



# Vacatur and Criminal Record Expungement

September 17, 2015  
3:15–4:15 p.m. EST

**Presenters:**

Robin Richardson, Staff Attorney, Urban Justice Center

The material presented during today's webinar session will be available on the Human Trafficking Learning Community.

*The session will be recorded and will begin shortly.*

As with all technology, we may experience a momentary lapse in the webinar session. In the event of a problem, please be patient and remain on the line.  
If the problem persists, please contact [Soojin Park at spark@ovcttac.org](mailto:spark@ovcttac.org) for technical assistance.

# URBAN JUSTICE CENTER

## Vacatur Laws and Other Post-Conviction Relief Options for Victims of Human Trafficking

Robin Richardson, Esq.

Staff Attorney

Sex Workers Project at the Urban Justice Center

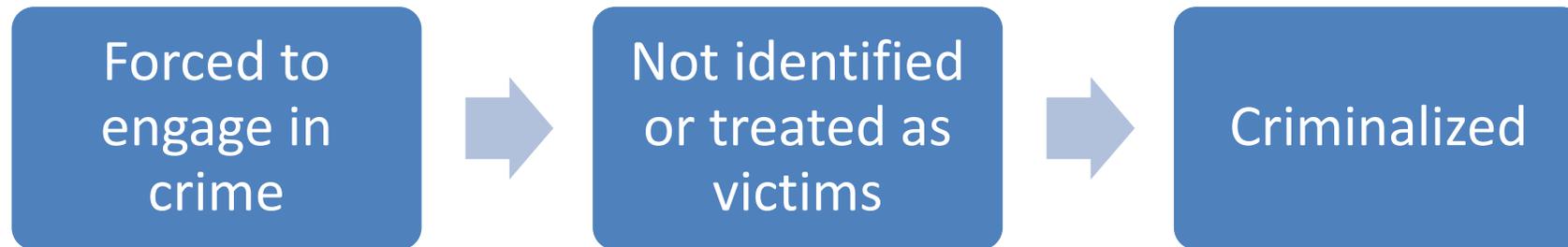
(646) 602-5690

[rrichardson@urbanjustice.org](mailto:rrichardson@urbanjustice.org)

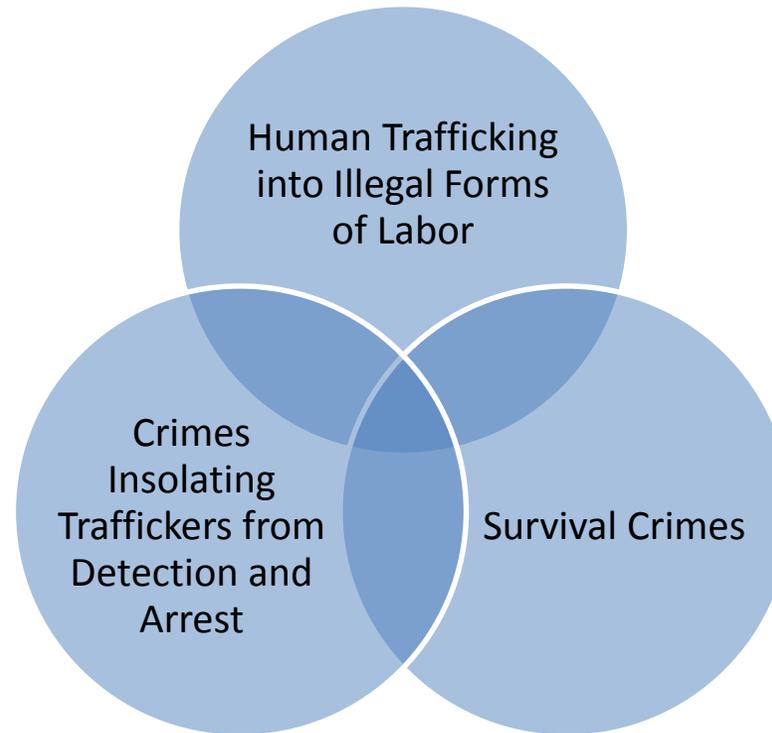
# Learning Objectives

- ❑ Why Do Victims of Human Trafficking Need post-conviction relief?
- ❑ Introduction to Vacatur Laws and other Post-Conviction Relief for Victims of Human Trafficking
- ❑ Important Considerations for Post-Conviction Legal Work on Behalf of Trafficked Clients

