Advanced Topics and Techniques: Protections for Immigrant Victims of Human Trafficking

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Photos by J. Maillard, International Labour Organization

Seminar Overview

1. Dimensions of Human Trafficking
2. Identifying Trafficked Persons
3. Coordination of Services
4. Legal Relief and Protections

Dimensions of Human Trafficking
Who Are Trafficked Persons?

- Men, women and children
- Varying ages
- Varying levels of education
- Voluntary migrants
  - Seeking to improve their situation

Why Migrants Are Vulnerable to Human Traffickers

- Immigration laws/policies
  - Demand for migrant work that immigration system cannot meet
  - Marriage a way to obtain legal status
- Dependence on third parties for information about migration

Who Are The Human Traffickers?

- Organized crime
- Neighbors, friends, family members, village chiefs, returnees
- Agricultural operations
- Owners of small or medium-sized businesses
- Families (including diplomats)
People Are Trafficked For:

- Forced Labor
  - Domestic service
  - Commercial sex work
  - Stripping
  - Factories
  - Begging/Peddling
  - Agriculture
  - Hotel/motel
  - Restaurant work
  - Construction
  - Criminal activity

- Sex Trafficking
  - Prostitution
  - Pornography
  - Criminal activity

How People Are Recruited

- Acquaintances or family
- Newspaper ads
- Fake employment agencies
- Front businesses
- Word of mouth
- Abduction

Modern-Day Slavery: A Prison Without Walls

- Threats of deportation
- Withholding documents
- Threats to family members in home country
- Isolation
- Verbal abuse
- Psychological coercion is often coupled with threatened or actual physical violence and sexual assault
**US Response**

- Victims of Trafficking and Violence Protection Act - 2000
  - Prevention in countries of origin
  - Prosecution of the traffickers in the US
  - Protection of victims in the US

- Victims of Trafficking Reauthorization Act – 2003 & 2005
- Violence Against Women Act Reauthorization 2005 (“VAWA III”)

**Government Partners in Combating Human Trafficking**

- U.S. Department of State
  - Emergency Task Force
  - Office to Combat and Monitor Trafficking in Persons
- U.S. Agency for International Development
- U.S. Department of Justice
  - Civil Rights Division, Criminal Section
- U.S. Department of Health and Human Services
  - Office of Refugee Resettlement
- U.S. Department of Labor
- U.S. Department of Homeland Security

**Victim of Severe Form of Trafficking**

- **Sex trafficking**: sex trafficking in which a commercial sex act is induced by force, fraud, or coercion
  - Except for CSA of minors under 18

- **Labor trafficking**: 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 subjecting to involuntary servitude, peonage, debt bondage, or slavery.
Three Elements Necessary to Meet Trafficking Definition

1. Recruiting OR Harboring OR Moving OR Obtaining a person.

2. by Force OR Fraud OR Coercion.

3. For the purposes of Involuntary Servitude OR Debt Bondage OR Slavery OR Sexual Exploitation.

Psychological OR Physical

Trafficking vs. Smuggling

Trafficking
- Crime or violation against a person
- Contains element of coercion (cannot consent to enslavement)
- Subsequent exploitation and/or forced labor
- Trafficked persons seen as victims

Smuggling
- Illegal crossing of an international border
- No coercion
- Illegal entry only
- Smuggled persons seen as violators of the law

Exercise

Trafficking vs. Other Crimes

Mai Ling 1 and 2
Zena
Mai Ling’s Story
I came to the U.S. from China because I wanted to make money to support my family. My father is very ill and cannot work anymore and my mother is already gone. My husband died two years ago in an accident and I have one son.

I had heard of many people coming to the U.S. to make money. I knew a woman in the market who could help me to get to the U.S. and I asked her to make some arrangements. She said I would have to pay $5,000 to get to the U.S. and that I would have to pay off another $15,000 dollars more once I got here by working in a restaurant, factory or somewhere else. I thought that if I worked really hard, I could pay it off in no time and could send money home. I was able to borrow the $5,000 from some people and was told to get a passport.

I came to the U.S. on a boat with about 100 other people, men and women. It took about one month and we stopped in many places and picked up more people. There was not very much food on the boat and it was cold and dirty. We had to sleep on the floor and I was scared of the other people, especially the men whose language I did not understand. We were so close to the U.S. when the police stopped the boat and we were all arrested. I have been here in jail for two weeks and I don’t know what is going to happen to me. I really want to work here because now I owe $5,000 to the people in China.

