

# National Judicial Network

## Judicial Responses to Labor Trafficking

July 6, 2021

# Thank you to the State Justice Institute

- This project was developed under grant number SJI-20-E-005 from the State Justice Institute. The points of view expressed are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.

# Today's Speakers



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# Today's Speakers



**Hon. Loretta M. Young,**  
Commissioner  
State of Delaware, Family Court  
New Castle County



**Leslye Orloff,**  
Director  
National Immigrant Women's  
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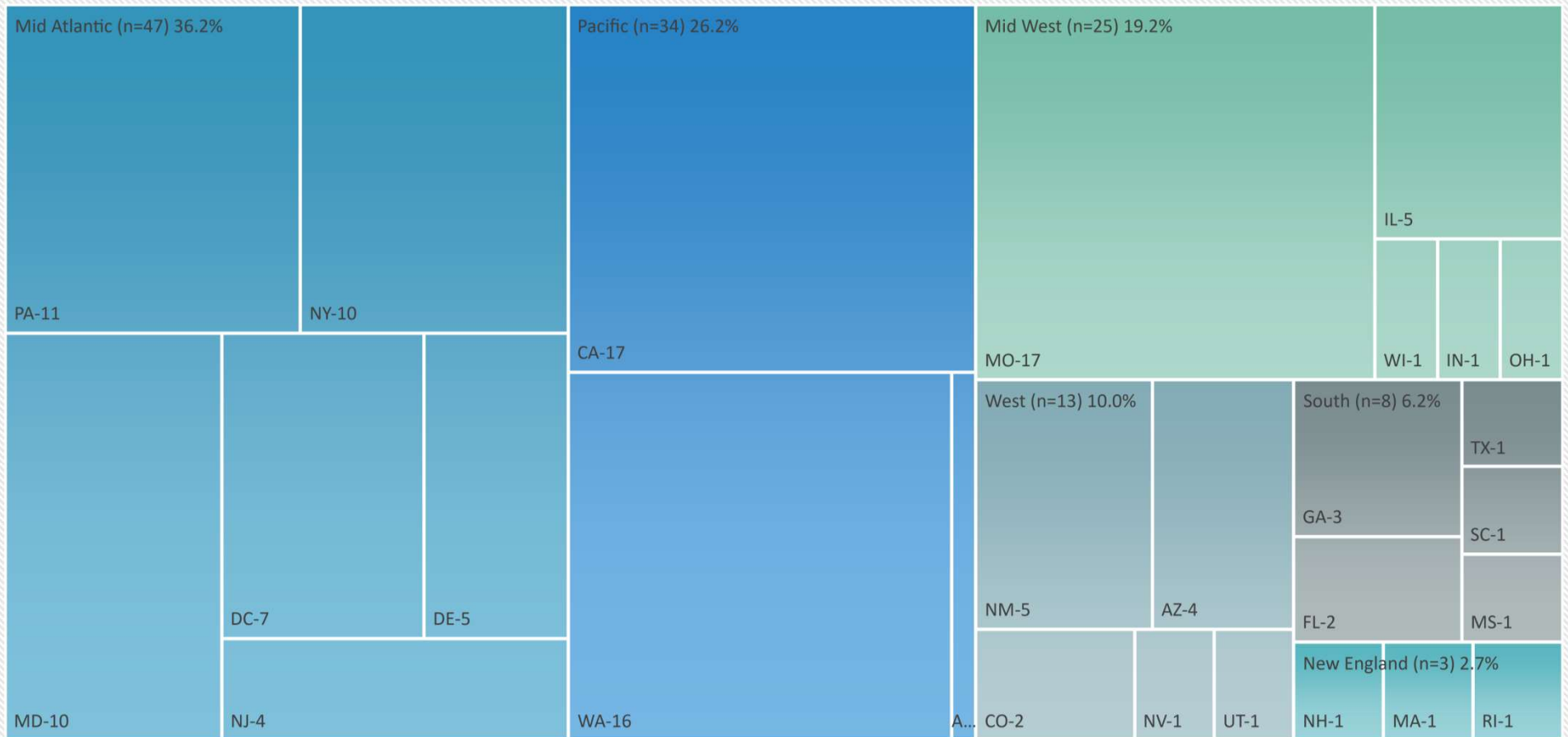
# National Judicial Network (NJN)

