

Labor Trafficking: Improving Victim Identification

November 14, 2017
2:00–3:30 p.m. (eastern time)

Presenters:

Esther Del Toro Oliver, Regional Coordinator Workplace Crimes, Wage and Hour Division, U.S. Department of Labor

Colleen Owens, Senior Research Associate in the Justice Policy Center, Urban Institute and John Jay College of Criminal Justice

Meredith Rapkin, Executive Director, Friends of Farmworkers

The material presented during today's webinar session will be available on the OVC Human Trafficking Learning Community and through the BJA by contacting humantrafficking@theiacp.org

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 jadams@ovcttac.org for technical assistance.

Bureau of Justice
Assistance and
Office for Victims of Crime
Human Trafficking Grantee
Technical Assistance
Webinars



Labor Trafficking: Improving Victim Identification

This project is supported by Grant No. 2015-VT-BX-K001 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Bureau of Justice
Assistance and
Office for Victims of Crime
Human Trafficking Grantee
Technical Assistance
Webinars



Objectives

As a result of this webinar, participants will be better able to:

- Describe the relationship between labor trafficking and related criminal and civil violations such as workplace violations, labor exploitation, fraud in foreign labor recruitment, as well as the intersection with sexual and domestic violence.
- Identify creative strategies and partnerships for conducting outreach to vulnerable populations that may be isolated or in low-visibility areas.
- Consider tactics to proactively identify labor trafficking victims to initiate labor trafficking investigations.
- Understand the importance of multidisciplinary collaboration to ensure an efficient and victim-centered response to labor trafficking investigations and prosecutions; and
- Identify tips and tools to help build these strategic partnerships.



Today's Presenters

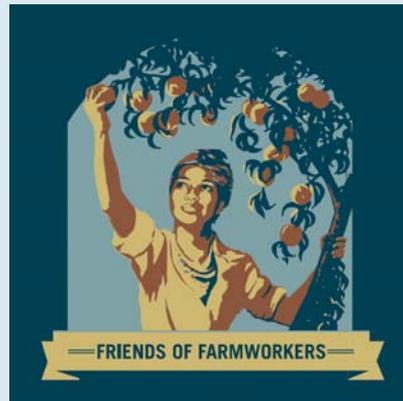
Esther Del Toro Oliver



Colleen Owens



Meredith Rapkin



About the Urban Institute and John Jay College of Criminal Justice

- Urban Institute
 - Our mission is to open minds, shape decisions, and offer solutions through economic and social policy research.
 - For nearly 50 years, Urban has collaborated with philanthropists, social services providers, community advocates, businesses, and federal, state and local leaders.
- John Jay College of Criminal Justice
 - A community of motivated and intellectually committed individuals who explore justice in its many dimensions.
 - We foster an inclusive and diverse community drawn from our city, our country, and the world.
 - We are dedicated to educating traditionally underrepresented groups and committed to increasing diversity in the workforce.



Hidden in Plain Sight: The Comprehensive State of Labor Trafficking in the U.S.

- Urban Institute and Northeastern University
- National Institute of Justice-funded study
- January 2012 – June 2014
- Partnership with Freedom Network
- Advisory Board of multiple stakeholders



About the Study

- Research Questions
 - 1.) What is the nature of the labor trafficking victimization in the U.S.?
 - 2.) How are domestic and international labor trafficking syndicates operating in the U.S. organized?
 - 3.) What are the challenges of law enforcement investigation and why do so few cases that are identified by service providers get investigated or prosecuted by local or state law enforcement?
- Research Design
 - Multi-method approach
 - Unit of analysis
 - Site identification and selection
- Sampling Frame
- Limitations



Labor Trafficking Survivor Characteristics

Top 6 Countries	n=122
Mexico	34%
Philippines	16%
Thailand	7%
India	9%
Indonesia	4%
Guatemala	4%
Other	27%

- 100% of sample were non-US citizens
- 29 different countries of origin



Labor Trafficking Survivor Immigration Status

	Upon Entry to United States	At time of services
	N=111	N=113
Nonimmigrant visa	71%	28%
Unauthorized		69%
Permanent resident		1%
Resident alien		1%
Asylee		1%
Note: Percentages shown above are based on non-missing cases		



Non-Immigrant Visa at Time of Entry to U.S.

