



Human Trafficking in Pennsylvania June 2017

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Human trafficking is a form of modern slavery where individuals illegally trade human beings for the purpose of sexual exploitation (sex trafficking) or forced labor (labor trafficking).¹ Trafficking people is illegal under both federal² and Pennsylvania law.³ Every year, women, men, and children are bought and sold to be exploited in the underground human trafficking industry,⁴ and the problem is becoming more visible in Pennsylvania.

Lawsuit Filed Under Pennsylvania’s Human Trafficking Law, Philadelphia Co., Pa. Law Monitor, Mar. 2017

Berks prosecutors use new human trafficking charge for first time, Berks Co., Reading Eagle, Dec. 1, 2016

Upper Darby man becomes first jailed under new human trafficking law, Delaware Co., Delaware Co. Daily Times, Jul. 2015

Western Pa. prosecutors zero in on human trafficking, Allegheny Co., TribLive, Aug. 1, 2015

Woman says Allentown arrest kept her from life as a sex slave, Lehigh Co., Morning Call, May 9, 2015

Since the 2014 passage of Act 105, codified as 18 Pa.C.S. §§ 3001 – 3072, Pennsylvania’s comprehensive human trafficking statute, there has been a fundamental shift in the way the justice system and victim service providers view the commercial sex industry. From “what used to be standard prostitution cases, now there's a keen eye out there for warning signs of human trafficking," says one investigator.⁵ Chapter 30 of the Crimes Code, Human Trafficking, is structured in a three-prong approach: prosecution, prevention and protection of human trafficking victims. The law now provides criminal and civil relief for human trafficking victims.

Intersections between Sex Trafficking and Domestic Violence

Intimate Partner Traffickers

One common form of initiation into human trafficking, especially sex trafficking, is seduction by an intimate partner.⁶ Traffickers learn that the best way to recruit vulnerable women and girls into prostitution is through false romance.⁷ They use the pretense of a relationship as an opportunity to groom the girls and women for sexual servitude and to see how far a victim is willing to take their love for them.⁸ Sometimes they even marry them. Like domestic abusers, they use emotional abuse to break down the victim's self-image and remake them as a possession. In these cases, individuals are often victims long before they are aware of what is happening to them. In *Human Trafficking: A Primer for Judges*, the author emphasizes that abusers use the intimate relationship to exploit their partners:

Especially in cases of sex trafficking, traffickers and intimate-partner abusers are often one and the same. In fact, sex trafficking is often an extreme form of intimate-partner violence in which traffickers are pimps and batterers rolled into one.⁹

Relatives as Traffickers

Victims can also be exploited by parents, siblings, and other close relatives.¹⁰ Sex trafficking often begins during childhood and adolescence.¹¹ When victims are introduced to exploitation by someone in their household, it is often the child's caregiver.¹² Traffickers may exploit intimate partners or family members and use the funds to pay bills or support an addiction.

Similar Challenges for the Justice System

Sex trafficking and domestic violence present the following fundamentally similar challenges for the justice system:

- There is no typical victim of human trafficking or of domestic violence, making it difficult to identify victims. Victims of human trafficking come from all racial, gender, age, and educational backgrounds. Traffickers can present as spouses, partners, parents and other relatives, and like abusive partners, deflect blame onto their victims.
- Traffickers virtually control their victims' lives, with the goal of coercing or manipulating victims into criminal acts. The reality is that, still, more victims are prosecuted for crimes resulting from their victimization than are traffickers under federal and state anti-trafficking laws.¹³ Common charges include prostitution, possession of a controlled substance, providing false identification to law enforcement, obstruction of highways, disorderly conduct, and criminal trespass.¹⁴
- Civil courts may not recognize that a defendant is a sex trafficking victim or a domestic violence victim. Victims can become enmeshed in issues such as immigration status and domestic relations that can penalize them in ways that echo the threats of the abusers: with loss of their children and deportation.¹⁵
- It is difficult to prosecute the traffickers without the victim's testimony. Victims of domestic violence and trafficking often have been taught that no one will believe them and that they should fear authorities more than their abusers.¹⁶

The fundamental shift in law enforcement, court, and victim services toward human trafficking parallels the shift over the past 40 years toward domestic violence. The victim is the key. As the authors of a Department of Justice-funded study summarized:

[M]erely recognizing the signs of human trafficking isn't enough to put a perpetrator in prison. Police and federal agents must work to accommodate the victims' issues, which might involve distrust of law enforcement, fear of retaliation, language barriers, addiction and homelessness. "In these cases, your evidence is a human being," [said an investigator.]¹⁷

Both Traffickers and Abusers Use Power and Control Tactics

One of the hallmarks of both intimate partner violence and human trafficking is the perpetrator's deliberate and concerted deployment of tactics of power and control against their victims.¹⁸ The dynamics of power and control manifest themselves in some of the following ways in both domestic violence and human trafficking cases.

