extrafamilial sex offenders.” *Sentencing Sex Offender Curriculum* at 183 (citation omitted).

ACUTE- and STABLE-2007

- Developed primarily for supervision officers
- Assess dynamic risk factors over acute and longer time periods



Lecture (2 to 4 minutes): “The STABLE- and ACUTE-2007 were developed primarily for supervision officers to assess dynamic risk factors with sex offenders. They are generally used in conjunction with the Static-99 . . .

The ACUTE-2007 measures factors that can change over an acute period of time (hours, days, weeks) that may indicate a likelihood for sexual reoffending. It consists of seven areas of acute risk: access to victims, emotional collapse, collapse of social supports, hostility, substance abuse, sexual preoccupations, and rejection of supervision.

STABLE-2007 measures factors that have the potential to change, but may endure, for months or years. The assessment consists of a guided interview process that covers six major areas of risk: intimacy deficits, significant social influences, general and sexual self-regulation, attitude supportive of sexual assault, and cooperation with supervision.” *Sentencing Sex Offender Curriculum* at 183.

Sex Offender Risk Appraisal Guide (SORAG)

- 14 item instrument
- Modification of the Violence Risk Appraisal Guide (VRAG)
- Used to assess the risk of violent and sexual recidivism of previously convicted sex offenders within a specific period of release



Lecture (2 to 3 minutes): “The SORAG is based on years of work by Quinsey and his colleagues studying the recidivism of more than 800 serious offenders in the Ontario correctional system. There is a dispute as to whether at least five of

the SORAG items are empirically supported, including:

- History of alcohol problems;
- Marital status;
- History of nonviolent offenses;
- Meeting DSM-III criteria for Personality Disorder; and
- Meeting DSM-III criteria for schizophrenia (coded as reducing recidivism risk).

The SORAG also includes the Psychopathy Checklist-Revised (PCLR) scores in its overall assessment which requires specific training.” *Sentencing Sex Offender Curriculum* at 184.

Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR)

Four Factors

1. Number of prior sex offenses
2. Offender's current age
3. Gender of offender's victim(s)
4. Offender's familial relationships, if any, to victim(s)



Lecture (2 to 3 minutes): “The Rapid Risk Assessment of Sexual Offense Recidivism (‘RRASOR’) is one of the first research-supported sex offender specific instruments. It is a brief, four item screening instrument used to assess risk of sexual offender recidivism among males who have been convicted of at least one sexual offense. It relies on information obtained from files and has been tested extensively on forensic populations. The four items on the RRASOR static risk assessment are:

1. Number of prior sex offenses (charges, convictions) (Thorndyke stated, in 1922, that ‘the best predictor of future behavior, is past behavior.’ Research indicates that having prior sex offenses is a predictive factor for sexual recidivism.) Note: The prosecutor’s charging practices can greatly affect this score;
2. Offender’s current age (whether he is young: 18-25);
3. Gender of the offender’s victims (if there were any male victims, the risk is higher); and
4. Offender’s familial relationship, if any, to the victim (if there were any unrelated victims, the risk is higher).

The RRASOR assessment yields a score ranging from 0 to 5. The corresponding recidivism rates, over a 10-year window of opportunity, range from 6.5 to 73.1%.” *Sentencing Sex Offender Curriculum* at 185 (citations omitted).

Static-99

- Developed after RRASOR
- Incorporates RRASOR's 4 factors, adds 6 additional factors
- Uses only static (unchangeable) factors
- Estimates are considered a baseline of risk for violent and sexual recidivism



Lecture (2 to 3 minutes): “The Static-99 assessment was devised to assess the recidivism risk of male offenders age 18 and older. It is based on a review of the records of 31,000 adult males in England and Canada. In addition to the four factors tested in RRASOR (number of prior sex offenses; offender's age; whether any male victims; whether any unrelated victims), the Static-99 factors in six others (discussed on the following slides). Static factors are gleaned from the defendant's history and records; dynamic factors include such things as the offender's current mental condition, access to victims, substance abuse, and participation in treatment. The Static-99 is available online at www.static99.org; the website also contains additional information, including a manual and coding form. The test is free; however, training is needed to administer and interpret the test. The Static-2002 will soon replace the Static-99.” *Sentencing Sex Offender Curriculum* at 186.

