

Human Trafficking and Sexual Assault

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Goals and Objectives

During this workshop participants will:

- Examine and discuss what constitutes Human Trafficking and Modern Day Slavery
- Review and explore the connections between human trafficking and sexual violence
- Identify social services and legal remedies available to trafficked persons who are also victims of sexual violence
- Explore models of collaboration to better respond to trafficked persons who have been sexually assaulted

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**IN WHICH INDUSTRIES/SECTORS
DO YOU THINK TRAFFICKING MAY
OCCUR IN YOUR REGION?**

**IN WHICH INDUSTRIES/SECTORS
DO YOU THINK PEOPLE MAY ALSO
EXPERIENCE SEXUAL VIOLENCE?**

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People Are Trafficked For:

- Domestic service
- Commercial sex work
- Servile Marriage
- Factories
- Peddling
- Agriculture
- Criminal activity
- Restaurant work
- Construction
- Hotel/motel housekeeping
- Other informal labor sectors

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Sexual Violence and Human Trafficking

Sex Trafficking

- Forced prostitution
- Pornography
- Exotic dancing
- Commercial sexual exploitation of children
- Servile marriages

Forced labor

- Sexual harassment/assault: agricultural, factory, restaurant, hotel, domestic workers
- Servile marriages/non-commercial sex

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Dying to Leave

Movie Clip

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What is Human Trafficking?

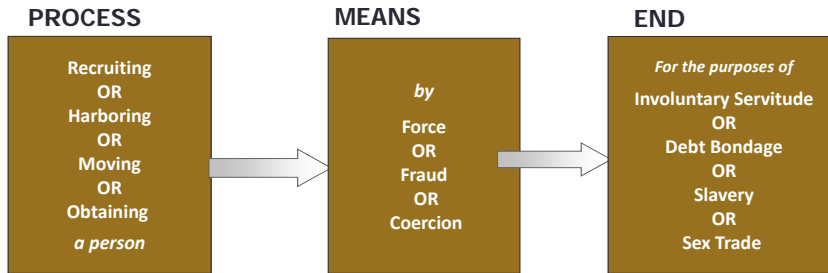
Trafficking means recruiting, abducting, facilitating, transferring, harboring, or transporting a person, by threat or use of force, coercion, fraud or deception or by the purchase, sale, trade, transfer or receipt of a person, for the purpose of subjecting that person to involuntary servitude, peonage, slavery, slave-like practices, sex trafficking, or forced or bonded labor services.

(The full text of the Victims of Trafficking and Violence Prevention Act of 2000 can be found at www.usdoj.gov/vawo/laws/vawo2000/)

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Three Elements of Trafficking

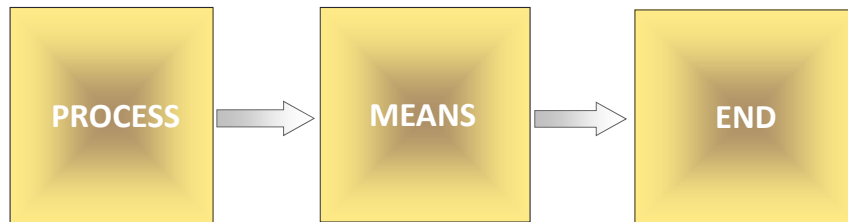


Alicia was hired by Mr. and Mrs. Thompson to work at their home in New York City. In exchange for room and board and \$300 per week, Alicia was asked to clean, cook and take care of the Thompson's three children. Mr. Thompson put away Alicia's passport and told her he would keep her wages until she paid for her airplane ticket and visa expenses. Instead, he gave Alicia \$50 per week. Alicia was allowed to take Sundays off after she fed breakfast to the family but had to return before 7 p.m. to prepare the children for bed. Mr. Thompson began going to Alicia's bedroom at night forcing her to have sex with him. When Alicia complained to Mrs. Thompson she accused her of lying and told her they will call the police and immigration.

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Three Elements of Trafficking



- How did the person end up in this situation? How did this happen?
- Did the person migrate? How?
- How did the person find out about the job/opportunity?
- What happened when they arrived?
- What was it like when they started to work?
- Was the person paid? How much? How often?
- Did the person try to leave?
- Is the person afraid of someone? Who? Why?