Physical Abuse

Physical abuse in human trafficking takes on the same forms that it does in domestic violence. Shoving, hitting, punching, strangulation, forcing pregnancy termination, as well as inducing drug and alcohol addiction are some of the ways in which physical abuse manifests itself.¹⁹

Sexual Abuse

Batterers often use rape and prostitution as a means of punishment or control.²⁰ Traffickers can force victims to have sex multiple times a day with strangers or friends for the trafficker's financial benefit.²¹ Over time, sexual violence and selling sex seem normal to the victim.²²

Intimidation, Threats and Coercion

To indoctrinate and control victims, traffickers often replicate a family structure with themselves as the head.²³ They may instruct victims to call them "daddy" and their fellow victims "wife-in-laws." Violence and verbal abuse are justified as the patriarch's prerogative so that they can discipline disobedient "spouses" and "children." Traffickers have even forced their victims to marry them. Traffickers also exploit feelings of loyalty between victims in the "family."

Perpetrators of domestic violence and traffickers often threaten to hurt the victim or their children and family if they don't do as ordered.²⁴ They also threaten to report them to the police or immigration or shame them to their home communities, particularly if they are engaging in prostitution or crimes.²⁵

Pennsylvania statistics bear out that the Commonwealth is not immune from human trafficking. In 2016 alone, the National Human Trafficking Hotline identified 152 Pennsylvania victims of trafficking: 109 sex trafficking, 25 labor trafficking, 6 both, and 12 unspecified. The hotline received 580 substantive calls about Pennsylvania trafficking – the 12th highest call volume of all 50 states and Washington, D.C. (Source: Pennsylvania State Report: Jan-Dec. 2016, [http://humantraffickinghotline.org/sites/default/files/2016 State Report - Pennsylvania_0.pdf](http://humantraffickinghotline.org/sites/default/files/2016%20State%20Report%20-%20Pennsylvania_0.pdf))

It is important to note that such coercive control eventually achieves the same quick compliance from both domestic violence and trafficking victims as physical violence. *A Primer for Judges* explains:

Like victims of domestic violence, trafficking victims are often hypervigilant and anxiously watch their abusers for signs of anger and aggression. Once traffickers have obtained physical and psychological dominance over their victims, they rarely need to resort to force; an expression of annoyance or gesture of disapproval will often suffice.

Addiction

There is also a high correlation between the sexual exploitation and drug abuse. Traffickers are known to get their victims addicted to drugs to maintain power and control over them.²⁶ By doing so, traffickers receive several benefits – as drug suppliers, they become even more indispensable to their victims and also ensure that the victim needs additional money to obtain drugs. Working to pay for drugs plunges the victim into debt bondage that they can't repay. Domestic violence victims may “self-medicate” with alcohol or drugs as a mental escape from the abuse. Abusers can use these addictions to foster dependence.

Emotional Abuse

Emotional abuse can take many different forms but often starts out slowly and sporadically and then escalates over time. Emotional abuse includes humiliating a victim in front of others, name calling, convincing the victim the trafficker/intimate partner is the only one who cares about them and blaming the victim for the situation. *A Primer for Judges* describes how batterers and traffickers manipulate victims through self-blame:

Just like batterers, traffickers humiliate their victims while simultaneously shifting responsibility for their humiliation onto them. As a consequence, rather than blaming their abusers and exploiters, victims often blame themselves.²⁷

Isolation

A trafficker intensifies control over victims by isolating them, just as domestic abusers isolate their victims from anyone who might challenge the victim's self-image or provide help.²⁸ Victims are often kept confined, moved to different locations frequently,²⁹ not allowed to learn English or go to school, and denied access to children, family and friends.³⁰

Economic Abuse

Forbidding a spouse or intimate partner from working, or forcing them to work and confiscating their wages, are common forms of abuse for perpetrators of domestic violence. For human trafficking, economic abuse – the trafficker's financial gain – is at its core. In addition to confiscating money earned from prostitution, the trafficker often finds other ways to economically control the victim, such as charging for expenses they've “incurred” such as drugs, food and housing.³¹ The human trafficking statute calls this “debt coercion.”³²

Identifying Victims of
Human Trafficking Fact
Sheet
https://www.acf.hhs.gov/sites/default/files/orr/fact_sheet_identifying_victims_of_human_trafficking.pdf
National Human Trafficking
Resource Center
1.888.3737.888



This wheel was adapted from the Domestic Abuse Intervention Project's Duluth Model Power and Control Wheel, available at www.theduluthmodel.org

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This publication was made possible in part through Grant Number 90XR0012/02 from the Anti-Trafficking in Persons Division, Office of Refugee Resettlement, U.S. Department of Health and Human Services (HHS). Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Anti-Trafficking in Persons Division, Office of Refugee Resettlement, or HHS.

