



ALBANY LAW SCHOOL

Institute of Legal Studies

# Hidden in Plain Sight: Identifying Victims of Human Trafficking in Your Work

November 15, 2018

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# **Hidden in Plain Sight: Identifying Victims of Human Trafficking in Your Work**

**Thursday, November 15, 2018**

## **Agenda**

4:00pm – 4:30pm

### **Registration**

4:30pm – 5:00pm

### **What is Human Trafficking?**

#### ***Panelists:***

Mary Armistead, Esq.

The Legal Project, Equal Justice Works Crime Victims  
Justice Corps Fellow

Carl J. Boykin, Esq., Director of Human Trafficking  
Prevention

NYS Division of Criminal Justice Services

Damara Fredette, Class of 2019

Albany Law School, Government Law Center Fellow

5:00pm – 5:30pm

### **Human Trafficking in New York**

#### ***Panelists:***

Mary Armistead, Esq.

The Legal Project, Equal Justice Works Crime Victims  
Justice Corps Fellow

Carl J. Boykin, Esq., Director of Human Trafficking  
Prevention

NYS Division of Criminal Justice Services

John Kelley, Safe Harbour/Law Enforcement Coordinator  
Saratoga Center for the Family

Brianna Phillips, Safe Harbour Case Manager  
CAPTAIN Community Human Services

5:30pm – 6:30pm

**Identifying Human Trafficking Victims in your Legal Work**

***Panelists:***

Mary Armistead, Esq.  
The Legal Project, Equal Justice Works Crime Victims  
Justice Corps Fellow

Melanie Puerto-Conte, Adjunct Professor  
Sage Graduate Schools of the Sage Colleges

6:30pm – 7:00pm

**Panel Discussion: Understanding and Overcoming Cultural Barriers in Working with Victims of Human Trafficking**

***Moderator:***

Mary Armistead, Esq.

***Panelists:***

Carl J. Boykin, Esq., Director of Human Trafficking  
Prevention  
NYS Division of Criminal Justice Services

John Kelley, Safe Harbour/Law Enforcement Coordinator  
Saratoga Center for the Family

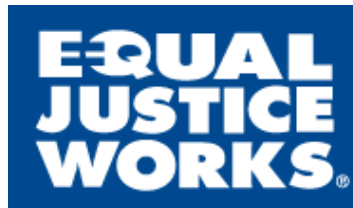
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***Program Sponsors:***



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# **HIDDEN IN PLAIN SIGHT:**

## ***Identifying Victims of Human Trafficking in Your Work***

**November 15, 2018**

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### **Speaker Biographies**

**MARY ARMISTEAD, ESQ.**, is an attorney at *The Legal Project* as an Equal Justice Works Crime Victims Justice Corps Fellow. In this position, she provides direct civil legal services to, performs outreach and education regarding, and builds capacity for victims of human trafficking (both sex and labor). Ms. Armistead earned a Bachelor of Arts degree in psychology at Queens University of Charlotte (North Carolina) and a Juris Doctorate from Albany Law School, graduating summa cum laude from both institutions. Following graduation from Albany Law School, Ms. Armistead held a clerkship at the New York State Court of Appeals for one year before working as the Staff Attorney of the Immigration Law Clinic at Albany Law School for three years. As Staff Attorney, she both supervised students and maintained a personal docket in providing legal advocacy services and direct representation to clients eligible for humanitarian immigration relief. Her expertise played a critical role in developing law students' ability to provide legal advocacy services and direct representation to clients seeking U.S. immigration benefits including Special Immigrant Juvenile status, U visas for victims of crime, self-petitions under the Violence Against Women Act for victims of violence or abuse, as well as those seeking relief from immigration detention or Immigration Court proceedings. She is admitted to practice law in New York State.

**CARL J. BOYKIN, ESQ.**, is currently the Director of Human Trafficking Prevention with the New York State Division of Criminal Justice Services. In this position, he is responsible for trafficking victim confirmation process, as well as collaboration and training regarding issues of human trafficking. In 2018, he received training in immigration law and previously held an antiviolenace partnership with Mohawk Valley Resource Center for Refugees. Prior to his current position, Mr. Boykin served in the following positions: New York State Special Deputy Attorney General for Guns and Gangs (2007–2011); Northern District of New York Assistant United States Attorney assigned to illegal reentry prosecutions, immigration appeals, and asset forfeiture matters (2004–2007); Chief of Appeals for the Oneida County, New York District Attorney's Office (1999–2004); Law Clerk to New York State Court of Appeals Associate Judges the late Fritz W. Alexander II and George Bundy Smith (1990–91 and 1993–95); Staff Attorney, Legal Aid Society of Mid-New York, Inc. (1991–93); and Law Assistant, New York State Supreme Court,

Appellate Division, Third Department (1995). Mr. Boykin received a bachelor's degree from Colgate University, an Ed.M. from SUNY at Buffalo Amherst, and a JD from Cornell Law School. He is admitted to practice law in New York State.

**DAMARA FREDETTE**, a 3L at Albany Law School, began her involvement with sex trafficking issues while interning at the U.S. Attorney's Office for the Northern District of New York. She then joined the Sex Trafficking Committee of the Capital District Women's Bar Association, where she wrote support memoranda for six proposed bills. On Lobby Day in May 2018, Ms. Fredette joined other members of the Women's State Bar of New York and lobbied for one trafficking bill, which passed both Houses. Ms. Fredette is also a Government Law Center Fellow; a Pro Bono Scholar; and, in her spare time, facilitates salary negotiation trainings for women in undergraduate and community college programs. Upon graduation, she looks forward to a career in public service.

**JOHN KELLY** retired from the Saratoga Springs Police Department in 2012 after serving for 23 years as a police investigator. That same year, he was picked to lead the first Capital Region office of the National Center for Missing & Exploited Children located in Saratoga Springs. Mr. Kelly is currently a forensic interviewer of children at the Harriet M. West Child Advocacy Center in Saratoga Springs, which serves children and families throughout the county. He is also the Board Chair for the New York State Children's Alliance, which provides support to over 40 child advocacy centers across the state. In addition, Mr. Kelly is the Safe Harbour Coordinator for Saratoga County, helping to raise awareness around the issues of human trafficking, specifically regarding how to identify victims and respond to their needs. An avid skier, Mr. Kelly volunteers at Mount Snow in Vermont for the Adaptive Sports program. He also holds a private pilot's license for Hot Air Balloons.

**BRIANNA PHILLIPS** began working in the field of human services in 2016 at the Charlton School, a not-for-profit residential treatment center and special education school in Burnt Hills, N.Y., where she developed her crisis management skills while serving young women living in a therapeutic learning community. In May of 2017, she graduated from Empire State College with a bachelor's degree in community and human services. Since October of 2017, Ms. Phillips has been serving in different outreach capacities at CAPTAIN Community Human Services. In these roles, she has worked to connect homeless youth to services, while providing intensive case management, advocacy, and support. Beginning in February of 2018, she has served as a Safe Harbour Case Manager within Saratoga County. In this capacity, she outreaches and connects survivors of human trafficking to a multitude of community services, including CAPTAIN grant partners, such as Saratoga Center for the Family.

**MELANIE PUERTO CONTE** is a professor at the Sage Colleges Graduate School of Health Sciences, where she teaches in the Forensic Mental Health master's program and designed and teaches the curriculum for the Human Trafficking masters-level classes. Ms. Puerto Conte has done many presentations regionally, statewide, and locally on working with and identifying survivors of human trafficking. In the Capital Region, she has presented at Albany Medical College and St. Mary's Hospital in Amsterdam on working with survivors of human trafficking, and she is currently consulting with Ellis Medicine to provide training in the upcoming months. From 2006 to 2014, Ms. Puerto Conte was the Director of the Suicide Prevention Initiative with the New York State Office of Mental Health.

**SALKA VALERIO** is currently a case worker at the Crime Victims Assistance Center (CVAC) in Binghamton, N.Y. CVAC works with Broome County and federal programs to provide services to survivors of sex trafficking, including offering coping mechanisms and tools, counseling, and court accompaniment. As a survivor of sex trafficking herself, Ms. Valerio uses her experiences as a child to reach out to teens that have been or are at high risk for exploitation or abuse. She educates teens about red flags for trafficking to equip them to protect themselves from exploitation. Ms. Valerio received her associate's degree from Broome County Community College.

# Hidden In Plain Sight: Identifying Victims of Human Trafficking in Your Legal Work

- Mary E. Armistead, Esq., The Legal Project, Equal Justice Works Crime Victims Justice Corps Fellow
- Carl J. Boykin, Esq., Director of Human Trafficking Prevention at NYS Division of Criminal Justice Services
- Melanie Puerto-Conte, Adjunct Professor, Sage Graduate Schools of the Sage Colleges
- Damara Fredette, Albany Law School '19, Government Law Center Fellow
- John Kelley, Safe Harbour/Law Enforcement Coordinator, Saratoga Center for the Family
- Brianna Phillips, Safe Harbour Case Manager, CAPTAIN Community Human Services
- Salka Valerio, survivor

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# What is Human Trafficking?

- The exploitation of human beings through force, fraud or coercion for the purposes of commercial sex or forced labor.
- Through physical restraint, coercion, fear, or intimidation
  - Threats of deportation
  - Debt bondage
  - Lack of viable alternatives

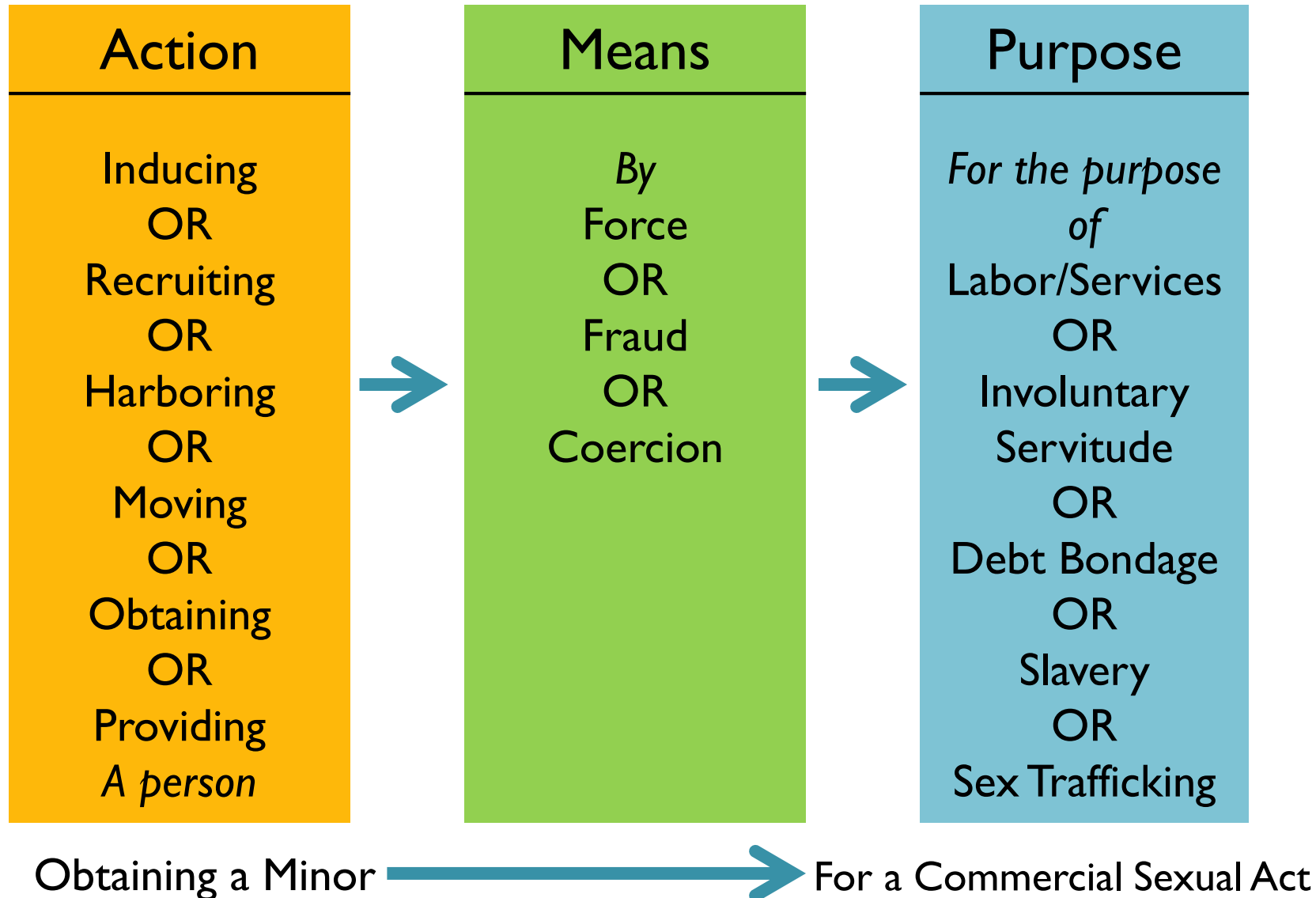
# Statistics

- 40.3 million victims of human trafficking globally. (International Labor Org.)
  - 81% forced labor.
  - 25% children.
  - 75% women and girls.
- Hundreds of thousands in the U.S. (Polaris)
- California, Florida, and New York particularly vulnerable
  - Proximity to international borders
  - Numerous ports of entry
  - Significant immigrant populations
  - Large economies including industries that attract forced labor

# Federal Definition

- 22 USC 7102(9) defines the term “severe form of trafficking in persons”
- (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (B) 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

# Action-Means-Purpose (AMP) Model





# Coercion

- 22 USC 7102(3) defines “coercion:”
  - Threat of serious harm to or physical restraint against a person
- OR
- Any scheme, plan, or pattern intended to cause a person to believe that failure to act would result in serious harm or physical restraint
- OR
- Abuse or threatened abuse of legal process

# Abuse or Threatened Abuse of Legal Process

the use or threatened use of a law or legal process

- administrative, civil, or criminal



in any manner or for any purpose for which the law was not designed



in order to exert pressure on another person to cause that person to take some action or refrain from taking some action

# New York Definitions and Laws

- Labor Trafficking:
  - NY Penal Law 135.35, 135.26, and 135.37
- Sex Trafficking:
  - NY Penal Law 230.34A, 230.35, 230.36, and 230.40
- Vacatur
  - NY Criminal Procedure Law 440.10
- Safe Harbour Laws:
  - NY Social Service Law 447-a and 447-b

# Statistics on Human Trafficking in New York

- Response to Human Trafficking Program Statistics (11/1/2007-12/31/2017, Source: OTDA)
  - Total Referrals: 1,088
    - Referrals Not Confirmed: 57 (includes 11 duplicates and 4 withdrawals by referral source)
    - Referrals Pending Determination: 9
    - Confirmed Victims: 1,022
  - Demographics
    - Female: 896, Male: 90; Transgender [self-identified]: 36
    - Adult (18 +): 749 (includes 2 adults of unknown age); Minor (under 18): 273
  - Offense
    - Sex Trafficking: 803
    - Labor Trafficking: 178
  - Victims by Region
    - Significantly more than half of the confirmed victims are from outside New York City.

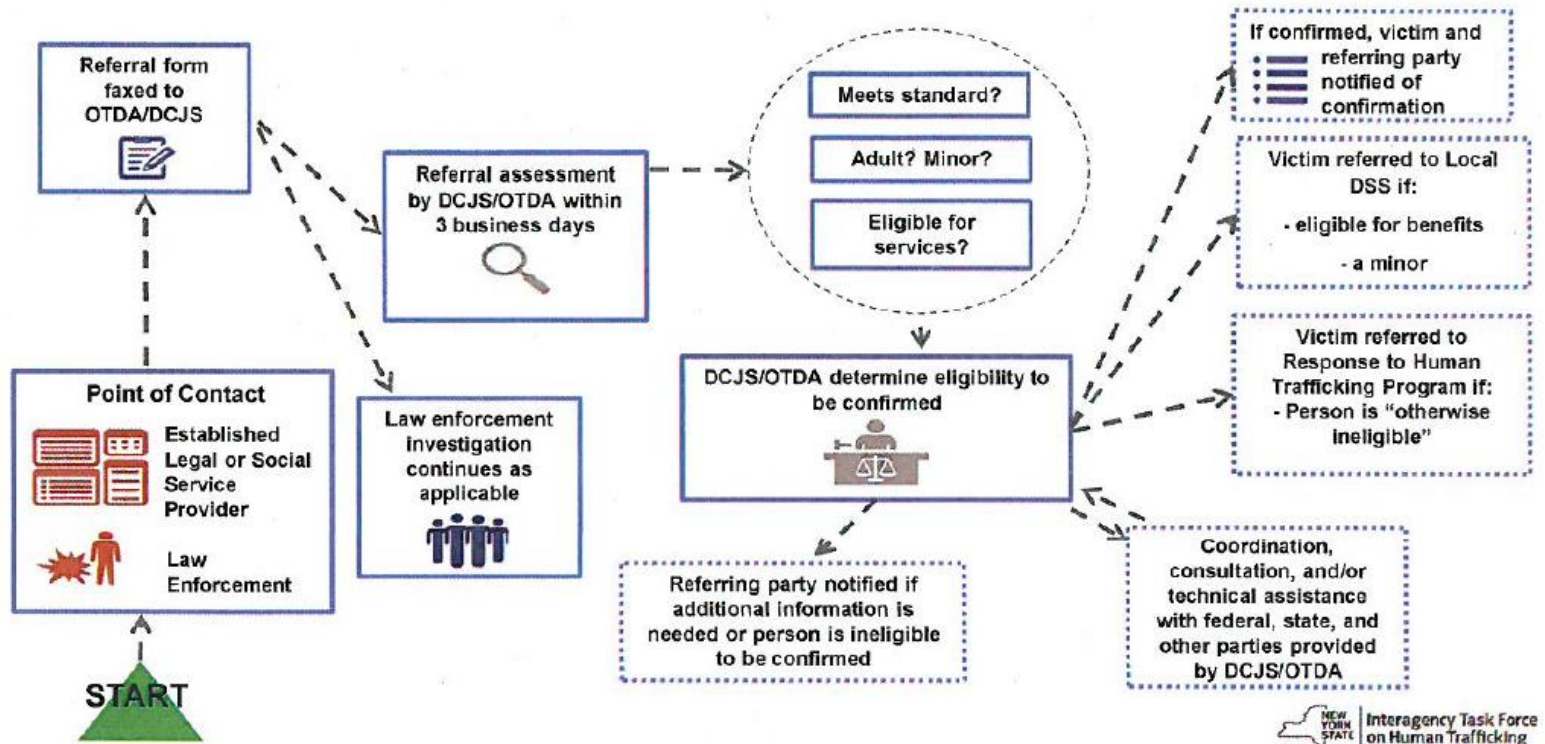
# Mandatory Restitution

- Pursuant to 18 USC 1593, criminal restitution for trafficking victims is mandatory. Restitution is required “in the full amount of the victim’s losses.”
- EDNY had three of the top five highest restitution order amounts in the Human Trafficking Legal Center’s 2018 report.
- Stats for NY:
  - SDNY: 5 cases, 4 granted restitution, 1 not
  - NDNY: 3 cases, none granted restitution
  - EDNY: 6 cases, 4 granted, 2 not
  - WDNY: 7 cases, 1 granted, 6 not

- Enables victims to access certain benefits and be referred to proper agency.
- Prior to 2016, only Law Enforcement could complete. Now, legal aid and social service providers can also.

[illegible]

# Referral Process



# OTDA Response to Human Trafficking Program (RHTP)

- Designated providers serve trafficking victims, including foreign-born trafficking victims who are often unable to obtain services elsewhere due to immigration status.
- In the Capital Region, Unity House (Troy) and Worker Justice Center (Kingston) currently administer these programs.
- Services include: case management; shelter/rental assistance; health assessment; medical care; mental health counseling; legal services; food; other identified service needs, which can include drug addiction services, interpretation and translation, English language training, employment preparation, clothing, and transportation



# Safe Harbor Programs

- Safe Harbour NY is a program that implements a system-level approach within existing child welfare and allied youth-serving systems, including Runaway-Homeless Youth programs (RHY), Probation, Persons In Need of Supervision (PINS), Youth Bureaus, and other critical partners. This approach leverages existing system strengths to create a more effective and efficient response to youth who have experienced commercial sexual exploitation or trafficking, or who are vulnerable to it.



# Immigration

- T Nonimmigrant Status (“T-Visa”)
  - Eligibility
    - Victim of trafficking, as defined by federal or state law
    - Physically in the U.S. or at a port of entry due to trafficking
    - Comply with reasonable request from law enforcement for assistance in investigation or prosecution of human trafficking (exception for victims under 18 who are unable to cooperate due to physical or psychological trauma)
    - Would suffer extreme hardship, unusual and severe harm, if removed from U.S.
  - Law enforcement certification not required, but helpful
  - T-status expires after four years. Eligible to apply for green card after three years OR simultaneously with T-Visa
- Other Potential Immigration Relief
  - U Nonimmigrant Status (“U-Visa”): victims of certain crime who were helpful to law enforcement
  - VAWA: abused by spouse or parent who is a U.S. Citizen or LPR
  - Asylum: fear of returning to home country because of fear of persecution on account of certain protected grounds
  - Special Immigrant Juvenile Status(SIJS): can’t be reunified with at least one parent based on abandonment, abuse, neglect, or death; not in best interests to return to home country



# The Legal Project

## Human Trafficking Program

- Building capacity for, working on policy issues regarding, and providing direct civil legal services to victims of human trafficking.



# Identifying Victims of Human Trafficking

- Signs/Indicators of Human Trafficking
- Interviewing a Suspected Human Trafficking Victim
- Understanding Cultural, Emotional, and Other Barriers

# How does this happen?

- Young women or men can be lured away with the promise of a better life, new employment or the opportunity to provide for their families
- Families desperate to make ends meet will sometimes resort to being sexually exploited by offering their services to make ends
- Young women and men are sometimes enticed by the promise of a romantic suitor or a modeling or acting career.
- Although children are especially vulnerable targets, individuals of all ages can be victimized into sex trafficking situations

# Who are the Traffickers?

- Traffickers are often people who are close friends or family members
- However, traffickers can be total strangers, previously unknown to the victims
  - Traffickers will frequently prey upon vulnerable individuals by befriending them or seducing them with acts of kindness and promises of love before deploying threatening and violent tactics to control them.
- Other tactics that traffickers use include:
  - false promises of a better life, job or educational/training opportunities
  - physical, emotional or psychological
  - threats of deportation or criminal prosecution to prevent victims from turning to law enforcement for assistance.
  - Recruitment using technology/social media
  - Using technology to track/abuse victim
- Some survivors are either coerced or forced to become complicit in trafficking to avoid further abuse or trafficking themselves

# Dynamic Offending Process

- Process of obtaining victims:
  - Identify target and gather intel
  - Identify vulnerabilities
  - Exploit vulnerabilities
  - Establish power and control
    - Physical and sexual violence
    - Occasional indulgences
    - Degradation (name calling, causing shame and guilt)
    - Demonstrating omnipotence
    - Narcotic dependency
    - Monopolization of perception and isolation
    - Induced debility and exhaustion
    - Gaslighting
    - Economic abuse
  - Prevent disclosure

# Risk Factors

- Living in poverty or with family economic strain
- Displaced by social or natural disaster
- Undocumented or otherwise stateless/ostracized
- Living in countries with political or social unrest or corruption
- Living in high crime areas
- History of sexual abuse, physical abuse, or neglect
- Substance abuse, behavioral, or mental health issues
- Age (immature prefrontal cortex)
- Running away or homelessness during adolescence
- Unstable family conditions (substance abuse, criminality, violence)
- LGBTQ or questioning
- Learning disabilities
- Living in societies with gender bias
- Low self-esteem



# General Red Flags/Indicators

- Story or answers to questions feels scripted or is vague or inconsistent
- Shows signs of physical abuse (e.g. bruising, wounds) or mental health issues (e.g. depression, anxiety)
- Unwillingness or hesitance to talk about injuries or illnesses
- Demonstrates fearful or nervous behavior or avoids eye contact
- Accompanied by someone who doesn't let them speak for themselves, refuses to give the person privacy, or is interpreting for the person
- Evidence of a controlling relationship (e.g. excessive concerns about pleasing a family member, employer, romantic partner)
- Is unable to provide address, current date, or time
- Not in possession of identification documents
- Lack of control over money
- Not being paid wages or wages are being withheld
- Is fearful of retaliation, arrest, or harm to loved ones
- Is isolated from family and friends
- Is distrustful of law enforcement, government officials, or service providers
- Resists help or exhibits hostile behavior

# Labor Trafficking Indicators

- Has been abused at work or threatened by an employer/supervisor
- Is not allowed to take adequate breaks at work (e.g. to eat, drink, use restroom)
- Originally was recruited for different work than the work currently required
- Lives in shelter provided by the employer
- Owes debt to employer or recruiter
- Is not provided with adequate personal protective equipment for hazardous work

# Sex Trafficking Indicators

- Has tattoos or other forms of branding, such as tattoos of barcodes or that say “Daddy,” “Property of...,” “For sale,” etc. or is reluctant to talk about any tattoos
- Does not have appropriate clothing for weather or venue
- For teens/young adults, has much older romantic partner
- Has a controlling romantic partner
- Has expensive material items and cannot/is hesitant to explain where they came from
- For younger teens, is overly familiar with sex
- Uses language common in the commercial sex industry
- Multiple STIs/STDs
- Admits to engaging in prostitution

# Trauma Bonding (i.e. Stockholm Syndrome)

- Victims may exhibit a strong emotional attachment to the abuser that makes it difficult for the victim to decide to leave
- Caused by promises of love and security combined with violence and psychological abuse



# If Trafficking is Suspected, Dig Deeper

- Most victims do not self-identify as victims of human trafficking
- Be sure the victim feels comfortable and it is safe for them to speak with you

# Questions About Fraud

- What were you told about the job before you started/what promises were made about the relationship?
- Do you feel you were ever deceived about anything related to your job/your relationship?
- Did conditions of your job/relationship change over time?
- Did you feel like you understood your rights in this job/situation? Did you ever feel like anyone kept you from accessing information about your rights?

# Questions About Coercion

- Did you ever feel pressured to do something that you didn't want to do or felt uncomfortable doing?
- What were your expectations of what would happen if you left this person/situation or if you didn't do what this person told you to do?
- Did anyone ever take/keep your legal papers or identification for you, such as your passport, visa, driver's license, etc.?
- Did anyone ever threaten you or intimidate you?
- What did this person tell you about what would happen if you were arrested/encountered an immigration official?
- Did you ever see something bad happen to someone else who didn't do something that was expected of them?
- Did you ever feel that if you left the situation, your life would become more difficult?

# Questions About Debt and Money

- Did you have access to any money/the money you earn? Did anyone take your money or a portion of your money? Did anyone hold your money for “safe keeping?”
- Were you required to make a certain amount of money every day/ week? Why did you feel that you had to meet that amount? What did you think would happen if you didn’t make that much money?
- Did you owe any money to anyone in the situation? If so, who did you owe money to and why?
- How did you incur this debt? How long have you had the debt? Did your debt increase overtime?
- Did you feel that it was difficult to pay off your debt? Why?
- What did you think would happen to you or other people in your life if you didn’t pay off your debt?



# Questions About Force

- Did someone control, supervise or monitor your work/your actions?
- Was your communication ever restricted or monitored?
- Were you able to access medical care?
- Were you ever allowed to leave the place that you were living/working? Under what conditions?
- What did you think would have happened if you left the situation? Was there ever a time when you wanted to leave, but felt that you couldn't? What do you think would have happened if you left without telling anyone?
- Did anyone ever force you to do something physically or sexually that you didn't feel comfortable doing?
- Were you ever physically abused (shoved, slapped, hit, kicked, scratched, punched, burned, etc.) by anyone?
- Did anyone ever introduce you to drugs, medications as a method of control?

# Sex Trafficking Assessment

- Did anyone ever pressure you to engage in any sexual acts against your will?
- Did anyone ever take photos of you and if so, what did they use them for? Were these photos ever sent to other people or posted on an online forum (Craigslist, Review Pages, Reddit, Instagram DM, Sugar Daddy)?
- Did anyone ever force you to engage in sexual acts with friends or business associates for favors/money?
- Did anyone ever force you to engage in commercial sex through online websites, escort services, street prostitution, informal arrangements, brothels, fake massage businesses or strip clubs?
- Were you required to earn a certain amount of money/meet a nightly quota by engaging in commercial sex for someone? What happened if you did not meet this quota?
- How old were you when you were in this situation? Did you ever see any minors (under 18 years old) involved in commercial sex?
- Were you ever transported to different locations to engage in commercial sex? Where were you taken and who transported you?

# Labor Trafficking Assessment

- How did you feel about where you worked? How did you feel about your employer/supervisor/crew leader/or other controller?
- What were your normal work hours? How many hours did you have to work each day?
- What happened if you worked fewer hours or took breaks?
- Did anyone ever threaten you if you indicated you did not want to work the hours expected of you?
- Did you have to live in housing provided by the controller? What were the conditions like in this housing?
- Did the controller ever promise to secure, renew or pay for your legal documents or work visa?
- What were your weekly/monthly expenses to the controller?
- Did the controller provide transportation to the work site? What did this look like?

# Trauma-Informed Approach

- Trafficking victims have often endured profound physical and psychological injuries that may impede the efforts of attorneys and other service providers to interview them and develop strong working relationships.
- Minimization, denial and memory loss, which are symptoms of psychological trauma, can make it extremely difficult to elicit consistent information.
- When interviewing a potential victim, keep in mind:
  - Victims may experience long-lasting effects of psychological and physical abuse, traumatic experiences, or chronic substance abuse.
  - Express sorrow for what has happened to them, but do not appear to be judgmental or shocked by the details they reveal.
  - Ask only basic questions about mental health unless you are trained as a mental health professional. Ask a few straightforward, non-intrusive questions in a kind manner to help the screener and the victim decide if a referral to a mental health professional is desirable or necessary.
  - Be understanding if victims don't want to repeat details of the crime. Recounting stories many times for various people (social service agencies, lawyers, law enforcement, and so forth) may cause victims to re-experience trauma. Try to minimize the potential for re-traumatization when possible.

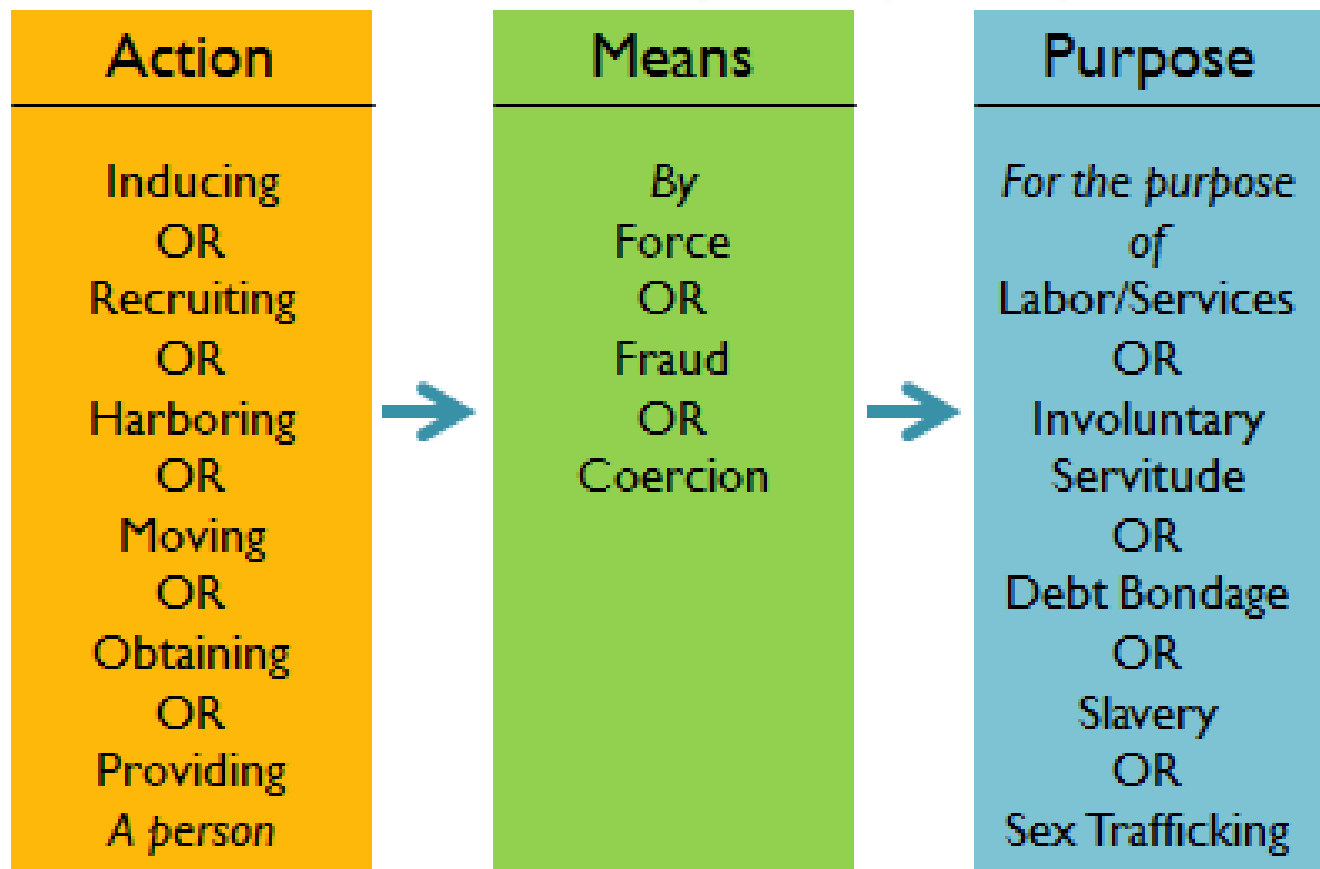


# Demonstration

# Panel Discussion: Overcoming Cultural Barriers to Identifying Victims of Human Trafficking

- Moderator:
  - Mary E. Armistead
- Panelists:
  - Salka Valerio, survivor
  - Carl J. Boykin, Esq., Director of Human Trafficking Prevention at NYS Division of Criminal Justice Services
  - Melanie Puerto-Conte, Adjunct Professor, Sage Graduate Schools of the Sage Colleges
  - John Kelley, Safe Harbour/Law Enforcement Coordinator, Saratoga Center for the Family
  - Brianna Phillips, Safe Harbour Case Manager, CAPTAIN Community Human Services

# Action-Means-Purpose (AMP) Model



Obtaining a Minor → For a Commercial Sexual Act




## [NY CLS Soc Serv § 447-a](#)

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Social Services Law (Arts. 1 — 12) > Article 6 Children (Titles 1 — 11) > Title 8-A Safe Harbour for Exploited Children Act (§§ 447-a — 447-b)***

### Notice

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 This section has more than one version with varying effective dates.

### **§ 447-a. Definitions [Effective November 13, 2018]**

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As used in this title:

1.The term “sexually exploited child” means any person under the age of eighteen who has been subject to sexual exploitation because he or she:

(a)is the victim of the crime of sex trafficking as defined in [section 230.34 of the penal law](#) or the crime of sex trafficking of a child as defined in section 230.34-a of the penal law;

(b)engages in any act as defined in [section 230.00 of the penal law](#);

(c)is a victim of the crime of compelling prostitution as defined in [section 230.33 of the penal law](#);

(d)engages in acts or conduct described in article two hundred sixty-three or [section 240.37 of the penal law](#).

2.The term “short-term safe house” means a residential facility operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of this article including a residential facility operating as part of a runaway and homeless youth crisis services program as defined in subdivision four of section five hundred thirty-two-a of the executive law or a not-for-profit agency with experience in providing services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides emergency shelter, services and care to sexually exploited children including food, shelter, clothing, medical care, counseling and appropriate crisis intervention services at the time they are taken into custody by law enforcement and for the duration of any legal proceeding or proceedings in which they are either the complaining witness or the subject child. The short-term safe house shall also be available at the point in time that a child under the age of eighteen has first come into the custody of juvenile detention officials, law enforcement, local jails or the local commissioner of social services or is residing with the local runaway and homeless youth authority.

3.The term “advocate” means an employee of the short-term safe house defined in subdivision two of this section that has been trained to work with and advocate for the needs of sexually exploited children. The advocate shall accompany the child to all court appearances and will serve as a liaison between the short-term safe house and the court.

4.The term “safe house” means a residential facility operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of this article including a residential facility operating as part of an approved runaway program as defined in subdivision four of section five



## NY CLS Soc Serv § 447-a

hundred thirty-two-a of the executive law or a not-for-profit agency with experience in providing services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides shelter for sexually exploited children. In addition, a long-term safe house may be operated by a transitional independent living support program as defined in subdivision six of section five hundred thirty-two-a of the executive law. A safe house serving sexually exploited children as defined in this title shall provide or assist in securing necessary services for such sexually exploited children either through direct provision of services, or through written agreements with other community and public agencies for the provision of services including but not limited to housing, assessment, case management, medical care, legal, mental health and substance and alcohol abuse services. Where appropriate such safe house in accordance with a service plan for such sexually exploited child may also provide counseling and therapeutic services, educational services including life skills services and planning services to successfully transition residents back to the community. Nothing in the provisions of this title or article nineteen-H of the executive law shall prevent a child who is the subject of a proceeding which has not reached final disposition from residing at the safe house for the duration of that proceeding nor shall it prevent any sexually exploited child who is not the subject of a proceeding from residing at the safe house. An advocate employed by a short-term safe house or other appropriate staff of a short-term safe house shall, to the maximum extent possible, preferably within twenty-four hours but within no more than seventy-two hours following a sexually exploited child's admission into the program other than pursuant to a court order, notify such child's parent, guardian or custodian of his or her physical and emotional condition and the circumstances surrounding the child's presence at the program, unless there are compelling circumstances why the parent, guardian or custodian should not be so notified. Where such circumstances exist, the advocate or other appropriate staff member shall either file an appropriate petition in the family court, refer the youth to the local social services district, or in instances where abuse or neglect is suspected, report such case pursuant to title six of this article.

5.The term "community-based program" means a program operated by a not-for-profit organization that provides services such as street outreach, voluntary drop-in services, peer counseling, individual counseling, family-therapy and referrals for services such as educational and vocational training and health care. Any such community-based program may also work with the safe house serving sexually exploited children as defined in this title to provide transitional services to such children returning to the community.

## History

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Add, [L 2008, ch 569, § 1](#), eff April 1, 2010; amd, [L 2010, ch 58, § 1](#) (Part G), eff July 2, 2010, deemed eff on and after April 1, 2010; [L 2017, ch 56, § 8](#) (Part M), eff Jan 1, 2018; [L 2018, ch 189, § 11](#), eff Nov 13, 2018.

### Annotations

## Notes

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### Editor's Notes

**Laws 2017, ch 56, § 9 (Part M)**, eff Jan 1, 2018, provides:

§ 9. This act shall take effect January 1, 2018; provided however, that: (a) the office of children and family services is authorized to promulgate regulations regarding any of the provisions of this act on or before the effective date of such act; provided, however, such office shall promulgate regulations specifying that services authorized in a municipality's consolidated services plan in accordance with items (A) and (B) of clause (iii) of

## NY CLS Soc Serv § 447-a

subparagraph 3 of paragraph a of subdivision 2 of [section 420 of the executive law](#), as amended by section one of this act, may be provided by a program but are not required;

(b) the amendments to article 19-H of the executive law made by section six of this act that require that certain residential runaway and homeless youth programs be operated by authorized agencies shall be deemed to apply to such programs that are certified by the office of children and family services on or after the effective date of this act;

(c) the amendments to:

(i) paragraph a of subdivision 2 of [section 420 of the executive law](#), made by section one of this act, shall not affect the expiration and reversion of such subdivision pursuant to section 9 of part G of chapter 57 of the laws of 2013 and shall expire and be deemed repealed therewith; and

(ii) subdivisions 4 and 6 of [section 532-a of the executive law](#), made by section two of this act, shall not affect the expiration and reversion of such subdivisions pursuant to section 9 of part G of chapter 57 of the laws of 2013 and shall expire and be deemed repealed therewith;

(iii) subdivision 2 of [section 532-b of the executive law](#) made by section three of this act, shall not affect the expiration and reversion of such subdivision pursuant to section 9 of part G of chapter 57 of the laws of 2013 and shall expire and be deemed repealed therewith.

**Laws 2018, ch 189, § 24**, eff November 13, 2018, provides:

§ 24. This act shall take effect on the ninetieth day after it shall have become a law.

#### Amendment Notes

**The 2017 amendment by ch 56, § 8 (Part M)**, substituted “a runaway and homeless youth crisis services program” for “an approved runaway program” in the first sentence of 2.

**The 2018 amendment by ch 189, § 11**, added “or the crime of sex trafficking of a child as defined in section 230.34-a of the penal law” in 1(a).

## Research References & Practice Aids

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#### Hierarchy Notes:

[NY CLS Soc Serv](#)

[NY CLS Soc Serv, Art. 6](#)

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## **NY CLS Soc Serv § 447-b**

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Social Services Law (Arts. 1 — 12) > Article 6 Children (Titles 1 — 11) > Title 8-A Safe Harbour for Exploited Children Act (§§ 447-a — 447-b)***

### **§ 447-b. Services for exploited children**

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1. Notwithstanding any inconsistent provision of law, pursuant to regulations of the office of children and family services, every local social services district shall as a component of the district's multi-year consolidated services child welfare services plan address the child welfare services needs of sexually exploited children and to the extent that funds are available specifically therefor ensure that a short-term safe house or another short-term safe placement such as an approved runaway and homeless youth program, approved respite or crisis program providing crisis intervention or respite services or community-based program to serve sexually exploited children is available to children residing in such district. Nothing in this section shall prohibit a local social services district from utilizing existing respite or crisis intervention services already operated by such social services district or homeless youth programs or services for victims of human trafficking pursuant to article ten-D of this chapter so long as the staff members have received appropriate training approved by the office of children and family services regarding sexually exploited children and the existing programs and facilities provide a safe, secure and appropriate environment for sexually exploited children. Crisis intervention services, short-term safe house care and community-based programming may, where appropriate, be provided by the same not-for-profit agency. Local social services districts may work cooperatively to provide such short-term safe house or other short-term safe placement, services and programming and access to such placement, services and programming may be provided on a regional basis, provided, however, that every local social services district shall to the extent that funds are available ensure that such placement, services and programs shall be readily accessible to sexually exploited children residing within the district.

2. All of the services created under this title may, to the extent possible provided by law, be available to all sexually exploited children whether they are accessed voluntarily, as a condition of an adjournment in contemplation of dismissal issued in criminal court, through the diversion services created under section seven hundred thirty-five of the family court act, through a proceeding under article three of the family court act, a proceeding under article ten of the family court act or through a referral from a local social services agency.

3. The capacity of the crisis intervention services and community-based programs in subdivision one of this section shall be based on the number of sexually exploited children in each district who are in need of such services. A determination of such need shall be made in two thousand ten and every five years thereafter in every social services district by the local commissioner of social services and be included in the integrated county plan. Such determination shall be made in consultation with local law enforcement, runaway and homeless youth program providers, local probation departments, local social services commissioners, the runaway and homeless youth coordinator for the local social services district, local law guardians, presentment agencies, public defenders and district attorney's offices and child advocates and services providers who work directly with sexually exploited youth.

4. In determining the need for and capacity of the services created under this section, each local social services district shall recognize that sexually exploited youth have separate and distinct service needs according to gender and, where a local social services district determines that the need exists, to the extent that funds are available, appropriate programming shall be made available.

5. To the extent funds are specifically appropriated therefor, the office of children and family services shall contract with an appropriate not-for-profit agency with experience working with sexually exploited children to operate at least one long-term safe house in a geographically appropriate area of the state which shall provide

## NY CLS Soc Serv § 447-b

safe and secure long term housing and specialized services for sexually exploited children throughout the state. The appropriateness of the geographic location shall be determined taking into account the areas of the state with high numbers of sexually exploited children and the need for sexually exploited children to find shelter and long term placement in a region that cannot be readily accessed by the perpetrators of sexual exploitation. The need for more than one long-term safe house shall be determined by the office of children and family services based on the numbers and geographical location of sexually exploited children within the state. Nothing herein shall be construed to preclude an agency from applying for and accepting grants, gifts and bequests of funds from private individuals, foundations and the federal government for the purpose of creating or carrying out the duties of a long-term safe house.

6. The local social services commissioner may, to the extent that funds are available, in conjunction with the division of criminal justice services and local law enforcement officials, contract with an appropriate not-for-profit agency with experience working with sexually exploited children to train law enforcement officials who are likely to encounter sexually exploited children in the course of their law enforcement duties on the provisions of this section and how to identify and obtain appropriate services for sexually exploited children. Local social services districts may work cooperatively to provide such training and such training may be provided on a regional basis. The division of criminal justice services shall assist local social services districts in obtaining any available funds for the purposes of conducting law enforcement training from the federal justice department and the office of juvenile justice and delinquency prevention.

## History

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Add, [L 2008, ch 569, § 1](#), eff April 1, 2010; amd, [L 2010, ch 58, § 2](#) (Part G), eff July 2, 2010, deemed eff on and after April 1, 2010.

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

[NY CLS Soc Serv](#)

[NY CLS Soc Serv, Art. 6](#)

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## **NY CLS CPL § 440.10**

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Criminal Procedure Law (Pts. ONE — THREE) > Part TWO The Principal Proceedings (Titles H — M) > Title M Proceedings After Judgment (Arts. 440 — 470) > Article 440 Post-Judgment Motions (§§ 440.10 — 440.70)***

### **Notice**

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 This section has more than one version with varying effective dates.

### **§ 440.10. Motion to vacate judgment [Effective November 13, 2018]**

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1. At any time after the entry of a judgment, the court in which it was entered may, upon motion of the defendant, vacate such judgment upon the ground that:

- (a) The court did not have jurisdiction of the action or of the person of the defendant; or
- (b) The judgment was procured by duress, misrepresentation or fraud on the part of the court or a prosecutor or a person acting for or in behalf of a court or a prosecutor; or
- (c) Material evidence adduced at a trial resulting in the judgment was false and was, prior to the entry of the judgment, known by the prosecutor or by the court to be false; or
- (d) Material evidence adduced by the people at a trial resulting in the judgment was procured in violation of the defendant's rights under the constitution of this state or of the United States; or
- (e) During the proceedings resulting in the judgment, the defendant, by reason of mental disease or defect, was incapable of understanding or participating in such proceedings; or
- (f) Improper and prejudicial conduct not appearing in the record occurred during a trial resulting in the judgment which conduct, if it had appeared in the record, would have required a reversal of the judgment upon an appeal therefrom; or
- (g) New evidence has been discovered since the entry of a judgment based upon a verdict of guilty after trial, which could not have been produced by the defendant at the trial even with due diligence on his part and which is of such character as to create a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant; provided that a motion based upon such ground must be made with due diligence after the discovery of such alleged new evidence; or
- (g-1) Forensic DNA testing of evidence performed since the entry of a judgment, (1) in the case of a defendant convicted after a guilty plea, the court has determined that the defendant has demonstrated a substantial probability that the defendant was actually innocent of the offense of which he or she was convicted, or (2) in the case of a defendant convicted after a trial, the court has determined that there exists a reasonable probability that the verdict would have been more favorable to the defendant.
- (h) The judgment was obtained in violation of a right of the defendant under the constitution of this state or of the United States; or

## NY CLS CPL § 440.10

(i) The judgment is a conviction where the arresting charge was under section 240.37 (loitering for the purpose of engaging in a prostitution offense, provided that the defendant was not alleged to be loitering for the purpose of patronizing a person for prostitution or promoting prostitution) or 230.00 (prostitution) or 230.03 (prostitution in a school zone) of the penal law, and the defendant's participation in the offense was a result of having been a victim of sex trafficking under [section 230.34 of the penal law](#), sex trafficking of a child under section 230.34-a of the penal law, labor trafficking under [section 135.35 of the penal law](#), aggravated labor trafficking under [section 135.37 of the penal law](#), compelling prostitution under [section 230.33 of the penal law](#), or trafficking in persons under the Trafficking Victims Protection Act (United States Code, title 22, chapter 78); provided that

2. Notwithstanding the provisions of subdivision one, the court must deny a motion to vacate a judgment when:

(a) The ground or issue raised upon the motion was previously determined on the merits upon an appeal from the judgment, unless since the time of such appellate determination there has been a retroactively effective change in the law controlling such issue; or

(b) The judgment is, at the time of the motion, appealable or pending on appeal, and sufficient facts appear on the record with respect to the ground or issue raised upon the motion to permit adequate review thereof upon such an appeal. This paragraph shall not apply to a motion under paragraph (i) of subdivision one of this section; or

(c) Although sufficient facts appear on the record of the proceedings underlying the judgment to have permitted, upon appeal from such judgment, adequate review of the ground or issue raised upon the motion, no such appellate review or determination occurred owing to the defendant's unjustifiable failure to take or perfect an appeal during the prescribed period or to his unjustifiable failure to raise such ground or issue upon an appeal actually perfected by him; or

(d) The ground or issue raised relates solely to the validity of the sentence and not to the validity of the conviction.

3. Notwithstanding the provisions of subdivision one, the court may deny a motion to vacate a judgment when:

(a) Although facts in support of the ground or issue raised upon the motion could with due diligence by the defendant have readily been made to appear on the record in a manner providing adequate basis for review of such ground or issue upon an appeal from the judgment, the defendant unjustifiably failed to adduce such matter prior to sentence and the ground or issue in question was not subsequently determined upon appeal. This paragraph does not apply to a motion based upon deprivation of the right to counsel at the trial or upon failure of the trial court to advise the defendant of such right, or to a motion under paragraph (i) of subdivision one of this section; or

(b) The ground or issue raised upon the motion was previously determined on the merits upon a prior motion or proceeding in a court of this state, other than an appeal from the judgment, or upon a motion or proceeding in a federal court; unless since the time of such determination there has been a retroactively effective change in the law controlling such issue; or

(c) Upon a previous motion made pursuant to this section, the defendant was in a position adequately to raise the ground or issue underlying the present motion but did not do so.

Although the court may deny the motion under any of the circumstances specified in this subdivision, in the interest of justice and for good cause shown it may in its discretion grant the motion if it is otherwise meritorious and vacate the judgment.

4. If the court grants the motion, it must, except as provided in subdivision five or six of this section, vacate the judgment, and must dismiss the accusatory instrument, or order a new trial, or take such other action as is appropriate in the circumstances.

5. Upon granting the motion upon the ground, as prescribed in paragraph (g) of subdivision one, that newly discovered evidence creates a probability that had such evidence been received at the trial the verdict would



## NY CLS CPL § 440.10

have been more favorable to the defendant in that the conviction would have been for a lesser offense than the one contained in the verdict, the court may either:

(a) Vacate the judgment and order a new trial; or

(b) With the consent of the people, modify the judgment by reducing it to one of conviction for such lesser offense. In such case, the court must re-sentence the defendant accordingly.

6. If the court grants a motion under paragraph (i) of subdivision one of this section, it must vacate the judgment and dismiss the accusatory instrument, and may take such additional action as is appropriate in the circumstances.

7. Upon a new trial resulting from an order vacating a judgment pursuant to this section, the indictment is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time the previous trial was commenced, regardless of whether any count was dismissed by the court in the course of such trial, except (a) those upon or of which the defendant was acquitted or deemed to have been acquitted, and (b) those dismissed by the order vacating the judgment, and (c) those previously dismissed by an appellate court upon an appeal from the judgment, or by any court upon a previous post-judgment motion.

8. Upon an order which vacates a judgment based upon a plea of guilty to an accusatory instrument or a part thereof, but which does not dismiss the entire accusatory instrument, the criminal action is, in the absence of an express direction to the contrary, restored to its prepleading status and the accusatory instrument is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time of the entry of the plea, except those subsequently dismissed under circumstances specified in paragraphs (b) and (c) of subdivision six. Where the plea of guilty was entered and accepted, pursuant to subdivision three of section 220.30, upon the condition that it constituted a complete disposition not only of the accusatory instrument underlying the judgment vacated but also of one or more other accusatory instruments against the defendant then pending in the same court, the order of vacation completely restores such other accusatory instruments; and such is the case even though such order dismisses the main accusatory instrument underlying the judgment.

## History

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Add, L 1970, ch 996, § 1; amd, [L 2010, ch 332, §§ 1–5](#) (see 2010 note below); [L 2012, ch 19, § 4](#), eff Aug 1, 2012 (see 2012 notes below); [L 2015, ch 368, § 29](#), eff Jan 19, 2016; [L 2018, ch 189, § 9](#), eff Nov 13, 2018.

Annotations

## Notes

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### Editor's Notes:

[Laws 2010, ch 332, § 6](#), eff August 13, 2010, provides as follows:

§ 6. This act shall take effect immediately and shall apply to convictions taking place before or after it takes effect.

[Laws 2012, ch 19, §§ 7, 9](#), eff Aug 1, 2012, provide as follows:

§ 7. Nothing in this act shall be construed to create or impose an affirmative obligation upon laboratories, police departments, district attorneys, or any other law enforcement agencies or personnel to retain or preserve property that may contain DNA if such obligation did not exist prior to the effective date of this act, provided, however, that nothing in this act shall be construed to affect or remove any such obligation if it did exist prior to the effective date of this act.





## **NY CLS Penal § 135.35**

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Penal Law (Pts. ONE — FOUR) > Part THREE Specific Offenses (Titles G — P) > Title H Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and Intimidation (Arts. 120 — 135) > Article 135 Kidnapping, Coercion and Related Offenses (§§ 135.00 — 135.75)***

### **§ 135.35. Labor trafficking**

---

A person is guilty of labor trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person by means of intentionally:

1.

requiring that the labor be performed to retire, repay, or service a real or purported debt that the actor has caused by a systematic ongoing course of conduct with intent to defraud such person;

2.withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document, of another person with intent to impair said person's freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat;

3.using force or engaging in any scheme, plan or pattern to compel or induce such person to engage in or continue to engage in labor activity by means of instilling a fear in such person that, if the demand is not complied with, the actor or another will do one or more of the following:

(a)cause physical injury, serious physical injury, or death to a person; or

(b)cause damage to property, other than the property of the actor; or

(c)engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this article; or

(d)accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against such person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or

(e)expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

(f)testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(g)use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

Labor trafficking is a class D felony.

## **History**

Add, [L 2007, ch 74, § 3](#), eff Nov 1, 2007; amd, *L 2015, ch 368, § 5*, eff Jan 19, 2016.

Annotations

## Notes

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### Editor's Notes:

*Laws 2015 ch 368, § 1*, eff Jan 19, 2016, provide:

Section 1. Short title. This act shall be known and may be cited as the "trafficking victims protection and justice act".

### Amendment Notes

□ **The 2015 amendment by ch 368, § 5**, deleted former 1, which read: "unlawfully providing a controlled substance to such person with intent to impair said person's judgment"; redesignated former 2 through 4 as 1 through 3; and substituted "article" for "chapter" in 3(c).

### Repeal Notes:

[1967, ch 791] Sections 135.35 and 135.40, which were repealed by § 13 of this act, related to the proceeding to determine sentence for kidnapping in the first degree.

### Prior Law:

Former § 15.35, add, L 1965, ch 1030, § 1; repealed, L 1967, ch 791, § 13, eff Sept 1, 1967.

## Research References & Practice Aids

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### Jurisprudences:

35 NY Jur 2d Criminal Law Substantive Principles and Offenses § 357.

45 Am Jur 2d, Involuntary Servitude and Peonage § 19.

### Criminal Jury Instructions:

Labor trafficking. CJI2d [NY] [Penal Law § 135.35\(1–4\)](#).

### Hierarchy Notes:

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title H, Art. 135](#)

## [NY CLS Penal § 135.36](#)

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Penal Law (Pts. ONE — FOUR) > Part THREE Specific Offenses (Titles G — P) > Title H Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and Intimidation (Arts. 120 — 135) > Article 135 Kidnapping, Coercion and Related Offenses (§§ 135.00 — 135.75)***

### **§ 135.36. Labor trafficking; accomplice**

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In a prosecution for labor trafficking, a person who has been compelled or induced or recruited, enticed, harbored or transported to engage in labor shall not be deemed to be an accomplice.

### **History**

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Add, [L 2007, ch 74, § 3](#), eff Nov 1, 2007.

Annotations

### **Research References & Practice Aids**

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#### **Jurisprudences:**

21 Am Jur 2d, Criminal Law §§ 188 et seq.

45 Am Jur 2d, Involuntary Servitude and Peonage § 19.

#### **Hierarchy Notes:**

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title H, Art. 135](#)

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## [NY CLS Penal § 135.37](#)

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Penal Law (Pts. ONE — FOUR) > Part THREE Specific Offenses (Titles G — P) > Title H Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and Intimidation (Arts. 120 — 135) > Article 135 Kidnapping, Coercion and Related Offenses (§§ 135.00 — 135.75)***

### **§ 135.37. Aggravated labor trafficking**

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A person is guilty of aggravated labor trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person to engage in labor by means of intentionally unlawfully providing a controlled substance to such person with intent to impair said person's judgment.

Aggravated labor trafficking is a class C felony.

### **History**

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*L 2015, ch 368, § 6, eff Jan 19, 2016.*

Annotations

### **Notes**

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#### **Editor's Notes:**

*L 2015, ch 368, § 1, eff Jan 19, 2016, provides:*

Section 1. Short title. This act shall be known and may be cited as the "trafficking victims protection and justice act".

### **Research References & Practice Aids**

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#### **Hierarchy Notes:**

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title H, Art. 135](#)

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## [NY CLS Penal § 230.34-A](#)

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Penal Law (Pts. ONE — FOUR) > Part THREE Specific Offenses (Titles G — P) > Title M Offenses Against Public Health and Morals (Arts. 220 — 235) > Article 230 Prostitution Offenses (§§ 230.00 — 230.40)***

### **230.34-A [Effective November 13, 2018]**

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Sex trafficking of a child.

1.A person is guilty of sex trafficking of a child when he or she, being twenty-one years old or more, intentionally advances or profits from prostitution of another person and such person is a child less than eighteen years old. Knowledge by the defendant of the age of such child is not an element of this offense and it is not a defense to a prosecution therefor that the defendant did not know the age of the child or believed such age to be eighteen or over.

2.For purposes of this section:

(a)A person “advances prostitution” when, acting other than as a person in prostitution or as a patron thereof, and with intent to cause prostitution, he or she directly engages in conduct that facilitates an act or enterprise of prostitution.

(b)A person “profits from prostitution” when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, and with intent to facilitate prostitution, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates in the proceeds of prostitution activity.

Sex trafficking of a child is a class B felony.

