

Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases

Executive Summary



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EXECUTIVE SUMMARY

Over the past two decades, the American public has become increasingly concerned about the problem of human trafficking. In response, federal and state legislatures have passed laws to promote the identification of and assistance to victims, and to support the investigation and prosecution of human trafficking perpetrators. In 2000, the federal government passed the *Victims of Trafficking and Violence Protection Act (TVPA)*. This law defined a new set of crimes related to human trafficking and enhanced penalties for existing offenses, such as slavery, peonage, and involuntary servitude. Since passage of the *TVPA*, 49 states have enacted legislation criminalizing human trafficking.

Despite the attention and resources directed at combating this crime, reports indicate that fewer cases of human trafficking have been identified and prosecuted than would be expected based on estimates of the problem, causing speculation that the provisions of federal and state anti-human trafficking laws are not being enforced by government officials and that law enforcement agencies are not working together to confront the problem. Still others suggest that the incidence of human trafficking is grossly overestimated. Previous research has documented the challenges that state and local law enforcement faces in identifying human trafficking cases,¹ but we do not yet know which practices would improve the ability of local agencies to identify, investigate, and successfully prosecute human trafficking cases. This study seeks to fill these gaps. Using a multi-method approach to examining the way local and state police, prosecutors, and courts investigate and prosecute human trafficking cases, we discuss challenges to the identification and investigation of these difficult cases, and propose strategies for overcoming the barriers to investigation and prosecution of human trafficking cases in the U.S.

Research Questions and Methodology

We used multiple methodologies to answer focal research questions and related sub-questions. These methodologies, which are described in more detail in Chapter Two of this report, include:

- Analysis of quantitative data from the records of 140 closed federal and state human trafficking cases. Case records were collected and analyzed to help us identify which characteristics of human trafficking cases attract the attention of local law enforcement and which factors predict different types of adjudicatory outcomes.

Focal research questions

1. What are the characteristics of local human trafficking investigations and prosecutions?
2. Do certain types of human trafficking offenses or features of the offense predict prosecution under new human trafficking laws or other criminal offenses?
3. What are the organizational, structural, or cultural factors that inhibit or facilitate the prosecution of human trafficking cases?

¹ See “Where Are All the Victims? Understanding the Determinants of Official Identification of Human Trafficking Incidents,” by Amy Farrell, Jack McDevitt and Stephanie Fahy, 2010, *Criminology and Public Policy*, 9(2), 201-233, and *Finding Victims of Human Trafficking*, by Phyllis Newton, Timothy Mulcahy, and Susan Martin, 2008, Bethesda, MD: National Opinion Research Center.

- Descriptive analysis of information from incidents that were not classified as human trafficking but that may contain elements of human trafficking, in order to understand how often local agencies misidentify potential cases of human trafficking.
- Analysis of qualitative data from interviews with 166 law enforcement officers, prosecutors, victim services representatives, and other criminal justice system stakeholders. Stakeholder interviews were used to help understand the challenges and barriers that local communities face in identifying, investigating, and prosecuting cases of human trafficking.

We collected data at twelve study sites. To select these sites, we utilized a multi-stage sampling approach that identified states with particular characteristics and then conducted a targeted sampling of counties within each type of state. We divided the states into three categories: (1) states with basic anti-trafficking legislation (criminalization only), (2) states with comprehensive anti-trafficking legislation (criminalization, training, and victim services), and (3) states without anti-trafficking legislation. Next, we divided the states into those that had a federally funded human trafficking task force and those that did not. See Figure 2.2 in the main report for an illustration of this breakdown.

We used multiple sources of data to identify counties that had investigated at least one case of human trafficking in our six-state sampling strata. Next, we conducted preliminary screening interviews with the law enforcement personnel in those counties who were most knowledgeable about trafficking. These interviews helped us assess the level of human trafficking training, the existence of protocols or policies, the number and type of cases identified, and the arrest and adjudication status of identified suspects in each county. Based on data collected during the interviews, we selected twelve counties that provided variation across the sampling strata, regional variation, and a sufficient number of cases to warrant investigation. We also conducted interviews with stakeholders in three counties where law enforcement agencies had *not* investigated human trafficking cases, to better understand the challenges that agencies face in identifying cases. To protect the confidentiality of the respondents at each study site, the names of the counties have been replaced with a unique identifier that describes the county legislation and task force type as well as region.