Visa Type	N=58 (%)
H-2A /H-2B	59%
B1/B2	24%
A3	5%
G5	3%
J1	3%
CID	2%
E2	2%
P3	2%



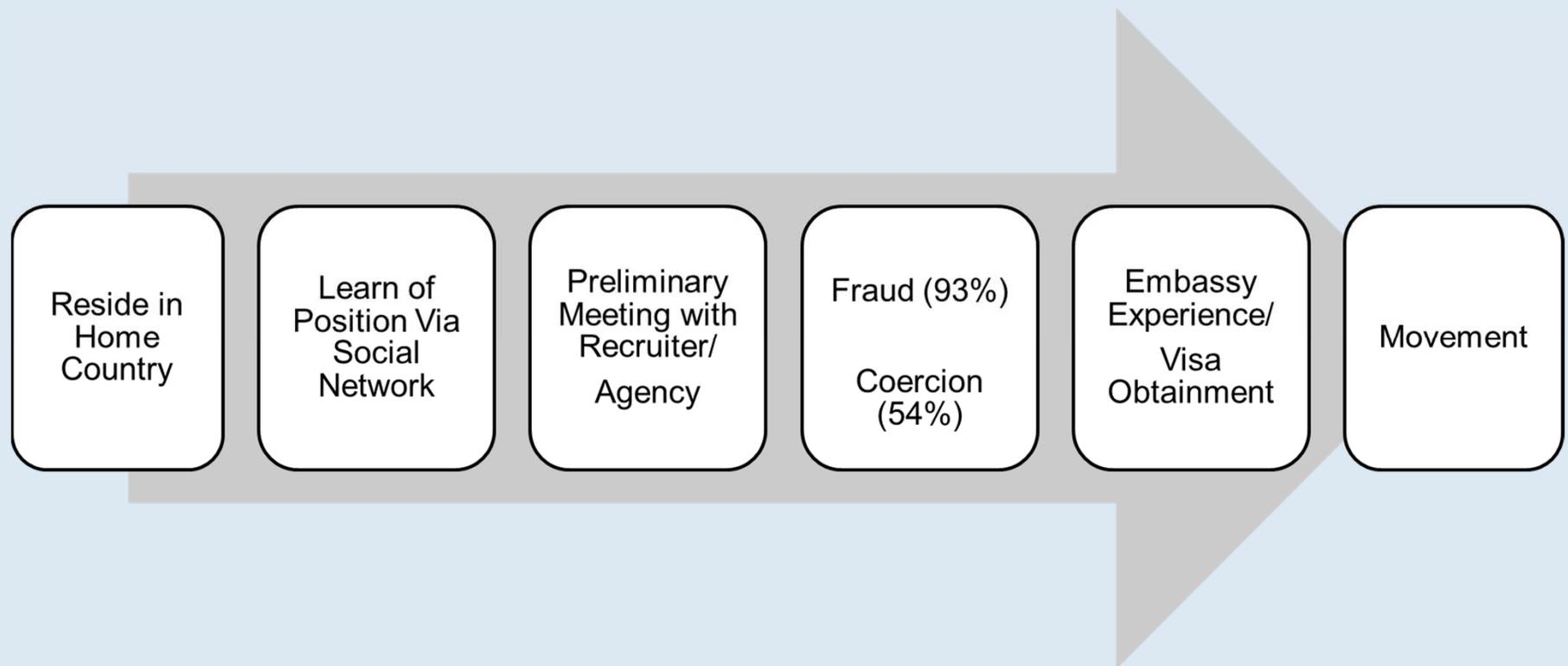
Labor Trafficking Venues/Industries

	N=122
Private Residence/Domestic Servitude	37%
Agriculture	19%
Restaurants	14%
Hospitality	10%
Construction	10%
Carnivals/fairs	7%
Factories	4%
Assisted living	3%
Strip clubs	2%
Massage parlors	1%
Note: 4% of the sample was labor trafficked in more than one industry.	

