

Human Trafficking and Special Concerns Regarding Children

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Freedom First

Human Trafficking is a heinous crime and a degradation of human personal dignity that refers to both sex and labor trafficking which affects people of all ages and everywhere.

Both U.S. and non-U.S. citizens are trafficked within the United States.

Trafficking does not require movement.



TVPA: Trafficking Victims Protection Act

- ❖ Human trafficking is a topic of public concern.
- ❖ Brief history: around 1990's there were migration flows and an increase in criminal organizations globally which were large sources of profit. Initial efforts focused on women and girls primarily focusing on sex trafficking. However, as understanding of human trafficking increased, it became necessary for there to be legislation addressing how traffickers operate and provide legal tools necessary to combat all forms of trafficking.
- ❖ First TVPA was passed in 2000 and reauthorized in 2003, 2005, 2008, 2013, 2017. It establishes the crime of human trafficking in the United States, provides a legal definition of sex and labor trafficking, provides for special protections for immigrants, offers victims' services and grants, and allows victims to sue traffickers in federal court and obtain restitution.
- ❖ Trafficking In Persons Report (TIP) created by our Federal Department of State to investigate/monitor human trafficking; included rankings of countries and watchlists; developed the 3P paradigm (prosecution, protection and prevention). Efforts to combat trafficking: helping countries enact anti-trafficking laws, training police, prosecutors, judges; develop victim identification protocols, direct support to victims and victim services, increase awareness.
- ❖ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008: included recommendations for all governments to improve anti-trafficking efforts.

Human Trafficking Defined

- ❖ The TVPA defines “severe forms of trafficking in persons” as:
- ❖ Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or
- ❖ The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sex Trafficking (18 USC Section 1591)

- ❖ Sex Trafficking of children or by force, fraud, or coercion: To knowingly recruit, harbor, transport, provide, obtain, or maintain a person, or to benefit financially from such action, knowing or in reckless disregard of the fact that force, threats of force, fraud, or coercion will be used to cause the person to engage in a commercial sex act, or that the person is under 18 years old and will be caused to engage in a commercial sex act.
 - ❖ To establish:
 - ❖ Check One Element: recruit; harbor; transport; obtain, maintain, benefit financially from those act(s) OR minor under age 18
 - ❖ Check One Element: By any means
 - ❖ Check One Element: For the purpose of commercial sexual activity.
- ❖ Force, fraud or coercion are NOT required in order for a child under the age of 18 to be considered a victim of human trafficking regarding commercial sex acts.
- ❖ A commercial sex act can be any sex act on account of which anything of value is given to or received by any person; does not need to be prostitution.
- ❖ “Value” can be something other than monetary currency/cash.
- ❖ IL Criminal Definition of Sex Trafficking - Involuntary Servitude: 720 ILCS 5/9(c).

Labor Trafficking (18 USC Section 1589)

- ❖ To knowingly provide or obtain 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 abuse or threatened abuse of law or legal process.
 - ❖ To establish:
 - ❖ Check One Element: recruit; harbor; transport; provide; obtain; OR minor under age 18
 - ❖ Check One Element BY: threats of serious harm of physical restraint; any scheme, pattern, or plan intended to cause belief that someone would suffer harm or physical restraint; abuse or threatened abuse of law or legal process or threats
 - ❖ Check One Element FOR THE PURPOSE OF forced labor or forced services.
- ❖ Examples: coercion can be physical or psychological, abuse or threats of abuse of law, causing or threat of financial harm, identity documents (destroyed, concealed, removed, taken), intimidation.
- ❖ Trafficking can occur anywhere (restaurants, factories, farms, homes, strip clubs, bars, house cleaners).
- ❖ Trafficker profile can come from all backgrounds and economic levels.
- ❖ Victim can be victim, victim's family member or friend.
- ❖ IL Criminal Definition of Labor Trafficking - Involuntary Servitude: 720 ILCS 5/10-9(b).