## Why do victims of human trafficking need post-conviction relief?



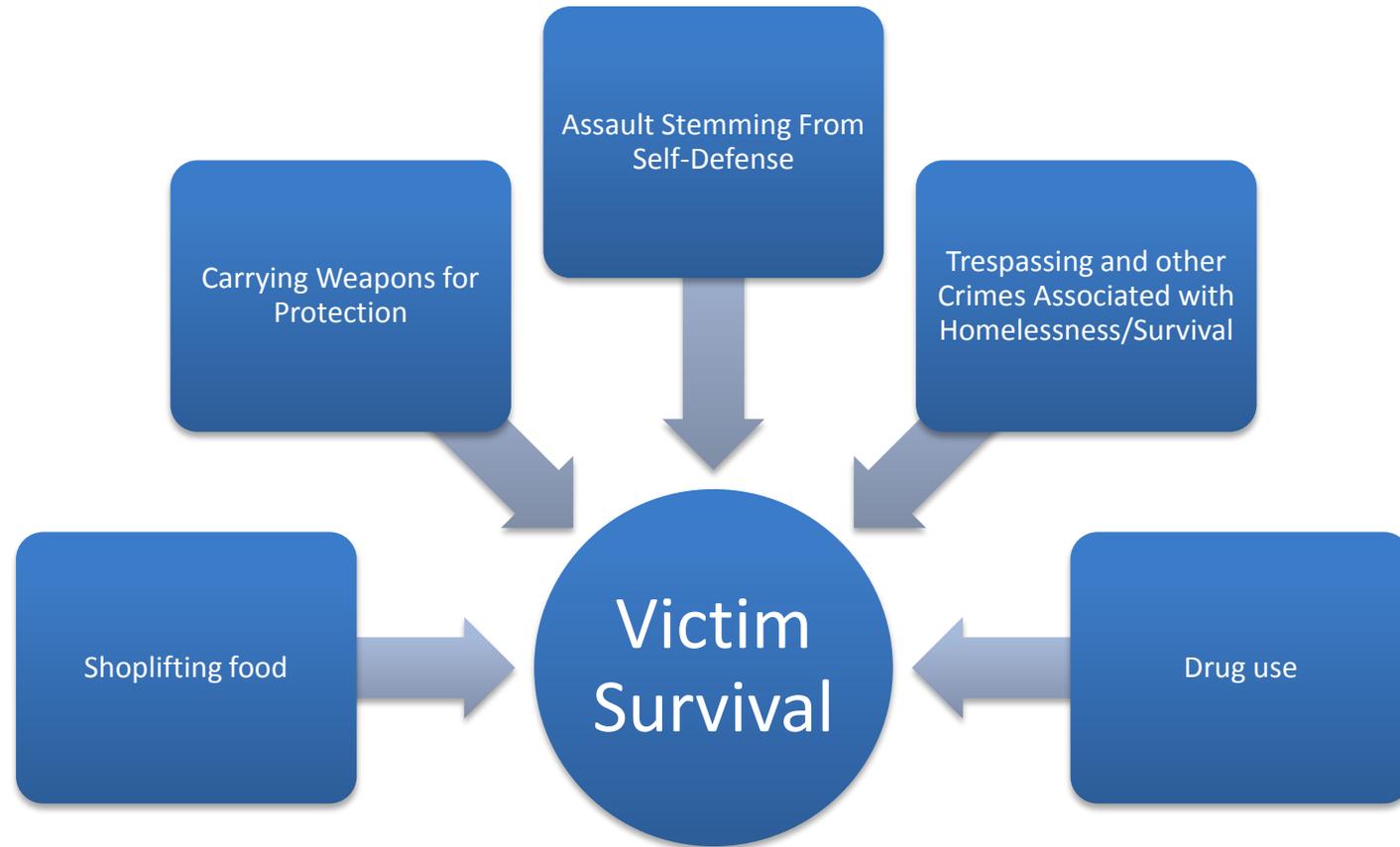
# Why Are Victims of Human Trafficking Engaging in Crime?