Findings

Findings from the analyses of multiple sources of data are divided into five main sections, which we describe in more detail below. We examine the characteristics of closed human trafficking cases, and describe the relationships between case characteristics and community and organizational-level characteristics that may affect identification, investigation, and prosecution. We then examine the challenges of identifying, investigating, and prosecuting human trafficking cases in both state and federal courts based on our interviews with law enforcement, prosecutors, and victim service stakeholders.

Human Trafficking and Non-Trafficking Case Reviews

We analyzed data from 140 closed case files collected from local law enforcement in the twelve counties studied to understand the characteristics of cases investigated, as well as differences in key case characteristics across sites. The characteristics we examined included: type of exploitation, method of identification by law enforcement, location of the incident, indicator of trafficking, the level of collaboration within and among investigative agencies, demographic characteristics of victims and suspects, length of investigation, evidence collected, services provided to victims, and information about the arrest, indictment, and prosecution of trafficking suspects. We also conducted bivariate analyses to understand the relationships between various case characteristics and such case-processing outcomes as arrest, prosecution, and conviction. Our sample is not representative of human trafficking cases at the national level. As a result, ***the findings described here are not reflective of national trends and should not be used to draw conclusions about nationwide patterns of human trafficking prosecutions.***

In addition to collecting information about the characteristics of the investigation, we reviewed each case record to determine whether or not there was evidence in the description of the criminal incident supportive of human trafficking, as outlined in the TVPA and its subsequent reauthorizations. We identified eleven separate indicators representing elements of human trafficking victimization, including force or threats of force, deceiving victims about consequences, demoralization of victims, and domination of victims. With few exceptions, multiple legal elements necessary to prove human trafficking under federal law were present in the incident files across all sample counties. In real terms, this means that indications of high rates of violence, sexual and emotional abuse,

Characteristics of cases reviewed

The patterns described below should not be generalized beyond the counties studied.

The overwhelming majority of cases identified by law enforcement were sex trafficking cases (85% of 140 cases). A much smaller percentage of all investigated cases of human trafficking were labor trafficking (11%) or both labor and sex trafficking (4%).

- **The most common way a case of human trafficking came to the attention of law enforcement was through a tip.** Thirty-nine percent (39%) of all human trafficking cases began as tips to police. The source of the tips varied widely. This reactive approach was more pronounced in cases of labor trafficking, 64% of which began as tips. Self-report by victims and victims' family members were infrequent sources of information about cases, as were cases identified through investigations or stings.
- **Victims:** Nearly all identified sex trafficking victims were female. There was a more even distribution of labor trafficking victims, with 48% female and 52% male. Nearly 80% of sex trafficking victims were under 20 years of age. Despite their youth, approximately one-third (35%) of sex trafficking victims were arrested by local or federal law enforcement. Labor trafficking victims were generally older than sex trafficking victims (36% of labor trafficking victims were over the age of 40, compared to 7% of sex trafficking victims). While in the majority of sex trafficking cases victims were U.S. citizens, four out of five labor trafficking victims (81%) were non-U.S. citizens.
- **Suspects:** The majority of suspects in all types of human trafficking cases were male (70%), with relatively no difference by type of trafficking. The average age of suspects in sex trafficking cases was 33. This was approximately 8 years younger than the average age (41) of suspects in labor trafficking cases. On average, 81% of suspects in all types of human trafficking cases in this sample were arrested; however, arrest rates drop to 69% for suspects in labor trafficking cases.

exploitation, threats, and trafficker financial gain were found in the investigative files of these human trafficking cases across all sites, regardless of whether cases were ultimately classified as trafficking and moved forward to prosecution. Below are highlights from the review of indicators of human trafficking across cases. It is important to remember that our sample included only cases that had come to the attention of law enforcement; the sample thus cannot be generalized to all human trafficking incidents.

