

## **Community of Practice for Family Law Attorney's Representing Immigrant Survivors of Domestic Violence and Sexual Assault**

**Continued Discussion with Human Trafficking and  
Domestic Violence with Nagwa Ibrahim**

**August 13, 2020**

# Next COP Calls



- **September 22, 2020 at 1pm EST**  
Discussion on Working Remotely with Immigrant Clients
- **October 27, 2020 at 1pm EST**  
Cannon Han and Ana Paula from  
Asian Pacific Institute on Gender Based Violence  
Discussion on Working Remotely with Interpreters

# Cast

COALITION TO  
ABOLISH SLAVERY  
& TRAFFICKING

## Human Trafficking and Domestic Violence

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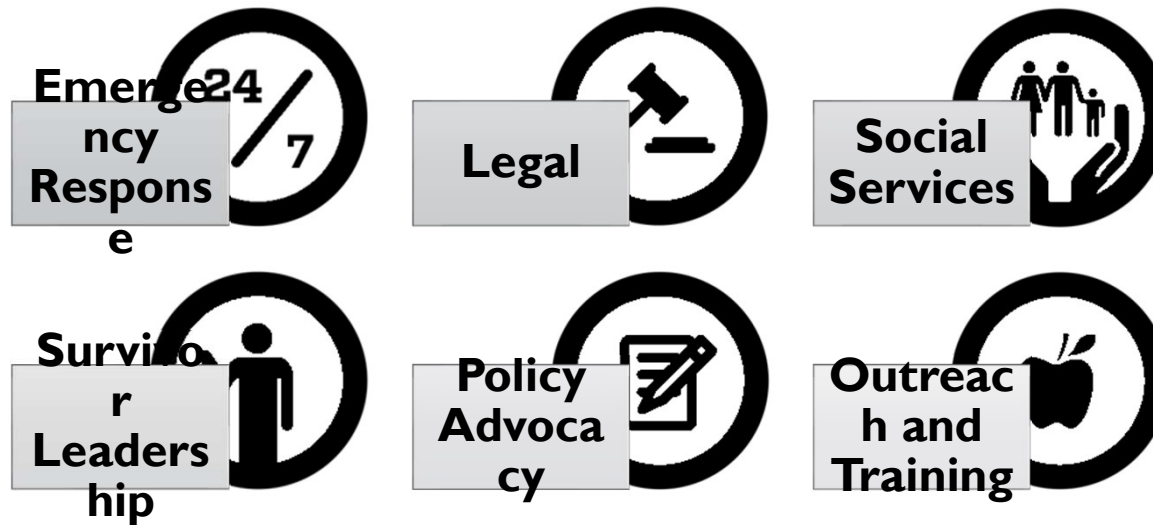
# Meet Your Presenter

- Nagwa Ibrahim, Director of Legal Services Coalition to Abolish Slavery & Trafficking
- [nagwa@castla.org](mailto:nagwa@castla.org)
- Phone: 213-674-4349



# Who is CAST?

- *“To assist persons trafficked for the purpose of forced labor and slavery-like practices and to work toward ending all instances of such human rights violations.”*



For social or legal service referrals to CAST call our hotline at: 888-539-2372

# Our Client Profile



**60+ Countries (Top countries: U.S., Mexico, Philippines)**

**50% Labor Trafficking, 46% Sex Trafficking, 4% Both**

**72% Female, 26% Male, 2% Transgender**

**67% Adults, 30% Transitional Age Youth, 3% Minors**

# Support for Attorneys & Social Service Providers Serving Trafficking Survivors

Free support to attorneys and social service providers assisting trafficking survivors with legal needs in the following areas of law:

- Immigration
- Criminal Re-Entry
- Reporting to Law Enforcement
- Ethics
- Criminal Victim Witness Advocacy
- Program Support
- Referrals
- Civil
- ...and More.