- Members are State and Tribal court judges, commissioners, magistrates and judicial officers
- Who are committed to the effective adjudication of cases involving human trafficking victims and/or immigrant victims of crime and abuse
- NJN provides training and develops resources to support judicial officers who encounter litigants who are potentially human trafficking or immigrant crime victims
- NJN offers monthly peer-to-peer sessions for judges, national webinars, training materials, resources, tools, and technical assistance
- Join the NJN <https://www.surveymonkey.com/r/VGY9VJM>

# NJN Membership Regional Representation

Figure 2: Regional Location of National Judicial Network Members (n=130 members) as of July 1st, 2021

■ Mid Atlantic (n=47) 36.2% ■ New England (n=3) 2.7% ■ Mid West (n=25) 19.2% ■ South (n=8) 6.2% ■ West (n=13) 10.0% ■ Pacific (n=34) 26.2%



# Poll 1: Who is joining us today?

- A. Judge or other judicial officer
- B. Court staff and law clerks
- C. Judicial educator
- D. Judicial Administrator
- E. Other: please let us know in the chat!

**POLL**

## **Poll 2: Have you encountered a victim of labor trafficking or someone you suspect was a victim of labor trafficking in any of your court cases?**

A. Yes

B. No

C. I'm not sure

**POLL**



# Labor Trafficking Basics

Jane Anderson, AEquitas

# Federal Labor Trafficking Laws

18 U.S.C. § § 1589-90

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## Act

- Recruits
- Harbors
- Transports
- Provides
- Obtains
- Benefits, financially or by receiving anything of value

## Means

- Force
- Restraint
- Threats of harm
- Abuse or threatened abuse of the legal system
- Any scheme, plan, or pattern intended to cause the person to believe that if they did not perform labor, they would suffer serious harm or restraint

## Purpose

- Involuntary servitude
- Peonage
- Debt Bondage
- Slavery

What is missing from the list of  
“means”?

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*Please feel free to use the chat to answer or  
unmute yourself and answer aloud*

AE

# Coercion

22 U.S.C. § 7102(3)

<p>Threats of serious harm to or physical restraint against any person;</p>	<p>Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person;</p>	<p>The abuse or threatened abuse of the legal process.</p>
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# Serious Harm

18 U.S.C. § 1589(c)(2)

Any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

# Individual Analysis

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*“The victim's vulnerabilities are relevant in determining whether the physical or legal coercion or threats thereof could plausibly have compelled the victim to serve.”*

- United States v. Kozminski, 487 U.S. 931, 933, 108 S. Ct. 2751, 2755, 101 L. Ed. 2d 788 (1988)

*[The defendants] knew that they were telling [the victim] that if she did not do everything they asked, they would not send money back home for her. The [defendants] also knew that not sending money back home was, for [the victim], a “serious harm.”*

- United States v. Calimlim, 538 F.3d 706 (7th Cir. 2008)

# Exceptions for Minors

## State v. Federal Definitions

- The federal statutes do not contain an exception of proof for labor trafficking of minor victims
- Some state labor trafficking statutes may have such an exceptions
  - *e.g.*, Florida's Labor Trafficking Statute, Fla. Stat. § 787.06
- For purposes of Continued Presence and T Visas, trafficking must meet the federal definition

What might state court judges include in court orders to help children prove the means by which they were trafficked?





# Vulnerabilities to Labor Trafficking

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- Poverty
- Lack of educational opportunities
- Unemployment or lack of job training
- Family obligations
- History of domestic/sexual abuse
- Lack of access to social services
- Immigration status
- Precarious living conditions
- Mental and/or physical disabilities
- Substance abuse disorders
- Homelessness or home instability
- Criminal histories

*What else?*

# Totality of the Circumstances

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## Serious Harm

- Physical or nonphysical
- Psychological
- Financial
- Reputational

## Circumstances

- All of the surrounding circumstances

## Victim

- Same background
- In the same circumstances

# Where do you think Labor Trafficking happens?

*Please feel free to use the chat to answer or unmute yourself and answer aloud*



# Major Labor Trafficking Venues

- Regulated & unregulated industries
- Low-wage industries
- Hidden & public
- Sexual services & non-sexual services
- Gender differences by venue
- 4% trafficked in multiple venues