# Illegal Forms of Labor That Victims May Be Trafficked Into

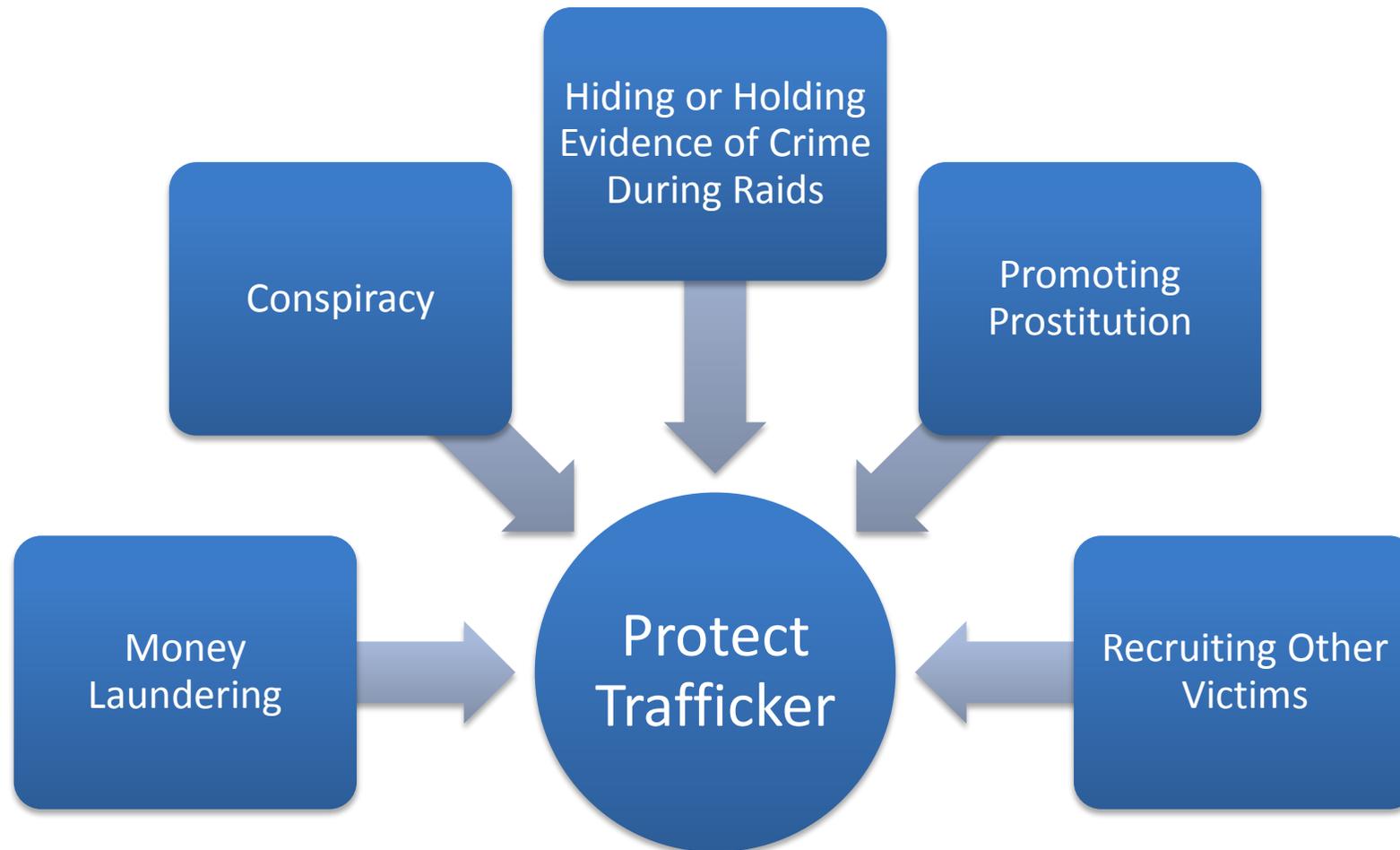


# Survival Crime



# Crimes Insulating Traffickers from Detection and

## Arrest



# What Are the Post-Conviction Effects of Criminalization on the Lives and Psyches of Victims of Human Trafficking?

## Permanent Criminal Record

### Barred from:

- Employment
- Education
- Housing
- Etc.