## Technical Assistance Contact Information

For case specific questions or individualized technical assistance:

Call or Email

Weekdays from 9 AM – 5 PM PST

[TechnicalAssistance@CASTLA.org](mailto:TechnicalAssistance@CASTLA.org)

# CAST Resources

E-learning Course &  
Webinars

## [Register for CAST E-Learning Courses](#)

- Human Trafficking Defined
- Human Trafficking Defined for Social Service Providers
- Privilege and Confidentiality
- Legal Framework and Intake Best Practices
- T Visa Part
- Adjustment of Status for T Nonimmigrant Visa Holders
- And More!

## [Register for CAST DV specific Webinars](#)

- [HT Analysis w/ DV-specific fact pattern](#)
- [DV/HT Part 1](#) – Using the balancing test to determine when to file a DV Restraining Order
- [DV/HT Part 2](#) – Framing the trafficking in a dv/ht cross-over case for T visa purposes

**Cast**

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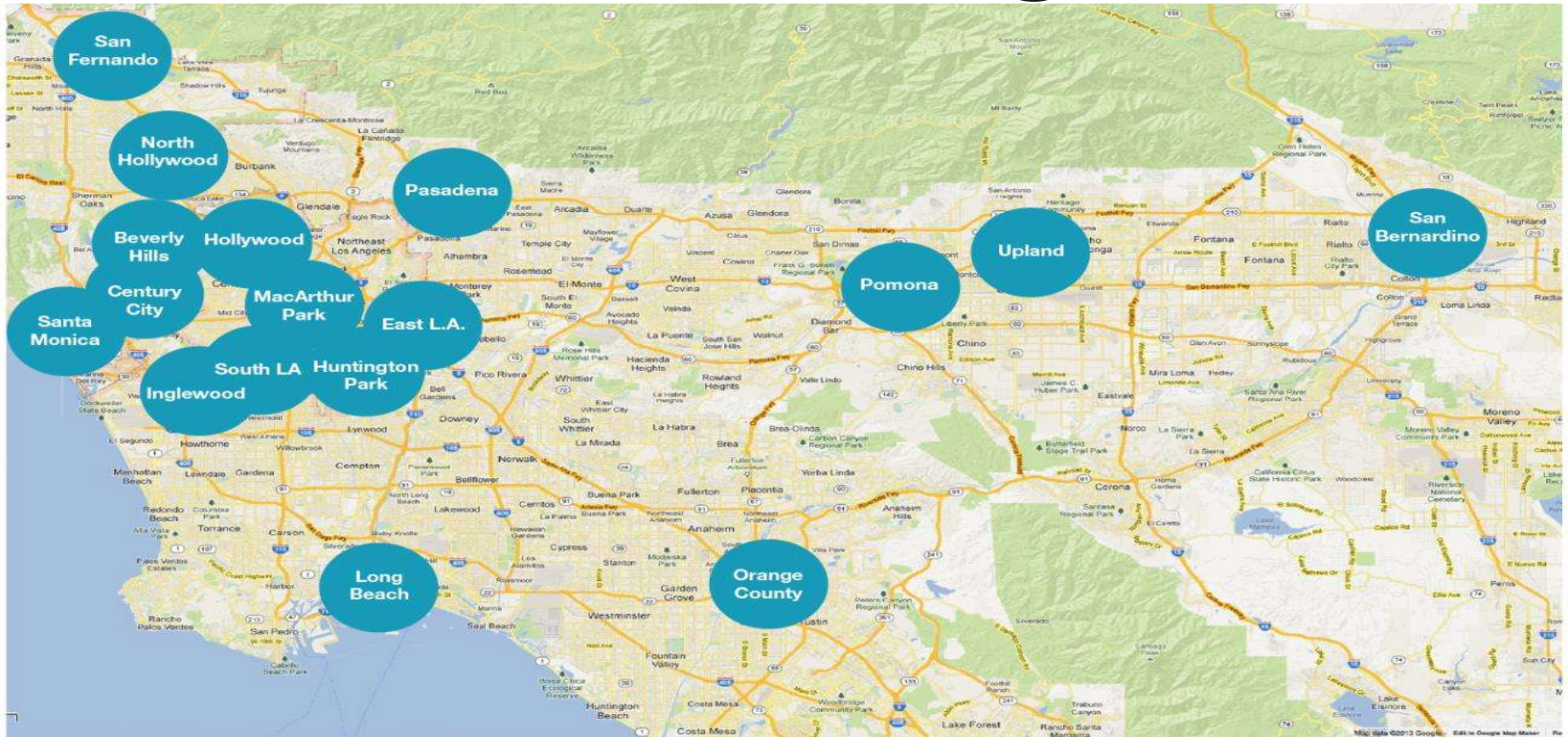