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Human Trafficking Defined

The law creates three categories of human trafficking victims:

1. Those **under 18** involved in **commercial sex acts**
2. Those **18 or over** involved in **commercial sex acts** through **force, fraud or coercion**
3. Those forced to perform **labor and/or services** in conditions of involuntary servitude, peonage, debt bondage or slavery through **force, fraud or coercion**

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What is Trafficking of Minors?

The federal Trafficking Victims Protection Act identifies trafficked minors as:

- under the age of 18 years old and **coerced, defrauded, or forced** to work while a third party benefits from their labor
- under the age of 18 years old and **induced** to participate in the **commercial sex trade** (even if there is no force, fraud, or coercion involved)

THE LAW DOES NOT DISTINGUISH BETWEEN IMMIGRATION STATUS OR GENDER OF YOUTH

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A Human Rights Approach To Human Trafficking

- Focuses on situation, needs and rights of trafficked persons
- Respects individual autonomy and rights
- Is empowering and non-judgmental
- Connects rights of the individual to prosecution of traffickers

**HUMAN RIGHTS STANDARDS APPLY TO ALL TRAFFICKED
PERSONS – MEN, WOMEN AND CHILDREN**

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The Basic Rights of Trafficked Persons

Victims of trafficking in persons are to be treated with:

- Dignity
- Fairness
- Compassion
- Respect for their human rights

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A Government Four Prong Response

- Prosecution - redefinition of old crimes and creation of new ones (State and Federal)
- Protection - access to benefits/services and immigration relief if qualify
- Prevention – requires reporting by DOS and DOJ, overseas funding, national awareness campaigns, and state legislation
- Partnerships – government with private entities and non-profit service providers/other countries

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Trafficked People May Be:

- Non-citizens
 - Without legal status
 - With legal status
- US citizens
- From different backgrounds, not just an issue of language or nationality
 - Race, class, gender, schooling, religion, culture, nationality, ethnicity and sexual orientation
- Men, women, children
- All ages

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PUSH AND PULL FACTORS CONNECTED TO TRAFFICKING IN PERSONS

- Poverty/Poor economic conditions
- Large Families
- Natural Disasters/Civil unrest
- Globalization
- Social
- Personal
- Limited Access to information
- Wrong place at the wrong time
- Escape from gender-based discrimination
- Previous victimization: child abuse, domestic violence, sexual assault
- Political persecution
- Desire to improve income or incomes of family
- Desire to join family members
- Adventure/opportunity

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Youth at Risk

- Histories of abuse
- Homeless, runaway or throwaway
- In foster care or child protective care system
- Age
- Lack of HS Diploma/GED
- Lack of work experience
- Lack of legal documents
- Undocumented immigrant youth
- Lack of personal agency

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Who Are The Human Traffickers?

- Neighbors, friends, relatives, community leaders (village chiefs, religious leaders), returnees, peers
- Agricultural operations/garment industry
- Business owners
- Families
- Organized crime
- Diplomats & governments
- Pimps/Managers/Gangs/Market facilitators

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Limited Freedom of Movement

During Captivity

- Confiscate identification documents
- Long hours
- Little/No pay
- Inhumane living conditions
- Physical abuse
- Psychological abuse
- Sexual abuse

After Captivity

- Fear of law enforcement
- Fear of being deported
- Not knowing where to turn
- Lack of culturally, linguistically, and age appropriate services
- Fear of being located by trafficker

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Home of a garment worker Huntington Park, CA

Climate of Fear

- Fear of placing family or themselves in danger
- Fear of losing family/children
- Economic dependence
- Emotional dependence
- Cultural/religious constraints
- Fear of law enforcement
- Guilt
- Stigma
- Belief that abuse/situation will change
- Ambivalence over making change
- Lack of resources
- Lack of documents/legal status

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Tactics of the Traffickers

- Demoralizing the victim
- Disorienting and depriving of alternatives
- Diminishing of resistance
 - food and sleep deprivation
 - forming of emotional bond (parental, boyfriend, or caretaker roles)
- Deceiving the victim about consequences
- Isolation

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Group Exercise

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Who Might Discover a Trafficked Person?