## Failure to Self-Identify as Victims

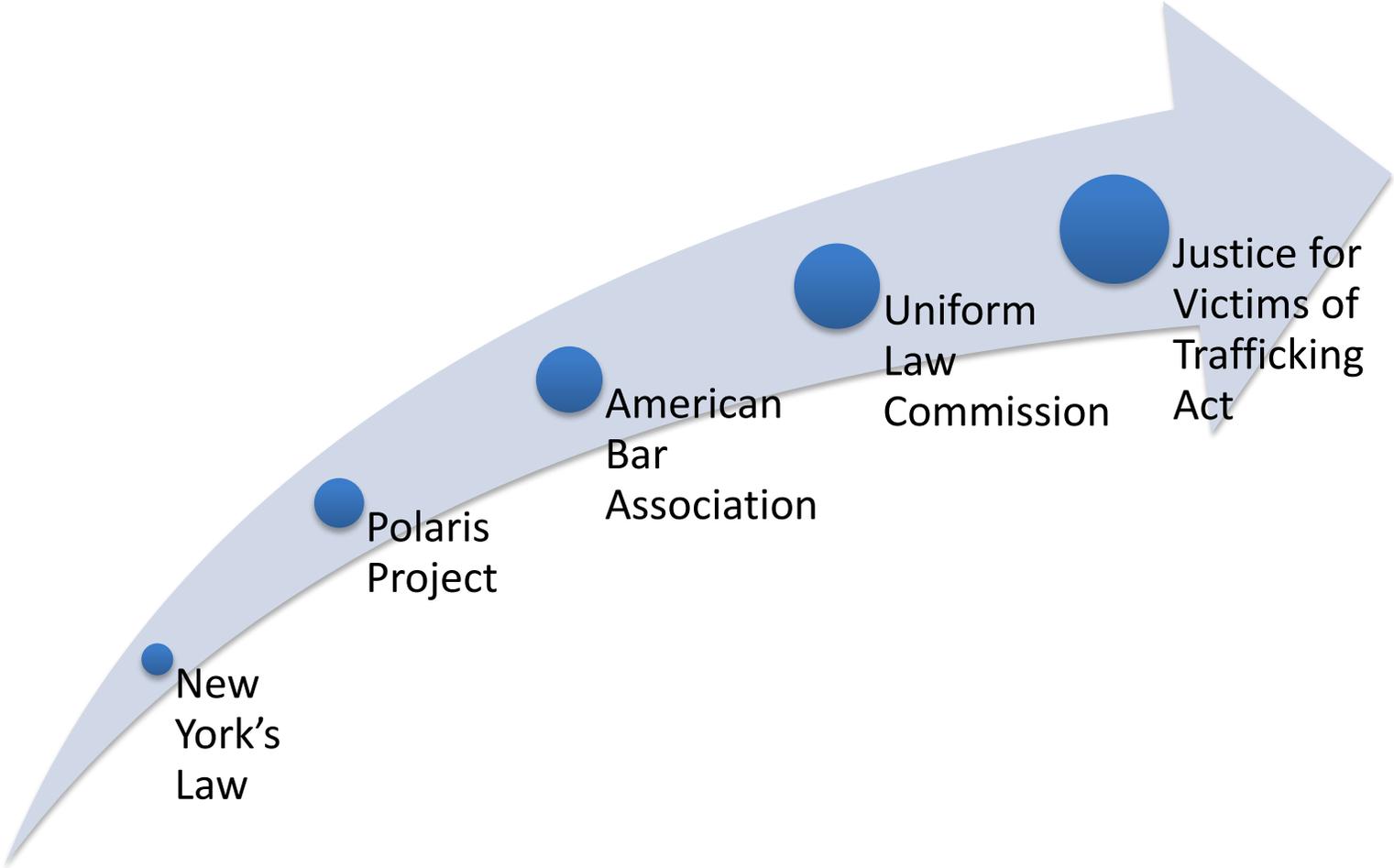
- Increased shame/stigma
- Decreased chance victims will seek services
- Increased chance of criminalization

## Re-Victimization

- Inability to stabilize
- Forced into illegal forms of labor
- High-Risk for being re-trafficked