Private Residence / Domestic Servitude	37%
Agriculture	19%
Restaurants	14%
Hospitality	10%
Construction	10%
Carnivals/Fairs	7%
Factories	4%
Assisted Living	3%
Strip Clubs	2%
Massage Parlors	1%

COLLEEN OWENS ET AL., UNDERSTANDING THE ORGANIZATION, OPERATION, AND VICTIMIZATION PROCESS OF LABOR TRAFFICKING IN THE UNITED STATES (2014), [https://www.urban.org/sites/default/files/publication/33821/413249-Understanding-th\[...\]mization-Process-of-Labor-Trafficking-in-the-United-States.PDF](https://www.urban.org/sites/default/files/publication/33821/413249-Understanding-th[...]mization-Process-of-Labor-Trafficking-in-the-United-States.PDF)

# Trafficking and the Federal Employment Discrimination Statutes

**William R. Tamayo, J.D.**

District Director

**San Francisco District: Northern California, Northern  
Nevada, Oregon, Washington, Alaska, Idaho and  
Montana**

**U.S. Equal Employment Opportunity Commission**

[www.eeoc.gov](http://www.eeoc.gov)

# Bill Tamayo

- EEOC District Director, oversee investigations and operations since 2015;
- EEOC Regional Attorney, directing litigation (1995-2015); **many sexual harassment lawsuits that include violent acts, rapes, etc. (many immigrant victims)**
- Northern California, Northern Nevada, Oregon, Washington, Alaska, Idaho and Montana (prior to 2006 Northern. and Central CA, Hawaii, Guam, Commonwealth of the Northern Mariana Islands)
- Staff and Managing Attorney, Asian Law Caucus: political asylum, deportation defense, employment discrimination represented battered immigrant women in immigration proceedings; co-authored memo to Congress creating **self-petitioning provisions of Violence Against Woman Act;**

## Poll 3: What forms of relief can the EEOC obtain for victims?

- A. Back pay
- B. Reinstatement in their job
- C. Compensatory damages
- D. Punitive damages
- E. Termination of the harasser
- F. All of the Above

**POLL**

# Title VII of the Civil Rights Act of 1964

- **Title VII of the Civil Rights Act of 1964** prohibits discrimination on the basis of **race, color, sex, national origin and religion** in hire, promotion, **all terms and conditions of employment**, termination;
- **Prohibits retaliation against those who complain or assist in complaining, witnesses**
- **Sexual harassment is a form of sex discrimination; (not unlawful pre-1965; not recognized by Supreme Court until 1986)**
- ***Addressing sexual harassment especially for immigrant, migrant and other vulnerable workers (including young workers) is an EEOC priority***



# Other Statutes Enforced by EEOC

- **Americans with Disabilities Act, Title I:** employment discrimination; reasonable accommodations (remedies: back pay, front pay, injunctive relief, compensatory damages, punitive damages)
- **Age Discrimination in Employment Act** (persons 40 or over): back pay, injunctive relief; liquidated damages
- **Equal Pay Act:** back pay; liquidated damages

## Remedies for Harassment or Retaliation under Title VII and the Americans with Disabilities Act

- **Back pay if fired or demoted; reinstatement to the job**
- **\$\$ compensatory damages (emotional distress, pain and suffering); you could be the critical witness**
- **\$\$ punitive damages if employer acted with malice or “reckless disregard”**
- \$\$ for those who were retaliated against as witnesses
- Termination of harasser; bar future hiring
- New company policies to encourage complaints without fear of retaliation (as part of court order); training of supervisors and employees

## Sample of EEOC Cases

- **EEOC v. Tanimura & Antle:** Salinas, CA and Yuma, AZ; farm worker forced to have sex with hiring official in order to pick crops on 2 different seasons: \$1.855 million settlement (1999)
- First major EEOC sexual harassment lawsuit on behalf of a farm worker
- Referred by California Rural Legal Assistance

# EEOC Cases

- **EEOC v. Harris Farms:** (Coalinga, CA) Mexican mother of 5 raped at gunpoint (twice in the fields and once in her house) by supervisor who threatened to kill her husband if she reported rapes; jury verdict for **nearly \$1 million** (2005) see “The Green Motel”, Ms. Magazine; **Frontline: Rape in the Fields**
- **EEOC v. Rivera Vineyards:** (Coachella, CA); farm workers subjected to sex segregation and constant sexual harassment including rape; **\$1.1 million settlement**
- **EEOC v. Moreno Farms,** multiple rapes of 5 farm workers by owner’s two sons; **\$17 million verdict** (Florida) (2015)