- The most common legal elements of trafficking we found were the presence of a pimp/trafficker, the sex trafficking of minors, and evidence of a trafficker's financial gain through sex trafficking, which occurred in one-half to almost two-thirds of all case records reviewed across sites.
- Most cases contained more than one indicator of trafficking in the case record. On average, each case reviewed for this study contained 5 indicators of human trafficking. Sex trafficking cases on average had 5 indicators, labor trafficking cases had 4 indicators, and sex and labor trafficking cases had 6 indicators.
- In cases where there was an arrest, there were, on average, 6 indicators present, compared to only 3 indicators in those cases where there was no arrest. Similarly, cases that went forward to either state or federal prosecution had more trafficking indicators (6) on average than cases that were not prosecuted (3).

Finally, we examined how closed human trafficking cases had been processed through the criminal justice system, and explored the factors that were associated with prosecution.

- 69% of all cases in our sample went forward to prosecution on *any type* of criminal charge. Cases disproportionately involved sex trafficking, but prosecution was more common in the small number of labor trafficking cases (80%) than sex trafficking cases (68%).
- ***Despite the existence of evidence of human trafficking in the majority of cases we reviewed, few of the suspects in these cases were actually charged with either state or federal human trafficking offenses.*** Seven percent (7%) of the reviewed cases resulted in a sex trafficking charge, 9% in a sex trafficking of a minor charge and 2% labor trafficking

Predictors of arrest, charging, and adjudication

We found the following relationships between case, victim, and suspect characteristics and state or federal prosecutions:

- Suspects in cases where there was a minor victim were more likely to be arrested and prosecuted than were suspects in cases without minor victims.
- Suspects were more likely to be arrested and prosecuted in cases where there was evidence that the suspect knowingly benefitted financially from human trafficking.
- Labor trafficking suspects were less likely to be arrested than were sex trafficking suspects. *This conclusion must be viewed cautiously due to the small number of labor trafficking cases studied.*
- Labor trafficking suspects were less likely to be found guilty than either sex trafficking suspects or suspects in cases of both sex and labor trafficking.

charge, suggesting that despite new state laws on human trafficking, state and federal prosecutors continue to charge human trafficking offenders with other types of crimes.

- ***The most common state charges were compelling or promoting prostitution, and the most common federal charge was the transport of persons for the purposes of prostitution.***
- With respect to the charge, sites with comprehensive legislation were most likely to indict suspects on some type of state criminal charge (35%), compared to those sites with basic legislation (22%) or no legislation (30%). As might be expected, a slightly larger proportion of cases in states with no legislation were charged at the federal level (54%), compared to states with comprehensive legislation (51%) or basic legislation (47%).

In addition to reviewing closed human trafficking cases, we examined incident reports of a sample of cases that were not identified as human trafficking but which may have contained indicators of human trafficking crimes (referred to in the report as the “non-trafficking case review”) to see how often police agencies misclassify incidents that come to their attention. We reviewed offenses that were similar to human trafficking and thus liable to be misclassified. Prostitution offenses were selected to gauge under identification of sex trafficking, and extortion and harboring offenses were selected to gauge under identification of labor trafficking. Across the study sites, we reviewed 530 incident reports, 396 of which involved prostitution offenses, and 134 of which involved extortion, harboring, or other offenses. Ninety-one percent (91%) of the incident reports we reviewed contained no evidence of human trafficking, 6% of the incident reports not classified as human trafficking contained clear evidence of human trafficking elements, and another 3% contained some evidence of human trafficking, but it was less clear. ***It is important to note that the level of misclassification identified at our study sites is likely conservative, since our review only included the information available in incident reports. These reports may not have included important indicators of human trafficking if officers were not trained to look for them.*** There were more elements of human trafficking found in prostitution incident reports than in extortion and harboring incident reports. Nearly 10% of the prostitution incident reports contained some evidence of human trafficking elements compared to 4% of the extortion and harboring incident reports.

Conclusions about misclassification of human trafficking cases

While all sites in our study appear to have misclassified some incident reports that had elements of human trafficking victimization as other types of crimes, misclassification of human trafficking cases was generally uncommon.

From our review of incident reports, it appears that the relatively low numbers of identified human trafficking cases in our study sites was not mainly attributable to misclassification of known crimes.

In addition to reviewing case records, we conducted in-depth interviews with 166 respondents from local, state, and federal law enforcement, state and federal prosecution, victim service providers, and other court stakeholders. In the following sections we review challenges and

propose recommendations associated with the identification, investigation, and prosecution of human trafficking cases at our twelve study sites.