Static-99 – Six Additional Factors

1. Ever lived with an intimate partner
2. Index non-sexual violence
3. Prior non-sexual violence
4. Prior sentencing dates
5. Non-contact sex offenses (exhibitionism, obscene phone calls, etc.)
6. Any stranger victims



Lecture (3 to 5 minutes): “1. Ever Lived with an Intimate Partner: Whether the offender has lived with an intimate partner for two or more years (the relative risk of reoffending is lower in men who have been able to form intimate partnerships); 2. Index Non-Sexual Violence: A separate conviction for a nonsexual violent offense at the same time the offender was convicted of the index (instant) offense predicts seriousness of potential damage of a subsequent offense and is strong indicator of future overt violence; 3. Prior Non-Sexual Violence: Prior convictions for nonsexual violence also predicts seriousness of potential damage of a subsequent offense and is strong indicator of future overt violence; 4. Prior Sentencing Dates: the number of times the defendant was sentenced for any crimes (the risk is higher if the offender's criminal record indicates four or more separate sentencing dates prior to the instant offense); 5. Non-Contact Sex Offenses (exhibitionism, obscene phone calls, etc.): ‘Offenders with paraphilic interests are at increased risk for sexual recidivism. For example, most individuals have little interest in exposing their genitals to strangers or stealing underwear. Offenders who engage in these types of behaviours are more likely to have problems conforming their sexual behaviour to conventional standards than offenders who have no interest in paraphilic activities.’ 6. Any Stranger Victims: The basic principle is that research shows that having a stranger victim is related to sexual recidivism. A stranger is anyone not known to the defendant 24 hours prior to the crime.” *Sentencing Sex Offender Curriculum* at 187-188 (citations omitted).

Static-99 (Cont.)

Score	Risk Category
0-1	Low
2-3	Low - Moderate
4-5	Moderate-High
6+	High

Lecture (1 to 2 minutes): “It is important to understand that the results of the assessment do not say whether this defendant will reoffend. The results only indicate that persons with similar backgrounds tend to reoffend at the rate given in the assessment.” *Sentencing Sex Offender Curriculum* at 188 (emphasis in original).

Vermont Assessment of Sex Offender Risk (VASOR)

- Assesses risk of adult male offenders
- Composed of two scales
 - 13 item re-offense scale
 - 6 item violence scale
- Interaction of variables is considered important factor in determining individual's overall risk level

Lecture (2 to 3 minutes): “The Vermont Assessment of Sex Offender Risk (VASOR) is a risk assessment scale for adult male sex offenders age 18 and older. It was originally designed to assist probation and parole officers in assessing the likelihood of sexual recidivism for placement and supervision decisions. The re-offense scale is designed to assess the likelihood of sexual recidivism; the violence scale is designed to assess the nature of an individual's violence history and offense severity. The interaction of these variables, re-offense risk and violence, are considered important factors for determining an individual's overall risk level. Because the VASOR does not provide a comprehensive survey of all factors relevant to sexual offending, it is recommended that it be used as a decision aid along with professional judgment and other appropriate tools. *See also, Vermont Assessment of Sex Offender Risk Manual: Research Edition* (2001).” *Sentencing Sex Offender Curriculum* at 189 (citation omitted).

Restitution

- A court shall award restitution to the victim
- Statute directs defendant to pay victim full amount of loss
- Loss determination (the greater of...)
 - Gross income, OR
 - Value to defendant, OR
 - Value of labor (min. wage + overtime)



Lecture (2 to 4 minutes): Under 18 U.S.C. § 1593 (2008), a court shall award restitution to the victim. The statute provides as follows:

- (a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.
- (b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.
- (2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.
- (3) As used in this subsection, the term "full amount of the victim's losses" has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).
- (4) The forfeiture of property under this subsection shall be governed by the provisions of section 413 (other than subsection (d) of such section) of the Controlled Substances Act (21 U.S.C. 853).
- (c) As used in this section, the term "victim" means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

Instructor's Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Forfeiture

- Forfeiture governed by Controlled Substances Act
- Forfeit of any real or personal property
- The court shall order forfeiture in imposing sentence
- Defendant may not be fined more than twice gross profits / proceeds.



Lecture (2 to 4 minutes): "The forfeiture of property under this subsection shall be governed by the provisions of section 413 (other than subsection (d) of such section) of the Controlled Substances Act (21 U.S.C. 853)." 18 U.S.C. § 1593(b)(4) (2008).

21 U.S.C. § 853 (200) provides in part as follows:

- (a) Property subject to criminal forfeiture - Any person convicted of a violation of this subchapter or subchapter II of this chapter punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—
- (1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;
- (2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and
- (3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 848 of this title, the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.
- The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this subchapter or subchapter II of this chapter, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.
- (b) Meaning of term "property." Property subject to criminal forfeiture under this section includes –
- (1) real property, including things growing on, affixed to, and found in land; and
- (2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

Instructor's Note: Replace this slide with your own statutory structure if presenting in your own state unless you want to provide a comparison with the federal system.

Additional Resources

Additional resources on NJC's Cloud:
<http://tinyurl.com/NJC-HT-Resources>



Lecture (1 minute): For those participants who are interested in reviewing additional resources, they can go to NJC's cloud at <http://tinyurl.com/NJC-HT-Resources>. Types of documents available:

- State-specific presentations for many states
- HT law review articles
- HT media stories
- HT teaching materials
- Sentencing Sex Offender curriculum



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