## EEOC Cases (partial list)

- **EEOC v. ABM** (E.D. Cal.); 21 Latina janitors were sexually harassed by supervisors on a regular basis; including propositions for sex, grabbing, groping, one rape and retaliation (including termination) (Bakersfield, CA)
- Settlement: **\$5.8 million** (2010) (see, **Frontline documentary: Rape on the Night Shift**)
- **EEOC v. Koch Foods** (Morton, Mississippi); scores of Latino/a poultry workers were harassed on the basis of sex (touching, propositions for sex, etc.), race and national origin, and fired in retaliation.
- Settlement: **\$3.75 million** (2018)

## **Early Indication of Labor Trafficking: *EEOC v. EJ International dba Moods & Music Nightclub* (Saipan, CNMI)**

- Filipinas recruited to Northern Marianas to be waitresses; within 3 weeks forced to have sex with “customers” in the VIP room; opposed; terminated (1997)
- EEOC investigation found five other women
- Coordinated with U.S. Attorney’s office in Guam/Commonwealth of the Northern Mariana Islands
- **\$350,000 judgment (1998)**

## Early indication: *EEOC v. DeCoster Farms* (Iowa)

- 10 women trafficked in from Mexico to work at Iowa poultry farms (2000)
- Allegations of repeated rape by co-workers and supervisors; threats of deportation, termination, and further harassment
- Required filing for temporary restraining order to allow cooperation by witnesses subjected to threats by company supervisors
- **Settled \$1.525 million** (2002); granted deferred status, then **issued first U-visas!**
- **NO CRIMINAL PROSECUTION**
- **See: *Frontline: Rape in the Fields***

# Sample of EEOC Cases: National Origin Discrimination and Trafficking

- *EEOC v. John Pickle Company* (Asian Indians on temporary visas held in company compound; could not leave; not paid wages while non-Indians were paid and not restricted; terrible living conditions; **\$1.25 million verdict**); (Tulsa, Oklahoma) (2007)
- No criminal prosecution
- *EEOC v. Trans-Bay* (Thai nationals held captive; crowded living conditions; passports stolen by employers; not paid wages; **\$1.0 million settlement**); (Los Angeles)



# *EEOC v. Global Horizons Hawaii*

- Pattern or practice of national origin and race discrimination, harassment, unequal pay, retaliation on behalf of over 200 Thai male victims working on farms in Hawaii & Washington
- Promised high paying jobs; but high recruiting fees, large debt; passports confiscated, threatened with deportation
- Worked on 6 coffee, macadamia and pineapple farms in HI, 2 apple farms in WA

# *Global Horizons*

- Workers forced to live in dilapidated housing infested with rats and insects, crowded sleeping conditions, no beds
- Forbidden from leaving premises, threatened, yelled at, physical assaults by supervisors, isolated from non-Thai farm workers with better conditions; Court rules for EEOC
- **Global Horizons judgment: \$8 million**
- ***EEOC v. Del Monte Farms*** (Hawaii): **settled for \$1.2 million** (2014) wages, damages
- Two WA state farms **settled for \$325,000** (Ninth Circuit upheld “joint employer” liability) (August 2020)
- **NO CRIMINAL PROSECUTION**

# *EEOC v. Signal International* **Mississippi & Texas**

- Discriminatory treatment based on terms and conditions of employment, segregation of 500 Indian workers based on race (Asian) and national origin (Indian)
- Recruited to work as welders, pipefitters, and ship fitters in Mississippi and Texas
- Forced to live in fenced in modular trailers; charged \$30 daily for housing and food; unsanitary and intolerable conditions;
- **\$5 million settlement** (2019)
- **NO CRIMINAL PROSECUTION**

# *EEOC v. Hill Country Farms dba Henry's Turkey Farm (Iowa)*

**Americans with Disabilities Act** lawsuit on behalf of 32 intellectually disabled men who eviscerated turkeys at plant; some worked for 20-30 years