Mai Ling II
I am from China and I came to the U.S. because I wanted to make money to support my family. I knew a woman in the market who could help me to get to the U.S. and I asked her to make some arrangements. She said I would have to pay $5,000 to get to the U.S. and I would have to pay off another $15,000 more once I got here by working in a restaurant, factory or somewhere else. I was able to borrow the $5,000 and was told to get a passport.

I came to the U.S. on a boat with about 100 other people. There was not very much food and it was cold and dirty. We slept on the floor. I was scared of the other people, especially the men whose language I did not understand. When we arrived in the U.S., these men took us to a garment factory where we began working 15-hour days, 6, sometimes 7 days a week. Someone took our papers. We were housed at the factory and were not allowed out. We were fined if we didn’t meet a daily and weekly quota. I wanted to get a different job but I was told that I had to work at the factory to pay off my debt. I have been here for several months. I don’t know what day it is anymore...

Coordination of Human Services

Photos by J. Maillard, International Labour Organization
Assessing Immediate Needs

- Interpreter
- Safety
- Legal representation
- Housing
- Food, clothing and personal necessities
- Medical care
- Mental Health care
- Life skills

Types of Victim Service Providers

Nongovernmental organizations
- Privately funded
- Federal grant-funded
- Immigrant advocacy groups
- Human rights groups
- Crime victim advocacy groups
- Faith-based, community orgs.

Governmental organizations
- Victim/witness assistance coordinator
- Local law enforcement or prosecutor’s office
- FBI
- ICE
- USAO

Social Service Challenges

- Diverse population
  - Language
  - Culture
  - Gender
  - Age
- Different types of trafficking – sex, labor, domestic servitude
- Trauma
- “Meeting the client where they are at”
- Asking the client to change and adapt quickly to new circumstances and external demands.
Housing Issues

What Exists:
- Emergency shelters
- Transitional shelters (3 months to 24 months)
- Homeless shelters
- Domestic violence shelters
- Hotel/Motel vouchers
- Good Samaritans

What Is Needed:
- Long-term
- Culturally and linguistically appropriate
- Safe and secure
- Comprehensive program

Mental Health

- Post-traumatic Stress Disorder
  - Dissociation
  - Recurring and intrusive memories
  - Difficulty concentrating
  - Somatization
  - Hypervigilance
  - Depression
  - Anxiety Disorder

Other Issues:
- Rape trauma syndrome, depression, suicidal ideation, adjustment disorders, personality disorders, paranoia, fatalism and rage
- Dual diagnosis

Understanding why people do not escape or are hesitant to being rescued

- Fear of placing family or themselves in danger
- Fear of harm to family, children, friends
- Fear of losing family/children
- Economic dependence
- Emotional dependence
- Cultural/religious constraints
- Fear of law enforcement
- Guilt
- Stigma
- Belief that abuse/situation will change
- Ambivalence over making change
- Lack of resources
- Lack of documents/legal status
Cultural Assumptions

- Degree of connection of trafficking survivor with own ethnic community
- Degree of support of ethnic community for trafficking survivor
- Individual identity vs. group identity
- View of mental health services
- View of social services
- Communication style
- Class issues

The importance of NGO participation

How can NGOs help you win your case?
- Help restore dignity to the victim
- Help collaborate with law enforcement on victim safety
- Assist in witness preparation
- Serve as intermediaries
- Facilitate victim’s access to services
- Help the victim gain new employment

Non-Government Partners in Combating Human Trafficking

- Immigration Attorneys
- Shelter Staff/Advocates
- Social service agency case workers
- Therapists
- Medical Personnel
- Interpreters
- Many more…
Issues That Often Arise

- Wanting to “go home” – to trafficker or home country
- Shelter – “Why can’t I live with …?”
- Safety of family at home
- Isolation – contact with friends and family extremely important
- Fear of trafficker/ex-employer
- Loneliness and lack of support systems
- Trust between NGOs, service providers, and law enforcement

Victim-centered approach

- Work together with client to seek solutions to difficulties and address societal and institutional problems that hinder progress
- Protect right of clients to self-determination
- Be careful not to impose our values or ideas on client
- Be knowledgeable and aware of our position of power in society relative to client

Language Needs:
Guidelines for Using Interpreters

- Informed consent
  - Make sure client knows role of interpreter and vow of confidentiality
- Professional
  - Same gender as trafficked person
  - Screen to see if they know the client or trafficker; conflict of interest
  - Government agencies should always provide interpretation when they work with the trafficked person
Cultural Assumptions

- Degree of connection of trafficking survivor with own ethnic community
- Degree of support of ethnic community for trafficking survivor
- Individual identity vs. group identity
- View of mental health services
- View of social services
- Communication style
- Class issues