Challenges To The Data Regarding Human Trafficking and Children

- ❖ There is very little empirically-based research.
- ❖ Those studies that have been done may not have been peer reviewed.
- ❖ There is essentially no research on labor trafficking.
- ❖ Estimates are not the equivalent to accuracy.
- ❖ Victims often isolated which affects ability to seek help or get assistance which is how some data is derived.
- ❖ Trafficked children may not be being counted or serviced due to being misidentified by law enforcement or child welfare, lack of training, poor processes, failure to share information across agencies.

Examples Of How Someone Can Be Vulnerable To Human Trafficking

- ❖ Someone who is in need of protection and security leaves his/her community for a domestic position and upon arriving is told by employer that needs to work without salary to repay relocating expenses and to pay housing/food/clothing expenses, traffickers constantly increase the amount due and use force or intimidation to continue work.
- ❖ Refugee, asylum-seekers, displaced persons, stateless persons who seek safety and instead are threatened to work against their will.
- ❖ Using threats of violence, withholding of identity documents, working in extreme conditions, withholding pay, made to work when ill, made to work long hours without any respite, restricting movement.
- ❖ Families struggling to meet basic necessities who need their children to earn money through begging, street vending, or factory work.
- ❖ Coercing victims to use their own children or other family members to work to pay off fraudulent debt.
- ❖ Engaging in false relationship with victim and using threats and physical violence to that person or others to coerce victim to engage in commercial sex act.
- ❖ A child using social media who meets a “friend” who coerces, lies and traps the child.
- ❖ Unstable family environment.
- ❖ History of abuse, neglect, sexual abuse or trauma.
- ❖ Homelessness / Runaways.
- ❖ Isolation.
- ❖ Child choosing to traffic himself/herself in order to survive.

Ways Youth May Enter the Legal System

- ❖ Underserved children and youth who are victims of human trafficking or at risk may come into contact with the system in variety of ways:
 - ❖ Child Welfare and Protection
 - ❖ Delinquency and Criminal
 - ❖ Runaway / Homeless
 - ❖ Immigration
 - ❖ Domestic Violence / Dating Violence
 - ❖ Domestic Relations (ie-parent may be involved in trafficking)



How Will Your Client Present

- ❖ A child of human trafficking may have difficulty talking about his/her experience and the scope and nature of the trafficking.
- ❖ These kids have likely been abused through a variety of physical, mental, psychological and emotional controls.
- ❖ A child may have been attending school or even out in the community.
- ❖ It is the advocate's responsibility to have an open mind and being a keen listener is critical to supporting your client.
- ❖ Common mental health symptoms reported from repeated abuse may include: extreme anxiety, fear, inability to trust, changing of relationships, self destructive and self harming behaviors, suicide attempts, negative feelings about oneself such as shame and guilt, nervousness, humiliation, despair and helplessness.
- ❖ Common physical health symptoms can include: physical health problems from beatings or rapes, untreated wounds or injuries, broken bones, reproductive and gynecological concerns, sexually transmitted diseases, malnutrition, sleep deprivation, alcohol and other drug use and abuse.

ANY CHILD Can Be A Victim of Human Trafficking And The Victim May Not Perceive Self As A Victim

- ❖ Victims of human trafficking do not consider themselves a victim.
- ❖ Human trafficking is a form of trauma and trauma bonding may have occurred between the victim and the trafficker. Victim and trafficker may have a strong emotional connection.
- ❖ Examples: trafficker abused victim with reward and punishment system; took on role of protector; induces fear, loss or confusion; causes fatigue; forces / provides alcohol or drugs; withholds necessities such as housing, healthcare, income, education or freedom.
- ❖ Trafficker created conditions which fostered intensity such that victim fears trafficker yet has a strong sense of trust and loyalty and gratitude for any form of kindness from the trafficker.
- ❖ Despite it being abusive and unhealthy, victim has fear of unknown and change; rarely discloses; denies involvement.
- ❖ Surviving trafficking circumstances brings on new challenges and victim may risk fear, anger, sadness, and negative expectations about future. Staying seems safer and more predictable. Accordingly, victims need services.