- Regulated and unregulated industries
- Low-wage industries
- Hidden and public
- Sexual services and non-sexual services
- Gender differences by venue



Recruitment into Labor Trafficking by Workers Entering the U.S. with Visas



Characteristics Of Recruitment

- High levels of fraud (93%) and coercion (54%)
- 48% paid recruitment fees (up to \$25,000)
 - 36% paid \$10,000 and above
 - Average \$6,150
- 57% of recruiters involved in other stages
- 54% recruited as a group; 46% individual
- 28% promised less than federal minimum wage



Frequency of Victimization Experiences

90% experienced 8+ forms of victimization

94% aware they were being abused

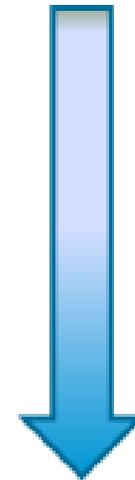
	(%)
Two Forms	1%
Five Forms	1%
Six Forms	5%
Seven Forms	3%
Eight Forms	10%
Nine Forms	1%
Ten Forms	3%
Eleven Forms	7%
Twelve Forms	4%
Thirteen Forms	10%
Fourteen Forms	16%
Fifteen Forms	22%
Sixteen Forms	10%
Seventeen Forms	6%



Labor Exploitation and Labor Trafficking

	Yes
Less Pay Than Promised	83%
Withheld Pay	81%
Under Minimum Wage	80%
Denial of Pay	80%
Illegal Deductions	62%
No written earnings statement	62%
Safe water, toilet	30%
Hazardous Work Environment	16%
No meal breaks	42%
Movement to work controlled	80%
Victim lived where worked	56%
Depriving/Disorienting	84%
Threats or use of Violence	82%
Demoralizing	82%
Diminishing Resistance	70%
Intimidation and Control	80%
Deception of Consequences	71%
Use/Threatened Use of law	71%

**Labor
Exploitation**



**Labor
Trafficking**



Survivor Escape Experiences

- Most victims (59%) escaped by running away. However, the support of community members (38%), service providers (21%), friends, family, colleagues (20%) and law enforcement (19%) were also important.
- 7% of victims self-reported to police.
- 14% of victims were arrested by police (most commonly for immigration violations).
- Physical barriers, psychological abuse and law enforcement lack of education/training create challenges in escaping.
- Victims' fear of deportation made victims reluctant to contact law enforcement.



Suspect Criminal Justice Outcomes

- Criminal Network
 - Variation in criminal network sophistication across industries
 - More sophisticated networks associated with H2A/H2B (larger # of victims and suspects per case)
 - 36% attempted and actual sexual abuse (more common in domestic servitude)
 - 23% had weapons (10% attempted murder)
 - Document fraud (17%) and smuggling (14%)
- Criminal Justice Outcomes
 - No evidence of arrest for over half of all suspects (51%)
 - DOL fines in only 1 case
 - In 6% of cases suspects not arrested or cases dismissed due to suspect status as a diplomat



Poll #1

Have you worked on a labor trafficking case that resulted with a conviction, restitution or civil damages? (Please check all that apply)

- A. Yes, a criminal case at the federal level
- B. Yes, a criminal case at the state level
- C. Yes, a civil case
- D. No
- E. Other, please respond in the chat box



Questions from Participants

- Do you have any questions for Colleen before we introduce our next presenter?
 - Please ask in the chat box below.