### **History**

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*L 2018, ch 189, § 1, eff Nov 13, 2018.*

Annotations

### **Research References & Practice Aids**

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#### **Hierarchy Notes:**

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title M](#)

[NY CLS Penal, Pt. THREE, Title M, Art. 230](#)

NY CLS Penal § 230.34-A

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## **NY CLS Penal § 230.35**

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Penal Law (Pts. ONE — FOUR) > Part THREE Specific Offenses (Titles G — P) > Title M Offenses Against Public Health and Morals (Arts. 220 — 235) > Article 230 Prostitution Offenses (§§ 230.00 — 230.40)***

### **§ 230.35. Promoting or compelling prostitution; accomplice**

In a prosecution for promoting prostitution or compelling prostitution, a person less than eighteen years old from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

### **History**

Add, L 1978, ch 627, § 5, eff Sept 1, 1978; amd, [L 2005, ch 450, § 2](#), eff Nov 1, 2005; L 2015, ch 368, § 25, eff Jan 19, 2016.

Annotations

### **Notes**

#### **Prior Law:**

Former § 230.35, add, L 1965, ch 1030, § 1; repealed, L 1978, ch 627, § 5, eff Sept 1, 1978.

#### **Editor's Notes:**

*Laws 2015 ch 368, § 1*, eff Jan 19, 2016, provide:

Section 1. Short title. This act shall be known and may be cited as the “trafficking victims protection and justice act”.

#### **Amendment Notes:**

☐☐**2005**. Chapter 450, § 2 amended:

☐Section heading by adding the matter in italics.

Section by adding the matter in italics.

**The 2015 amendment by ch 368, § 25**, substituted “eighteen years old” for “seventeen years of age.”

### **Notes to Decisions**

#### **1.In general**



## 2. Under former § 2460

### 1. In general

Although prostitutes may be considered accomplices, as term is defined in [CPL § 60.22](#), of defendant accused of promoting prostitution in second degree, those accomplices under 17 years of age at time they became involved with defendant are not accomplices whose testimony need be corroborated. [People v Pasini, 112 A.D.2d 1013, 492 N.Y.S.2d 819, 1985 N.Y. App. Div. LEXIS 52222 \(N.Y. App. Div. 2d Dep't 1985\)](#).

In a prosecution for first degree kidnapping with the intent to accomplish and advance the commission of the felony of third degree promotion of prostitution, the testimony of the alleged kidnap victim would not be subject to any necessity for corroboration pursuant to [Penal Law § 230.35](#) on the asserted ground that the victim was an "accomplice" to the secondary felony, since, though defendants intended to use the victim as a prostitute, there was no evidence that she was a prostitute or that defendants were her pimps, and since the legislature never intended that kidnap victims be deemed "accomplices" within the meaning of the statute. [People v Valero, 120 Misc. 2d 539, 466 N.Y.S.2d 600, 1983 N.Y. Misc. LEXIS 3756 \(N.Y. County Ct. 1983\)](#).

Defendant in rape prosecution, who told complainant that he had AIDS, would be ordered to provide blood samples as nontestimonial evidence under CLS [CPL § 240.40\(2\)\(b\)\(v\)](#) to determine whether defendant could be identified or excluded as perpetrator and in order that Vitullo rape kit taken from complainant, which police had refused to analyze due to possibility of AIDS, could be safely analyzed, since there was no less obtrusive means of obtaining needed evidence, defendant's constitutional rights would not be violated by testing for purpose of possibly preventing his further prosecution, and complainant had right to know if she was exposed to AIDS. [People v Durham, 146 Misc. 2d 913, 553 N.Y.S.2d 944, 1990 N.Y. Misc. LEXIS 107 \(N.Y. Sup. Ct. 1990\)](#).

### 2. Under former § 2460

Where there is corroboration of witnesses in a prosecution for compulsory prostitution of women, a defendant may be convicted on testimony of two prostitutes, also named in indictment, and of an accomplice of defendant under this section. [People v Guardino, 290 N.Y. 749, 50 N.E.2d 98, 290 N.Y. \(N.Y.S.\) 749, 1943 N.Y. LEXIS 1367 \(N.Y. 1943\)](#).

Testimony of prostitute was sufficiently corroborated to sustain conviction of defendant for receiving monies from her earnings. [People v Pupera, 17 A.D.2d 1027, 235 N.Y.S.2d 199, 1962 N.Y. App. Div. LEXIS 6766 \(N.Y. App. Div. 4th Dep't 1962\)](#).

The testimony of complainant, a prostitute, could be supported, under this section, by testimony of another prostitute, also named in indictment as having been induced, enticed and procured for immoral purposes. [People v Guardino, 30 N.Y.S.2d 729, 177 Misc. 402, 1941 N.Y. Misc. LEXIS 2323 \(N.Y. County Ct. 1941\)](#), aff'd, 265 A.D. 872, 37 N.Y.S.2d 981, 1942 N.Y. App. Div. LEXIS 6261 (N.Y. App. Div. 1942).

Incest is distinguished as not requiring corroboration of the prosecutrix. [People v Jones, 32 N.Y.S.2d 214, 177 Misc. 922, 1942 N.Y. Misc. LEXIS 1266 \(N.Y. County Ct. 1942\)](#).

The measure of corroboration required for testimony of the female whose activities are the subject of the charge, by subd. 9 of this section, is more than that demanded by § 395 of the Code of Criminal Procedure respecting confessions and should go to material portions of the crime defined by the statute. [People v Loocerello, 34 Misc. 2d 1087, 233 N.Y.S.2d 206, 1962 N.Y. Misc. LEXIS 3055 \(N.Y. County Ct. 1962\)](#), rev'd, 18 A.D.2d 1125, 239 N.Y.S.2d 283, 1963 N.Y. App. Div. LEXIS 4033 (N.Y. App. Div. 4th Dep't 1963).

## Research References & Practice Aids

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**Jurisprudences:**

35C NY Jur 2d Criminal Law Substantive Principles and Offenses § 1787.

63C Am Jur 2d, Prostitution § 17.

**Annotations:**

Separate acts of taking earnings of or support from prostitute as separate or continuing offenses of pimping. [3 ALR4th 1195](#).

**Texts:**

6 Frumer & Biskind, [Bender's New York Evidence—CPLR §§ 25.01](#), 25.05.

[New York Criminal Practice Ch. 77](#).

**Hierarchy Notes:**

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title M](#)

[NY CLS Penal, Pt. THREE, Title M, Art. 230](#)

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## [NY CLS Penal § 230.36](#)

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Penal Law (Pts. ONE — FOUR) > Part THREE Specific Offenses (Titles G — P) > Title M Offenses Against Public Health and Morals (Arts. 220 — 235) > Article 230 Prostitution Offenses (§§ 230.00 — 230.40)***

### **§ 230.36. Sex trafficking; accomplice**

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In a prosecution for sex trafficking, a person from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

### **History**

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Add, [L 2007, ch 74, § 2](#), eff Nov 1, 2007.

Annotations

### **Research References & Practice Aids**

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#### **Jurisprudences:**

35C NY Jur 2d Criminal Law Substantive Principles and Offenses § 1789.

21 Am Jur 2d, Criminal Law §§ 188 et seq.

63C Am Jur 2d, Prostitution § 22.

#### **Hierarchy Notes:**

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title M](#)

[NY CLS Penal, Pt. THREE, Title M, Art. 230](#)

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## **NY CLS Penal § 230.40**

Current through 2018 Chapters 1-321

***New York Consolidated Laws Service > Penal Law (Pts. ONE — FOUR) > Part THREE Specific Offenses (Titles G — P) > Title M Offenses Against Public Health and Morals (Arts. 220 — 235) > Article 230 Prostitution Offenses (§§ 230.00 — 230.40)***

### **§ 230.40. Permitting prostitution**

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A person is guilty of permitting prostitution when, having possession or control of premises or vehicle which he or she knows are being used for prostitution purposes or for the purpose of advancing prostitution, he or she fails to make reasonable effort to halt or abate such use.

Permitting prostitution is a class B misdemeanor.

### **History**

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Add, L 1965, ch 1030, § 1, eff Sept 1, 1967, with substance derived from § 1146 in part; amd, L 2015, ch 368, § 26, eff Jan 19, 2016.

Annotations

### **Notes**

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#### **Commission Staff Notes:**

See Commission Staff Notes under § 230.15.

#### **Editor's Notes:**

*Laws 2015 ch 368, § 1*, eff Jan 19, 2016, provide:

Section 1. Short title. This act shall be known and may be cited as the “trafficking victims protection and justice act”.

#### **Amendment Notes**

**The 2015 amendment by ch 368, § 26**, added “or vehicle”; added “or for the purpose of advancing prostitution”; and made stylistic changes.

### **Notes to Decisions**

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**1.In general**

**2.Under former § 1146; in general**

**3.—Nature and elements of offense**

## NY CLS Penal § 230.40

- 4.—Parties subject to prosecution
- 5.—Recovery of possession of premises
- 6.—Jurisdiction
- 7.—Admissibility of evidence; corroboration
- 8.—Sufficiency of evidence
- 9.—Sentence
- 10. Under former Code of Criminal Procedure § 887

**1. In general**

Although prostitutes may be considered accomplices, as term is defined in [CPL § 60.22](#), of defendant accused of promoting prostitution in second degree, those accomplices under 17 years of age at time they became involved with defendant are not accomplices whose testimony need be corroborated. [People v Pasini, 112 A.D.2d 1013, 492 N.Y.S.2d 819, 1985 N.Y. App. Div. LEXIS 52222 \(N.Y. App. Div. 2d Dep't 1985\)](#).

Absent proof that defendant desk clerk was aware that the premises were to be used for purposes of prostitution, his mere knowing rental of a room to parties known not to be married to each other does not constitute a violation of [Penal Law §§ 110.00 and 230.40](#) relating to attempting to permit prostitution. [People v Harris, 74 Misc. 2d 707, 345 N.Y.S.2d 890, 1973 N.Y. Misc. LEXIS 1809 \(N.Y. App. Term 1973\)](#).

Where lease is void for illegal use of demised premises, covenants in lease which relate to preliminary notice as a condition to instituting eviction proceedings have no probative effect. [Murphy v Relaxation Plus Commodore, Ltd., 83 Misc. 2d 838, 373 N.Y.S.2d 793, 1975 N.Y. Misc. LEXIS 2995 \(N.Y. App. Term 1975\)](#).

Convictions of four women arrested on hotel premises for prostitution, conviction of an alleged clerk for permitting prostitution and reputation of the hotel in the community were not only presumptive evidence of nuisance but prima facie evidence of knowledge, acquiescence, and participation by hotel operator and owners of fee. [People ex rel. New York v Morbel Realty Corp., 87 Misc. 2d 989, 386 N.Y.S.2d 925, 1976 N.Y. Misc. LEXIS 2341 \(N.Y. Sup. Ct. 1976\)](#).

A charge against a bartender of aiding and abetting prostitution in violation of [Penal Law § 230.40](#) would not be dismissed as invalid due merely to the omission of an allegation that defendant failed to make reasonable efforts to halt or abate such prostitution, since such neglect on the part of defendant was fairly implied from the claim that he facilitated prostitution on his premises. [People v Gilmore, 120 Misc. 2d 741, 468 N.Y.S.2d 965, 1983 N.Y. Misc. LEXIS 3790 \(N.Y. City Ct. 1983\)](#).

A building owner who had allowed women whom he knew were not tenants into his building on two separate occasions accompanied by unidentified men would be found guilty of permitting prostitution in violation of [Penal L § 230.40](#), since, though the presumptions contained in [Real P Law § 231](#) and [Pub Health Law § 2324-a](#) that two or more convictions for prostitution occurring at one location within one year constitutes presumptive evidence of a penal law violation may not permissibly be read into the criminal statute in that the imposition of such a presumption would work to impermissibly shift the burden of proof to defendants, the People met their burden of proof as to defendant by proving beyond a reasonable doubt that he had been aware of the activity that was occurring on his premises but had failed to take reasonable steps to halt or abate it. [People v Taliaferrow, 121 Misc. 2d 307, 467 N.Y.S.2d 522, 1983 N.Y. Misc. LEXIS 3919 \(N.Y. Crim. Ct. 1983\)](#).

Defendant, hotel desk clerk, was not entitled to dismissal of charge of permitting prostitution on ground that information failed to make out present "use" of premises for prostitution purposes and referred only to future "intent"



## NY CLS Penal § 230.40

to use” on part of police officers posing as prostitute and “john,” since it would be overly narrow and unintended interpretation of CLS [Penal § 230.40](#) to suggest that premises were not being “used” for prostitution purposes until officers actually entered room within premises after male officer had told defendant that his female companion was “prostitute.” [People v Behncke, 141 Misc. 2d 630, 534 N.Y.S.2d 79, 1988 N.Y. Misc. LEXIS 662 \(N.Y. Crim. Ct. 1988\).](#)

Defendant, hotel desk clerk who rented room to 2 police officers posing as prostitute and her “john,” could not be charged with permitting prostitution since there could be no actual agreement, offer, solicitation, or other understanding between officers to engage in sexual conduct for fee, and thus there could be neither “prostitution” nor use of hotel premises “for prostitution purposes” as required under CLS [Penal § 230.40](#); likewise, defendant could not be charged with fourth degree promoting prostitution since there was no actual prostitution relationship between officers. [People v Behncke, 141 Misc. 2d 630, 534 N.Y.S.2d 79, 1988 N.Y. Misc. LEXIS 662 \(N.Y. Crim. Ct. 1988\).](#)

Defendant, hotel desk clerk who rented room to 2 police officers posing as prostitute and her “john,” engaged in conduct which, but for lack of actual prostitution relationship between officers, amounted to violation of CLS [Penal §§ 230.40](#) and [230.20](#); thus, although defendant could not be charged with completed crimes of permitting prostitution and fourth degree promoting prostitution, he could be charged with attempt to commit those crimes under CLS [Penal § 110.10](#). [People v Behncke, 141 Misc. 2d 630, 534 N.Y.S.2d 79, 1988 N.Y. Misc. LEXIS 662 \(N.Y. Crim. Ct. 1988\).](#)

Defendant, hotel desk clerk who rented room to 2 police officers posing as prostitute and her “john,” was not entitled, in interest of justice, to dismissal of information charging him with attempted fourth degree promoting prostitution and attempted permitting prostitution, notwithstanding that he had no prior criminal record, and despite his assertions that no harm resulted and that dismissal would not have negative impact on public’s confidence in criminal justice system, since (1) prostitution is not “victimless” crime and tends to supplement related and more serious criminal activity, (2) public policy of city, as evidenced by consistently large numbers of prostitution arrests and by People’s unwillingness to forego even first-arrest prosecution cases, reflected both underlying public concern for seriousness of offense itself, and desire to stem increase of prostitution-related criminal activity, and (3) defendant’s conduct, by providing premises for fee, had effect of encouraging repeated acts of prostitution to occur. [People v Behncke, 141 Misc. 2d 630, 534 N.Y.S.2d 79, 1988 N.Y. Misc. LEXIS 662 \(N.Y. Crim. Ct. 1988\).](#)

## 2. Under former § 1146; in general

Though a house of ill fame is a public nuisance it may not be lawfully destroyed in abating it. [Lawton v Steele, 119 N.Y. 226, 23 N.E. 878, 119 N.Y. \(N.Y.S.\) 226, 1890 N.Y. LEXIS 1081 \(N.Y.\), reh’g denied, 23 N.E. 1151 \(N.Y. 1890\), aff’d, 152 U.S. 133, 14 S. Ct. 499, 38 L. Ed. 385, 1894 U.S. LEXIS 2103 \(U.S. 1894\).](#)

The police authorities will not be precluded from maintaining a surveillance over and inspecting a place suspected of being a bawdy house. [Delaney v Flood, 183 N.Y. 323, 76 N.E. 209, 183 N.Y. \(N.Y.S.\) 323, 1906 N.Y. LEXIS 785 \(N.Y. 1906\).](#)

In an action against holder of liquor tax certificate and his surety brought by state commissioner of excise to recover on bond for violation of Liq. Tax Law (now repealed) fact that defendant allowed premises to become disorderly cannot be established by record of court of special sessions which shows that wife of defendant had been previously convicted of keeping disorderly house on premises in violation of this section. Such evidence is inadmissible either against defendant or his surety. [Green v Altenkirch, 176 A.D. 320, 162 N.Y.S. 447, 1916 N.Y. App. Div. LEXIS 8998 \(N.Y. App. Div. 1916\).](#)

Conviction of violation of this section will not be reversed upon ground that information submitted for warrant was made by police officer upon information and belief without stating sources and grounds thereof, where there is nothing to show that magistrate did not have before him depositions of other witnesses and defendant did not object



## NY CLS Penal § 230.40

upon her arraignment, but consented to case being set for trial. [\*People v Costello\*, 182 A.D. 341, 170 N.Y.S. 341, 1918 N.Y. App. Div. LEXIS 5031 \(N.Y. App. Div. 1918\)](#).

Defendant charged in court of special sessions with misdemeanor of keeping and maintaining a disorderly house in violation of § 1146, is entitled to a bill of particulars, where information covers a period of almost four months and defendant may be confronted at trial with evidence of unlawful conduct on any day during that period. [\*People ex rel. Capell v Palmer\*, 9 N.Y.S.2d 627, 170 Misc. 475, 1939 N.Y. Misc. LEXIS 1477 \(N.Y. City Ct. 1939\)](#).

Reputation is not established by proof of specific acts. [\*People v Webb\*, 26 N.Y.S.2d 386, 1941 N.Y. Misc. LEXIS 1564 \(N.Y. Spec. Sess. 1941\)](#).

Evidence of conviction under this section may properly be used against accused in deportation proceedings. [\*United States ex rel. Tomasso v Flynn\*, 22 F.2d 174, 1927 U.S. Dist. LEXIS 1521 \(D.N.Y. 1927\)](#).

### 3. —Nature and elements of offense

It is not an essential element of the offense of keeping a disorderly house that the public should be disturbed by noise, the keeping of a common bawdy or gambling house constitutes the house so kept a disorderly house. [\*King v People\*, 83 N.Y. 587, 83 N.Y. \(N.Y.S.\) 587, 1881 N.Y. LEXIS 34 \(N.Y. 1881\)](#).

Evidence sufficient to show a private house to be one of assignation may fail entirely to prove a hotel to be such. Where there is no evidence to show that the proprietor or his agent have knowledge that a hotel is being used for illegal purposes no conviction can be had under this section. [\*People v Drum\*, 127 A.D. 241, 110 N.Y.S. 1096, 1908 N.Y. App. Div. LEXIS 1942 \(N.Y. App. Div. 1908\)](#).

A violation of this section must be shown to be with the knowledge of the accused but such knowledge may be inferred from circumstances to which he could not close his eyes. [\*People v Rankin\*, 155 N.Y.S. 86, 92 Misc. 62, 1915 N.Y. Misc. LEXIS 686 \(N.Y. Gen. Sess. 1915\)](#).

Violation of this section is not infamous crime which must be prosecuted by indictment. [\*People v Peterson\*, 261 N.Y.S. 151, 145 Misc. 324, 1932 N.Y. Misc. LEXIS 1679 \(N.Y. County Ct. 1932\)](#).

### 4. —Parties subject to prosecution

Under this statute the owner of a hotel is chargeable with the responsibility of knowing what was going on prior to the time that he took over operation of the premises and may be convicted even though he did not actually know that the hotel was being used for immoral purposes. [\*Kahan v Wallander\*, 83 N.Y.S.2d 570, 193 Misc. 190, 1948 N.Y. Misc. LEXIS 3386 \(N.Y. Sup. Ct. 1948\)](#).

### 5. —Recovery of possession of premises

Where tenant occupying upper floors of leased premises has been convicted of keeping disorderly house thereon, both said tenant and subtenant, which occupied first floor and part of basement of said premises, may be dispossessed by landlord under this section. [\*Coste v Pappas\*, 236 A.D. 175, 258 N.Y.S. 293, 1932 N.Y. App. Div. LEXIS 5923 \(N.Y. App. Div. 1932\)](#).

### 6. —Jurisdiction



## NY CLS Penal § 230.40

City court of Utica has not exclusive jurisdiction under § 4 of city court act to try defendant charged with misdemeanor consisting of maintaining disorderly house in such city in violation of this section. [\*People v Steppello\*, 235 A.D. 240, 257 N.Y.S. 208, 1932 N.Y. App. Div. LEXIS 7931 \(N.Y. App. Div. 1932\).](#)

Violation of this section constitutes misdemeanor, and when such violation is committed in city of Syracuse and accused brought before court of special sessions or justice thereof, that court has jurisdiction of offense in first instance, so that upon record in this proceeding court of special sessions of that city had jurisdiction of offense charged against relator. Having jurisdiction of case, and upon relator's plea to offense charged, action taken thereupon by court was within authority granted by (former) § 2188. [\*People ex rel. Pringle v Livingston\*, 239 N.Y.S. 122, 135 Misc. 475, 1930 N.Y. Misc. LEXIS 964 \(N.Y. Sup. Ct. 1930\).](#)

City court of Watertown has jurisdiction under city charter to hear, try and determine a violation of this section and to impose punishment provided for such violation. [\*People v Peterson\*, 261 N.Y.S. 151, 145 Misc. 324, 1932 N.Y. Misc. LEXIS 1679 \(N.Y. County Ct. 1932\).](#)

## 7. —Admissibility of evidence; corroboration

Evidence tending to prove the commission of other crimes unconnected with a violation of this section is inadmissible. [\*People v Jones\*, 191 N.Y. 291, 84 N.E. 61, 191 N.Y. \(N.Y.S.\) 291, 1908 N.Y. LEXIS 1060 \(N.Y. 1908\).](#)

On trial for violation of this section evidence of certain occurrences in presence of defendant, at house in controversy; and of number and sex of persons who, in presence of defendant, from time to time, both day and night, passed through alleged grocery store, situated in room next to street on first floor of house, to and from sitting room or kitchen and bedroom in rear thereof, held, competent. [\*People v Pasquale\*, 206 N.Y. 598, 100 N.E. 413, 206 N.Y. \(N.Y.S.\) 598, 1912 N.Y. LEXIS 1011 \(N.Y. 1912\).](#)

A police officer who made several trips to a house of prostitution and who testified to acts violative of this section committed on the premises is not an accomplice of the proprietor within the meaning of the statute requiring corroboration of such testimony. [\*People v Swift\*, 293 N.Y.S. 378, 161 Misc. 851, 1936 N.Y. Misc. LEXIS 1642 \(N.Y. Sup. Ct. 1936\)](#), aff'd, 251 A.D. 808, 298 N.Y.S. 188, 1937 N.Y. App. Div. LEXIS 7685 (N.Y. App. Div. 1937).

Circumstantial evidence may show knowledge of a hotel owner that the hotel was being used for a disorderly house. [\*Kahan v Wallander\*, 83 N.Y.S.2d 570, 193 Misc. 190, 1948 N.Y. Misc. LEXIS 3386 \(N.Y. Sup. Ct. 1948\).](#)

In a charge under § 1146, evidence of reputation, if offered, might properly be received. [\*People v Webb\*, 26 N.Y.S.2d 386, 1941 N.Y. Misc. LEXIS 1564 \(N.Y. Spec. Sess. 1941\).](#)

## 8. —Sufficiency of evidence

Evidence sufficient to show a private house to be one of assignation may fail entirely to prove a hotel to be such. Where there is no evidence to show that the proprietor or his agent have knowledge that a hotel is being used for illegal purposes no conviction can be had under this section. [\*People v Drum\*, 127 A.D. 241, 110 N.Y.S. 1096, 1908 N.Y. App. Div. LEXIS 1942 \(N.Y. App. Div. 1908\).](#)

Proof that a restaurant maintained by the defendant was frequented by men addicted to drink, that they became intoxicated there, that quarrels were of common occurrence and that indecent language used on the premises could be heard by those living in the neighborhood establishes the crime of keeping a disorderly house. [\*People v Jones\*, 129 A.D. 772, 113 N.Y.S. 1097, 1909 N.Y. App. Div. LEXIS 12 \(N.Y. App. Div.\),](#) aff'd, 195 N.Y. 547, 88 N.E. 1127, 195 N.Y. (N.Y.S.) 547, 1909 N.Y. LEXIS 1120 (N.Y. 1909).

Evidence that hotel rented its 22 rooms 33 times in one evening and that police officer accompanied by policewoman was permitted to register and thereafter a different police officer with the same policewoman was also

## NY CLS Penal § 230.40

permitted to register was sufficient evidence to hold hotel night clerk and night manager for a violation of this section. [People v McCarthy](#), 119 N.Y.S.2d 435, 204 Misc. 460, 1953 N.Y. Misc. LEXIS 1546 (N.Y. Magis. Ct. 1953).

### 9. —Sentence

In view of defendant's advanced age and unblemished record, a judgment imposing a sentence of six months in the county penitentiary for keeping a disorderly house was modified and defendant was sentenced to pay a fine of \$500, where defendant had knowingly permitted an employee from time to time to rent a room of the hotel which he operated to be used for immoral purposes but there was no suggestion that he shared in the proceeds of the illicit activity. *People v Vegard*, 25 A.D.2d 476, 266 N.Y.S.2d 437, 1966 N.Y. App. Div. LEXIS 5148 (N.Y. App. Div. 3d Dep't 1966).

Where defendant pleads guilty to indictment charging him with keeping disorderly house in violation of this section, judgment of conviction, sentencing him to pay fine and stand committed to county jail one day for each dollar of fine until paid, should be entered in favor of people of state against defendant. [People v Manganaro](#), 137 N.Y.S. 82, 76 Misc. 293, 1912 N.Y. Misc. LEXIS 809 (N.Y. County Ct. 1912).

Punishment for misdemeanor of keeping a disorderly house is governed by § 1937, and not by code of criminal procedure, § 899 et seq. since no punishment for said misdemeanor is provided in § 1146. [People ex rel. Sievers v McGee](#), 2 N.Y.S.2d 500, 166 Misc. 379, 1938 N.Y. Misc. LEXIS 1305 (N.Y. Sup. Ct. 1938).

### 10. Under former Code of Criminal Procedure § 887

In a prosecution for "knowingly permitting any person to remain" in premises for the purpose of prostitution, lewdness or assignation, the element of knowledge must be proven and must not be surmised or conjectured. [People ex rel. Harrington v Marcial](#), 110 N.Y.S.2d 361, 1952 N.Y. Misc. LEXIS 2416 (N.Y. Magis. Ct. 1952).

## Research References & Practice Aids

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### Cross References:

This section referred to in CLS [Al Bev § 126](#); CLS [Mult D § 353](#); CLS [Pub Health §§ 2302, 2324](#); CLS Real P Actions & Pr § 715; CLS [Real P § 231](#).

### Jurisprudences:

35C NY Jur 2d Criminal Law Substantive Principles and Offenses § 1790.

64 NY Jur 2d Health and Sanitation § 79 .

24 Am Jur 2d, Disorderly Houses §§ 1–4, 6, 8, 10–13, 15, 26, 27.

### Law Reviews:

Symposium, Decriminalizing prostitution: liberalization or dehumanization? 1 Cardozo Women's L.J. 101.

Balos & Fellows, A matter of prostitution: becoming respectable. [74 NYU L Rev 5](#).

### Matthew Bender's New York Practice Guides:

4 [New York Practice Guide: Business and Commercial § 30.14](#).



**Criminal Jury Instructions:**

Permitting prostitution. CJI2d [NY] [Penal Law § 230.40](#).

**Texts:**

[New York Criminal Practice Ch. 77](#).

**Hierarchy Notes:**

[NY CLS Penal, Pt. THREE](#)

[NY CLS Penal, Pt. THREE, Title M](#)

[NY CLS Penal, Pt. THREE, Title M, Art. 230](#)

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6823--B

2017-2018 Regular Sessions

I N   A S S E M B L Y

March 21, 2017

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Introduced by M. of A. PAULIN, DINOWITZ, BARRETT, BLAKE, COLTON, GUNTHER, PALMESANO, JAFFEE, MOSLEY, JOYNER, SEPULVEDA, HARRIS, HUNTER, L. ROSENTHAL, JEAN-PIERRE, SIMON -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to establishing the crime of sex trafficking of a child and in relation to promoting prostitution; to amend the penal law, the correction law, the criminal procedure law, the social services law, the vehicle and traffic law, the administrative code of the city of New York, the family court act, the mental hygiene law, the public health law, the executive law, and the general business law, in relation to making technical corrections concerning sex trafficking of a child and promoting prostitution; and to repeal certain provisions of the penal law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The penal law is amended by adding a new section 230.34-a  
2     to read as follows:  
3     S 230.34-A SEX TRAFFICKING OF A CHILD.  
4     1. A PERSON IS GUILTY OF SEX TRAFFICKING OF A CHILD WHEN HE OR SHE  
5     INTENTIONALLY ADVANCES OR PROFITS FROM PROSTITUTION OF ANOTHER PERSON  
6     AND SUCH OTHER PERSON IS A CHILD LESS THAN EIGHTEEN YEARS OLD. KNOWLEDGE  
7     BY THE DEFENDANT OF THE AGE OF SUCH CHILD IS NOT AN ELEMENT OF THIS  
8     OFFENSE AND IT IS NOT A DEFENSE TO A PROSECUTION THEREFOR THAT THE  
9     DEFENDANT DID NOT KNOW THE AGE OF THE CHILD OR BELIEVED SUCH AGE TO BE  
10    THE SAME AS OR GREATER THAN THAT SPECIFIED IN THIS SECTION.  
11    2. IN ANY PROSECUTION UNDER THIS SECTION IN WHICH THE DEFENDANT IS  
12    LESS THAN NINETEEN YEARS OLD, IT IS AN AFFIRMATIVE DEFENSE THAT THE

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD09066-08-7

DEFENDANT'S PARTICIPATION IN THE OFFENSE WAS A RESULT OF HAVING BEEN A VICTIM OF SEX TRAFFICKING UNDER SECTION 230.34 OF THIS ARTICLE OR A VICTIM OF TRAFFICKING IN PERSONS UNDER THE TRAFFICKING VICTIMS PROTECTION ACT (UNITED STATES CODE, TITLE 22, CHAPTER 78) AT THE TIME OF THE INSTANT OFFENSE.

SEX TRAFFICKING OF A CHILD IS A CLASS B FELONY.

S 2. Section 230.33 of the penal law is REPEALED.

S 3. Paragraph (a) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, criminal sexual act in the first degree as defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivision five of section 230.34, SEX TRAFFICKING OF A CHILD AS DEFINED IN SECTION 230.34-A, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.

S 4. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and

1 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and  
2 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and  
3 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating  
4 to criminal diversion of prescription medications and prescriptions;  
5 sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03,  
6 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56,  
7 215.00, 215.05 and 215.19; sections 187.10, 187.15, 187.20 and 187.25  
8 relating to residential mortgage fraud, sections 190.40 and 190.42  
9 relating to criminal usury; section 190.65 relating to schemes to  
10 defraud; any felony defined in article four hundred ninety-six; sections  
11 205.60 and 205.65 relating to hindering prosecution; sections 210.10,  
12 210.15, and 215.51 relating to perjury and contempt; section 215.40  
13 relating to tampering with physical evidence; sections 220.06, 220.09,  
14 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46,  
15 220.55, 220.60, 220.65 and 220.77 relating to controlled substances;  
16 sections 225.10 and 225.20 relating to gambling; sections 230.25,  
17 230.30, and 230.32 relating to promoting prostitution; section 230.34  
18 relating to sex trafficking; SECTION 230.34-A RELATING TO SEX TRAFFICK-  
19 ING OF A CHILD; sections 235.06, 235.07, 235.21 and 235.22 relating to  
20 obscenity; sections 263.10 and 263.15 relating to promoting a sexual  
21 performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12,  
22 265.13 and the provisions of section 265.10 which constitute a felony  
23 relating to firearms and other dangerous weapons; sections 265.14 and  
24 265.16 relating to criminal sale of a firearm; section 275.10, 275.20,  
25 275.30, or 275.40 relating to unauthorized recordings; and sections  
26 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or  
27 S 5. Subdivision 2 of section 130.91 of the penal law, as amended by  
28 chapter 405 of the laws of 2010, is amended to read as follows:  
29 2. A "specified offense" is a felony offense defined by any of the  
30 following provisions of this chapter: assault in the second degree as  
31 defined in section 120.05, assault in the first degree as defined in  
32 section 120.10, gang assault in the second degree as defined in section  
33 120.06, gang assault in the first degree as defined in section 120.07,  
34 stalking in the first degree as defined in section 120.60, strangulation  
35 in the second degree as defined in section 121.12, strangulation in the  
36 first degree as defined in section 121.13, manslaughter in the second  
37 degree as defined in subdivision one of section 125.15, manslaughter in  
38 the first degree as defined in section 125.20, murder in the second  
39 degree as defined in section 125.25, aggravated murder as defined in  
40 section 125.26, murder in the first degree as defined in section 125.27,  
41 kidnapping in the second degree as defined in section 135.20, kidnapping  
42 in the first degree as defined in section 135.25, burglary in the third  
43 degree as defined in section 140.20, burglary in the second degree as  
44 defined in section 140.25, burglary in the first degree as defined in  
45 section 140.30, arson in the second degree as defined in section 150.15,  
46 arson in the first degree as defined in section 150.20, robbery in the  
47 third degree as defined in section 160.05, robbery in the second degree  
48 as defined in section 160.10, robbery in the first degree as defined in  
49 section 160.15, promoting prostitution in the second degree as defined  
50 in section 230.30, promoting prostitution in the first degree as defined  
51 in section 230.32, [compelling prostitution as defined in section  
52 230.33,] SEX TRAFFICKING OF A CHILD AS DEFINED IN SECTION 230.34-A,  
53 disseminating indecent material to minors in the first degree as defined  
54 in section 235.22, use of a child in a sexual performance as defined in  
55 section 263.05, promoting an obscene sexual performance by a child as  
56 defined in section 263.10, promoting a sexual performance by a child as



defined in section 263.15, or any felony attempt or conspiracy to commit any of the foregoing offenses.

S 6. Subdivision 1 of section 120.70 of the penal law, as added by chapter 405 of the laws of 2008, is amended to read as follows:

1. A person is guilty of luring a child when he or she lures a child into a motor vehicle, aircraft, watercraft, isolated area, building, or part thereof, for the purpose of committing against such child any of the following offenses: an offense as defined in section 70.02 of this chapter; an offense as defined in section 125.25 or 125.27 of this chapter; a felony offense that is a violation of article one hundred thirty of this chapter; an offense as defined in section 135.25 of this chapter; an offense as defined in sections 230.30, [230.33 or] 230.34 OR 230.34-A of this chapter; an offense as defined in sections 255.25, 255.26, or 255.27 of this chapter; or an offense as defined in sections 263.05, 263.10, or 263.15 of this chapter. For purposes of this subdivision "child" means a person less than seventeen years of age. Nothing in this section shall be deemed to preclude, if the evidence warrants, a conviction for the commission or attempted commission of any crime, including but not limited to a crime defined in article one hundred thirty-five of this chapter.

S 7. Section 230.01 of the penal law, as added by chapter 368 of the laws of 2015, is amended to read as follows:

S 230.01 Prostitution; affirmative defense.

In any prosecution under section 230.00, section 230.03 or subdivision two of section 240.37 of this part, it is an affirmative defense that the defendant's participation in the offense was a result of having been [a victim of compelling prostitution under section 230.33,] a victim of sex trafficking under section 230.34 of this article, A VICTIM OF SEX TRAFFICKING OF A CHILD UNDER SECTION 230.34-A OF THIS ARTICLE or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78).

S 8. Subparagraph (i) of paragraph (a) of subdivision 2 of section 168-a of the correction law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(i) a conviction of or a conviction for an attempt to commit any of the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40, 130.45, 130.60, 230.34, 230.34-A, 250.50, 255.25, 255.26 and 255.27 or article two hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses, provided the victim of such kidnapping or related offense is less than seventeen years old and the offender is not the parent of the victim, or section 230.04, where the person patronized is in fact less than seventeen years of age, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision two of section 230.30, section 230.32[, 230.33,] or 230.34 of the penal law, or section 230.25 of the penal law where the person prostituted is in fact less than seventeen years old, or

S 9. Paragraph (b) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section

1 121.13 of the penal law, criminally negligent homicide as defined in  
2 section 125.10 of the penal law, manslaughter in the second degree as  
3 defined in section 125.15 of the penal law, manslaughter in the first  
4 degree as defined in section 125.20 of the penal law, murder in the  
5 second degree as defined in section 125.25 of the penal law, murder in  
6 the first degree as defined in section 125.27 of the penal law, abortion  
7 in the second degree as defined in section 125.40 of the penal law,  
8 abortion in the first degree as defined in section 125.45 of the penal  
9 law, rape in the third degree as defined in section 130.25 of the penal  
10 law, rape in the second degree as defined in section 130.30 of the penal  
11 law, rape in the first degree as defined in section 130.35 of the penal  
12 law, criminal sexual act in the third degree as defined in section  
13 130.40 of the penal law, criminal sexual act in the second degree as  
14 defined in section 130.45 of the penal law, criminal sexual act in the  
15 first degree as defined in section 130.50 of the penal law, sexual abuse  
16 in the first degree as defined in section 130.65 of the penal law,  
17 unlawful imprisonment in the first degree as defined in section 135.10  
18 of the penal law, kidnapping in the second degree as defined in section  
19 135.20 of the penal law, kidnapping in the first degree as defined in  
20 section 135.25 of the penal law, labor trafficking as defined in section  
21 135.35 of the penal law, aggravated labor trafficking as defined in  
22 section 135.37 of the penal law, custodial interference in the first  
23 degree as defined in section 135.50 of the penal law, coercion in the  
24 first degree as defined in section 135.65 of the penal law, criminal  
25 trespass in the first degree as defined in section 140.17 of the penal  
26 law, burglary in the third degree as defined in section 140.20 of the  
27 penal law, burglary in the second degree as defined in section 140.25 of  
28 the penal law, burglary in the first degree as defined in section 140.30  
29 of the penal law, criminal mischief in the third degree as defined in  
30 section 145.05 of the penal law, criminal mischief in the second degree  
31 as defined in section 145.10 of the penal law, criminal mischief in the  
32 first degree as defined in section 145.12 of the penal law, criminal  
33 tampering in the first degree as defined in section 145.20 of the penal  
34 law, arson in the fourth degree as defined in section 150.05 of the  
35 penal law, arson in the third degree as defined in section 150.10 of the  
36 penal law, arson in the second degree as defined in section 150.15 of  
37 the penal law, arson in the first degree as defined in section 150.20 of  
38 the penal law, grand larceny in the fourth degree as defined in section  
39 155.30 of the penal law, grand larceny in the third degree as defined in  
40 section 155.35 of the penal law, grand larceny in the second degree as  
41 defined in section 155.40 of the penal law, grand larceny in the first  
42 degree as defined in section 155.42 of the penal law, health care fraud  
43 in the fourth degree as defined in section 177.10 of the penal law,  
44 health care fraud in the third degree as defined in section 177.15 of  
45 the penal law, health care fraud in the second degree as defined in  
46 section 177.20 of the penal law, health care fraud in the first degree  
47 as defined in section 177.25 of the penal law, robbery in the third  
48 degree as defined in section 160.05 of the penal law, robbery in the  
49 second degree as defined in section 160.10 of the penal law, robbery in  
50 the first degree as defined in section 160.15 of the penal law, unlawful  
51 use of secret scientific material as defined in section 165.07 of the  
52 penal law, criminal possession of stolen property in the fourth degree  
53 as defined in section 165.45 of the penal law, criminal possession of  
54 stolen property in the third degree as defined in section 165.50 of the  
55 penal law, criminal possession of stolen property in the second degree  
56 as defined by section 165.52 of the penal law, criminal possession of

1 stolen property in the first degree as defined by section 165.54 of the  
2 penal law, trademark counterfeiting in the second degree as defined in  
3 section 165.72 of the penal law, trademark counterfeiting in the first  
4 degree as defined in section 165.73 of the penal law, forgery in the  
5 second degree as defined in section 170.10 of the penal law, forgery in  
6 the first degree as defined in section 170.15 of the penal law, criminal  
7 possession of a forged instrument in the second degree as defined in  
8 section 170.25 of the penal law, criminal possession of a forged instru-  
9 ment in the first degree as defined in section 170.30 of the penal law,  
10 criminal possession of forgery devices as defined in section 170.40 of  
11 the penal law, falsifying business records in the first degree as  
12 defined in section 175.10 of the penal law, tampering with public  
13 records in the first degree as defined in section 175.25 of the penal  
14 law, offering a false instrument for filing in the first degree as  
15 defined in section 175.35 of the penal law, issuing a false certificate  
16 as defined in section 175.40 of the penal law, criminal diversion of  
17 prescription medications and prescriptions in the second degree as  
18 defined in section 178.20 of the penal law, criminal diversion of  
19 prescription medications and prescriptions in the first degree as  
20 defined in section 178.25 of the penal law, residential mortgage fraud  
21 in the fourth degree as defined in section 187.10 of the penal law,  
22 residential mortgage fraud in the third degree as defined in section  
23 187.15 of the penal law, residential mortgage fraud in the second degree  
24 as defined in section 187.20 of the penal law, residential mortgage  
25 fraud in the first degree as defined in section 187.25 of the penal law,  
26 escape in the second degree as defined in section 205.10 of the penal  
27 law, escape in the first degree as defined in section 205.15 of the  
28 penal law, absconding from temporary release in the first degree as  
29 defined in section 205.17 of the penal law, promoting prison contraband  
30 in the first degree as defined in section 205.25 of the penal law,  
31 hindering prosecution in the second degree as defined in section 205.60  
32 of the penal law, hindering prosecution in the first degree as defined  
33 in section 205.65 of the penal law, sex trafficking as defined in  
34 section 230.34 of the penal law, SEX TRAFFICKING OF A CHILD AS DEFINED  
35 IN SECTION 230.34-A OF THE PENAL LAW, criminal possession of a weapon in  
36 the third degree as defined in subdivisions two, three and five of  
37 section 265.02 of the penal law, criminal possession of a weapon in the  
38 second degree as defined in section 265.03 of the penal law, criminal  
39 possession of a weapon in the first degree as defined in section 265.04  
40 of the penal law, manufacture, transport, disposition and defacement of  
41 weapons and dangerous instruments and appliances defined as felonies in  
42 subdivisions one, two, and three of section 265.10 of the penal law,  
43 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use  
44 of weapons as defined in subdivision two of section 265.35 of the penal  
45 law, relating to firearms and other dangerous weapons, or failure to  
46 disclose the origin of a recording in the first degree as defined in  
47 section 275.40 of the penal law;

48 S 10. Paragraph (i) of subdivision 1 of section 440.10 of the criminal  
49 procedure law, as amended by chapter 368 of the laws of 2015, is amended  
50 to read as follows:

51 (i) The judgment is a conviction where the arresting charge was under  
52 section 240.37 (loitering for the purpose of engaging in a prostitution  
53 offense, provided that the defendant was not alleged to be loitering for  
54 the purpose of patronizing a person for prostitution or promoting pros-  
55 titution) or 230.00 (prostitution) or 230.03 (prostitution in a school  
56 zone) of the penal law, and the defendant's participation in the offense

1 was a result of having been a victim of sex trafficking under section  
2 230.34 of the penal law, SEX TRAFFICKING OF A CHILD UNDER SECTION  
3 230.34-A OF THE PENAL LAW, labor trafficking under section 135.35 of the  
4 penal law, aggravated labor trafficking under section 135.37 of the  
5 penal law, [compelling prostitution under section 230.33 of the penal  
6 law,] or trafficking in persons under the Trafficking Victims Protection  
7 Act (United States Code, title 22, chapter 78); provided that

8 S 11. Subdivision 2 of section 420.35 of the criminal procedure law,  
9 as amended by chapter 426 of the laws of 2015, is amended to read as  
10 follows:

11 2. Under no circumstances shall the mandatory surcharge, sex offender  
12 registration fee, DNA databank fee or the crime victim assistance fee be  
13 waived provided, however, that a court may waive the crime victim  
14 assistance fee if such defendant is an eligible youth as defined in  
15 subdivision two of section 720.10 of this chapter, and the imposition of  
16 such fee would work an unreasonable hardship on the defendant, his or  
17 her immediate family, or any other person who is dependent on such  
18 defendant for financial support. A court shall waive any mandatory  
19 surcharge, DNA databank fee and crime victim assistance fee when: (i)  
20 the defendant is convicted of loitering for the purpose of engaging in  
21 prostitution under section 240.37 of the penal law (provided that the  
22 defendant was not convicted of loitering for the purpose of patronizing  
23 a person for prostitution); (ii) the defendant is convicted of prostitu-  
24 tion under section 230.00 of the penal law; (iii) the defendant is  
25 convicted of a violation in the event such conviction is in lieu of a  
26 plea to or conviction for loitering for the purpose of engaging in pros-  
27 titution under section 240.37 of the penal law (provided that the  
28 defendant was not alleged to be loitering for the purpose of patronizing  
29 a person for prostitution) or prostitution under section 230.00 of the  
30 penal law; or (iv) the court finds that a defendant is a victim of sex  
31 trafficking under section 230.34 of the penal law or a victim of traf-  
32 ficking in persons under the trafficking victims protection act (United  
33 States Code, Title 22, Chapter 78); OR (V) THE COURT FINDS THAT THE  
34 DEFENDANT IS A VICTIM OF SEX TRAFFICKING OF A CHILD UNDER SECTION  
35 230.34-A OF THE PENAL LAW.

36 S 12. Subdivision 1 of section 447-a of the social services law, as  
37 amended by section 1 of part G of chapter 58 of the laws of 2010, is  
38 amended to read as follows:

39 1. The term "sexually exploited child" means any person under the age  
40 of eighteen who has been subject to sexual exploitation because he or  
41 she:

42 (a) is the victim of the crime of sex trafficking as defined in  
43 section 230.34 of the penal law OR THE CRIME OF SEX TRAFFICKING OF A  
44 CHILD AS DEFINED IN SECTION 230.34-A OF THE PENAL LAW;

45 (b) engages in any act as defined in section 230.00 of the penal law;

46 (c) [is a victim of the crime of compelling prostitution as defined in  
47 section 230.33 of the penal law;

48 (d)] engages in acts or conduct described in article two hundred  
49 sixty-three or section 240.37 of the penal law.

50 S 13. Subdivision (c) of section 483-bb of the social services law, as  
51 added by chapter 368 of the laws of 2015, is amended to read as follows:

52 (c) An individual who is a victim of the conduct prohibited by section  
53 [230.33,] 230.34, 230.34-A, 135.35 or 135.37 of the penal law may bring  
54 a civil action against the perpetrator or whoever knowingly advances or  
55 profits from, or whoever should have known he or she was advancing or  
56 profiting from, an act in violation of section [230.33,] 230.34,

230.34-A, 135.35 or 135.37 of the penal law to recover damages and reasonable attorney's fees.

S 14. Paragraph (a) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by chapter 400 of the laws of 2011, is amended to read as follows:

(a) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (a) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 130.30, 130.35, 130.45, 130.50, 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 230.34-A, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

S 15. Subdivisions 1 and 2 of section 510-d of the vehicle and traffic law, as added by chapter 368 of the laws of 2015, are amended to read as follows:

1. A class E driver's license shall be suspended by the commissioner for a period of one year where the holder is convicted of a violation of section 230.20, 230.25, 230.30, 230.32, 230.34, 230.34-A or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime.

2. A class E driver's license may be revoked by the commissioner when the holder, who had his or her driver's license suspended under subdivision one of this section within the last ten years, is convicted of a second violation of section 230.20, 230.25, 230.30, 230.32, 230.34, 230.34-A or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime.

S 16. Subdivision a of section 3-118 of the administrative code of the city of New York, as added by local law number 39 of the city of New York for the year 2016, is amended to read as follows:

a. For the purposes of this section, the following terms have the following meanings:

Homeless youth. The term "homeless youth" means persons under the age of 21 who are in need of services and are without a place of shelter where supervision and care are available.

Runaway youth. The term "runaway youth" means persons under the age of 18 years who are absent from their legal residence without the consent of their parent, legal guardian or custodian.

Sexually exploited youth. The term "sexually exploited youth" means persons under the age of 18 who have been subject to sexual exploitation because they (a) are the victim of the crime of sex trafficking as defined in section 230.34 of the penal law; (b) engage in any act as defined in section 230.00 of the penal law; (c) [are a victim of the crime of compelling prostitution as defined in section 230.33 of the penal law] ARE A VICTIM OF THE CRIME OF SEX TRAFFICKING OF A CHILD AS DEFINED IN SECTION 230.34-A OF THE PENAL LAW; or (d) engage in acts or conduct described in article 263 or section 240.37 of the penal law. The term shall also mean persons under the age of 18 who have been subject to incest in the third degree, second degree or first degree, as defined in sections 255.25, 255.26, and 255.27 of the penal law, respectively, or any of the sex offenses enumerated in article 130 of the penal law.

1 S 17. Subparagraph i of paragraph 7 of subdivision a of section 9-131  
2 of the administrative code of the city of New York, as added by local  
3 law number 58 of the city of New York for the year 2014, is amended to  
4 read as follows:

5 i. a felony defined in any of the following sections of the penal law:  
6 120.01, 120.02, 120.03, 120.04, 120.04-a(4), 120.05, 120.06, 120.07,  
7 120.08, 120.09, 120.10, 120.11, 120.12, 120.13, 120.18, 120.25, 120.55,  
8 120.60, 120.70, 121.12, 121.13, 125.10, 125.11, 125.12, 125.13, 125.14,  
9 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 125.40, 125.45,  
10 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.53, 130.65,  
11 130.65-a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.85, 130.90,  
12 130.95, 130.96, 135.10, 135.20, 135.25, 135.35, 135.50, 135.65(2)(b),  
13 140.17, 140.25, 140.30, 145.12, 150.05, 150.10, 150.15, 150.20, 160.05,  
14 160.10, 160.15, 195.07, 195.08, 195.17, 215.11, 215.12, 215.13, 215.15,  
15 215.16, 215.17, 215.51, 215.52, 220.18, 220.21, 220.28, 220.41, 220.43,  
16 220.44, 220.48, 220.77, 230.05, 230.06, 230.19, 230.25(2), 230.30,  
17 230.32, [230.33,] 230.34, 230.34-A, 235.22, 240.06, 240.55, 240.60,  
18 240.61, 240.62, 240.63, 240.75, 241.05, 255.26, 255.27, 260.25, 260.32,  
19 260.34, 263.05, 263.10, 263.11, 263.15, 263.16, 263.30, 265.01-a,  
20 265.01-b, 265.02(2) through (8), 265.03, 265.04, 265.08, 265.09, 265.10,  
21 265.11, 265.12, 265.13, 265.14, 265.16, 265.17, 265.19, 265.35(2),  
22 270.30, 270.35, 405.16(1), 405.18, 460.22, 470.21, 470.22, 470.23,  
23 470.24, 490.10, 490.15, 490.20, 490.25, 490.30, 490.35, 490.37, 490.40,  
24 490.45, 490.47, 490.50, or 490.55;

25 S 18. Subparagraph i of paragraph 6 of subdivision a of section 14-154  
26 of the administrative code of the city of New York, as added by local  
27 law number 59 of the city of New York for the year 2014, is amended to  
28 read as follows:

29 i. a felony defined in any of the following sections of the penal law:  
30 120.01, 120.02, 120.03, 120.04, 120.04-a(4), 120.05, 120.06, 120.07,  
31 120.08, 120.09, 120.10, 120.11, 120.12, 120.13, 120.18, 120.25, 120.55,  
32 120.60, 120.70, 121.12, 121.13, 125.10, 125.11, 125.12, 125.13, 125.14,  
33 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 125.40, 125.45,  
34 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.53, 130.65,  
35 130.65-a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.85, 130.90,  
36 130.95, 130.96, 135.10, 135.20, 135.25, 135.35, 135.50, 135.65(2)(b),  
37 140.17, 140.25, 140.30, 145.12, 150.05, 150.10, 150.15, 150.20, 160.05,  
38 160.10, 160.15, 195.07, 195.08, 195.17, 215.11, 215.12, 215.13, 215.15,  
39 215.16, 215.17, 215.51, 215.52, 220.18, 220.21, 220.28, 220.41, 220.43,  
40 220.44, 220.48, 220.77, 230.05, 230.06, 230.19, 230.25(2), 230.30,  
41 230.32, [230.33,] 230.34, 230.34-A, 235.22, 240.06, 240.55, 240.60,  
42 240.61, 240.62, 240.63, 240.75, 241.05, 255.26, 255.27, 260.25, 260.32,  
43 260.34, 263.05, 263.10, 263.11, 263.15, 263.16, 263.30, 265.01-a,  
44 265.01-b, 265.02 (2) through (8), 265.03, 265.04, 265.08, 265.09,  
45 265.10, 265.11, 265.12, 265.13, 265.14, 265.16, 265.17, 265.19,  
46 265.35(2), 270.30, 270.35, 405.16(1), 405.18, 460.22, 470.21, 470.22,  
47 470.23, 470.24, 490.10, 490.15, 490.20, 490.25, 490.30, 490.35, 490.37,  
48 490.40, 490.45, 490.47, 490.50, or 490.55;

49 S 19. Paragraph (iii) of subdivision (e) of section 1012 of the family  
50 court act, as amended by section 1 of part L of chapter 56 of the laws  
51 of 2017, is amended to read as follows:

52 (iii) (A) commits, or allows to be committed an offense against such  
53 child defined in article one hundred thirty of the penal law; (B)  
54 allows, permits or encourages such child to engage in any act described  
55 in sections 230.25, 230.30 [and], 230.32 AND 230.34-A of the penal law;  
56 (C) commits any of the acts described in sections 255.25, 255.26 and



1 255.27 of the penal law; (D) allows such child to engage in acts or  
2 conduct described in article two hundred sixty-three of the penal law;  
3 or (E) permits or encourages such child to engage in any act or commits  
4 or allows to be committed against such child any offense that would  
5 render such child either a victim of sex trafficking or a victim of  
6 severe forms of trafficking in persons pursuant to 22 U.S.C. 7102 as  
7 enacted by public law 106-386 or any successor federal statute; (F)  
8 provided, however, that (1) the corroboration requirements contained in  
9 the penal law and (2) the age requirement for the application of article  
10 two hundred sixty-three of such law shall not apply to proceedings under  
11 this article.

12 S 20. Subdivision (f) of section 10.03 of the mental hygiene law, as  
13 amended by chapter 405 of the laws of 2010, is amended to read as  
14 follows:

15 (f) "Designated felony" means any felony offense defined by any of the  
16 following provisions of the penal law: assault in the second degree as  
17 defined in section 120.05, assault in the first degree as defined in  
18 section 120.10, gang assault in the second degree as defined in section  
19 120.06, gang assault in the first degree as defined in section 120.07,  
20 stalking in the first degree as defined in section 120.60, strangulation  
21 in the second degree as defined in section 121.12, strangulation in the  
22 first degree as defined in section 121.13, manslaughter in the second  
23 degree as defined in subdivision one of section 125.15, manslaughter in  
24 the first degree as defined in section 125.20, murder in the second  
25 degree as defined in section 125.25, aggravated murder as defined in  
26 section 125.26, murder in the first degree as defined in section 125.27,  
27 kidnapping in the second degree as defined in section 135.20, kidnapping  
28 in the first degree as defined in section 135.25, burglary in the third  
29 degree as defined in section 140.20, burglary in the second degree as  
30 defined in section 140.25, burglary in the first degree as defined in  
31 section 140.30, arson in the second degree as defined in section 150.15,  
32 arson in the first degree as defined in section 150.20, robbery in the  
33 third degree as defined in section 160.05, robbery in the second degree  
34 as defined in section 160.10, robbery in the first degree as defined in  
35 section 160.15, promoting prostitution in the second degree as defined  
36 in section 230.30, promoting prostitution in the first degree as defined  
37 in section 230.32, [compelling prostitution as defined in section  
38 230.33,] SEX TRAFFICKING OF A CHILD AS DEFINED IN SECTION 230.34-A,  
39 disseminating indecent material to minors in the first degree as defined  
40 in section 235.22, use of a child in a sexual performance as defined in  
41 section 263.05, promoting an obscene sexual performance by a child as  
42 defined in section 263.10, promoting a sexual performance by a child as  
43 defined in section 263.15, or any felony attempt or conspiracy to commit  
44 any of the foregoing offenses.

45 S 21. Section 2324-a of the public health law, as amended by chapter  
46 368 of the laws of 2015, is amended to read as follows:

47 S 2324-a. Presumptive evidence. For the purposes of this title, two or  
48 more convictions of any person or persons had, within a period of one  
49 year, for any of the offenses described in section 230.00, 230.05,  
50 230.06, 230.08, 230.11, 230.12, 230.13, 230.20, 230.25, 230.30 [or],  
51 230.32 OR 230.34-A of the penal law arising out of conduct engaged in at  
52 the same real property consisting of a dwelling as that term is defined  
53 in subdivision four of section four of the multiple dwelling law shall  
54 be presumptive evidence of conduct constituting use of the premises for  
55 purposes of prostitution.

1 S 22. Subdivision 5 of section 621 of the executive law, as amended by  
2 section 1 of part H of chapter 55 of the laws of 2017, is amended to  
3 read as follows:

4 5. "Victim" shall mean (a) a person who suffers personal physical  
5 injury as a direct result of a crime; (b) a person who is the victim of  
6 either the crime of (1) unlawful imprisonment in the first degree as  
7 defined in section 135.10 of the penal law, (2) kidnapping in the second  
8 degree as defined in section 135.20 of the penal law, (3) kidnapping in  
9 the first degree as defined in section 135.25 of the penal law, (4)  
10 menacing in the first degree as defined in section 120.13 of the penal  
11 law, (5) criminal obstruction of breathing or blood circulation as  
12 defined in section 121.11 of the penal law, (6) harassment in the second  
13 degree as defined in section 240.26 of the penal law, (7) harassment in  
14 the first degree as defined in section 240.25 of the penal law, (8)  
15 aggravated harassment in the second degree as defined in subdivision  
16 three or five of section 240.30 of the penal law, (9) aggravated harass-  
17 ment in the first degree as defined in subdivision two of section 240.31  
18 of the penal law, (10) criminal contempt in the first degree as defined  
19 in subdivision (b) or subdivision (c) of section 215.51 of the penal  
20 law, (11) stalking in the fourth, third, second or first degree as  
21 defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law,  
22 (12) labor trafficking as defined in section 135.35 of the penal law,  
23 [or] (13) sex trafficking as defined in section 230.34 of the penal law;  
24 OR (14) SEX TRAFFICKING OF A CHILD AS DEFINED IN SECTION 230.34-A OF THE  
25 PENAL LAW; a vulnerable elderly person or an incompetent or physically  
26 disabled person as defined in section 260.31 of the penal law who incurs  
27 a loss of savings as defined in subdivision twenty-four of this section;  
28 or a person who has had a frivolous lawsuit filed against them.

