Human Trafficking:  
Legal Overview, Best Practices

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Palermo Protocol

- 117 Signatories, 169 Parties (of 193 current UN members)  
- US was leading state in negotiating terms and ratification  
- US Trafficking Victims Protection Act (TVPA) is part of ratification

Federal Trafficking Law

- Trafficking Victims Protection Act (TVPA)  
- Defines human trafficking  
- Makes human trafficking a federal crime  
- Created sentencing guidelines for traffickers  
- Provided victims (“survivors”) with access to federal benefits  
  - Including T and U visas for foreign nationals who are victimized in the U.S
The TVPA

- The “3P’s”
- Prevention
- Protection
- Prosecution
- 4th P, Partnership
  - 2010, Secretary of State Clinton

- The TIP Report
  - 2010, also began to include U.S.

Trafficking Defined

- Bifurcated Definition
- Commercial sex acts induced by force, fraud, or coercion, or in which the person induced to perform such acts is under 18 years old (sex)
- Recruitment, harboring, transportation, provision, or obtaining of a person for labor or services using force, fraud, or coercion to subject the individual to involuntary servitude (labor)

Force

- Kidnapping
- Physical violence, rape, sexual abuse, harassment
- Confinement, use of restraints
- Denial of food, water, medical care, contraceptives, condoms, communication, etc
- Removal of children
- Concealment of whereabouts to friends/family
Fraud
- Promises of immigration or travel documents
- Required to perform work other than agreed upon
- Promises of salary or compensation that never materializes
- Misrepresentation of work/conditions of work
- PSA Example: http://www.youtube.com/watch?v=lfdW5WOYL_0

Coercion
- Debt bondage
- Threats of serious harm to victim or victim’s friends/family
- Trafficker controls victim’s contact with friends/family
- Threatening to use pictures against victim
- Withholding documents
- Punishment of others
- Quotas
- Verbal or psychological abuse

Pennsylvania Law
  - One conviction
- Hotline Posting Bill (2012), 1-888-3737-888
  - Implementation & Enforcement Issues
- Robust Human Trafficking State Law (2014)
  - Define many forms of trafficking
  - Provides increased victim services and legal protections
  - Training for increased enforcement
  - No Safe Harbor provision (in Senate now)
- Forms of Trafficking Identified in PA
  - By numbers, more labor trafficking victims identified in W PA
- PA Attorney General Office – no dedicated staff
  - But dedicated resources for child sexual exploitation
Legal Cases in Pennsylvania

- 4 prosecuted in Western District of PA
- 14 in University of Michigan HT Clinic database
  - All federal; Commercial Sexual Exploitation, Restaurant/Bar, Massage Parlor, Hair/Nail Salon, Marriage Fraud, Sex Tourism Abroad
  - NOT a complete list!
- 1 prosecuted under 2006 state trafficking law
- CSE of a minor, under labor trafficking statute

Legal Consent & Identification

“There is no such thing as a child prostitute . . . These children are victims who cannot give their consent.”
- U.S. Attorney David Hickton (Trib, 7/22/2015)
- Consent for sex is a state law question
- PA Law on consent for sex
  - Under age 13, cannot consent
  - Age 13-15, can consent with someone within 4 years of age
  - Age 16, consent to sex with person of any age

Other Criminal Justice System Issues / Barriers to Identification and Assistance

- Resources for victims, for training, for awareness-raising
- Charges and incarceration for sex-related crimes
  - Even for minors in many states
  - “Safe harbor” laws to not charge or vacate convictions for victims (SB 851, Sen. Leach)
- Charges and incarceration for non-sexual crimes that victims were forced to commit
- Immigration charges where paid for “legal” migration documents
- Charges for trafficking offenses where victim helped trafficker (for improved status or release/escape)
  - “bottom girl,” recruiter
- TIP Report / pressures to increase convictions
Push and Pull Factors

**Push (“Supply”)**
- Abuse at home
- Homelessness (esp LGBT)
- Mental health or addiction problems
- Low education, criminal background
- War, Repression, Economic conditions
- Visa Issues, legal status, language & culture skills
- Youth in Welfare &/or Juvenile Justice systems

**Pull (“Demand”)**
- Better paying jobs/pay off debt (economic security)
- “Loving” partner/recruiter
- Availability of drugs/alcohol
- Food, shelter, material possessions
- Promises of better life
- False marriages, false job offers
- Adventure/travel/Hollywood
- Cultural beliefs (“big win”)