About Friends of Farmworkers

- Mission: We support low wage workers as they pursue economic and social justice.
- Services: Free legal aid, community education & impact litigation & advocacy
- Priorities:
 - stopping wage theft
 - protecting workers from unsafe and unhealthy work conditions
 - remedying retaliation against workers for exercising their legal rights
 - remedying discrimination in employment and housing on the basis of race, national origin, sex, disability or familial status
 - **assisting victims of workplace exploitation, forced labor and other crimes**
 - protecting victims of immigration fraud scams
- Population Served: Low-wage immigrant workers across PA



Victim Identification

- We are successful because we have built trust & we work hard to maintain that trust.
 - Work closely with community and church groups
 - Farm labor camp outreach
 - DV, SA Victim Service providers
- We commonly identify victims who come to us about a problem at work and as the facts develop we are able to recognize the issue as a potential trafficking situation.
 - Consider the importance of the questions you ask
 - Ensure a shared understanding of the language used



WOMEN, WORK AND HARASSMENT



In 2009, more than 100 women working in Iowa meatpacking plants completed an anonymous survey about whether they had experienced **sexual harassment or sexual violence on the job**. Here are the results of those surveys.



26% of the women said they were **threatened with being fired or demoted** if they resisted a boss or co-worker's advances.



30% said they were **propositioned for sex at work**.



41% said they experienced **unwanted physical contact** on the job.



56% said co-workers or bosses made **comments about their bodies**.



84% said they experienced **one or more forms of sexual harassment** at work.



91% said immigrant women **don't report** sexual harassment or sexual violence in the workplace.

When asked why such behavior is not reported, the women cited these reasons:

- **Fear of losing a job**
- **Fear of deportation**
- **Fear of being blamed for the abuse**
- **Shame**

CREDIT: Surveys conducted by ASISTA, a clearinghouse for attorneys and organizations that advocate for immigrants struggling with domestic violence and sexual assault. Survey analysis by Grace Rubenstein and The Center for Investigative Reporting's Agustin Armendariz.



Common Red Flags in Victim Identification

- Consistent failure to pay promised wages, minimum wage, or overtime
- Significant deductions from pay
 - Consistently failing to pay for all hours worked
 - High charges for rent and/or food
 - Charges for equipment, transportation, uniforms, etc.
 - Pay deductions as punishment or discipline
- Required to live in (and pay rent for) housing owned by employer
- Pay-to-play for work assignments
- Promises to help workers get a permanent status in the U.S.
- Withholding passports, Social Security Cards or other identification



Factors to Consider in a Trauma-Informed Approach

1. Isolation and Fear
2. Immigration Status
3. Poverty
4. Prior Trauma & Threats of or Use of Physical Force
5. Lack of Information & Cultural Barriers



Poll #2:

Many workers who are labor trafficked enter the U.S. on temporary work visas (H2A and H2B Visas). How much do you think they pay, on average, in recruitment fees to secure the job?

- A. \$500
- B. \$3,000
- C. \$6,000
- D. \$8,500



Understand the Power Dynamics



Questions from Participants

- Do you have any questions for Meredith before we introduce our next presenter?
 - Please ask in the chat box below.



About The Wage and Hour Division, DOL

- The WHD is a civil law enforcement agency tasked with the enforcement of a number of federal laws including:
 - Fair Labor Standards Act
 - Family Medical Leave Act
 - Migrant Seasonal Protection Act
 - Davis Bacon and other related government contract laws
 - Responsibility under the Immigration and Nationality Act for enforcement over certain nonimmigrant visas such as H-2A, H-2B and H-1B
- The agency has over 200 offices across the country dedicated to protecting the rights of vulnerable workers.



About The Wage and Hour Division, DOL (cont.)

- In 2011, the Secretary of the Department of Labor delegated the authority to issue U visa certifications to victims of certain qualifying criminal activity to the WHD Regional Administrators.
- The authority for the WHD's ability to issue visa certifications emanates from Department of Homeland Security regulations which list the Department of Labor as a certifying agency.
- In 2015, the WHD began issuing T visa certifications to victims of a severe form of trafficking.
- The WHD's ability to issue visa certifications is completely discretionary.



Criteria for Visa Review by WHD

U and T Visa Certifications may be reviewed if the following criteria take place:

1. Existence of an employment relationship;
2. Allegation of a violation of a law enforced by the WHD;
and
3. Allegation of a criminal activity.