The Law – Protections for Victims

The Legal Perspective: Key Topics

- Basic rights of trafficked persons
- Protection available to trafficked persons
- Situation assessment and case evaluation
- Participation in criminal prosecution of traffickers
- Ways in which NGOs and law enforcement can support one another
**Trafficking Victims Protection Act of 2000**

- Protection provided to trafficked persons through immigration relief and other benefits
- Prosecution through definition of new crimes
- Prevention through State Department reporting and overseas funding
  - Lowest ranked countries subject to sanctions

**Protection & Prosecution**

Victim protection is not contingent on successful prosecution of a case

- Protection = what happens to the victim?
- Prosecution = what can I charge?

These DO NOT have to be the same.

**Victim of Severe Form of Trafficking**

- Sex trafficking: sex trafficking in which a *commercial sex act* is induced by force, fraud, or *coercion*
  - Except for CSA of minors under 18

- Labor trafficking: 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 subjecting to *involuntary servitude*, peonage, *debt bondage*, or slavery.
New Crimes: Ch. 77

- § 1589. Forced labor
- § 1581. Peonage
- § 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor
- § 1591. Sex trafficking of children or by force, fraud or coercion
- § 1592. Document servitude

The Basic Rights of Trafficked Persons

Victims of trafficking in persons are to be treated with:
- Dignity
- Fairness
- Compassion
- Respect for their human rights

Even without documentation, every person in the United States is protected by US labor & criminal law.

Victims Of Human Trafficking Are Entitled To:

- Safety
- Privacy
- Information
- Legal representation
- Be heard in court
- Compensation for damages
- Medical assistance
- Social assistance
- Seek residence
- Return
What Are The Options For Relief And Recovery?

**Criminal**
- Kidnapping
- Hostage Taking
- Trafficking
- Involuntary Servitude
- Sex trafficking
- Peonage
- Extortion
- Mann Act
- Harboring
- Document Servitude
- Conspiracy Against Rights
- Alien Smuggling

**Immigration**

**Civil**

**Repatriation**

**Federal Prosecution: The Stair Step Approach**

**Crimes and Penalties**
- Forced Labor: Up to 20 years*
- Trafficking Into Servitude: Up to 20 years*
- Sex Trafficking: Up to 20 years
- Involuntary Servitude: Up to 20 years
- Peonage (Debt Bondage): Up to 5 years
- Document Servitude: Up to 5 years
- Conspiracy Against Rights: Up to 5 years

* Up to life if kidnapping, sexual abuse or death.
Prosecution At The Local Level

- Rape
- Assault and battery
- Pimping and pandering
- Conspiracy
- Criminal Profiteering
- Prostitution
- False imprisonment

Overview Of The Criminal Process

The Criminal Process: What To Expect

- Government agencies may not be accustomed to cooperating with community agencies and vice versa
- Case may take one to two years to complete
- Investigation and prosecution will be re-traumatizing to the victim
**The Criminal Case: Beginning The Process – Service Provider**

- Explain the process to your client
- Obtain client’s consent before contacting law enforcement
- Client should consult with attorney prior to contacting law enforcement
- Inform the U.S. Attorney’s office and Department of Justice simultaneously
- Coordinate interviews/requests with investigator(s) and/or prosecutor(s)
- Request that government provide an interpreter if necessary

**The Criminal Case: Preparing The Client For The Interview**

- Interview will be extensive, often 2-4 hours
- Will cover personal information that may be hard to talk about, re-traumatizing
- Setting can be intimidating
- Client can:
  - Ask questions, share concerns and request breaks
  - Stop interview if problem with interpreter
  - Advocate for self – ask for “next steps” after meeting

**The Criminal Case: The Initial Interview – Service Provider**

- Advocate to attend the interview with law enforcement
- Your role
  - Support client
  - Don’t take notes
  - Don’t offer information
  - Make sure breaks occur
  - Ensure interviewer using victim-centered approach
  - Request proffer agreement if client has engaged in criminal activity
- Debrief with client
Interview Tactics

Can be applied to LEA or victim attorney

- Minimize trauma – prepare questions in advance
- Interpreter should be same gender as victim
- Introduce yourself, explain what you do and your relationship to victim
- Provide a roadmap of interview
- Explain why you need information, why important to be honest
- Say it’s OK if victim doesn’t know, doesn’t remember, or it’s too hard to talk about it
- Simplify your language – “indictment” “plea” “coercion” are not part of victim’s vocabulary
- Avoid controversial topics/questions during first interview
- Stop for questions, be patient
- Be creative
- Take breaks as necessary
- “Bookend” the interview with positive conversation