- Community organizations
- Good Samaritans
- Consulates or embassies
- Other trafficked persons
- Witnesses
- Child Welfare Agencies
- Faith based organizations/places of worship
- Rape crisis centers
- Clinics/hospitals
- Private attorneys
- Judges
- Customers/clients
- Mental health service providers
- Domestic violence/sexual assault advocates
- Homeless and youth groups

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Which Law Enforcement Agencies Might Uncover A Trafficking Case?

- Sheriffs Departments
- Police Departments
- Department of Homeland Security
- FBI civil rights or organized crime units
- State Patrol
- State/District Attorney's Office
- Dept. of Justice
- U.S. Attorney's Office
- Victim Witness Coordinators/Victim Advocate
- Public Defender
- Department of Labor (Federal and State)
- Probations/Corrections

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Initial Interview with Potentially Trafficked Persons

- Try to build rapport and trust; treat victim with respect
- Work to secure cooperation
- Ask the right questions
- Prepare a summary of interview
 - Do not take a sworn or signed statement
- Find out if other victims are still being held
- Safety consideration

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Health Related Concerns of Trafficked Individuals

- Untreated Illnesses
- Mistreated Injuries
- Bruises/Scars/Other Signs of Physical Abuse and Torture
- Chronic back/hearing/cardiovascular/respiratory problems
- Neglect
- Malnutrition
- Depression/PTSD
- Infectious Diseases (TB, etc.)
- STDs, HIV/AIDS, pelvic pain, rectal trauma, urinary difficulties

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Contacting Law Enforcement and/or Service Providers

Factors to consider when deciding to contact law enforcement:

- Mandatory reporter duty (mindful of your role/hat)
- Client safety if prosecution occurs
- Interest in repatriation or remaining in U.S.
- Security/considerations about returning “home” or country of origin
- Level of commitment to a criminal prosecution
- Willingness to testify
- Immigration status

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When The Person Is Still Enslaved And Wants To Escape

- Safety of victim and staff
- Legal liability
- Confirmation of victim's desire to leave
- Special considerations if the victim is a minor

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When Referral Comes From Law Enforcement

- Determine if situation is trafficking
- Explain and offer agency services
 - **Person does not have to accept**
- Be clear with law enforcement about your role
- Make a plan for release
 - **Be sure housing is in place before release (custody and placement issues if minor)**
- Begin advocacy for “continued presence”

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When Referral Comes From **Local** Law Enforcement

- Local law enforcement may not be aware of federal/state anti-trafficking laws
- Need to connect local and federal law enforcement to obtain benefits for victim (also may need to connect to child welfare or HHS)
- Identify local prosecutor working in the case and involve him/her as soon as possible
- State or local law enforcement can help victim apply for T visa

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A Client-Centered Approach



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Social Services: A Few Best Practices

- Assess client needs and **set client identified goals**
- Use client experiences to inform **advocacy**
- Establish (and constantly update) a good **network** of specialized service providers and supportive groups
- Create a **quick access** system for pro-bono attorneys, interpreters, and shelter/housing
- Sustain a good working **relationship with law enforcement** and government to build mutual trust. Collaboration is key!

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Initial Assessment

- Is the survivor interested in working with and receiving services from a social service provider?
- Safety Assessment and Planning
 - Conflicts of interest with multi-victim cases
 - Are the traffickers in custody?
 - Is the survivor currently living in or near the community where the situation occurred?
 - Review agency confidentiality policy
 - Safe housing/shelter
- Language Capacity and Literacy Level
- Survivor's current support systems

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Explain Your Role

- Who you are and what you can do
- Your agency-what it can and cannot provide
- Clients have rights: social and legal services are a choice
- Navigating the system: The process
- Ongoing Safety Assessment and Planning
- Fostering decision-making
- Building life skills/cultural competency
- Identifying all persons involved in case (LE, etc.)

