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@ovctac.org for technical assistance.
Labor Trafficking: Improving Victim Identification

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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

<table>
<thead>
<tr>
<th>Top 6 Countries</th>
<th>n=122</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mexico</td>
<td>34%</td>
</tr>
<tr>
<td>Philippines</td>
<td>16%</td>
</tr>
<tr>
<td>Thailand</td>
<td>7%</td>
</tr>
<tr>
<td>India</td>
<td>9%</td>
</tr>
<tr>
<td>Indonesia</td>
<td>4%</td>
</tr>
<tr>
<td>Guatemala</td>
<td>4%</td>
</tr>
<tr>
<td>Other</td>
<td>27%</td>
</tr>
</tbody>
</table>

- 100% of sample were non-US citizens
- 29 different countries of origin
## Labor Trafficking Survivor: Immigration Status

<table>
<thead>
<tr>
<th></th>
<th>Upon Entry to United States</th>
<th>At time of services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=111</td>
<td>N=113</td>
</tr>
<tr>
<td>Nonimmigrant visa</td>
<td>71%</td>
<td>28%</td>
</tr>
<tr>
<td>Unauthorized</td>
<td></td>
<td>69%</td>
</tr>
<tr>
<td>Permanent resident</td>
<td></td>
<td>1%</td>
</tr>
<tr>
<td>Resident alien</td>
<td></td>
<td>1%</td>
</tr>
<tr>
<td>Asylee</td>
<td></td>
<td>1%</td>
</tr>
</tbody>
</table>

Note: Percentages shown above are based on non-missing cases
Non-Immigrant Visa at Time of Entry to U.S.

<table>
<thead>
<tr>
<th>Visa Type</th>
<th>N=58 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>H-2A /H-2B</td>
<td>59%</td>
</tr>
<tr>
<td>B1/B2</td>
<td>24%</td>
</tr>
<tr>
<td>A3</td>
<td>5%</td>
</tr>
<tr>
<td>G5</td>
<td>3%</td>
</tr>
<tr>
<td>J1</td>
<td>3%</td>
</tr>
<tr>
<td>C1D</td>
<td>2%</td>
</tr>
<tr>
<td>E2</td>
<td>2%</td>
</tr>
<tr>
<td>P3</td>
<td>2%</td>
</tr>
</tbody>
</table>
## Labor Trafficking Venues/Industries

<table>
<thead>
<tr>
<th>Industry</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Residence/Domestic Servitude</td>
<td>37%</td>
</tr>
<tr>
<td>Agriculture</td>
<td>19%</td>
</tr>
<tr>
<td>Restaurants</td>
<td>14%</td>
</tr>
<tr>
<td>Hospitality</td>
<td>10%</td>
</tr>
<tr>
<td>Construction</td>
<td>10%</td>
</tr>
<tr>
<td>Carnivals/fairs</td>
<td>7%</td>
</tr>
<tr>
<td>Factories</td>
<td>4%</td>
</tr>
<tr>
<td>Assisted living</td>
<td>3%</td>
</tr>
<tr>
<td>Strip clubs</td>
<td>2%</td>
</tr>
<tr>
<td>Massage parlors</td>
<td>1%</td>
</tr>
</tbody>
</table>

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

1. Reside in Home Country
2. Learn of Position Via Social Network
3. Preliminary Meeting with Recruiter/Agency
4. Fraud (93%) / Coercion (54%)
5. Embassy Experience/Visa Obtainment
6. Movement
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

<table>
<thead>
<tr>
<th>Forms of Victimization</th>
<th>(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two Forms</td>
<td>1%</td>
</tr>
<tr>
<td>Five Forms</td>
<td>1%</td>
</tr>
<tr>
<td>Six Forms</td>
<td>5%</td>
</tr>
<tr>
<td>Seven Forms</td>
<td>3%</td>
</tr>
<tr>
<td>Eight Forms</td>
<td>10%</td>
</tr>
<tr>
<td>Nine Forms</td>
<td>1%</td>
</tr>
<tr>
<td>Ten Forms</td>
<td>3%</td>
</tr>
<tr>
<td>Eleven Forms</td>
<td>7%</td>
</tr>
<tr>
<td>Twelve Forms</td>
<td>4%</td>
</tr>
<tr>
<td>Thirteen Forms</td>
<td>10%</td>
</tr>
<tr>
<td>Fourteen Forms</td>
<td>16%</td>
</tr>
<tr>
<td>Fifteen Forms</td>
<td>22%</td>
</tr>
<tr>
<td>Sixteen Forms</td>
<td>10%</td>
</tr>
<tr>
<td>Seventeen Forms</td>
<td>6%</td>
</tr>
</tbody>
</table>
## Labor Exploitation and Labor Trafficking

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

- **ECONOMIC ABUSE**: Creates debt that can never be repaid • Takes money earned • Prohibits access to finances • Limits resources to a small allowance
- **USING PRIVILEGE**: Treats victim like a servant • Uses gender, age or nationality to suggest superiority • Uses certain victims to control others • Hides or destroys important documents
- **PHYSICAL ABUSE**: Shoves, slaps, hits, punches, kicks, strangle • Burns, brands, tattoos • Denies food/water • Exposes to harmful chemicals • Forces pregnancy termination • Induces drug addiction as means of control
- **COERCION and THREATS**: Threatens to harm victim or family • Threatens to expose or shame victim • Threatens to report to police or immigration
- **INTIMIDATION**: Harms other victims, children or pets • Displays or uses weapons • Destroys property • Lies about police involvement in trafficking situation
- **EMOTIONAL ABUSE**: Humiliates in front of others • Calls names • Plays mind games • Makes victim feel guilty/blame for situation • Convinces victim they’re the only one that cares about them
- **ISOLATION**: Keeps confined • Accompanies to public places • Creates distrust of police/others • Moves victims to different locations • Doesn’t allow victim to learn English or to go to school • Denies access to children, family and friends
- **SEXUAL ABUSE**: Uses sexual assault as punishment or means of control • Forces victim to have sex multiple times a day with strangers • Treats victim as an object for monetary gain • Normalizes sexual violence and selling sex
- **DENYING, BLAMING, MINIMIZING**: Makes light of abuse or exploitation • Denies that anything illegal or exploitative is occurring • Places blame on the victim for the trafficking situation

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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 Paleteria

- 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 Paleteria* (cont.)

1. Victim contacts Human Trafficking Hotline

2. Advocacy group requests visa certification from WHD

3. Wage and hour violations referred to District Office

4. District Office together with DOJ and local law enforcement conduct investigations

5. Back wages are collected for over 70 employees; criminal charges filed
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
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)