# Access CAST Template Materials On-Line



<https://castla.box.com/CASTtrainingMaterials>

# Human Trafficking in L.A.



# Trafficking Exists Where You Look for It!

- Sex (commercial and non-commercial)
  - Massage Parlors
  - Spas
  - Residential Brothers
  - Escort Services
  - Exotic Dancing/Stripping
  - Pornography
  - Pickup Trucks/Truck Stops
  - Anyone under 18 years old involved in a commercial sex act
- Magazine crews
- Forced to sell or cultivate drugs
- Fishing
- Manufacturing work
- Home care/ Elder care
- Construction
- Hospitality
- Housekeeping
- Daycare teacher
- Forced peddling
- Agricultural work
- Cleaning business
- Domestic Service/ Au Pairs
- Restaurant Work
- Hair Braiding Salons
- Scientologists
- Marriage

# Human Trafficking for Forced Criminality...

- Prostitution
- Gangs
- Scams; Stolen Checks
- Identify Theft
- Theft – Property, Auto
- Benefits fraud
- Smuggle, Sell, cultivate, use drugs
- Loitering for sales
- Truancy

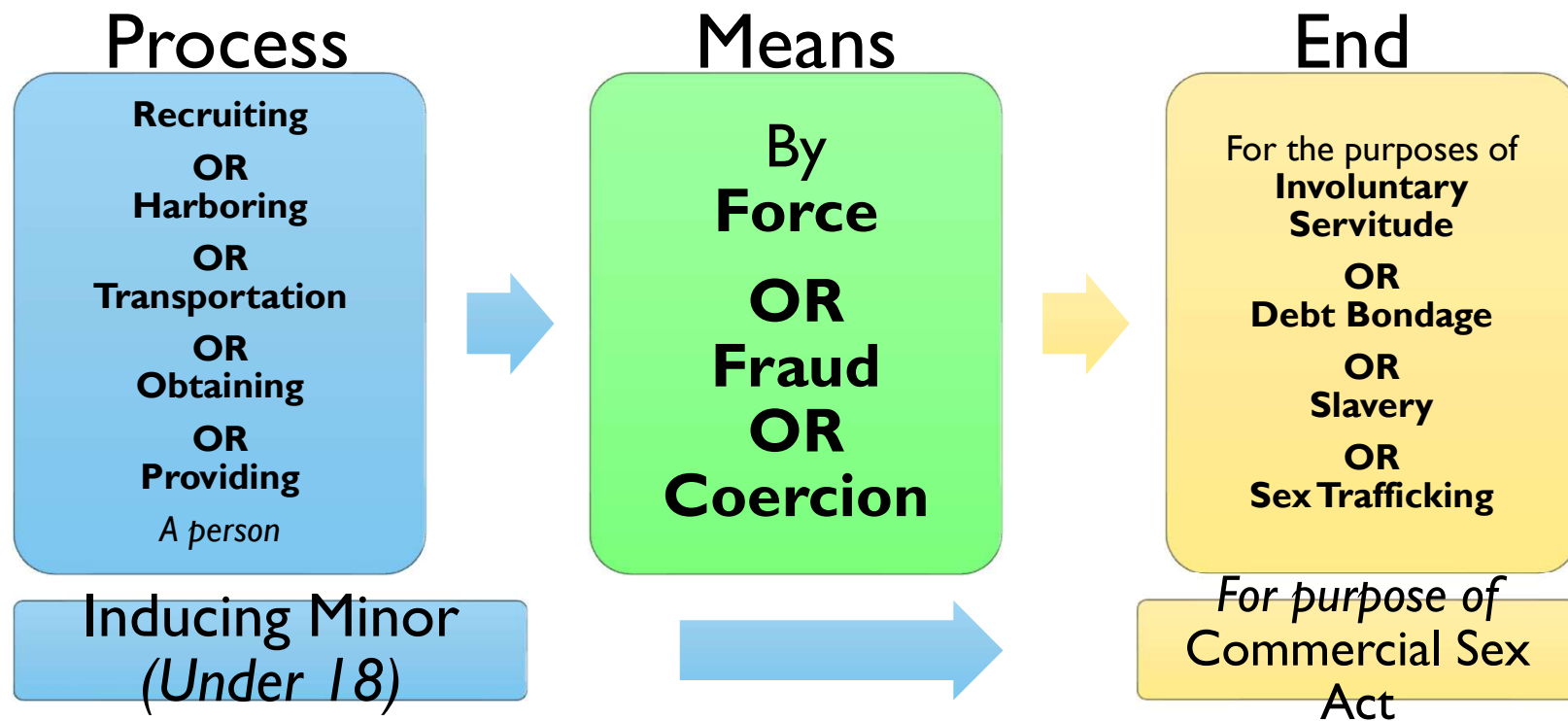
**... Can be a form of forced labor or services!**