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Case Confidentiality

- Protect client's right to privacy
- Ensure relationship of trust and respect
- Protect client's personal safety and future welfare
- Maintain integrity of criminal case
- Use Informed Consent Letter for every situation
- Develop agency policy on handling media requests

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Cultural Considerations

- Linguistic competency does not mean cultural competency
- Cultural factors are reflected in the force, fraud, and coercion used
 - Example: debts of gratitude, obligations to pay off debt, implications of witchcraft, familial roles, etc.
- Familiar food and access to religious/spiritual practice will aid in stability
- Clients must be given the choice to seek assistance from members of their own community or not

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Language Access

- Avoid using family, friends, and good Samaritans as interpreters
- Attempt to find interpreter from same language and dialect
- Do not overestimate client's professed English proficiency
- Proper interpretation can make or break a case
- Linguistic competency does not mean cultural competency
- Have a pre and post briefing with interpreter

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U.S. Citizen Victims

- May face stigma and prejudice from society
- May have no immediate access to identity documents and proof of residency
- May have underdeveloped life skills
- May suffer from trauma and/or drug addiction
- May have criminal arrest records
- Are often underage

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Non-citizen Victims

- May not have identity documents
- In a strange country
- Isolated
- May be unable to communicate
- Various cultural issues
- Fear of law enforcement officers
- Often do not see themselves as victims

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NGO Collaboration Best Practice Points

- Clear role definition for providers (if multiple)
- Work together as one team with a point person
- Case conferences to promote communication and planning
- Staff training and sensitivity to new population

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Setting up Collaborations with Law Enforcement

Provider's Role to prepare with LE:

- Clarify who will coordinate among the different agencies involved
- Explanation of the role of the service provider
- Clarify the survivor's main point of contact

Preparation with Survivor:

- Talk to survivor about realistic expectations when reporting to LE
- Explain what the role of NGO is with survivor in partnership with LE and the legal provider
- Give the survivor control over what information is released between LE and provider
- Decision to cooperate with LE belongs to survivor
- Re-address safety concerns in light of cooperation

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Trauma and Human Trafficking

- Physical assault, rape, molestation
- Experiencing or witnessing horrific injuries or fatalities
- Isolation, sleep deprivation
- Loss of personal freedom

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Trauma Informed Practice

- Incorporates knowledge about trauma into all aspects of service delivery
- Engages survivors
- Minimizes re-victimization
- Facilitates empowerment

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A Culture Shift: Core Principles of a Trauma-Informed System

- Safety: ensures emotional and physical safety
- Trust: maintain boundaries and respect the pace of the survivor
- Choice: prioritize survivor choice and control
- Collaboration: maximize collaboration and power sharing with survivor
- Empowerment: Maximize skill-building that leads to survivor empowerment

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Trauma Affects Behavior

- Inability to recall aspects of an experience
- Inability to recall dates, times
- Sleep disorders
- Inability to concentrate
- Shame and humiliation (withdrawal and isolation)
- Difficulty trusting others

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What Services Survivors Might Need?

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What Service Survivors Might Need?

- Food
- Shelter
- Clothing
- Medical Care
- Mental Health Care
- Reproductive rights education/STD prevention
- Legal Services: immigration, criminal, civil, family
- Substance Abuse Treatment
- Dental Care
- Translation/Interpreting
- ESL/Literacy
- GED Assistance
- Job Training/ Employment Assistance
- Transportation
- Life Skills Training

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Victims Of Human Trafficking Are Legally Entitled To:

- Safety
- Privacy
- Information
- Legal representation
- Be heard in court
- Compensation for damages
- Medical assistance
- Social assistance
- Seek Immigration Status
- Return “Home” Relocation
- Family Reunification

Even without documentation, every person in the United States is protected by US labor & criminal law.

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Different Legal Systems

Criminal Law

Main Goal: Punish trafficker
Role of victim: Victim-Witness
Legal remedies: Restitution

Immigration Law

Main Goal: Legal status for victim
Role of victim: Self-Petitioner
Legal Remedies: CP, U visa, T visa, VAWA, SIJS, etc

Civil Remedies

Main Goal: Damages for plaintiff
Role of victim: Plaintiff
Legal Remedies: Money, property, injunctions, etc.

