

DEALING WITH HUMAN TRAFFICKING VICTIMS IN A JUVENILE CASE

This card is aimed at helping juvenile court judges identify situations that may involve elements of human trafficking and determine what steps may be taken to assure that a juvenile in a dependency case or delinquency case who might be a victim of human trafficking is protected.

WHAT IS HUMAN TRAFFICKING?

Under Uniform Law Commission's Uniform State Trafficking Law, a person commits the crime of human trafficking if the person intentionally, knowingly, or recklessly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices a person for the purposes of forced labor or servitude or commercial sex through coercion, deception, or fraud.

Trafficked juveniles may be involved in sex activities such as pimp controlled prostitution, escort services, residential and underground brothels, pornography production, cyber-pornography, massage parlors, and work in a cantina, karaoke, strip-clubs, and other types of bars or clubs. They may also be found as domestic servants such as nannies, and in peddling rings such as magazine, flower, and candy sales crews. In addition, they may engage in criminal activities for their trafficker, such as drug sales, theft, or recruiting other victims.

WHAT TYPES OF JUVENILE CASES MAY INVOLVE HUMAN TRAFFICKING SITUATIONS?

Juvenile case types that may involve elements of human trafficking or be committed as a result of victimization are listed below.

- Prostitution – in a prostitution case, it can be difficult to distinguish between acts of prostitution committed as an offender or as a victim of human trafficking;
- Gang activity – gangs often supplement income through sex or labor trafficking;
- Drug sales – drug sales may be forced on a victim by a trafficker;
- Drug use – drugs may be used to control a trafficking victim;
- Illegal peddling – peddling may be forced on a trafficking victim by a trafficker;
- Theft – a trafficker may coerce a victim into stealing in order

to provide extra income for the trafficker;

- Human trafficking – the victim may be required to recruit other victims for the trafficker or be rewarded for doing so;
- Delinquency – trafficking victims who are placed in a juvenile detention center may be forced by the trafficker to recruit other victims in the detention center;
- Juvenile status offenses – runaways and truants are especially vulnerable to becoming trafficked;
- Child abuse and neglect – abused children are vulnerable to trafficking, and some parents may be trafficking their children, either for sex or labor; and
- Guardianship – there have been cases in which a trafficker has applied for guardianship over their victims.

A variety of caretakers have trafficked children under their care, including legal guardians, foster parents and even family members such as parents, uncles, aunts, and others.

WHAT ARE THE INDICATORS THAT A PERSON IN COURT (CHARGED OFFENDER, CRIME VICTIM, WITNESS) MAY BE A VICTIM OF HUMAN TRAFFICKING OR AT RISK FOR BECOMING A VICTIM?

Identifying juvenile trafficking victims can be difficult. Juveniles may be easy prey for human traffickers who deal in prostitution, and traffickers may also force the victims into committing other crimes, such as selling drugs for the trafficker, stealing, or even assisting the trafficker in recruiting other victims, thus turning the trafficking victim into a trafficker as well. This makes it difficult to recognize juvenile criminal behavior that is the result of victimization rather than criminal intent.

Further, trafficking victims may not view themselves as victims, but rather believe that, despite repeated abuse, the trafficker is a loving boyfriend, protector, or parent. They also often have a history of anti-social behavior and may be uncooperative and distrustful of people in authority, so they may not meet our expectations of what a victim should look or act like. As a result, they may make unsympathetic witnesses, complicating the difficulties in identifying them as victims.

Identifying juveniles who may be at risk for becoming trafficking victims is equally important. Juveniles who commit status

offenses, such as runaway or truancy, may be trafficking victims or highly vulnerable to victimization and thus at risk for becoming trafficking victims. In addition, juveniles in dependency cases may be vulnerable to victimization for a variety of reasons that may come to light in the court proceedings.

Indicators of human trafficking that might assist court personnel and other justice partners include a variety of behaviors that reveal a mindset of fear, distrust, denial, and conflicting loyalties. For example, trafficking victims may (1) develop general feelings of helplessness, shame, guilt, self-blame, and humiliation; (2) suffer from shock and denial, or display symptoms of post-traumatic stress disorder, phobias, panic attacks, anxiety, and depression; (3) suffer from sleep or eating disorders; (4) become addicted to drugs and alcohol as a way to cope with or “escape” their situation, or as a method of control used by their traffickers; (5) become emotionally numb, detached, and disassociated from the physical and psychological trauma and display “flat affect;” or (6) experience “trauma bonding” with the trafficker, positively identifying with the trafficker and believing that, despite repeated abuse, the trafficker is a loving boyfriend, spouse, or parent.

Evidence that someone associated with a juvenile has used one of the following ways of exerting control over the juvenile may signal that a juvenile is a trafficking victim:

- Threatened or actual physical or non-physical harm which compels the victim to perform services to avoid harm;
- Use or threatened use of law to exert pressure on another person to perform services;
- Demeaning or demoralizing the victim (e.g. through verbal abuse or humiliation);
- Disorienting and depriving the victim of alternatives (e.g. isolation, restricted communication, debts, monitoring);
- Diminishing resistance and debilitating the victim (e.g. by denial of food, water, or medical care or by use of drugs or alcohol);
- Deceiving about consequences (e.g. overstating risks of leaving or rewards of staying, feigning ties to authorities or hit men/gangs); or
- Dominating, intimidating, and controlling (e.g. by abuse, an atmosphere of violence, display of weapons, rules, and punishments).