Interviewing Children: Challenges

- Large gaps in school, medical care – resulting in developmental, behavioral, delays and other issues
- Involvement in adult-related behavior
  - “She doesn’t act like a kid!”
- Disturbances to sense of time, memory, concentration
- Lack of trust in adults
- Possible “relationship” with trafficker
- Lack of identification

The Criminal Case: After The Initial Interview – Service Provider

- Investigation may not happen quickly
- Investigators may request more information, gather evidence
- Call investigators to follow-up after initial interview
- Advocate for law enforcement to apply for Continued Presence for your client
Interviews, Grand Jury, and Trial

- Explain process, who different people are, their roles, outline of day
  - Role play as necessary
- Minor victims should have adult guardian (foster parent, counselor, attorney) accompany them in all legal proceedings
- Law enforcement should prevent/minimize direct contact with trafficker – it’s the law

Protecting Victims During Criminal Justice Process

- Ensure continuity and reliability in relationships with victims and professionals working with victim
- Provide victims with clear information and concrete expectations
- Employ victim-sensitive procedures for all interviews
  - Limit number, duration, and scope of interviews
- Prevent any and all direct contact between victim and alleged trafficker

Legal Guidelines

- Victims of Child Abuse Act (1990)
  - Ensures protection of children in court and throughout criminal justice system
- Federal Victim-Laws
  - AG Guidelines (18 USC sec. 3509)
  - Consultation with multidisciplinary teams
  - Privacy & Protection
  - Closing the courtroom and alternatives to in-court testimony
    - Check your state guidelines and local policies
- Trafficking victims also victims of other crimes (child abuse, sexual assault, battery, domestic violence etc.) – research protection and services available on local and federal level
Post Trial Follow-up

- Victim Impact Statement
  - Can file prior to sentencing
  - Can make oral statement to judge at sentencing

- Restitution
  - Payment by defendant for damages caused by his/her actions
  - Often difficult to collect

- Notification of Release
  - Bureau of Prisons Victim/Witness Notification Program

- Return of Personal Property

What Are The Options For Relief And Recovery?

- Criminal
- Immigration
- Civil
- Repatriation

Client’s Immigration Options

- Cooperating with law enforcement may give client access to:
  - Continued Presence (temporary legal status)
  - Certification (ability to get benefits)
  - T visa
  - U visa or S visa
  - Parole/Deferred Action

- If client not interested in working with law enforcement, evaluate general immigration law remedies
What Is Continued Presence?
- Provides temporary immigration relief (1 yr) to potential witnesses who are victims of severe forms of trafficking
  - “Reasonably cooperating in the investigation or prosecution” of trafficking crime
- Provides work authorization & access to refugee benefits (via “certification”)
- NGOs/advocates will be asking you for CP for their clients

How To Obtain Continued Presence
- Federal law enforcement agents can request
  - FBI, ICE, DOE
  - May be for local LEA
- Obtain fingerprints, background check and photos
- Forms:
  - CP request form
  - I-765 (work authorization)
  - I-102 (for I-94 entry card)
- Renewable annually
  - Susan.shriner@dhs.gov
  - Lorna.Grenadier@usdoj.gov
What Is Certification?

- Victims of a severe form of trafficking who have been certified by Office of Refugee Resettlement
- Certified victims are eligible for public benefits to the same extent as a refugee
- Generally eligible for cash assistance or asylee match grant program, Medicaid and food stamps for limited period of time
- Certification letter sent to victim or attorney

Who Is Eligible For Certification?

- Individual must be determined to be a victim of a severe form of trafficking by a federal law enforcement agency.
- Has either:
  - Continued Presence
  - Bona fide T Visa determination letter
Certifying Children < 18

- Children <18 do NOT have to be cooperating witnesses to be eligible for certification
- Federal, state or local LEA or attorney of child can submit request to ORR
- “Eligibility” letter = “Certification” letter for adults
- Necessary for placement into federal foster care programs

What Is A T Visa?

- Enables certain victims of human trafficking to live and work in U.S. for four years
- Apply for adjustment of status to lawful permanent resident after three years with T visa
- Petition for victim’s spouses and children (or parents if victim is under 21)
- Cap of 5,000 visas annually

Who Is Eligible For A T Visa?