# Addressing the Harm: Post-Conviction Relief for Victims of Human Trafficking

# The Spread of Post-Conviction Relief Laws, 2010-Present



Today, about 28 States have passed  
post-conviction relief for victims of  
trafficking

“Victims of sex trafficking [...] are blocked from decent jobs and other prospects for rebuilding their lives. Even after they escape from sex trafficking, the criminal record victimizes them for life. This bill would give victims of human trafficking a desperately needed second chance they deserve.” Memo to Bill A07670

# How the Law Works

The movant is a victim of human trafficking under NY State or federal law



The conviction is the result of human trafficking



The conviction stems from an arrest for prostitution

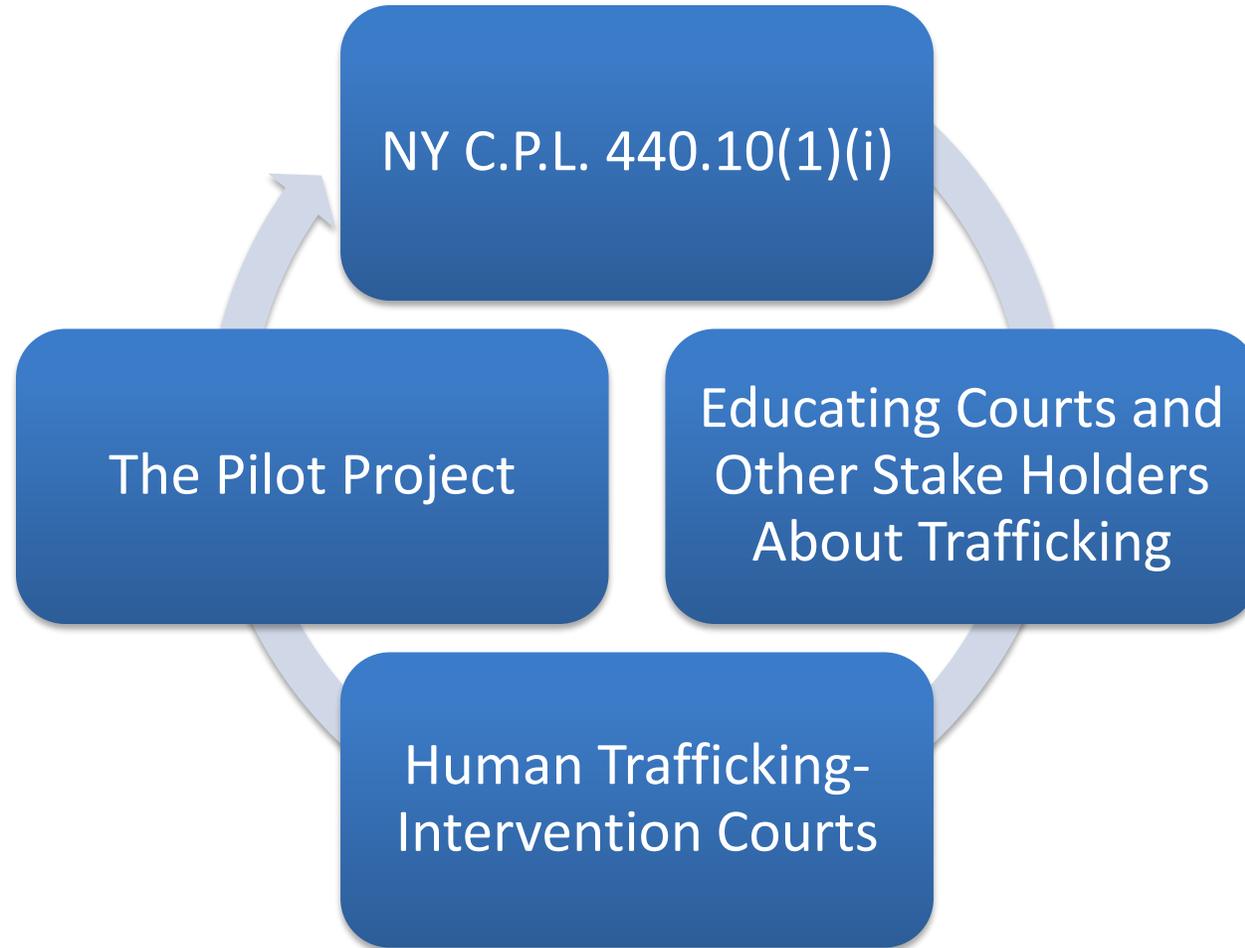


Conviction may be vacated

# Additional Features of the Law

- ❑ Official Documentation of trafficking at the time of the convictions from a local, state or federal government agency is not required.