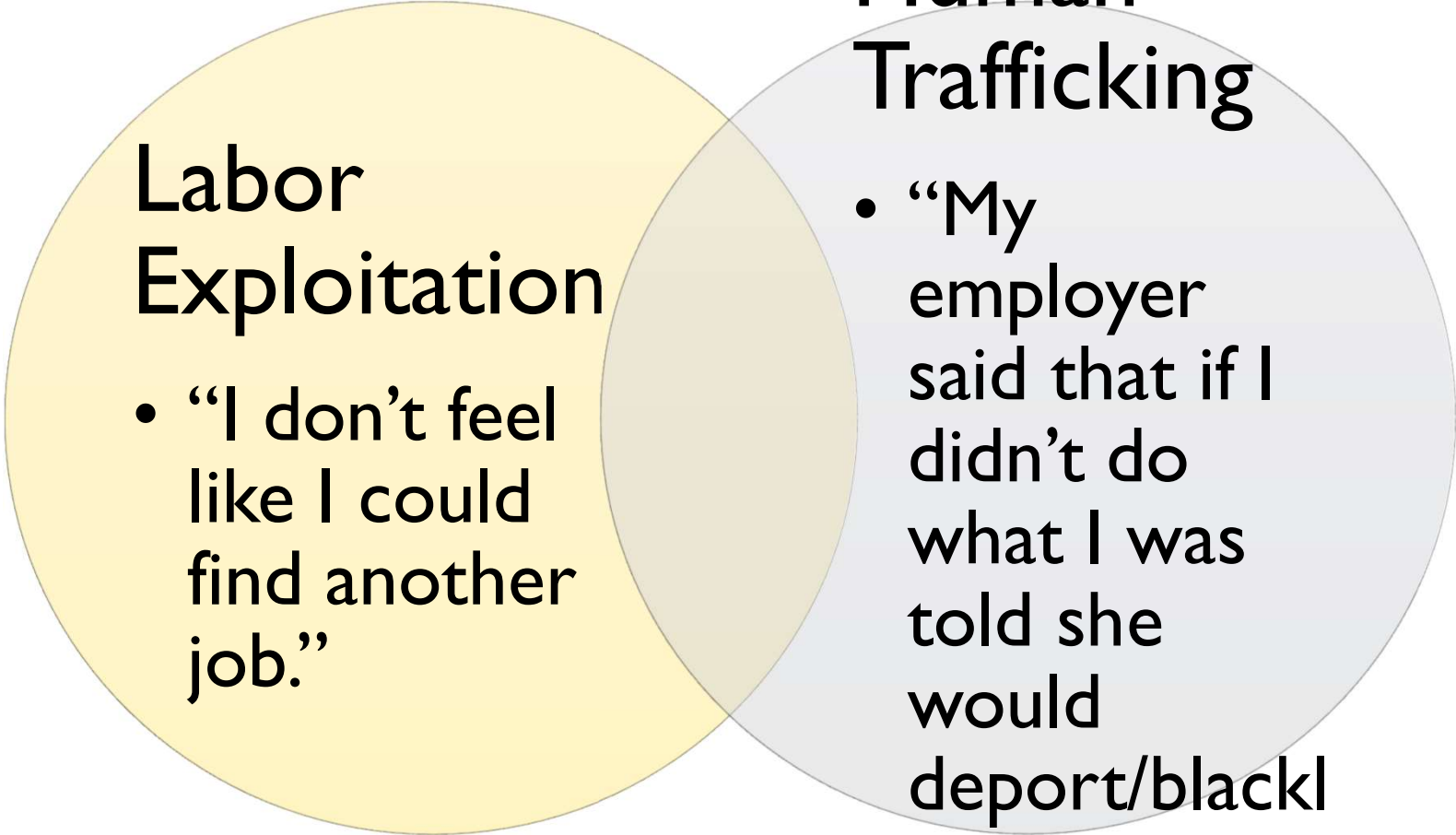
# Domestic Violence and Human Trafficking