Identifying Human Trafficking Cases

The identification of human trafficking suspects and victims is one of the most significant challenges facing U.S. law enforcement agencies. By identification, we are referring to the way human trafficking cases come to the attention of law enforcement officers and are classified as crimes of human trafficking, rather than as other crimes with similar elements, such as prostitution or extortion.

Interviewees commonly asserted that a major challenge inherent in human trafficking cases is that human trafficking involves hiding and moving victims. ***Although in most criminal cases, police are alerted to the existence of the crime by either victims or witnesses affected by the crime, this type of reactive identification practice is much less effective in cases of human trafficking cases.*** Victims are hidden by their exploiters and by others who come into contact with them and benefit from their exploitation. Additionally, victims of human trafficking often do not self-identify as victims, because they know that an activity they have engaged in, such as prostitution or illegal entry into the United States, is against the law. In these cases, human trafficking victims are unlikely to report their victimization to the police or seek help from service providers who could notify law enforcement. Another challenge associated with identification is that some victims rely on or have an intimate connection with their exploiter, who has perhaps threatened them or their family. Victims may also be afraid to identify themselves as victims due to prior interactions with the police. Moreover, in the rare cases where victims do self-identify to law enforcement, they are frequently treated as offenders and arrested.

A second set of factors that inhibit identification of human trafficking cases are cultural and organizational characteristics of police agencies. These factors include a general failure of local communities to prioritize the problem of human trafficking and the subsequent low prioritization of such crimes by law enforcement agencies. Additionally, law enforcement agencies lack resources to devote to training, staffing, and investigating human trafficking cases that can be resource-intensive. Training of patrol officers and other first responders most likely to encounter situations of human trafficking was especially needed. Lack of trauma-informed interviewing techniques and foreign language capacity also impede the identification of these cases.

Investigating Human Trafficking Cases

Overcoming challenges that may prevent the *identification* of human trafficking cases is just the first step in the process of moving trafficking cases forward to prosecution. There are also a number of challenges, unique to the crime of human trafficking, that can impede efforts to *prosecute* trafficking cases.

Law enforcement officers across all study site types (i.e., agencies that are in sites with different types of legislation both with and without task forces) reported that victim statements are the most important element of a human trafficking investigation, even when they have additional corroborating evidence. Trafficking victims are often reluctant to cooperate in a criminal investigation, due to fear of retaliation by the trafficker, distrust of law enforcement, or a lack of viable alternatives to their trafficking situation. Even in cases where the victim is cooperating with authorities, prosecutors may be reluctant to take the case if they think the victim lacks credibility.

Reluctance on the part of prosecutors to take trafficking cases in turn led to an institutional resistance from law enforcement to investigate cases of human trafficking that they felt would never result in a prosecution.

Challenges police face in the investigation of cases of human trafficking

- Securing evidence from victims and corroborating that evidence.
- Investigating cases in which the credibility of victims is in question.
- Overcoming institutional resistance when human trafficking investigations do not result in prosecutions.

Human trafficking victims often suffer from trauma-related symptoms and require a wide range of services to address a variety of needs before they are in a condition to cooperate with authorities. Many of the sites included in this study reported a lack of specialized services for human trafficking victims: particularly secure housing. Consequently, law enforcement often resorted to tactics normally reserved for suspects such as arresting victims. This tactic may fail to have the desired effect, since victims who are treated like suspects, even for their own protection, may feel as though they are being re-victimized, which only results in further distrust of law enforcement and an increased reluctance to cooperate in an investigation. ***Law enforcement agents indicated that victims who believed they had no viable alternative to their trafficking situation were less willing to cooperate with authorities. Many law enforcement officials and service providers reported that having a long-range plan in place for victims whose only means of survival was with their trafficker can impact the likelihood of victim cooperation in an investigation.*** Finally, investigators trained in investigating cases of human trafficking and interviewing trafficking victims reported that they had more success building cases and moving cases forward to prosecution.