- ❑ However, if such documentation is provided, it shall create a presumption that the conviction was the result of human trafficking
- ❑ If the court grants a motion under the law, it may take additional action as is appropriate in the circumstances. (NY C.P.L. § 440.10(6))

# Transforming the Intersection Between Human Trafficking and Criminalization



# What About Federal Relief?

# Important Considerations for Practitioners

# What Kinds of Relief Are Available Under My State's Laws, and What are the Effects of That Relief?

## Vacatur

- Deems the record to be legally faulty or unjust

## Expungement

- Erases the record without necessarily calling into question the record's validity

## Sealing

- Hides record from view to a range of degrees

# Vacatur

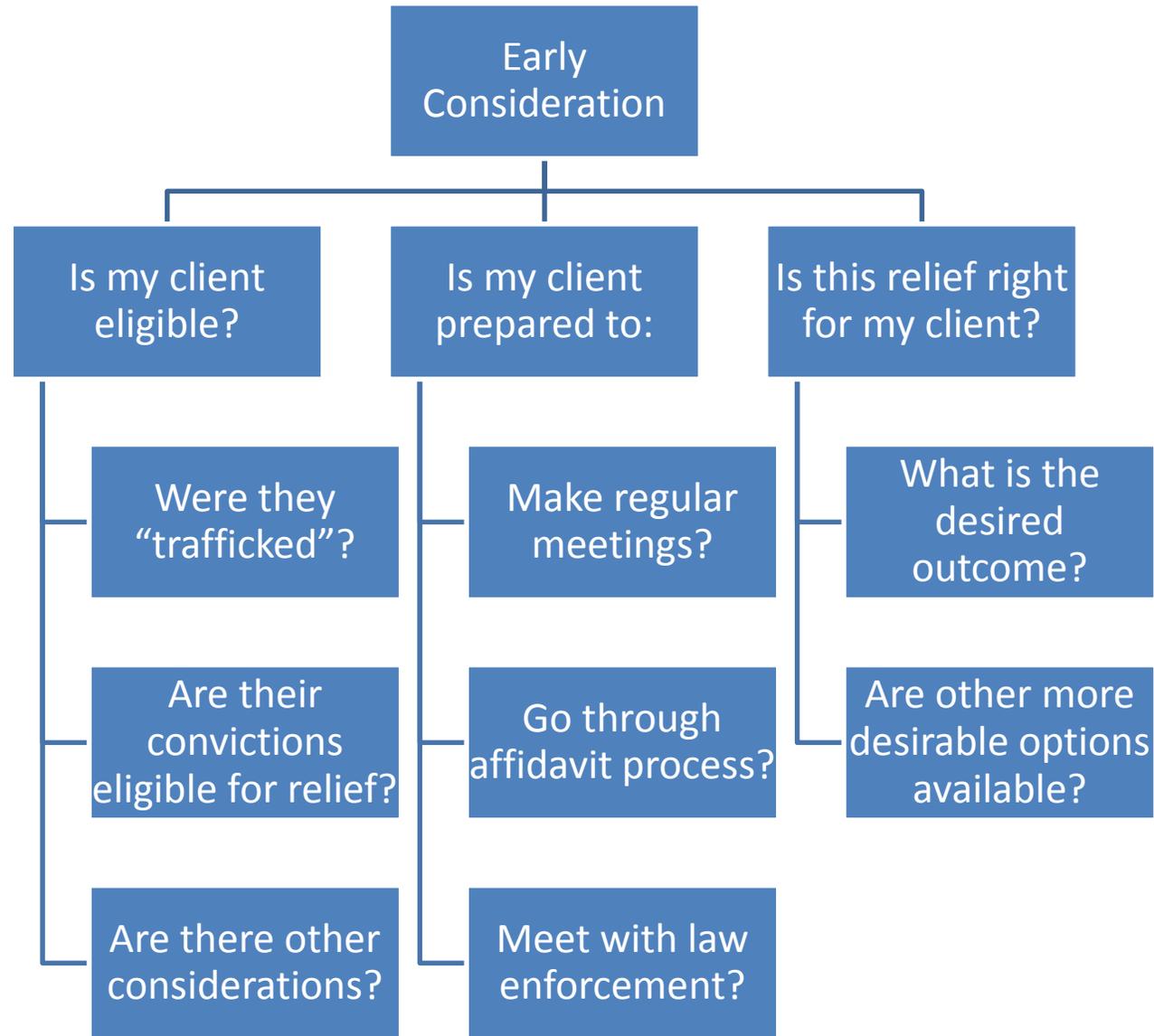
- Vacated convictions are not considered “convictions” in immigration context
- Depending upon what records are public in a given state, a vacated conviction may still be publicly available and require additional remedies to obtain the desired outcome