29 S 23. Subdivision 1 of section 631 of the executive law, as amended by  
30 section 22 of part A-1 of chapter 56 of the laws of 2010, is amended to  
31 read as follows:

32 1. No award shall be made unless the office finds that (a) a crime was  
33 committed, (b) such crime directly resulted in personal physical injury  
34 to or the exacerbation of a preexisting disability, or condition, or  
35 death of, the victim, and (c) criminal justice agency records show that  
36 such crime was promptly reported to the proper authorities; and in no  
37 case may an award be made where the criminal justice agency records show  
38 that such report was made more than one week after the occurrence of  
39 such crime unless the office, for good cause shown, finds the delay to  
40 have been justified; provided, however, in cases involving an alleged  
41 sex offense as contained in article one hundred thirty of the penal law  
42 or incest as defined in section 255.25, 255.26 or 255.27 of the penal  
43 law or labor trafficking as defined in section 135.35 of the penal law  
44 or sex trafficking as defined in [section] SECTIONS 230.34 AND 230.34-A  
45 of the penal law or an offense chargeable as a family offense as  
46 described in section eight hundred twelve of the family court act or  
47 section 530.11 of the criminal procedure law, the criminal justice agen-  
48 cy report need only be made within a reasonable time considering all the  
49 circumstances, including the victim's physical, emotional and mental  
50 condition and family situation. For the purposes of this subdivision,  
51 "criminal justice agency" shall include, but not be limited to, a police  
52 department, a district attorney's office, and any other governmental  
53 agency having responsibility for the enforcement of the criminal laws of  
54 the state provided, however, that in cases involving such sex offense a  
55 criminal justice agency shall also mean a family court, a governmental  
56 agency responsible for child and/or adult protective services pursuant

1 to title six of article six of the social services law and/or title one  
2 of article nine-B of the social services law, and any medical facility  
3 established under the laws of the state that provides a forensic phys-  
4 ical examination for victims of rape and sexual assault.

5 S 24. Paragraph f of subdivision 1 of section 410 of the general busi-  
6 ness law, as amended by chapter 80 of the laws of 2015, is amended to  
7 read as follows:

8 f. Conviction of any of the following crimes subsequent to the issu-  
9 ance of a license or registration pursuant to this article: fraud pursu-  
10 ant to sections 170.10, 170.15, 176.15, 176.20, 176.25, 176.30 and  
11 190.65; falsifying business records pursuant to section 175.10; grand  
12 larceny pursuant to article 155; bribery pursuant to sections 180.03,  
13 180.08, 180.15, 180.25, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12,  
14 200.45, 200.50; perjury pursuant to sections 210.10, 210.15, 210.40;  
15 assault pursuant to sections 120.05, 120.10, 120.11, 120.12; robbery  
16 pursuant to article 160; homicide pursuant to sections 125.25 and  
17 125.27; manslaughter pursuant to sections 125.15 and 125.20; kidnapping  
18 and unlawful imprisonment pursuant to sections 135.10, 135.20 and  
19 135.25; unlawful weapons possession pursuant to sections 265.02, 265.03  
20 and 265.04; criminal use of a weapon pursuant to sections 265.08 and  
21 265.09; criminal sale of a weapon pursuant to sections 265.11 and  
22 265.12; [compelling prostitution pursuant to section 230.33;] sex traf-  
23 ficking pursuant to section 230.34; SEX TRAFFICKING OF A CHILD PURSUANT  
24 TO SECTION 230.34-A; and sex offenses pursuant to article 130 of the  
25 penal law. Provided, however, that for the purposes of this article,  
26 none of the following shall be considered criminal convictions or  
27 reported as such: (i) a conviction for which an executive pardon has  
28 been issued pursuant to the executive law; (ii) a conviction which has  
29 been vacated and replaced by a youthful offender finding pursuant to  
30 article seven hundred twenty of the criminal procedure law, or the  
31 applicable provisions of law of any other jurisdiction; or (iii) a  
32 conviction the records of which have been expunged or sealed pursuant to  
33 the applicable provisions of the laws of this state or of any other  
34 jurisdiction; and (iv) a conviction for which other evidence of success-  
35 ful rehabilitation to remove the disability has been issued.

36 S 25. This act shall take effect on the ninetieth day after it shall  
37 have become a law.

# United States Federal Courts' Continuing Failure to Order Mandatory Criminal Restitution for Human Trafficking Victims



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September 2018



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# United States Federal Courts' Continuing Failure to Order Mandatory Criminal Restitution for Human Trafficking Victims

September 2018

## I. EXECUTIVE SUMMARY

Criminal restitution achieves two goals: first, it fosters the criminal justice aims of deterrence, rehabilitation and accountability. Second, restitution also serves the remedial purpose of making crime victims whole by reimbursing them for financial harm caused by crime. **Under federal law, criminal restitution for trafficking victims is mandatory.**<sup>1</sup> The Trafficking Victims Protection Act requires that federal courts order restitution in trafficking cases in the “full amount of the victim’s losses.”<sup>2</sup> This includes out-of-pocket expenses and the value to the defendant of the victim’s services, regardless of their legality.<sup>3</sup>

The mandatory restitution law is currently observed in the breach. Federal courts rarely order restitution to trafficking victims. And, even when restitution is ordered, trafficking victims rarely receive these funds. This persistent chasm between the law as written and as applied raises three critical questions. First, why do courts fail to order mandatory restitution for trafficking victims? Second, what can be done to remedy this failure? And third, how can collection efforts be improved?

This report, based on an analysis of federal prosecutions over a seven-year period, addresses these three questions.

In 2014, the Human Trafficking Pro Bono Legal Center (now the Human Trafficking Legal Center) and the law firm WilmerHale jointly published a report, entitled “When ‘Mandatory’ Does Not Mean Mandatory: Failure to Obtain Criminal Restitution in Federal Prosecution of Human Trafficking in the United States,” in which the authors examined federal restitution data in human trafficking cases brought between 2009 and 2012.<sup>4</sup> The analysis demonstrated that despite the clear black letter law, courts awarded mandatory restitution to trafficking victims in just 36% of cases.<sup>5</sup> The research found a strong correlation between the federal prosecutor’s approach to restitution and the likelihood that the court would order it.<sup>6</sup> Predictably, a judge was more likely to order restitution when the prosecutor pursued it aggressively.<sup>7</sup> When prosecutors requested restitution, courts ordered restitution in 51% of cases.<sup>8</sup> Yet prosecutors requested restitution in only 63% of cases analyzed in the original data set.<sup>9</sup>

Data collected and analyzed since the publication of the initial findings provided a disheartening portrait of a continuing failure on the part of United States federal courts to order criminal restitution to trafficking victims. **The updated data indicated that the percentage of trafficking cases ending with a mandatory criminal restitution order dropped from 36% in the prior period to just 27% in the current research date range.**<sup>10</sup>

Not all the news was bad. Since the publication of the 2014 Mandatory Restitution Report, the number of federal jurisdictions with at least one restitution order in a human trafficking case jumped from 28 to 41.<sup>11</sup> And federal prosecutors also requested restitution more often: the updated data registered an uptick in prosecutorial requests from 63% to 67%.<sup>12</sup>

Nevertheless, the updated data set also demonstrated that prosecutors' requests for restitution enjoyed far less success before federal judges. The percentage of cases with restitution requests that ended with restitution orders dropped from 51% in the 2014 data set to just 37% in the new time period.<sup>13</sup>

This trend should raise an alarm: while the frequency of restitution *requests* increased slightly from 2014 to 2016, the frequency of restitution *orders* decreased significantly. This report analyzes these two opposing trends: on the one hand, prosecutors stepped up to the plate by requesting restitution more frequently, while on the other, courts granted a lower percentage of restitution requests. The overall result: an even smaller percentage of trafficking victims obtained restitution orders.<sup>14</sup>

The law is clear, but something is going very wrong. In the overwhelming majority of cases, courts are denying trafficking victims the compensation to which they are, by statute, entitled.

What should be done? The data analysis presented in this paper points to a number of strategies that might better protect the rights of trafficking victims to obtain restitution. The recommendations set forth below include the following:

1. Continue to educate prosecutors that restitution is mandatory in human trafficking cases and provide resources to assist them in presenting their arguments in court;
2. Ensure that federal judges hearing trafficking cases have training on mandatory restitution in human trafficking cases; and
3. Provide trafficking victims with victim-witness counsel to advocate for restitution and other victims' rights issues before federal courts.

Mandatory restitution is the law. Ultimately, it is federal judges who must enforce the law. But advocates, including prosecutors, can play a role in ensuring that restitution orders become the rule, not the exception.

## **II. METHODOLOGY AND DATA ANALYSIS**

Researchers identified 420 federal human trafficking cases prosecuted under the federal trafficking laws, codified in Chapter 77 of Title 18, filed after December 31, 2012 and closed on or before June 4, 2016.<sup>15</sup> In addition, researchers included all cases filed between January 1, 2009 and December 31, 2012 that had not closed by February 2, 2014 (the closing date of the 2014 Mandatory Restitution Report). This data set included only cases in which at least one defendant

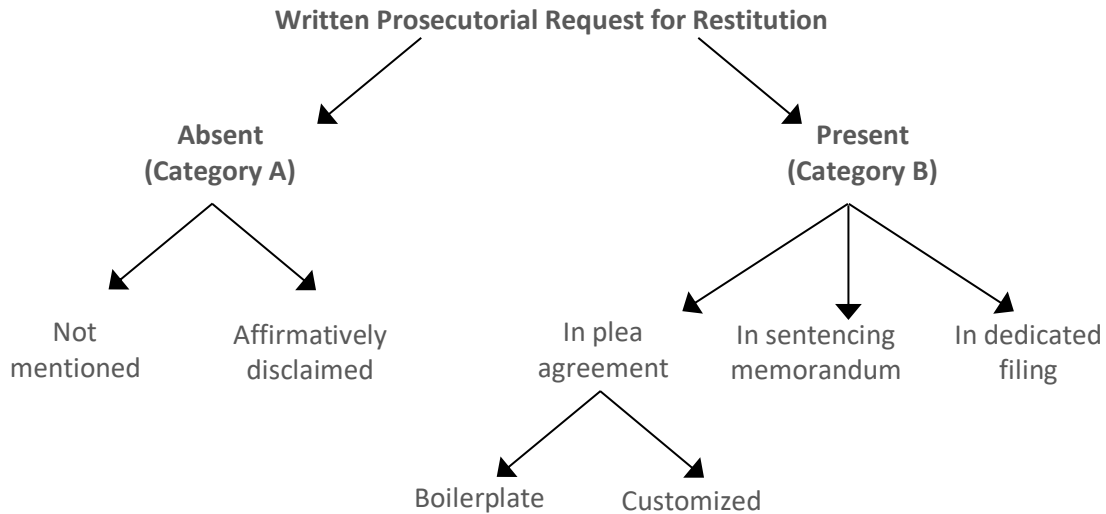
faced charges under Chapter 77 of Title 18. As in the 2014 Mandatory Restitution Report, researchers excluded cases in which restitution was not applicable (i.e., cases that were dismissed or ended in acquittal), and cases with no trafficking victims (i.e., sting operations).<sup>16</sup> Researchers also eliminated cases in which there was insufficient documentation available to warrant a reasonable conclusion that no request had been made. In total, researchers removed 96 cases from the data set, leaving 324 cases that met the following criteria:

1. At least one Chapter 77 charge was brought against at least one defendant;
2. The case post-dated the timeframe in the previous report, and was resolved on or before June 4, 2016;
3. At least one defendant pled guilty or was convicted at trial;
4. The allegations involved trafficking victims; and
5. Available case documents included a request for restitution, or sufficient documentation was available to warrant a reasonable conclusion that no such request had been made.<sup>17</sup>

Researchers divided these 324 cases into two categories. Category A encompassed cases in which prosecutors *did not* request restitution. Category B included cases in which prosecutors *did* request restitution.<sup>18</sup> As shown in Figure 1 below, researchers classified Category A cases according to whether the prosecutor had *affirmatively disclaimed* restitution, or whether there was simply no request found on the case docket. They classified Category B cases according to the procedural posture and form of the request – namely, whether the request appeared in a plea agreement using boilerplate language, in a plea agreement using particularized language, in a government sentencing memorandum, or in a separate dedicated filing addressing restitution.<sup>19</sup>



**FIGURE 1: Case Classifications**



Researchers also sorted cases by jurisdiction, by amount of restitution awarded to victims, and by case outcome. Because the mandatory restitution provision of the Trafficking Victims Protection Act (TVPA), 18 U.S.C. §1593, applies only to Chapter 77 crimes, researchers tracked the specific crime to which the defendant pled guilty in cases that ended in plea agreements. Finally, researchers analyzed cases with reference to the type of human trafficking involved: labor or sex.

### **III. RESEARCH FINDINGS**

#### **A. Restitution Requests as a Factor in Restitution Outcomes**

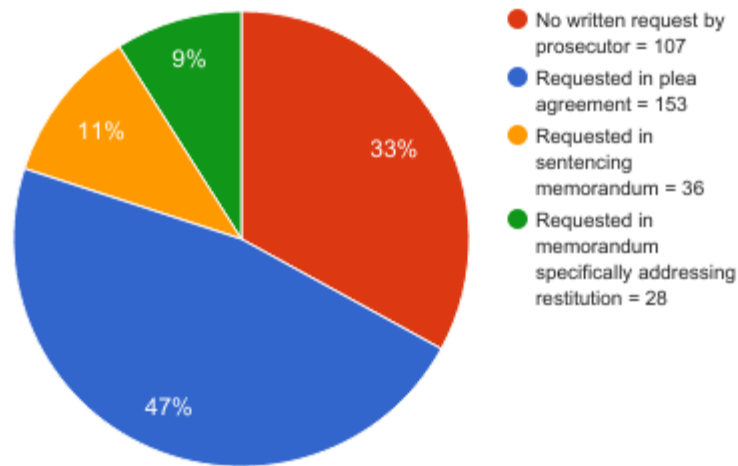
##### **1. No Request or Affirmative Refusal to Request Restitution – Category A**

Of the 324 cases that met the threshold criteria for inclusion in the data set, there was no known request for restitution from a prosecutor in 107 cases. In 41 of the cases in which prosecutors did not request restitution, the prosecutors explicitly *declined to request* restitution; in the remaining 66 cases, the available documents simply had no mention of restitution.

##### **2. Restitution Requested by Prosecutors – Category B**

Of the 324 cases that met the threshold criteria for inclusion in the data set, prosecutors affirmatively requested restitution in 217 cases. Prosecutors who requested restitution did so in a variety of ways: 129 cases included boilerplate restitution requests in the plea agreements; 24 included specific restitution requests in the plea agreements; 36 included restitution requests in sentencing memoranda; and 28 included requests in separate filings focused on the issue of restitution.

**FIGURE 2: Percentage of Cases in Which Restitution Requests Were Made, and in What Manner**



Consistent with the findings of the 2014 Mandatory Restitution Report, the updated data demonstrated a high correlation between request methods and restitution outcomes. Restitution was ordered in only 8 out of 107 cases (7%) in which the prosecutor simply failed to request it. It was not ordered in any of the 41 cases in which the prosecutor expressly disavowed restitution. When the prosecutor failed to seek the appropriate relief, the victim was less likely to get restitution.

On the other end of the spectrum, courts ordered restitution in 24 out of the 28 cases (86%) in which the prosecutor requested the relief in a memorandum specifically dedicated to the issue. When the government requested restitution in a sentencing memorandum or another written submission (even one not entirely dedicated to addressing restitution), courts issued restitution orders in 27 out of 36 cases (75%). In contrast, a request contained in a plea agreement yielded an order in only 30 out of 153 cases (20%).

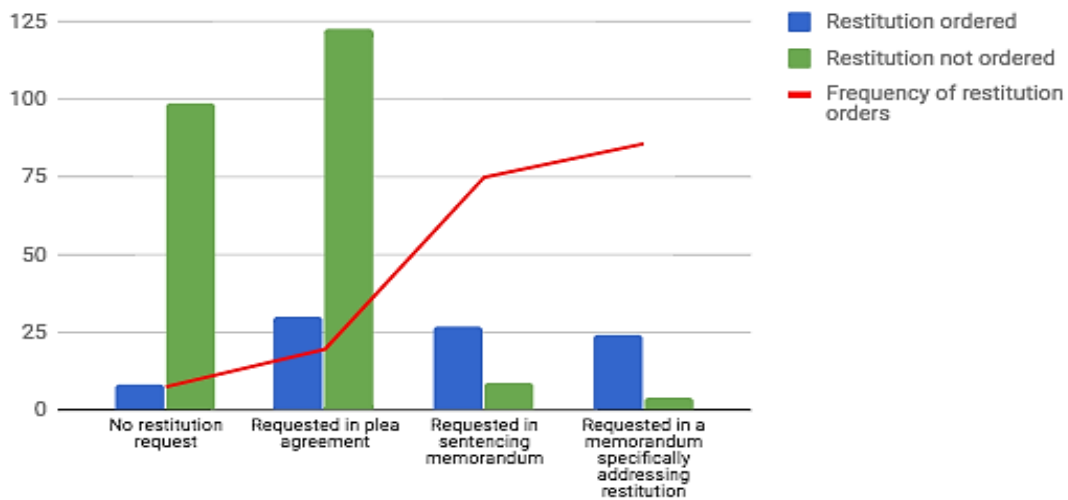
**FIGURE 3: Number of Cases in Which Prosecutors Requested Restitution, and in What Manner**

	No restitution request by prosecutor	Requested in plea agreement	Requested in sentencing memorandum	Requested in a memorandum specifically addressing restitution	Total
Restitution ordered	9	30	27	24	89
No restitution ordered	99	123	9	4	235
Total	107	153	36	28	324

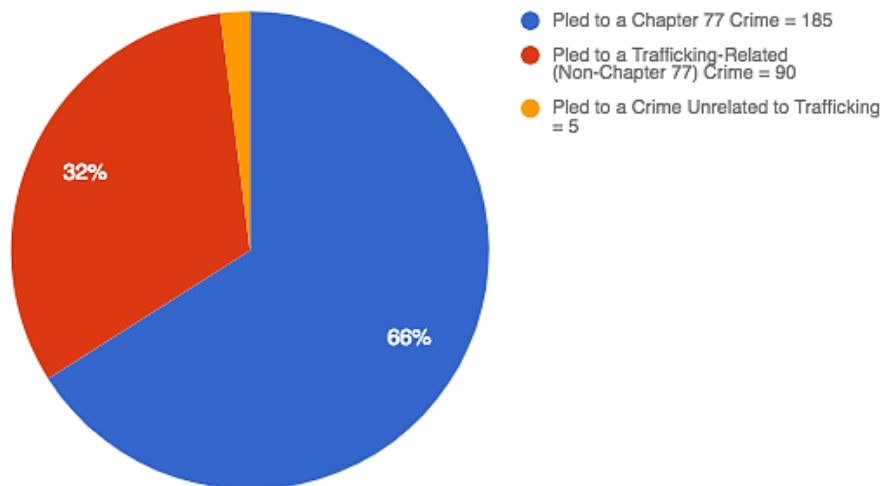
## B. Disposition of Criminal Prosecution as a Factor in Restitution Outcomes

Of the 324 cases examined, 280 included at least one defendant who pled guilty. Most of those defendants pled guilty to human trafficking: 185 (66%) of cases ended in guilty pleas to Chapter 77 human trafficking crimes<sup>20</sup>; 90 (32%) included pleas to trafficking-related crimes; and 5 (2%) included pleas to unrelated crimes only. Although not all pled-to offenses included mandatory restitution provisions, prosecutors clearly have the authority to negotiate restitution in plea agreements under any provision.<sup>21</sup>

**FIGURE 4: Number of Cases in Which Prosecutors Requested Restitution and the Frequency of Restitution Orders**



**FIGURE 5: Plea Agreements by Offense**

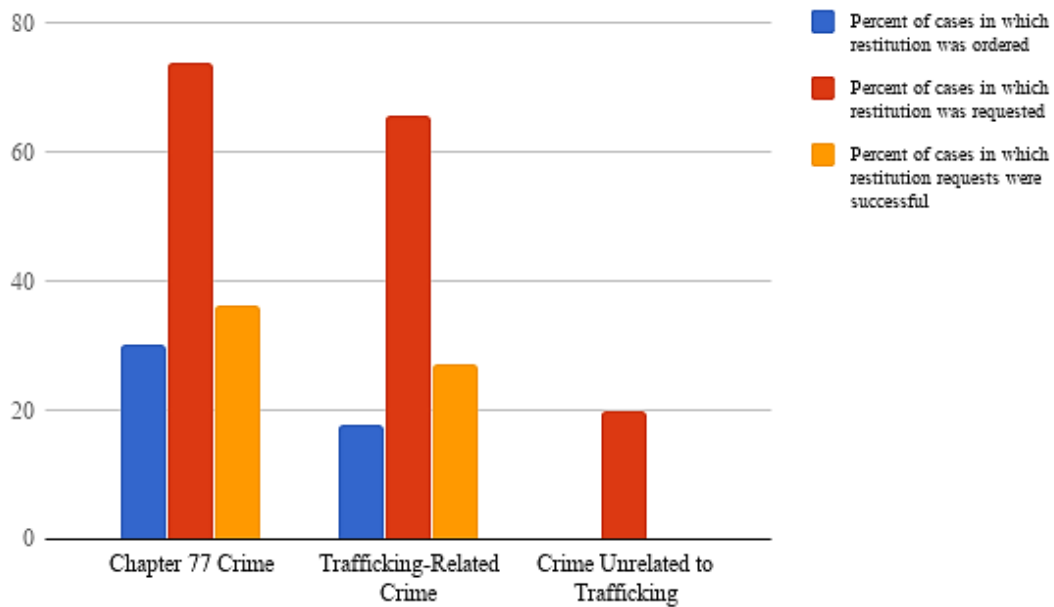


When cases were resolved through plea agreements, prosecutors were more likely to request restitution when defendants pled to Chapter 77 violations. In 137 out of the 185 cases (74%) in which defendants pled to Chapter 77 violations, federal prosecutors requested restitution. However, prosecutors did so in only 58 out of 90 cases (64%) in which defendants pled to other trafficking-related crimes, such as violations of the Mann Act. Prosecutors requested restitution in just 1 out of the 5 cases (20%) in which defendants pled guilty to unrelated crimes.

**FIGURE 6: Restitution Requests and Type of Offense in Plea Agreement**

	Pled to Chapter 77 Offense	Pled to Trafficking-Related Offense	Pled to Offense Unrelated to Trafficking	Total
Restitution requested	137	58	1	196
No restitution requested	48	32	4	84
<b>Total</b>	<b>185</b>	<b>90</b>	<b>5</b>	<b>280</b>

**FIGURE 7: Restitution Requests and Outcomes by Type of Plea**



### **C. Type of Trafficking Case as a Factor in Restitution Outcomes**

The government rarely prosecutes labor trafficking cases under federal trafficking laws. Of the 324 cases evaluated in this report, only 8 (3%) involved defendants charged with forced labor or labor trafficking violations. The 2014 Mandatory Restitution Report had a roughly ten-to-one ratio of trafficking cases for sex compared to those for labor; the current ratio is nearly forty-to-one. Because the number of labor cases is so minute, it is difficult to draw meaningful conclusions from the data.<sup>22</sup>

Of the 8 forced labor cases identified, 4 (50%) included restitution requests, and 4 (50%) included restitution awards. Of the 316 sex trafficking cases, 213 (67%) included restitution requests, and 85 (27%) included restitution awards. While the limited number of labor cases forecloses any broad conclusions, the discrepancy between the success rates of restitution requests in labor cases (100%) and sex trafficking cases (36%) is notable.



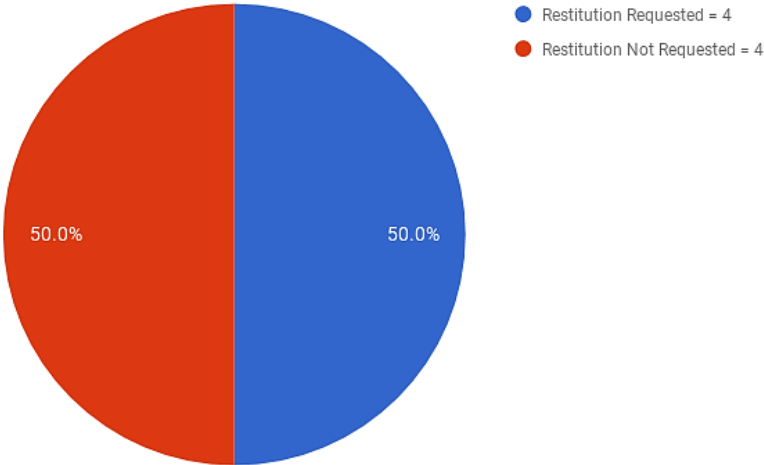
**FIGURE 8: Restitution Requests and Orders in Labor and Sex Trafficking Cases**

	Restitution requested	Restitution not requested	Restitution ordered	Restitution not ordered
Labor Trafficking (8)	4	4	4	4
Sex Trafficking (316)	213	103	85	231

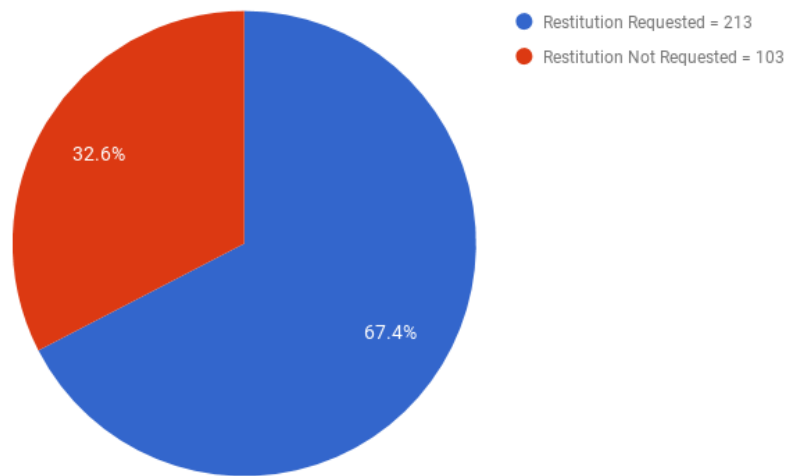
Consistent with the findings of the 2014 Mandatory Restitution Report, the type of trafficking was also correlated with wide discrepancies in the amount of restitution that courts ordered. The updated data set indicated that the overall average restitution order was \$59,244.25. But that average masked a significant chasm in amounts ordered to labor versus sex trafficking victims. The new data revealed that on average, sex trafficking defendants were ordered to pay restitution in the amount of \$47,968.21. In contrast, the average restitution order in labor trafficking cases was \$504,647.82.

**FIGURE 9: Restitution Requests by Case Type**

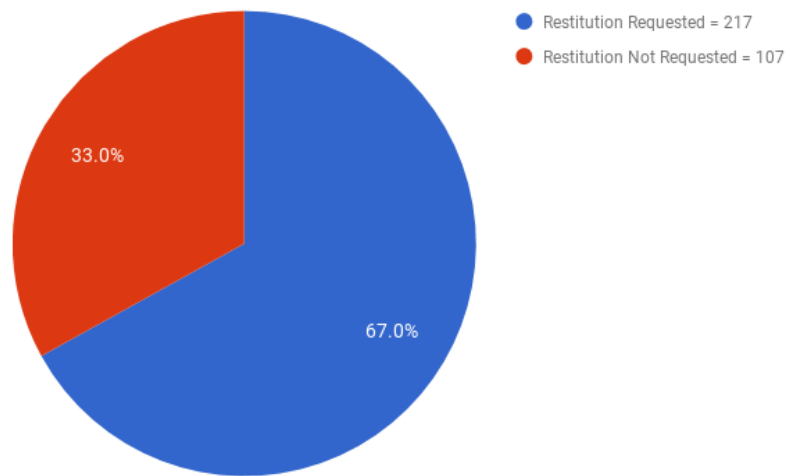
**FIGURE 9-A: Labor Trafficking Restitution Requests**



**FIGURE 9-B: Sex Trafficking Restitution Requests**

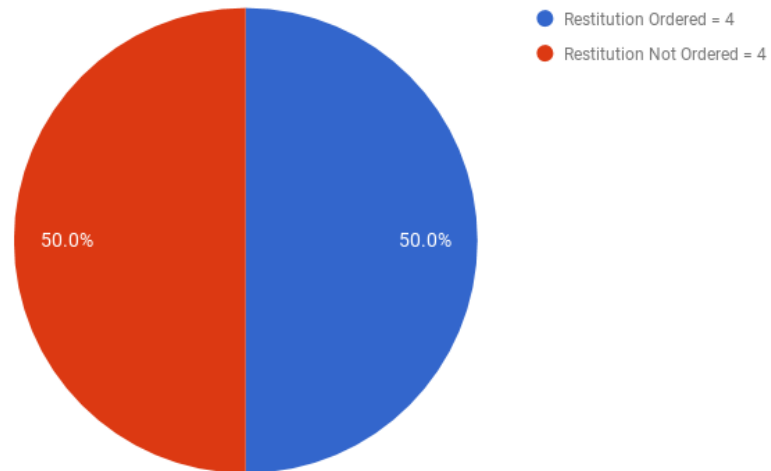


**FIGURE 9-C: Sex Trafficking and Labor Trafficking Restitution Requests Combined**



**FIGURE 10: Restitution Orders by Case Type**

**FIGURE 10-A: Labor Trafficking Restitution Orders**



**FIGURE 10-B: Sex Trafficking Restitution Orders**

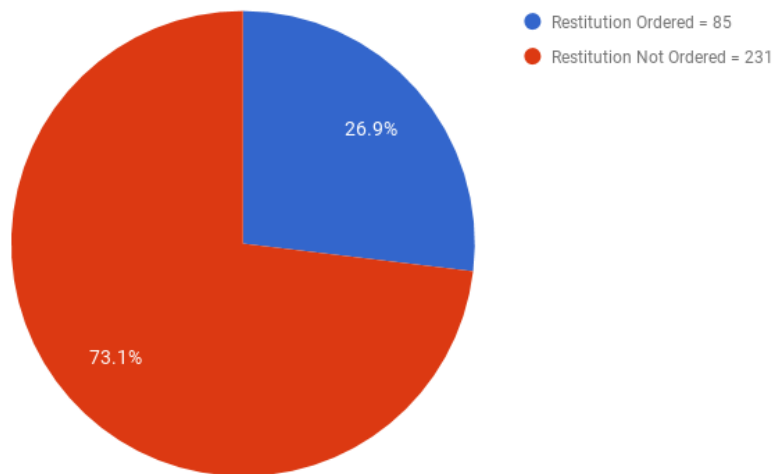


FIGURE 10-C: Sex Trafficking and Labor Trafficking Restitution Orders Combined

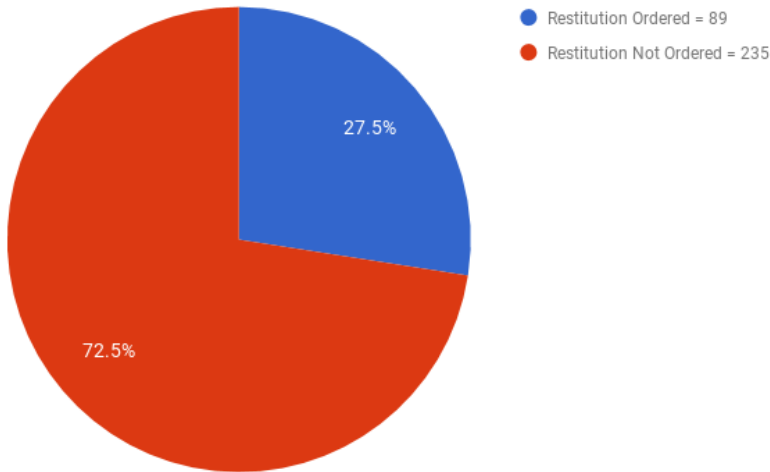
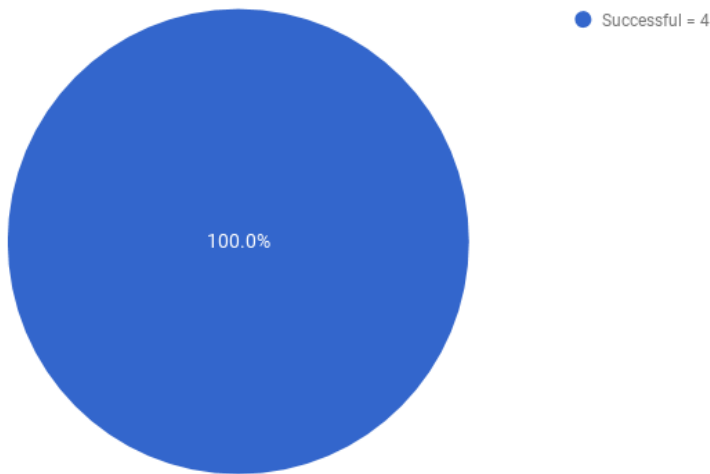
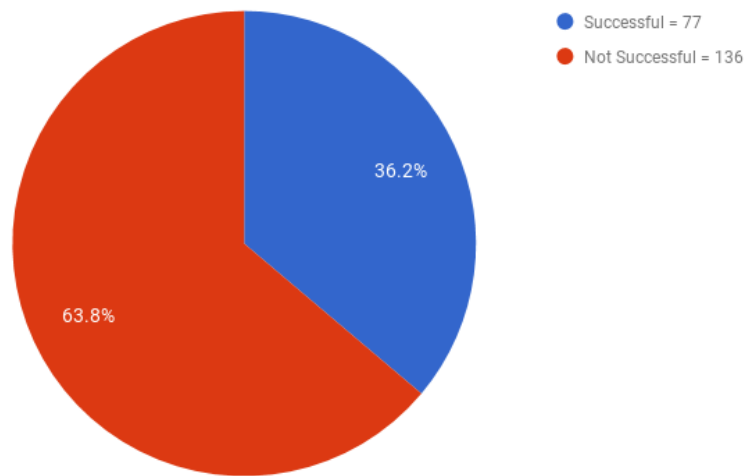


FIGURE 11: Proportion of Successful Restitution Requests by Case Type

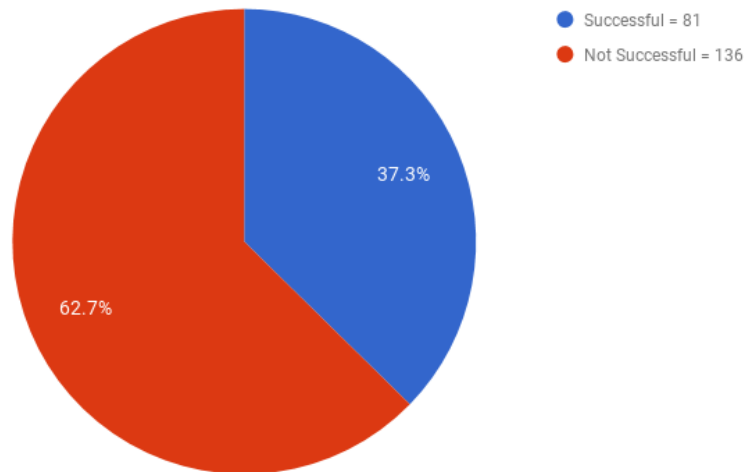
FIGURE 11-A: Labor Trafficking Restitution Request Success Rate



**FIGURE 11-B: Sex Trafficking Restitution Request Success Rate**



**FIGURE 11-C: Sex Trafficking and Labor Trafficking Request Success Rate Combined**



## D. Analysis: Why Do Courts Fail to Order Mandatory Restitution for Trafficking Victims?

### 1. The Role of Federal Judges

Restitution in federal human trafficking cases is *mandatory*. It is irrelevant whether the victim seeks it, whether the prosecutor requests it, or whether the defendant is likely to have the means on hand to pay it.<sup>23</sup> Restitution is simply a required part of the sentence in all cases where there is evidence that a victim has suffered a loss.

Federal judges frequently order long prison sentences in trafficking cases.<sup>24</sup> Yet sentencing transcripts reveal that many federal judges remain unaware of the fact that restitution is a requirement. Still other judges, even after hearing arguments from federal prosecutors that restitution must be ordered, decline to enter the orders. Their reasons for refusing to do so, as best can be discerned from the records in these cases, run the gamut:

- The request was made too late in the case;
- The request was not in writing;
- The defendant did not have the means to pay restitution;
- The work for which the victim would be compensated was illegal;
- The court wished to close the case; and
- The trafficking victim worked abroad, giving rise to questions of extraterritorial jurisdiction.

In some jurisdictions, the U.S. Attorney's Office requested restitution in every trafficking case it prosecuted, only to be denied by the court on every occasion. The following chart sets forth a list of U.S. Attorneys' Offices with perfect records of requesting restitution in human trafficking cases during the reporting period, juxtaposed with the courts' record of ordering restitution. These are jurisdictions in which the prosecutors took all the correct steps to follow the federal law on criminal restitution. It is unclear why the courts in these jurisdictions issued blanket denials.



Jurisdiction	# of Requests (= # of cases)	# of Orders
D. Maryland	7	0
D. Nevada	6	0
D. South Dakota	4	0
E.D. Tennessee	1	0
M.D. North Carolina	2	0
S.D. Illinois	1	0
S.D. Iowa	2	0
W.D. Arkansas	3	0
W.D. Louisiana	2	0
<b>Total</b>	28	0

Sixty-four cases in the updated data set each included either a separate restitution request or a request in a sentencing memorandum. Courts ordered restitution in 51 of those cases. Courts did *not* order restitution in the remaining 13 cases, notwithstanding the prosecutors' specific requests, and despite the mandatory nature of restitution.<sup>25</sup> In nine of those cases, the court's reasoning cannot be discerned from the available documents or from sentencing transcripts. Of the remaining four cases, one court refused to award restitution because of a procedural error on the part of the prosecutors, and one held that the restitution, as calculated by the victim, lacked a sufficient nexus to the defendant. In the last two cases, the courts simply refused to apply the black-letter law on restitution.

### Cases Illustrating Challenges to Obtaining Restitution Orders

A few cases illustrate some of the challenges that prosecutors have faced in obtaining restitution orders in federal human trafficking cases.

#### ***Example 1: Criminalized Work***

In *United States v. Carson*, the defendant trafficked four minor victims for a period of several months in 2010.<sup>26</sup> McKenzie Carson used violence to maintain control over his victims. For example, in retaliation for an attempted escape, he tried to run one victim over with his car.<sup>27</sup> A jury convicted Carson.<sup>28</sup> In the government's sentencing memorandum, prosecutors noted the requirement under 18 U.S.C. §1593 that the defendant pay restitution to the victim.<sup>29</sup> The prosecutor offered to provide the court with a chart detailing the victims' earnings, "based upon the number of days that they worked and an average amount that they made each day," at the sentencing hearing.<sup>30</sup> These estimates, she noted, were based on "testimony that was given under oath and the jury found ... credible."<sup>31</sup>

The court expressed skepticism that restitution could be awarded for work that would be illegal if it had been performed voluntarily.<sup>32</sup> The prosecutor responded, correctly, that the illegal nature

of the work had no bearing on the restitution requirement.<sup>33</sup> Confronted with this argument, the court suddenly announced that the government's request was untimely – despite the fact that the government had requested restitution well in advance of the hearing, and was now providing a detailed breakdown of the calculations.<sup>34</sup> Ultimately, the judge admitted that she simply did not want to deal with the issue:

I guess, without anything being submitted, I didn't have any reason to really look into it. Okay. I don't think there is going to be any money, so I think we're spending additional time in a too warm courtroom for something that isn't going to be very useful. But I'm not going to order restitution based on something that I was just given now. And this is the end of the case.<sup>35</sup>

In another case, *United States v. Gemma*, the prosecutor requested restitution in the amount of \$5,600.<sup>36</sup> This amount was based on “an abundance of testimony at trial, all consistent with the victim's [ads] and the Backpage[] ads, that the defendant charged \$100 for half an hour and \$200 for an hour to prostitute in this case, that she performed sex acts on numerous occasions daily throughout a two-week period.”<sup>37</sup>

The judge acknowledged “the math,” but mused that “to sort of say the money should have been hers rather than his is a little bit odd in this context.”<sup>38</sup> When the prosecutor properly pointed to case citations supporting the proposition that victims trafficked into illegal labor are still entitled to restitution, the judge reminded her that “[s]ometimes people have different views,” and ended the discussion.<sup>39</sup> Ultimately, the judge's “reasoning” came down to his final statement on the subject: “Well, yeah. Okay. I think not.”<sup>40</sup>

### ***Example 2: Refusal to Order Restitution After Sentencing***

In *United States v. Michael Lee*, the defendant pled guilty to sex trafficking under 18 U.S.C. §1591 (along with one other count).<sup>41</sup> The government did not originally file a separate restitution request, although prosecutors asked for restitution using boilerplate language in the plea agreement.<sup>42</sup> The court sentenced Lee to 156 months in prison, but did not order restitution.<sup>43</sup> Nine days after the judgment issued, the government filed a motion to amend the order in order to address the restitution issue.<sup>44</sup> The government argued that the court had committed a “clear error” by not ordering restitution, and, under Rule 35, the court could therefore amend its judgment.<sup>45</sup> Along with its motion to amend, the government filed a victim impact statement, in which “Victim S” detailed the personal and financial losses she had suffered as a result of the crime.<sup>46</sup>

The government's motion stated that the information provided by Victim S had not been available prior to sentencing, and cited 18 U.S.C. §3664(d)(5) for the proposition that the government could therefore seek amendment of the order.<sup>47</sup> However, the defense successfully argued that the government had access to all the necessary information earlier.<sup>48</sup> The defense further claimed

that 18 U.S.C. §3664(d)(5) was limited to cases in which the defendant had been put on notice of the possibility that restitution would be ordered at a later time.<sup>49</sup>

In a one-page order, the court ruled that Rule 35 did not permit an amendment to the judgment.<sup>50</sup> The court stated: “it hardly constitutes ‘clear error’ for the court not to impose restitution when no request for the payment of restitution is made at the time of sentencing.”<sup>51</sup> The victim received no restitution.<sup>52</sup>

### ***Example 3: Skepticism about Restitution Calculations***

Restitution need not be determined “with mathematical precision,” but need only be a reflection of the victim’s losses.<sup>53</sup>

Some courts have expressed skepticism about victims’ estimates of the expenses associated with their trafficking, and have, as a result, declined to order restitution. In *United States v. Larry Thomas*, the prosecutor requested restitution on behalf of the victim, deferring to the victim’s own calculations.<sup>54</sup> The victim, who appeared telephonically, said that she was owed money for (among other things) gas, rent, and food.<sup>55</sup> The prosecutor, as an officer of the court, could not support that these were legally permissible costs.<sup>56</sup> The court declined to grant the award.<sup>57</sup>

The sentencing transcript strongly suggests that prosecutors submitted only the victim’s calculations, requesting neither the defendant’s earnings under 18 U.S.C. §1593 nor the victim’s full losses under 18 U.S.C. §2259.<sup>58</sup> This deference to the victim’s calculations resulted in the court finding “an insufficient nexus between the crime charged and the request for restitution.”<sup>59</sup> While the prosecutor did *request* restitution, more engagement in the underlying calculations might have resulted in an order. Pro bono legal counsel for the victim might also have assisted in the calculations.

Judicial skepticism does not always completely destroy a victim’s chances of getting restitution, but may decrease the amount of the award. In *United States v. Carl Brandon Smith*, for example, the defendant trafficked four minor victims.<sup>60</sup> He brutalized his victims, beating one victim so severely her eye swelled shut.<sup>61</sup> He punched another with such force that her braces tore.<sup>62</sup> In the government’s sentencing memorandum, prosecutors requested restitution for each victim based on individualized calculations of their earnings, estimated by multiplying the number of forced sex acts by the amount charged for each.<sup>63</sup> After discussing the government’s rationale at the defendant’s sentencing hearing, the judge ordered the amounts requested, less 25%, “crediting, in large part, what the victims have reported, but acknowledging, given the time that has passed and the circumstances that this conduct occurred under, that it might be overestimated a little bit.”<sup>64</sup> The court ordered \$239,063 in restitution.<sup>65</sup>

### ***Example 4: Fines without Restitution***

In *United States v. Barclay*, a sex trafficking case brought in the Western District of Texas, the record appears to be completely silent on the question of restitution for “Jane Doe,” the 15-year-

old victim.<sup>66</sup> Although Barclay pled guilty to a crime under Chapter 77 of Title 18 (18 U.S.C. §1591), the issue of mandatory restitution was not raised by prosecutors in the plea hearing or the sentencing hearing.<sup>67</sup> In the final judgment, the court sentenced Barclay to 121 months in federal prison and ordered him to pay \$100 to a general crime victims' fund and a fine of \$15,000.<sup>68</sup> Neither the magistrate judge or the district judge challenged the prosecution's omission.

#### ***Example 5: Extraterritorial Jurisdiction and Restitution***

*United States v. Baston* illustrates a court's reluctance to invoke extraterritorial jurisdiction for restitution purposes. A federal jury in the Southern District of Florida convicted defendant Damion St. Patrick Baston of sex trafficking and related crimes, finding that he had used violence and coercion to force multiple women into prostitution in the United States, Australia, and the United Arab Emirates.<sup>69</sup> The court sentenced Baston to 25 years in prison, followed by a lifetime of supervised release, and ordered him to pay \$99,270.00 in restitution to three adult victims.<sup>70</sup> In determining the restitution award, the court calculated the value of the victims' services to the defendant by multiplying the number of hours that each victim testified she was forced to work by the amount she charged, minus estimated living expenses.<sup>71</sup> However, the court declined to award an additional \$400,000 in restitution to one victim, K.L., who earned this amount while she was trafficked by the defendant in Australia.<sup>72</sup> The court held that the extraterritorial application of 18 U.S.C. §1593 exceeded the authority of Congress under both the Foreign Commerce Clause and the Due Process Clause.<sup>73</sup>

The government appealed the decision. The Eleventh Circuit Court of Appeals reversed, stating, "Congress has the power to require international sex traffickers to pay restitution to their victims even when the sex trafficking occurs exclusively in another country."<sup>74</sup> The Eleventh Circuit Court of Appeals vacated the district court's restitution order and remanded the decision with the instruction to increase K.L.'s restitution award to include her forced prostitution in Australia.<sup>75</sup>

## **2. The Role of Federal Prosecutors**

Prosecutors were *more* likely to request restitution in federal criminal human trafficking cases in the updated data set than they were in the original data set for the 2014 Mandatory Restitution Report. But prosecutors were *less* likely to be successful.<sup>76</sup> The largest percentage increase in requests appeared in plea agreements, but the data set also reflects an increase in the number of requests made in dedicated sentencing documents. Specific filings that seek restitution are labor-intensive, but are also more likely to be successful.<sup>77</sup> Overall, prosecutors requested restitution in 67% of trafficking cases, up from 63% in the prior data set. But these same prosecutors encountered a 27% lower success rate.

U.S. Attorneys' Offices across the country have shown improvement on restitution. According to the 2014 Mandatory Restitution Report, roughly 71% (36) of United States Attorneys' Offices

(USAOs) that brought Chapter 77 claims requested restitution in one or more cases. The 2014 data showed that 55% (28) of those offices were successful in obtaining an award.<sup>78</sup>

In contrast, the 2016 data set shows that 90% (60) of USAOs that brought Chapter 77 cases requested restitution in one or more of those cases.<sup>79</sup> And the number of jurisdictions with at least one case in which restitution was ordered rose from 55% to 61%.<sup>80</sup>

Twenty-five of the 94 USAOs had perfect records with respect to restitution requests. In every trafficking case federal prosecutors brought in that jurisdiction, they requested mandatory restitution.<sup>81</sup> Of these 25 USAOs, 21 brought two or more cases, and eight USAOs had five or more cases. Most notable is the Northern District of Georgia, which requested and received restitution in all five of the trafficking cases it prosecuted during the report's date range.

### **3. The Role of Prosecutors: Case Studies**

#### ***i Highest Awards***

Federal prosecutors in the Eastern District of New York obtained the highest restitution order amount in a sex trafficking case during the reporting period in *United States v. Hernandez*.<sup>82</sup> The Hernandez case involved a large, international sex trafficking ring operating out of Mexico. The court awarded three victims recruited from Mexico for forced prostitution a total of \$3,060,135.96.<sup>83</sup>

The Eastern District of New York won three of the top five highest restitution order amounts in this report's updated data set. In addition to *United States v. Hernandez*, the USAO obtained \$1,222,165 in *United States v. Lopez-Perez*, a sex trafficking case involving three defendants,<sup>84</sup> and \$1,033,336 in *United States v. Estrada-Tepal*, a sex trafficking case involving four defendants.<sup>85</sup>

Federal prosecutors in the District of Colorado obtained the highest restitution order in a labor trafficking case during the relevant reporting period: \$3,790,338.55 for 27 victims in *United States v. Kalu*.<sup>86</sup> The case involved the trafficking of highly-skilled nurses to a fake university in Colorado.<sup>87</sup> Defendants fraudulently obtained H-1B visas for the nurses, who had paid significant fees for purportedly excellent (and legal) jobs in the United States to teach in a nursing school.<sup>88</sup> Instead, the victims found themselves held in forced labor under threat of deportation.<sup>89</sup> A jury convicted Kalu on 89 counts of mail fraud, visa fraud, human trafficking, and money laundering; the court sentenced him to 130 months in prison.<sup>90</sup>

#### ***ii Use of Forfeiture to Fund Mandatory Restitution for Victims***

Prosecutors in the Southern District of Texas used forfeiture statutes to benefit trafficking victims. In *United States v. Medeles-Arguello*, 13 defendants pled guilty in an international sex trafficking case involving victims as young as 14.<sup>91</sup> A jury convicted Hortencia Medeles-Arguello, the lead defendant, on all counts: conspiracy to commit sex trafficking, conspiracy to harbor aliens, aiding and abetting to commit money laundering, and conspiracy to commit money laundering.<sup>92</sup>

Thirteen other defendants pled guilty; sentences ranged from 18 months to life in prison. The court also ordered a total of \$1,494,929.10 in restitution to 15 sex trafficking victims.<sup>93</sup> Finally, the court ordered defendants to forfeit assets. The court ordered that proceeds of the sale of forfeited property in excess of the \$300,000 monetary judgment were to be applied towards restitution.<sup>94</sup>

### *iii Restitution Requests in the Absence of Victim Cooperation*

Victims, who frequently do not have counsel to assist them in navigating the criminal justice system, are sometimes reluctant to assist in calculating restitution. Under 18 U.S.C. §1593, mandatory restitution can be calculated with little or no input from the victim. *United States v. Ira Richards*, a case prosecuted in the S.D.N.Y., provides a case study.<sup>95</sup>

Richards brutally exploited two minor victims, regularly beating and raping them, and forcing them to meet prostitution earnings quotas.<sup>96</sup> When one victim tried to escape, Richards made her strip and kneel, then proceeded to beat her with an umbrella.<sup>97</sup> He then forced her to have sex with customers while still injured.<sup>98</sup> A second victim suffered similar violence; Richards choked her and “struck her with a studded belt until the belt broke.”<sup>99</sup> Eventually, the victims escaped and reported the defendant to the police.<sup>100</sup>

Richards pled guilty and was sentenced to 240 months in prison.<sup>101</sup> Richards’ violence traumatized and terrorized his victims. “Victim-1” provided a written statement at sentencing in which she explained that she was afraid to go outside, at risk of being found by one of her trafficker’s associates.<sup>102</sup> She stated:

Meeting [Richards] was the worst thing that happened to my life. I’m still trying to get over the beatings. I[] still wake up out [of] sleep thinking he’s standing over me. I’m also still scared of being outside for [too] long thinking that him or whoever he talks to will find me. I’m very happy that he was caught. I’m also happy that my child and I got out of that life safe because we could of gotten Killed in that situation. I just want closure to know me and my child are safe.<sup>103</sup>

Understandably, this victim was unwilling to testify at Richards’ trial. The second victim did not provide any information to prosecutors. Federal prosecutors in the Southern District of New York still fought for mandatory restitution.

The prosecutor used information Victim-1 provided in a private interview to calculate the mandatory restitution owed to both victims under the law.<sup>104</sup> Based on this victim’s statements, the government conservatively estimated that Victim-1 had seen at least one customer per day for 60 days (and sometimes many more).<sup>105</sup> She earned at least \$150 per day for the defendant. Multiplying the earnings (\$150) by the number of days worked (60), the government arrived at



the number \$9,000.<sup>106</sup> Victim-1 also provided the information that allowed the government to assess what “Victim-2” was owed under the law: Victim-2 made at least \$150 per day for 90 days, so the government requested \$13,500 on her behalf.<sup>107</sup> The court ordered the full restitution amounts requested for both victims.<sup>108</sup>

Notably, prosecutors requested restitution in this case solely by reference to the defendant’s earnings. The victims’ additional out-of-pocket losses – for example, medical bills and counseling costs – were neither requested nor factored into the court’s order. While this resulted in a smaller total award, it demonstrated that restitution can be requested and obtained even when victims do not participate in the calculations. The record frequently contains sufficient information for a prosecutor to estimate the defendant’s earnings – *the value of the victim’s services* – from the underlying crime. In contrast, a victim’s out-of-pocket losses are more difficult to ascertain unless the victim provides receipts and documentary evidence. Restitution awards calculated without a victim’s input are likely to be somewhat smaller. But these restitution orders remain important – and mandatory.

Restitution orders must never be contingent on a victim’s willingness to seek them – or, for that matter, her willingness to participate or cooperate during the criminal proceedings. Unfortunately, it is common for prosecutors to affirmatively disclaim restitution when the victim does not cooperate. In 26 of the 41 cases (63%) in which prosecutors affirmatively disclaimed restitution, the reason given was that the victim didn’t request it. A trafficking victim’s unwillingness to cooperate in calculating restitution need not be a barrier to restitution, as demonstrated in *United States v. Ira Richards* (discussed above). Trafficking victims can waive restitution by assigning the court-ordered funds to a general victim fund.

Prosecutors in the Northern District of California have also demonstrated that restitution need not hinge on victims’ cooperation. Four out of five cases brought in the Northern District of California in the timeframe of this report included restitution requests, and three yielded restitution orders.<sup>109</sup> Yet it does not appear that victims cooperated in seeking restitution in any of the three cases with restitution. The handling of these cases provides a refreshing contrast to the norm. Mandatory restitution requires courts to order restitution. It is not mandatory for victims to participate.

In *United States v. Crutchfield*, for example, two defendants faced multiple charges of sex trafficking and production of child pornography.<sup>110</sup> Both defendants pled guilty.<sup>111</sup> The pre-sentence report included a recommendation that each victim receive restitution in the amount of \$1,000; both defendants’ plea agreements included provisions requiring them to pay a *minimum* of \$1,000.<sup>112</sup> In its sentencing memorandum, the government noted that it had “not received any request or support for additional restitution beyond that to which the parties have already agreed.”<sup>113</sup> Therefore, federal prosecutors limited the restitution request to “\$2,000.00, as recommended by the [pre-sentence report].”<sup>114</sup> The court awarded restitution in this amount.<sup>115</sup>

Prosecutors in the Northern District of California used the same strategy to secure \$4,000 for the victims in *United States v. Ahmad*, a case that, like *United States v. Crutchfield*, involved charges of sex trafficking and child pornography.<sup>116</sup> As in *Crutchfield*, the prosecutors in *Ahmad* arranged for restitution to be awarded *by default* – meaning that the victims’ refusal to cooperate would not ultimately stand in the way of a restitution order.<sup>117</sup>

In a third case in the Northern District of California, *United States v. Broussard*, federal prosecutors reported having “made efforts to have the named victims submit documentation to substantiate their losses.”<sup>118</sup> However, both victims proved “unwilling or unable to deal with this issue directly at this time and have not submitted any statements or documentation.”<sup>119</sup>

Nevertheless, the prosecutors argued for restitution in the sentencing memorandum submitted to the court. Noting that the victims had not provided receipts or information, the prosecutors stated:

The government anticipates that it can satisfy its burden, however, by reference to the Defendant’s bank records which were produced pursuant to subpoena (and which were previously provided in discovery to the Defendant and U.S. Probation), and provide the Court with a conservative estimate of the Defendant’s ill-gotten gains from his criminal behavior and victimization of these minors. Both minor victims have stated that while they were engaged in their travel around the country to engage in prostitution, they were required to send the money they earned back to Defendant either via money-gram or direct deposit into his various accounts. During its investigation, the government was only able to locate one Bank of America account in Defendant’s name, and the evidence (in the form of deposit slips and statements) corroborates the victims’ statements that they made deposits of various amounts into Defendant’s account while in other states. The government’s initial estimate at this time is that over \$72,000 was deposited in this fashion into Defendant’s Bank of America account during the relevant time period, and many of the deposit slips associated with these transactions bear the initials or signatures of the minor victims.<sup>120</sup>

The government then requested a further hearing to address the issue of how much restitution should be paid to the victims, but also stated that the defendant “agreed under the terms of his plea agreement to provide restitution in an amount to be determined by the Court, but in no event less than \$5,000 per victim.”<sup>121</sup> The court ordered restitution in the amount of \$10,000, or \$5,000 to each victim.<sup>122</sup>

#### iv Use of Creative Calculation Methodologies

As noted above, restitution may be calculated under the Fair Labor Standards Act or as the defendant's earnings; the victim is entitled to whichever is greater.<sup>123</sup> The "defendant's earnings" method of calculation is more common in sex trafficking cases, as victims' hourly earnings from performing commercial sex acts invariably exceed minimum wage. However, in *United States v. Roshaun Porter*, prosecutors took a novel approach.<sup>124</sup> Defendant Porter met the victims through websites, such as Craigslist, and, after, gaining their trust, forced the victims to sell sex.<sup>125</sup> He became violent, using physical threats and verbal abuse to control his victims.<sup>126</sup> Porter and his co-defendant, Horn, both pled guilty, and were sentenced to 240 months and 78 months in prison, respectively.<sup>127</sup>

In an unusual move, the government made its request based on the value of one victim's services as determined under the Fair Labor Standards Act, rather than based on the direct earnings from the victim's labor.<sup>128</sup> Prosecutors pointed out that even though the victim only saw between one and six customers per day, she also "was forced by the Defendants to stay at the work location when she was not 'servicing' a customer to answer calls from prospective customers."<sup>129</sup> By including this additional wait time as work time, prosecutors calculated that she worked roughly 16 hours per day, for a total of 112 hours per week; prosecutors then multiplied this number by the minimum wage (\$7.25/hour) plus overtime owed (\$288.00/week).<sup>130</sup> After adding meal and lodging allowances to the back wages due, the total restitution amount requested from defendant Horn was \$69,719.34.<sup>131</sup> The court awarded the full amount requested.<sup>132</sup> The court ordered the second defendant to pay \$866,244.68 in restitution based on similar calculations.<sup>133</sup>

#### 4. The Role of Defense Counsel

As reported in the 2014 Mandatory Restitution Report, defendants continue to make the same losing arguments in their efforts to derail restitution orders. Happily, however, most judges reject these arguments. The law is clear – restitution is mandatory for victims of federal human trafficking offenses. Nevertheless, nearly all defendants present the same two arguments for why they should not have to pay restitution. The relevant case law instantly rebuts both claims.