Family Law

Main Goal: Protection, best interest of child
Role of victim: Can be petitioner
Legal Remedies: Restraining order, dissolution, custody, property

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Victim Centered Legal Responses

- Lack of criminal investigation/prosecution or decision to not identify individual as a victim by law enforcement does NOT preclude legal options
 - Protection = what happens to the victim?
 - Prosecution = what can prosecutors charge?
- All victims need to be able to access counseling for legal remedies by victim service providers

Victim protection is not contingent on successful prosecution of a case.

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Related Crimes

- Rape
- Assault and battery
- Pimping and pandering
- Conspiracy
- Criminal Profiteering
- Prostitution
- False imprisonment

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Protecting Victims During Criminal Justice Process

- Explain process, who different people are, their roles, outline of day and expectations
 - Role play as necessary
- Ensure continuity and reliability in relationships with victims and professionals working with victim
- Minor victims should have adult guardian (foster parent, counselor, attorney) accompany them in all legal proceedings
- Law enforcement should prevent/minimize direct contact with trafficker – it's the law

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What Is the Trafficked Person's Status?

- United States Citizen
- Permanent Resident (a.k.a. "green card")
- Immigrant
 - e.g. fiancé visa
- Non-immigrant
 - e.g., guest worker, student visas, tourist visa
- Undocumented

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Client's Immigration Options

- Cooperating with law enforcement may give client access to:
 - Continued Presence (temporary legal status)
 - Certification (ability to get benefits)
 - T visa
 - U visa
- If client not interested in working with law enforcement, evaluate general immigration law remedies

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What is Continued Presence?

- Provides temporary immigration relief (variable) to potential witnesses who are victims of severe forms of trafficking, providing stability to survivor
- NGOs/attorneys can CP, but only federal law enforcement applies for CP
- Provides work authorization and access to refugee benefits (through “certification”)
- Can be revoked and Law Enforcement Agency can deny renewal

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What Is A T Visa?

- Enables certain victims of human trafficking to live and work in U.S. for four years
- Can apply for adjustment of status to lawful permanent resident after three years with T visa or when investigation/prosecution is completed
- Petition for victim's spouses and children (or parents and siblings under 18 if victim is under 21) - [Additional family members TVPRA 2013](#)
- Cap of 5,000 visas annually

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U Visa

- For immigrant victims of crime
- Can live and work in the United States for four years
- Can apply for certain derivative family members to come to the United States to live and work
- May adjust status to apply for a green card after three years

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U Visa Eligible Crimes

- Rape
- Torture
- Trafficking
- Incest
- Domestic violence
- Sexual assault
- Prostitution
- FGM
- Being held hostage
- Peonage
- Involuntary servitude
- Slave trade
- Kidnapping
- Stalking (VAWA 2013)
- Fraud in foreign labor contracting (VAWA 2013)
- Abduction
- False Imprisonment
- Blackmail
- Extortion
- Manslaughter
- Murder
- Felonious assault
- Witness tampering
- Obstruction of justice
- Perjury or
- Attempt, conspiracy or solicitation to commit any of these crimes

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Other Potential Immigration Relief

- VAWA
- I-751
- Special Immigrant Juvenile Status
- Asylum

An experienced immigration attorney should help the survivor assess which form of relief is best

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Repatriation and Reintegration

- **Steps:**
 - Link with NGO in US to coordinate with NGO in country of repatriation to help assess family situation, safety, available services, etc.
 - Help obtain identification and travel documentation
- **Organizations that may be able to help:**
 - International Organization for Migration
 - Freedom Network contacts
 - State Dept./USAID grantees

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Government Resources

- U.S. Department of Justice Trafficking in Persons and Worker Exploitation Task Force Hotline (888) 428-7581
- Department of Health & Human Services, Office of Refugee Resettlement Trafficking in Persons Information and Referral Hotline (888) 373-7888
- Office of Victims of Crime, U. S. Department of Justice (800) 627-6872 or (877) 712-9297 (TTY)

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