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The Civil Legal System and Victims of Human Trafficking and Domestic Violence

It is critical for justice system professionals to seek out training and resources that will help them to recognize patterns and ask the right questions to liberate rather than penalize trafficking victims who are also victims of domestic violence in civil proceedings. There are a variety of civil matters which require victims to interact with the justice system, such as in protection order, dependency, and custody matters. If a trafficked or abused defendant's victimization is not understood by the court, there is a potential for re-victimization.

Criminal charges have a direct impact on civil matters. Arresting and jailing victims in an attempt to get them "off the streets" can cause life-long emotional, legal and financial damage that impedes their recovery. Victims face not only incarceration, but loss of custody of their children, criminal records, and other penalties that destroy their ability to rebuild independent, violence-free lives. Courts must remember that the trafficker, not the victim, is directly responsible for perceived or real deficiencies in the victim's ability to care for themselves and their children.

Protection from Abuse

Because many victims of human trafficking have an intimate relationship with their traffickers, they may seek a Protection From Abuse (PFA) order to utilize the court's authority to escape a life of abuse and mistreatment. However, because the abuse suffered in cases of domestic violence and human trafficking are similar, it is difficult to identify the cases of human trafficking that intersect with domestic violence.

The specialized needs of victims of human trafficking can therefore be overlooked in PFA cases. While victims of exploitation by an intimate partner benefit from the standard protections provided by a PFA order, the PFA Act also provides the courts with broad discretion to fashion an order containing any appropriate relief for a victim. Given the unique needs of domestic violence victims of human trafficking, the courts can use their discretion to create orders containing provisions that will meet the diverse needs of sex trafficking victims.

Dependency Proceedings

In many abusive and trafficking "families," children are virtual hostages used to control the victim parent's behavior. When courts don't identify human trafficking or domestic violence victims, they often remove children from the victim parent based on evidence of lack of care, criminal behavior, or other factors. Such dependency decisions are made in the perceived best interest of the child.

While dependency proceedings are devastating for most families, victims of domestic violence and human trafficking particularly fear dependency proceedings. Their fear is grounded in the repeated, abusive and controlling threats of both traffickers and abusers that they will deny access to their children. This fear transfers to dependency proceedings, where victims face restrictions on the frequency and duration of visits with their children. In addition, when a finding of dependency is made, victims fear that their children will be placed in the trafficker's care.

Courts use the factors in 42 Pa.C.S. § 6302 to determine whether to declare children dependent. Victims of human trafficking are particularly vulnerable to losing their children based upon the lack of "proper parental care" evidenced by "conduct by the parent" including evidence of

substance abuse or poor morals. In reality, many victims of human trafficking are not provided proper shelter and cannot carry the required insurance coverage for themselves and their children. In addition, many victims cannot adequately provide supervision to their children because their trafficker chooses their work schedule. Victims may be required to work long hours, oftentimes throughout the night, such that victims must leave their children in the care of the trafficker while they perform involuntary sexual servitude.

Custody Proceedings

Victims of human trafficking and domestic violence face similar challenges in custody proceedings. When determining a proper award of custody, Pennsylvania courts may consider any relevant factor that assists the court when deciding what is in the best interests of the child.³³ Many of the factors place victims at a disadvantage in comparison to their traffickers/abusers who often have more resources, a better support system, and may have a better relationship with the child. Many victims of human trafficking are also negatively impacted in custody proceedings as a result of their drug and criminal history.

The court is required to consider certain criminal convictions, including prostitution, to determine whether a party's conduct poses a threat of harm to the child before they make their decision.³⁴ Although traffickers, who may be the other parent in a custody proceeding, can also be convicted of promoting prostitution, victims of human trafficking are charged and convicted of the crime of prostitution at much higher rates than traffickers.³⁵ Unfortunately, in many instances victims do not testify against their abusers and inform the court about the trafficker's involvement in prostitution due to fear of retaliation caused by longstanding threats. In contrast, traffickers frequently bring up convictions for prostitution in an attempt to further cast a negative light on a victim's ability to parent.