- Is or has been victim of severe form of trafficking
- Is present in U.S., American Samoa, Northern Marianas on account of trafficking
- Has complied with reasonable request for assistance in investigation or prosecution
  - Children under 18 do not need to meet this criterion
- Would suffer extreme hardship involving unusual and severe harm upon removal
- May apply for T visa even if no prosecution, continued presence, or certification.
How To Obtain Continued Presence

- Federal law enforcement agents can request
  - FBI, ICE, DOL
  - May be for local LEA
- Obtain fingerprints, background check and photos
- Forms:
  - CP request form
  - I-765 (work authorization)
  - I-102 (for I-94 entry card)
- Renewable annually

What Is Certification?

- Letter from the Office of Refugee Resettlement granting immigrant victims access to refugee benefits otherwise unavailable to most victims
- Benefits include:
  - Emergency cash assistance
  - Medical card
  - Temporary Assistance for Needy Families (TANF)
  - Supplemental Security Income (SSI)
  - Food Stamps
  - Refugee resettlement programs

Who Is Eligible For Certification?

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- “Eligibility” letter = “Certification” letter for adults
- Necessary for placement into federal foster care programs

What Is A T Visa?

- Enables certain victims of human trafficking and/or slavery to live and work in U.S. for three years
  - Can apply for adjustment of status to lawful permanent resident
  - Can petition for spouses, children, and parents and siblings (if child victim)
  - Cap of 5,000 visas annually
  - Survivor applies, but Form I-914B

Immigration Relief

<table>
<thead>
<tr>
<th>Short Term: Contd. Presence</th>
<th>Long Term: T Visa</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year (can be extended), work authorization, access to public benefits</td>
<td>4 years, work authorization, access to public benefits, can adjust to become legal permanent resident (“green card”) after 3 years</td>
</tr>
<tr>
<td>Not a means of longer term immigration status/visa holder</td>
<td>LEA form I-914B Declaration of Law Enforcement Officer</td>
</tr>
<tr>
<td>Can be used as secondary evidence of victim status and cooperation with LEA in investigation or prosecution for T visa application</td>
<td>Issued by authorities conducting investigation or prosecution when that individual is or has been a victim of a severe form of trafficking as persons and the victim has cooperated with</td>
</tr>
<tr>
<td>“Federal law enforcement officers who encounter alien victims of trafficking in persons who are witnesses to that trafficking may request…” 28 CFR 1100.35</td>
<td>“authorities conducting investigation or prosecution when that individual is or has been a victim of a severe form of trafficking as persons and the victim has cooperated with” 8 CFR 103</td>
</tr>
<tr>
<td>Turn around: 2-6 wks</td>
<td>Turn around: 2 months - 1 yr</td>
</tr>
</tbody>
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Role of Victim Attorney

**NGO Referral to LEA**
- Prepare statement/affidavit
- Report case to LEA and follow-up
- Prepare client for LEA interview
- Ensure client recognized as a victim of crime in legal proceedings
- Attend LEA interview with client
- Advocate for CP

**LEA Referral to NGO**
- Advise client of rights under TVPA
- Prepare statement/affidavit
- Prepare client for subsequent LEA interviews and legal proceedings (share this role with LEA)
- Attend LEA interview with client
- Obtain legal status (T visa)

Liaison between LEA and client
- Consistency for client
- Advocate for privacy
- Ensure client has support through criminal justice process

Why Immigration Relief Matters For Law Enforcement

**Continued Presence**
- Provides your victim-witness temporary legal status
  - Protection from removal and retribution from traffickers
- Assists your victim-witness access to services for recovery
  - Medical insurance/care, food stamps, etc.
- Ensures your victim-witness can work legally

**T visa**
- Provides longer term legal protection for victim
- Ensures victim-witness access to public benefits (if qualify) and work
- Qualifying family members can join victim-witness
- It’s the law! Policy of TVPA is to provide long term protection and relief assistance to victims of trafficking the US

You have integral role in recovery, relief, and protection of victims human rights in short and long term!

Forms for Law Enforcement

**Continued Presence**
- Federal LEA completes and submits the forms to HQ
- CP Request form
- Form I-765 requesting work authorization
- Form I-102 requesting new or replacement I-94 card

**T visa**
- Federal LEA completes and submit the form to victim attorney
- Form I-914, Supplement B
- Advocate or victim attorney can fill in forms for law enforcement to sign

CP packet in toolkit
T visa application/forms in toolkit
**Legal Proceedings**

**Criminal Justice Process**
- Goal: plea/conviction of trafficker
- Victim as witness
- Proving trafficker(s) guilt
- Jury/judge as final arbiter
- Public process
- Continued Presence