The first defense argument is that the victim cannot recover because prostitution is illegal.<sup>134</sup> This conclusion is inconsistent with 18 U.S.C. §1593 and relevant case law. In *United States v. Mammedov*, the Second Circuit held that "the express terms of 18 U.S.C. §1593 require that the victims in this case, i.e. persons who engaged in commercial sex acts within the meaning of 18 U.S.C. §1591, receive restitution, notwithstanding that their earnings came from illegal conduct."<sup>135</sup> In *United States v. Cortes-Castro*, the Eleventh Circuit Court of Appeals similarly dispensed with the argument that restitution would reward the victim's illegal activity, stating simply that "[t]hat argument is preposterous."<sup>136</sup> The Ninth Circuit also held in *United States v. Fu Sheng Kuo* that the TVPA "mandates restitution that includes a defendant's ill-gotten gains."<sup>137</sup> No federal appellate court in any circuit has ever held to the contrary.

The second argument defendants frequently deploy is that the calculations made to quantify the defendant's earnings are insufficiently precise.<sup>138</sup> Although the government does bear the burden of establishing the victim's losses, it need only do so "by a preponderance of the evidence."<sup>139</sup> Restitution need not be determined "with mathematical precision."<sup>140</sup> Awards are often ordered based on victim testimony alone. There is no requirement that the victim's earnings be documented; indeed, they rarely are.

Nearly every defendant facing sentencing in a sex trafficking case brandishes one or both of these arguments. But some defendants are much more creative. In *United States v. Carson*, discussed above, the defense argued that, because the defendant only had \$82 in his pocket at the time of arrest, he was "certainly not suggestive of a person who had taken \$5,600 for prostitution activities."<sup>141</sup> The defendant in *United States v. Graham* objected to the amount claimed, saying that the government's estimate would mean that "the three victims in this case are the hardest working and most successful prostitutes in the history of prostitution."<sup>142</sup> Rejecting this argument, the court awarded \$366,000 in restitution to the three victims.<sup>143</sup>

#### **E. The Failure to Collect Restitution**

Restitution is only rarely awarded. It is virtually never collected. The Attorney General's FY2015 and FY2016 *Annual Reports to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons* only confirm this conclusion. Each report includes an appendix listing all restitution orders for defendants sentenced in that fiscal year.<sup>144</sup> Of the 32 defendants listed in the FY2015 report, only seven had even begun paying their restitution at the time the government's report was published. Of the more than \$4,018,988 ordered in restitution in that report,<sup>145</sup> the government had collected a grand total of \$987, or 0.025% of the restitution ordered as of the publication date.<sup>146</sup> The largest amount any defendant had paid was \$300, a payment towards a \$51,844 restitution order.<sup>147</sup>

The data for FY2016 showed improvement. Of the 75 defendants listed in the FY2016 report, 25 had made payments on the restitution orders. Four had paid in full. Of the approximately \$9,166,689 total ordered in restitution in FY2016, the government had collected \$257,449, or 2.8% of the total restitution owed.<sup>148</sup>

The Justice for Victims of Trafficking Act (JVTA), enacted in 2015, requires that assets forfeited in criminal trafficking cases be used to pay restitution orders.<sup>149</sup> But the data provided in the Attorney General's Reports to Congress suggest that the change in legislation has had only a marginal impact. Based on the Attorney General's own reports, reserving forfeited funds has increased restitution collection only slightly. The law's full effect on collections may not yet have been realized, but early indications show that there is more work to be done.

JVTA's provisions cannot be helpful unless courts order restitution in the first instance. And unfortunately, there are multiple cases in which courts have forfeited assets from defendants, but failed to order mandatory restitution to victims. Not only do those judgments direct the funds to

the U.S. Treasury (instead of to victims), but they also preclude the possibility that victims will be able to recover in a civil suit. In four cases included in the updated data set, courts forfeited cash and assets from defendants, but did not order any mandatory restitution to victims.<sup>150</sup> For the U.S. Treasury to collect forfeited funds – while trafficking victims receive nothing – offends both the substance and the purpose of the JVTA.

The challenges of collecting of restitution are not unique to victims of trafficking. Indeed, the Department of Justice Office of the Inspector General (OIG) Evaluation and Inspections Division painted a troubling picture of restitution collection across the board in a 2015 report.<sup>151</sup> The OIG concluded that “in many cases, USAOs have not devoted the resources or put in place the policies and procedures necessary” to ensure that crime victims receive full and timely restitution.<sup>152</sup> That report cited significant issues, such as insufficient staffing in Financial Litigation Units (FLUs), the USAO prosecution units assigned to enforce and collect restitution for victims. That report also included excellent recommendations to USAOs, including guidance to seek restitution prior to sentencing. As the OIG suggested,

...the FLU, Criminal Division, and Asset Forfeiture unit should focus on restitution debts pre-judgment, because this is the best chance to recover assets. Pre-judgment efforts are likely to increase the recovery of assets because defendants (1) have greater incentive to voluntarily disclose financial information and agree to pay monetary penalties when doing so has the potential to favorably influence their sentence, and (2) have less time to hide or dissipate their assets.<sup>153</sup>

One case in particular demonstrates that this pre-judgment strategy can successfully ensure that restitution is *collected* – not just ordered. In *United States v. Al Homoud*, the defendants, a husband and wife from Qatar and the United Arab Emirates, faced forced labor charges.<sup>154</sup> The indictment alleged that the pair trafficked two women from abroad, forcing them to work as housekeepers at their residence in San Antonio, Texas.<sup>155</sup> Eventually, one of the victims escaped from the apartment in which they were forced to live, and contacted the police.<sup>156</sup> The apartment lacked furniture, toilet paper, and other basic amenities.<sup>157</sup>

Both defendants pled guilty, the husband to visa fraud, the wife to misprision of a felony.<sup>158</sup> Prior to sentencing, the judge signed an order requiring that the full amount of restitution due in the case – \$120,000 – be held in the registry of the United States District Court prior to entry of the judgment.<sup>159</sup> This guaranteed that the victims would receive the restitution. This pre-payment was particularly important in a trafficking case in which the defendants voluntarily departed the United States immediately following the sentencing hearing.<sup>160</sup> This is one of just four cases in FY2016 in which the defendants had paid the restitution in full by the end of the fiscal year.

## **F. Searching for Solutions**

The U.S. Government has acknowledged the importance of restitution – and collection of restitution.<sup>161</sup> The Attorney General’s Report to Congress in FY2015 specifically recommended that the Department of Justice (DOJ) “[c]ollaborate with governmental and nongovernmental partners to enhance financial investigations to disrupt, dismantle, and disable human trafficking networks, seize criminal proceeds, and secure restitution for victims.”<sup>162</sup>

To the Department of Justice’s credit, the Human Trafficking Prosecution Unit (HTPU), the Child Exploitation and Obscenity Section (CEOS), and the Money Laundering and Asset Recovery Section (MLARS) have worked to implement this recommendation. HTPU and CEOS both increased training on mandatory restitution at the National Advocacy Center (NAC) in South Carolina. That training may be responsible for the uptick from 63% to 67% in restitution requests submitted in trafficking cases by federal prosecutors. And MLARS attorneys conducted extensive training sessions for anti-trafficking NGOs and advocates on recovering forfeited assets for trafficking victims through restoration and remission.<sup>163</sup> In 2018, the DOJ created an internal working group on restitution in trafficking cases. The Department of Justice has encouraged increased use of the Treasury Offset Program (TOP), a centralized offset program administered by the Bureau of the Fiscal Service’s Debt Management Services (DMS), to collect restitution.<sup>164</sup> The program can be used to withhold tax refunds and other federal payments to defendants who owe restitution in federal criminal cases.<sup>165</sup>

Individual USAOs also deserve commendation for significant efforts to cooperate with non-governmental organizations and pro bono counsel. The District of South Carolina, for example, under the leadership of then-Acting U.S. Attorney Beth Drake, hosted a series of training programs on restitution for pro bono attorneys in the state. Similarly, federal prosecutors at the USAO for the Middle District of Florida participated in training on restitution and forfeiture. These efforts are laudable and should be encouraged by the Department of Justice. Ultimately, the impact of all of these efforts must be measured in dollars provided to victims. That is the only metric that matters.

## **IV. CONCLUSIONS AND RECOMMENDATIONS**

Restitution is mandatory in federal human trafficking prosecutions; however, it is rarely ordered, and even less frequently collected. The original research in the 2014 Mandatory Restitution Report projected that more restitution requests submitted to courts by federal prosecutors would eliminate the problem. But this has not proven to be true: in the years since the first report was published, prosecutorial requests have increased, while orders have plummeted.

Unfortunately, even when restitution is ordered, it is rarely received by victims. These twin failures – failure to order and failure to collect restitution – undermine trafficking survivors’ confidence in the judicial system. The following recommendations may help address these challenges:



To Federal Prosecutors:

- Seek mandatory restitution in all human trafficking cases, including those cases that end in plea agreements;
- Request restitution under the federal human trafficking statute, 18 U.S.C. §1593<sup>166</sup>;
- Appeal all district courts' denials of mandatory restitution;
- Collaborate with the Asset Forfeiture and Financial Litigation Units early in cases to identify assets to cover restitution;
- Advocate for forfeited assets to go to trafficking victims first and not to the U.S. Treasury;
- Draft plea agreements to include restitution;
- Arrange for pre-payment of restitution prior to sentencing through plea agreement provisions;
- File appropriate paperwork for restoration of forfeited assets to trafficking victims;
- File for withholding from defendants under the Treasury Offset Program;
- In the case of child victims, advocate for appointment of a guardian *ad litem* to represent the best interests of the child, or a pro bono attorney to represent the child directly; and
- Encourage all victims to obtain victim-witness rights representation counsel to advocate for restitution – and collection of restitution.

To the Federal Judiciary:

- Provide training to all federal judges on mandatory restitution under 18 U.S.C. §1593 for victims of human trafficking;
- Order mandatory restitution to trafficking victims under 18 U.S.C. §1593 in cases brought under Chapter 77 of Title 18;

- Ask prosecutors in all human trafficking criminal cases whether they plan to request mandatory restitution – and challenge them when they do not;
- Track data on restitution for trafficking victims ordered in U.S. federal courts; and
- Track data on collection of restitution for trafficking victims in the federal system.

To Financial Litigation Units:

- Aggressively enforce criminal restitution orders in human trafficking cases;
- Collaborate with AUSAs and asset forfeiture prosecutors in each of the 94 USAOs to maximize collection of restitution orders; and
- Increase training on criminal restitution for trafficking victims.

To the Probation Office:

- Train probation officers to include mandatory restitution for trafficking victims in all pre-sentence reports submitted to courts;
- Encourage probation officers to interview trafficking victims and/or their advocates to discuss restitution and losses for the presentence report;
- Include restitution recommendations in all presentence reports; and
- Train probation officers to raise mandatory restitution for trafficking victims in pre-sentencing meetings and discussions with federal judges.

To the Department of Justice Human Trafficking Prosecution Unit and the Child Exploitation and Obscenity Section (CEOS):

- Expand training of federal prosecutors on mandatory restitution in human trafficking cases;
- Include restitution in all plea agreements for human trafficking cases;
- Train federal prosecutors to request restitution under 18 U.S.C. §1593 so that the funds may be excluded from gross income for federal income tax purposes per Treasury Notice 2012-12;

- Advocate for pre-sentencing payment of restitution into court registries or attorney escrow accounts;
- Request criminal restitution for child victims of sex trafficking;
- Amend the U.S. Attorneys' Manual to include instructions on mandatory restitution for adult and child sex trafficking victims under 18 U.S.C. §1593;
- Provide multi-year reporting on restitution orders entered and collection on restitution orders in trafficking cases;
- Add restitution in trafficking cases as a performance review criterion for federal prosecutors;
- Encourage USAOs to work with victims' counsel (if applicable) in human trafficking criminal matters to enforce victims' rights, including the right to mandatory restitution; and
- Continue training on mandatory restitution and collection of restitution at the National Advocacy Center (NAC).

To the Department of Justice Money Laundering and Asset Recovery Section (MLARS, formerly AFMLS):

- Continue training non-governmental organizations and victim advocates on restoration and remission for trafficking victims;
- Track data on restitution provided to human trafficking victims through the restoration process;
- Continue to invite non-governmental organization anti-trafficking experts to collaborate with asset forfeiture attorneys; and
- Continue to press for early collaboration between asset forfeiture attorneys, Financial Litigation units, and prosecuting AUSAs to collect restitution in all cases.

<sup>1</sup> 18 U.S.C. §1593.

<sup>2</sup> 18 U.S.C. §1593(b)(1). *See also* The U.S. Dep't of Justice, United States Attorney's Office, *Understanding Restitution*, <https://www.justice.gov/usao-ndga/victim-witness-assistance/understanding-restitution> (last visited July 25, 2018).

<sup>3</sup> 18 U.S.C. §1593(b)(3). The value of the victim's services is typically measured by calculating the defendant's earnings from the crime. However, the victim is entitled to a minimum of the value of her labor as guaranteed under federal labor laws: the "full amount of the victim's losses" includes "the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. §201 et seq.)." *Id.*

It is a common misperception that restitution for the victim's services is not owed when the services are criminalized (for example, if the victim is forced to engage in commercial sex acts). This is false. *See United States v. Mammedov*, 304 F. App'x. 922, 927 (2d Cir. 2008) (holding that "the express terms of 18 U.S.C. §1593 require that [trafficking victims] receive restitution, notwithstanding that their earnings came from illegal conduct"). No appeals court has adopted a contrary view.

<sup>4</sup> Levy, Vandenberg, and Chen, *When 'Mandatory' Does Not Mean Mandatory: Failure to Obtain Criminal Restitution in Federal Prosecution of Human Trafficking Cases in the United States* (2014), <http://www.htlegalcenter.org/wp-content/uploads/mandatory.pdf> (last visited July 25, 2018) (hereinafter "2014 Mandatory Restitution Report").

<sup>5</sup> *See id.* at 3.

<sup>6</sup> *See id.* at 5.

<sup>7</sup> Researchers measured the aggressiveness of the prosecutor's approach by assessing the type of document filed and the thoroughness of the request. The most aggressive requests were made in court filings, particularly sentencing memoranda, exclusively dedicated to the issue of restitution. These requests were the most successful, yielding restitution orders in 93% of cases. *See id.* On the other end of the spectrum, when no request was made, courts ordered restitution in only 10% of cases. *See id.*

<sup>8</sup> The 2014 Mandatory Restitution Report drew on data from federal criminal trafficking cases brought under Chapter 77 of Title 18 of the U.S. Code between January 1, 2009 and December 31, 2012 that closed on or before February 2, 2014.

<sup>9</sup> *See id.* at 4.

<sup>10</sup> The data for this report includes federal criminal trafficking cases brought under Chapter 77 of Title 18 of the U.S. Code on or after January 1, 2013, and closed on or before June 4, 2016. The data set also includes cases filed between January 1, 2009 and December 31, 2012, but closed between February 2, 2014 (the close date of the 2014 Mandatory Restitution Report) and June 4, 2016 (the close date for this report).

<sup>11</sup> There are 94 U.S. Attorneys' Offices in the United States. Despite the improvement, it remains troubling that only 43% of U.S. Attorneys' Offices had at least one restitution order in a human trafficking case in the updated data set.

<sup>12</sup> *See infra* Appendix A.

<sup>13</sup> *See id.*

<sup>14</sup> A restitution order must be collected by federal authorities. For a discussion of restitution collection issues, *see infra* pp. 24-25.

<sup>15</sup> The previous 2014 Mandatory Restitution Report included all cases filed between January 1, 2009 and December 31, 2012 that closed on or before February 2, 2014. Researchers found these cases on Bloomberg Law, PACER, and websites maintained by the Department of Justice and U.S. Attorneys' Offices. The authors recommend that the federal government maintain (and release publicly) a list of federal trafficking cases filed annually.

<sup>16</sup> A court dismissed one sting case, causing an overlap of one case.

<sup>17</sup> A case was considered to have “sufficient documentation” as long as a plea agreement or a government sentencing memorandum was available. However, cases in which restitution requests appeared elsewhere were included regardless of the availability of the listed documents.

<sup>18</sup> These categories replicated those used in the 2014 Mandatory Restitution Report.

<sup>19</sup> The 2014 Mandatory Restitution Report also included a category for requests that appeared in writing in any other document. There were no such requests in the 2016 data, so this category was omitted.

<sup>20</sup> This includes charges for conspiracy to commit Chapter 77 crimes.

<sup>21</sup> *United States v. Penzato*, 3:12-CR-00089 (N.D. Cal. 2012), a case brought in the Northern District of California in 2012, provides an excellent example. The defendants pled guilty to conspiracy to possess illegal identification documents. See Government’s Sentencing Memorandum, *United States v. Penzato*, 3:12-CR-00089 (N.D. Cal. 2012) at 1. Despite the fact that the plea was to a non-trafficking crime, the government stipulated as part of the plea deal that the defendant would pay restitution in the amount of \$13,000 to the victim – an amount calculated based on the value of the labor performed by the victim for the defendants. See *id.* “As originally filed and described in the Indictment and affidavit supporting the Complaint, this case concerned the conditions of [the victim]’s employment while working for the Penzatos. Those allegations are not part of the current charge, or of the plea agreement before the Court. The agreed restitution amount, however, is based on the government’s calculation of pay that the Penzatos owe[d] [the victim] for time spent working for them in 2009.” *Id.* at 2.

<sup>22</sup> Four additional cases included labor charges under 18 U.S.C. §1589, but did not include facts supporting allegations of forced labor. In all four cases, the underlying labor was exclusively commercial and sexual in nature. See *United States v. Porter*, 8:12-cr-00097 (C.D. Cal. 2014), *United States v. West*, 6:14-cr-06003 (W.D.N.Y. 2014), *United States v. Drayton*, 1:15-cr-00002 (M.D.N.C. 2015), and *United States v. James Smith*, 2:13-cr-00383 (D.N.J. 2013). In *United States v. Porter*, the labor claim was dropped in the superseding indictment. The prosecutors requested restitution in a dedicated document and received a court order for \$866,244.68. In *United States v. West*, one defendant was charged with, and pled guilty to, forced labor under 18 U.S.C. §1589, while the other was charged with trafficking under 18 U.S.C. §1591 and 18 U.S.C. §1594, and pled guilty to Transportation With Intent To Engage in Criminal Sexual Activity under 18 U.S.C. §2423(a). In *United States v. Drayton*, the only trafficking charge was brought under 18 U.S.C. §1589; the prosecutor requested restitution in the plea; none was awarded. Finally, in *United States v. Smith*, the only trafficking charge was brought under 18 U.S.C. §1589; the prosecutor requested restitution in a dedicated document (which was unavailable, but referenced in the restitution order). Restitution was ordered in the amount of \$1,000. Even if one were to count the final two cases as labor, this would not significantly change the analysis: the percentage of cases with requests would rise to 60%, and the percentage of cases with awards would stay the same. The success rate of labor trafficking restitution requests would fall to 83%. The change to sex trafficking numbers would be imperceptible at the relevant level of analysis.

<sup>23</sup> A court may not refuse to issue restitution because of the defendant’s economic circumstances. See 18 U.S.C. §2259(b)(4)(B)(i).

<sup>24</sup> 18 U.S.C. §1591 includes a mandatory minimum sentence of 10 years for sex trafficking of a minor over the age of 13 without the use of force, fraud, or coercion, and a mandatory minimum sentence of 15 years for sex trafficking of a minor under the age of 14 and for sex trafficking using force, fraud, or coercion. See 18 U.S.C. §1591(b).

<sup>25</sup> See Figures 3 and 4, *supra* pp. 8-9. For a full list of included cases, see Appendix B.

- <sup>26</sup> See Complaint at 2-13, *United States v. Carson*, 1:11-cr-00918 (N.D. Ill. Dec. 30, 2011). This case was brought in the Northern District of Illinois; the U.S. Attorney's Office in this jurisdiction brought a total of four cases within the timeframe of this report, all of which resulted in convictions or guilty pleas, and two of which resulted in restitution orders. Prosecutors requested restitution in all four cases. See *United States v. Carson*, 11-cr-00918 (N.D. Ill. 2011), *United States v. Hull*, 13-cr-00216 (N.D. Ill. 2013), *United States v. Misher et al.*, 14-cr-00107 (N.D. Ill. 2014), and *United States v. Smith*, 12-cr-00246 (N.D. Ill. 2012).
- <sup>27</sup> See *id.* at 10.
- <sup>28</sup> See Order, *United States v. Carson*, 1:11-cr-00918 (N.D. Ill. Dec. 12, 2013).
- <sup>29</sup> See Government's Objection to Presentence Investigation Report and Sentencing Memorandum at 23-24, *United States v. McKenzie Carson*, 11-cr-00918 (N.D. Ill. October 5, 2015).
- <sup>30</sup> Transcript of Sentencing Proceedings at 123, *United States v. Carson*, 11-cr-00918 (N.D. Ill. October 15, 2015).
- <sup>31</sup> *Id.* at 126.
- <sup>32</sup> See *id.* at 123.
- <sup>33</sup> See *id.*
- <sup>34</sup> See *id.* at 125.
- <sup>35</sup> *Id.* at 128.
- <sup>36</sup> See Sentencing Transcript at 20-21, *United States v. Gemma*, 1:12-cr-10155 (D. Mass. Jan. 5, 2015).
- <sup>37</sup> *Id.* at 27.
- <sup>38</sup> *Id.* at 28.
- <sup>39</sup> *Id.*
- <sup>40</sup> *Id.*
- <sup>41</sup> See Plea Agreement at 1, 2, *United States v. Lee*, 1:13-cr-00678 (D. Md. Feb. 13, 2015).
- <sup>42</sup> See *id.* at 5, 7.
- <sup>43</sup> See Judgment at 2, 5, *United States v. Lee*, 1:13-cr-00678 (D. Md. Mar. 31, 2015).
- <sup>44</sup> See generally Motion to Amend Restitution Order, *United States v. Lee*, 1:13-cr-00678 (D. Md. Apr. 9, 2015).
- <sup>45</sup> See *id.* at 2.
- <sup>46</sup> See generally Individual Victim Impact Statement, Exhibit 1, Motion to Amend Restitution Order, *United States v. Lee*, 1:13-cr-00678 (D. Md. Apr. 9, 2015).
- <sup>47</sup> See Motion to Amend Restitution Order at 3, *supra* note 44.
- <sup>48</sup> See Response in Opposition to Motion to Amend at 8, *United States v. Lee*, 1:13-cr-00678 (D. Md. Apr. 30, 2015).
- <sup>49</sup> See *id.*
- <sup>50</sup> See Memorandum Denying Government Motion to Amend Restitution Order, *United States v. Michael Lee*, 1:13-cr-00678 (D. Md. June 2, 2015).
- <sup>51</sup> *Id.*
- <sup>52</sup> See Judgment, *Lee*, *supra* note 43 at 5. This result might have been avoided in two ways. First, if the victim's losses were truly not ascertainable prior to sentencing, the government should have nevertheless requested restitution in specific terms, and petitioned the court to set a date to ascertain the victim's losses within 90 days of sentencing. Second, as discussed below, even without the victim's input, prosecutors could have ascertained the losses for purpose of the restitution order.
- <sup>53</sup> *United States v. Doe*, 488 F.3d 1154, 1159-60 (9th Cir. 2007).
- <sup>54</sup> See Transcript of Proceedings, Sentencing Hearing at 25, *United States v. Thomas*, 3:12-cr-04832 (S.D. Cal. Aug. 24, 2016).
- <sup>55</sup> See *id.*
- <sup>56</sup> See *id.* at 25-27.



<sup>57</sup> See *id.* at 28.

<sup>58</sup> See *id.* at 25.

<sup>59</sup> *Id.* at 28.

<sup>60</sup> See generally Plea Agreement, *United States v. Smith*, 12-cr-00246 (N.D. Ill. Jan. 11, 2013).

<sup>61</sup> See *id.* at 4.

<sup>62</sup> See *id.* at 6.

<sup>63</sup> See Government's Sentencing Memorandum at 21-22, *United States v. Smith*, 12-cr-00246 (N.D. Ill. Oct. 14, 2015).

<sup>64</sup> Transcript of Proceedings – Sentencing, at 53, *United States v. Smith*, 12-cr-00246 (N.D. Ill. Aug. 5, 2014).

<sup>65</sup> See Judgment at 6, *United States v. Smith*, 12-cr-00246 (N.D. Ill. Aug. 5, 2014).

<sup>66</sup> 7:13-cr-00269 (W.D. Tex. 2014).

<sup>67</sup> See Findings of Fact and Recommendation on Felony Guilty Plea at 1, *United States v. Barclay*, 7:13-cr-00269 (W.D. Tex. Nov. 21, 2013); see generally Change of Plea Hearing, *United States v. Barclay*, 7:13-cr-00269 (W.D. Tex. Nov. 21, 2013), Sentencing, *United States v. Barclay*, 7:13-cr-00269 (W.D. Tex. Mar. 24, 2014).

<sup>68</sup> See Judgment at 7, *United States v. Barclay*, 7:13-cr-00269 (W.D. Tex. Feb. 18, 2014).

<sup>69</sup> See Indictment, *United States v. Baston*, 1:13-cr-20914 (S.D. Fla. Dec. 13, 2013); see generally Jury Verdict, *United States v. Baston*, 1:13-cr-20914 (S.D. Fla. July 1, 2014).

<sup>70</sup> See Judgment, *United States v. Baston*, 1:13-cr-20914 (S.D. Fla. February 23, 2015).

<sup>71</sup> See *United States v. Baston*, 818 F.3d 651, 660 (11th Cir. 2016), *cert. denied*, 137 S. Ct. 850 (2017).

<sup>72</sup> See *id.*

<sup>73</sup> See *id.*

<sup>74</sup> *Id.* at 671.

<sup>75</sup> On remand, the district court awarded the full total of \$499,270. See Amended Judgment at 7, *United States v. Baston*, 1:13-cr-20914 (S.D. Fla. June 24, 2016). Because the increased restitution award was handed down after the close date of this report (on June 24, 2016), this report used the amount initially awarded, \$99,270, for the purpose of reporting total restitution. In March, 2017, the Supreme Court denied cert. See 137 S. Ct. 850 (2017).

<sup>76</sup> See Figures 3 and 4, *supra* pp. 8-9.

<sup>77</sup> See 2014 Mandatory Restitution Report at 4-6 (discussing the comparative efficacy of different restitution request types).

<sup>78</sup> See *id.* at 8.

<sup>79</sup> Twelve of the jurisdictions that had brought Chapter 77 charges but had obtained no restitution orders in the first report won at least one restitution order during the time period of this report. Those jurisdictions are: C.D. Cal., D. Minn., D.S.C., D. Utah, E.D. La., N.D. Ind., N.D. Ohio, S.D.N.Y., S.D. Tex., W.D. Ky., W.D.N.Y., W.D. Tenn. See 2014 Mandatory Restitution Report, footnote 53 for a full list of jurisdictions that brought trafficking cases but obtained no restitution orders in the initial research period.

<sup>80</sup> All comparisons between results from the first and second data sets are discussed as percentages. Since the data sets in the 2014 Mandatory Restitution Report and this report cover time periods of different lengths, comparing raw numbers does not provide useful information.

<sup>81</sup> The jurisdictions with perfect records for requesting restitution in every case are: D. Mass. (six requests, yielding two orders), D.Md. (seven requests, yielding no orders), D.Colo. (two requests, yielding one order), D.Conn. (two requests, yielding two orders), D.Nev. (six requests, yielding no orders), D.S.C. (five requests, yielding one order), N.D.Ga. (five requests, yielding five orders), D.N.J. (four requests, yielding one order), N.D. Ill. (four requests, yielding two orders), S.D.N.Y. (five requests, yielding four orders), W.D.N.Y. (seven requests, yielding one order), W.D.Okla. (five requests, yielding one order), D.S.D. (four requests, yielding no orders), E.D.La. (two requests, yielding one order), E.D.Tenn. (one request, yielding no orders), M.D.N.C. (two requests, yielding no orders), N.M.I. (one request, yielding one order), S.D.Ill. (one request, yielding no orders), S.D.Ind. (two requests, yielding one order), S.D.Iowa (two requests, yielding no orders), W.D.Ark. (three requests, yielding no orders), W.D.Ky. (two requests, yielding one order), W.D.La. (two requests, yielding no orders), W.D.Mo. (two requests, yielding two orders), and W.D.Va. (one request, yielding one order).

<sup>82</sup> 11-cr-00297 (E.D.N.Y. 2011).

<sup>83</sup> See Judgment at 4, *United States v. Hernandez*, 11-cr-00297 (E.D.N.Y. Mar. 12, 2014). The 2014 press release issued by the USAO explicitly thanked the non-governmental organizations and pro bono counsel that had advocated on the victims' behalf. See Press Release, USAO EDNY, Member Of The Granados-Hernandez Sex Trafficking Organization, Eleuterio Granados-Hernandez, Sentenced To 22 Years In Prison: Mexican Sex Trafficker Sentenced Today In Federal Court (Mar. 7, 2014), <https://www.justice.gov/usao-edny/pr/member-granados-hernandez-sex-trafficking-organization-eleuterio-granados-hernandez>.

<sup>84</sup> See Amended Judgment at 4, *United States v. Lopez-Perez, et al.*, 11-cr-00199 (E.D.N.Y. Mar. 28, 2014).

<sup>85</sup> Judgment at 6, *United States v. Estrada-Tepal et al.*, 14-cr-00105 (E.D.N.Y. Dec. 15, 2015). Prosecutors in the Eastern District of Virginia and the Western District of Washington also obtained significant restitution orders in sex trafficking cases during the period covered by this report's updated data set.

<sup>86</sup> See Judgment at 8-9, *United States v. Kalu*, 12-cr-00106 (D. Colo. Feb. 21, 2014).

<sup>87</sup> See Indictment at 3-4, *United States v. Kalu*, 12-cr-00106 (D. Colo. Mar. 1, 2012).

<sup>88</sup> See *id.* at 2-6.

<sup>89</sup> See *id.* at 2.

<sup>90</sup> See Judgment at 1-5, *Kalu*, *supra* note 86.

<sup>91</sup> 4:13-cr-00628 (S.D.Tex. 2013).

<sup>92</sup> See Judgment at 1, *US v. Medeles-Arguello et al*, 4:13-cr-00628 (S.D.Tex. Feb. 2, 2016).

<sup>93</sup> See Amended Judgment at 7-8, *United States v. Medeles-Arguello*, 4:13-cr-00628 (S.D. Tex. Apr. 28, 2016).

<sup>94</sup> See Preliminary Order of Forfeiture at 1, *United States v. Medeles-Arguello*, 4:13-cr-00628 (S.D. Tex. Dec. 12, 2014).

<sup>95</sup> 1:13-cr-00818 (S.D.N.Y. 2013).

<sup>96</sup> See U.S. Sentencing Memo at 2, *United States v. Ira Richards*, 1:13-cr-00818 (S.D.N.Y. June 20, 2015).

<sup>97</sup> See *id.* at 1, 3.

<sup>98</sup> See *id.*

<sup>99</sup> *Id.*

<sup>100</sup> See *id.* at 3.

<sup>101</sup> See Judgment at 2, *United States v. Ira Richards*, 1:13-cr-00818 (S.D.N.Y. July 7, 2015).

<sup>102</sup> See Exhibit A, Victim-1 Impact Statement at 3, *United States v. Ira Richards*, 1:13-cr-00818 (S.D.N.Y. June 25, 2015).

<sup>103</sup> *Id.*

<sup>104</sup> See Letter from AUSA to the Hon. Lewis Kaplan at 1, *United States v. Ira Richards*, 1:13-cr-00818 (S.D.N.Y. June 24, 2015).

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

- <sup>107</sup> See *id.* at 2.
- <sup>108</sup> See Judgment at 5, *United States v. Richards*, *supra* note 101.
- <sup>109</sup> See generally Judgment, *United States v. Ahmad*, 13-cr-00374 (N.D. Cal. July 14, 2015), Judgment, *United States v. Broussard*, 13-cr-00690 (N.D. Cal. Aug. 15, 2014), Judgment, *United States v. Crutchfield*, 14-cr-00051 (N.D. Cal. Jan. 26, 2016).
- <sup>110</sup> See generally Indictment, *United States v. Crutchfield*, 5:14-cr-00051 (N.D. Cal. Jan. 29, 2014).
- <sup>111</sup> See United States Sentencing Memorandum at 2, *United States v. Crutchfield*, 5:14-cr-00051 (N.D. Cal. Jan. 12, 2016).
- <sup>112</sup> See *id.* at 2, 9.
- <sup>113</sup> *Id.*
- <sup>114</sup> *Id.*
- <sup>115</sup> See Judgment at 6, *United States v. Crutchfield*, 5:14-cr-00051 (N.D. Cal. Jan. 26, 2016).
- <sup>116</sup> See United States' Sentencing Memorandum at 2, *United States v. Ahmad*, 13-cr-00374 (N.D. Cal. June 25, 2015).
- <sup>117</sup> See *id.* at 9.
- <sup>118</sup> United States' Sentencing Memorandum at 5, *United States v. Broussard*, 13-cr-00690 (N.D. Cal. Aug. 6, 2014).
- <sup>119</sup> *Id.*
- <sup>120</sup> *Id.*
- <sup>121</sup> *Id.* at 6.
- <sup>122</sup> See Judgment at 5, *Broussard*, *supra* note 115.
- <sup>123</sup> See 18 U.S.C. §1593.
- <sup>124</sup> 8:12-cr-00097 (C.D. Cal. 2012).
- <sup>125</sup> See Superseding Indictment at 4, *United States v. Porter*, 8:12-cr-00097 (C.D. Cal. Feb. 27, 2013).
- <sup>126</sup> See *id.* at 4.
- <sup>127</sup> See Amended Judgment at 2, *United States v. Porter*, 8:12-cr-00097 (C.D. Cal. Aug. 26, 2015), Judgment at 2, *United States v. Porter*, 8:12-cr-00097 (C.D. Cal. Dec. 23, 2014).
- <sup>128</sup> See Government's Restitution Memorandum as to Defendant Horn at 7-8, *United States v. Porter*, 8:12-cr-00097 (C.D. Cal. Dec. 5, 2014).
- <sup>129</sup> *Id.* at 7.
- <sup>130</sup> See *id.*
- <sup>131</sup> *Id.* at 8.
- <sup>132</sup> See Amended Judgment at 1, *Porter*, *supra* note 127.
- <sup>133</sup> See Judgment at 1, *Porter*, *supra* note 127.
- <sup>134</sup> See, e.g., Sentencing Transcript at 41, *United States v. Backman*, 12-cr-00015 (N.M.I. July 16, 2014) (court rejecting the defendant's argument that because the local government (in Mariana Islands) had not determined that the victim had been trafficked, it could charge her with prostitution, and therefore she was not entitled to restitution).
- <sup>135</sup> *United States v. Mammedov*, 304 F. App'x 922, 927 (2d Cir. 2008).
- <sup>136</sup> *United States v. Cortes-Castro*, 511 F. App'x 942, 947 (2013).
- <sup>137</sup> *United States v. Fu Sheng Kuo*, 620 F.3d 1158, 1164 (2010).
- <sup>138</sup> See, e.g., Sentencing Transcript at 8-9, *United States v. Graham*, 1:12-cr-00311 (W.D.N.Y. Nov. 20, 2015), Sentencing Transcript at 124, *United States v. Carson*, *supra* note 30.
- <sup>139</sup> 18 U.S.C. §3664(e).
- <sup>140</sup> *United States v. Doe*, 488 F.3d 1154, 1159-60 (9th Cir. 2007).
- <sup>141</sup> Sentencing Transcript at 36, *United States v. Carson*, *supra* note 30.

<sup>142</sup> Defendant’s Sentencing Memorandum at 5, *United States v. Graham*, 1:12-cr-00311 (W.D.N.Y. Sept. 29, 2015)

<sup>143</sup> See Judgment at 5, *United States v. Graham*, 1:12-cr-00311 (W.D.N.Y. Oct. 30, 2015).

<sup>144</sup> Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons, Fiscal Year 2015, <https://www.justice.gov/humantrafficking/page/file/948601/download>.

<sup>145</sup> The Attorney General’s Report chart also includes multiple-defendant cases in which the restitution owed is joint and several between all of the defendants. The full restitution amount has been included just once in this calculation to eliminate the duplicate amounts.

<sup>146</sup> See *id.* at 142-143 (reproduced in Appendix C).

<sup>147</sup> See *id.*

<sup>148</sup> Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons, Fiscal Year 2016, on file with the authors. The chart from the FY2016 report is reproduced in Appendix C.

<sup>149</sup> See 18 U.S.C. §1594(f)(1) (requiring the Attorney General to “transfer assets forfeited pursuant to this section, or the proceeds derived from the sale thereof, to satisfy victim restitution orders arising from violations of this chapter”).

<sup>150</sup> In *United States v. Gregory Gibson*, 5:15-cr-50043 (W.D. Ark. 2015), the court forfeited \$780 in cash, but did not order restitution. See Final Order of Forfeiture, *United States v. Gregory Gibson*, 5:15-cr-50043 (W.D. Ark. Jan. 28, 2016). In *United States v. William Gibson*, 3:13-cr-00695 (D.S.C. 2013), the court forfeited \$1,200 in cash, but failed to order restitution. See Preliminary Order of Forfeiture, *United States v. Gibson*, 3:13-cr-00695 (D.S.C. Mar. 12, 2014). In *United States v. Robinson*, 1:13-cr-00530 (D.Md. 2013), the court forfeited \$1,258 in cash, again without restitution. See Forfeiture Order, *United States v. Robinson*, 1:13-cr-00530 (D. Md. June 5, 2014), Judgment *United States v. Robinson*, 1:13-cr-00530 (D. Md. Aug. 28, 2014). And in *United States v. Tyson*, 5:13-cr-40090 (D. Kan. 2013), the court ordered forfeiture of unspecified amounts in gift cards, but failed to order restitution. Forfeiture, *United States v. Tyson*, 5:13-cr-40090 (D. Kan. Aug. 6, 2015).

<sup>151</sup> Dep’t of Justice, Office of the Inspector General “Review of the Debt Collection Program of the United States Attorneys’ Offices,” (June 2015), <https://oig.justice.gov/reports/2015/e1506.pdf>.

<sup>152</sup> *Id.* at 11.

<sup>153</sup> *Id.* at 26.

<sup>154</sup> See Indictment at 1, *United States v. Al Homoud*, 15-cr-00391 (W.D. Tex. June 3, 2015).

<sup>155</sup> See Complaint at 3, *United States v. Al Homoud*, 15-cr-00391 (W.D. Tex. June 1, 2015).

<sup>156</sup> See *id.*

<sup>157</sup> See *id.*

<sup>158</sup> See Dep’t of Justice Press Release “Qatar Military Official and Wife Plead Guilty to Federal Charges,” (Dec. 11, 2015).

<sup>159</sup> See Order to Accept Restitution Prior to Sentencing, *United States v. Al-Homoud*, 15-cr-00391 (W.D. Tex. Dec. 11, 2015).

<sup>160</sup> See Sentencing Transcript at 8, *United States v. Al-Homoud*, 15-cr-00391 (W.D. Tex. Feb. 10, 2016).

<sup>161</sup> For an excellent discussion of restitution in trafficking cases, see William E. Nolan, “Mandatory Restitution: Complying with the Trafficking Victims Protection Act,” U.S. Attorneys Bulletin, Vol. 65, No. 6 (Nov. 2017), <https://www.justice.gov/usao/page/file/1008856/download>.

<sup>162</sup> Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons FY2015, p. 23, <https://www.justice.gov/humantrafficking/page/file/948601/download>.

<sup>163</sup> Restoration and remission, administrative processes designed to return money to victims, are often unfamiliar to anti-trafficking advocates. These administrative actions are well worth pursuing. According to data provided to OIG, “[MLARS, then known as AFMLS] approves the vast majority of restoration and remission requests it receives.” OIG Report, 29, n. 63.

<sup>164</sup> See Dep’t of Treasury [https://fiscal.treasury.gov/fs-services/gov/debtColl/dms/top/debt\\_top.htm](https://fiscal.treasury.gov/fs-services/gov/debtColl/dms/top/debt_top.htm).

<sup>165</sup> See Office of Chief Counsel, Internal Revenue Service, Memorandum “The Use of the Treasury Offset Program to Collect Delinquent Restitution Payments,” (Apr. 26, 2010) [https://www.irs.gov/pub/irao/pmta\\_2011-34.pdf](https://www.irs.gov/pub/irao/pmta_2011-34.pdf).

<sup>166</sup> Restitution ordered under 18 U.S.C. §1593 is nontaxable as income. See Treasury Department, Internal Revenue Service, Notice 2012-12, “Restitution Payments under the Trafficking Victims Protection Act of 2000,” <https://www.irs.gov/pub/irs-drop/n-12-12.pdf>.

<sup>167</sup> Cases filed between 2009 and 2012 and closed on or before February 2, 2014.

<sup>168</sup> Cases filed after 2012 and closed on or before June 4, 2016, and cases filed between 2009 and 2012 and closed between February 2, 2014 and June 4, 2016.

## Appendix A: Summary of Results

<b>Data Set</b>	<b>2014 Data<sup>167</sup></b>	<b>2016 Data<sup>168</sup></b>
Total Number of Cases Meeting Criteria for Inclusion in Report	Total: 186 Sex: 170 Labor / both: 16	Total: 324 Sex: 316 Labor / both: 8
Percentage of Cases in Which Restitution Was Ordered by Court	Total: 36% Sex: 31% Labor: 94%	Total: 27% Sex: 27% Labor: 50%
Percentage of Cases in Which Restitution Was Requested by Prosecutor (in any filing)	Total: 63% Sex: 61% Labor: 87%	Total: 67% Sex: 67% Labor: 50%
Percentage of Cases in Which Request Was Made by Prosecutor and Restitution Was Ordered by Court	Total: 51% Sex: 44% Labor: 93%	Total: 37% Sex: 36% Labor: 50%
Average Amount Awarded in Restitution	Total: \$60,639.84 Sex: \$46,211.66 Labor: \$213,939.21	Total: \$59,244.25 Sex: \$47,968.21 Labor: \$504,647.82
Number of Jurisdictions with at Least One Restitution Request in a Trafficking Case	36	58
Number of Jurisdictions with at Least One Restitution Order in a Trafficking Case	28	41

## Appendix B: Full List of Cases

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
1	<b>U.S. v. Abernathy et al.</b>	2:14-cr-00009 (W.D.Pa.)	Sex	Both defendants pled guilty; sentenced to 120 months in prison; restitution not ordered.
2	<b>U.S. v. Ahmad (Omar)</b>	4:13-cr-00374 (N.D.Cal.)	Sex	Defendant pled guilty; sentenced to 63 months in prison; restitution ordered in the amount of \$4,000.
3	<b>U.S. v. Alexander (Valerio) et al.</b>	2:13-cr-00106 (S.D.Oh.)	Sex	Both defendants pled guilty; sentenced to 60 and 180 months in prison; restitution not ordered.
4	<b>U.S. v. Andrade (Michael) et al.</b>	1:13-cr-00430 (E.D.Cal.)	Sex	Both defendants pled guilty; sentenced to 141 and 151 months in prison; restitution not ordered.
5	<b>U.S. v. Andrade (Yanira)</b>	1:13-cr-00069 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 132 months in prison; restitution not ordered.
6	<b>U.S. v. Andres et al.</b>	2:14-cr-1461 (D.Az.)	Labor	Both defendants pled guilty; sentenced to 11 and 40 months in prison; restitution not ordered.
7	<b>U.S. v. Andry et al.</b>	4:14-cr-00957 (D.Az.)	Sex	Two defendants pled guilty; sentenced to time served and 60 months in prison; one defendant dismissed (because she was later identified as a victim); restitution not ordered.
8	<b>U.S. v. Ardrey</b>	1:14-cr-00018 (D.R.I.)	Sex	Defendant pled guilty; sentenced to 168 months in prison; restitution not ordered.
9	<b>U.S. v. Armstrong (Anthony)</b>	3:13-cr-00041 (D.Or.)	Sex	Defendant pled guilty; sentenced to 200 months in prison; restitution not ordered.
10	<b>U.S. v. Armstrong (Rodney) et al.</b>	13-cr-20265 (W.D.Tenn.)	Sex	All 3 defendants pled guilty; sentenced to time served, 135, and 168 months; restitution not ordered.
11	<b>U.S. v. Arrick et al.</b>	2:14-cr-00108 (S.D.Oh.)	Sex	Both defendants pled guilty; sentenced to 120 and 162 months in prison; restitution not ordered.
12	<b>U.S. v. Atkins (Ricky) et al.</b>	1:14-cr-20895 (S.D.Fla.)	Sex	One defendant was convicted; one defendant pled guilty; sentenced to 136 and 380 months in prison; restitution ordered in the amount of \$600.
13	<b>U.S. v. Avelenda</b>	2:11-cr-00949 (C.D.Cal.)	Labor	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
14	<b>U.S. v. Backman</b>	1:12-cr-00015 (N.M.I.)	Sex	Defendant was convicted; sentenced to 235 months in prison; restitution ordered in the amount of \$9,570.
15	<b>U.S. v. Barber</b>	3:14-cr-00281 (S.D.Cal.)	Sex	Defendant pled guilty; sentenced to 72 months in prison; restitution not ordered.
16	<b>U.S. v. Barclay et al.</b>	7:13-cr-00269 (W.D.Tex.)	Sex	Both defendants pled guilty; sentenced to 97 and 121 months in prison; restitution not ordered (defendants ordered to pay \$15,000 fine).



	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
17	<b>U.S. v. Barcus</b>	1:13-cr-00095 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 300 months in prison; restitution ordered in the amount of \$177,050.23 (joint and several with defendants in separate case).
18	<b>U.S. v. Barefield</b>	2:14-cr-00370 (S.D.Tex.)	Sex	Defendant pled guilty; sentenced to 24 months in prison; restitution not ordered.
19	<b>U.S. v. Baston</b>	13-cr-20914 (S.D.Fla.)	Sex	The defendant was convicted; sentenced to 300 months in prison; restitution was ordered in the amount of \$499,270. Original restitution amount was \$99,270.00, but was increased after appeal.
20	<b>U.S. v. Becker (Joe)</b>	4:13-cr-40094 (D.S.D.)	Sex	Defendant pled guilty; sentenced to 15 months in prison; restitution not ordered.
21	<b>U.S. v. Becketts</b>	2:13-cr-01637 (D.Az.)	Sex	Defendant pled guilty; sentenced to 96 months in prison; restitution not ordered.
22	<b>U.S. v. Bell (Paul) et al.</b>	5:12-cr-00057 (C.D.Cal.)	Sex	All eight defendants pled guilty; sentenced to 6-360 months in prison; restitution not ordered.
23	<b>U.S. v. Benavidez</b>	1:13-cr-00211 (E.D.Cal.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
24	<b>U.S. v. Berrios-Berrios</b>	3:14-cr-00334 (D.P.R.)	Sex	Defendant pled guilty; sentenced to 132 months in prison; restitution not ordered.
25	<b>U.S. v. Beverly (Damien) et al.</b>	1:15-cr-00022 (D.R.I.)	Sex	Both defendants pled guilty; sentenced to 36 and 90 months in prison; restitution ordered in the amount of \$7,066.00 (\$3,533.00 per victim)
26	<b>U.S. v. Bishop</b>	4:14-cr-00546 (S.D.Tex.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
27	<b>U.S. v. Blake (Dontavious) et al.</b>	13-cr-80054 (S.D.Fla.)	Sex	Both Ds convicted; restitution not ordered (restitution proceeding cancelled because victims did not want to seek restitution).
28	<b>U.S. v. Bland (Charles)</b>	2:13-cr-00028 (D.Nev.)	Sex	Defendant pled guilty; sentenced to 80.5 months in prison; restitution not ordered.
29	<b>U.S. v. Blue et al.</b>	6:12-cr-06126 (W.D.N.Y.)	Sex	Both defendants pled guilty; sentenced to 72 and 108 months in prison; restitution not ordered.
30	<b>U.S. v. Bluit</b>	5:15-cr-00029 (W.D.La.)	Sex	Defendant pled guilty; sentenced to 178 months in prison; restitution not ordered.
31	<b>U.S. v. Bo et al.</b>	1:14-cr-00372 (E.D.N.Y.)	Sex	Both defendants pled guilty; sentenced to time served and 24 months in prison; restitution not ordered.
32	<b>U.S. v. Bolds</b>	3:11-cr-00697 (N.D.Cal.)	Sex	Defendant was convicted; sentenced to 160 months in prison; restitution not ordered; affirmed in part and reversed in part; resentenced to 140 months in prison; restitution not ordered.
33	<b>U.S. v. Bonds (Nathan)</b>	2:14-cr-00074 (W.D.Wash.)	Sex	Defendant was convicted; sentenced to 120 months in prison; restitution ordered in the amount of \$1,560 (to two victims).

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
34	<b>U.S. v. Bonner, Jr. (Robert)</b>	1:14-cr-00425 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 360 months in prison; restitution ordered in the amount of \$317,750.
35	<b>U.S. v. Bowie et al.</b>	1:14-cr-00121 (D.R.I.)	Sex	All three defendants pled guilty; sentenced to probation - 156 months in prison; restitution not ordered.
36	<b>U.S. v. Boyd (Elfego) et al.</b>	1:13-cr-00890 (S.D.N.Y.)	Sex	Both defendants pled guilty; sentenced to 60 and 120 months in prison; restitution ordered in the amount of \$20,000.
37	<b>U.S. v. Bradford (Marquist)</b>	2:12-cr-00126 (E.D.Cal.)	Sex	Defendant pled guilty; sentenced to 126 months in prison; restitution not ordered.
38	<b>U.S. v. Bramer (Nicole) et al.</b>	0:13-cr-00049 (D.Minn.)	Sex	Both defendants pled guilty; sentenced to 20 and 121 months in prison; restitution ordered in the amount of \$6,180.
39	<b>U.S. v. Brinson</b>	4:13-cr-00004 (N.D.Okla.)	Sex	Defendant was convicted; sentenced to 204 months in prison; restitution ordered in the amount of \$740.
40	<b>U.S. v. Broussard</b>	5:13-cr-00690 (N.D.Cal.)	Sex	Defendant pled guilty; sentenced to 144 months in prison; restitution ordered in the amount of \$10,000 (\$5,000 per victim).
41	<b>U.S. v. Brown (Daniel)</b>	1:13-cr-00341 (N.D.Oh.)	Labor	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
42	<b>U.S. v. Brown (Joseph)</b>	13-cr-20468 (S.D.Fla.)	Sex	Defendant pled guilty; restitution not ordered.
43	<b>U.S. v. Brown (Rajeanna)</b>	3:14-cr-00276 (N.D.Tex.)	Sex	Defendant pled guilty; sentenced to time served; restitution not ordered.
44	<b>U.S. v. Brown (Wellington) et al.</b>	3:14-cr-00160 (D.Conn.)	Sex	Both defendants pled guilty; sentenced to 72 and 182 months in prison; restitution ordered in the amount of \$18,750.
45	<b>U.S. v. Bryant (Christopher)</b>	14-cr-00158 (W.D.Mich.)	Sex	Defendant was convicted; sentenced to 480 months in prison; restitution not ordered.
46	<b>U.S. v. Burt</b>	3:15-cr-00137 (N.D.Cal.)	Sex	Defendant pled guilty; sentenced to 127 months in prison; restitution not ordered.
47	<b>U.S. v. Cade</b>	3:13-cr-01076 (S.D.Cal.)	Sex	Defendant pled guilty; sentenced to 135 months in prison; restitution not ordered.
48	<b>U.S. v. Callahan (Jordie) et al.</b>	1:13-cr-00339 (N.D.Oh.)	Labor	Two defendants were convicted; one defendant pled guilty; sentenced to 45 - 384 months in prison; restitution not ordered.
49	<b>U.S. v. Cantelmo (Sean)</b>	3:14-cr-00217 (M.D.Pa.)	Sex	Defendant pled guilty; sentenced to 151 months in prison; restitution not ordered.
50	<b>U.S. v. Canty</b>	0:13-cr-00110 (D.Minn.)	Sex	Defendant was convicted; sentenced to 300 months in prison; restitution not ordered.
51	<b>U.S. v. Carrasquillo-Penaloza</b>	3:12-cr-00728 (D.P.R.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
52	<b>U.S. v. Carson (McKenzie)</b>	1:11-cr-00918 (N.D.Ill.)	Sex	Defendant was convicted; sentenced to 564 months in prison; restitution not ordered.
53	<b>U.S. v. Carter (Alexis)</b>	1:15-cr-00256 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 240 months in prison; restitution ordered in the amount of \$33,000 (to three victims).
54	<b>U.S. v. Carter (Kavin)</b>	8:14-cr-00416 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 192 months in prison; restitution not ordered.
55	<b>U.S. v. Castillo (Charles) et al.</b>	1:13-cr-00199 (S.D.Ga.)	Sex	All five defendants pled guilty; sentenced to 48-252 months in prison; restitution not ordered.
56	<b>U.S. v. Castro (Herman)</b>	2:15-cr-00011 (D.N.J.)	Sex	Defendant pled guilty; was sentenced to time served; restitution not ordered.
57	<b>U.S. v. Chapman (Stephanie)</b>	1:13-cr-00298 (E.D.Va.)	Sex	Defendant was convicted; sentenced to 132 months in prison; restitution not ordered.
58	<b>U.S. v. Chin (Tedric)</b>	13-cr-60218 (S.D.Fla.)	Sex	Defendant was convicted; restitution not ordered.
59	<b>U.S. v. Cody</b>	5:14-cr-00583 (E.D.Pa.)	Sex	Defendant pled guilty; sentenced to 360 months in prison; restitution not ordered.
60	<b>U.S. v. Cole (Adrien)</b>	1:13-cr-00053 (S.D.Iowa)	Sex	Defendant pled guilty; was sentenced to 120 months in prison; restitution not ordered.
61	<b>U.S. v. Contreras</b>	1:14-cr-00105 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
62	<b>U.S. v. Cook (Ashlee)</b>	6:15-cr-06046 (W.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 45 months in prison; restitution not ordered.
63	<b>U.S. v. Cooley (Alan)</b>	3:14-cr-00110 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 21 months in prison; restitution not ordered.
64	<b>U.S. v. Corley</b>	1:13-cr-00048 (S.D.N.Y.)	Sex	Defendant was convicted; sentenced to 120 months in prison; restitution not ordered.
65	<b>U.S. v. Cortez-Granados</b>	1:11-cr-00657 (E.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 180 months in prison; restitution ordered in the amount of \$145,815.
66	<b>U.S. v. Coursey et al.</b>	5:14-cr-00233 (W.D.Okla.)	Sex	Both defendants pled guilty; sentenced to 18 and 48 months in prison; restitution not ordered.
67	<b>U.S. v. Cramer</b>	6:12-cr-06112 (W.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 360 months in prison; restitution not ordered.
68	<b>U.S. v. Crutchfield et al.</b>	5:14-cr-00051 (N.D.Cal.)	Sex	Both defendants pled guilty; sentenced to 57 and 60 months in prison; restitution ordered in the amount of \$4,000.
69	<b>U.S. v. Culp</b>	11-cr-20319 (W.D.Tenn.)	Sex	Defendant pled guilty; sentenced to 180 months; restitution ordered in the amount of \$4,500.
70	<b>U.S. v. Cyprian</b>	2:14-cr-00236 (W.D.Wash.)	Sex	Defendant pled guilty; sentenced to 92 months in prison; restitution ordered in the amount of \$172,000 (to two victims).