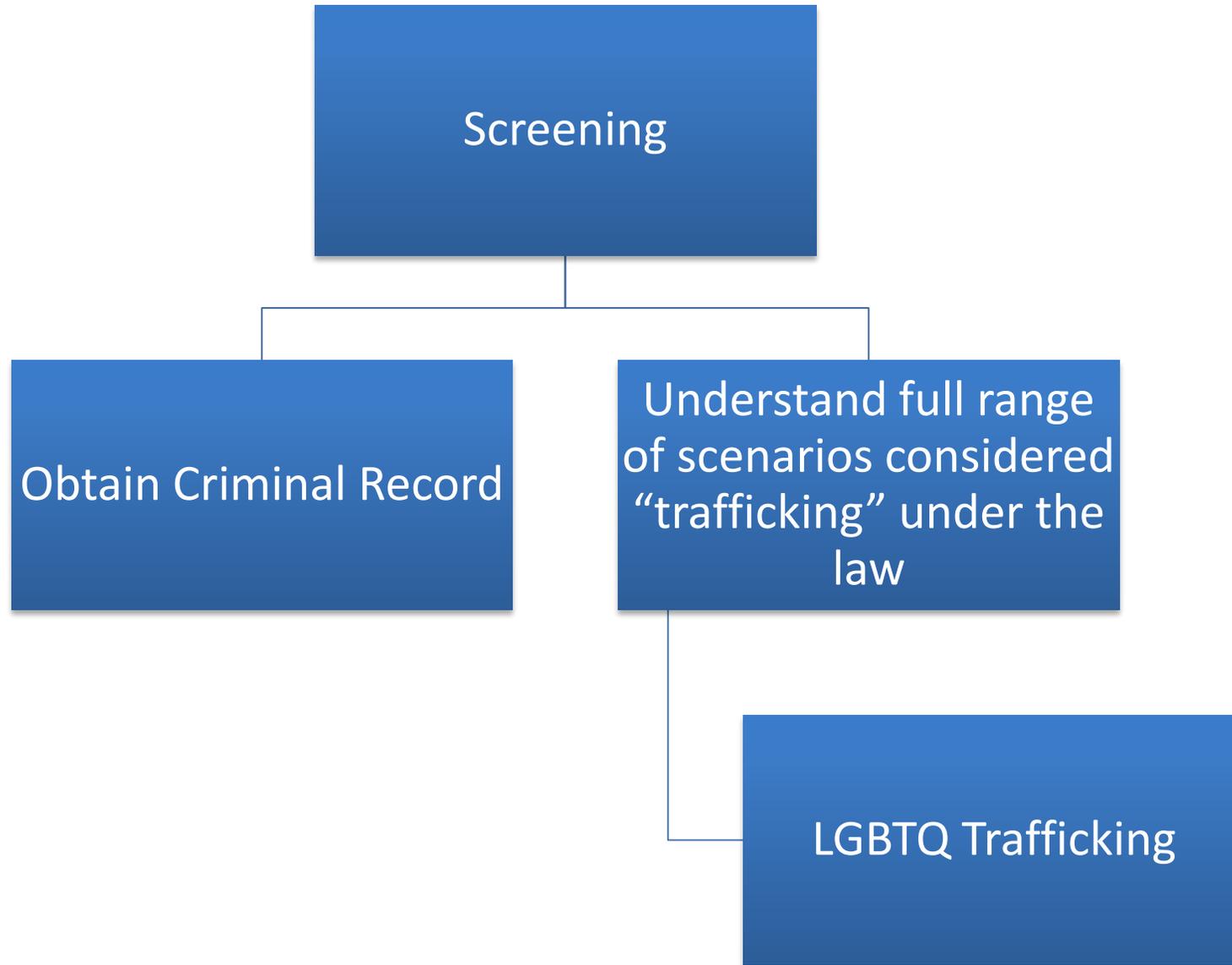
# Expungement

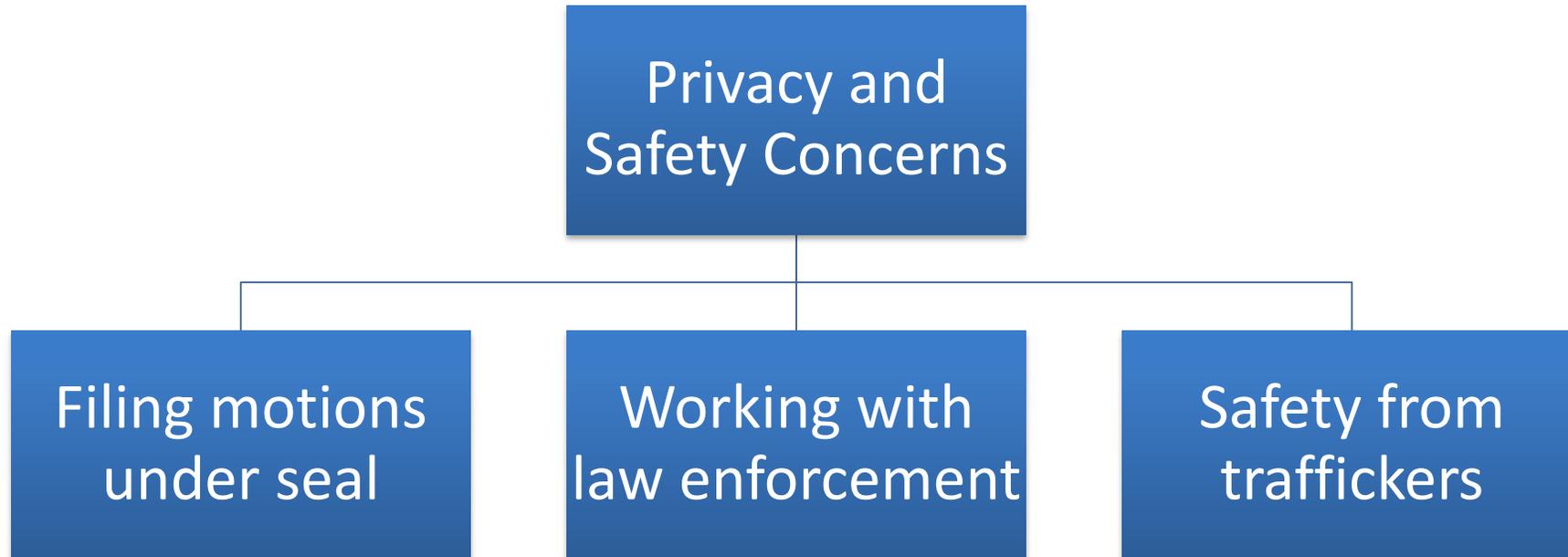
- Expunged convictions would likely still be considered “convictions” in the immigration context
- Expunged records are generally not publicly available

# Sealing

- Sealed records may be sealed in a very limited way
- May need to seal a vacated record







# Addressing Shortcomings in the Law

Educating the  
court and  
other stake  
holders

Using other  
legal  
remedies to  
address  
shortcomings

Mine  
legislative  
history for  
helpful  
language

Refunded bail, fines, court fees, etc.

# Questions/Comments?

Robin Richardson, Esq.

The Urban Justice Center's Sex Workers Project

40 Rector St., 9<sup>th</sup> Floor

New York, NY 10006

(646) 602-5690

[rrichardson@urbanjustice.org](mailto:rrichardson@urbanjustice.org)

Please send referrals to: (646) 602-5617