**Immigration Process**
- Goal: legalization of victim
- Victim as self-petitioner
- Proving client is a victim
- Immigration officer as final arbiter
- "Private" process
- Continued Presence
- T Visa

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**Immigration Remedies for Victims of Trafficking**

**Short term:** Continued Presence

**Long term:**
- T-Visa
- U Visa*

* Not yet available

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**Other Forms Of Immigration Relief**

- **U Visa**
  - For victims of serious crimes - including trafficking, involuntary servitude, sexual exploitation, domestic violence, prostitution, kidnapping, unlawful criminal restraint, false imprisonment, murder, felonious assault or other crimes.
  - Must:
    - Have suffered substantial physical or mental abuse
    - Have information about the crime
    - Be willing to cooperate with law enforcement and have certification signed by local, state, or federal law enforcement agency
  - Provides:
    - Temporary legal status to victim and qualifying family members
    - Permission to work

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**Immigration Relief, cont'd**

- **Special Immigrant Juvenile Status**
  - Children under 18 who are eligible for long-term foster care due to abuse, neglect or abandonment
  - Return to home country not a viable option

- **Asylum**
  - Person has suffered or fears persecution based on race, religion, nationality, political opinion or membership in a particular social group in country of origin
  - Consider for cases where trafficking has been outside the U.S. or where trafficked person would face stigma/safety risk should they be forced to return to their countries

- **Violence Against Women Act**
  - Battered immigrants who have been married to a US citizen or permanent resident may file for immigration relief without abuser's assistance or knowledge

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**Legal Rights of Children**

- **Repatriation**
- **Remain in US**
  - SIJ, T visa, U visa
  - URM program
  - Family reunification
- **Under TVPA**, minors are **not** required to cooperate with law enforcement for public benefits and immigration relief
- **Extension of child abuse statute of limitations**
  - Protect Act

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**Continued Presence Pop Quiz! True or False?**

1. CP only available to victim if prosecutable case.
2. CP is only available to victim providing testimony in trial.
3. CP is only available to victim if defendant charged with TVPA crimes.
4. Only ICE/DHS can file for CP.
5. Victims with continued presence can get their green cards.
T Visa Pop Quiz! True or False?

1. The victim had to have been trafficked on U.S. soil to receive a T visa.
2. Minors are required to cooperate with law enforcement to get a T visa.
3. Victims who have a T visa can eventually adjust to legal permanent resident (LPR, aka “green card” holder).
4. Victims need to be cooperating with law enforcement to apply for a T visa.

Taking Action

Contacting Law Enforcement – Service Providers

- In determining whether to contact law enforcement, assist client in exploring factors such as:
  - Client safety if prosecution occurs
  - Interest in repatriation or remaining in U.S.
  - Security in country of origin
  - Level of commitment to a criminal prosecution
  - Willingness to testify
  - Immigration status
When The Person Is Still Enslaved And Wants To Escape

- Safety of victim and staff
- Legal liability
- Confirmation of victim’s desire to leave

When Referral Comes From Law Enforcement

- Determine if situation is trafficking
- Explain and offer agency services
  - Person does not have to accept
- Be clear with law enforcement about your role as victim advocate and liaison
- Make a plan for release
  - Be sure housing is in place before release
- Begin advocacy for “continued presence”

When Referral Comes From Law Enforcement

- Get as much information about person as possible from law enforcement
- Arrange for appointment with attorney asap
- Remedy is client-driven
  - Trafficker may have arranged for victim’s legal representation
  - Victim does not have to see you
  - May be in jail and may need to post bond
  - Law enforcement may be able to release person on own recognizance
When Referral Comes From Local Law Enforcement

- Local law enforcement may not be aware of federal anti-trafficking laws
- Need to connect local and federal law enforcement to obtain benefits for victim
- State or local law enforcement can help victim apply for T visa

When Referral Comes From Other Sources

- Client has option to pursue case or not
- Educate person about rights and criminal process
- Client may wish to:
  - contact law enforcement
  - pursue a legal case
  - receive social services assistance
  - live in the U.S. without assistance and/or
  - return to country of origin

Explaining Your Agency’s Role to the Victim

- Trafficked person makes decision about whether to involve law enforcement
- Agency provides broad-based support for victim
- Agency advocates for victim with government agencies and with the court
- Agency locates interpreters
- Agency provides basic information for victim
Agency should provide client with information

- Agency provides information about the client’s rights and what the client should expect:
  - What happens during a criminal or civil case
  - What to expect at each stage of the process
  - Who is involved
  - Victim’s rights - state and federal victim-witness and human trafficking laws
  - Types of legal services provided by the agency
  - Services provided by pro bono counsel or other local non-profit organizations