- Domestic violence advocates are in a unique position to identify human trafficking
- Survivors of human trafficking can be fleeing from DV
- Survivors are more likely to identify as survivor of domestic violence than human trafficking

[Freedom Network – “Human Trafficking and Domestic Violence” Policy Paper \(April 2015\)](#)

# 3 Elements of Trafficking - 22 USC § 7102(9)





**Labor  
Exploitation**

- “I don’t feel like I could find another job.”

**Human  
Trafficking**

- “My employer said that if I didn’t do what I was told she would deport/blacklist/ hurt me.”

# Common Misconceptions

Requires  
crossing  
borders

Can't be paid  
for work

Involves only  
US citizen  
children or  
only  
immigrants

Same as  
smuggling,  
prostitution or  
labor  
exploitation



# What is Coercion?

Coercion legal defined in 22 U.S.C. § 7102

Threat of serious harm to or physical restraint against a person

Any scheme, plan, or pattern intended to cause a person to believe that failure to act would result in serious harm or physical restraint

Abuse or threatened abuse of legal process

Catch-All

# Serious Harm (TVPA 2008)

- *18 USC § 1589 Forced Labor, 18 USC § 1591, Sex Trafficking*
- Any harm whether:
  - Physical
  - Psychological
  - Financial
  - Reputational harm



That is sufficiently serious **under all surrounding circumstances** to compel a reasonable person of the *same background and same circumstances* to perform **labor or commercial sex act** to avoid harm.

# Case Study Example - Carolina

## ACTION

In Colombia, Carolina met a man named Andres. Andres was Argentinean but lived in the United States and had become a U.S. citizen. Carolina and Andres began to date and soon Carolina was in love. She was thrilled when Andres asked her to marry him and invited her and her young son to move with him in Pennsylvania. He promised that he would take care of her and son by providing a home and working to support the family. Carolina and Andres married in Colombia and Andres submitted a family petition on behalf of Carolina and her son. Carolina and her son entered the United States as conditional residents, excited to begin their new life together.

## MEANS

## PURPOSE

However, once in the United States, Andres changed towards Carolina. He was extremely possessive and verbally abusive towards Carolina. He forced her to work long hours in his pizza restaurant without pay, calling her names and yelling at her for not speaking English and for every little mistake she made. He threatened to hurt her son if she didn't do as she was told. Carolina was terrified of Andres and terrified for the safety of her young son.

Eventually, Carolina fled to a domestic violence shelter in Pennsylvania and the shelter helped her relocate to Los Angeles for her safety. CAST's legal team helped Carolina submit a petition to remove the conditions on her residence, based on the domestic violence she had endured on Andres' behalf.