Visa Certification from WHD

The WHD may issue a visa certification if it detects that an individual is a victim of any of the following criminal criteria which typically arise in an employment setting:

- Extortion
- Forced Labor
- Fraud in Foreign Labor Certification
- Involuntary Servitude
- Obstruction of Justice
- Peonage
- Trafficking
- Witness Tampering



Working with WHD

- Requests for investigation of alleged violations may be filed directly with the WHD office having jurisdiction over the place of employment (<https://www.dol.gov/whd/america2.htm>).
Tel. 1-866-4USWAGE (1-866-487-9243)
- If in the course of conducting any investigation, the WHD detects the occurrence of criminal activity, the WHD may refer the matter to other law enforcement.
- Additionally, the WHD may provide support to other law enforcement agencies that may refer the occurrence of wage and hour violations in order to calculate back wages for impacted workers.



Poll #3

True or false, The Wage and Hour Division is a criminal enforcement agency?

- A. True
- B. False



Questions from Participants

- Do you have any questions for Esther before we introduce a case example?
 - Please ask in the chat box below.



A Case Example – *Oasis Paletteria*

- Frozen treats manufacturer sponsored dozens of seasonal workers under the H-2B visa program.
- Workers were required to pay exorbitant recruitment fees. Upon arrival workers were stripped of their immigration documents. Employer required workers to live in apartments that were overcrowded and charged excessive rent from each worker.
- Workers were required to work more than 10 hours per day, 6-7 days per week. Workers earned approximately \$20 per day.
- The employer was charged with engaging in visa and mail fraud.



A Case Example – *Oasis Paeteria* (cont.)



Poll #4

Do you investigate, prosecute or provide victim services in labor trafficking cases within a multidisciplinary team?

- A. Yes, we work through formal partnerships (MOUs)
- B. Yes, we work through informal agreements
- C. Both A and B
- D. No, but we are hoping to form a multidisciplinary team
- E. Other: please respond in the chat box



Poll #5

If you work with a multidisciplinary team, who are the team members? (Please check all that apply)

- A. Local, state, federal law enforcement
- B. Prosecutors
- C. Victim's attorneys
- D. Victim service providers
- E. Other: please respond in the chat box



Key Points from Our Presenters

Join the conversation:

Ask in the chat box below.

Send an email to

humantrafficking@ovcttac.org



Poll #6

What learning objective would you like to hear more about?

- A. Describe the relationship between labor trafficking and related criminal and civil violations such as workplace violations, labor exploitation, fraud in foreign labor recruitment, as well as the intersection with sexual and domestic violence.
- B. Identify creative strategies and partnerships for conducting outreach to vulnerable populations that may be isolated or in low-visibility areas.
- C. Consider tactics to proactively identify labor trafficking victims to initiate labor trafficking investigations.
- D. Understand the importance of multidisciplinary collaboration to ensure an efficient and victim-centered response to labor trafficking investigations and prosecutions; and
- E. Identify tips and tools to help build these strategic partnerships.



Facilitated Discussion and Audience Q&A

Join the conversation:

Ask in the chat box below.

Send an email to

humantrafficking@ovcttac.org



Overcoming Identification, Investigative, and Prosecutorial Challenges

Join the conversation:

Ask in the chat box below.

Send an email to

humantrafficking@ovcttac.org



The Intersection Between Labor Trafficking and Other Crimes

Join the conversation:

Ask in the chat box below.

Send an email to

humantrafficking@ovcttac.org



Tips and Tools for Outreach and Collaboration

Join the conversation:

Ask in the chat box below.

Send an email to

humantrafficking@ovcttac.org



Thank You!

International Association of Chiefs of Police

- humantrafficking@theiacp.org
- 1-800-THE-IACP/(1-866-843-4227) x831

The Office for Victims of Crime Training and Technical Assistance Center

- humantrafficking@ovcttac.org
- 1-866-OVC-TTAC/(1-866-682-8822)