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
71	<b>U.S. v. Daniels (Shannon)</b>	3:12-cr-00630 (D.Or.)	Sex	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
72	<b>U.S. v. Davall</b>	3:14-cr-00097 (N.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 100 months in prison; restitution not ordered.
73	<b>U.S. v. Davis (Joshua) et al.</b>	2:13-cr-00589 (C.D.Cal.)	Sex	Both defendants pled guilty; sentenced to 46 and 70 months in prison; restitution ordered in the amount of \$512 (from one defendant).
74	<b>U.S. v. Davis (Martell)</b>	3:13-cr-03149 (S.D.Cal.)	Sex	Defendant pled guilty; sentenced to 78 months in prison; restitution not ordered.
75	<b>U.S. v. Davis (Ricky)</b>	1:12-cr-00056 (E.D.Cal.)	Sex	Defendant was convicted; sentenced to 300 months in prison; restitution not ordered.
76	<b>U.S. v. Davis (Terrianna)</b>	8:14-cr-00431 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 57 months in prison; restitution not ordered.
77	<b>U.S. v. Davis (Torrey)</b>	2:14-cr-00076 (E.D.La.)	Sex	Defendant pled guilty; sentenced to 121 months in prison; restitution not ordered.
78	<b>U.S. v. Dawkins</b>	0:15-cr-60108 (S.D.Fla.)	Sex	Defendant pled guilty; restitution not ordered.
79	<b>U.S. v. Dickerson et al.</b>	8:14-cr-00179 (C.D.Cal.)	Sex	Defendant was convicted; sentenced to 180 months in prison; restitution not ordered.
80	<b>U.S. v. Diggs</b>	8:14-cr-00186 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 96 months in prison; restitution not ordered.
81	<b>U.S. v. Douglas (Ladestro)</b>	3:14-cr-00412 (N.D.Tex.)	Sex	Defendant pled guilty; sentenced to 180 months in prison; restitution ordered in the amount of \$136,000.
82	<b>U.S. v. Drayton</b>	1:15-cr-00002 (M.D.N.C.)	Sex (charged as labor)	Defendant pled guilty; sentenced to 136 months in prison; restitution not ordered (previous case 1:14-cr-00387 - dismissed).
83	<b>U.S. v. Driskill</b>	3:13-cr-30179 (S.D.Ill.)	Sex	Defendant pled guilty; sentenced to 180 months in prison; restitution not ordered.
84	<b>U.S. v. Drum</b>	3:14-cr-00232 (W.D.N.C.)	Sex	Defendant pled guilty; sentenced to 188 months in prison; restitution not ordered.
85	<b>U.S. v. Dumas (Quintavis) et al.</b>	1:13-cr-00286 (E.D.Va.)	Sex	Both defendants convicted; sentenced to 120 months in prison; restitution ordered in the amount of \$17,572.47 (joint and several with defendant from another case).
86	<b>U.S. v. Eddins et al.</b>	13-cr-20203 (W.D.Tenn.)	Sex	Both defendants pled guilty; sentenced to 87 and 120 months; restitution ordered in the amount of \$2,422.48.
87	<b>U.S. v. Elliott</b>	1:15-cr-00010 (D. Utah)	Sex	Defendant pled guilty; sentenced to 74 months in prison; restitution ordered in the amount of \$1,704.69.
88	<b>U.S. v. Eskridge (Clifton)</b>	3:14-cr-05050 (W.D.Wash.)	Sex	Defendant pled guilty; sentenced to 100 months in prison; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
89	<b>U.S. v. Estrada-Tepal et al.</b>	1:14-cr-00105 (E.D.N.Y.)	Sex	All four defendants pled guilty; sentenced to time served-210 months in prison; restitution ordered in the amount of \$1,033,336.00.
90	<b>U.S. v. Farmer (John) et al.</b>	1:14-cr-00110 (E.D.Tenn.)	Sex	Both defendants pled guilty; sentenced to 168 and 210 months; restitution not ordered.
91	<b>U.S. v. Fields (Andrew)</b>	8:13-cr-00198 (M.D.Fla.)	Sex	Defendant was convicted; sentenced to 405 months in prison; restitution not ordered.
92	<b>U.S. v. Flavors</b>	8:13-cr-00143 (C.D.Cal.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
93	<b>U.S. v. Flores (Eric)</b>	1:15-cr-00320 (E.D.Va.)	Sex	Defendant was convicted; sentenced to 300 months in prison; restitution ordered in the amount of \$40,370.
94	<b>U.S. v. Flores-Mendez et al.</b>	1:13-cr-00031 (S.D.N.Y.)	Sex	All defendants pled guilty; sentenced to time served - life in prison; restitution ordered in the amount of \$207,000.
95	<b>U.S. v. Foote et al.</b>	1:14-cr-00015 (D.Md.)	Sex	Both defendants pled guilty; sentenced to 144 months in prison; restitution not ordered.
96	<b>U.S. v. Freeland</b>	5:13-cr-00511 (W.D.Tex.)	Sex	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
97	<b>U.S. v. Gallon</b>	8:13-cr-00626 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 405 months in prison; restitution not ordered.
98	<b>U.S. v. Garris</b>	2:15-cr-00229 (D.N.J.)	Sex	Defendant pled guilty; sentenced to 144 months in prison; restitution not ordered.
99	<b>U.S. v. Gatson</b>	5:14-cr-00358 (W.D.Okla.)	Sex	Defendant pled guilty; sentenced to 92 months in prison; restitution not ordered.
100	<b>U.S. v. Geddes</b>	0:14-cr-00394 (D.Minn.)	Sex	Defendant was convicted; sentenced to 282 months in prison; restitution not ordered.
101	<b>U.S. v. Gemma</b>	1:12-cr-10155 (D.Mass.)	Sex	Defendant was convicted; sentenced to 240 months in prison; restitution not ordered.
102	<b>U.S. v. Gers</b>	5:13-cr-00171 (W.D.Okla.)	Sex	Defendant pled guilty; sentenced to probation; restitution not ordered.
103	<b>U.S. v. Gibson (Gregory)</b>	5:15-cr-50043 (W.D.Ark.)	Sex	Defendant pled guilty; sentenced to 144 months in prison; restitution not ordered.
104	<b>U.S. v. Gibson (William) et al.</b>	3:13-cr-00695 (D.S.C.)	Sex	All three defendants pled guilty; sentenced to 87-360 months in prison; restitution not ordered.
105	<b>U.S. v. Gilliam</b>	1:11-cr-01083 (S.D.N.Y.)	Sex	Defendant was convicted; sentenced to 240 months in prison; restitution ordered in the amount of \$2,100.
106	<b>U.S. v. Glass (Anthony)</b>	1:15-cr-00180 (S.D.Ind.)	Sex	Defendant pled guilty; sentenced to 180 months in prison; restitution not ordered.
107	<b>U.S. v. Golson</b>	4:14-cr-00503 (S.D.Tex.)	Sex	Defendant was convicted; sentenced to 60 months in prison; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
108	<b>U.S. v. Gonzalez (Samuel)</b>	8:11-cr-00193 (C.D.Cal.)	Sex	Defendant pled guilty; sentenced to 63 months in prison; restitution not ordered.
109	<b>U.S. v. Goswitz</b>	15-cr-00251 (C.D.Cal.)	Sex	Defendant pled guilty; sentenced to 57 months in prison; restitution not ordered.
110	<b>U.S. v. Graham (Christopher)</b>	3:12-cr-00178 (D.Or.)	Sex	Defendant was convicted; sentenced to 360 months in prison; restitution ordered in the amount of \$54,753.39 (\$45,000 to victim).
111	<b>U.S. v. Graham (Darrell)</b>	1:12-cr-10266 (D.Mass)	Sex	Defendant pled guilty; sentenced to 150 months in prison; restitution ordered in the amount of \$58,703.
112	<b>U.S. v. Graham (Kenneth)</b>	1:12-cr-00311 (W.D.N.Y.)	Sex	Defendant was convicted; sentenced to 360 months in prison; restitution ordered in the amount of \$366,000 (specifically apportioned among three victims).
113	<b>U.S. v. Grandberry et al.</b>	13-cr-20007 (W.D.Tenn.)	Sex	4 defendants pled guilty; 1 defendant convicted; 1 defendant dismissed; sentences from time served - 235 months; restitution not ordered.
114	<b>U.S. v. Grant et al.</b>	4:15-cr-00024 (S.D.Ga.)	Sex	Both defendants pled guilty; sentenced to 156 months and life in prison; restitution not ordered.
115	<b>U.S. v. Graves</b>	4:14-cr-00235 (D.N.D.)	Sex	Defendant was convicted; sentenced to 405 months in prison; restitution not ordered. Affirmed on appeal.
116	<b>U.S. v. Green (Nodia) et al.</b>	13-cr-00006 (E.D.Ark.)	Sex	One defendant pled guilty, sentenced to 60 months in prison; two defendants were transferred to the Southern District of Texas; restitution not ordered.
117	<b>U.S. v. Guidry</b>	2:13-cr-00016 (E.D.Wis.)	Sex	Defendant pled guilty; sentenced to 299 months in prison; restitution not ordered. (Certain conditions of supervised release were vacated on appeal, but conviction and prison term were affirmed.)
118	<b>U.S. v. Hall (Ronnie)</b>	6:15-cr-00015 (M.D. Fla.)	Sex	Defendant pled guilty; sentenced to 168 months in prison; restitution not ordered.
119	<b>U.S. v. Hardnett et al.</b>	1:15-cr-20292 (S.D.Fla.)	Sex	Both defendants pled guilty; sentenced to 36 and 100 months in prison; restitution not ordered.
120	<b>U.S. v. Harris (Don) et al.</b>	4:12-cr-00154 (E.D.Ark.)	Sex	One defendant pled guilty, sentenced to time served; one defendant was convicted, sentenced to 120 months in prison; restitution not ordered.
121	<b>U.S. v. Harris (Eric) et al.</b>	3:14-cr-00046 (D.Nev.)	Sex	Both defendants pled guilty; sentenced to 90 and 108 months in prison; restitution not ordered.
122	<b>U.S. v. Harris (Tevon)</b>	4:13-cr-00165 (S.D.Tex.)	Sex	Defendant pled guilty; sentenced to 480 months in prison; restitution not ordered.
123	<b>U.S. v. Haskins (Lenny)</b>	1:14-cr-00432 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 480 months in prison; restitution ordered in the amount of \$538,250.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
124	<b>U.S. v. Hawkins (Diamond)</b>	2:14-cr-00098 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 84 months in prison; restitution not ordered.
125	<b>U.S. v. Hayes (Derrick)</b>	8:14-cr-00053 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 360 months in prison; restitution not ordered.
126	<b>U.S. v. Heatly</b>	3:14-cr-00067 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 180 months in prison; restitution not ordered.
127	<b>U.S. v. Hernandez (Eleuterio) et al.</b>	1:11-cr-00297 (E.D.N.Y.)	Sex	All six defendants pled guilty; sentenced to 22-264 months in prison; restitution ordered in the amount of \$3,060,135.96.
128	<b>U.S. v. Hicks (Shanntaye)</b>	2:13-cr-00190 (E.D.Cal.)	Sex	Defendant pled guilty; sentenced to 292 months in prison; restitution not ordered.
129	<b>U.S. v. Hill (Duane) et al.</b>	12-cr-00431 (N.D.Oh.)	Sex	Both defendants pled guilty; sentenced to 200 and 224 months in prison; restitution ordered in the amount of \$240.
130	<b>U.S. v. Hill (Joshua) et al.</b>	1:12-cr-00285 (N.D.Ga.)	Sex	All three defendants pled guilty; sentenced to 78-215 months in prison; restitution ordered in the amount of \$4,000.
131	<b>U.S. v. Hisle</b>	3:14-cr-00044 (W.D.Ky.)	Sex	Defendant pled guilty; sentenced to 180 months in prison; restitution ordered in the amount of \$213,440.
132	<b>U.S. v. Hodza et al.</b>	3:15-cr-00032 (E.D.Va.)	Sex	Both defendants pled guilty; sentenced to 420 and 500 months in prison; restitution ordered in the amount of \$20,618.22.
133	<b>U.S. v. Holmes (Ronnie)</b>	1:13-cr-00278 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 168 months in prison; restitution not ordered.
134	<b>U.S. v. Al-Homoud et al.</b>	5:15-cr-00391 (W.D.Tex.)	Labor	Both defendants pled guilty; sentenced to probation; restitution ordered in the amount of \$120,000 (joint and several).
135	<b>U.S. v. Hubert et al.</b>	1:13-cr-00595 (D.Md.)	Sex	Both defendants pled guilty; sentenced to 30 and 168 months in prison; restitution not ordered.
136	<b>U.S. v. Hudson (Vincent) et al.</b>	6:14-cr-00078 (M.D.Fla.)	Sex	All three defendants pled guilty; sentenced to probation - 360 months in prison; restitution not ordered.
137	<b>U.S. v. Huey-Dingle</b>	2:13-cr-00135 (N.D.Ind.)	Sex	Defendant pled guilty; sentenced to 540 months in prison; restitution ordered in the amount of \$78,721.11 (\$13,119.75 to deceased victim's estate; \$65,601.36 to insurance company).
138	<b>U.S. v. Hull (Cameron)</b>	1:13-cr-00216 (N.D.Ill.)	Sex	Defendant pled guilty; sentenced to 121 months in prison; restitution ordered in the amount of \$400.
139	<b>U.S. v. Hunt (Maurice)</b>	1:13-cr-00189 (E.D.Cal.)	Sex	Defendant was convicted; sentenced to 600 months in prison; restitution not ordered.



	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
140	U.S. v. Irby	1:13-cr-00064 (N.D.Ga.)	Sex	Defendant pled guilty; sentenced to 57 months in prison; restitution ordered in the amount of \$250 (earlier case 1:12-cr-00355 (N.D.Ga.) was dismissed by government motion because defendant pled guilty in this case).
141	U.S. v. Jackson (Brady)	3:12-cr-00273 (N.D.Oh.)	Sex	Defendant was convicted; sentenced to 180 months in prison; restitution ordered in the amount of \$13,000.
142	U.S. v. Jackson (Douglas)	3:15-cr-00006 (N.D.Ind.)	Sex	Defendant was convicted; sentenced to 295 months in prison; restitution not ordered.
143	U.S. v. Jackson (Eddie)	1:13-cr-00246 (W.D.Mich.)	Sex	Defendant was convicted; sentenced to 360 months in prison; restitution not ordered.
144	U.S. v. Jackson (Jerel)	2:13-cr-00622 (E.D.Pa.)	Sex	Defendant pled guilty; sentenced to 360 months in prison; restitution not ordered.
145	U.S. v. Jackson (Jordan) et al.	3:13-cr-00363 (N.D.Cal.)	Sex	Both defendants pled guilty; sentenced to 18 and 50 months in prison; restitution not ordered.
146	U.S. v. Jackson (Justin)	2:11-cr-00477 (E.D.Cal.)	Sex	Defendant pled guilty; sentenced to 135 months in prison; restitution not ordered.
147	U.S. v. Jackson (Ralph)	2:13-cr-00476 (C.D.Cal.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
148	U.S. v. Jackson (Robert)	1:13-cr-00063 (N.D.Iowa)	Sex	Defendant pled guilty; sentenced to life in prison; restitution not ordered.
149	U.S. v. Jackson (Taurean) et al.	2:13-cr-00279 (E.D.La.)	Sex	Both defendants pled guilty; sentenced to time served and 270 months in prison; restitution ordered in the amount of \$1,750.
150	U.S. v. Jackson (Todd)	2:13-cr-00163 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
151	U.S. v. Jenkins (David) et al.	3:12-cr-00513 (D.S.C.)	Sex	38 defendants pled guilty; one defendant convicted; sentenced to between time served and life; restitution not ordered to trafficking victims (to IRS only for filing false tax returns).
152	U.S. v. Jeter	1:13-cr-00286 (M.D.N.C.)	Sex	Defendant pled guilty; sentenced to 14 months in prison; restitution not ordered.
153	U.S. v. Johnson (Amber)	15-cr-00141 (E.D.Ark.)	Sex	Defendant pled guilty; sentenced to 144 months in prison; restitution not ordered.
154	U.S. v. Johnson (Dereck)	3:13-cr-00230 (N.D.Tex.)	Sex	Defendant pled guilty; sentenced to 180 months in prison; restitution not ordered.
155	U.S. v. Johnson (Pierre) et al.	4:14-cr-00092 (S.D.Tex.)	Sex	Both defendants pled guilty; both sentenced to 168 months; restitution not ordered.
156	U.S. v. Johnson (William Vontrail)	5:14-cr-00341 (W.D.Okla.)	Sex	Defendant pled guilty; sentenced to 360 months in prison; restitution ordered in the amount of \$900,000.
157	U.S. v. Jones (Keosha)	8:13-cr-00442 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to time served; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
158	<b>U.S. v. Kalu et al.</b>	1:12-cr-00106 (D.Colo.)	Labor	One defendant was convicted; sentenced to 130 months in prison; one defendant pled guilty; sentenced to probation; restitution ordered in the amount of \$3,790,338.55 (joint and several; specifically apportioned among 16 victims)
159	<b>U.S. v. Keith (Justin)</b>	4:15-cr-40090 (D.S.D.)	Sex	Defendant pled guilty; sentenced to 51 months in prison; restitution not ordered.
160	<b>U.S. v. Kelly (Johnathon)</b>	1:13-cr-00108 (N.D.Ga.)	Sex	Defendant pled guilty; sentenced to 132 months in prison; restitution ordered in the amount of \$7,500.
161	<b>U.S. v. Keys (Donniel) et al.</b>	1:14-cr-20135 (S.D.Fla.)	Sex	Defendant pled guilty; sentenced to 220 months in prison; restitution not ordered. Affirmed on appeal.
162	<b>U.S. v. Kidd</b>	6:13-cr-00028 (D.Or.)	Sex	Defendant pled guilty; sentenced to 144 months in prison; restitution not ordered.
163	<b>U.S. v. Kidgell et al.</b>	6:13-cr-10129 (D.Kan.)	Sex	All three defendants pled guilty; sentenced to time served - 60 months in prison; restitution not ordered.
164	<b>U.S. v. Kimble et al.</b>	4:13-cr-00319 (E.D.Ark.)	Sex	Both defendants pled guilty; sentenced to 90 months in prison; restitution not ordered.
165	<b>U.S. v. King (Deshawn) et al.</b>	5:13-cr-00417 (E.D.Pa.)	Sex	Both defendants pled guilty; sentenced to 140 and 193 months in prison; restitution not ordered.
166	<b>U.S. v. Kirby (Tremayne)</b>	7:15-cr-00026 (W.D.Va.)	Sex	Defendant pled guilty; restitution ordered in the amount of \$11,556.33.
167	<b>U.S. v. Klinger</b>	1:14-cr-00233 (M.D.Pa.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
168	<b>U.S. v. Knight (Dana)</b>	2:15-cr-00026 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 240 months in prison; restitution not ordered.
169	<b>U.S. v. Lambden et al.</b>	3:13-cr-00294 (D.Or.)	Sex	Defendant pled guilty; sentenced to 48 months in prison; restitution not ordered.
170	<b>U.S. v. Lee (Michael) et al.</b>	1:13-cr-00678 (D.Md.)	Sex	Both defendants pled guilty; sentenced to 46 and 156 months in prison; restitution not ordered.
171	<b>U.S. v. Lendon</b>	3:12-cr-00166 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 168 months in prison; restitution ordered in the amount of \$100.
172	<b>U.S. v. Lewis (Jesse)</b>	14-cr-60080 (S.D.Fla.)	Sex	Defendant was convicted; restitution not ordered.
173	<b>U.S. v. Lewis (Naba)</b>	8:13-cr-00591 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 180 months in prison; restitution not ordered.
174	<b>U.S. v. Lockhart (Deion) et al.</b>	3:13-cr-01832 (W.D.Tex.)	Sex	Four defendants were convicted; two defendants pled guilty; sentenced to 60 months - life in prison; restitution not ordered.
175	<b>U.S. v. Lopez-Perez et al.</b>	1:11-cr-00199 (E.D.N.Y.)	Sex	All three defendants pled guilty; sentenced to 121 to 216 months in prison; restitution ordered in the amount of \$1,239,665.
176	<b>U.S. v. Love (Percy)</b>	2:13-cr-00306 (E.D.Cal.)	Sex	Defendant was convicted; sentenced to 420 months in prison; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
177	<b>U.S. v. Lustig</b>	3:13-cr-3921 (S.D.Cal.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
178	<b>U.S. v. Luu</b>	3:11-cr-00246 (N.D.Tex.)	Sex	Defendant pled guilty; sentenced to 168 months in prison; restitution ordered in the amount of \$16,767.
179	<b>U.S. v. Mack (Jeremy) et al.</b>	1:13-cr-00278 (N.D.Oh)	Sex	One defendant pled guilty; one defendant was convicted; sentenced to 30 months and life in prison; restitution not ordered.
180	<b>U.S. v. Manago</b>	2:14-cr-00023 (W.D.Wash.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution ordered in the amount of \$100,000 (split evenly between two victims)
181	<b>U.S. v. Matlock et al.</b>	12-cr-20213 (W.D.Tenn.)	Sex	All 3 defendants pled guilty; sentenced to time served, 36, and 168 months; restitution not ordered.
182	<b>U.S. v. Mavour</b>	13-cr-60226 (S.D.Fla.)	Sex	Defendant pled guilty; restitution not ordered.
183	<b>U.S. v. Mayham</b>	8:14-cr-00221 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 235 months in prison; restitution not ordered.
184	<b>U.S. v. McCormick</b>	3:14-cr-00069 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to probation; restitution not ordered.
185	<b>U.S. v. McCullum (Vernon) et al.</b>	3:13-cr-00012 (D.Nev.)	Sex	All three defendants pled guilty; sentenced to time served - 168 months in prison; restitution not ordered.
186	<b>U.S. v. McHenry (Dontre)</b>	0:14-cr-00203 (D.Minn.)	Sex	Defendant pled guilty; sentenced to 292 months in prison; restitution not ordered.
187	<b>U.S. v. McIntyre (Rahim)</b>	2:13-cr-00361 (E.D.Pa.)	Sex	Defendant was convicted; sentenced to 262 months in prison; restitution ordered in the amount of \$15,600 (to three victims).
188	<b>U.S. v. McIntyre (Rashaad)</b>	2:12-cr-00675 (E.D.Pa.)	Sex	Defendant pled guilty; sentenced to 264 months in prison; restitution ordered in the amount of \$125,600.
189	<b>U.S. v. McKinley (Shaun)</b>	14-cr-60163 (S.D.Fla.)	Sex	Defendant was convicted; restitution ordered in the amount of \$4,121.
190	<b>U.S. v. McLemore (Trenton)</b>	3:14-cr-00258 (N.D.Tex.)	Sex	Defendant pled guilty; sentenced to 252 months in prison; restitution not ordered.
191	<b>U.S. v. McMillian (Tyrone)</b>	2:11-cr-193 (E.D.Wis.)	Sex	Defendant was convicted; sentenced to 180 months in prison; restitution not ordered. ( <i>n.b.</i> original sentence was for 360 months in prison, but was vacated and remanded.)
192	<b>U.S. v. McMurray (Keith)</b>	3:12-cr-00360 (D.Or.)	Sex	Defendant pled guilty; sentenced to 204 months in prison; restitution not ordered.
193	<b>U.S. v. McNeal (Brandon)</b>	6:16-cr-06011 (W.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 108 months in prison; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
194	<b>U.S. v. Medeles-Arguello et al.</b>	4:13-cr-00628 (S.D.Tex.)	Sex	13 defendants pled guilty; one defendant was convicted; one defendant is fugitive; sentenced to 18 months – life in prison; restitution ordered in the amount of \$1,494,929.10 (originally \$840,289.10) (joint and several).
195	<b>U.S. v. Mendez (Ismael)</b>	1:15-cr-00349 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
196	<b>U.S. v. Mendez (Javier) et al.</b>	14-cr-00040 (E.D.Va.)	Sex	Both defendants pled guilty; sentenced to 36 and 210 months in prison; restitution not ordered.
197	<b>U.S. v. Mendez-Hernandez et al.</b>	4:13-cr-00004 (S.D.Ga.)	Sex	Various outcomes among 24 defendants; sentenced to 7 months - life in prison; restitution ordered in the amount of \$705,000.
198	<b>U.S. v. Miguel (Charles) et al.</b>	3:14-cr-00110 (D.Or.)	Sex	Two defendants pled guilty; sentenced to probation and 120 months in prison; restitution not ordered; one defendant dismissed.
199	<b>U.S. v. Miller (Raymond)</b>	2:15-cr-00153 (E.D.Wis.)	Sex	Defendant pled guilty; sentenced to 102 months in prison; restitution not ordered.
200	<b>U.S. v. Miller (Reginald)</b>	4:14-cr-00409 (D.S.C.)	Labor	Defendant pled guilty; sentenced to time served; restitution ordered in the amount of \$75,000 (to 16 victims; specifically apportioned).
201	<b>U.S. v. Miller (Ruth)</b>	1:13-cr-00175 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 84 months in prison; restitution ordered in the amount of \$341,437.50.
202	<b>U.S. v. Miller (Seagram) et al.</b>	2:13-cr-00184 (D.Nev.)	Sex	Both defendants pled guilty; sentenced to 96 months in prison; restitution not ordered.
203	<b>U.S. v. Miller (William)</b>	2:12-cr-00179 (W.D.Pa.)	Sex	Defendant pled guilty; sentenced to 144 months in prison; restitution not ordered.
204	<b>U.S. v. Minasian et al.</b>	1:13-cr-10099 (D.Mass.)	Sex	Both defendants pled guilty; sentenced to time served and 180 months in prison; restitution ordered in the amount of \$4,000.
205	<b>U.S. v. Miranda (Derek)</b>	1:15-cr-10196 (D.Mass.)	Sex	Defendant pled guilty; sentenced to 57 months in prison; restitution not ordered.
206	<b>U.S. v. Misher et al.</b>	1:14-cr-00107 (N.D.Ill.)	Sex	Both defendants pled guilty; sentenced to 40 and 120 months in prison; restitution not ordered.
207	<b>U.S. v. Mitchell (Jerry)</b>	1:13-cr-00262 (S.D.Ind.)	Sex	Defendant pled guilty; sentenced to 300 months in prison; restitution ordered in the amount of \$53,600 (to three victims).
208	<b>U.S. v. Mitchell (Qualyn)</b>	5:14-cr-00062 (W.D.La.)	Sex	Defendant pled guilty; sentenced to 170 months in prison; restitution not ordered.
209	<b>U.S. v. Moore (Alvin)</b>	2:15-cr-00052 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 188 months in prison; restitution not ordered.
210	<b>U.S. v. Morris (Brittany)</b>	2:14-cr-20061 (D.Kan.)	Sex	Defendant pled guilty; sentenced to 1 month in prison; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
211	<b>U.S. v. Murray (Fabian) et al.</b>	1:12-cr-00286 (N.D.Ga.)	Sex	All three defendants pled guilty; sentenced to 70-172 months in prison; restitution ordered in the amount of \$1,000.
212	<b>U.S. v. Murray (Jamil)</b>	2:12-cr-00585 (E.D.Pa.)	Sex	Defendant pled guilty; sentenced to 240 months in prison; restitution not ordered.
213	<b>U.S. v. Muslim</b>	3:13-cr-00307 (W.D.N.C.)	Sex	Defendant was convicted; sentenced to life in prison; restitution ordered in the amount of \$13,840.
214	<b>U.S. v. Nabors</b>	3:13-cr-00560 (D.Or.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
215	<b>U.S. v. Nance (David) et al.</b>	4:14-cr-40114 (D.S.D.)	Sex	Both defendants pled guilty; sentenced to time served and 37 months in prison; restitution not ordered.
216	<b>U.S. v. Nartey</b>	6:15-cr-06106 (W.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 96 months in prison; restitution not ordered.
217	<b>U.S. v. Natal-Bracetti</b>	3:14-cr-00245 (D.P.R.)	Sex	Defendant pled guilty; sentenced to 293 months in prison; restitution not ordered.
218	<b>U.S. v. Nauta</b>	8:14-cr-00146 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
219	<b>U.S. v. Navarrete (Carlos)</b>	3:13-cr-00071 (D.Nev.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
220	<b>U.S. v. Navarro-Rodriguez</b>	3:13-cr-00740 (D.P.R.)	Sex	Defendant pled guilty; sentenced to 188 months in prison; restitution not ordered.
221	<b>U.S. v. Newsome (Deondrea)</b>	1:13-cr-00187 (E.D.Cal.)	Sex	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
222	<b>U.S. v. Nunley et al.</b>	4:14-cr-00956 (D.Az.)	Sex	Both defendants pled guilty; sentenced to 24 and 60 months in prison; restitution not ordered.
223	<b>U.S. v. Nunnally et al.</b>	2:13-cr-00309 (E.D.Cal.)	Sex	All three defendants pled guilty; sentenced to time served - 125 months in prison; restitution not ordered.
224	<b>U.S. v. OBannon</b>	2:14-cr-01530 (D.Az.)	Sex	Defendant pled guilty; sentenced to 168 months in prison; restitution not ordered.
225	<b>U.S. v. Parker (Deandre)</b>	2:14-cr-00372 (D.Nev.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
226	<b>U.S. v. Parker (Troy)</b>	3:13-cr-00213 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 188 months in prison; restitution not ordered.
227	<b>U.S. v. Patton et al.</b>	3:13-cr-00321 (N.D.Tex.)	Sex	Both defendants pled guilty; sentenced to 87 and 262 months in prison; restitution not ordered.
228	<b>U.S. v. Pledger et al.</b>	1:14-cr-10036 (D.Mass.)	Sex	Both defendants pled guilty; sentenced to 153 and 180 months in prison; restitution not ordered.
229	<b>U.S. v. Porter (Antonio)</b>	3:12-cr-00643 (D.Or.)	Sex	Defendant pled guilty; sentenced to 144 months in prison; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
230	<b>U.S. v. Porter (Roshawn) et al.</b>	8:12-cr-00097 (C.D.Cal.)	Both	Both defendants pled guilty; sentenced to 78 and 120 months in prison; restitution ordered in the amount of \$866,244.68.
231	<b>U.S. v. Powell (Tryvell)</b>	1:14-cr-00125 (E.D.Cal.)	Sex	Defendant pled guilty; sentenced to 130 months in prison; restitution not ordered.
232	<b>U.S. v. Price (William)</b>	13-cr-20836 (S.D.Fla.)	Sex	Defendant pled guilty; sentenced to 148 months in prison; restitution ordered in the amount of \$8,250.
233	<b>U.S. v. Ragsdale (Xzavion)</b>	2:15-cr-00072 (N.D.Tex.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
234	<b>U.S. v. Ramirez (Valdemar)</b>	1:13-cr-00404 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 36 months in prison; restitution not ordered.
235	<b>U.S. v. Randall (Michael)</b>	1:15-cr-00039 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 300 months in prison; restitution ordered in the amount of \$645,890.
236	<b>U.S. v. Randle (Troy)</b>	2:14-cr-00045 (E.D.Wis.)	Sex	Defendant pled guilty; sentenced to 240 months in prison; restitution not ordered.
237	<b>U.S. v. Randolph (Narada)</b>	3:13-cr-00128 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 292 months in prison; restitution not ordered.
238	<b>U.S. v. Rea</b>	4:15-cr-01531 (D.Az.)	Sex	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
239	<b>U.S. v. Reid (Arthur)</b>	5:13-cr-00060 (M.D.Ga.)	Sex	Defendant pled guilty; sentenced to 360 months in prison; restitution not ordered.
240	<b>U.S. v. Reineke et al.</b>	5:13-cr-00025 (W.D.Okla.)	Sex	Defendant pled guilty; sentenced to 46 months in prison; restitution not ordered.
241	<b>U.S. v. Reyling</b>	3:14-cr-00052 (M.D.Fla.)	Sex	Defendant pled guilty; sentenced to 24 months in prison; restitution not ordered.
242	<b>U.S. v. Richards (Ira)</b>	1:13-cr-00818 (S.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 240 months in prison; restitution ordered in the amount of \$22,500.
243	<b>U.S. v. Richardson (Justin) et al.</b>	1:14-cr-10179 (D.Mass.)	Sex	All three defendants pled guilty; sentenced to 71-138 months in prison; restitution not ordered.
244	<b>U.S. v. Richmond (Tyrell)</b>	1:14-cr-00171 (E.D.Cal.)	Sex	Defendant pled guilty; sentenced to 151 months in prison; restitution not ordered.
245	<b>U.S. v. Rivera (Luis) et al.</b>	3:15-cr-00051 (N.D.Tex.)	Sex	One defendant pled guilty; one defendant convicted; sentenced to 293 months in prison; restitution not ordered.
246	<b>U.S. v. Roberts (Thomas)</b>	4:13-cr-40137 (D.S.D.)	Sex	Defendant pled guilty; sentenced to 63 months in prison; restitution not ordered.
247	<b>U.S. v. Robinson (Brandon Ace) et al.</b>	13-cr-60284 (S.D.Fla.)	Sex	6 defendants pled guilty; 1 defendant dismissed; sentenced to between 36 and 360 months in prison; restitution ordered in the amount of \$14,000 (joint and several among 4 defendants, with 1 defendant paying less). Affirmed on appeal.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
248	<b>U.S. v. Robinson (Jermaine) et al.</b>	1:13-cr-00054 (S.D. Iowa)	Sex	Both defendants pled guilty; sentenced to 60 and 120 months in prison; restitution not ordered.
249	<b>U.S. v. Robinson (Kenneth) et al.</b>	1:13-cr-00530 (D.Md.)	Sex	All 5 defendants pled guilty; sentenced to 12 - 144 months in prison; restitution not ordered.
250	<b>U.S. v. Robinson (Kerry)</b>	4:13-cr-00110 (N.D.Tex.)	Sex	Defendant pled guilty; sentenced to 46 months in prison; restitution not ordered.
251	<b>U.S. v. Rodriguez (Joe)</b>	2:14-cr-00093 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
252	<b>U.S. v. Roy (Jean Claude) et al.</b>	8:13-cr-00249 (D.Md.)	Sex	One defendant was convicted; one defendant pled guilty; sentenced to 240 months in prison and time served; restitution not ordered.
253	<b>U.S. v. Roy (Jermaine)</b>	4:13-cr-00010 (E.D.Ark.)	Sex	Defendant was convicted; sentenced to 180 months in prison; restitution not ordered.
254	<b>U.S. v. Ruseckaite (Giedre)</b>	1:15-cr-00157 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution ordered in the amount of \$4,000.
255	<b>U.S. v. Salaam</b>	3:14-cr-00072 (M.D. Fla.)	Sex	Defendant pled guilty; sentenced to 100 months in prison; restitution not ordered.
256	<b>U.S. v. Salankole (Abiodu)</b>	2:15-cr-00393 (D.Utah)	Sex	Defendant pled guilty; sentenced to 48 months in prison; restitution ordered in the amount of \$500.
257	<b>U.S. v. Scott (Jeremy)</b>	4:12-cr-00433 (S.D.Tex.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
258	<b>U.S. v. Scott (Kawaum) et al.</b>	5:13-cr-00116 (C.D.Cal.)	Sex	Both defendants pled guilty; sentenced to 150 and 200 months in prison; restitution not ordered.
259	<b>U.S. v. Sea</b>	14-cr-10080 (W.D.Tenn.)	Sex	Defendant pled guilty; sentenced to 120 months; restitution not ordered.
260	<b>U.S. v. Sewell et al.</b>	5:10-cr-00731 (E.D.Pa.)	Sex	Both defendants pled guilty; one defendant sentenced to 360 months in prison; restitution ordered in the amount of \$52,000 (to five victims) (other defendant's judgment under seal).
261	<b>U.S. v. Shulman (Christian)</b>	2:15-cr-20004 (E.D. Mich.)	Sex	Defendant pled guilty; sentenced to 360 months in prison; restitution not ordered.
262	<b>U.S. v. Sibley</b>	2:14-cr-00196 (S.D.Oh.)	Sex	Defendant was convicted; sentenced to 330 months in prison; restitution not ordered.
263	<b>U.S. v. Simmons (Jamar) et al.</b>	1:13-cr-00061 (D.Md.)	Sex	Both defendants pled guilty; sentenced to 140 and 180 months in prison; restitution not ordered.
264	<b>U.S. v. Simpson (Isaiah) et al.</b>	3:13-cr-00423 (D.Or.)	Sex	Both defendants pled guilty; sentenced to time served and 120 months in prison; restitution not ordered.
265	<b>U.S. v. Singletary</b>	14-cr-20604 (S.D.Fla.)	Sex	Defendant pled guilty; sentenced to 126 months in prison; restitution not ordered.
266	<b>U.S. v. Smith (Carl Brandon)</b>	1:12-cr-00246 (N.D.Ill.)	Sex	Defendant pled guilty; sentenced to 360 months in prison; restitution ordered in the amount of \$239,063



	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
267	<b>U.S. v. Smith (Carl Robert) et al.</b>	2:14-cr-00176 (S.D.Oh.)	Sex	All defendants pled guilty; sentenced to probation - 120 months in prison; restitution not ordered.
268	<b>U.S. v. Smith (Devin Edward)</b>	5:14-cr-20303 (E.D.Mich.)	Sex	Defendant was convicted; sentenced to 360 months in prison; restitution ordered in the amount of \$173,500 (to two victims).
269	<b>U.S. v. Smith (Enoch)</b>	2:12-cr-00473 (E.D.Pa.)	Sex	Defendant was convicted; sentenced to 360 months in prison; restitution ordered in the amount of \$190,400.
270	<b>U.S. v. Smith (Eric Demetrius) et al.</b>	4:13-cr-00315 (N.D.Cal.)	Sex	One defendant pled guilty; sentenced to 70 months in prison; restitution not ordered; second defendant dismissed under diversion agreement.
271	<b>U.S. v. Smith (James)</b>	2:13-cr-00383 (D.N.J.)	Both	Defendant pled guilty; sentenced to 51 months in prison; restitution ordered in the amount of \$1,000.
272	<b>U.S. v. Smith (Joshua)</b>	4:13-cr-00286 (W.D.Mo.)	Sex	Defendant pled guilty; sentenced to 240 months in prison; restitution ordered in the amount of \$23,406.
273	<b>U.S. v. Smith (Nathaniel) et al.</b>	4:14-cr-00121 (E.D.Ark.)	Sex	Both defendants pled guilty; sentenced to 120 and 24 months in prison; restitution not ordered.
274	<b>U.S. v. Smith (Terrell)</b>	1:14-cr-00183 (D.Colo.)	Sex	Defendant pled guilty; sentenced to 151 months in prison; restitution not ordered.
275	<b>U.S. v. Smith (Tyrone)</b>	1:15-cr-00135 (W.D.Mich.)	Sex	Defendant pled guilty; sentenced to 420 months in prison; restitution ordered in the amount of \$20,000
276	<b>U.S. v. Snow (Thaddaeus) et al.</b>	13-cr-00350 (E.D.Va.)	Sex	22 defendants pled guilty; 2 defendants convicted; restitution ordered in the amount of \$1,127.16 (joint and several from 3 defendants)
277	<b>U.S. v. Soda et al.</b>	3:15-cr-00278 (S.D.Cal.)	Sex	Both defendants pled guilty; sentenced to 72 and 92 months in prison; restitution not ordered.
278	<b>U.S. v. Spivey et al.</b>	4:13-cr-00174 (N.D.Okla.)	Sex	Both defendants pled guilty; sentenced to 60 and 120 months in prison; restitution not ordered.
279	<b>U.S. v. Stephens (Antonio)</b>	3:14-cr-00044 (D.Or.)	Sex	Defendant pled guilty; sentenced to 87 months in prison; restitution not ordered.
280	<b>U.S. v. Swinney</b>	1:13-cr-00422 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 294 months in prison; restitution ordered in the amount of \$540,622.
281	<b>U.S. v. Tanner, Jr.</b>	3:13-cr-00285 (D.Or.)	Sex	Defendant pled guilty; sentenced to 168 months in prison; restitution not ordered.
282	<b>U.S. v. Taplin</b>	3:13-cr-00266 (D.Or.)	Sex	Defendant pled guilty; sentenced to time served; restitution not ordered.
283	<b>U.S. v. Thomas (Edward) et al.</b>	3:14-cr-00031 (D.Conn.)	Sex	One defendant was convicted; one defendant pled guilty; sentenced to 60 and 210 months in prison; restitution ordered in the amount of \$28,700.
284	<b>U.S. v. Thomas (Larry)</b>	3:12-cr-04832 (S.D.Cal.)	Sex	Defendant pled guilty; sentenced to time served; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
285	<b>U.S. v. Thompson (James)</b>	5:15-cr-00230 (N.D.Oh.)	Sex	Defendant pled guilty; sentenced to 100 months in prison; restitution not ordered.
286	<b>U.S. v. Thompson (Steven) et al.</b>	1:13-cr-00187 (N.D.Ga.)	Sex	One defendant pled guilty; one defendant convicted; sentenced to 96 and 240 months in prison; restitution ordered in the amount of \$12,000.
287	<b>U.S. v. Tier (David) et al.</b>	0:13-cr-60236 (S.D.Fla.)	Sex	Both defendants pled guilty; sentenced to 60 and 180 months in prison; restitution ordered in the amount of \$4,000.
288	<b>U.S. v. Tilden (Edward)</b>	3:14-cr-00196 (N.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 200 months in prison; restitution not ordered.
289	<b>U.S. v. Tilden (Lynette)</b>	3:14-cr-00119 (N.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 160 months in prison; restitution not ordered.
290	<b>U.S. v. Tinsley</b>	1:13-cr-00476 (D.Md.)	Sex	Defendant pled guilty; sentenced to 132 months in prison; restitution not ordered.
291	<b>U.S. v. Torrellas</b>	2:12-cr-00447 (D.N.J.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
292	<b>U.S. v. Tran</b>	0:14-cr-00025 (D.Minn.)	Labor	Defendant pled guilty; sentenced to 12 months in prison; restitution ordered in the amount of \$51,844.
293	<b>U.S. v. Traylor et al.</b>	11-cr-1448 (S.D.Cal.)	Sex	39 defendants - 35 pled guilty to RICO; 3 dismissed; one killed as a fugitive; defendants sentenced 12 months - 153 months in prison; restitution not ordered.
294	<b>U.S. v. Tucker (Letha)</b>	2:13-cr-00078 (C.D.Cal.)	Sex	Defendant pled guilty; sentenced to 72 months in prison; restitution not ordered.
295	<b>U.S. v. Tyson (Ariana)</b>	15-cr-60174 (S.D.Fla.)	Sex	Defendant pled guilty; sentenced to 24 months in prison; restitution not ordered.
296	<b>U.S. v. Tyson (Dominique)</b>	5:13-cr-40090 (D.Kan.)	Sex	Defendant pled guilty; sentenced to 168 months in prison; restitution not ordered.
297	<b>U.S. v. Vanderhorst</b>	2:13-cr-00294 (D.S.C.)	Sex	Defendant pled guilty; sentenced to 57 months in prison; restitution not ordered.
298	<b>U.S. v. Vargas (Blasina) et al.</b>	4:14-cr-00387 (S.D.Tex.)	Sex	One defendant convicted; three defendants pled guilty; sentenced to 60 - 120 months in prison; restitution not ordered.
299	<b>U.S. v. Villanueva et al.</b>	6:14-cr-00096 (M.D.Fla.)	Sex	Three defendants were convicted; one defendant pled guilty; sentenced to 100-235 months in prison; restitution not ordered.
300	<b>U.S. v. Wade (Emanuel) et al.</b>	4:14-cr-00097 (S.D.Tex.)	Sex	All five defendants pled guilty; sentenced to home confinement - 360 months in prison; restitution not ordered.
301	<b>U.S. v. Walker (Jerome) et al.</b>	3:14-cr-00560 (D.S.C.)	Sex	Both defendants pled guilty; sentenced to time served and 84 months in prison; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
302	<b>U.S. v. Walls (Alexander) et al.</b>	3:11-cr-05408 (W.D.Wash.)	Sex	One defendant was convicted; one defendant pled guilty; sentenced to 176 and 208 months in prison; restitution ordered in the amount of \$208,588.08 (most of it joint and several).
303	<b>U.S. v. Wardlow (Tony) et al.</b>	4:13-cr-00083 (W.D.Mo.)	Sex	One defendant was convicted; one defendant pled guilty; sentenced to probation and 250 months in prison; restitution ordered in the amount of \$292.
304	<b>U.S. v. Wearing</b>	3:14-cr-00122 (W.D.Wis.)	Sex	Defendant was convicted (bench trial); sentenced to 180 months in prison; restitution not ordered.
305	<b>U.S. v. Weeks</b>	1:14-cr-00313 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 132 months in prison; restitution ordered in the amount of \$15,000.
306	<b>U.S. v. Weise</b>	13-cr-20092 (S.D.Fla.)	Sex	The defendant was convicted; sentenced to 360 months in prison; restitution ordered in the amount of \$13,000. Affirmed on appeal.
307	<b>U.S. v. Wells (Doncouri) et al.</b>	5:14-cr-50047 (W.D.Ark.)	Sex	Both defendants pled guilty; sentenced to 300 and 24 months in prison; restitution not ordered.
308	<b>U.S. v. West (Marques) et al.</b>	4:13-cr-01493 (D.Az.)	Sex (includes labor charge as well)	Both defendants pled guilty; sentenced to probation and 160 months in prison; restitution ordered in the amount of \$425 (joint and several).
309	<b>U.S. v. White (Alyssa)</b>	1:13-cr-00191 (N.D.Okla.)	Sex	Defendant pled guilty; sentenced to probation; restitution not ordered.
310	<b>U.S. v. White (Christopher)</b>	3:14-cr-00216 (D.Or.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
311	<b>U.S. v. White (Jonathan)</b>	1:13-cr-00630 (E.D.N.Y.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
312	<b>U.S. v. Wilcox</b>	4:12-cr-01338 (D.Az.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution ordered in the amount of \$200.
313	<b>U.S. v. Williams (Christopher)</b>	5:13-cr-00123 (E.D.N.C.)	Sex	Defendant pled guilty; sentenced to 540 months in prison; restitution not ordered.
314	<b>U.S. v. Williams (Jathar)</b>	4:14-cr-00012 (W.D.Ky.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
315	<b>U.S. v. Williams (Justin)</b>	2:13-cr-00014 (E.D.Pa.)	Sex	Defendant was convicted; sentenced to 360 months in prison; restitution ordered in the amount of \$129,500.
316	<b>U.S. v. Williams (Reginald)</b>	4:12-cr-00369 (E.D.Mo.)	Sex	Defendant was convicted; sentenced to 240 months in prison; restitution not ordered.
317	<b>U.S. v. Willis (Otis) et al.</b>	6:13-cr-6013 (W.D.N.Y.)	Sex	Both defendants pled guilty; sentenced to time served and 41 months in prison; restitution not ordered.
318	<b>U.S. v. Wilson (Melvin)</b>	4:14-cr-00178 (E.D.Mo.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.
319	<b>U.S. v. Winston (Darnell)</b>	2:15-cr-20020 (W.D.Ark.)	Sex	Defendant pled guilty; sentenced to 120 months in prison; restitution not ordered.

	Case Name	Docket number and jurisdiction	Type: Sex/Labor/Both	Outcome
320	<b>U.S. v. Womack et al.</b>	2:13-cr-00206 (E.D.Pa.)	Sex	Both defendants pled guilty; sentenced to 185 months and life in prison; restitution ordered in the amount of \$35,700.
321	<b>U.S. v. Wren (Drayon)</b>	2:15-cr-00007 (E.D.Wis.)	Sex	Defendant pled guilty; sentenced to 216 months in prison; restitution not ordered.
322	<b>U.S. v. Wright (Jeffrey)</b>	2:14-cr-00068 (E.D.Va.)	Sex	Defendant pled guilty; sentenced to 60 months in prison; restitution not ordered.
323	<b>U.S. v. Wright (Marcus) et al.</b>	5:13-cr-00806 (W.D.Tex.)	Sex	Three defendants were convicted; one defendant pled guilty; sentenced to 6 months - life in prison; restitution ordered in the amount of \$1,500 (from three defendants).
324	<b>U.S. v. Wright (Robin)</b>	2:15-cr-00079 (E.D.Wis.)	Sex	Defendant pled guilty; sentenced to time served; restitution not ordered.

## Appendix C

Source: The Attorney General's Annual Reports to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons for FY2015 and FY2016

# The Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons for FY2015, Appendix C, pp. 142-143

Appendix C: Restitution Orders for Defendants Sentenced in FY 2015<sup>25</sup>

Federal District	Last Name	First Name	Case Number	Sentencing Date	Restitution Amount	Collected Restitution
C.D. Cal.	Porter	Roshaun Nakia	SACR 12-97(A)	20-Feb-15	\$866,244.68	\$75.00
C.D. Cal.	Horn	Marquis Monte	SACR 12-97(A)	24-Oct-14	\$69,719.34	\$0.00
S.D. Fla.	Price	William	13-20836-CR	21-Oct-14	\$8,250.00	\$0.00
S.D. Fla.	McKinley	Shaun	14-60163-CR	4-Dec-14	\$4,121.00	\$0.00
S.D. Fla.	Cadena	Carmen	98-14015-CR	18-May-15	\$1,261,563.00	\$0.00
N.D. Ga.	Murray	Fabian Terran	1:12-CR-285-02	12-May-15	\$1,000.00	\$0.00
N.D. Ga.	Murray	Fabian Terran	1:12-CR-286-01	12-May-15	\$1,000.00	\$0.00
N.D. Ga.	Rojas-Coyotl	Arturo	1:13-CR-128-01	22-Jan-15	\$190,000.00	\$0.00
N.D. Ga.	Martinez-Rojas	Odilon	1:13-CR-128-02	22-Jan-15	\$190,000.00	\$0.00
N.D. Ill.	McKee	Malik	12 CR 707-1	17-Oct-14	\$6,000.00	\$0.00
N.D. Ill.	Hull	Cameron	13 CR 216-1	17-Sep-15	\$400.00	\$0.00
N.D. Ind.	Huey-Dingle	Nathan	2:23CR135	17-Oct-14	\$78,721.11	\$0.00
D. Minn.	Tran	Tieu	14-25 (SRN)	12-Dec-14	\$51,844.00	\$300.00
W.D. Mo.	Smith	Joshua	13-00286-01-CR-W-GAF	20-Apr-15	\$23,406.00	\$0.00
W.D. Mo.	Farrell	Thomas	13-00083-02-CR-W-DW	12-Aug-15	\$292.00	\$292.00
W.D. Mo.	Wardlow	Tony	13-00083-01-CR-W-DW	12-Aug-15	\$292.00	\$0.00
S.D.N.Y.	Boyd	Elfego	13 CR 0890	8-Jan-15	\$20,000.00	\$0.00
S.D.N.Y.	Darby	Norman	13 CR 0890	2-Jul-15	\$6,500.00	\$0.00
E.D. Pa.	Brice	Rashidah	13-CR-206-02	22-Oct-14	\$35,700.00	\$0.00
E.D. Pa.	Womack	Christian	13-CR-206-02	18-Dec-14	\$35,700.00	\$0.00
E.D. Pa.	Smith	Enoch	12-CR-473-01	20-Nov-14	\$190,400.00	\$0.00
E.D. Pa.	Williams	Justin	13-CR-014-01	21-Jan-15	\$129,500.00	\$0.00
W.D. Tenn.	Eddins	Derrick	2:13CR20203-01	19-Mar-15	\$2,422.48	\$0.00
W.D. Tex.	Doak	Amber	SA13CR806(3)	27-Feb-15	\$1,500.00	\$70.00
W.D. Tex.	Wright	Marcus Deshawn	SA13CR806(1)	27-Feb-15	\$1,500.00	\$0.00
W.D. Tex.	Copeland	Malcolm Deandre	SA13CR806(2)	27-Feb-15	\$1,500.00	\$25.00
ED. Va.	Weeks	Tayron	1:14CR00313-001	12-Dec-14	\$15,000.00	\$0.00
ED. Va.	Miller	Ruth	1:13CR00175-001	19-Dec-14	\$351,437.50	\$175.00
ED. Va.	Haskins	Lenny	1:14CR00432-001	1-May-15	\$538,250.00	\$0.00
ED. Va.	Hodza	Aldair	3:15CR00032-001	14-Aug-15	\$17,197.50	\$0.00
ED. Va.	Sorensen	Laura	3:15CR00032-002	14-Aug-15	\$17,197.50	\$0.00
W.D. Wash	Cyprian	John	2:14-CR-0236-1	27-Apr-15	\$161,700.00	\$50.00

<sup>25</sup> This data includes cases filed by USAOs under 18 U.S.C. §§ 1581, 1583, 1584, 1589, 1590, 1591, 1592, and 1594, along with cases filed by HTPU.

# The Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons for FY2016, Appendix C, pp. 139-141

**Appendix C: Restitution Orders for Defendants Sentenced in FY 2016<sup>19</sup>**

Federal District	Defendant Name	Case Number	Sentencing Date	Restitution Amount	Collected Restitution <sup>20</sup>
C.D. Cal.	Laron Darrell Carter	2:14-CR-297	18-Jul-2016	\$631,248.00	
N.D. Cal.	Crutchfield, Justin Everett	CR 14-00051-001	26-Jan-2016	\$2,000.00	\$110.00
N.D. Cal.	Toliver, Demontae Terrell	CR-14-00051-002	26-Jan-2016	\$2,000.00	\$25.00
S.D. Cal.	Cook, Jermaine	14CR1288-DMS	22-Sep-2016	\$42,803.12	\$100.00
S.D. Cal.	Foreman, Marcus	14CR1288-DMS	22-Sep-2016	\$42,803.12	\$0.00
S.D. Cal.	Hollins, Terry Carry	14CR1288-DMS	27-Jul-2016	\$42,803.12	\$0.00
S.D. Cal.	Ross III, Wilbert	14CR1288-DMS	20-Jul-2016	\$43,803.12	\$0.00
D. Conn.	Thomas, Edward	3:14CR31	17-Nov-2015	\$28,700.00	\$0.00
D. Conn.	Walters, Kayla	3:14CR31	07-Apr-2016	\$28,500.00	\$0.00
S.D. Fla.	Reyes-Perez, Timoteo	08-80145-CR	20-Jun-2016	\$21,600.00	\$33.48
N.D. Ga.	Daniels, Cole Jamal	1:15-CR-437-01	21-Mar-2016	\$8,300.00	\$0.00
N.D. Ga.	Jernigan, Isaiah	1:14-CR-024-01	02-May-2016	\$1,325.00	\$1,325.00
N.D. Ga.	Marcelin, Brianne	1:14-CR-024-04	15-Apr-2016	\$2,375.00	\$0.00
N.D. Ga.	St. Vil, Marie	1:14-CR-024-03	14-Apr-2016	\$2,375.00	\$0.00
N.D. Ga.	Williamson, Darren	1:14-CR-024-02	02-May-2016	\$1,325.00	\$0.00
N.D. Ill.	McKee, Shuntina	12-CR-707-2	31-May-2016	\$6,000.00	\$650.00
N.D. Ill.	Woods, Willie	12-CR-707-3	24-May-2016	\$6,000.00	\$0.00
D. Kan.	Harper, Natasha	6:15CR10155-001-JTM	18-Jul-2016	\$1,500.00	\$0.00
E.D. La.	Brown, Laquentin	13-CR-00286	13-Jul-2016	\$97,994.15	
E.D. La.	Ellis, Anthony	13-CR-00286	08-Jun-2016	\$97,994.15	
E.D. La.	Patel, Kanubhai	13-CR-00286	08-Jun-2016	\$97,994.15	\$0.00
E.D. La.	Phillips, Duane	13-CR-00286	08-Jun-2016	\$97,994.15	
E.D. La.	Robinson, Granville	13-CR-00286	04-May-2016	\$97,994.15	
E.D. La.	Taylor, Zacchaeus	13-CR-00286	08-Jun-2016	\$97,994.15	
E.D. La.	Williams, Christopher	13-CR-00286	13-Jul-2016	\$97,994.15	
M.D. La.	Dominique, Kellie M.	3:15CR000112-001	30-Jun-2016	\$14,535.00	\$560.00
D. Mass.	Jeffreys, Raymond	1:13-CR-10077-004	19-May-2016	\$10,500.00	\$0.00
E.D. Mich.	Ruiz, Locadio Eudenio	15CR20064 01	28-Jul-2016	\$5,400.00	\$25.00
W.D. Mich.	Smith, Tyrone	1:15CR135-01	11-May-2016	\$20,000.00	\$0.00
D. Minn.	Ely, Craig Anthony	15-262(2) SRN/HB	28-Apr-2016	\$2,205.00	\$0.00
D.N.J.	Senat, Wilbur	13-558	11-May-2016	\$60,000.00	\$0.00
D.N.J.	Verrier, Samuel	13-558	28-Aug-2016	\$60,000.00	\$0.00
E.D.N.Y.	Estrada-Tepal, Jorge	CR-14-0105	15-Dec-2015	\$1,033,336.00	\$0.00
E.D.N.Y.	Estrada-Tepal, Ricardo	CR-14-0105	15-Dec-2015	\$1,033,336.00	\$0.00
E.D.N.Y.	Estrada-Tepal, Victor	CR-14-0105	15-Dec-2015	\$1,033,336.00	\$0.00
E.D.N.Y.	Lashley, Kylon	CR-12-0489	01-Dec-2015	\$4,574.00	\$435.00
S.D.N.Y.	Chin, Benson	15-CR-00730-2	30-Jun-2016	\$9,520.00	\$1,300.00
S.D.N.Y.	He, Hong Ping	15-CR-0730	30-Jun-2016	\$9,520.00	\$0.00
W.D.N.Y.	White, Kenneth	1:13-CR-00255-001	18-May-2016	\$164,250.00	\$200.00
W.D.N.C.	Muslim, Shahid Hassan	3: 13CR00307-001	03-May-2016	\$13,840.00	\$0.00
N.D. Ohio	Castillo-Serrano, Aroldo	3:15CR-24	27-Jun-2016	\$67,232.00	\$0.00
N.D. Ohio	Duran, Jr., Pablo	3:15CR-24	11-Apr-2016	\$4,750.00	\$2.00
N.D. Ohio	Pedro Juan, Ana Angelica	3:15CR-24	27-Jun-2016	\$67,232.00	\$1.86

Federal District	Defendant Name	Case Number	Sentencing Date	Restitution Amount	Collected Restitution <sup>20</sup>
N D. Ohio	Salgado Soto, Conrado	3:15CR-24	11-Apr-2016	\$67,232.00	\$67,230.00
W.D. Okla.	Johnson, William Vontrail	CR-14-341-F	11-Jan-2016	\$900,000.00	\$50.00
E.D. Pa.	Weston, Linda	13-CR-025-01	05-Nov-2015	\$273,468.23	\$0.00
D.R.I.	Beverly, Damien	1:15CR00022-01S	08-Mar-2016	\$7,066.00	\$7,066.00
S.D. Tex.	Cerda, Lilia Medeles	4:13-CR-628-09	04-Dec-2015	\$569,340.00	\$0.00
S.D. Tex.	Garcia, Diana Medeles	4:13-CR-628-13	17-Dec-2015	\$534,140.00	\$56,116.97
S.D. Tex.	Medeles-Arguello, Hortencia	4:13-CR-628-01	20-Jan-2016	\$1,494,929.10	\$0.00
S.D. Tex.	Melendez-Gonzalez, Hugo Alexander	4:14-CR-497-01	16-Aug-2016	\$90,110.00	\$0.00
S.D. Tex.	Pleitez, Francis Yuvini Guerra	4:14-CR-497-03	17-Aug-2016	\$113,790.00	\$250.00
S.D. Tex.	Quintanilla, Jose William	4:14-CR-497-02	16-Aug-2016	\$90,110.00	\$0.00
S.D. Tex.	Quintanilla-Campos, Mariano	4:14-CR-497-05	18-Aug-2016	\$90,110.00	\$0.00
S.D. Tex.	Xalcut, Walter Alexander Ejcalon	4:14-CR-497-06	19-Aug-2016	\$90,110.00	\$0.00
W.D. Tex.	Al-Homoud, Hassan Salem	SA15CR391(1)	09-Feb-2016	\$120,000.00	\$120,000.00
W.D. Tex.	Al-Hosani, Zainab Mohamed Hasan Hatim	SA15CR391(1)	09-Feb-2016	\$120,000.00	\$0.00
D. Utah	Elliott, Aaron	1:15CR00010-001, DN	17-Dec-2015	\$1,704.69	\$200.00
D. Utah	Poike, Ashley Nicole	2:15CR00395-003, DVB	08-Dec-2015	\$1,300.00	\$30.78
D. Utah	Salankole, Abiodu Damiloca	2:15CR00393-001, DB	04-May-2016	\$500.00	\$0.00
E.D. Va.	Bonner, Jr., Robert	1:14CR00425-001	22-Jan-2016	\$317,750.00	\$0.00
E.D. Va.	Callis, Stephen	3:16CR00003-001	20-Jun-2016	\$32,500.00	\$0.00
E.D. Va.	Carter, Alexis	1:15CR000256001	18-Nov-2015	\$33,000.00	\$0.00
E.D. Va.	Flores, Eric Noe Araujo	1:15:CR-320-LO	03-Jun-2016	\$40,370.00	\$0.00
E.D. Va.	McLaughlin, Stefanie	1:15CR00079-001	24-Jun-2016	\$305,925.00	\$0.00
E.D. Va.	Randall, Michael	1:15CR00039-001	23-Oct-2015	\$645,890.00	\$75.00
E.D. Va.	Rashid, Muntasir	3:15CR00195-001	09-Jun-2016	\$820.00	\$0.00
E.D. Va.	Ruseckaitė, Giedre	1:15CR00157-001	02-Oct-2015	\$4,000.00	\$1,325.00
W.D. Va.	Kirby, Tremayne	715CR000026-001	17-Nov-2015	\$11,556.33	\$0.00
W.D. Wash.	Bonds, Nathan	2:14-CR-0074-1	03-Nov-2015	\$1,560.00	\$0.00
W.D. Wash.	Jackson Jr., Tony	3:14-CR-5242-2	22-Apr-2016	\$22,000.00	\$0.00
W.D. Wash.	Manago, Desmond	2:14-CR-0023-1	09-Nov-2015	\$100,000.00	\$15.00

<sup>19</sup> This data includes cases filed by USAOs under 18 U.S.C. §§ 1581, 1583, 1584, 1589, 1590, 1591, 1592, and 1594, along with cases filed by HTPU.