State Prosecution of Human Trafficking Cases

State law enforcement and prosecutors repeatedly cited a lack of precedent and case law on human trafficking as a major deterrent to prosecuting a case using state human trafficking statutes. Often the prosecutors we spoke with were the first in their state to prosecute a case using state anti-trafficking laws; and in a number of locations, we encountered several local prosecutors who were unaware that their state had a human trafficking statute, or were unaware of the specific elements of the statute.

Many state and local prosecutors were operating on their own with little or no legal guidance concerning such things as prosecutorial techniques, how to handle common defense tactics, or sample jury instructions. At every study site, when prosecutors who had taken human trafficking cases to trial using state anti-trafficking laws were asked where they went for guidance on jury instructions, they said they created them themselves and had wished they had a resource or fellow state prosecutor to consult.

Even if state prosecutors accepted human trafficking cases for prosecution, they were more likely to prosecute cases using existing laws that they (and judges and juries) were more familiar with, such as rape, kidnapping, pandering, or promoting prostitution. In some states, prosecutors may have felt comfortable or willing to go with state anti-trafficking charges, but decided against it if other non-trafficking charges carried higher penalties than state anti-trafficking charges. Many prosecutors cited the fear of losing high-profile cases and the resulting damage to their reputation as reasons for their decision to prosecute human trafficking cases with non-human trafficking charges.

Reliance on federal prosecution for labor trafficking cases

A majority of the labor trafficking cases we reviewed were prosecuted at the federal level. ***No state prosecutors we spoke with had prosecuted a case of labor trafficking using state anti-trafficking laws.***

Prosecutors suggested that labor trafficking cases were better handled at the federal level due to the immigration issues facing victims and suspects. This was the case even if the state had a law specifying a crime of labor trafficking. State prosecutors commonly suggested that they did not know who within their agency would handle labor trafficking cases.

Interviews with state and local prosecutors revealed that the background characteristics and personal circumstances of human trafficking victims often influenced the prosecution of human trafficking cases at the state level. In some instances, a victim's background (e.g., whether a victim came from an unstable home without supportive parents or guardians) caused prosecutors to dismiss or overlook human trafficking cases. In instances where prosecutors accepted human trafficking cases for prosecution, a victim's background also affected whether a case was prosecuted or amended to lesser, non-trafficking charges. These challenges were more prominent in cases where prosecutors felt their agencies lacked the resources to support victims adequately, or when there was a lack of support from their agency for the time and resources necessary to bring such cases forward to trial.

Prosecutors in all jurisdictions overwhelmingly described victim reluctance to testify or lack of cooperation as the biggest challenge they faced prosecuting human trafficking cases. Often prosecutors reported that without a cooperating victim or, ideally, multiple cooperating victims, they would not proceed with a prosecution. The challenge of securing victim testimony is not unlike challenges faced when prosecuting domestic violence cases. In domestic violence cases, some prosecutors have been able to proceed with prosecutions even when victims were unwilling to cooperate, by using corroborating evidence, such as victim statements and 911 calls. However, some prosecutors interviewed for this study reported that the 2004 Supreme Court

ruling in *Crawford v. Washington* limited the introduction of statements by non-testifying victims and increased reliance on victim testimony.

In addition to these individual-level challenges, a series of institutional challenges to state-level prosecutions also inhibited cases from going forward. One of these involved the fact that most state and local prosecution agencies lacked an institutional infrastructure, such as a special unit dedicated to human trafficking. This was true at both task force and non-task force sites and for both labor and sex trafficking. Trained and dedicated prosecutors assigned to handle sex trafficking cases were more likely to handle child sex crimes cases, or to be situated within a sexual assault unit. While these prosecutors may have more training in sexual crimes cases than the average prosecutor, they also described problems with victim cooperation in sex trafficking cases that they had not encountered in the other sexual crimes cases they had prosecuted.

Given the cross-jurisdictional nature of many human trafficking cases (particularly sex trafficking cases), the need to travel to other jurisdictions was cited as an additional challenge for state prosecutors. State and local prosecutors and law enforcement, particularly in non-task force jurisdictions, reported that many cases of sex trafficking fell apart when, due to a lack of resources or institutional buy-in, they were unable to travel to other states to collect evidence or interview witnesses. Gaining the cooperation necessary to support case prosecution from law enforcement, prosecutors, or service providers in other jurisdictions was described as “hit-or-miss.” As a result, many stakeholders believed that since sex trafficking often involves the crossing of state lines, federal authorities had the resources and jurisdiction to investigate and prosecute these cases more effectively. However, even in task force jurisdictions, federal prosecutors were not always willing to take human trafficking cases (e.g., they may not take cases that involve a low number of victims or suspects) and, as a result, cases may fall through the cracks.