Factors to Consider at the Outset

- Client’s interest in prosecution, civil and/or immigration relief
- Client’s immigration status
- Confidentiality
- Conflict of interest
- Consular dealings
- Media issues
- Social or health care needs

Victims Who Work With Law Enforcement: Timeline

1. Explore options with victim
2. Contact law enforcement at victim’s request
3. Victim interview with law enforcement
4. Advocate for continued presence
5. If continued presence granted, then certification
6. Prosecution may or may not occur
7. Apply for T visa after prosecution considered. Grant of T visa can impact prosecution’s efforts.
8. If T granted, family may come and victim certified.
9. Civil action
Overview Of The Criminal Process

Entry Into System

Prosecution & Pretrial Services

Adjudication

Sentencing & Sanctions

Corrections

Entry
- Investigation
- Arrest
- Charges filed
- Appearance
- Preliminary Hearing
- Bail or Detention Hearing
- Grand Jury

Prosecution
- Grand Jury
- Indictment
- Arraignment
- Trial
- Guilty Plea
- Conviction
- Sentencing
- Sanctions
- Probation
- Prison

Civil Suit

Continued Presence

T Visa

Ongoing Social Services: Housing, Mental & Physical Health, Life Skills, etc.

What Are The Options For Relief And Recovery?

Criminal

Immigration

Civil

Repatriation

Legal Processes

Civil Legal Claims

- Regardless of victim’s willingness to work with law enforcement, he/she may be eligible to recover damages in civil court
- Timing of civil claim depends on:
  - Statute of limitations
  - Location of defendant
  - Likelihood that Defendant will flee or sell property
  - Civil claim generally put on hold by the court if criminal prosecution occurring
Civil Claims, cont'd

- Civil claims may include:
  - Private right of action under the Trafficking Victims Protection Act
  - Fair Labor Standards Act (violations of the minimum wage and overtime provisions)
  - Torts such as intentional or negligent infliction of emotional distress and false imprisonment
  - Contract claims
  - Alien Tort Claims Act

What Are The Options For Relief and Recovery?

- Criminal
- Immigration
- Civil
- Repatriation

Repatriation and Reintegration

- Victims have a right to safe repatriation to home country
- Can't keep victims in U.S. if they want to return
  - Prosecutors can arrange for victim to be brought back to U.S. for trial if necessary
- Who can help:
  - Embassy or Consulate – arrange travel and apply for replacement passport
  - International Organization for Migration – provides funding and repatriation assistance
  - Freedom Network contacts
  - State Department TIP Office Grantees
Legal Advocacy Review

- The client’s needs should come first
- Client should direct the activities of her/his representative
- Client may require the assistance of several attorneys including a victim advocate, immigration attorney and civil law practitioner
- Positive relationships with law enforcement are often the key to successful cases

NGOs and Law Enforcement: NGOs Can Bring To The Table

- Care for victim’s human service needs
- Ability to gain trust, obtain information, maintain contact during prosecution of trafficker
  - Protect trafficked person’s interests
  - Assess competent interpreter
  - Provide culturally- and linguistically-based suggestions about how to put witness at ease to tell his/her story
- Social and emotional support to help victim be an effective witness
- Legal support and services

Case Scenario 1

My name is Oksana. I am from Russia. I am 23 yrs old. I want to come to the United States, and a friend suggested I try an online match-making service. My friend said it was a good way to meet men, and that it would be the easiest way of coming to the United States. I started “chatting” with a man named John on the internet. John seemed like a good guy, so when our “relationship” progressed, and he proposed, I said yes. He brought me to the U.S. on a fiancé visa. The first week there, we got married. However, things changed immediately. John became very verbally abusive, and demanded that I cook and clean for him. He called me a “bitch” and “whore” and made fun of me in front of his friends. He forced me to have sex with him constantly. I cried a lot. He didn’t like it when I asked to call home and talk to my family and told me, “I’m your family now.” When I asked him if I could work, he told me that “no woman of mine works outside of the home.” When I threatened to leave, he told me that he wouldn’t sponsor my green card. Finally, after he hit me hard across my face, I ran away and went to a women’s shelter.
Interview and Multi-agency Coordination Exercise