Success with a Victim-Centered Approach

Both human trafficking and domestic violence require a victim-centered approach. When prosecutors were interviewed about successes in human trafficking cases, they agreed:

[V]ictims were put at the center of these cases because of their importance to the prosecution. In fact, for several prosecutors, victim cooperation was seen as essential to the success of the prosecution; perhaps the one consistent finding across all prosecutors, federal, state, or local.³⁶

Domestic violence laws have helped abuse victims get help to become self-sufficient, but for trafficking victims, the necessary infrastructure of supportive services is not yet well-developed. The network of anti-trafficking organizations is growing, while domestic and sexual violence service providers are trying to adapt their services and approach to trafficking victims. Law enforcement, courts and prosecutors are learning that supportive approaches to victims of trafficking – approaches that make them feel safe, build trust and connections, and offer individual options – are keys to successful cases against traffickers.³⁷

PCADV provides resources to assist courts, STOP teams and law enforcement to plan for ways to work toward safety and independence for these victims. Contact our legal department at 888-235-3425.

Resources

Report on Commercial Sexual Exploitation in Pennsylvania, Villanova University Charles Widger Law School: The Institute to Address Commercial Sexual Exploitation, <http://cseinstitute.org/wp-content/uploads/2016/11/CSE-Institute-Report-on-CSE-in-Pennsylvania.pdf>

Polaris Project: The Typology of Modern Slavery, <http://polarisproject.org/typology-report>

Pennsylvania Organizations Working Against Human Trafficking, <http://cseinstitute.org/wp-content/uploads/2016/11/CSE-Institute-Report-on-CSE-in-Pennsylvania.pdf>

The Human Trafficking Power and Control Wheel, <https://humantraffickinghotline.org/resources/human-trafficking-power-and-control-wheel>

National Human Trafficking Hotline Data Report: Pennsylvania State Report: 1/1/2016 – 12/31/2016, http://humantraffickinghotline.org/sites/default/files/2016%20State%20Report%20-%20Pennsylvania_0.pdf

Articles for Judges, Prosecutors, and Law Enforcement

Responding to Intimidation in Human Trafficking Cases, Aequitas, <http://www.aequitasresource.org/trainingDetail.cfm?id=101>

Prostitution and Human Trafficking: A Paradigm Shift, FBI Law Enforcement Bulletin, (2013), <https://leb.fbi.gov/2013/march/prostitution-and-human-trafficking-a-paradigm-shift>

The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation, International Association of Chiefs of Police, <http://www.theiacp.org/ViewResult?SearchID=969>

Human Trafficking and Domestic Violence: A Primer for Judges, The Judges Journal, American Bar Association (2013); http://www.americanbar.org/publications/judges_journal/2013/winter/human_trafficking_and_domestic_violence_a_primer_for_judges.html

Human Trafficking and Domestic Violence: A Legal Perspective, Webinar – Recorded June 6, 2017

<http://www.pcadv.org/Training/Webinars/>

Explore the fundamental shift in the way the justice system and victim service providers view the commercial sex industry. From “what used to be standard prostitution cases, now there's a keen eye out there for warning signs of human trafficking,” says one investigator. Learn about relevant federal and state laws, identify the intersection between domestic violence and sex trafficking, and understand why victims of sex trafficking don't always identify themselves as domestic violence victims and that the psychological and trauma bonds with their trafficker are fundamental obstacles. Join Shea M. Rhodes, Esq., the statewide legal expert on Pennsylvania laws related to sex trafficking and commercial sexual exploitation and co-founder and director of the Institute to Address Commercial Sexual Exploitation (CSE Institute) at Villanova University Charles Widger School of Law.