<sup>20</sup> As of November 17, 2017.







**Office of Children  
and Family Services**

# **2017 Safe Harbour Program Data**

**October 24, 2018**

# Youth Demographics and Victimization



# 2017 Program Data

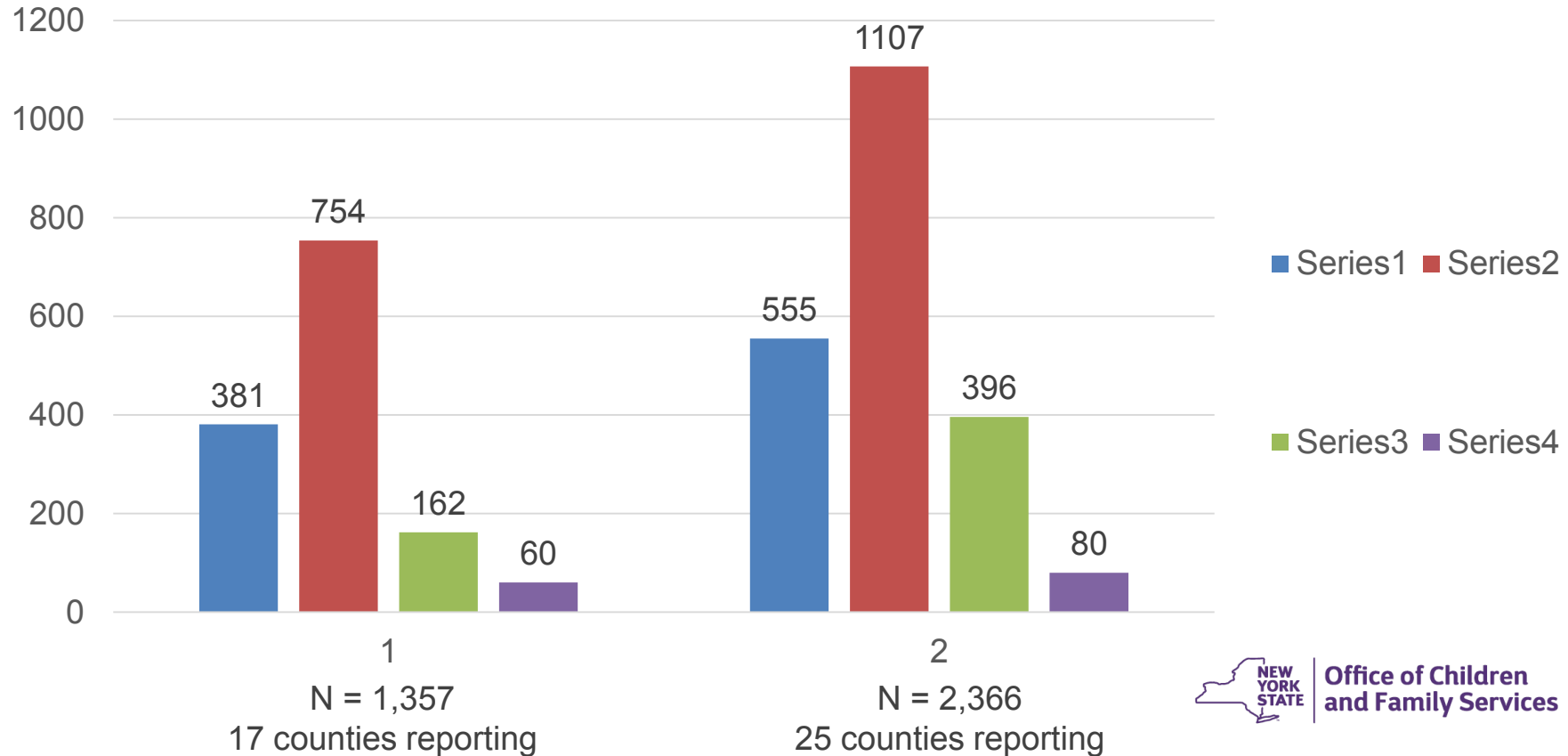
## In 2017:

- 25 counties reported data.
- 2,366 youth were identified as trafficked or at risk.
  - 396 of these youth met the federal definition of a sex trafficking victim.\*
  - 1,970 were identified as high or medium risk of trafficking.\*

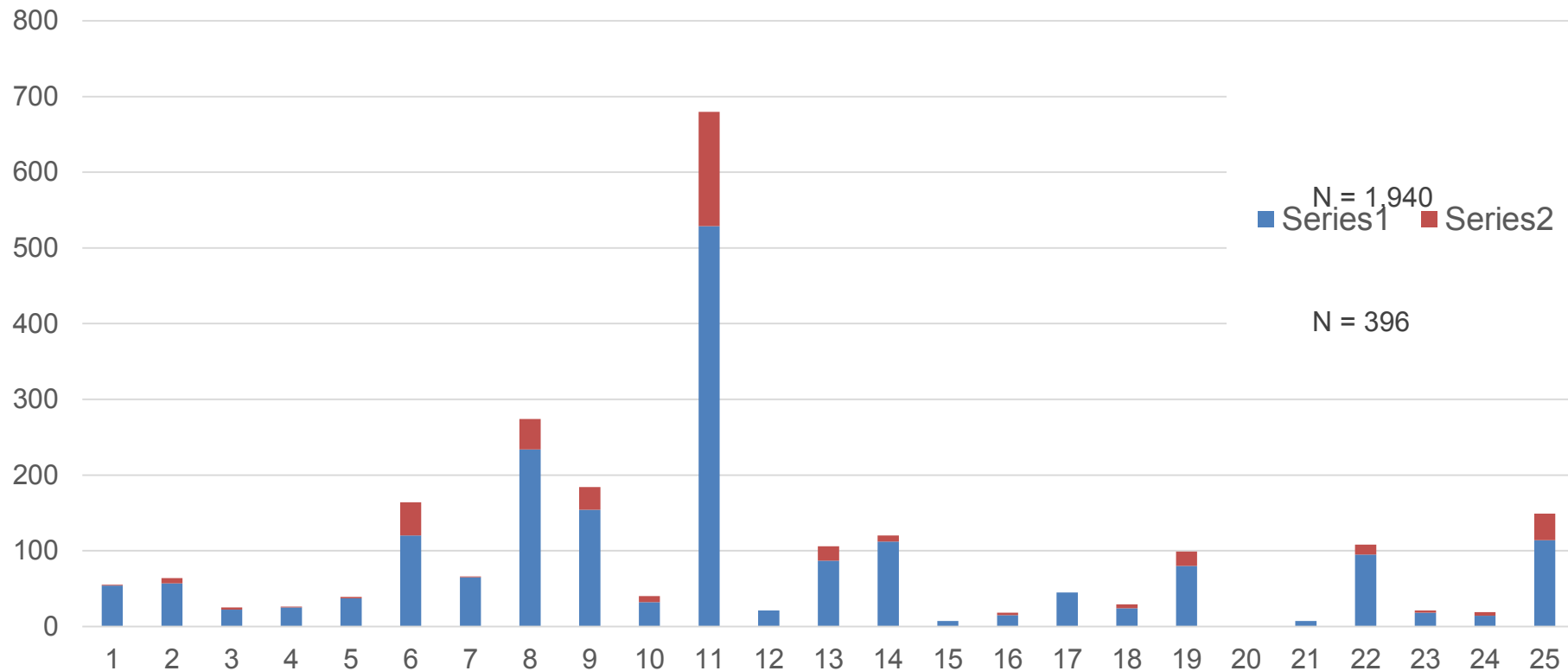
\*For more information on how risk levels were determined please refer to OCFS-3920.



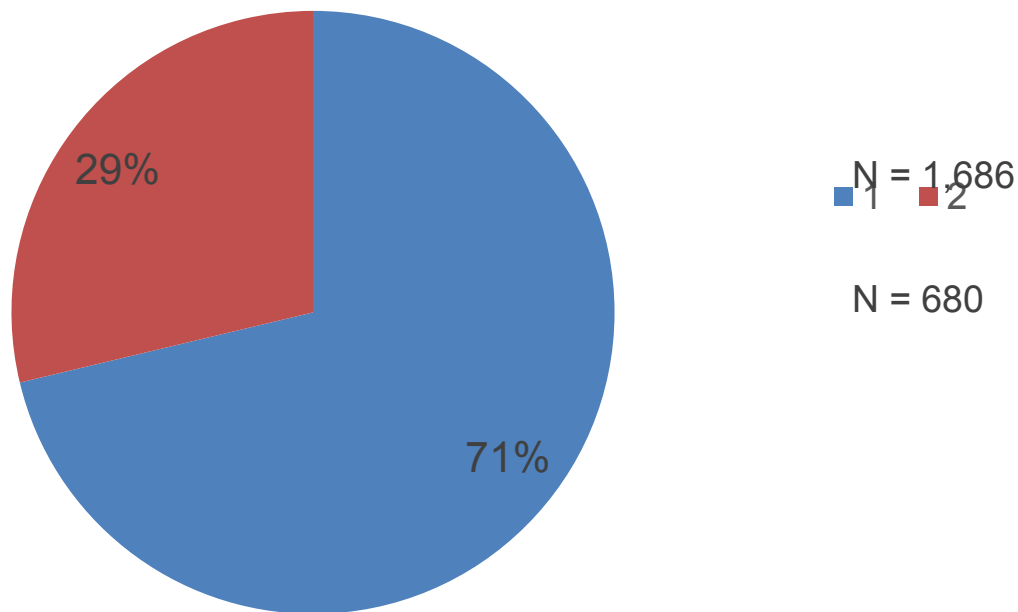
# Youth Identified 2016 vs. 2017



# Youth Identified by County

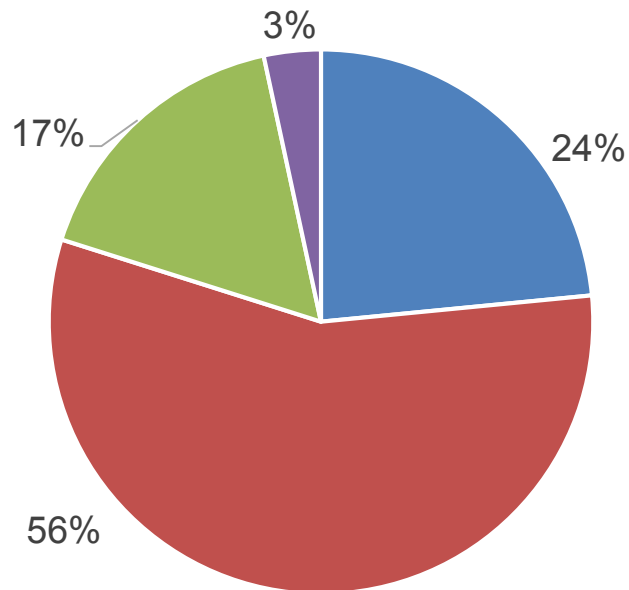


# Youth Identified: ROS vs. NYC





# Identifications by Risk Level at Intake



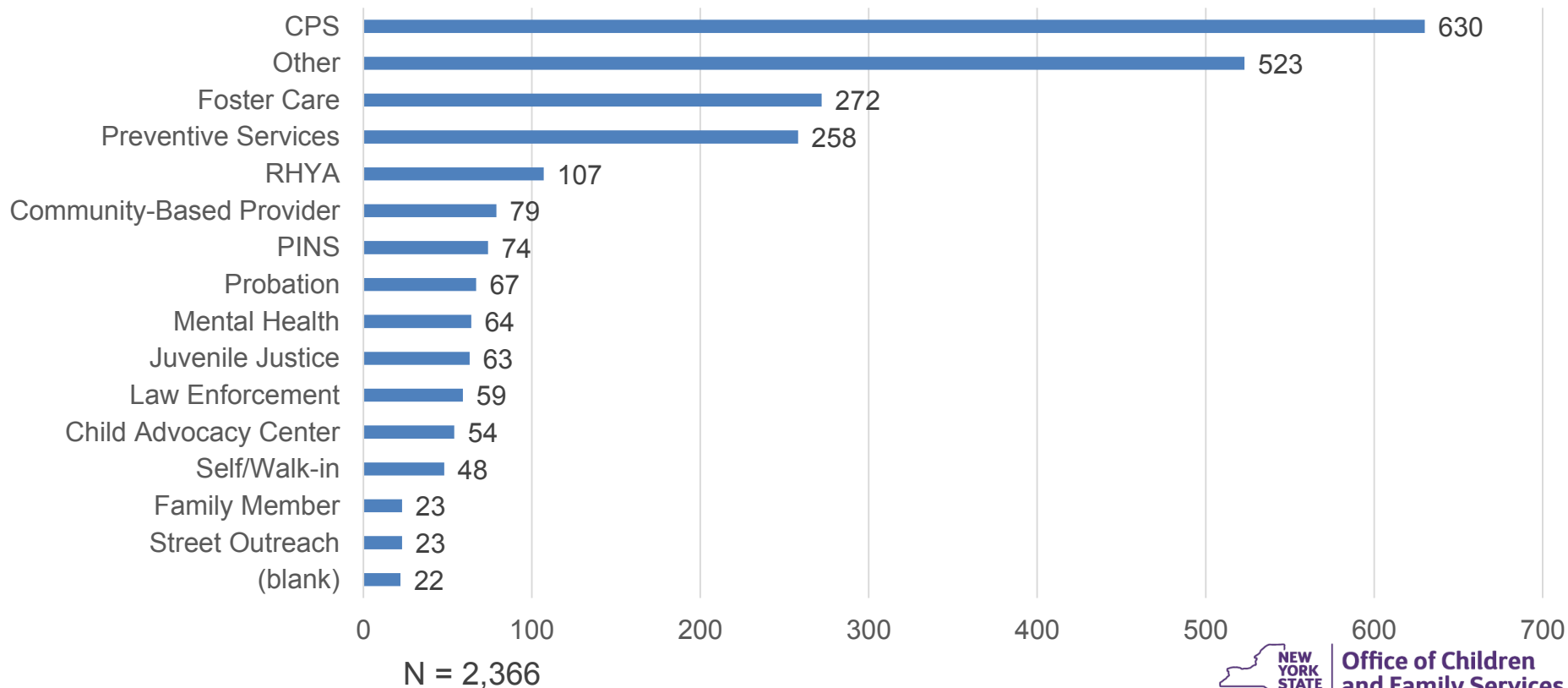
■ 1 ■ 2 ■ 3 ■ 4

N = 2,366

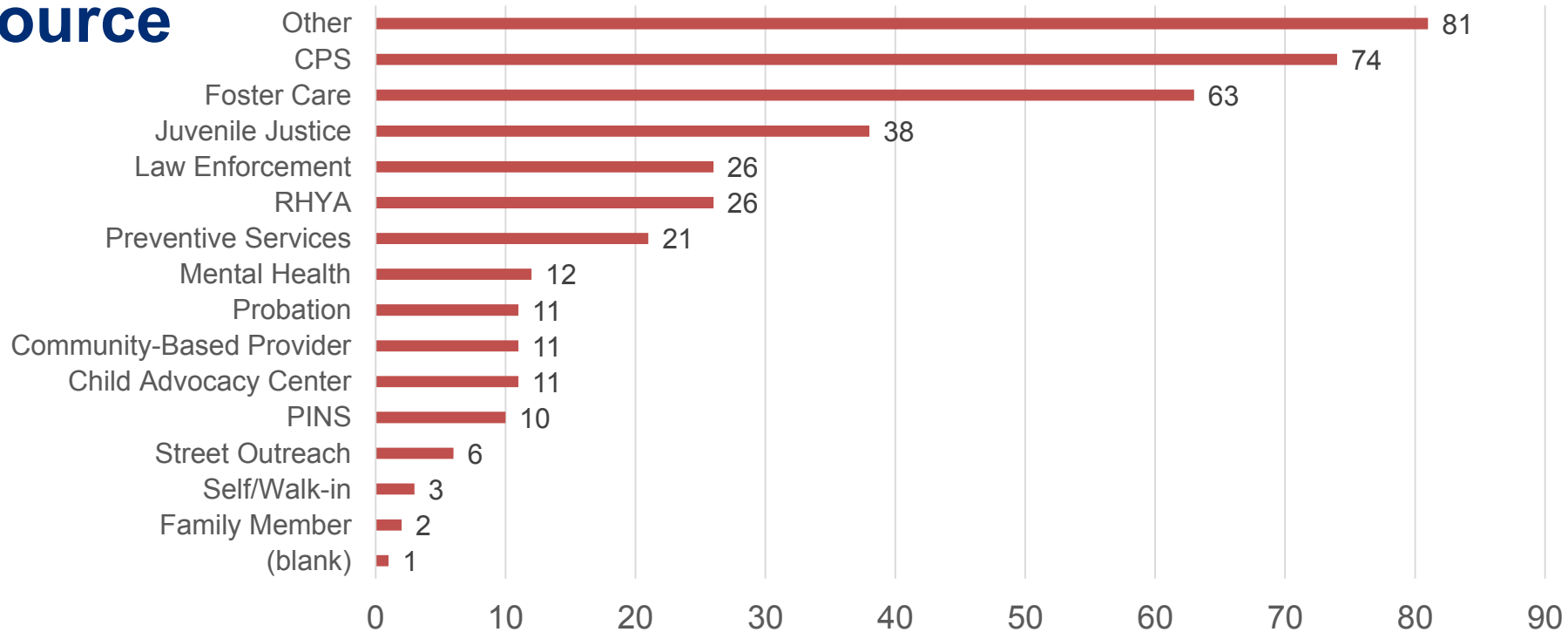


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# Youth At Risk by Referral Source



# Youth That Met Federal Definition by Referral Source



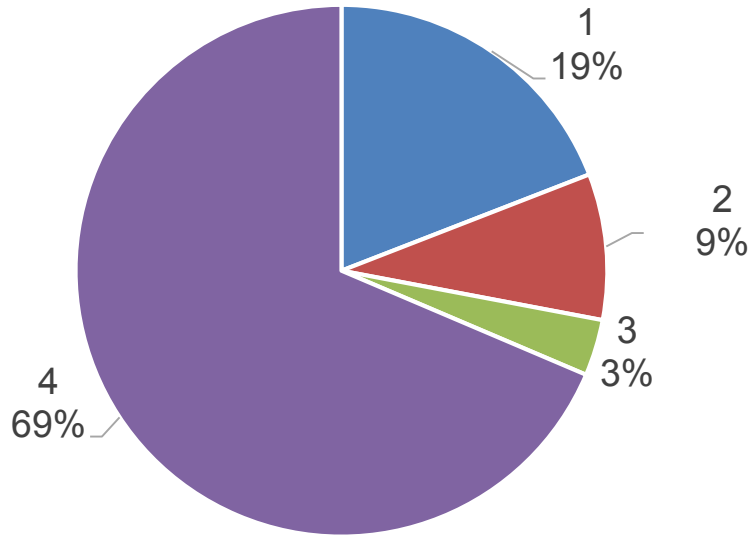
N = 396



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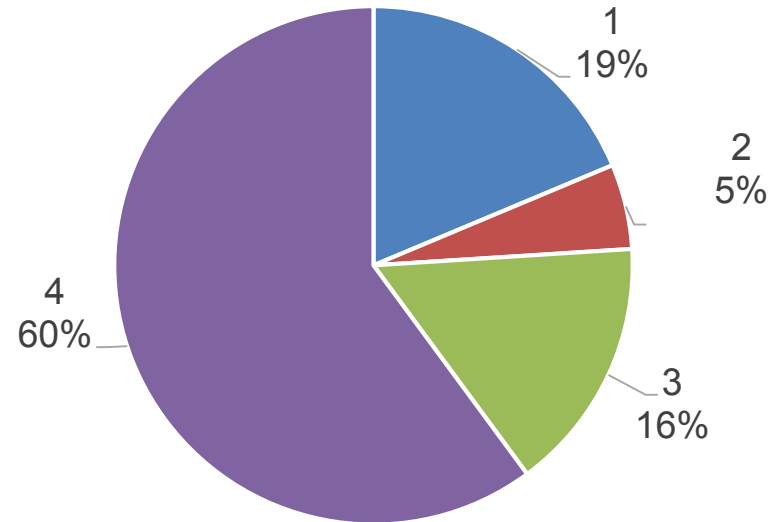
# Child Welfare vs. Non-Child Welfare Referrals

Identified Youth  
N = 2,366



Child Welfare identifications  
make up 31% of referrals

Youth that Met Fed. Definition  
N = 396

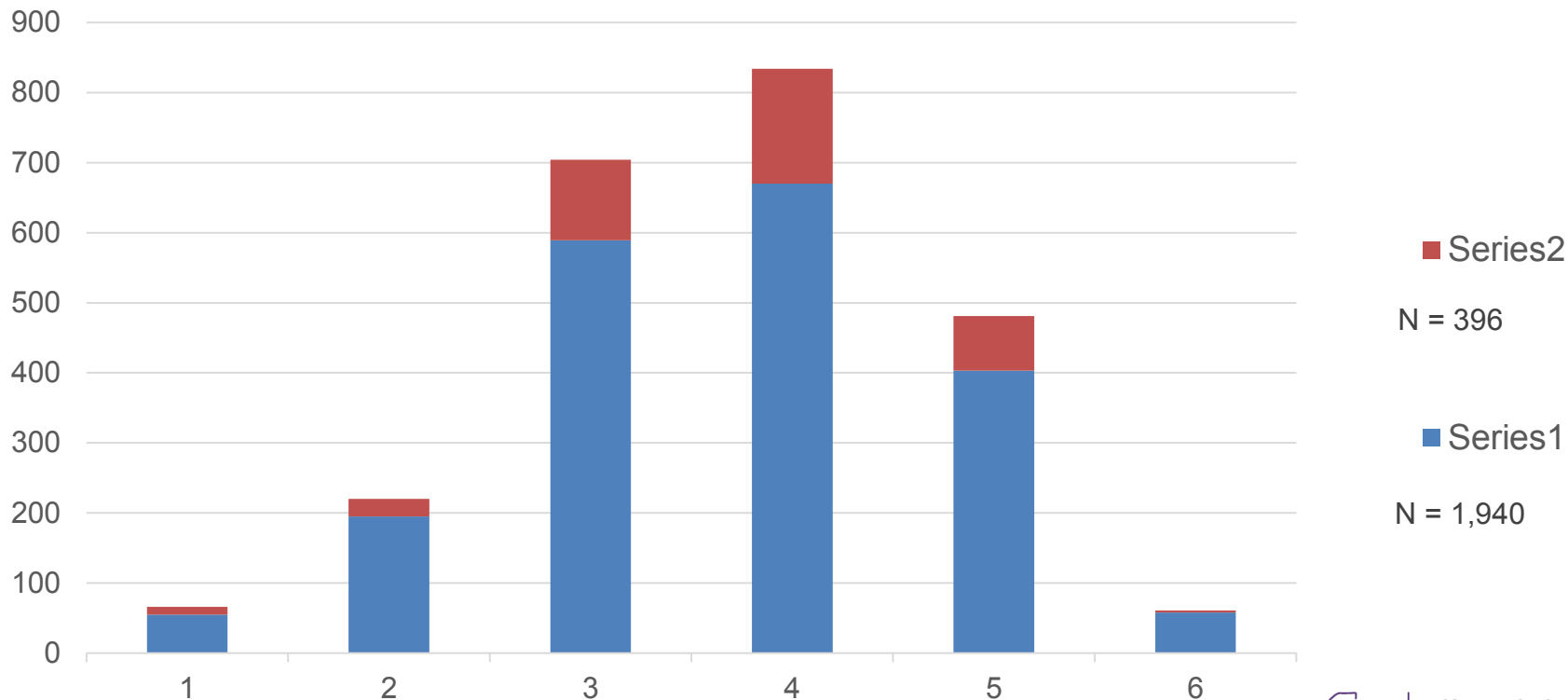


Child Welfare identifications  
make up 40% of referrals

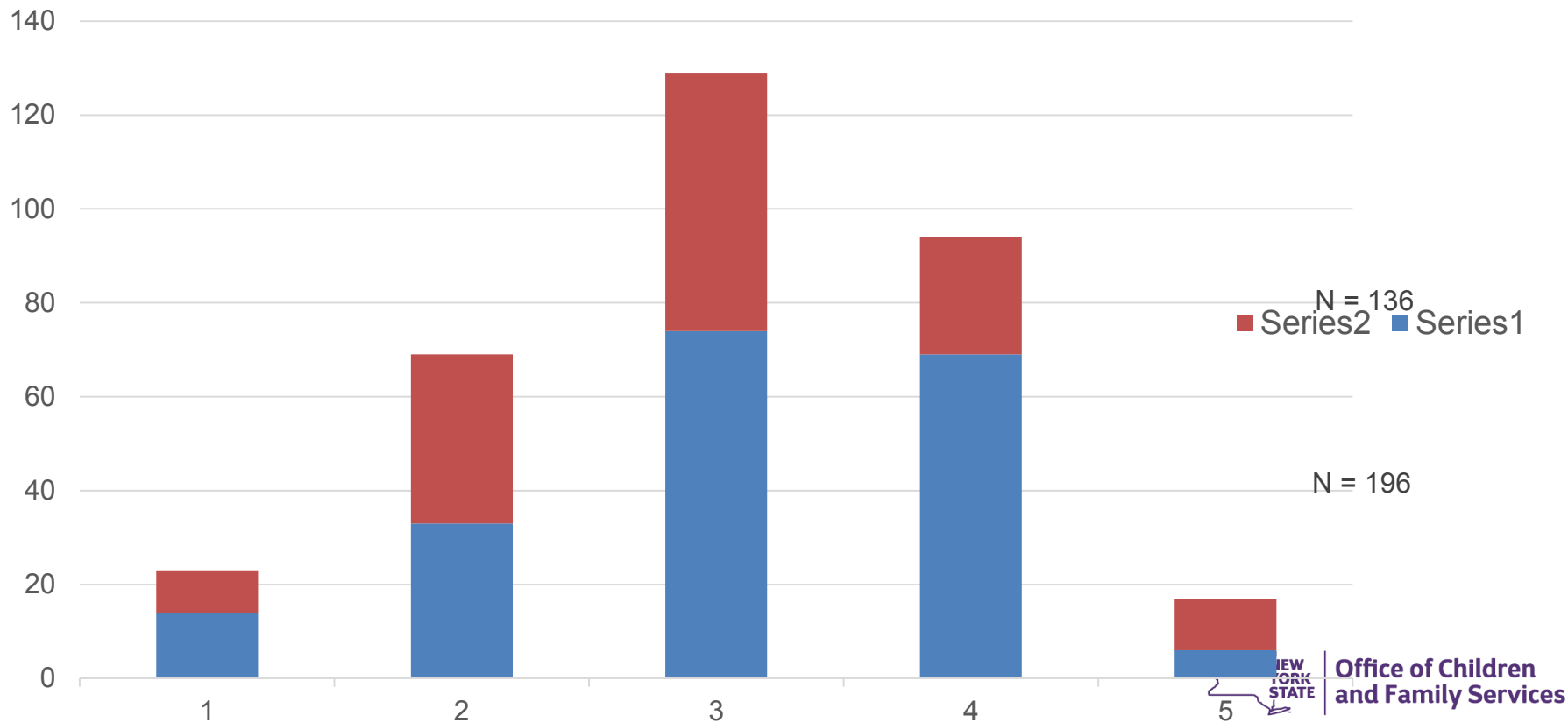


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# Age of Youth at Intake

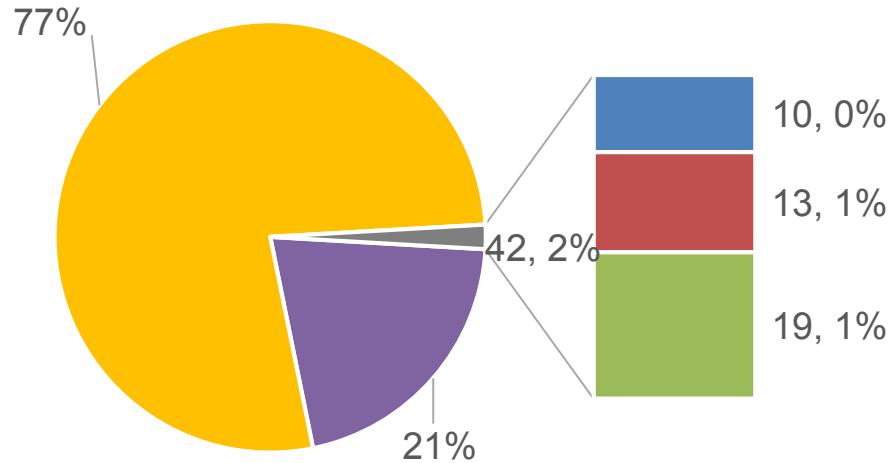


# Age of Youth When Exploitation Began

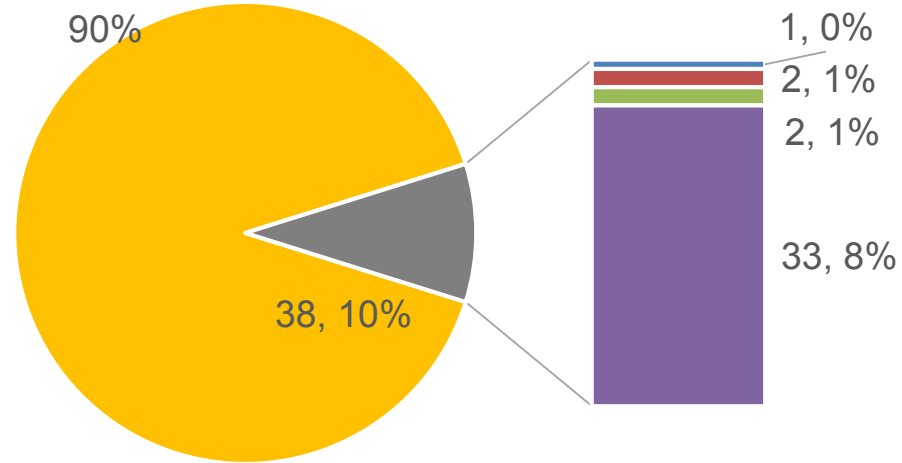


# Gender Identity of Youth

Identified Youth  
N = 2,301



Met Fed. Definition Youth  
N = 393



■ 1 ■ 2 ■ 3 ■ 4 ■ 5

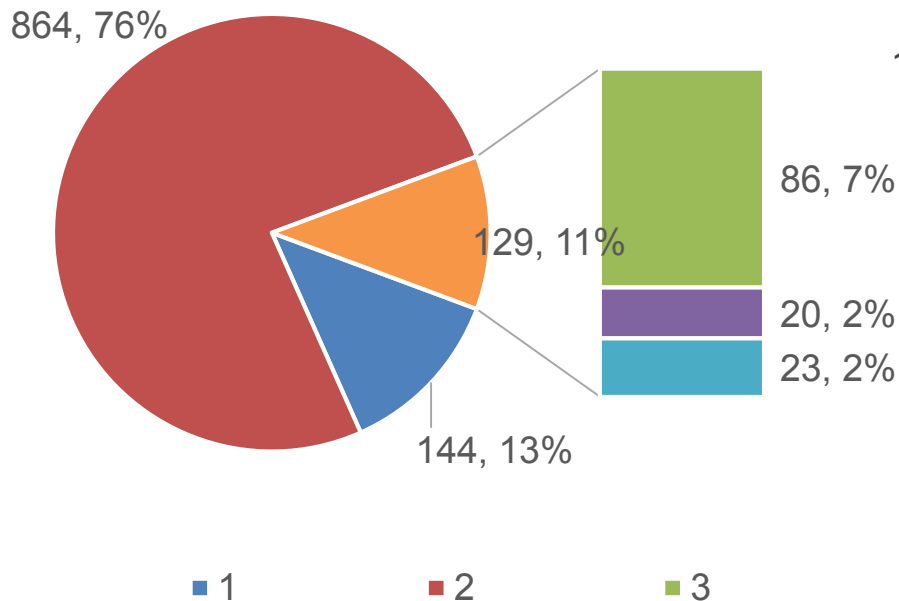


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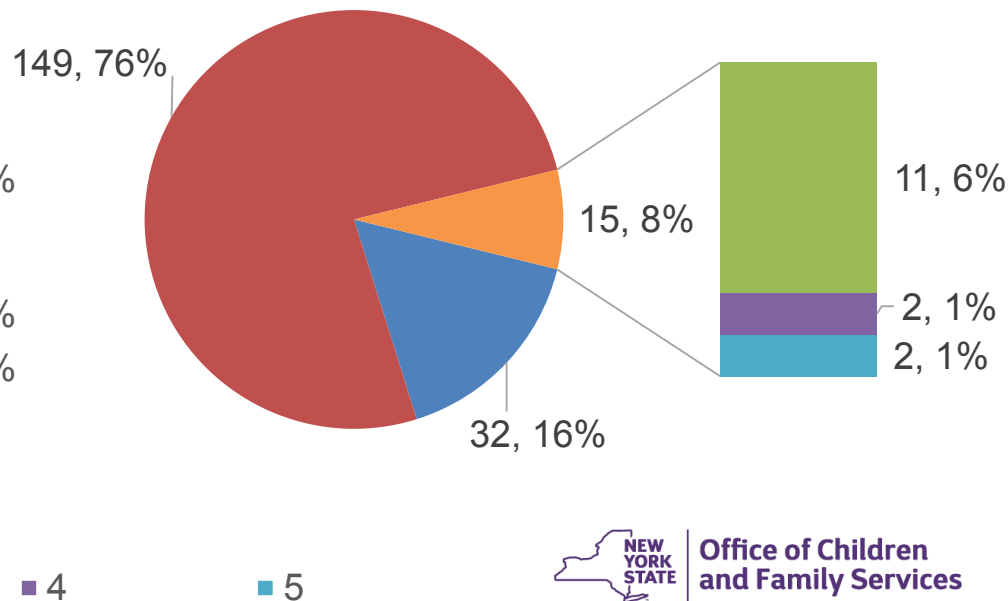


# Sexual Orientation of Youth

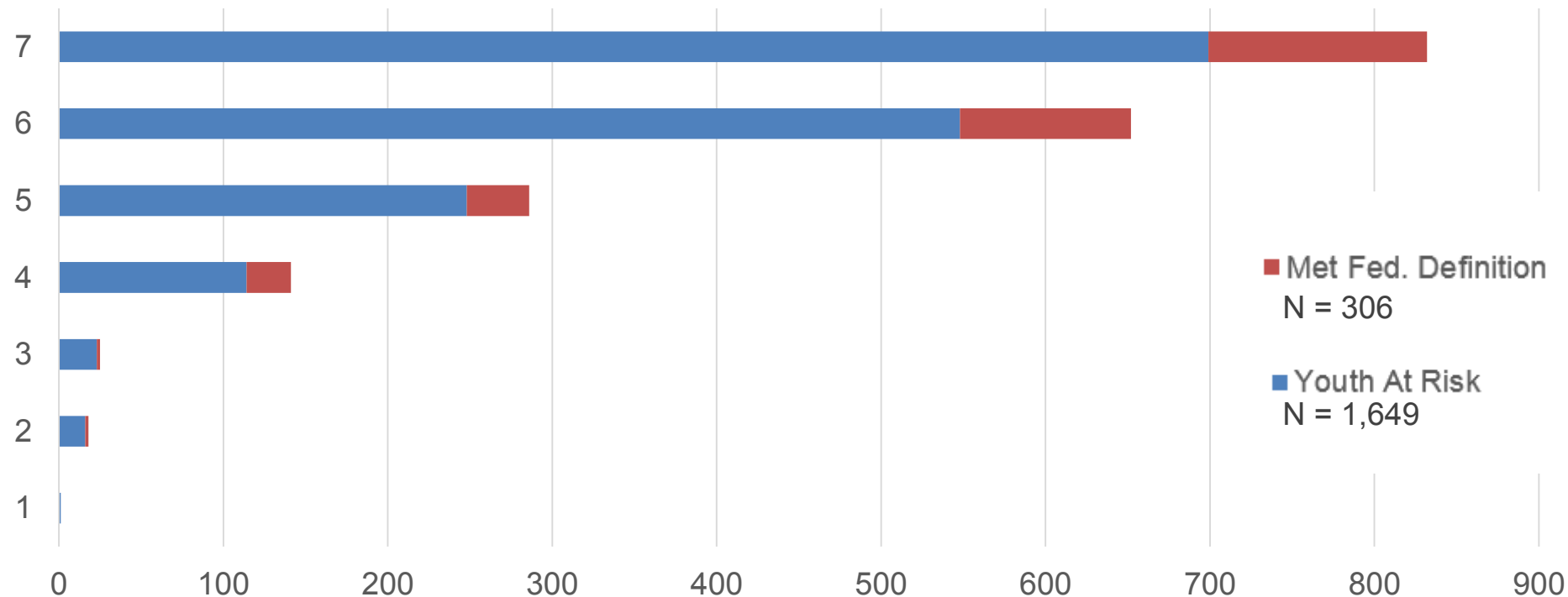
Identified Youth  
N = 1,137



Met Fed. Definition Youth  
N = 196



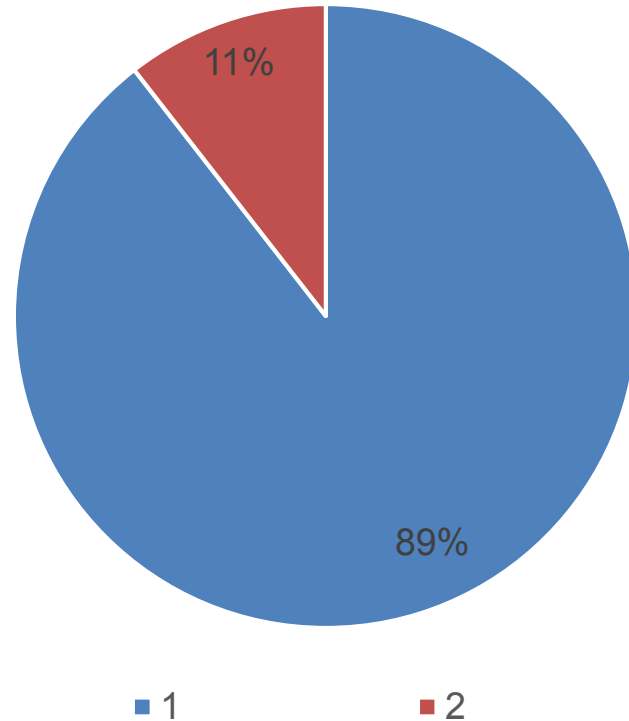
# Racial Identity of Youth



572 youth identified as Hispanic or Latinx.



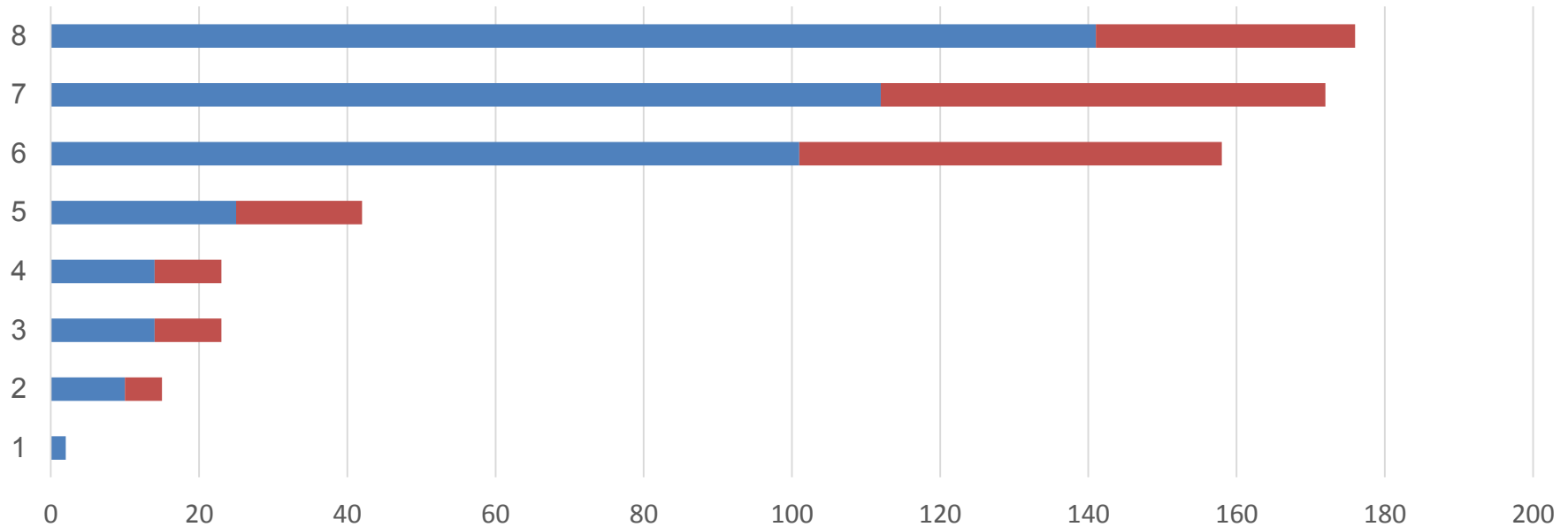
# Youth Identified by Trafficking Experience



- 39 youth experienced or were at risk of sex and labor trafficking.
- In 2016 only 2% of identifications were related to labor trafficking.



# Relation of Trafficker to Youth: CSEC

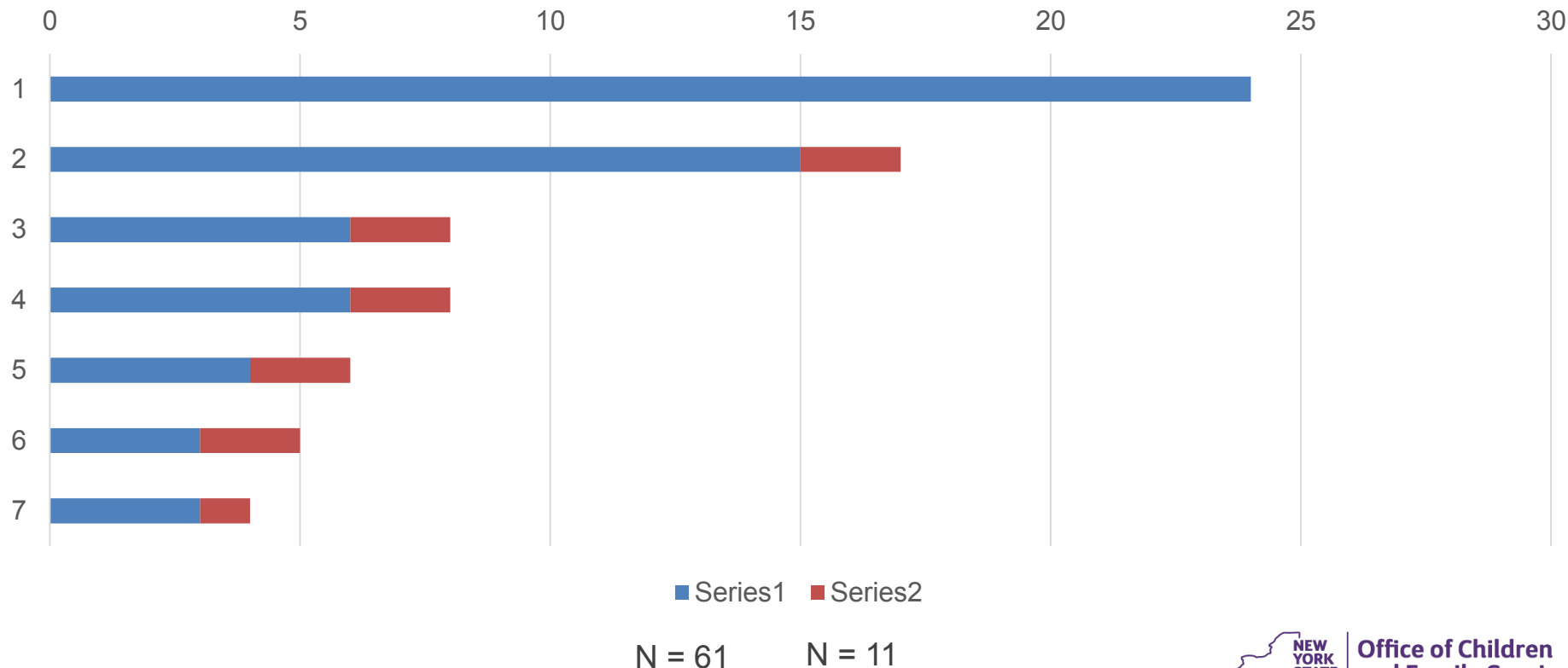


■ Series1 ■ Series2  
N = 419 N = 192

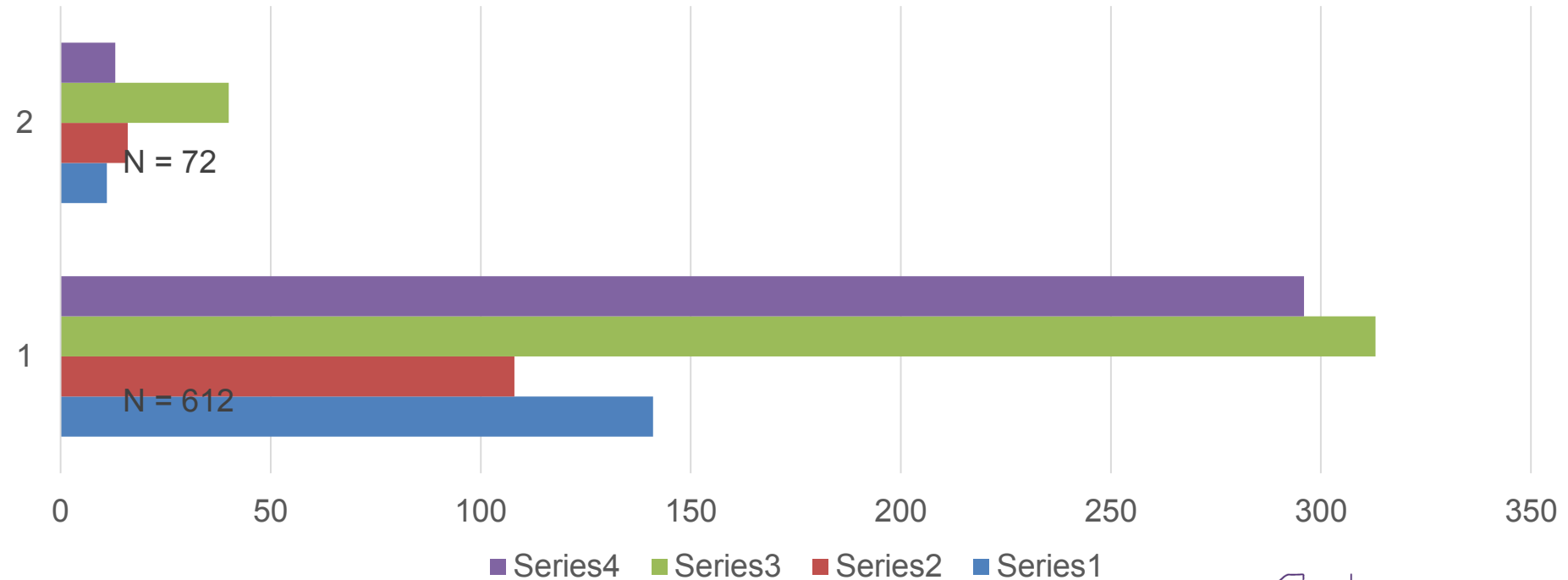


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# Relation of Trafficker to Youth: Labor Trafficking



# Presence of Force, Fraud, Coercion, and Social Media in At-Risk and Met Federal Definition Identifications



Elements present in youth's victimization as identified and reported by program staff.



# Youth Service Involvement



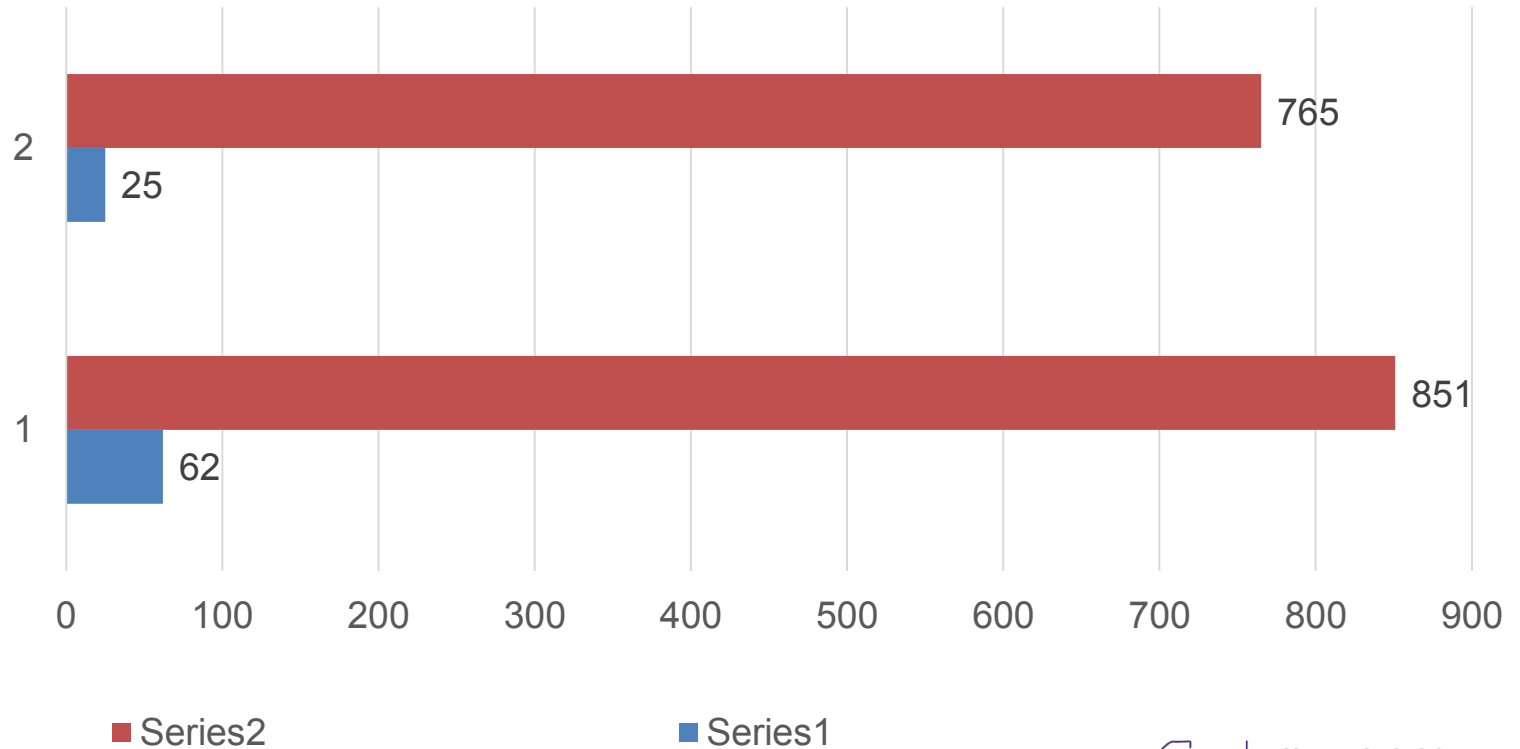


# Service and System Involvement Data

- Service **involvement at intake** refers to services that youth were receiving at the time of Safe Harbour intake, as known by program staff via youth disclosure or case records.
- Service **connections during program year** reflects services referred or provided to youth during the course of Safe Harbour involvement.
  - Services may have been provided using Safe Harbour funds and/or other existing community supports.