# Case Study Example - Carolina

ACTION	MEANS	PURPOSE
Recruiting – False promises of home and financial support  Obtaining – Obtained her as his bride with the intention of using her labor for his financial gain	Coercion – verbal abuse, threats to harm son, no money of her own	Involuntary servitude – work at the pizza place through coercion and force

# Examples of HT/DV cross-over cases

# Examples of HT/DV cross-over cases

- Boyfriend-Pimp-trafficker
- 17 year old girl forced into prostitution by her mother
- Bride turned into domestic servant by spouse
- Young mother whose partner forces her to take on multiple jobs against her will and confiscates all of her earnings, threatening to take her children from her if she does not work and does not turn over all her money
- Immigrant travels to the United States to live with her sister and attend school, but she is instead forced to be her sister's nanny

# What are similarities of DV/HT

# What are similarities of DV/HT case?

- Gender power dynamics
- Cultural power dynamics
- Using children against the victim
- Using legal system against them
- Having friends/family, community in common with trafficker
- Honeymoon phase, cycle of violence
- Leveraging the relationship
- History of past of abuse



# What similarities exist between HT & DV Survivors?

- Reluctant to seek criminal and other legal remedies (incl. reporting)
- Does not view Trafficker/Abuser as Perpetrator
- Protective of Trafficker/Abuser
- Have friends, family, and community in common with Trafficker
- Engaged in multiple legal systems (criminal, civil, immigration)

# Power and Control Wheel

DV Power and Control Wheel - The Duluth Model

HT Power and Control – Polaris Project



# Shifting the Framework

- Break free from DV training, focus on HT Lens
  - Power and Control wheel shows what can makes up coercion
- No separate/additional legal requirements for DV/HT Cases
- Consider approach the case as though the perpetrator and victim are not in an intimate partner relationship

# Differences between HT/DV Survivors

- Lack of Existing Laws Protecting HT Survivors
- Lack of Judiciary Training on Issue
  - Help the judge understand HT, the ramifications on children and why it leads people to make the choices they do
- Greater Credibility Issues with Engagement in Multiple Court Systems
- Different Safety Concerns
  - Gang related
  - Active criminal cases
  - Less institutionalized support

# Potential Barriers and Complexities for Trafficking Clients

EVALUATE ON CASE-  
BY-CASE BASIS

EMPOWER CLIENT  
CHOICE

Trafficker is biological parent

Unknown whereabouts of partner

Children or parents in another country

Property division with trafficker spouse

Contempt orders

Accessing identity documents

Name change requests

Criminal history of the victim undermining parenting ability

# Intake Best Practices

# Sample Intake Questions Based on AMP/PME Model

## Action/Process

- Did anyone ask you to have sex for money? Or a place to sleep, food, clothing? Were you under 18 when this happened?
- Did someone promise you a different job than the job you were required to work?
- Did someone transport you to the U.S./ Some other city in the US?

## Means

- Did someone physically hurt you?
- Did someone threaten you, your family, or anyone around you? Did they say anything about the police or immigration?
- Did they promise you immigration status that they did not seek for you?

## Purpose/End

- Have you ever been pressured to keep working at a certain job to pay back money that you borrowed or owed someone?
- Did you give/did someone else get the money you earned at work?
- Was money being continually deducted from wages/paystubs
- Did you engage in commercial sex

# Do not rule out ...

## A potential Sex or Labor trafficking case if:

- Get to keep some money from the trafficking experience
- Expresses that he or she is doing this for her family or a loved one
- Expresses that no one is making him or her do this
- Bank accounts/paystubs
- Cell phones
- Cars
- Day off/some freedom movement
- Return to work for same employer
- Has stable housing
- Lives at home



## Initial Contact With Potentially Trafficked Persons

Victims might lie about their present circumstances and be defensive

### Build Rapport – Establish that you:

- Will listen
- Will not be shocked by what they have done or had done to them
- Explain process they are involved with
- Explain you have no power to order the person deported

### Important Considerations

- Safety
- Referrals for support/specialized services
- Ask if there are other victims being held