Endnotes

- ¹ Human trafficking refers to both sex trafficking, also referred to as commercial sexual exploitation, and labor trafficking. For the purposes of this *Jurist*, human trafficking is referring to sex trafficking only.
- ² 18 U.S.C. § 1591.
- ³ 18 U.S.C. § 1591, 18 Pa. C.S. §§ 3001–3072.
- ⁴ See, Dorchon A. Leidholdt, *Human Trafficking and Domestic Violence: A Primer for Judges*, 52 THE JUDGES JOURNAL, American Bar Association (2013) [hereinafter referred to as *ABA Primer*]; available at http://www.americanbar.org/publications/judges_journal/2013/winter/human_trafficking_and_domestic_violence_a_primer_for_judges.html
- ⁵ *Woman says Allentown arrest kept her from life as a sex slave*, THE MORNING CALL, May 11, 2015, <http://www.mcall.com/news/local/mc-lehigh-valley-sex-trafficking-20150509-story.html>
- ⁶ Polaris Project, *Sex Trafficking in the U.S.: A Closer Look at U.S. Citizen Victims*, 4 (2015), <https://polarisproject.org/sites/default/files/us-citizen-sex-trafficking.pdf>
- ⁷ See, *ABA Primer*, *supra* note 4; Dank, Meredith et. al, *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities*, 167 (2014), available at <http://www.urban.org/sites/default/files/publication/22376/413047-estimating-the-size-and-structure-of-the-underground-commercial-sex-economy-in-eight-major-us-cities.pdf>
- ⁸ Dank, *supra* note 7 at 127-8.
- ⁹ *ABA Primer supra* note 4, “Traffickers or Batterers?”
- ¹⁰ Sex Trafficking in the U.S., *supra* note 6 at 8.
- ¹¹ Sex Trafficking in the U.S., *supra* note 6 at 4, “Many people have used a controversial statistic indicating that the average age of entry for girls into prostitution is 12-14. Based on available internal and external data sources, Polaris does not believe this is accurate and encourages researchers to conduct new studies on this topic. Until a more comprehensive and methodical study is completed, the trafficking field has to rely on incomplete and imperfect data drawn from small data sets.”
- ¹² *Id.*, at 8.
- ¹³ According to Human Rights First, *Human Trafficking by the Numbers*, (2017), at <http://www.humanrightsfirst.org/resource/human-trafficking-numbers>, “the number of prosecutions of human traffickers is alarmingly low.” They document 9,661 victims over and against 663 convictions in the Western Hemisphere in 2015.
- ¹⁴ S.B. 851 (Pa. 2015), available at <http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2015&sessInd=0&billBody=S&billTyp=B&billNbr=0851&pn=0965>
- ¹⁵ See, *ABA Primer*, *supra* note 4.
- ¹⁶ Heather J. Clawson et al., *Prosecuting Human Trafficking Cases: Lessons Learned and Promising Practices*, ICF International, 27 (2008).
- ¹⁷ *Woman says Allentown arrest kept her from life as a sex slave*, THE MORNING CALL, May 11, 2015, <http://www.mcall.com/news/local/mc-lehigh-valley-sex-trafficking-20150509-story.html>
- ¹⁸ *ABA Primer supra* note 4, “Dynamics of Power and Control.”
- ¹⁹ The National Human Trafficking Hotline, *Human Trafficking Power and Control Wheel*, available at <https://humantraffickinghotline.org/resources/human-trafficking-power-and-control-wheel>

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- ²⁰ Dorchen A. Leidholdt, *Prostitution and Trafficking in Women: An intimate Relationship* in PROSTITUTION, TRAFFICKING, AND TRAUMATIC STRESS, MELISSA FARLEY, ED., 167, 172 (2003), available at <http://www.prostitutionresearch.com/Leidholdt%20Prostitution%20and%20Trafficking%20in%20Women.pdf>
- ²¹ *Id.* at 173.
- ²² *Id.*
- ²³ *ABA Primer supra* note 4, “Traffickers’ Family Values.”
- ²⁴ *Id.* “Using Family Members,” “Intimidation.”
- ²⁵ *Id.* “Traffickers’ Family Values.”
- ²⁶ United States Dept. of Justice, *Sex Trafficker who Used Drugs to Control Victims Sentenced to 30 years*, available at <https://www.justice.gov/usao-edva/pr/sex-trafficker-who-used-drugs-control-victims-sentenced-30-years>; *ABA Primer supra* note 4, “Physical Abuse.”
- ²⁷ *ABA Primer supra* note 4, “Using Family Members.”
- ²⁸ *ABA Primer supra* note 4, “Isolation.”
- ²⁹ Dank, *supra* note 7, at 85-6.
- ³⁰ The National Human Trafficking Hotline, *supra* note 17.
- ³¹ *Id.*
- ³² 18 Pa.C.S. § 3001.
- ³³ 23 Pa.C.S. § 5328.
- ³⁴ 23 Pa.C.S. § 5329.
- ³⁵ Human Trafficking by the Numbers, *supra* note 13.
- ³⁶ Clawson et al., *supra* note 16, at 27.
- ³⁷ Steve Marcin, Prostitution and Human Trafficking: A Paradigm Shift, FBI LAW ENFORCEMENT BULLETIN, (2013), available at <https://leb.fbi.gov/2013/march/prostitution-and-human-trafficking-a-paradigm-shift>; Clawson et al., *supra* note 16, at 27.

This project was supported by subgrant No. 26422-2 awarded by PCCD, to the Administrative Office of Pennsylvania Courts (AOPC) and from the AOPC to PCADV by means of a pass through agreement. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of PCCD, AOPC or the U.S. Department of Justice, Office on Violence Against Women.