# Housing Services

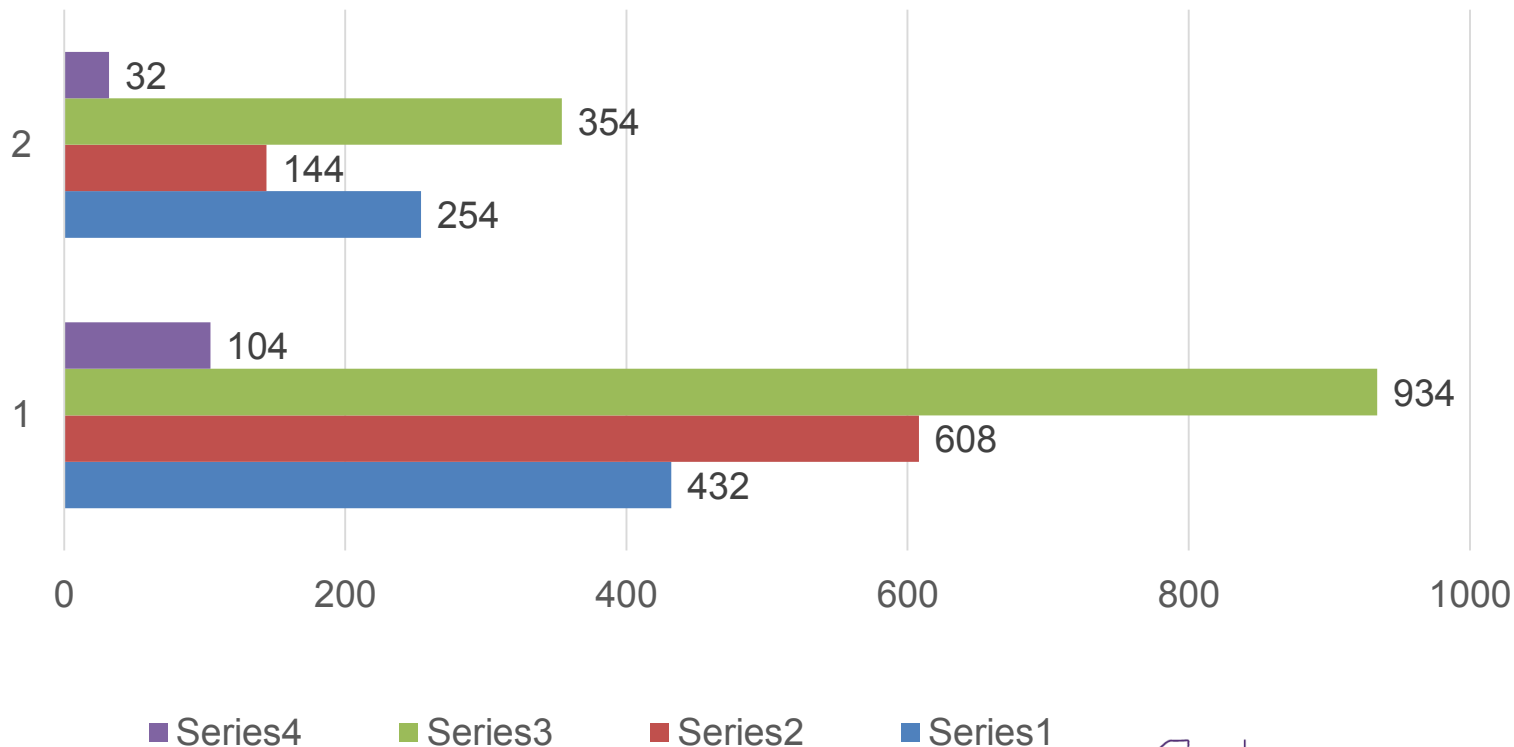


N = 2,366



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# Counseling Services

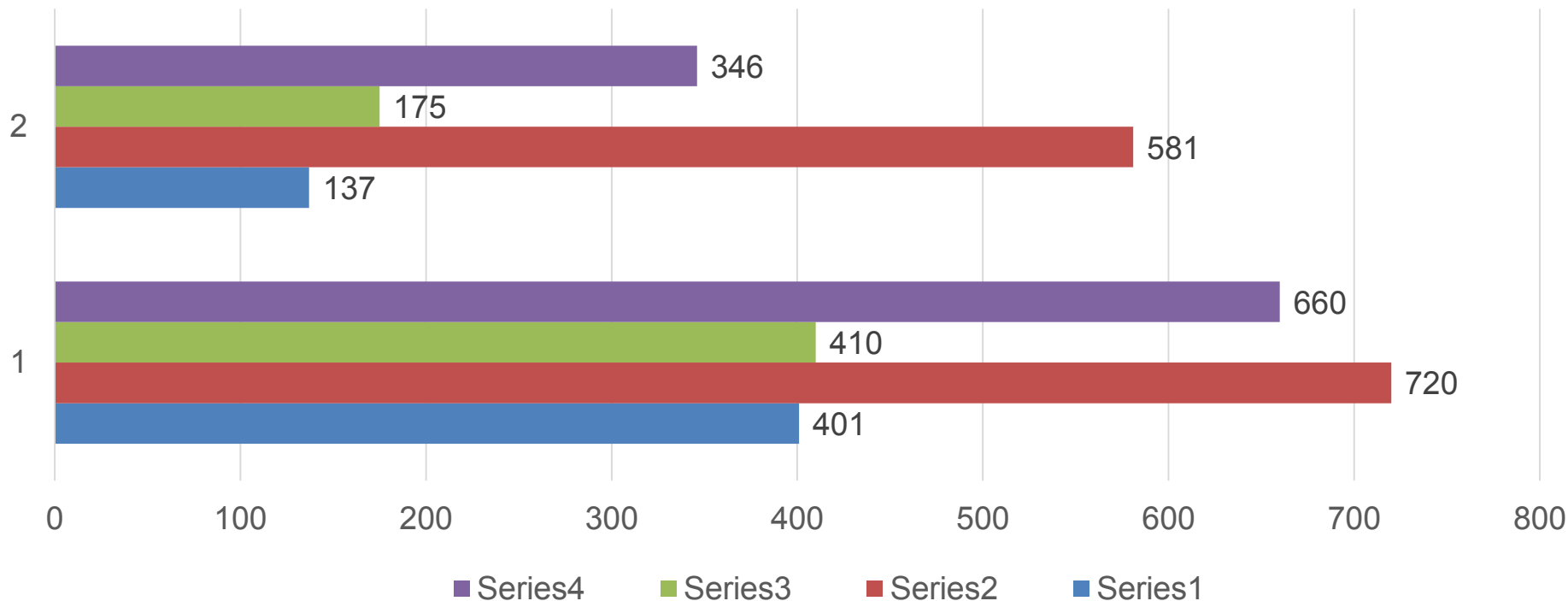


N = 2,366



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# Medical Services

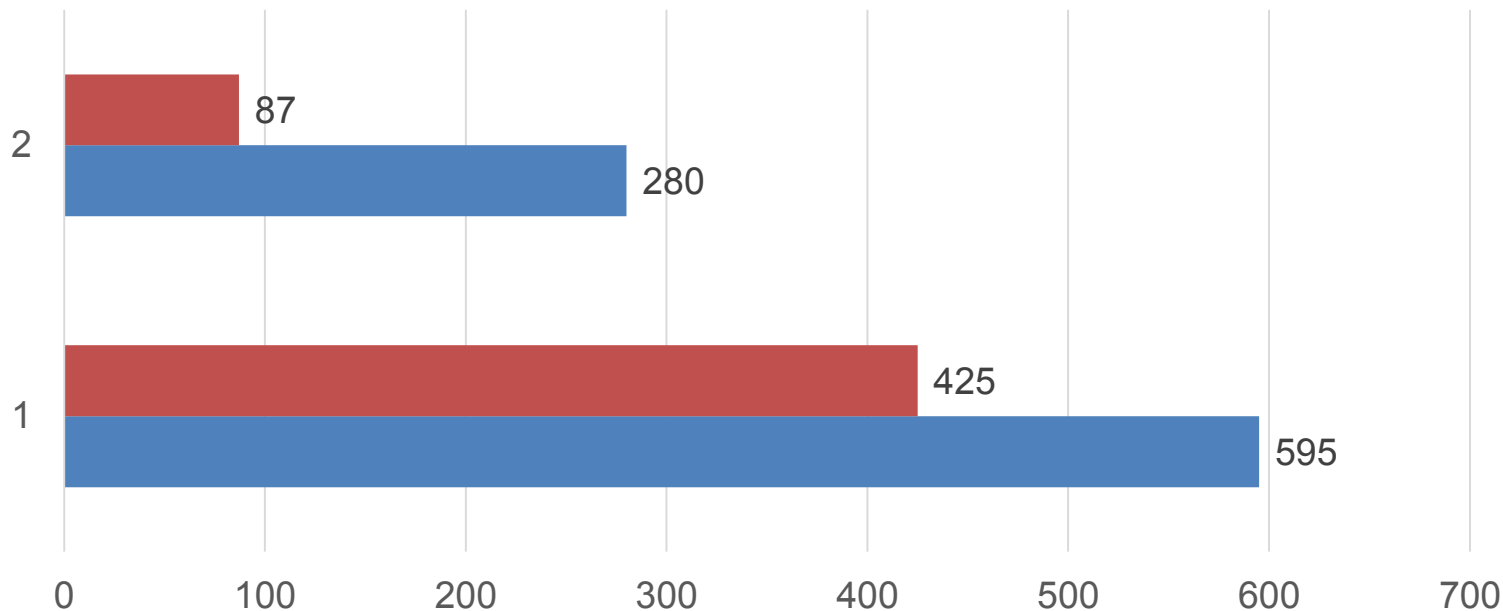


N = 2,366



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# Educational and Vocational Services



Series2

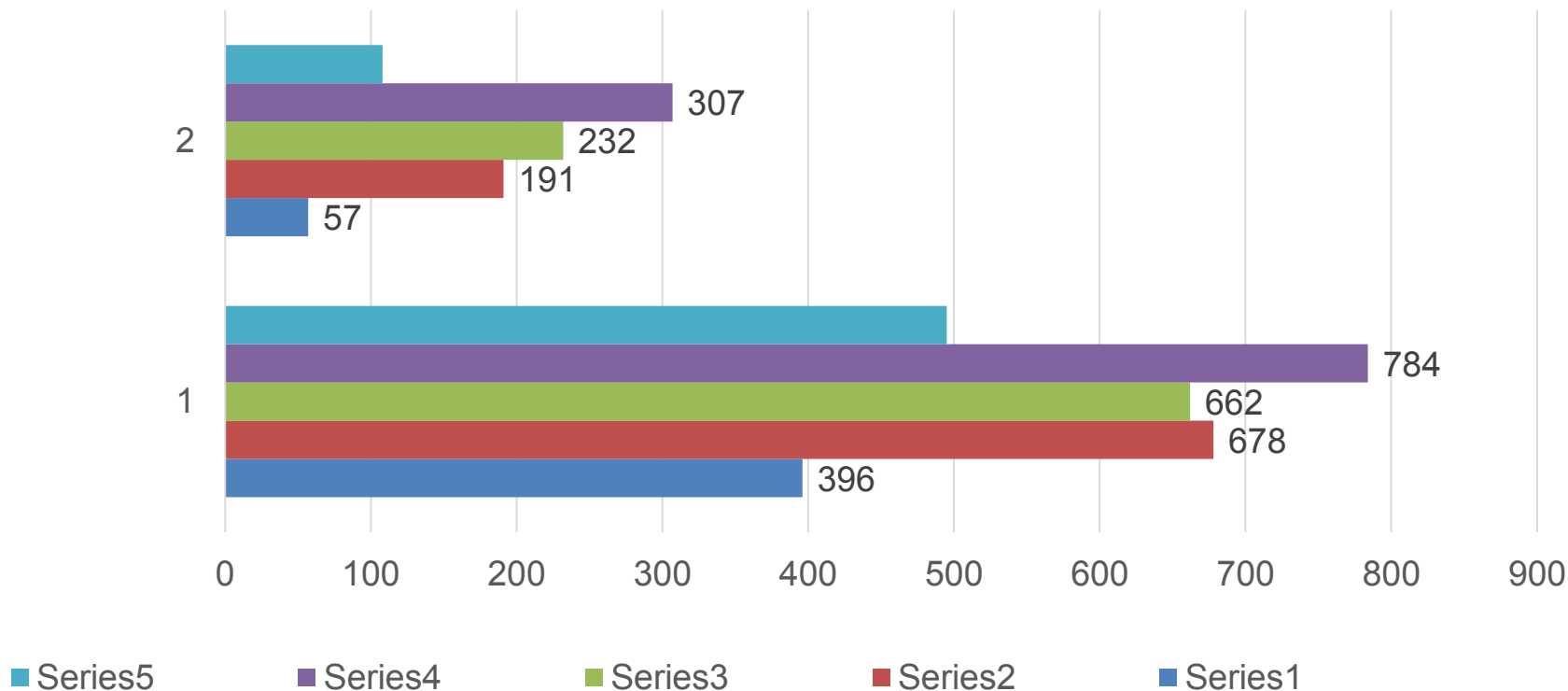
Series1

N = 2,366



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# Additional Services



N = 2,366



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# Street Outreach



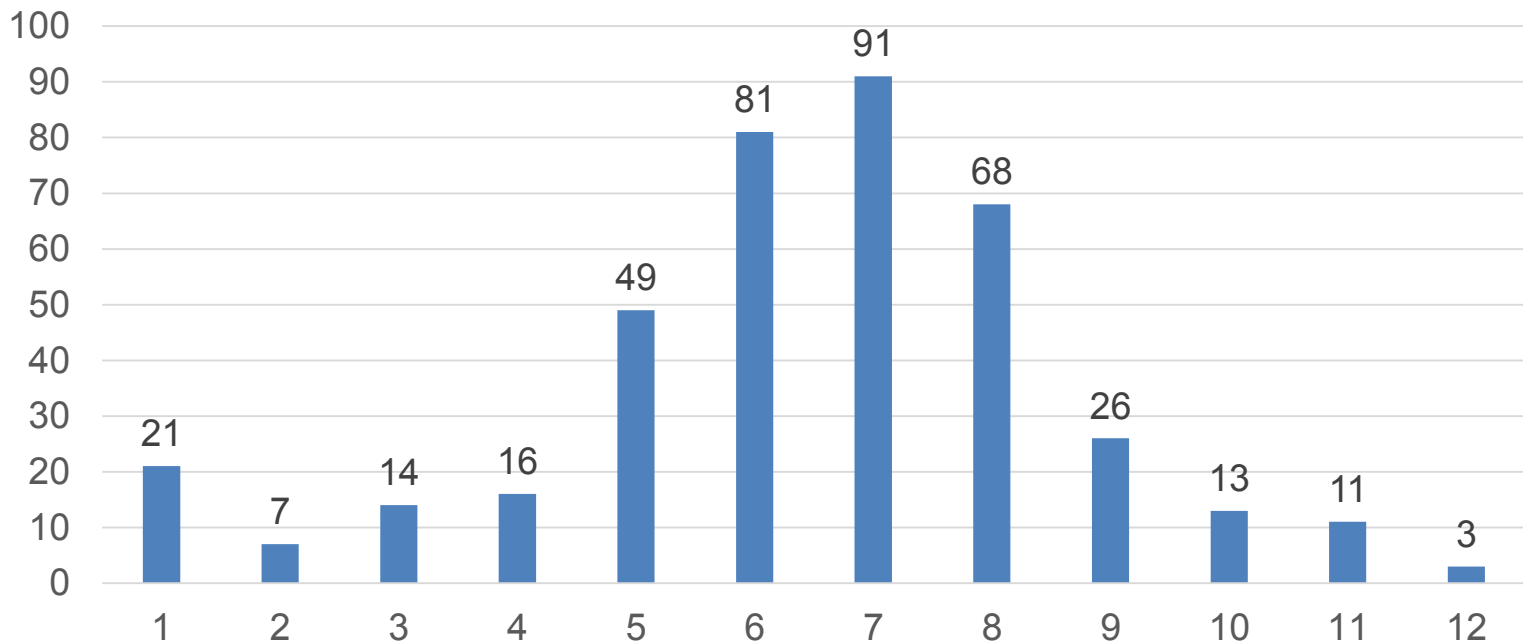
# Street Outreach

- **8 counties** supported street outreach services using Safe Harbour funds.
  - The eight counties include: Albany, Broome, NYC, Orange, Saratoga, Schenectady, Schuyler, and Suffolk.
  - Other counties have local street outreach services supported by other means; this data is not reported here.
- **405 youth** were engaged by street outreach services supported with Safe Harbour funds.
  - The purpose of street outreach is to connect with vulnerable youth to distribute items that meet basic needs and offer information about local services.





# Age of Youth Contacted

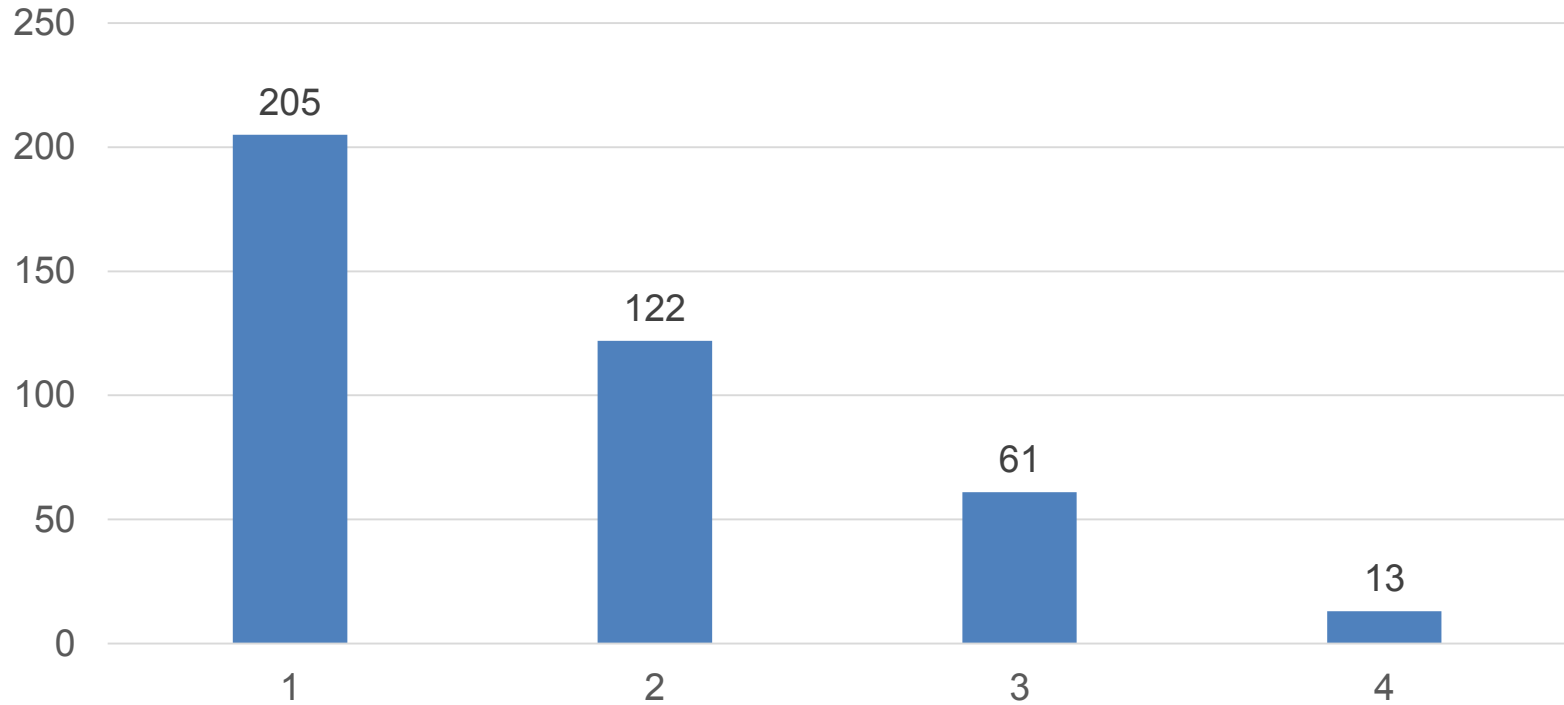


N = 400



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# Gender Identity of Youth Contacted

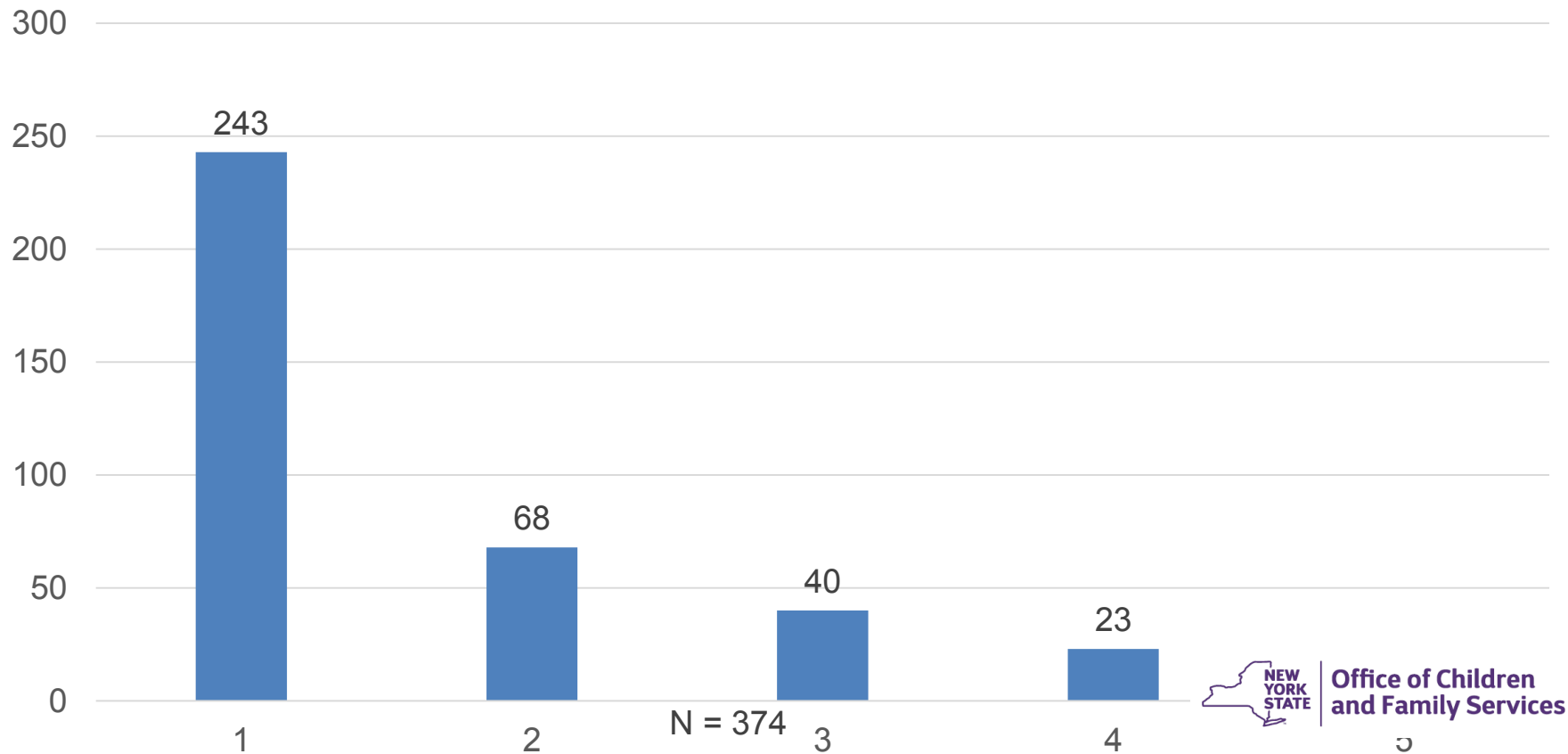


N = 401

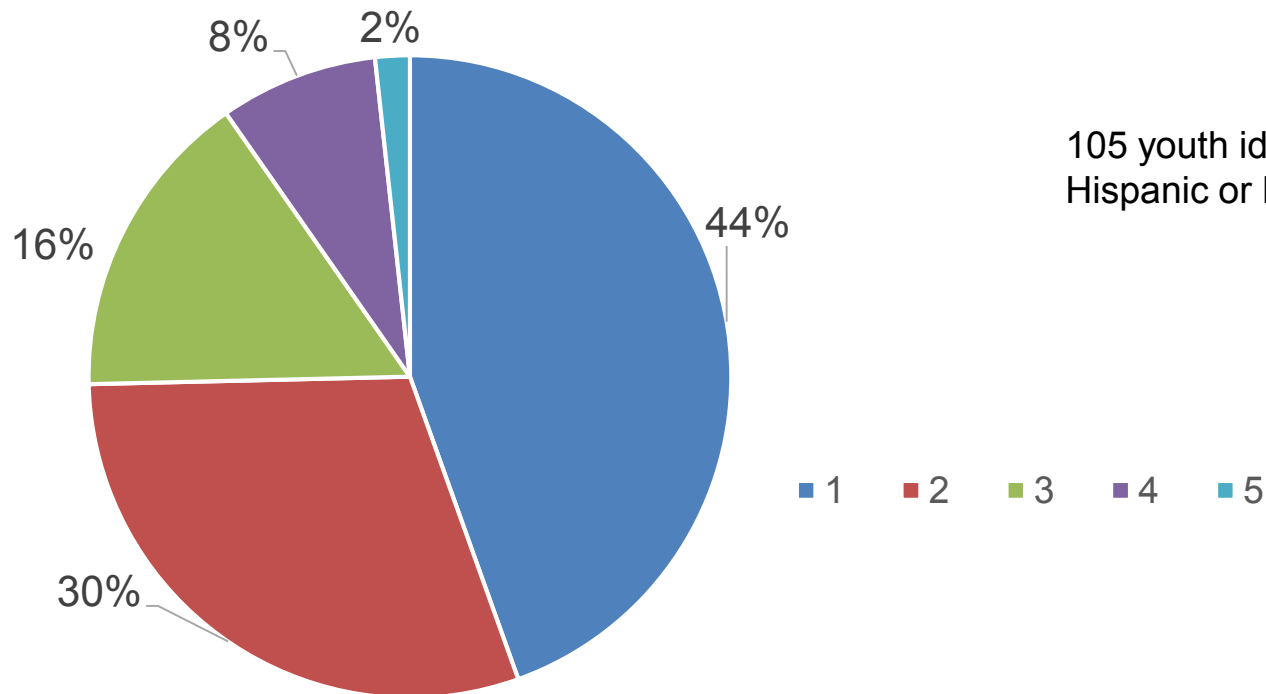


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# Sexual Orientation of Youth Contacted (self-report)



# Racial Identity of Youth Contacted



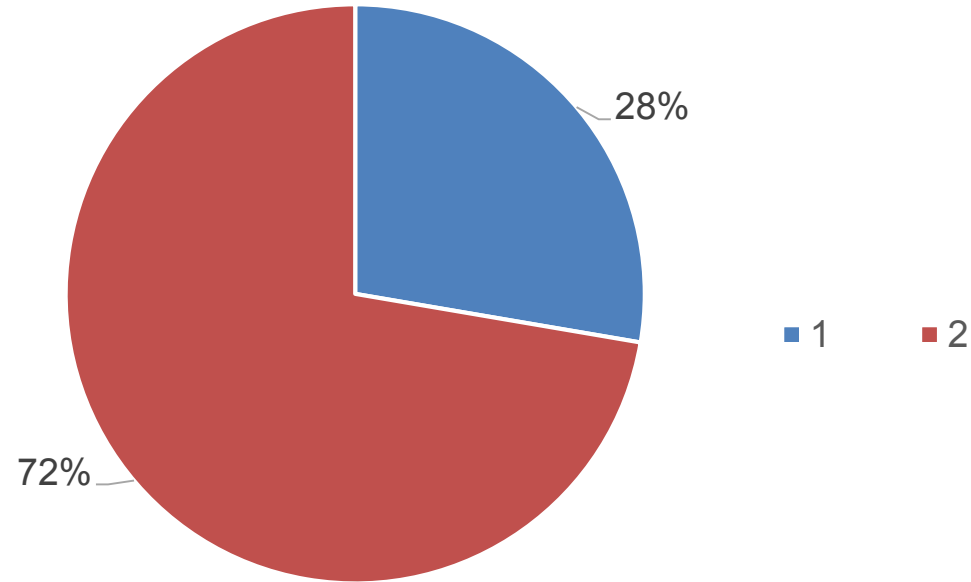
105 youth identified as Hispanic or Latinx.

N = 395



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# CSEC Experience of Youth Contacted



N = 242



# Youth Outreach & Education

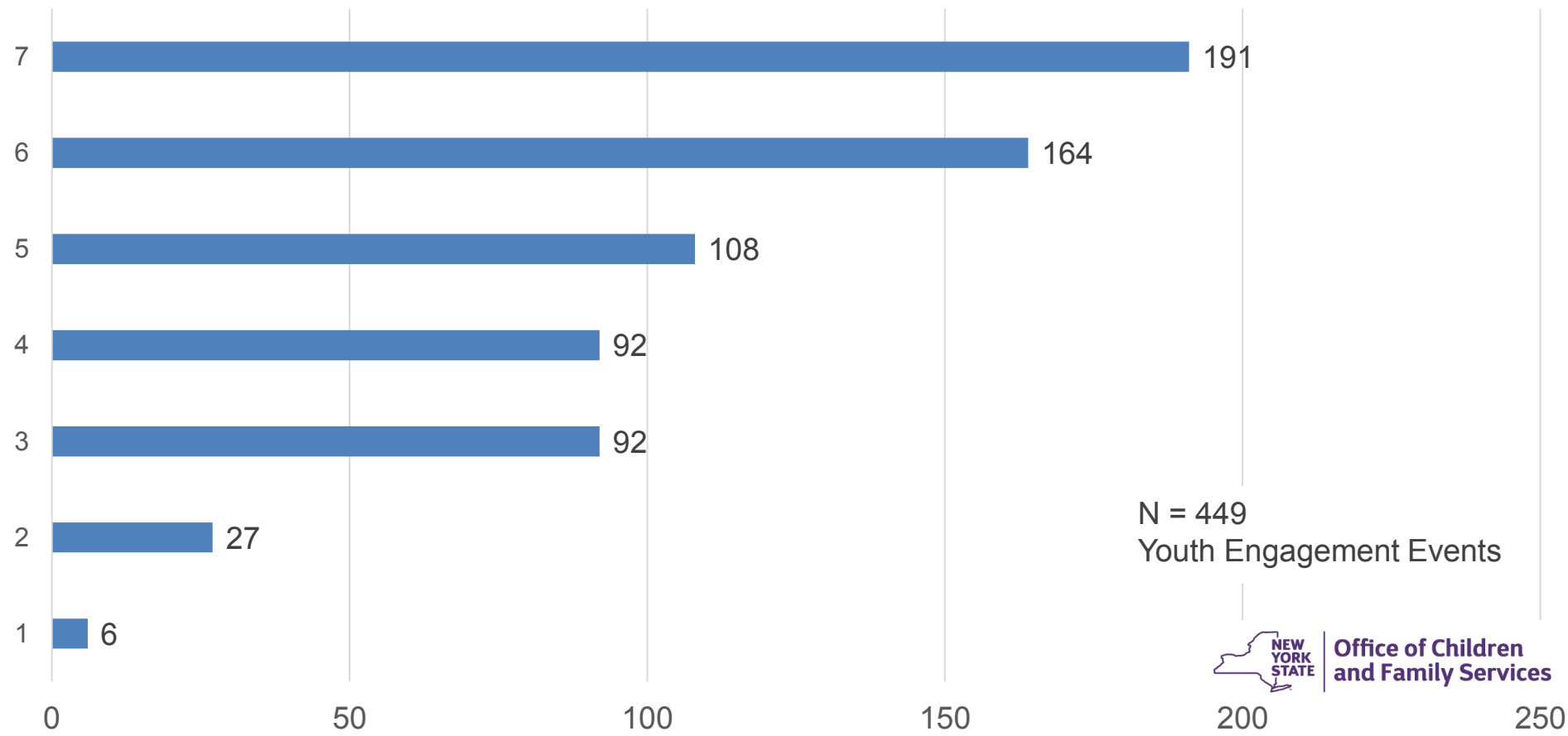


# Community Outreach & Education

- **14 counties** supported outreach and education using Safe Harbour funds.
  - The 14 counties include: Albany, Broome, Chautauqua, Dutchess, Erie, NYC, Onondaga, Oneida, Orange, Putnam, Schenectady, Suffolk, Ulster, and Washington.
  - The purpose of these events is to connect with youth at schools, in group homes, and other settings to provide information about trafficking and local services.
- **Counties hosted over 450 outreach events where:**
  - 15,325 youth participated.
  - 188 youth disclosed CSEC victimization.



# Youth Outreach and Engagement Activities





# CONTACT

## NYS Office of Children and Family Services (OCFS)

Bureau of Vulnerable Populations

- Phone: 518-474-4110
- [humantrafficking@ocfs.ny.gov](mailto:humantrafficking@ocfs.ny.gov)



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## **In Their Shoes: Understanding Victims' Mindsets and Common Barriers to Victim Identification**

*The following document outlines a wide variety of both physical and psychological reasons why trafficked persons cannot or will not leave a trafficking situation. The list is inclusive of all forms of trafficking and all potential victims. Items on this list are not meant to be interpreted as present in all trafficking cases, neither is this list intended to be exhaustive.*

### **Captivity/Confinement**

Past examples have included victims being locked indoors, held in guarded compounds, or locked in trunks of cars.

### **Frequent accompaniment/guarded**

In many trafficking networks, victims' public interactions are mediated, monitored, or entirely controlled. In certain severe cases, victims have been controlled by armed guards.

### **Use and threat of violence**

Severe physical retaliation (e.g., beatings, rape, sexual assault, torture) are combined with threats to hold victims in a constant state of fear and obedience.

### **Use of reprisals and threats of reprisals against loved ones or third parties**

Traffickers target reprisals at children, parents, siblings, and friends, or other trafficking victims.

### **Fear**

Fear manifests in many ways in a trafficking situation, including fear of physical retaliation, of death, of arrest, or of harm to one's loved ones.

### **Shame**

Victims from all cultures and in both sex and labor cases may be profoundly ashamed about the activities they have been forced to perform. Self-blame links closely to low self-esteem.

### **Self-blame**

In the face of an extremely psychologically manipulative situation, trafficked persons may engage in self-blaming attitudes and blame themselves for being duped into a situation beyond their control. Self-blaming attitudes are often reinforced by the traffickers and can serve to impede the victim from testifying against or faulting the trafficker.

**Debt bondage**

Traffickers create inflated debts that victims cannot realistically pay off. These debts are often combined with accruing interest or small fees to ensure that the victim stays in the debt situation.

**Traumatic bonding to the trafficker**

In many trafficking cases, victims have exhibited commonly-known behaviors of traumatic bonding due to the violence and psychological abuse (a.k.a., Stockholm syndrome).

**Language and social barriers**

Feelings of unfamiliarity or fear of the unknown provide obstacles to leaving a trafficking situation. These feelings are exacerbated by language and social barriers.

**Distrust of law enforcement or service providers**

In many cases, traffickers are known to brainwash victims into a false distrust of law enforcement, government officials, and service providers. Victims also may have had negative past experiences with institutional systems, which also impact trust levels.

**Isolation**

Traffickers purposefully isolate victims from a positive support structure and foster controlled environments where the victim is kept in a state of complete dependency. High levels of dependency and learned helplessness often lead victims to stay in their situation rather than face the uncertain path of leaving.

**False promises**

Traffickers use sophisticated methods of manipulating the human desire to hope through false promises and lies about a future better life. Victims who are children are especially vulnerable to these false promises.

**Hopelessness and resignation**

In the face of extreme control, violence, and captivity, notions of hope may fade over time towards states of hopelessness and resignation.

**Facilitated drug addiction**

In certain trafficking networks, traffickers provide addictive substances to their victims to foster longer-term drug addiction and monetary dependency.

**Lack of awareness of available resources**

Victims may not leave a situation due to a lack of awareness of any resources or services designed to help them. Traffickers purposefully control the information that victims receive.

**Psychological trauma**

Many trafficking victims experience significant levels of psychological trauma due to the levels of abuse they have endured. In certain cases, this trauma leads to disassociation, depression, anxiety disorders, and post-traumatic stress disorder (PTSD), which in turn affects daily functioning and levels of agency.

**Low levels of self-identifying as trafficking victims**

The majority of trafficking victims do not self-identify as victims of human trafficking. They may be unaware of the elements of the crime or the Federal criminal paradigm designed to protect them.

**Normalization of exploitation**

Over a long period of enduring severe levels of trauma, physical abuse, and psychological manipulation, victims demonstrate resilience strategies and defense mechanisms that normalize the abuse in their minds. In a relative mental assessment, what once may have been viewed as abuse may now be experienced as a normal part of everyday life. This changing “lens” on viewing the world impacts the ability to self-identify as a victim.

**A belief that no one cares to help**

Trafficking victims may believe that no one cares to help them, a belief that is reinforced both by traffickers' lies but also when community members do not take a strong stance against trafficking. When the community is silent on the issue, traffickers' power is increased and feelings of hopelessness are sustained.

**Frequent movement**

The frequent movement of victims fosters a low likelihood of multiple encounters with law enforcement or service providers. Victims may not be in one place long enough for a meaningful intervention.

# **Screening for Human Trafficking**

## **Guidelines for Administering the Trafficking Victim Identification Tool (TVIT)**

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The Vera Institute is an independent nonprofit that combines expertise in research, demonstration projects, and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety.

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## About this manual

This manual is intended primarily for victim service agency staff and other social service providers, who will administer the Trafficking Victim Identification Tool (TVIT) to clients who are potential trafficking victims. Law enforcement, health care and shelter workers will also find it helpful in improving trafficking victim identification, especially in conjunction with appropriate training or mentoring. The manual content is based on results of research conducted by the Vera Institute of Justice, which collaborated with leading legal and victim services agencies in the United States, to produce the validated screening tool and best practices for identifying trafficked persons, and on other expert sources in government and non-governmental agencies.<sup>1</sup> Vera's research found that the TVIT instrument is highly reliable in predicting both labor and sex trafficking in women and men and among foreign- and U.S. born victims. The screening tool can be used in its short version (consisting of 16 core questions, plus questions specific to migration for the foreign-born) without loss of predictive ability, or in its longer form, depending upon the situation and purpose of screening. As with any kind of information gathering from victims of crime, it is essential that screening for trafficking be done with care.

## The purpose and limitations of screening

Screening questions can help agency staff to identify victims of human trafficking and help trafficking victims obtain the protection and services they need. Before using the TVIT with persons who may be victims of human trafficking, the victim's personal safety and comfort should be assured. Screening tool users should make every effort to establish trust and rapport before asking difficult questions that focus on traumatic experiences and other facts. Before screening, users should also be prepared to draw upon the expertise of local legal and medical staff and to refer identified trafficking victims to appropriate housing, health and social services in their area. While this user guide provides essential tips for effective screening with the TVIT, the tool is a complement to, not a substitute for, specialized training in human trafficking, good professional practices and victim-centered services.

The TVIT has been found to be valid and reliable in identifying victims of sex and labor trafficking. However, caution must be exercised in relying too heavily on the results of the screening tool alone, as negative responses to the questions do not definitively preclude the possibility of victimization. Respondents whose answers initially indicate a lack of victimization may instead be demonstrating reasonable fear or forgetfulness as a symptom of trauma. As such, for the best outcomes, questions may have to be asked at a time when the potential victim trusts the interviewer and is ready to respond. The screening tool should be used to guide interviews with potential victims, not to eliminate or deny potential victims access to needed services and legal protections. The best practices in this manual will help to ensure appropriate and successful use of the screening tool. Please consult state and federal definitions of human trafficking (Appendix B, p. x) to use alongside the screening tool.

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<sup>1</sup> The full research report is available from the National Institute of Justice, and from the Vera Institute of Justice [www.vera.org](http://www.vera.org).

## Tips for Conducting Interviews

The effectiveness of screening for trafficking victimization depends on allaying fear, building rapport and asking questions in an appropriate manner. Interviewers should be comfortable working with trafficking victims, sensitive to their special needs, and aware that they are likely to be suffering the impacts of traumatic experiences.

### *Setting up the interview*

The setting in which an interview takes place can be as important as the questions that are asked. Trafficking victims have often been held in servitude through threats of harm and fear of their arrest or deportation by police and immigration authorities. It is crucial to establish a safe space to help victims feel more comfortable and protected. To help allay victims' fears from the onset of an interview, the following techniques have proven effective:

- Before conducting a screening, service providers should fulfill some basic needs, such as providing food, clothing, medical care or assurance of at least temporary shelter, if necessary. It may be difficult for a victim to engage in an interview unless these immediate needs for physical comfort and safety are met.
- Hold the interview in a non-threatening and comfortable location. Provide the victim with food and drink, and incidentals including tissues, regular breaks, and a place where the victim can gain their composure if the interview causes distress.
- Never interview the victim within sight of the trafficker. If the victim arrives with a person exhibiting controlling behavior, talk to the victim in private. This person may be the trafficker or someone working for the trafficker.
- Maintain a professional, but friendly, attitude and appearance. Law enforcement agents should dress in civilian clothes and make sure no weapons are in view. Others should consider dressing in casual clothing, especially when visiting agricultural labor camps to reach out to potential victims. Dressing in uniforms and other formal attire may create fears that interviewers are from immigration or other enforcement agencies.
- Be honest at the beginning about the purpose and duration of the screening. Describe the victim's rights, the interview process, and the roles of everyone involved.
- Employ competent, trustworthy interpreters if the victim's first language is not English. Competent interpreters ask questions using the same wording as the screener and answer as fully as the victim. The victim must be assured of confidentiality.
- Be aware of gender issues and ask victims if they would be more comfortable being interviewed by someone of the same gender. When possible, the victim's preference for an interpreter of a specific gender or culture should also be accommodated.

### *Developing trust and demonstrating respect during interviews<sup>2</sup>*

Trafficking victims need to feel safe with the interviewer before they divulge experiences that may revive fears and feelings of distress, or place themselves or their families in further jeopardy. Some service providers may judge that it is in the victim's interest to have a general conversation first and return to the screening questions at a second meeting. When the victim is ready to answer the victim identification questions, interviewers may wish to keep the following techniques in mind:

- Express prior knowledge of and experience with similar cases, where appropriate, and allow the victim the opportunity to relay any questions or fears they may have.
- Be patient, caring, and sensitive to the victim's fears of retribution and the possible consequences of being identified as a victim or a party to trafficking crimes. Many victims are not familiar with laws and victim protections regarding trafficking.
- Be careful not to imply that a victim was responsible for their own abuse and exploitation or for the inability to leave a trafficking situation. Reassure them that others have been in similar situations and, as victims of a crime, they are not to blame.
- Take the time necessary to allow victims to recount the story, which may mean holding several meetings. Allow the victim to direct the interview and to tell their story in their own words. They should also feel able to stop the interview at any point if they experience distress.
- Be respectful of the victim's cultural background, including social etiquette, religious observances, societal status, ethnic community ties, customs of clothing, and attitudes toward prostitution. Be aware that cultural differences may make some topics such as sex and mental health uncomfortable to discuss.
- Some messages to convey include: "We are here to help you;" "You can trust me;" "Your safety is our first priority;" and "You have a right to live without being abused."

### *Maintaining confidentiality*

Maintaining confidentiality is imperative in working with victims who often risk their lives and their families' lives when they try to escape captivity. As such, interviewers should remember the following:

- Mandatory reporters may not want or need to obtain the level of detail elicited by the screening tool, and may instead refer likely trafficking victims to other service providers who can maintain confidentiality, such as attorneys who have client-attorney privileges. Agencies using the screening tool may need to develop protocols on recording and sharing information about identified trafficking victims.

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<sup>2</sup> Portions of this text adapted from *Lawyer's Manual on Human Trafficking*, Edited by Jill Laurie Goodman and Dorchen A. Leidholdt, Supreme Court of the State of New York, Appellate Division, First Department and New York State Judicial Committee on Women in the Courts; *Trafficking In Persons Report 2013*, State Department.

- Discuss with the person exactly how and when confidentiality will be maintained, and what limitations on confidentiality there may be, depending on the situation and the screener's obligations.
- Keep the number of staff who come into contact with the victim to a minimum and ensure that staff fully understand the importance of confidentiality.
- If working with an interpreter, he or she should sign confidentiality agreements to enforce professional standards and ensure that the trafficker, the trafficker's associates and the victim's community are not informed.

### *Understanding the effects of trauma and victimization*

Trafficking victims have often endured profound physical and psychological injuries that may impede the efforts of attorneys and other service providers to interview them and develop strong working relationships. Minimization, denial and memory loss, which are symptoms of psychological trauma, can make it extremely difficult to elicit consistent information. Below are important points regarding trauma and victimization to keep in mind:<sup>3</sup>

- Be aware that trafficking victims may experience long-lasting effects of psychological and physical abuse, traumatic experiences, chronic substance abuse, or violent physical and psychological assaults. Even if not a mental health expert, a screener can learn to recognize common signs of trauma. A service provider who screens trafficking victims may be the first person to whom victims have reported trauma or mental distress.
- Express sorrow for what has happened to them, but do not appear to be judgmental or shocked by the details they reveal.
- Ask only basic questions about mental health unless you are trained as a mental health professional. A few straightforward, non-intrusive questions asked in a kind manner can convey a caring attitude and help the screener and the victim decide if a referral to a mental health professional is desirable or necessary. A user of TVIT should not expect to completely alleviate a victim's distress or be in a position to diagnose mental illnesses.
- Be understanding when victims do not wish to repeat the details of the crime. Keep in mind that recounting stories many times for various people (social service agencies, lawyers, law enforcement, and so forth) may cause victims to re-experience trauma. Try to minimize the potential for re-traumatization when possible.

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<sup>3</sup> This section is adapted from The 2011 Trafficking in Person report of the Department of State Office to Monitor and Combat Trafficking in Persons; "Gaining Insight, Taking Action: Basic Skills for Serving Victims," Office for Victims of Crime, Department of Justice (<http://www.ovc.gov/publications/infores/pdf/txt/GainingInsight.pdf>); and "Resources for Social Service Providers," Social Service Tool Kit, Rescue & Restore Victims of Human Trafficking, U.S. Department of Health & Human Services ([www.acf.hhs.gov/trafficking/campaign\\_kits/index.html](http://www.acf.hhs.gov/trafficking/campaign_kits/index.html));

### *Additional considerations for law enforcement<sup>4</sup>*

Many law enforcement officials advocate for use of a victim-centered approach when working with potential victims of human trafficking, placing equal value on the stabilization and wellbeing of victims with that of the criminal investigation and prosecution of traffickers. Victims are the key for successful prosecutions, and law enforcement should make every effort to help victims feel safe and secure. When working with trafficking victims, law enforcement officers may wish to keep the following in mind:

- Enlist the help of victim specialists wherever possible.
- Victims often require social services for safety and recovery. Connecting victims with support services can help them get the help they need, allowing them to be of greater assistance during an investigation.
- Be mindful that victims may have had prior negative experiences with law enforcement and may be afraid or distrustful as a result. Keep tactical gear, weapons, badges, and uniforms hidden from sight and convey a sincere, caring attitude.
- Since many victims have been arrested, it takes time and astute questioning to determine that they are victims, and not criminals. If arrested in a raid, the victim may have found the raid itself traumatizing. Police officers should have an established protocol for differentiating and separating the traffickers and victims during interviewing.
- Minors involved in trafficking require special protections and custodial planning. Any shelter arrangements made for children or adults should ensure a victim's safety and meet the special needs of trafficking victims.
- Investigative procedures can be frightening and inhibit successful interviewing. Be aware that lawyers are sometimes employed by traffickers.
- Conventional interrogation techniques may be insensitive to the victim's feelings and the pace at which they can respond to questions. All interpreters should be certified.
- Traffickers often use immigration status to control foreign-born victims. Victims are often fearful of the immigration consequences resulting from contact with authorities, and may be unable to stay in the United States or access victim assistance services if they do not have legal status. Law enforcement officials can help stabilize these victims so they can obtain immigration relief, including Continued Presence (CP) and T or U Nonimmigrant Status.
- At times, it may be appropriate to deviate from the screening tool to probe for additional details, such as for questions about payment and medical visits. These details can be important in obtaining further evidence for an investigation, but always be mindful of not re-traumatizing victims. Additional questions about highly sensitive topics may need to wait until subsequent interviews.
- Many trafficking victims have urgent medical needs that should be addressed promptly and confidentially.

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<sup>4</sup> This section is adapted from materials made available by the Department of Homeland Security's Blue Campaign ([www.dhs.gov/end-human-trafficking](http://www.dhs.gov/end-human-trafficking)).

### *Some considerations when asking these questions*

- You may re-phrase the questions on the screening tool as necessary to ensure that they understand clearly what you are asking. Listen carefully to what they say, and return to topics as needed during the conversation to clarify and confirm details.
- Screeners should ask all questions on the TVIT even if the respondent appears to be the victim of another crime, as trafficking may occur in conjunction with other forms of victimization. Victims of other crimes, such as domestic violence, or labor exploitation, may have experiences of abuse that are similar to those of trafficking victims and may therefore respond in similar ways.
- The TVIT inquires about “work or other activities” to elicit information about sexual services and other types of informal work. However, victims of sex trafficking may not think of rape and forced prostitution as “work.” Additionally, victims of labor trafficking may not think of forced shoplifting and forced drug smuggling as “work.” Screeners should pay attention to the terms used by potential victims to describe their experiences, and should use this terminology during interviews. Screeners should also be aware that answering direct questions about sexual activities, or even forced labor, may be difficult for victims, especially when associated with violence, humiliation or shame.

## Frequently Asked Questions

**Q. When should this screening tool be used?**

A. This tool is most effective when rapport has been established between the interviewer and the potential victim. It may be best not to use it on the very first encounter if the victim is reluctant to talk; rather, an interviewer may use the tool on the second or third meeting more effectively. Screeners may also wish to save highly sensitive questions, such as those concerning physical or sexual violence, until later interviews when a sense of safety has been established. Screeners should also expect to revisit certain questions in subsequent interviews.

**Q. Will the tool detect all forms of trafficking victimization?**

A. The screening tool has been tested with victims of both sex and labor trafficking, and has been found to reliably predict victimization in those contexts. It has not yet been validated with individuals with disabilities or with LGBTQ victims. Interviewers who anticipate working with these groups should make efforts to tailor the screening tool to fit the unique needs of these clients. Similarly, additional questions might have to be asked of child victims of trafficking because of their particular experiences and vulnerabilities.

**Q. What if there are discrepancies between a person's responses and what you know about them?**

A. Inconsistent answers may be a response to trauma, not untruthfulness, as the person may not want to repeat distressing details or may have repressed them. It is important to give people breaks during interviews and multiple opportunities to respond to questions. You can address inconsistencies in a non-judgmental way and ask for clarification. Remember, it may take time to get the full story.

**Q. How do I know if I am using the tool correctly?**

A. Each person and trafficking case is different, so there is no single "right" way to use the screening tool. If you feel that you are communicating clearly and are gathering important information, and the person interviewed feels safe and supported, then you are probably using the tool correctly. It is important to obtain as much prior training as possible and best to have other experienced professionals to turn to if you are in doubt about how to conduct an interview.

**Q. How do we determine trafficking once the tool has been completed?**

A. Tool users are expected to have some prior knowledge of what trafficking entails. The TVIT does not contain specific instructions on how to "score" affirmative responses, and interviewers are discouraged from attempting to create their own scoring systems. Every trafficking case is unique. Some victims will answer affirmatively to several of these questions, while others may do so for only a few. The totality of the responses, and not any single answer, will help you decide if someone is a likely victim of trafficking

under the law. When in doubt, consult a more experienced person. Screeners can read through the Annotated Tool for ideas about what information to look for when administering the tool. They may also find it helpful to record their observations and assessments separately after the screening.

**Q. What if there were multiple incidents of trafficking?**

A. These can be noted, if described by the victim, but recording all the details at once is not necessary for initial determination of victimization.

**Q. What if the potential trafficking situation occurred outside of the U.S.?**

A. The importance of asking about trafficking situations that occurred outside the U.S. depends on the goals of the agency conducting the screening. Law enforcement will likely be primarily concerned with victimization that occurred within the United States. In contrast, trafficking situations that occurred outside of the U.S. but continued or had impacts in the U.S. may still have significant implications for a victim's legal relief, allowing someone to access benefits or stay in the country legally. Victims may also be suffering from trauma inflicted during incidents that occurred outside the U.S., and service providers may wish to explore these to provide the victim with necessary support.



## Advice on Using the Trafficking Victim Identification Tool (TVIT)

These questions may be integrated into your regular intakes, and you should feel free to rephrase them as needed to ensure communication and understanding. Interviewers should familiarize themselves with these questions in advance, and not read them verbatim, which may feel mechanical and prevent rapport from developing with a potential victim. Similarly, it is recommended that interviewers not use the tool during an initial interview with a client, as establishing trust and rapport first will help clients answer accurately and honestly. All questions, especially the follow up questions, should be used with discretion, while keeping in mind confidentiality issues that may arise by recording details of a client's situation.

As many of these screening questions can recall traumatic experiences, you should be sensitive to the persons' mental health needs. Before and during the interview, note whether a victim is feeling emotionally stable enough to answer questions, and if not, ask if he or she would like to be referred to a counselor or health professional for help. If the client describes situations that seem traumatic, or has emotional reactions to the questions asked, you should ask if they wish to suspend the interview until they feel willing and able to continue.

**Specific instructions for each section are described below.**

### **Background and Demographics:**

Demographics are important to collect to begin to assess your clients' needs. The questions here are not exhaustive. However, please ensure that you ask about country of birth, to determine whether or not to skip the Migration section. We have provided some basic demographic information questions that are usually asked at an interview. You may wish to add questions that your own agency requires for screening and intakes.

### **Migration into the United States**

Often, the way people become victims of trafficking has to do with how their migration was organized by acquaintances or purported employment agencies. Alternatively, migration may not have been the impetus for trafficking, but it may contribute to a victim's sense of vulnerability. For instance, some people are willingly smuggled across the border and later coerced into paying back high debts through forced labor (debt bondage). People may have entered the country multiple times, so it can be important to probe for information about repeated entrances. Immigration can be a sensitive topic. Many foreign-born victims worry about being reported to authorities, and may feel uncomfortable answering these questions. Furthermore, it is important to keep in mind that a client may not know all the details of their migration, especially if the client came to the U.S. as a child.

### **Working/Living conditions**

Trafficking victims are often made to work, provide services or do other activities that are not "traditional" work. These activities can include forced prostitution, domestic servitude, or other non-formal work arrangements. Once you make clear to the client that you would like to know about non-traditional work, you do not need to repeat the phrase "[or did other activities]" for

each question in this section. Be attentive to the terms used by the victim to describe their “work” experience and try to use these terms. The questions should relate to exploitation he/she encountered while in the U.S., not to work performed abroad.

Trafficking victims may also be forced to work where they live, especially in sex trafficking or domestic servitude. Victims of domestic violence may answer affirmatively to some of the following questions, which do not necessarily signal that trafficking has occurred. However, traffickers are often perceived by victims to be romantic partners, so it is important to probe for more information when an intimate partner is mentioned. Victims may have strong attachments to their traffickers, which make it difficult for them to self-identify as victims or admit they were forced. This often occurs with domestic sex trafficking victims. Please note that under the legal definition, anyone performing sexual activities for things of value while under 18 years of age is a victim of trafficking, regardless of whether they report having been forced into the situation.

Many of these questions are sensitive and asking them directly may elicit negative reactions, including fear and shame. Force can be both explicit and implicit in a trafficking situation, and some individuals may have been initially pressured into these activities to support themselves or their families. Coercion and abuse can be either psychological or physical. Threats of harm include all actions, statements, written or non-verbal messages conveying the intent of physical or psychological injury. It is also important to be aware that a victim may feel loyalty to their trafficker due to forced dependence and therefore have difficulty recognizing and disclosing their own victimization. Many of questions in this section are based on knowledge of the ways in which traffickers commonly control victims, including by depriving victims of their identity documents, basic necessities or social contacts, and by threatening to report them to authorities or to harm their families.

### **Determining if someone is a victim**

In order to determine if someone is a victim of trafficking, you should take the totality of her/his responses into account; no single affirmative answer determines whether trafficking has or has not occurred. Other needs are also important to assess, such as needs for safety, housing, legal assistance (for instance, if the client is foreign born and has immigration questions), social services, employment or other needs. Having reliable local referral networks is extremely important so that clients can get the assistance they need from your agency or partner agencies.

## Trafficking Victim Identification Tool (TVIT) Long Version

**Screening purpose.** This screening tool is intended to be used as part of the regular intake process or as part of enrollment for specific programs. In order for the results to be valid, the screening should be administered according to pre-arranged protocols, *whether or not the client is believed to be a victim of human trafficking*. Please refer to the *User Guide* for directions on using this screening tool.

**Screening timing.** Since each agency's intake process is unique, agencies should determine how to best integrate this screening tool with their other intake forms or procedures. Whatever the timing and context of the interview, please begin and end with comfortable topics of conversation to minimize the client's discomfort.

**Deferred/Suspended Screening.** In some cases the intake process extends beyond the first meeting with the client. Service providers may sometimes choose to postpone sensitive screenings, judging that clients are not yet ready to disclose or discuss experiences of victimization and would prefer to continue the interview at a later date. If in the course of an interview the client shows acute signs of anxiety, ask the client if s/he would prefer to stop the interview and resume it at a later time.

### Section 1: Screening Background *[DO NOT READ TO CLIENT]*

**1a. Date of interview:** \_\_/\_\_/\_\_\_\_ (MM/DD/YYYY)

**1b. How client was referred to your agency most recently** *[select only one]:*

- ☐ Own agency/ internal referral
- ☐ Other social service provider *[fill in]:* \_\_\_\_\_
- ☐ Healthcare provider
- ☐ Local Police Department
- ☐ Dept. of Homeland Security (DHS) / Immigration & Customs Enforcement (ICE)
- ☐ Federal Bureau of Investigation (FBI)
- ☐ Other law enforcement *[fill in]:* \_\_\_\_\_
- ☐ Referred by other client
- ☐ Referred by someone else *[fill in relationship to client]:* \_\_\_\_\_
- ☐ Walk-in

**1c. Client status: Official determination of trafficking known?**

*[INTERVIEWER: This includes HHS certification, T-visa approval, or certification by law enforcement or a judge]*

- ☐ No
- ☐ Yes

1d. Sex of client: ☐ male ☐ female ☐ other

1e. Language of interview:

\_\_\_\_\_

1f. Client's preferred language: \_\_\_\_\_

1g. Client's English proficiency (please estimate to the best of your ability):

☐ Excellent ☐ Good ☐ Fair ☐ Poor

1h. Mode of interview: ☐ interview with interpreter ☐ interview without interpreter

## Section 2: Personal Background

**INTERVIEWER READ: "I'd like to begin by asking you a few simple questions about your personal and family background."**

2a. What is your date of birth? \_\_ / \_\_ / \_\_\_\_ (MM/DD/YYYY)

2b. If you don't know your date of birth, approximately how old are you? \_\_\_\_\_ -

[INTERVIEWER: If respondent cannot provide a number, offer the following response brackets to choose from]

☐ under 12 ☐ 13-17 ☐ 18-19 ☐ 20-24 ☐ 25-29 ☐ 30-34 ☐ 35-39 ☐ 40-44 ☐ 45-49 ☐ 50-54 ☐ 55-59 ☐ 60+

2c. How many years of schooling have you completed?

☐ 1-6 years ☐ 7-12 years ☐ More than 12 years ☐ Other \_\_\_\_\_

2d. What country were you born in? \_\_\_\_\_

2e. Are you a citizen of any *other* countries besides where you were born?

[INTERVIEWER: If concept of 'citizenship' is not clear, rephrase as 'Where were your parents born?']

☐ No

☐ Yes → Other country of citizenship # 1 \_\_\_\_\_ # 2 \_\_\_\_\_

☐ Don't know

**Migration** [PLEASE USE THE MIGRATION SECTION WITH FOREIGN-BORN CLIENTS ONLY]

INTERVIEWER READ: "Now I am going to ask you some questions about your country of origin. I am not asking you this to find out about your immigration status. I am only trying to understand fully what your circumstances are so that we can refer you for the right help, if necessary. The questions ask about your migration to the U.S., who was involved, and how it was arranged."

*For children, this may be rephrased: "We would like you to tell us about what happened to you when you traveled to the U.S."*

**3a. Can you tell me why you left your country?**

- ☐ To find work
- ☐ To join family
- ☐ To join romantic partner (spouse/girlfriend/boyfriend)
- ☐ To escape abuse by family or someone else you know
- ☐ To escape conflict/violence/persecution
- ☐ Other [fill in]: \_\_\_\_\_

**3b. What country did you live in for at least 3 months before you came to the U.S.?**

\_\_\_\_\_  
[INTERVIEWER: If client has come to the U.S. more than once, probe to make sure client refers to most recent place of residence]

**3c. In what year was your most recent arrival to the U.S.? \_\_\_\_\_(YYYY)**

[INTERVIEWER: If client has come to the U.S. more than once, you can ask them about other entries to the U.S. if relevant.]

→ If you don't know exactly when you arrived in the U.S., about how long have you been here [check one]?

- ☐ Less than 1 year
- ☐ 1 year
- ☐ 2 years
- ☐ 3 years
- ☐ 4 years
- ☐ 5 to 10 years
- ☐ More than 10 years

**3d. Did anyone arrange your travel to the U.S.?**

- ☐ No
- ☐ Yes → Can you tell me who?

\_\_\_\_\_  
→ What did they do?

**3e. Did the people or person who arranged your travel pressure you to do anything (for example, did anyone ask you to carry something across the border)?**

[REPHRASE: Did you have to do anything so that they would help you?]

- ☐ No
- ☐ Yes → What were you pressured to do?

**3f. Can you tell me the total cost (approximately) of your migration:** \_\_\_\_\_

*[REPHRASE: How much did you pay to come to the U.S.?)*

**→ What did the payment cover (e.g., transportation such as airplane or bus tickets, documents, work placement)?** \_\_\_\_\_

**3g. Did you (or your family) borrow or owe money, or something else, to anyone who helped you come to the U.S.?**

*[INTERVIEWER: Probe for something else owed, such as property, a house, or land]*

☐ No

☐ N/A

☐ Yes **→ Do you (or your family) still have this debt, or does anyone claim you do?** ☐ No ☐ Yes

*[INTERVIEWER: Record volunteered information here]*

**3h. If you did borrow or owe money, have you ever been pressured to do anything you didn't want to do to pay it back?**

☐ No

☐ N/A

☐ Yes **→ If you are comfortable telling me, what kinds of things were you pressured to do that you didn't want to do?**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**→ Could you describe how you were pressured?**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3i. INTERVIEWER: If client offered additional information about debts or other victimization related to migration, record it here** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **Work**

**INTERVIEWER READ: “Now I’m going to ask you some questions about work you’ve done in the United States and people you have worked for and with. I’m particularly interested in any kind of work you’ve done in which you felt that you did not get paid as much as you should, or if you felt scared or unsafe while working. This includes jobs that were not ‘official’ in regular workplaces. Remember, everything you tell me is confidential and you do not have to answer any questions that you don’t want to answer.”**

**4a. How have you supported yourself while in the U.S.?** *[REPHRASE: How have you paid for food, housing and other items in the U.S?]*

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**4b. Have you worked for someone or done any other activities for which you thought you would be paid?**

*[INTERVIEWER: This could include activities like unpaid domestic work that might not be readily defined as “work” and should only detail those jobs in which the person felt unsafe or did not get paid what the person felt he/she should.]*

☐ No

☐ Yes → **What kind(s) of work or activities were you doing?**

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→ **How did you find out about these jobs/activities?** *[INTERVIEWER: probe for details, especially as they deal with recruitment from abroad]*

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**4c. Have you ever worked [or done other activities] without getting the payment you thought you would get?**

*[INTERVIEWER: You do not need to say "done other activities" if unnecessary and the client understands work does not just mean formal work.]*

☐ No

☐ Yes → Was it the same work as you described above?