Some state prosecutors felt that the amount of time and resources necessary to investigate and prosecute both labor and sex trafficking cases was more suited to federal prosecution. ***State prosecutors overwhelmingly felt that labor trafficking cases should be prosecuted at the***

Promising State Prosecution Practices

Across study sites, we found a number of highly dedicated prosecutors and law enforcement officers who rose to the challenges cited here to help restore victims and bring traffickers to justice. These local champions found ways to overcome these challenges through perseverance and resourcefulness, as well as through existing personal relationships with victim service providers and other stakeholders in the criminal justice system. Some of the techniques they reported to be instrumental in securing successful prosecutions included:

- awareness-raising training for their colleagues and others dealing with the issue in their jurisdiction;
- use of corroborating evidence to buttress the testimony of victims and witnesses;
- use of expert witness testimony to help juries understand the victim’s experience; and
- understanding the crucial role of victim services, especially in finding safe housing for human trafficking victims.

federal level, given the international nexus that might be involved in certain cases and the possibility that victims might have unauthorized status. More often than not, potential cases of labor trafficking—in particular, cases in which local law enforcement suspected that offenders or victims were unauthorized immigrants—were immediately forwarded to the Department of Homeland Security, and therefore never came to the attention of state or local prosecutors.

The lack of state-specific training in how to investigate and litigate human trafficking cases was consistently cited as a barrier to prosecution. Although rare across sites, prosecutors who had received training or attended a conference were more likely to be from a state with a federally funded human trafficking task force. However, local prosecutors explained that federal prosecutors often lead trainings at these conferences. Although this has been useful, many prosecutors suggested it would be more helpful to network with and learn from other local prosecutors about how to use state-specific anti-trafficking laws. Others described many state and local conferences and events dedicated to general awareness-raising about human trafficking, but a dearth of specific legal training necessary for prosecutors and law enforcement to identify cases and collect the evidence necessary to move cases forward to prosecution.

Federal Prosecutions of Human Trafficking Cases

Despite a push from the U.S. Department of Justice to support the prosecution of human trafficking cases at the local and state level, many human trafficking cases identified by local law enforcement agencies at the time of this analysis were prosecuted at the federal level. Most state human trafficking legislation is new and “untested” when compared to the TVPA; thus, federal authorities are more experienced in moving these cases forward to prosecution, and there is a substantial body of federal case law to guide the prosecution of both sex and labor trafficking cases. There are some advantages to prosecuting human trafficking cases at the federal level, including more severe penalties. There are also some challenges to prosecuting human trafficking cases at the federal level. Many of these challenges are similar to the ones facing local and state prosecutors (e.g., unwilling or less credible victims); however, there are some unique challenges to prosecuting human trafficking cases at the federal level described in more detail below.

First, despite the prioritization of human trafficking by the Department of Justice and the Attorney General, federal prosecutors in the districts often do not accept human trafficking cases. Human trafficking cases pose substantial and unique challenges for federal prosecutors, including the need for different evidence than might be necessary for a state prosecution. The need for additional evidence of trafficking (most often multiple victims and/or offenders), even if there was one victim/witness willing to cooperate and testify in court, was a recurring theme in many of the interviews with both law enforcement and federal prosecutors. Federal prosecutors also specified that even when cases met a federal threshold, they might decide to reject cases if they believe that errors occurred during the earlier stages of the investigation.

Federal prosecutors cited a number of factors specific to the crime of human trafficking that posed important challenges to prosecuting these cases. These factors include: victim cooperation and credibility; the length of the process from the initial referral by law enforcement to sentencing; and ambiguity in the federal law, particularly with proving coercion. Several of the prosecutors interviewed for this study also found the federal law regarding human trafficking to be complicated and ambiguous. These individual case and legal challenges are often compounded by organizational challenges, such as lack of prioritization within the agency. Without agency/institutional support, few cases will move beyond the referral stage. Lastly, even if a prosecutor overcomes many of these challenges, and succeeds in moving a case forward to either the plea or trial stage, there are still challenges related to judges' reluctance to accept/rule on human trafficking cases and jury bias.