# Human Trafficking Victims Options for Legal Relief and Recovery

**Criminal  
Prosecution/  
Victims' Rights**

**Civil Law  
Remedies**

**Immigration  
or  
Repatriation**

# Immigration Remedies for Victims of Trafficking

**Short term:**

**Continued Presence**

**Long term:**

**T-Visa**

Trafficking

# Benefits for HT Survivors: What is everyone eligible for?

## US Citizens/ Legal Permanent Residents

- CalWORKs/TANF
- Medi-Cal
- Healthy Families
- Food Stamps
- IHSS – In-Home Supportive Services
- General Assistance
- SSI – Supplemental Security Income (if disabled)

## Pre-Certified Foreign Nationals-in CA

- Eligible for same public benefits as Federal ORR Certified, except:
- State-Funded Refugee Cash (8 Months)
- State-Funded Refugee Medical (8months)

## ORR Certified Foreign Nationals

- CalWORKs/TANF
- Medi-Cal
- Healthy Families
- Food Stamps
- IHSS – In-Home Supportive Services
- General Assistance
- CAPI - Cash Assistance Program for Immigrants
- Federally-Funded Refugee Cash + Refugee Medical (8 Months)
- Refugee Social Services (RSS) - Matching Grant

# Common Pitfalls in T Visa Application

- Focusing on detailing the domestic violence and not including sufficient trafficking facts
- Improperly focusing on child custody issues
- Sex servitude cases are difficult arguments
  - Need to be able to distinguish between rape/sexual assault and human trafficking
  - Are there other elements of forced labor?
- Asking for too many details about sexual assault and rape
  - Minimize retraumatization

# Repatriation and Reintegration Assistance

- **Only HT victims are eligible for IOM specialized funding to:**
  - Can help obtain identification and travel documentation
  - assistance arranging travel, purchasing air tickets
  - Link up with **NGO** in country of repatriation to assess family situation, safety, available services, accompany client through immigration, etc.
  - Arrange for safe travel and re-entry
  - Follow-up with client as appropriate
- **IOM Washington, 1752 N Street NW Suite 700, Washington, DC 20036**
- **E-mail: [Cosberg@iom.int](mailto:Cosberg@iom.int), Phone: 202 862 1826 ext. 227, Fax: 202 862 1879**

# Common Pitfalls in Family Law

- Not screening for human trafficking
  - Later identification means potentially missed deadlines and SOL
- Focus only on family law issue or restraining order
  - May negatively impact other legal remedies for HT survivor
- Unnecessarily focusing and highlighting HT story
  - Remember the goal of the legal remedy

# Balancing Test



Ultimate  
Legal Goal

Trauma

Impact of other legal  
cases

% of Success of Legal  
Remedies Safety



Cor



# DV Protective Order

No- Contact Order (Directly or Indirectly) Protection of Other Household members + Family Pets Order to Continue Insurance Coverage	Stay Away Order	Move-Out Order	Order for Respondent Not to Possess or Own
	Child Custody and Visitation Orders	Child Support	Spousal Support (if married)
	Property Control Order	Payments for Costs and Services	Lawyer's Fees and Costs

Is an order of protection/  
restraining  
order needed?

ASK CLIENT THEIR  
LONG TERM GOALS

## Benefits

- Additional protection for client
- Trafficker can be arrested for violations of the order
- Access to other court orders to provide stability to client

## Potential Barriers

- Potential for increased threats to survivors and family
- The order case may unnecessarily prolong ties w/trafficker
- Court process can be traumatic
- Must serve trafficker and defense counsel w/ all court filings

# Some Issues in Housing HT Survivors

- Shelter Policies
- Assessing safety of shelter location and services for trafficking survivor
- Differences in timelines for DV and HT survivors
- Biases and Cross-Cultural Issues
- Needs vary widely depending on the HT survivor -> Need for multi-agency collaboration

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# Takeaways...

- DV Advocates have a unique role of being able to identify HT survivors in their line of work.
- Although HT survivors have similar social and legal needs on surface, the legal remedies and social services focus/framing might need to be different and specialized programs are needed

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## 24/7 Human Trafficking Hotlines

- National - [National Human Trafficking Hotline](#)
  - **888-3737-888**
- CA – CAST Hotline:
  - **1 888 KEY-2-FREE (1 888 539-2373)**

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