Overlooked Populations

- ❖ There is a wide variety of underserved human trafficking victims who are also subject to risk due to limited public awareness, lack of data, and limited service providers:
 - ❖ Labor trafficking
 - ❖ Boys and Men
 - ❖ Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex
 - ❖ Indigenous
 - ❖ Special Needs / Disabilities

Victims of Trafficking Need Special Consideration When Meeting With Their Attorney

- ❖ Important to recognize that there are short and long term consequences to victim that can be physical, mental, emotional and psychological.
- ❖ Think about how the victim perceives his/her life and sense of self so as to mitigate re-traumatization.
- ❖ Be prepared when interviewing survivors by knowing what needs to be accomplished and make sure to get that information through the interview in order to obtain the appropriate legal relief and any other services. Listen well.
- ❖ Take into consideration the child's age, development, culture, circumstances, physical and mental state.
- ❖ Provide a safe environment; do not have the trafficker present; obtain an interpreter if necessary.
- ❖ Have available a list of resources to support non-medical needs; will need assistance with obtaining those services; best ones are usually those that are trauma-informed.
- ❖ Trafficking can occur anywhere and happen to any race, gender or socio economic class - do not make presumptions.
- ❖ Above all, be kind, patient, compassionate and respectful. Build trust and follow-through to maintain that trust.
- ❖ For Tips on Interviewing: "Promising Practices in Identifying Child Survivors of Human Trafficking Part 2 - Maximizing First Points of Contact"
- ❖ For Tips on Checklists: "Building Child Welfare Response to Child Trafficking"

Foreign Victims Who Are Children

- ❖ Adult victims need certification to receive refugee benefits and services.
- ❖ Victims under age of 18 years old need eligibility letter or interim assistance letter by HHS to access benefits and services.
- ❖ Victim under age of 18 years old not required to comply with requests to assist law enforcement investigation or prosecution.
- ❖ Not required to have Continued Presence or TVisa to get eligibility letter or interim assistance letter.
- ❖ If foreign victim and if HHS has credible information that child may have been subject to trafficking then must make prompt determination of eligibility for up to 90 days of interim assistance; and before expiration, determine if eligible for longer term. To obtain, go to childtrafficking@acf.hhs.gov.
- ❖ If Certified Minor or Eligible Minor: Temporary Assistance for Needy Families; Medicaid; Children's Health Insurance Program; Health Resources and Services Administration Programs; Substance Abuse and Mental Health Services Administration Programs; Child Nutrition Programs, Food Stamps, WIC; See Chart in DHHS Services Booklet for resources available to US Children. Similar as above. Examples of NGO's: food, shelter, clothing and goods, medical, legal, job training, education, transportation, crime victim compensation, domestic violence, faith based.
- ❖ Special Immigrant Juvenile Status (SIJS): a child who is under jurisdiction of juvenile court as a result of abuse, neglect or abandonment, cannot be reunited with parent, and for whom return to their country of nationality is not in best interests.
- ❖ Violence Against Women Act (VAWA): a child may file immigrant petition if battered or witnessed spousal abuse of their parent/stepparent and if batterer is US citizen or legal permanent resident.

Protections For Immigrants: T-Visa

- ❖ Created by Congress in 2000 as part of Act.
- ❖ Provides for temporary immigration benefits that enables certain victims of severe human trafficking to remain in United States for up to four years subject to complying with law enforcement in an investigation to prosecution of human trafficking.
- ❖ Exception to compliance with prosecution: under age 18 or unable to cooperate due to physical or psychological trauma.
- ❖ Must demonstrate that would suffer extreme hardship involving unusual and severe harm if removed from U.S.
- ❖ If trafficked victim is under age 21, then may also be available for certain qualifying family members (spouse, unmarried children under 21, parents, unmarried siblings under age 18); and if trafficked victim is over age 21 then apply for spouse and unmarried children under age 21.
- ❖ Submit all of the forms: I-914 Application; Personal Statement; proof of compliance (if over 18); any other evidence.
- ❖ May be able to obtain employment (I-914).
- ❖ T-Visa provides for certain federal and state benefits and services. If T-Visa not granted, then may still be eligible if granted Continued Presence from uS Immigration and Customs Enforcement or letter of certification/eligibility from US Dept. of Health and Human Services.