Conclusions and Recommendations

Throughout the study, the most significant challenges we uncovered were:

- **Lack of awareness among practitioners and the broader community:** There is a serious lack of understanding of the crime of human trafficking among police, prosecutors, judges, and juries, as well as members of the public and local officials. Due to this lack of understanding, when cases that involve elements of human trafficking victimization do come to the attention of actors in the criminal justice system, they often go unrecognized.
- **Reliance on reactive identification strategies:** Law enforcement officials in the study counties relied on traditional reactive strategies to identify cases of human trafficking. These strategies included waiting for victims to come forward and report their victimization or relying on non-governmental agencies or other law enforcement agencies to provide tips. Law enforcement often continued to rely on traditional sting operation models of vice investigations to generate cases of human trafficking. There were few active investigations of potential labor trafficking across study sites and no state prosecutions of labor trafficking.
- **Focus on sex trafficking:** An overwhelming majority of the cases of human trafficking that have come to the attention of the criminal justice system thus far are sex trafficking cases. Of the cases reviewed in this research, 85% were sex trafficking cases. These

Promising Federal Prosecution Practices:

Throughout our interviews, federal prosecutors reported using a number of innovative techniques to support prosecution of human trafficking cases, including:

- establishing trust and relationship-building with the victims, which often requires building cases over space and time and often includes victim service providers or victim advocates;
- corroborating victim testimony with “hard” evidence, including hotel, phone, e-mail and text records, and recordings of jail calls;
- applying multiple charges to the case, including gang enhancements and money/asset laundering; and
- using criminal complaints to remove the defendant from the streets in order to secure victim cooperation and educate the public about human trafficking.

statistics should be interpreted with caution, as they reflect only cases investigated in study sites rather than a true prevalence of the problem.

- **Victim fear:** Victims of all types of human trafficking cases are often afraid or unmotivated to report their victimization to criminal justice authorities; and even when they do, they are often reluctant to provide information to assist in investigations and prosecution.
- **Unmet victim needs:** Victims of human trafficking suffer from a number of trauma-related conditions, including post-traumatic stress disorder, and require significant support from victim service providers, including health and mental health services, in addition to access to housing, education, and job training.
- **Negative attitudes towards human trafficking victims:** Despite statements by law enforcement officials indicating a general understanding that those being traumatized in human trafficking cases were victims, many law enforcement interviewees expressed the view that victims were to some degree responsible for their victimization and would not be considered “credible victims” or “good witnesses.”
- **Lack of awareness about human trafficking laws:** We found a surprising lack of awareness on the part of police and prosecutors about the existence and requirements of both state and federal human trafficking legislation.
- **Low prioritization of human trafficking prosecutions:** Generally, state prosecutors did not believe prosecution of human trafficking cases was a priority in their agency. Even those prosecutors who had tried cases using state human trafficking laws cited a lack of agency support for these cases during the prosecution.
- **Focus on convictable cases:** Law enforcement and prosecutors from both the state and federal systems prioritized, and in some cases only accepted, those cases they believed were most likely to result in a conviction. This often included only multiple victim or minor victim cases.

Recommendations

In response to the challenges identified above, a number of recommendations are provided to help improve the identification, investigation, and prosecution of human trafficking cases.

- **Prioritization and awareness-raising:** Education and awareness-raising is needed from organizations that support law enforcement, state attorneys general, and district attorneys about the need to prioritize the problem of human trafficking and its impact on local communities. Federal law enforcement agents and prosecutors have uneven awareness about the problem of human trafficking and its prioritization. A message from the U.S. Department of Justice to every U.S. Attorney’s office mandating the prioritization of human trafficking cases would encourage consistency in responses. In addition, performance measures should be developed to regularly measure and highlight the number and success of human trafficking prosecutions in each federal district.
- **Problem-solving approach to human trafficking identification and investigation:** The research conducted for this project demonstrates the need for a more proactive approach to investigating and prosecuting cases of human trafficking. Waiting for cases to present themselves has not been an effective strategy in most jurisdictions. Agencies should consider borrowing techniques used in organized crime investigations for