Many trafficking victims suffer serious health issues, including (1) signs of physical abuse, such as bruises, broken bones, burns, and scarring; (2) chronic back, visual, or hearing problems from work in agriculture, construction, or manufacturing; (3) skin or respiratory problems caused by exposure to agricul-

tural or other chemicals; (4) infectious diseases, such as tuberculosis and hepatitis, which are spread in overcrowded, unsanitary environments with limited ventilation; (5) untreated chronic illnesses, such as diabetes or cardiovascular disease; or (6) reproductive health problems, including sexually transmitted diseases, urinary tract infections, pelvic pain and injuries from sexual assault, or forced abortions.

If any of the following personal, work, or living conditions regarding a defendant, victim, or witness is evidenced during a trial, that may indicate that the individual is a victim of human trafficking:

- Is not allowed to speak to anyone alone;
- Cannot come and go freely;
- Lives with many others in a confined area;
- Has to ask permission to eat/sleep/go to the bathroom;
- Has locks on doors/windows that he or she cannot unlock;
- Does not have access to identification or travel documents.

The following are some of the elements that may arise in a delinquency or dependency case that may place a juvenile at risk of being trafficked. The indicators all involve a disruptive home or school environment that leaves the juvenile vulnerable with no safe or stable place to go.

- Absence of supervision at home;
- A history of involvement with child welfare;
- Multiple foster care placements or schools attended;
- A family history of domestic violence;
- Frequent runaway or truancy;
- A history of alcohol or drug abuse;
- Behavioral problems at school; and
- Behind in grade level.

WHAT CAN A JUDGE DO IF A CASE BEFORE HIM OR HER INVOLVES POSSIBLE HUMAN TRAFFICKING ACTIVITY?

Judges need to be aware of some issues relating to the safety and protection of trafficking victims, particularly those who are charged with crimes committed on behalf of or at the direction of a trafficker, and may want to take steps to protect someone who shows signs of possibly being a trafficking victim. Here are some safety issues that may arise.

- Judges need to be aware of indicators of trafficking and conversant with the screening tools used by service providers, probation officers, and others.

- If the trafficker is a family member or other caretaker, he or she may be in the courtroom, so a trafficking victim may be reluctant to answer certain questions.
- A guilty plea by a juvenile trafficking victim charged with a crime, such as prostitution, coupled with a placement with a family member, may give the trafficker more control over the victim.
- There may be a need for a protocol with prosecutors, defense attorneys, and guardians ad litem to identify a potential trafficking victim before the victim has to testify in court.
- The judge may want to recess or continue a trial if a trafficking situation appears to be present, to determine what steps, if any, need to be taken to protect a possible trafficking victim.
- Judges need to be aware of local resources to assist trafficking victims.

A juvenile judge may have the option to treat a delinquency case as a dependency case, if it appears that the delinquent behavior was committed due to coercion by a trafficker or was the result of victimization. Some states have options for certain juveniles charged with prostitution to be classified as sexually exploited juveniles and sent to diversion programs rather than being convicted of prostitution.

Options for placing juvenile trafficking victims may be limited. Juvenile trafficking victims can be uncooperative and unruly, making them poor candidates for foster care.

Juvenile detention or residential juvenile facilities can be a prime recruiting ground for new victims, and trafficking victims may be pressured into recruiting others. This may affect where to place a juvenile trafficking victim, for the protection of both the victim and others who may be vulnerable to recruitment. It may also affect where to place at-risk juveniles who may not be trafficking victims yet but are vulnerable to victimization due to their family, economic, social, health, or educational situation, to avoid exposing them to potential recruitment efforts.

Getting trafficked juveniles into services can be difficult. For juvenile delinquency cases, the case is adjudicated in the county where the crime was committed but the disposition is determined in the county where the juvenile lives. As a result, there is a need for cross-jurisdictional coordination to ensure that human trafficking victims are identified and provided appropriate services. State services may be available for juveniles prosecuted in one county and sent to another for supervision and services.

Judges need to be aware of any required findings or orders required in order to get a trafficking victim into services, juvenile

and adult. There may be circumstances where the state court is unable to provide services to an adult or juvenile offender unless the court has a conviction on which to justify requiring the person to enter a treatment program. For example, there may be no secure housing available for a juvenile victim of sex trafficking unless the juvenile is convicted of prostitution and sentenced to a juvenile detention facility.

There are special dangers facing juvenile trafficking victims in delinquency proceedings who are immigrants. A delinquency conviction may make the immigrant juvenile ineligible for certain immigration benefits. In particular, any of the following can be problematic:

- Known or reasonably believed to have engaged in drug trafficking;
- Being a drug addict;
- Having engaged in prostitution;
- Violation of protection order;
- Use of false documents; or
- Having a mental condition that is a threat to others.

Violent offenses, sex offenses, and gang activity are particularly problematic, as they often can lead to denial of any immigration benefit.



HUMAN TRAFFICKING
AND THE STATE COURTS COLLABORATIVE



For references and additional resources,
go to www.htcourts.org