Illinois Laws To Know

- ❖ Illinois Safe Children's Act (2010)

- ❖ Attempt to harmonize federal anti-trafficking laws and state laws.
- ❖ Decriminalizes child prostitution at state level.
- ❖ Intended to redirect "labels" from that of perpetrator to that of victim.
- ❖ Children who have been trafficked or prostituted fall under "abuse" purview.
- ❖ Funding stream for services for children from fines.

- ❖ Justice For Victims of Trafficking Act (2015)

- ❖ Creates a victim's fund and blocks grants toward deterrence programs.
- ❖ Child Abuse definition is expanded to include human trafficking and production of child pornography.
- ❖ Buyer/Solicitor for commercial sex act equally culpable; and extends statute of limitations for civil actions against perpetrators.

Illinois Human Trafficking Task Force Report

(July 2018)

- ❖ Public Act 099-0864 serves as statewide group to provide action plan to address growing problem of human trafficking in Illinois.
- ❖ Illinois ranked 11th in nation for the number of cases.
- ❖ Three sub-committees: education and awareness, health and human services, and law enforcement.
- ❖ Goals: develop state plan; share information; establish policies that enable State to work with NGO's to prevent human trafficking and provide services; evaluate approaches; protect rights of victims; treat victims as victims of crimes rather than criminals; promote safety.
- ❖ Between 2007-2017, almost 3,000 cases. In 2017: 193 cases (150 sex, 26 labor, 10 both, 7 unknown).
- ❖ Statistics are unreliable and true amount of cases are really unknown. Unified and statewide data collection is needed.
- ❖ Risk factors: substance abuse, runaway/homeless youth, mental health concerns, involvement in child welfare system, youth in care; migration/relocation.
- ❖ Includes a helpful resource manual with contact information.

Child Protection Services

- ❖ Human trafficking is a form of abuse and maltreatment against a child.
- ❖ Previously child welfare systems did not identify trafficked children so children were not getting the recovery services needed. In 2014, the Preventing Sex Trafficking and Protecting Families Act H.R. 4980 (Public Law 113-183) was enacted which intersected child welfare and child trafficking; and states now required to identify, document, screen and determine appropriate services for children who are trafficked.
- ❖ Illinois has amended its policies and procedures to include human trafficking as a form of abuse.
- ❖ Because of histories of trauma, youth in care of DCFS are particularly vulnerable to trafficking; and it is especially concerning regarding youth in foster care who may have unique treatment needs.
- ❖ Healthcare professionals are often first responders to child abuse and neglect cases and can be in best position to provide initial intervention and critical services.
- ❖ There needs to be specialized human trafficking training for all disciplines (law, police, health, education, welfare) regarding the identification and needs of trafficked children.

Types Of Abuse and Neglect On Trafficked Children

- ❖ Neglect:
 - ❖ Physical (lack of food, clothing, shelter, other needs)
 - ❖ Educational
 - ❖ Mental and Emotional
 - ❖ Medical
- ❖ Abuse:
 - ❖ Physical Abuse
 - ❖ Sexual Abuse
 - ❖ Servitude
 - ❖ Psychological
- ❖ Trauma in childhood results in mental health issues that continue even after the child is out of the environment. There is a lack of research on the consequences of a child who has been trafficked. The long term effects of the trauma must be addressed and treatment models in other contexts may be helpful.