Case Scenario 2

2 women escaped with help of customer/"boyfriend" and told FBI that they were lured to US from Honduras under false pretenses and forced to dance in bars. One of the women tells FBI agent that there are 6 other women working in the club in "same situation":
- Came in on tourist visas a year ago that trafficker's arranged
- Beatings, rapes, verbal abuse, withholding of documents, threats to sent to brothel, threats of mafia associations
- One of the traffickers showed women his gun
- Lived in apartment traffickers paid for and have key to and monitor movements and communication with family
- Taken to and from work each day by traffickers
- Had to pay off debt, plus had a weekly quota of $3000 in cash
- Worked 6 days a week, 2p – 2a
- One of the women speaks English, the other doesn’t

Identify the Following:

- Legal issues (Law Enforcement) and agencies involved
- Legal issues (NGO) and agencies involved
- Social Service Issues (NGO) and agencies involved
- Victim-Centered
  - How do you minimize trauma

Next Steps?
Issues:
- Fear of trafficker
- Threats to family at home (or bribery)
- Wants to live with other victim
- PTSD
- Doesn’t want to talk about it

Next Steps?

Multi-Agency Response: WHO

<table>
<thead>
<tr>
<th>Social Service Providers</th>
<th>Legal Service Providers</th>
<th>Federal Law Enforcement</th>
<th>Local Law Enforcement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interpreters</td>
<td>Immigration Attorney</td>
<td>DOJ</td>
<td>State’s Attorney</td>
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<tr>
<td>Case managers</td>
<td>Pro-bono attorney</td>
<td>USA</td>
<td>VRC</td>
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<td>Stalker Staff</td>
<td>Civil attorney</td>
<td>FBI</td>
<td>Municipal Police/Investigator</td>
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<td>Therapist</td>
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<td>ICE</td>
<td>County Police/Investigator</td>
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<tr>
<td>ETL Trainer</td>
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<td>DOL/EEOC</td>
<td>State Police/Investigator</td>
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<td>Doctor</td>
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<td>IRS</td>
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<tr>
<td>Dentist</td>
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<td>Interpreters</td>
<td>LEA Interpreters</td>
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<td>Volunteer</td>
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<tr>
<td>Non-profit and federal benefit issuing agencies</td>
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</tbody>
</table>

Multi-Agency Response: WHAT

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</thead>
<tbody>
<tr>
<td>Housing/ Shelter Services</td>
<td>Inform client of rights under TVPA</td>
<td>Continued Prosecution</td>
<td>Prosecution under state crimes</td>
</tr>
<tr>
<td>Medical Care</td>
<td>Advocate for CP</td>
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<td>Trafficking</td>
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<tr>
<td>Mental Health</td>
<td>Accompany client to LEA interviews</td>
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<td>Domestic Violence</td>
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<tr>
<td>Education/ ESL</td>
<td>Apply for T visa</td>
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<td>Assault/Battery</td>
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<tr>
<td>Job Training</td>
<td>Apply for T visa</td>
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<td>Rape</td>
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<td>for other available immigration relief</td>
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<td>Kidnapping</td>
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<td>Labor violations</td>
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<td>T visa LEA endorsement</td>
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</table>
### Multi-Agency Response: HOW

<table>
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<th>Local Law Enforcement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coordinate Social Services</td>
<td>Victim = Client</td>
<td>Investigate Crimes</td>
<td>Investigate Crimes</td>
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<tr>
<td>Provide Direct Services</td>
<td>Victim Advocate</td>
<td>Promote Citizenship</td>
<td>Promote Citizenship</td>
</tr>
<tr>
<td>Vast with obtaining immigration and criminal process</td>
<td>Inform &amp; advise victim of legal rights and options</td>
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<tr>
<td>Coordinate with Social and Legal Service Providers</td>
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### § 1589. Forced labor

Whoever knowingly provides or obtains the labor or services of a person—

1. by threats of serious harm to, or physical restraint against, that person or another person;
2. by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
3. by means of the abuse or threatened abuse of law or the legal process

### § 1581. Peonage

(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage.
§ 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of Chapter 77.

§ 1591. Sex trafficking of children or by force, fraud or coercion

(a) Whoever knowingly— (1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains 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 that force, fraud, or coercion 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

§ 1592. Document servitude

(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 violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a); OR
(2) with intent to violate sections 1581, 1583, 1584, 1589, 1590, 1591; OR
(3) to prevent or restrict or 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 TVPA of 2000.
22 USC § 7102. Definitions

“Coercion”

- Coercion: (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.

“Commercial Sex Act”

- Commercial sex act: any sex act on account of which anything of value is given to or received by any person.

“Debt Bondage”

- Debt bondage: 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 USC § 7102. Definitions
“Involuntary Servitude”

- **Involuntary servitude**: 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.