Human Trafficking vs. Smuggling

<table>
<thead>
<tr>
<th>Smuggling</th>
<th>Human Trafficking</th>
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<tbody>
<tr>
<td>Individuals consent to smuggling</td>
<td>Victims do not consent to their situations</td>
</tr>
<tr>
<td>Contract ends after border crossing</td>
<td>Forced exploitation of a person for labor/services</td>
</tr>
<tr>
<td>Smugglers physically move &quot;customers&quot;</td>
<td>Crime against person's fundamental rights</td>
</tr>
<tr>
<td>Always international</td>
<td>Occurs domestically and internationally</td>
</tr>
<tr>
<td>Crime against the state</td>
<td>Crime against the person</td>
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Different Experiences Overlap

Prostitution  
Smuggling  
Trafficking
Sexual Assault as Control

- Department of Justice Office for Victims of Crime collects data on sex, labor, and sex and labor.
- Traffickers use whatever coercive tools they have at their disposal, and sexual abuse is common.
- Prosecution often focuses on the commercial activity, but “the theoretical designation of labor trafficking as inherently less sexually exploitative than sex trafficking is false.”

Numbers & Reporting

- Reported/identified cases “tip of the iceberg” (UNODC)
- 35.8 million (Walk Free Global Slavery Index, 2014)
- 21 million estimated in forced labor and forced prostitution around the world (ILO, 2012)
- 12-27 million people at any point in time (DoS, 2015)
- 40,000 identified in 2012 (DoS, 2013)
- 31,766 identified by age and gender in 2010-12 (UNODC, 2014)
- DHS - ICE (specialized federal law enforcement agency)
  - 1,400 arrests for human trafficking (2015)
  - 400 identified victims (2015)

Pennsylvania Numbers & Reporting

- Completed Federal Lawsuits: 4
- Polaris Numbers:
  - 527 calls to Polaris Hotline (2.7% of all calls, 2014)
  - 74 Cases (2015)
  - 6 languages (2012)
- Estimated 100s of victims and potential victims of labor trafficking in
  - Agriculture, Energy Extraction, Construction, Food Service, Salons
Best Practices

- Do no harm
- Coordinated care, continuity of care
- Competent case management
- Time for trust, victim-centered approach
- *Multidisciplinary*
  - On different levels, wrap-around services +
- Training and awareness raising
- Terminology
  - International matchmaking/marriage fraud
  - Sexually exploited child
- Empowerment & decision making (survivor vs. victim)
- Cultural competence
  - Language, country/region of origin, race, class, ethnicity, traumas, instability, abuse

Indicators

- Was the victim recruited for one job but forced to engage in a different job?
- Was the victim a juvenile?
- Was the victim compelled to perform sexual acts?
- Did the victim have freedom of movement?
- Did the victim have contact with family or friends?

More Indicators

- Was the victim deprived of food, water, sleep, medical care, or other necessities?
- Was the victim or victim’s family threatened if the victim attempted to flee?
- Was the victim threatened with deportation or law enforcement action?
- Was the victim’s salary garnished to pay debts?
- Was the victim in possession of identification documents?
Western PA Human Trafficking Coalition

The coalition is a victim-focused, collaborative effort between social service organizations, government agencies, advocacy groups, religious organizations, academia, concerned citizens, and law enforcement to combat human trafficking.

Mission: develop and maintain a network of people and agencies to educate the community about human trafficking and to provide and coordinate emergent support to survivors.

- Food
- Lodging
- Clothing
- Physical healthcare
- Mental healthcare
- Legal assistance
- Language/ESL classes, education support
- Transportation
- Coordination and relationships/network
Contact Information

Polaris Project
- Confidential help and information 24/7, non-government

Project to End Human Trafficking

FBI Pittsburgh Civil Rights Hotline
- 412-432-4122

Homeland Security Investigations (HSI)

*In an emergency, call 911*

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General Resources

- U.S. Department of State annual Trafficking in Persons Reports, 2001-2013
  http://www.state.gov/j/tip/rls/tiprpt/
- U.S. Department of State resources for identification and assistance
  http://www.state.gov/j/tip/id/index.htm

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Resources for Social Work Professionals

- Polaris Project Resources for Service Providers
  http://www.polarisproject.org/resources/tools-for-service-providers-and-law-enforcement
- First Responder/Patient Care Resources
  https://www.usfa.fema.gov/fireservice/ems/human_trafficking/
Resource on Coordinated Care for Trafficking Victims

Burke, Mary; McCauley, Health L.; Rackow, Anne; Orsini, Bradley; Simunovic, Bridget; and Miller, Elizabeth (2015) “Implementing a Coordinated Care Model for Sex Trafficked Minors in Smaller Cities.” *Journal of Applied Research on Children: Informing Policy for Children at Risk*: Vol. 6: Iss. 1, Article 7.

Resources for Ethical Consumption


“I freed a thousand slaves, I could have freed a thousand more if only they knew they were slaves.”

-Harriet Tubman