Covid-19: Implications on Human Trafficking

- ❖ The amplified impact of Covid-19 has important implications for children at risk for human trafficking.
- ❖ The circumstances created by Covid-19 pandemic include unemployment, homelessness, lack of basic necessities such as food, children not being in school and the overall chaos and uncertainty.
- ❖ These circumstances have created a breeding ground that may increase the risk of trafficking, impair the identification of those trafficked and make it harder to deliver services to support recovery.
- ❖ Mandated reporters, such as teachers, counselors and doctors, who would usually have access to children do not have the same or similar access, if any, for purposes of screening for abuse, neglect, domestic violence or human trafficking.
- ❖ Alarmingly, due to technology, online exploitation is on the rise as traffickers now have a greater chance of connecting with kids who attend school virtually and are on their “electronics.”

Provide Advocacy Excellence

- ❖ Trafficked children are in desperate need for competent legal counsel.
- ❖ The TVPA provides children the right to privacy, safety, information about their rights and about their case as a crime victim, legal representation, a chance to be heard, medical services, translation and interpretation services, victim services and state benefits, restitution and victim compensation. In order for children to have the protections upon which they are entitled and to secure their rights they deserve, they should have legal advocacy.
- ❖ There is an intersection of multiple areas of law needed to meet their unique needs: child protection and welfare, immigration, labor, criminal justice, family, education, international and human rights.

Resources To Consider

❖ Articles:

- ❖ US State Department, *Trafficking In Persons Report* (June 2020).
- ❖ Katherine Kaufka Walts, JD., *Child Trafficking in the United States: An Introduction To Laws, Policies, Practices and Systems*, Center for the Human Rights of Children, Loyola University Chicago (2020).
- ❖ Office for Democratic Institutions and Human Rights and UN Women, *Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the Covid-19 Pandemic* (2020).
- ❖ Michael Breslin, *The Dynamics of Human Trafficking: Before and After Covid-19*, June 24, 2020.
- ❖ *United States Advisory Council on Human Trafficking Annual Report* (2019).
- ❖ US Department of Health and Human Services Administration for Children, Youth and Families, *Report to Congress: The Child Welfare System Response to Sex Trafficking of Children* (Released August 2019).
- ❖ Illinois Human Trafficking Task Force Report (July 2018).
- ❖ Child Welfare Information Gateway / Children's Bureau /ACYF /HHS, *Human Trafficking and Child Welfare: A Guide for Child Welfare Agencies - Bulletin for Professionals* (2017).
- ❖ *A Guide to Human Trafficking for State Courts*, (July 2014).
- ❖ Multiple presenters, *Human Trafficking and Exploitation of Children and Youth In The United States*, Center for the Human Rights of Children, Loyola University Chicago (2011).
- ❖ US Department of Health and Human Services Administration for Children, Youth and Families, *Guidance to States and Services on Addressing Human Trafficking of Children and Youth in the United States*.
- ❖ Department of Health and Human Services, *Services Available to Human Trafficking/A Resource Guide for Social Service Providers*.
- ❖ Loyola University Chicago and International Organization for Adolescents (IOFA), *Building Child Welfare Response to Child Trafficking*, Center for the Human Rights of Children (2011).

❖ Statutes:

- ❖ Public Law 106-386, Victims of Trafficking and Violence Protection Act of 2000 (October 28, 2000).
- ❖ Public Law 110-457, William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (December 23, 2008).

❖ Websites:

- ❖ Administration For Children and Families - Office on Trafficking in Persons.
- ❖ ECPAT-USA: ecpatusa.org.
- ❖ Human Trafficking Legal Center: htlegalcenter.org
- ❖ National Human Trafficking Resource Center: 1-888-373-7888; traffickingresourcecenter.org.
- ❖ Polaris: polarisproject.org (nationally recognized collective of knowledge and best practices regarding human trafficking).
- ❖ US Department of Justice's Office of Victims of Crime.
- ❖ Global Alliance Against Traffic in Women, *Anti-Trafficking Review (multiple articles)*, antitraffickingreview.org.