developing cases against traffickers including the development of intelligence on criminal networks that facilitate commercial sex and illicit labor practices. Alternatively, a problem-solving approach to human trafficking could be promising. In adopting a problem-solving approach, police, prosecutors, and service providers work collectively to identify the locus of human trafficking in a community. Law enforcement and prosecutors would then proactively focus investigations on these areas of risk, ensuring that sufficient evidence to support prosecutions is collected throughout the course of the investigation. Since very few cases of labor trafficking are being uncovered using existing reactive strategies, law enforcement should develop partnerships with local regulatory agencies, including the Department of Labor, to better identify and prosecute cases of labor trafficking. Additionally, law enforcement agencies need to identify the areas of risk for labor trafficking victimization in local communities and develop the skills among their personnel that are necessary to gather intelligence about potential victimization in these areas. To accomplish such a strategy, it will often be necessary to expand the responsibility for human trafficking investigations within law enforcement agencies beyond vice units.

- **Comprehensive victim protection and empowerment:** Once they have identified victims, police, prosecutors, and victim service providers should commit to long-term support for them. These services include health, mental health, education, job training, and most importantly secure housing. Since most human trafficking prosecutions take between one and two years to complete, a corresponding long-term victim support plan will increase the number of successful prosecutions. Victim testimony is critical to human trafficking cases. While law enforcement and prosecutors can work to develop other sources of evidence, there will likely always be a reliance on victims to provide some type of testimony. Understanding the challenges associated with victim cooperation and participation in investigations and prosecutions, prosecutors should consider applying strategies that have been effective in domestic violence cases to cases of human trafficking. Demonstration projects with evaluation components could help us understand what kinds of support services are most effective in helping victims heal and in keeping them involved in the prosecution of their trafficker. In study sites, we found there was often a conflict between these two goals.
- **Improved understanding of the victim experience:** While law enforcement and prosecutors recognize that victims of human trafficking are vulnerable in many ways, they commonly expressed sentiments that either blamed victims for their own victimization or dismissed victims as lacking credibility. A new orientation that understands the consequences of victims' fear, and how victims' engagement in illegal activity is the consequence of force, fraud, and coercion would help law enforcement effectively contextualize victim experiences in both investigating and prosecuting cases of human trafficking.
- **Training:** A number of officials interviewed for this research had participated in some kind of human trafficking training. These trainings were often in awareness-raising and were frequently sponsored by the U.S Justice Department. A number of state-level investigators and prosecutors felt the trainings would have been more helpful if they had included strategies for prosecuting cases under state human trafficking statutes. Those

organizations that support state law enforcement and prosecutors need to develop and offer a new series of human trafficking trainings. These trainings should address:

- Information about state human trafficking statutes including summaries of human trafficking case law and legal strategies that have been effective in securing prosecutions in other jurisdictions.
 - Best practices for acquiring and utilizing corroborating evidence in human trafficking cases, including better techniques for interviewing human trafficking victims.
 - Information about the impact of trauma and violence on victim behavior, including criminal behavior and testimony and techniques for presenting evidence at trial, even with a victim who may be perceived as less credible.
- **Institutional resources and infrastructure:** Specialized investigators and prosecutors or units of specialized personnel should be assigned to handle labor and sex trafficking cases. These prosecutors should be responsible for leading proactive human trafficking investigations. The designation of specialized personnel requires resources that may not initially seem justified by a small number of human trafficking cases, but identification of such cases is not likely to occur without such institutional investments. Additionally, specialized personnel need the resources to effectively conduct interviews and secure evidence. Protocols also should be developed between state and federal prosecuting authorities to guide law enforcement in their decisions about which types of labor or sex trafficking cases to refer to state or federal authorities.
- **Legal resources:** State-specific toolkits should be developed to provide prosecutors with information on updated state human trafficking laws, as well as legal strategies and common legal impediments in human trafficking cases. The toolkit should also include such documents as model motions or jury instructions, as well as contact information for local prosecutors in each state who have experience prosecuting trafficking cases and who can be contacted for guidance.



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