☐ No → **What kind(s) of work or activities were you doing?**

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☐ Yes → **What payment did you expect and why?**

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**→ What did you receive?**

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**4d. Did someone ever (check all that apply):**

☐ withhold payment/money from you,

☐ give your payment/money to someone else

☐ control the payment/money that you should have been paid?, or

☐ none of the above

*[INTERVIEWER: Record volunteered information here]*

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**4e. Were you ever made to sign a document without fully understanding what it stated, for instance, a work contract?**

☐ No

☐ Yes → *[INTERVIEWER: Probe for details]*

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**4f. Have you ever worked [or done other activities] that were different from what you were promised or told?**

☐ No

☐ Yes → **What were you promised or told that you would do?**

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**→ What did you end up doing?**

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**4g. Did anyone where you worked [or did other activities] ever make you feel scared or unsafe?**

☐ No

☐ Yes → **Could you tell me what made you feel scared or unsafe?**

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**4h. Did anyone where you worked [or did other activities] ever hurt you or threaten to hurt you?**

*[INTERVIEWER: This could include any physical, sexual, or emotional harm]*

☐ No

☐ Yes → Could you tell me what they did or said?

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**4i. Did anyone where you worked [or did other activities] ever harm or threaten to harm people close to you, like family or friends?**

*[INTERVIEWER: This could include any physical, sexual, or emotional harm]*

☐ No

☐ Yes → Could you tell me what they did or said?

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**4j. Were you ever allowed take breaks where you worked [or did other activities], for example, to eat, use the telephone, or use the bathroom?**

☐ No → What if you were sick or had some kind of emergency?

→ What did you think would happen if you took a break?

☐ Yes → Did you have to ask for permission?

→ What did you think would happen if you took a break without getting permission?

**4k. Were you ever injured or did you ever get sick in a place where you worked [or did other activities]?**

☐ No

☐ Yes → Were you ever stopped from getting medical care? ☐ No ☐ Yes

→ If you feel comfortable, could you tell me more about what happened?

**4l. INTERVIEWER: if client volunteered additional information relevant to trafficking victimization in a U.S. work context, record it here:**

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## **Living and/or Working Conditions**

**INTERVIEWER READ: "Next, I have just a few more questions I'd like to ask about problems you may have had in your living or working situation in the United States."**

**5a. When you were in that situation, were you living [or do you currently live]:** *[INTERVIEWER: Should determine if client still in situation in question]*

- ☐ **by yourself,**  
☐ **with your family, or**  
☐ **with others? If others, who did you live with?** \_\_\_\_\_

**5b. Do you live, or have you ever lived, in the same place where you work?**

*[INTERVIEWER: This could include activities like unpaid domestic work that might not be readily defined as "work"]*

- ☐ **No**  
☐ **Yes** *[INTERVIEWER: Record volunteered information here]* \_\_\_\_\_

**5c. Have you ever felt you could not leave the place where you worked [or did other activities]?**

*[INTERVIEWER: Probe for situations where someone threatened to do something bad if client tried to leave.]*

- ☐ **No**  
☐ **Yes → Could you tell me why you couldn't leave?**

\_\_\_\_\_  
\_\_\_\_\_  
**→ What do you think would have happened to you if you tried to leave?**  
\_\_\_\_\_  
\_\_\_\_\_

**5d. Have you ever worked [or did other activities] or lived somewhere where there were locks on the doors or windows or anything else that stopped you from leaving?**

- ☐ **No**  
☐ **Yes** *[INTERVIEWER: Record volunteered information here]* \_\_\_\_\_  
\_\_\_\_\_

**5e. Did anyone at the place where you lived or worked [or did other activities] monitor you or stop you from contacting your family, friends, or others?** *[REPHRASE: did you have to ask permission to contact your family, friends or others?]*

- ☐ **No**  
☐ **Yes → Could you tell me why not?**  
\_\_\_\_\_  
\_\_\_\_\_

**5f. Did anyone ever take and keep your identification, for example, your passport or driver's license?**

☐ No

☐ Yes → **Could you get them back if you wanted?** [INTERVIEWER: Probe for details] \_\_\_\_\_

\_\_\_\_\_

**5g. Did anyone ever force you to get or use false identification or documentation, for example, a fake green card?**

☐ No

☐ Yes → [INTERVIEWER: Probe for details] \_\_\_\_\_

\_\_\_\_\_

**5h. Did anyone where you worked [or did activities] ever tell you to lie about your age or what you did?**

☐ No

☐ Yes → **Could you explain why they asked you to lie?**

\_\_\_\_\_

\_\_\_\_\_

**5i. Did anyone you ever worked [or did other activities] for or lived with threaten to report you to the police or other authorities?**

[INTERVIEWER: If client is foreign-born, probe for threats of being reported to immigration authorities]

☐ No

☐ Yes [INTERVIEWER: Probe for details] \_\_\_\_\_

\_\_\_\_\_

**5j. Did you ever see anyone else at the place where you lived or worked [or did other activities] harmed, or threatened with harm?**

[INTERVIEWER: This can include any physical, sexual, or emotional harm]

☐ No

☐ Yes → **If you are comfortable talking about it, could you tell me what happened?**

\_\_\_\_\_

\_\_\_\_\_

**5k. Did anyone where you worked [or did other activities] ever trick or pressure you into doing anything you did not want to do?**

☐ No

☐ Yes → **If you are comfortable talking about it, could you please give me some examples?**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**5l. Did anyone ever pressure you to touch someone or have any unwanted physical [or sexual] contact with another person?**

☐ No

☐ Yes → If you are comfortable talking about it, could you tell me what happened?

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**5m. Did anyone ever take a photo of you that you were uncomfortable with?**

☐ No

☐ Yes → If you feel comfortable talking about this, could you tell me who took the photo?

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→ What did they plan to do with the photo, if you know?

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*[LAW ENFORCEMENT: If the respondent indicates that the photo was posted online, you should ask which website.]*

→ Did you agree to this? ☐ No ☐ Yes

---

**5n. Did you ever have sex for things of value (for example money, housing, food, gifts, or favors)?**

*[INTERVIEWER: Probe for any type of sexual activity]*

☐ No

☐ Yes → Were you pressured to do this? ☐ No ☐ Yes

→ Were you under the age of 18 when this occurred? ☐ No ☐ Yes

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**5o. Did anyone where you worked [or did other activities] ever take your money for things, for example, for transportation, food, or rent?**

☐ No

☐ Yes → Did you agree to this person taking your money? ☐ No ☐ Yes

→ Could you describe this situation?

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**5p. Did anyone you ever worked [or did other activities] for or lived with control how much food you could get?**

☐ No

☐ Yes → Did you get enough food? ☐ No ☐ Yes

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**5q. Did anyone you ever worked [or did other activities] for or lived with control when you could sleep?**

☐ No

☐ Yes → Did you get enough sleep? ☐ No ☐ Yes

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**5r. In this situation, did language difficulties ever prevent you from seeking help when you needed it?**

☐ No

☐ Yes

**5s. INTERVIEWER:** *if client volunteered additional information relevant to force, fraud or coercion in a work or living situation in the U.S., record it here: -*

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### **Finishing the Interview**

*[INTERVIEWER: Please tell client what services are available at [organization]]*

**Do you want me to ask someone else at (this agency) to get more help for you?** ☐ No ☐ Yes

**INTERVIEWER: Tell client the interview is over. Thank the client for their time.**

**Post-interview Assessment (to be completed by the interviewer)**

**6a. Note any nonverbal indicators of past victimization:**

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**6b. Note any indicators that responses may have been inaccurate:**

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**6c. Indicate the likelihood that the client is a victim of trafficking:**

☐ certainly not ☐ likely not ☐ uncertain either way ☐ likely ☐ certainly

**6d. Briefly state up to three reasons for your rating:**

(1) 

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(2) 

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(3) 

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**6e. What kind of service referrals, if any, will you make for the client?**

(1) 

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(2) 

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(3) 

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(4) 

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(5) 

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**6f. Additional notes:**

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## Trafficking Victim Identification Tool (TVIT) Short Version

**Screening purpose.** This screening tool is intended to be used as part of a regular intake process or as part of enrollment for specific programs. In order for the results to be valid, the screening should be administered according to pre-arranged protocols, *whether or not the client is believed to be a victim of human trafficking*. Please refer to the *User Guide* for directions on using this screening tool.

**Screening timing.** Since each agency's intake process is unique, agencies should determine how to best integrate this screening tool with their other intake forms or procedures. Whatever the timing and context of the interview, please begin and end with comfortable topics of conversation to minimize the client's discomfort.

**Deferred/Suspended Screening.** In some cases the intake process extends beyond the first meeting with the client. Service providers may sometimes choose to postpone sensitive screenings, judging that clients are not yet ready to disclose or discuss experiences of victimization and would prefer to continue the interview at a later date. If in the course of an interview the client shows acute signs of anxiety, ask the client if s/he would prefer to stop the interview and resume it at a later time.

Date of interview: \_\_\_\_\_

Interviewer: \_\_\_\_\_

**Demographic information:** The following are suggested basic demographic questions. You may wish to supplement these with your agency's routine demographic or introductory questions.

Sex of client: female \_\_\_\_\_ male \_\_\_\_\_ other \_\_\_\_\_

Age/birth date of client: \_\_\_\_\_

Number of years of schooling completed: \_\_\_\_\_

Client's preferred language: \_\_\_\_\_

Country of birth: \_\_\_\_\_

*If client answers outside the U.S., please ask migration questions*

### **Migration**

1. In what year was your most recent arrival to the U.S.? \_\_\_\_\_ (YYYY)

[INTERVIEWER: If client has come to the U.S. more than once, you can ask them about other entries to the U.S. if relevant.]

→ If you don't know exactly when you arrived in the U.S., about how long have you been here?

☐ Less than 1 year   ☐ 1 year   ☐ 2 years   ☐ 3 years   ☐ 4 years   ☐ 5 to 10 years

☐ More than 10 years

**2. Did anyone arrange your travel to the U.S.?**

☐ No

☐ Yes → Can you tell me who? \_\_\_\_\_

→ What did they do? \_\_\_\_\_

**3. Did you (or your family) borrow or owe money, or something else, to anyone who helped you come to the U.S.?** [INTERVIEWER: Probe for something else owed, such as property, a house, or land]

☐ No

☐ N/A

☐ Yes → Do you (or your family) still have this debt, or does anyone claim you do? ☐ No ☐ Yes

[INTERVIEWER: Record volunteered information here]

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**4. If you did borrow or owe money, have you ever been pressured to do anything you didn't want to do to pay it back?**

☐ No

☐ N/A

☐ Yes → If you are comfortable telling me, what kinds of things were you pressured to do that you didn't want to do?

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→ Could you describe how you were pressured?

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**Working/Living conditions**

**5. Have you worked for someone or done any other activities for which you thought you would be paid?**

[INTERVIEWER: This could include activities like unpaid domestic work that might not be readily defined as "work" and should only detail those jobs in which the person felt unsafe or did not get paid what the person felt he/she should.]

☐ No

☐ Yes → What kind(s) of work or activities were you doing?

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---

→ How did you find out about these jobs/activities? [INTERVIEWER: probe for details, especially as they deal with recruitment from abroad]

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**6. Have you ever worked [or done other activities] without getting the payment you thought you would get?** *[INTERVIEWER: You do not need to repeat "done other activities," if unnecessary and the client understands work does not just mean formal work.]*

☐ No

☐ Yes → Was it the same work as you described above?

☐ No → **What kind(s) of work or activities were you doing?**

☐ Yes → **What payment did you expect and why?**

→ **What did you receive?**

**7. Did someone ever** (check all that apply):

☐ withhold payment from you,

☐ give your payment to someone else, or

☐ control the payment that you should have been paid?

☐ none of the above

*[INTERVIEWER: Record volunteered information here]*

**8. Have you ever worked [or done other activities] that were different from what you were promised or told?**

☐ No

☐ Yes → **What were you promised or told that you would do?**

→ **What did you end up doing?**

**9. Did anyone where you worked [or did other activities] ever make you feel scared or unsafe?**

☐ No

☐ Yes → **Could you tell me what made you feel scared or unsafe?**

**10. Did anyone where you worked [or did other activities] ever hurt you or threaten to hurt you?**

*[INTERVIEWER: This could include any physical, sexual, or emotional harm]*

☐ No

☐ Yes → **Could you tell me what they did or said?**

**11. Were you allowed take breaks where you worked [or did other activities], for example, to eat, use the telephone, or use the bathroom?**

☐ No → What if you were sick or had some kind of emergency?

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→ What did you think would happen if you took a break?

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☐ Yes → Did you have to ask for permission? \_\_\_\_\_

→ What did you think would happen if you took a break without getting permission?

---

**12. Were you ever injured or did you ever get sick in a place where you worked [or did other activities]?**

☐ No

☐ Yes → Were you ever stopped from getting medical care? ☐ No ☐ Yes

→ If you feel comfortable, could you tell me more about what happened?

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**13. Have you ever felt you could not leave the place where you worked [or did other activities]?**

*[INTERVIEWER: Probe for situations where someone threatened to do something bad if client tried to leave.]*

☐ No

☐ Yes → Could you tell me why you couldn't leave?

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→ What do you think would have happened to you if you tried to leave?

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**14. Did anyone where you worked [or did other activities] tell you to lie about your age or what you did?**

☐ No

☐ Yes → Could you explain why they asked you to lie?

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**15. Did anyone where you worked [or did other activities] ever trick or pressure you into doing anything you did not want to do?**

☐ No

☐ Yes → If you are comfortable talking about it, could you please give me some examples?

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16. Did anyone ever pressure you to touch someone or have any unwanted physical [or sexual] contact?

☐ No

☐ Yes → If you are comfortable talking about it, could you tell me what happened?

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17. Did anyone ever take a photo of you that you were uncomfortable with?

☐ No

☐ Yes → If you feel comfortable talking about this, could you tell me who took the photo?

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→ What did they plan to do with the photo, if you know?

*[LAW ENFORCEMENT: If the respondent indicates that the photo was posted online, you should ask which website.]*

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→ Did you agree to this? ☐ No ☐ Yes

---

18. Did you ever have sex for things of value (for example money, housing, food, gifts, or favors)?

*[INTERVIEWER: Probe for any type of sexual activity]*

☐ No

☐ Yes → Were you pressured to do this? ☐ No ☐ Yes

→ Were you under the age of 18 when this occurred? ☐ No ☐ Yes

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19. Did anyone take and keep your identification, for example, your passport or driver's license?

☐ No

☐ Yes → Could you get them back if you wanted? *[INTERVIEWER: Probe for details]*

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20. Did anyone where you worked [or did other activities] ever take your money for things, for example, for transportation, food, or rent?

☐ No

☐ Yes → Did you agree to this person taking your money? ☐ No ☐ Yes

→ Could you describe this situation?

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**Post-interview Assessment (to be completed by the interviewer)**

**6a. Note any nonverbal indicators of past victimization:**

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**6b. Note any indicators that responses may have been inaccurate:**

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**6c. Indicate the likelihood that the client is a victim of trafficking:**

☐ certainly not ☐ likely not ☐ uncertain either way ☐ likely ☐ certainly

**6d. Briefly state up to three reasons for your rating:**

- (1) 

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- (2) 

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- (3) 

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**6e. What kind of service referrals, if any, will you make for the client?**

- (1) 

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- (2) 

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- (3) 

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- (4) 

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- (5) 

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**6f. Additional Notes:**

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## Training and Other Resources

To access trainings about human trafficking, please visit the following websites:

- Polaris Project Trainings: <http://www.polarisproject.org/what-we-do/national-human-trafficking-hotline/access-training>
- Office of Justice Programs Trainings: <http://www.ojp.usdoj.gov/specialfocus/humantrafficking/training.htm>

Another very good resource for attorneys is the Lawyer's Manual on Human Trafficking: Pursuing Justice for Victims, edited by Jill Laurie Goodman and Dorchon A. Leidholdt, published by the Supreme Court of the State of New York, Appellate Division, in 2011. A version of the manual in PDF form is available at:

[www.nycourts.gov/ip/womeninthecourts/publications.shtml](http://www.nycourts.gov/ip/womeninthecourts/publications.shtml).

Many states and localities have existing referral networks that will provide trafficking victims and survivors with much needed services and resources. Users of the screening tool should explore what is available in their area before embarking on identification efforts. As suggested by the 2013 Trafficking in Persons Report, "clear guidelines on how to proceed when someone suspects a case of trafficking, including whether and how to approach a possible victim, and what to expect if a case goes forward, greatly improve the effectiveness of victim identification efforts."<sup>5</sup> It is important to plan for comprehensive services to ensure that victims' needs are met once they are identified.

For possible referral and other resources, please visit the websites below for information:

- <http://www.polarisproject.org/state-map> (state by state map of available NGOs and other anti trafficking resources)

The National Human Trafficking Resource Center (NHTRC) is a toll-free hotline in the United States and is reached by calling 1-888-373-7888 or e-mailing NHTRC@PolarisProject.org. The NHTRC operates 24 hours a day, seven days a week, every day of the year.

If referral networks are not well established in your area, this list may help you connect to other resources: <http://www.polarisproject.org/resources/referrals>

- [http://www.acf.hhs.gov/sites/default/files/orr/traffickingservices\\_0.pdf](http://www.acf.hhs.gov/sites/default/files/orr/traffickingservices_0.pdf) (resource guide produced by the Department of Health and Human Services (HHS) that includes information for immigrant victims of human trafficking)
- <http://www.ojp.usdoj.gov/BJA/grant/httf.html> (Bureau of Justice Assistance's list of nationally funded anti-trafficking task forces).

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<sup>5</sup> U.S. Department of State. (2013). *Trafficking in Persons Report*. Washington, D.C., p.15.

Explore the following Federal resources for information about obtaining services for pre-certified victims of human trafficking. (For more on certification please see pp. 19-20):

**ACF: Fact Sheet – National Human Trafficking Resource Center**

The Office of Refugee Resettlement (ACF) offers a fact sheet on the National Human Trafficking Resource Center and how the national hotline works. Information on how to make a call and how the NHTRC functions in reporting possible trafficking. Tips on how to get involved in reporting trafficking.

<http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-national-human-trafficking-resource-center>

**International Organization of Migration**

The "Caring for Victims of Trafficking" handbook provides practical, non-clinical guidance for health care providers in the identification of victims of human trafficking.

[http://publications.iom.int/bookstore/free/CT\\_Handbook.pdf](http://publications.iom.int/bookstore/free/CT_Handbook.pdf)

**Office of Justice Programs**

The Office of Justice lists resources for victims of sex trafficking under their resources for Sexual Assault Response Teams. Listed are fact sheets and materials for download, organizations and programs for reference, web sites that offer other resources and training, and hotlines to report potential cases.

<http://ovc.ncjrs.gov/sartkit/focus/culture-tv-d.html>

**U.S. Department of Justice - National Criminal Justice Reference Service**

Sexual Assault Nurse Examiner (SANE) programs have been established to train nurses to provide services that went beyond examination of the sexual assault to sexual assault victims, emphasizing crisis intervention and supportive counseling in the ER setting, and continuing with follow up counseling by specially trained nurse counselors. Evaluation toolkit to evaluate sexual assault nurse examiner (SANE) programs in the criminal justice system. Free pdf.

<https://www.ncjrs.gov/pdffiles1/nij/grants/240917.pdf>

**U.S. Department of Justice – Office for Victims of Crime**

Development and operation guide - overview of SANE programs. Offers training, staffing, and other program recommendations.

<http://www.ojp.usdoj.gov/ovc/publications/infores/sane/saneguide.pdf>

**U.S. Department of Labor**

Offers a free online course to businesses interested in learning more about human trafficking and what they can do to help combat it. UN.GIFT's e-learning tool on human trafficking features three modules: (1) What is human trafficking? (2) Why is human trafficking an issue for businesses? and (3) What can business do to address human trafficking?

[http://www.dol.gov/ilab/child-forced-labor/step4/step4\\_4.htm](http://www.dol.gov/ilab/child-forced-labor/step4/step4_4.htm)

### **U.S. Department of State**

U.S. Department of State lists national hotlines to report domestic trafficking. Each listing explains who the hotline is for, what they do, why to call, and how to report domestic trafficking. The National Human Trafficking Resource Center, Department of Homeland Security, Department of Justice, Department of Labor, and National Center for Missing & Exploited Children are listed.

<http://www.state.gov/j/tip/id/domestic/index.htm>

### **Department of Health and Human Services (HHS)**

HHS Services Grants provide funding for comprehensive case management services to foreign-born victims and potential victims of trafficking seeking HHS certification in any location in the United States. Grantees provide case management to assist a victim of trafficking to become certified, and other necessary services after certification, through a network of non-governmental service organizations in locations throughout the country. They also streamline support to help victims of human trafficking gain timely access to shelter, legal assistance, job training, and health care. Please contact the grantees regarding services for a client or to obtain more information. Below is a list of some HHS Service Grantees and contact information:

- U.S. Committee for Refugees and Immigrants (USCRI)

Contact information: 1-800-307-4712 or [traffickingvictims@uscridc.org](mailto:traffickingvictims@uscridc.org)

- Heartland Human Care Services

Contact information: 1-800-837-5345

- Tapestri, Inc.

Contact information: 404-299-2185

### **Office for Victims of Crime**

The U.S. Department of Justice's (USDJO) Office of Victims of Crime (OVC) provides services for pre-certified trafficking victims. Services include housing or shelter; food; medical, mental health, and dental services; interpreter/translator services; criminal justice victim advocacy; legal services; social services advocacy; literacy education; and/or employment assistance.

Please see <http://www.ojp.usdoj.gov/ovc/grants/traffickingmatrix.html> for more. In addition, OVC's Online Directory of Crime Victim Services identifies local organizations providing services for crime victims: <http://ovc.ncjrs.gov/findvictimservices/>.

### ***Resources for Pre-Certified Victims<sup>6</sup>***

Pre-certified victims are persons who are neither U.S. citizens nor Lawful Permanent Residents ("foreign victims") and who have not yet received a Certification Letter from the U.S. Department of Health and Human Services (HHS) allowing them to access federally funded

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<sup>6</sup> Adapted from [http://www.acf.hhs.gov/sites/default/files/orr/traffickingservices\\_0.pdf](http://www.acf.hhs.gov/sites/default/files/orr/traffickingservices_0.pdf)

benefits and services to the same extent as refugees. There are many resources available to pre-certified victims, and many nongovernmental organizations (NGOs) are knowledgeable about community resources to assist victims. Local resources that NGOs may be able to help victims access include food pantries and thrift stores for clothing, women's and youth shelters, community health clinics, legal aid clinics, faith-based aid organizations, job training programs, general education and transportation services, and crime victim compensation programs.

### ***Certification<sup>7</sup>***

Certification allows adult victims of trafficking who are not U.S. citizens or Lawful Permanent Residents (LPRs) to be eligible to receive benefits and services under any Federal or state program or activity to the same extent as a refugee. Victims of trafficking who are U.S. citizens or LPRs do not need certification to receive benefits because they may already be eligible for many benefits. To receive certification, a person who is 18 years of age or older must:

- Be a victim of a severe form of trafficking as defined by the TVPA<sup>1</sup>
- Be willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking or be unable to cooperate due to physical or psychological trauma; and
- Have made a bona fide application for a T visa that has not been denied; or
- Have received Continued Presence (CP) from the Department of Homeland Security (DHS) in order to contribute to the prosecution of traffickers in persons.

Once a person has met the requirements listed above, he or she can receive a Certification Letter from the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR). The certification process typically takes only a few days after ORR is notified by DHS that a person has made a bona fide application for a T visa or has been granted CP. Certification Letters do not expire but many benefits are time-limited. Foreign child victims of trafficking (under the age of 18) do not need to be certified to receive benefits and services. ORR will instead issue a letter stating that a child is a victim of a severe form of trafficking and is eligible for benefits and services. (See Rescue & Restore Fact Sheet on Child Victims and ORR State Letter #10-05 for more information.) For more information on how to obtain certification or what federal programs are available both to certified and non-certified victims, please see pages 12-30 of [http://www.acf.hhs.gov/sites/default/files/orr/traffickingservices\\_0.pdf](http://www.acf.hhs.gov/sites/default/files/orr/traffickingservices_0.pdf).

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<sup>7</sup> Adapted from <http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-certification-for-adult-victims-of-trafficking>



## Definitions of human trafficking in the United States

### FEDERAL LAW

#### 18 U.S.C. § 1589 — Forced Labor

(a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means —

- (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
- (2) by means of serious harm or threats of serious harm to that person or another person;
- (3) by means of the abuse or threatened abuse of law or legal process; or
- (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint, shall be punished as provided under subsection (d).

(b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means, shall be punished as provided in subsection (d).

(c) In this section:

- (1) The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.
- (2) The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

(d) Whoever violates this section shall be fined under this title, imprisoned not more than twenty years, or both. If death results from a violation of this section, or if the violation includes kidnapping, an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title, imprisoned for any term of years or life, or both.

#### 18 U.S.C. § 1591 — Sex Trafficking of Children or by Force, Fraud, or Coercion

(a) Whoever knowingly —

- (1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, or maintains 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, or in reckless disregard of the fact, that means of force, threats of force, fraud,

coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of eighteen years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

**(b)** The punishment for an offense under subsection (a) is —

**(1)** if the offense was effected by means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means, or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of fourteen years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than fifteen or for life; or

**(2)** if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of fourteen years but had not attained the age of eighteen years at the time of such offense, by a fine under this title and imprisonment for not less than ten years or for life.

**(c)** In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained or maintained, the Government need not prove that the defendant knew that the person had not attained the age of eighteen years.

**(d)** Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed twenty years, or both

**(e)** In this section:

**(1)** The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

**(2)** The term “coercion” means —

**(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 law or the legal process.

**(3)** The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.

**(4)** The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

**(5)** The term “venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

## COMPREHENSIVE HUMAN TRAFFICKING ASSESSMENT

*The following document contains questions that can be used to assess a client for potential signs that she/he has been a victim of human trafficking. The suggestions and indicators below are not exhaustive or cumulative in nature and each question taken alone may not indicate a potential trafficking situation. Assessment questions should be tailored to your program and client's specific needs.*

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### GENERAL TRAFFICKING ASSESSMENT TIPS

As with any assessment of a victim of crime, there are some general points to be aware of when evaluating a client's needs. Listed below are general tips for conducting an assessment with a potential victim of trafficking.

Please note that throughout this assessment the term “controller” is used generally to describe the potential trafficker or the person(s) who maintain(s) control over the potential victim(s).

### ASSESSMENT ENVIRONMENT AND TONE

- Conduct the assessment in a comfortable and safe environment. If you are in a police station or in a place where the physical space/conditions are limiting, attempt to create an environment that is as calming and positive as possible.
- Provide the individual with space when speaking with them.
- Be relaxed and use an approachable tone, demeanor, and body language. Ask yourself the question “To what degree does my present posture communicate openness and availability to the client?”
- Use empathic listening. Empathic listening centers on being attentive, observing, and listening in order to understand the client's situation without making judgments.
- While you engage in empathic and reflective listening make sure you are maintaining good eye contact with the client. Good eye contact is another way of conveying “I want to hear what you have to say”.
- If at all possible, try not to take notes and instead engage in active listening and write your notes immediately following the meeting with the client. If note taking is necessary, let the individual know why you need to write notes and for what purposes they may be used.
- Be clear about your role and goals, and about the services that your agency can and cannot provide.

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- Explain why you care about the individual's situation and that you have worked with and assisted other individuals in situations that may be similar to his/her own. Explaining who you are and why you are there is particularly important to correct any misperceptions of your role.

## ASSESSMENT LANGUAGE AND QUESTIONS

- When appropriate, attempt to engage in casual conversation about lighter topics and ask questions to try to get the individual to open up, even if it's not about their trafficking situation or service needs. Although the client might be confused, scared and/or distracted, engaging in casual conversation before the assessment helps to build trust and set the tone for effective, non-defensive communication.
- In your initial assessment, try to focus predominantly on assessments of their service needs, but weave in other questions naturally and when appropriate.
- It is often useful to start with questions that ascertain the lesser degrees of control before moving onto the more severe methods of control.
  - Example: Inquiring about living or working conditions may be an easier topic to tackle initially than directly inquiring about physical or sexual abuse that the victim may have sustained.
- Be conscious of the language that you use when speaking with a potential victim of trafficking. Mirroring the language that the potential victim uses can be a helpful first step.
  - Example: If the potential victim refers to her controller as her boyfriend, referring to that person as a "pimp" or a "sex trafficker" may have a negative impact. Although these are terms that can be used for controllers in the commercial sex industry, the potential victim may not identify this person in this way.
  - The phrasing of all questions included in this assessment should be changed, amended or revised to fit the client and context you are in.
- It is also important to conduct assessments in a potential victim's native language whenever possible.
  - Use trained interpreters sensitive to the nature of the crime and who are not in any way tied to the potential victim or the potential trafficker's community of origin.
  - Ensure that the interpreter is introduced and their role is fully explained.

## IMPORTANT DYNAMICS FOR YOUR ASSESSMENT

- Keep in mind that many victims do not self-identify as "human trafficking victims" due to a lack of knowledge about the crime itself and the power and control dynamics typically involved in human trafficking situations.
- Be conscious of the fact that an individual in a trafficking situation has typically been conditioned by their trafficker not to trust law enforcement and/or service providers.
- Be aware of power dynamics when a third party is accompanying or interpreting for a potential victim. Try to speak to the potential victim alone or secure an outside interpreter.

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- Be aware that canned stories are common and that the true story may not emerge until trust has been built with the potential victim after multiple meetings.
- Each client is going to tell his/her story differently and no client will present all of the elements of their trafficking situation in a neat package.
- It is imperative that the assessor remain flexible and prioritize the client's needs and safety as the primary reason for the assessment.

## **SAFETY CHECK**

Be sure to conduct a safety check if the individual has recently exited the situation or if they are still in the situation.

- Is it safe for you to talk with me right now? How safe do you feel right now? Are there times when you don't feel safe?
- Do you feel like you are in any kind of danger while speaking with me at this location?
- Is there anything that would help you to feel safer while we talk?

If speaking with the individual over the phone:

- Are you in a safe place? Can you tell me where you are?
- Are you injured? Would you like for me to call 911/an ambulance?
- If someone comes on the line, what would you like for me to do? Hang up? Identify myself as someone else, a certain company/person/friend?
- Also remind the individual to feel free to hang up at any point during the conversation if they believe that someone may be listening in.
- How can we communicate if we get disconnected? Would I be able to call you back/leave a message?
- Would you prefer to call me back when you are in a safe place?

## **GENERAL TRAFFICKING ASSESSMENT QUESTIONS**

The following questions could be applicable to both situations of sex and labor trafficking. Please note that the order listed is not intended to indicate the order in which the questions should be asked. The type and order of questions should be tailored to a given situation and should be amended to react effectively and supportively to the client.

## **FRAUD QUESTIONS**

- How did you meet this person/find out about your job?
- What were you told about the job before you started/what promises were made about the relationship?
- Did your experience meet your expectations?

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- Do you feel you were ever deceived about anything related to your job/your relationship?
- Did anything surprise you about this job/relationship?
- Did conditions of your job/relationship change over time?
- Were you ever forced to sign a contract that you didn't understand or didn't want to sign? Were the contents of this contract used as a threat against you?
- Did you feel like you understood your rights in this job/situation? Did you ever feel like anyone kept you from accessing information about your rights?

### **COERCION QUESTIONS**

- Did you ever feel pressured to do something that you didn't want to do or felt uncomfortable doing?
- What were your expectations of what would happen if you left this person/situation or if you didn't do what this person told you to do?
- Did anyone ever take/keep your legal papers or identification for you, such as your passport, visa, driver's license, etc.?
- Did anyone ever threaten you or intimidate you?
- What did this person tell you about what would happen if you were arrested/encountered an immigration official?
- Did you ever see something bad happen to someone else who didn't do something that was expected of them? What happened to them? How did that make you feel?
- Did you ever feel that if you left the situation, your life would become more difficult?

### **DEBT-MONETARY QUESTIONS**

- Did you have access to any money/the money you earn? Did anyone take your money or a portion of your money? Did anyone hold your money for "safe keeping"?
- If the money you earned was kept in a bank account, who set up this bank account? Did anyone else beside you have access to the account?
- Were you required to make a certain amount of money every day/ week? Why did you feel that you had to meet that amount? What did you think would happen if you didn't make that much money?
- Did you have fees that you had to pay to someone? How much money did you have left after you paid everything you needed to pay? Could you spend the money the way you wanted to?
- Did you owe any money to anyone in the situation? If so, who did you owe money to and why?
- How did you incur this debt? How long have you had the debt? Did your debt increase overtime?
- Did you feel that it was difficult to pay off your debt? Why?

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- What did you think would happen to you or other people in your life if you didn't pay off your debt?

## **FORCE QUESTIONS**

- Did someone control, supervise or monitor your work/your actions?
- Was your communication ever restricted or monitored?
- Were you able to access medical care?
- Were you ever allowed to leave the place that you were living/working? Under what conditions?
- Was your movement outside of you residence/workplace ever monitored or controlled?
- What did you think would have happened if you left the situation? Was there ever a time when you wanted to leave, but felt that you couldn't? What do you think would have happened if you left without telling anyone?
- Did you feel that it was your only option to stay in the situation?
- Did anyone ever force you to do something physically or sexually that you didn't feel comfortable doing?
- Were you ever physically abused (shoved, slapped, hit, kicked, scratched, punched, burned, etc.) by anyone?
- Were you ever sexually abused (sexual assault/unwanted touching, rape, sexual exploitation, etc.) by anyone?
- Did anyone ever introduce you to drugs, medications as a method of control?

## **SEX TRAFFICKING ASSESSMENT QUESTIONS**

The following questions could be applicable in sex trafficking situations in general and are not specific to a certain type of network or controller.

- Did anyone ever pressure you to engage in any sexual acts against your will?
- Did anyone ever take photos of you and if so, what did they use them for? Were these photos ever sent to other people or posted on an online forum (Craigslist, Backpage, Myspace)?
- Did anyone ever force you to engage in sexual acts with friends or business associates for favors/money?
- Did anyone ever force you to engage in commercial sex through online websites, escort services, street prostitution, informal arrangements, brothels, fake massage businesses or strip clubs? [See network specific questions at end of document]
- Were you required to earn a certain amount of money/meet a nightly quota by engaging in commercial sex for someone? What happened if you did not meet this quota?
- [For women only] Did anyone force you to continue to engage in commercial sex when you were on your period? Were you ever asked or told to use anything that would prevent the flow of menstruation?

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- How old were you when you were in this situation? Did you ever see any minors (under 18 years old) involved in commercial sex?
- Were you ever transported to different locations to engage in commercial sex? Where were you taken and who transported you?
- Who decided whether or not you used a condom during sex acts?

### **LABOR TRAFFICKING ASSESSMENT QUESTIONS**

- How did you feel about where you worked? How did you feel about your employer/supervisor/crew leader/or other controller?
- Did you feel that you were paid fairly at this job?
- What were your normal work hours? How many hours did you have to work each day?
- What happened if you worked fewer hours or took breaks?
- Did anyone ever threaten you if you indicated you did not want to work the hours expected of you?
- Did you have to live in housing provided by the controller? What were the conditions like in this housing?
- Did you have to pay a fee to the controller in order to stay in this housing?
- Did the controller ever promise to secure, renew or pay for your legal documents or work visa?
- What were your weekly/monthly expenses to the controller?
- Did the controller provide transportation to the work site? What did this look like?

### **NETWORK/CONTROLLER SPECIFIC ASSESSMENT QUESTIONS**

The assessment questions below may be used to supplement the general trafficking questions where a particular type of trafficking has already been identified. These questions are not comprehensive and should be included as a part of the general trafficking assessment above.

### **DOMESTIC SERVITUDE**

- Did you have days off? Were you able to leave the house on your days off? Were you ever expected to complete work on your days off (still provide childcare, complete household chores before leaving, etc.)?
- Were you ever able to leave the home to run errands, transport children to school or go to church? Were you monitored or timed when you left the home for these things?
- Did you have your own room in the home? Where did you sleep?
- Did you have consistent access to food? Were you ever made to go without food?

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- Did you have access to medical care while you lived in the home?
- What were your tasks in the home (childcare, cleaning, cooking, etc.)? How many hours did you work during the day or night?
- Were you allowed to communicate with your family/friends while you lived in the home?
- Are you afraid that your controller might harm your family back in your hometown?
- Did the controller ever force you to engage in sexual acts against your will at any time they requested it? What did you think would happen if you refused to do this? [Personal Sexual Servitude]

### **PIMP-CONTROLLED SEX TRAFFICKING (STREET, TRUCK STOPS, ONLINE ESCORTS, ETC.)**

- How did you meet your [boyfriend/pimp/controller]?
- Did the controller have a nickname, street name or alias?
- Did the controller insist that you adopt a street name, nickname or alias?
- Did the controller move you around to different locations? If so, how did you travel? How often?
- Did the controller make you get a tattoo with his name, a phrase or symbol or mark you in any other way (branding, etc.)? What did the tattoo or other mark mean to you/the controller?
- How were the commercial sexual services advertised? Where did it take place?
- Were you ever physically hit or slapped by the controller or anybody else? Can you tell me about a time when that happened?
- Did you ever see any other person being physically hit by the controller or anybody else? Can you tell me about a time when that happened?
- Did the controller compel multiple people to engage in commercial sex? What were their ages?
- How were others recruited? Through the controller or through other victims? Were there specific locations (bus-stops, shelters, etc.) that individuals were recruited from? Were you ever asked to recruit other people?
- Was there any other criminal activity present (gangs, drugs, theft, money laundering etc.)?

### **INTIMATE PARTNER AND INTER-FAMILIAL TRAFFICKING**

In the following questions, the term “partner” refers to an intimate partner which could be a dating relationship, domestic partnership and/or marital relationship. The term “family member” refers to any relative, whether immediate family or extended family member.

#### **Sex Trafficking**

- Did your partner/family member ever ask you to engage in commercial sexual acts in order to “help the relationship/the family”?

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- Did your partner/family member ever force you to engage in commercial sexual acts with friends or business associates for favors/money?
- Did your partner/family member ever force you to engage in commercial sex through online sites, escort services, street prostitution, strip clubs, truck stops, fake massage businesses or residential brothels?
- Did your partner/family member ever threaten you or abuse you if you indicated that you did not want to engage in commercial sex or did not do what this person asked of you?
- Did your partner/family member ever withhold financial support or restrict access to your children?

### **Labor Trafficking**

- Did your partner/family member ever force you to work inside or outside of the home for excessive amounts of time?
- Were you able to access the money that you earned from working outside the home?
- Did your partner/family member ever force you to engage in sexual acts against your will at any time they requested it? What did you think would happen if you refused to do this? [Personal Sexual Servitude]
- Were you ever able to leave the home to run errands, transport children to school or go to church? Did your partner/family member monitor or time you when you left the home for these things?
- What were your tasks in the home (childcare, cleaning, cooking, etc.)? How many hours did you work during the day or night?
- Did your partner/family member ever punish you for not working or not completing domestic work? For example, have your meals restricted?
- Did your partner/family member ever threaten you or abuse you if you indicated that you did not want to work or did not do what this person asked of you?

### **COMMERCIAL FRONT BROTHELS (FAKE MASSAGE BUSINESSES, NAIL SALONS, BARS, STRIP CLUBS)**

- Did you live in the establishment where you worked?
  - If yes - Were you ever allowed to leave without being monitored?
  - If no - Were you transported to and from the place that you lived and the residence? Were you monitored at the place that you lived?
- Were you rotated to different establishments? How often were you moved?
- What type of commercial front did the establishment have? How did they advertise their services? What were their hours of operation?
- Were there multiple controllers or was there one central controller?
- How many individuals were compelled to engage in commercial sex at the establishment? What were their ages?

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- How many times a day were you and these other individuals made to engage in commercial sex?
- Where did the commercial sex take place? In the establishment itself, in a back room, or in an off-site location?
- What were the demographics of the customers/Johns at the establishment?
- Did customers/Johns of the establishment pay you directly or pay a controller? Was there a token system?
- Did you receive tips directly from customers/Johns of the establishment? Were you able to keep these tips? Could you spend the money the way you wanted to?
- Did you have to pay a fee for your housing, management, food or transportation to anyone?
- Did the establishment have a security camera or monitoring device? Did this make you feel like you couldn't leave?
- Were the windows or doors of the establishment covered or blacked out?
- Was there any other criminal activity present at the establishment (gangs, drugs, money laundering etc.)?

#### **RESIDENTIAL BROTHELS**

- Did you live in the residence where you worked?
  - If yes, were you ever allowed to leave without being monitored?
  - If no, were you transported to and from the place that you lived and the residence? Were you monitored at the place that you lived?
- Were you rotated to different residences? How often were you moved?
- Were there multiple controllers or was there one central controller?
- How many individuals were compelled to engage in commercial sex at the establishment? What were their ages?
- How many times a day were you and these other individuals made to engage in commercial sex?
- What were the demographics of the customers/Johns at the establishment?
- Where did the commercial sex take place? Did it take place in the same place where you and others were made to sleep?
- Did customers/Johns of the establishment pay you directly or pay a controller? Was there a token system?
- Did you receive tips directly from customers/Johns that came to the residence? Were you able to keep these tips? Could you spend the money the way you wanted to?
- How did the controllers advertise the commercial sexual services?

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- If through cards, what do the cards say? How do people get the cards? Are cards only given to certain types of people (males versus females, only certain nationalities, etc.)?
- Was there a specific procedure for entering the establishment (e.g. calling a number from outside)?
- Did the residence have a security camera or someone watching the door? Did this make you feel like you couldn't leave the residence?
- Was there any other criminal activity present at the establishment (gangs, drugs, money laundering etc.)?

## **LABOR TRAFFICKING IN AGRICULTURE**

- Did you have a crew leader? What kind of role did she/he play in your day-to-day work activities?
- Did you have the appropriate tools needed for the job you are doing? Were the tools in good condition? Did you have to pay a fee in order to use these tools?
- Were you exposed to pesticides or other chemicals while on the job?
  - Did you work in fields while they were being sprayed with pesticides or soon after the spraying took place?
  - Were you provided with gloves/masks as necessary when working with such chemicals?
- Did you ever get injured at work? If so, were you permitted to seek medical attention?
- Were you paid on a piece-rate basis depending on how much crop you harvest each day, or were you paid a fixed sum of money?
- How did you get to the work-sites? Were the vehicles safe and in good condition? Were the drivers safe or reckless? Did you have to pay a fee for this transportation?
- If you traveled with the company/employer/crew, were you always made aware of each location you would be going to and how long you would be there?
- Did you get paid for related tasks such as clearing land, loading, time traveled to work sites, spraying fields with pesticides?
- Did you have access to basic facilities at the work-sites?
- Did you have to purchase your basic necessities directly from the employer? Did the prices of these items seem unusually high? Did this create additional debt to your employer?
- Did anyone ever say verbally abusive things to you (such as calling you names, making inappropriate or sexual remarks to you)?

## **LABOR TRAFFICKING IN THE SERVICE INDUSTRY (HOTELS, RESTAURANTS, RESORTS)**

- What were your hours like at your job?
- Did you live on-site or with any of the other people you worked with?

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- Were you able to take regular breaks to eat, use the bathroom, or drink water?
- Were you told you could only eat left-over food from the meals being prepared in your workplace?

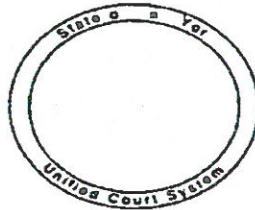
#### **LABOR TRAFFICKING IN SALES CREWS**

- If you traveled with a sales crew, were you made aware of each location you would be going to and how long you would be there?
- Where did you sleep while traveling with the sales crew? Did you have your own space or did you have to share with others in the crew?
- Did you have to meet a daily quota for your sales? Were there consequences or threats of consequences if you did not meet the quota?
- Were your meals ever restricted if you didn't meet this daily sales quota? How often did you eat and how did you pay for your meals?
- Were you provided a daily stipend by anyone while selling the items? Were you allowed to spend this however you wanted to?
- Did the crew always ensure that you had a valid sales permit? Were you ever arrested for soliciting without a permit?
- Was there other illegal activity (drug use, alcohol use by minors, scams involving product sales, etc.) occurring? Were you ever pressured to participate?
- Did the crew leaders/managers ever sexually assault or harass individuals working on the sales crew?
- Did anyone ever threaten to abandon you if you did not do what was expected of you?

Polaris Project works to empower and mobilize people from diverse backgrounds and of all ages to take meaningful action against human trafficking. Register with [www.polarisproject.org/signup](http://www.polarisproject.org/signup) to receive regular updates on human trafficking in the United States.

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**BUFFALO'S  
HUMAN  
TRAFFICKING  
INTERVENTION  
HUB COURT -  
DRUG COURT**

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Defendant Name: \_\_\_\_\_ IN CUSTODY: YES NO  
Defendant DOB: \_\_\_\_\_

Prior to the defendant being screened, the Resource Coordinator will explain the HTIC and the role of the Resource Coordinator (who is not a confidential advocate). The Resource Coordinator will provide her contact information and explain the various services available to the defendant through the Court, including access to a confidential advocate (not employed by the court system) to assist during the court process.

The defendant will be asked about his or her history of commercial sex work to make an assessment of his or her current safety issues. The Resource Coordinator will not ask for specific details about their history of commercial sex work.

**Screening**

**Housing:**

Where are you living?

How long have you lived there?

Who else lives there? Who else stays there?

Can you return to that residence?

Do you feel safe? Has anyone ever harmed you there?

How do you pay rent?

Where do you go when you are not at home (friend's house, significant other)?

Have you ever been homeless?

**Buffalo's Human Trafficking Intervention HUB Court – Drug Court Use Only**



Do you have anyone (not family) that supports you and provides you with the essentials?

**Personal:**

Do you have identification (driver's license, passport, benefit card)?

Do you know where your identification is?

Is someone holding these for you?

Other special concerns? (LGBTQ, runaway youth, medical needs, etc.)

**Family:**

Do you have children or serve as a guardian?

(If so, what is the custody status?)

Are there any current Family Court orders or a menu in place?

Who is the father of your children?

Do you have support from family members?

Are you in a relationship with someone? If so, is that person using substances?

**Medical:**

Do you have any current medical needs or require medication?

Are you pregnant?

Do you need medical referrals?

Any other concerns?

**Treatment:**

Are you using substances?

If so, how often are you using and what type of substance?

How do you support your substance use?

Are you currently linked to treatment for AOD or MH?

If so, where are you receiving treatment?

Do you have a mental health diagnosis?

What agency provided the diagnosis?

Do you have a history of suicidal ideations?

Have you ever attempted suicide?

Do you have a history of cutting?

Do you have a history of trauma, rape, and/or sexual assault as an adult or a child?

**Safety:**

Will anyone be looking for you when you are released from custody?

Do you owe anyone money?

Does anyone hold your money for you?

Any current orders of protection filed on your behalf?

Any current orders of protection filed against you?



## Identifying Victims of Human Trafficking: What to Look for in a Healthcare Setting

Healthcare providers may come into contact with victims of human trafficking and have a unique opportunity to connect them with much needed support and services. Anyone in a healthcare setting may be in a position to recognize human trafficking – from clerical staff to lab technicians, nursing staff, ambulatory care, radiology staff, security personnel, case managers, and physicians.

The following is a list potential red flags and indicators that medical providers may see in a patient who may be a victim of human trafficking. Please note that this list is not exhaustive. Each indicator taken individually may not imply a trafficking situation and not all victims of human trafficking will exhibit these signs. However, the recognition of several indicators may point to the need for referrals and further assessment.

### Red Flags and Indicators

General Indicators of Human Trafficking		
<input type="checkbox"/> Shares a scripted or inconsistent history <input type="checkbox"/> Is unwilling or hesitant to answer questions about the injury or illness <input type="checkbox"/> Is accompanied by an individual who does not let the patient speak for themselves, refuses to let the patient have privacy, or who interprets for them <input type="checkbox"/> Evidence of controlling or dominating relationships (excessive concerns about pleasing a family member, romantic partner, or employer) <input type="checkbox"/> Demonstrates fearful or nervous behavior or avoids eye contact <input type="checkbox"/> Is resistant to assistance or demonstrates hostile behavior <input type="checkbox"/> Is unable to provide his/her address <input type="checkbox"/> Is not aware of his/her location, the current date, or time <input type="checkbox"/> Is not in possession of his/her identification documents <input type="checkbox"/> Is not in control of his or her own money <input type="checkbox"/> Is not being paid or wages are withheld		
Labor Trafficking Indicators	Sex Trafficking Indicators	
<input type="checkbox"/> Has been abused at work or threatened with harm by an employer or supervisor <input type="checkbox"/> Is not allowed to take adequate breaks, food, or water while at work <input type="checkbox"/> Is not provided with adequate personal protective equipment for hazardous work <input type="checkbox"/> Was recruited for different work than he/she is currently doing <input type="checkbox"/> Is required to live in housing provided by employer <input type="checkbox"/> Has a debt to employer or recruiter that he/she cannot pay off	<input type="checkbox"/> Patient is under the age of 18 and is involved in the commercial sex industry <input type="checkbox"/> Has tattoos or other forms of branding, such as tattoos that say, “Daddy,” “Property of...,” “For sale,” etc. <input type="checkbox"/> Reports an unusually high numbers of sexual partners <input type="checkbox"/> Does not have appropriate clothing for the weather or venue <input type="checkbox"/> Uses language common in the commercial sex industry	

## Health Indicators and Consequences of Human Trafficking\*

### Physical Health Indicators

- ☐ Signs of physical abuse or unexplained injuries
  - Bruising
  - Burns
  - Cuts or wounds
  - Blunt force trauma
  - Fractures
  - Broken teeth
  - Signs of torture
- ☐ Neurological conditions
  - Traumatic brain injury
  - Headaches or migraines
  - Unexplained memory loss
  - Vertigo of unknown etiology
  - Insomnia
  - Difficulty concentrating
- ☐ Cardiovascular<sup>ii</sup>/respiratory<sup>iii</sup> conditions that appear to be caused or worsened by stress, such as:
  - Arrhythmia
  - High blood pressure
  - Acute Respiratory Distress
- ☐ Gastrointestinal conditions that appear to be caused or worsened by stress<sup>iv</sup>, such as:
  - Constipation
  - Irritable bowel syndrome
- ☐ Dietary health issues
  - Severe weight loss
  - Malnutrition
  - Loss of appetite
- ☐ Reproductive issues
  - Sexually-transmitted infections
  - Genitourinary issues
  - Repeated unwanted pregnancies
  - Forced or pressured abortions
  - Genital trauma
  - Sexual dysfunction
  - Retained foreign body
- ☐ Substance use disorders
- ☐ Other health issues
  - Effects of prolonged exposure to extreme temperatures
  - Effects of prolonged exposure to industrial or agricultural chemicals
  - Somatic complaints

### Mental Health Indicators

- ☐ Depression
- ☐ Suicidal ideation
- ☐ Self-harming behaviors
- ☐ Anxiety
- ☐ Post-traumatic stress disorder
- ☐ Nightmares
- ☐ Flashbacks
- ☐ Lack of emotional responsiveness
- ☐ Feelings of shame or guilt
- ☐ Hyper-vigilance
- ☐ Hostility
- ☐ Attachment disorders<sup>v</sup>
  - Lack of or difficulty in engaging in social interactions
  - Signs of withdrawal, fear, sadness, or irritability
- ☐ Depersonalization or derealization<sup>vi</sup>
  - Feeling like an outside observer of themselves, as if watching themselves in a movie
  - Emotional or physical numbness of senses
  - Feeling alienated from or unfamiliar with their surroundings
  - Distortions in perception of time
- ☐ Dissociation disorders<sup>vii</sup>
  - Memory loss
  - A sense of being detached from themselves
  - A lack of a sense of self-identity, or switching between alternate identities
  - A perception of the people and things around them as distorted or unreal

### Social or Developmental Indicators

- ☐ Increased engagement in high risk behaviors, such as running away or early sexual initiation if a minor
- ☐ Trauma bonding with trafficker or other victims (e.g. Stockholm syndrome)
- ☐ Difficulty establishing or maintaining healthy relationships
- ☐ Delayed physical or cognitive development
- ☐ Impaired social skills

*\*This list of physical and mental health indicators of human trafficking is not exhaustive. Trafficking survivors may experience one or more of these indicators, none of these indicators, or health indicators not on this list. This list is intended to help you assess if a patient's condition may be a result of a trafficking-related trauma and should be considered in context.*

## **Victim Identification and Response**

### **How do I conduct an assessment or exam with a potential victim of human trafficking?**

Victims of trafficking do not often disclose their trafficking situation in clinical settings.<sup>viii</sup> Therefore, it is critical for medical practitioners to be thoughtful about engaging patients, employing trauma-informed practices, and creating a space that is conducive for discussing human trafficking. Before beginning any conversation with a patient, assess the potential safety risks that may result from asking sensitive questions of the patient. Recognize that the goal of your interaction is not disclosure or rescue, but rather to create a safe, non-judgmental place that will help you identify trafficking indicators and assist the patient.

#### Recommendations for Assessments:

- Allow the patient to decide if they would feel more comfortable speaking with a male or female practitioner.
- If the patient requires interpretation, always utilize professional interpreters who are unrelated to the patient or situation.
- If the patient is accompanied by others, find a time and place to speak with the patient privately.
- Take time to build rapport with potential victims, or if you do not have the time yourself, find someone else on staff who can develop rapport with the patient.
- Ensure that the patient understands confidentiality policies and practices, including mandatory reporting laws.
- Use multidisciplinary resources, such as social workers, where available
- Refer to existing institutional protocols for victims of abuse/sexual abuse.
- You may contact the National Human Trafficking Resource Center (NHTRC) hotline for assistance in conducting an assessment and determining next steps if you have not already developed a protocol to respond to victims of human trafficking.

### **What should I do if I believe I have identified a victim of human trafficking?**

Every situation of human trafficking is unique; it is important to use a victim-centered response. Not all victims of trafficking will be comfortable disclosing their situation, nor will all victims be ready to seek assistance from service providers, law enforcement, or even medical providers. Medical providers, however, have a unique opportunity to provide potential trafficking victims with information and options, while supporting them through the process of connecting with advocates or service providers if they are ready to report their situation.

#### If a patient has disclosed that they have been trafficked:

- Provide the patient with the NHTRC hotline number and encourage him/her to call if he/she wants help or wants to talk to someone. If the patient feels it is dangerous to have something with the number written on it you can have them memorize the number.
- In situations of immediate, life-threatening danger, follow your institutional policies for reporting to law enforcement. Whenever possible, make an effort to partner with the patient in the decision to contact law enforcement.
- Provide the patient with options for services, reporting, and resources. Ensure that safety planning is included in the discharge planning process.
- If the patient is a minor, follow mandatory state reporting laws and institutional policies for child abuse or serving unaccompanied youth.
- Ensure that any information regarding the patient's injuries or treatment is accurately documented in the patient's records. While documentation of abuse may be helpful in building a case against a trafficker, information about the victim can also be used against them in a court proceeding.

**Am I obligated to report situations of human trafficking? If so, who should I contact?**

Legal requirements regarding mandatory reporting of human trafficking may differ from state to state, and situations may require mandatory reporting under related statutes even if the situation is not human trafficking (e.g. child abuse or domestic violence). Refer to your local or state requirements regarding mandatory reporting. While contacting the NHTRC will not fulfill mandatory reporting requirements, the NHTRC can facilitate a report to specialized law enforcement trained to handle human trafficking cases.

When working with adults who have been trafficked, it is important to gain permission and consent from the patient before disclosing any personal information about the patient to others, including service providers. Furthermore, medical providers should be aware of how HIPAA regulations impact the ability to report potential trafficking situations on behalf of a patient. When contacting the NHTRC or connecting with local service providers, keep in mind any confidentiality obligations.

**How can I utilize the National Human Trafficking Resource Center hotline to assist victims of trafficking?**

The NHTRC offers confidential round-the-clock access to a safe space to report tips, seek services, and ask for help. The NHTRC is operated 24/7 and has access to over 200 languages through a tele-interpreting service. All communications with the NHTRC are strictly confidential to the extent permitted by law and callers need not disclose personal information in order to access services through the NHTRC. The NHTRC is also an excellent resource for healthcare institutions to help identify and connect with existing resources in their area as they begin the process of developing a response protocol for victims of human trafficking. Healthcare professionals can access the NHTRC for the following services:

Service Referrals: The NHTRC has a referral network of over 3,200 referral contacts, including anti-trafficking organizations, legal service providers, shelters, law enforcement, and local social service agencies that can assist victims of human trafficking.

Tip Reporting: The NHTRC has specialized local and national response protocols across the country for law enforcement and service providers. The NHTRC can facilitate a report to law enforcement contacts who are trained on trafficking and designated to respond to NHTRC hotline.

Training and Technical Assistance: The NHTRC also provides training and technical assistance on a wide range of human trafficking topics through calling the hotline and visiting the NHTRC's website. The NHTRC can also guide clinicians through an assessment with a potential victim.

The National Human Trafficking Resource Center (NHTRC) maintains a database of service providers and resources throughout the United States, along with extensive training resources on a variety of topics related to human trafficking.

**Report Online or Access Resources & Referrals:** [www.traffickingresourcecenter.org](http://www.traffickingresourcecenter.org)

**Call:** 1-888-373-7888 (24/7)

**Email:** [nhtrc@polarisproject.org](mailto:nhtrc@polarisproject.org)

## Additional Resources

- [SOAR to Health and Wellness](#), U.S. Department of Health and Human Services
- [HEAL Trafficking](#), Health Professional Education, Advocacy, and Linkage
- [Understanding & Combating Human Trafficking as a Health, Social, & Economic Issue](#), Child Family Health International
- [Child Sex Trafficking Webinar Series for Healthcare Professionals](#), Children's Healthcare of Atlanta
- [Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the U.S.](#), Institute of Medicine/National Research Council Report
- [Human Trafficking: Guidebook on Identification, Assessment, and Response in the Healthcare Setting](#), Massachusetts General and Massachusetts Medical Society
- [Caring for Trafficked Persons: A Guide for Health Providers](#), The International Organization for Migration and UN Global Initiative to Fight Human Trafficking
- [The Role of the Nurse in Combatting Human Trafficking](#), Donna Sabella in the *American Journal of Nursing*
- [Online Educational Modules for Healthcare Professionals: Christian Medical Dental Associations](#)

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<sup>i</sup> [Caring for Trafficked Persons: Guidance for Health Providers](#), International Organization for Migration (IOM)

<sup>ii</sup> [Conditions](#), American Heart Association

<sup>iii</sup> [All Diseases](#), American Lung Association

<sup>iv</sup> [Diseases and Conditions](#), Cleveland Clinic

<sup>v</sup> [Reactive Attachment Disorder: Symptoms](#), Mayo Clinic

<sup>vi</sup> [Depersonalization-derealization Disorder: Symptoms](#), Mayo Clinic

<sup>vii</sup> [Dissociative disorders: Symptoms](#), Mayo Clinic; [Dissociative Disorders](#), National Alliance on Mental Illness

<sup>viii</sup> [Human Trafficking: Guidebook on Identification, Assessment, and Response in the Health Care Setting](#), Massachusetts General and Massachusetts Medical Society