Housed in 100 year old abandoned school with boarded up windows, roach and mouse infestation, broken water heaters, leaky roof, fire hazard

No govt issued ID's, locked rooms, locked doors, handcuffing, no outside communication, no cell phones, no computers

- West Liberty Foods plant paid Henry's \$10,000-11,000 per week for work of 25 men. Henry's owner paid each man \$2 per day and kept the rest for himself (alleged used for "room and board").
- Company made itself Payee of men's SS Disability and SSI benefits; set up accounts and tapped into them; set up as residents in Texas where company was Hill Country was Headquartered

# *Henry's Turkey Farm*

To express dissatisfaction with job performance, supervisors hit workers, frequently kicked them in groin, sprayed them with hoses, knocked them to the ground, pushed one down the stairway; ***handcuffed them to metal beds***

Company claimed it used \$ for paying Supervisors to provide med care, but no one was trained

**Multiple medical problems:** fungal infections, loss of teeth, carpal tunnel, injuries not treated, forced to work despite chemo therapy

**Hiding The Men:** for over 30 years, company refused to inform State of Iowa that workers were Iowa residents and thereby eligible for Medicaid benefits and disability services; “no knowledge” by government or public

- **Treated differently because of their disabilities; paid less, abused, forced to live in company property, punished by physical force**

# *Henry's Turkey Farm*

- ▶ 21 men rescued in 2009; others were transferred to abandoned Texas nursing homes before rescue
- ▶ EEOC brought lawsuit; trial in 2013
- ▶ EEOC's court expert: Employer's exploitation was because of vulnerability, and vulnerability was because of intellectual disabilities
- ▶ **Jury award: \$5.5 million for each man for comp damages; \$2 million each for punitive damages**
- ▶ **\$240 million total jury award**
- ▶ **NO CRIMINAL STATE OR FEDERAL PROSECUTION**

# THE FACES

LAWYER 'CRIED LIKE A BABY'  
AFTER WINNING CASE FOR THESE  
MEN WHO LIVED IN BUNKHOUSE



PAGE 7A: NAMES  
OF THE FORMER  
HENRY'S WORKERS

# Proving Harassment

- **Police:** Was police report filed? (non-conclusive); Note: less than 10% of sexual assault crimes are reported;
- ***EEOC v. Willamette Tree Wholesale*** (Oregon): court issues order barring employer's inquiry into plaintiff's immigration status, prior sexual history **and her reasons for not contacting the police** (in view of perpetrator's repeated threats to kill Emitteria if she reported the rapes)



# Proving Harassment; Criminal investigation and standard

- **Compare:** “beyond a reasonable doubt” in criminal cases v. “by a preponderance of the evidence”, i.e. 51% in civil cases
- ***EEOC v. Harris Farms:*** 3 Rapes by supervisor at gunpoint;
- Deputy sheriff: “victim is lying”; “I don’t believe her” (and of course, I don’t speak Spanish)
- Jury: “we believe her and here’s \$1 million”

# Poll 4: In your family or civil court cases do you see cases where abuse and crimes were committed but no criminal investigation or protection occurs?



- A. Very often
- B. Often
- C. Commonly
- D. Sometimes
- E. Never

Please share what types of cases in the chat

# RETALIATION

- 38% of all charges in FY2012; 41% in FY2014; **51% in FY2018; 54% in FY2019; 58% in FY2020**
- **Nearly 100% of sexual harassment lawsuits also have retaliation claim**
- **Claimants don't come to EEOC to complain about harassment; *they first complain that they were fired***
- Issue: does the adverse action, e.g. termination, demotion, threats to harm or other activity ***discourage a reasonable employee to file a claim??***
- ***Make sure you ask Maria if she was discouraged from making a complaint; who discouraged or threatened? When? How was threat made? Does she know if others have been threatened or deterred?***

# EEOC Procedures; immigration status issues

- ▶ **Title VII makes no distinction based on immigration status, i.e. undocumented workers are protected and can file charges of discrimination (*EEOC & Castrejon v. Tortilleria “La Mejor”*);**
- ▶ EEOC will not ask status
- ▶ EEOC will fight company inquiries into immigration status during litigation
- ▶ **EEOC is specifically designated as an agency that can certify for a U-Visa where charging party or witness is victim of “serious crime activity”**
- ▶ Raise questions of immigration status with EEOC ***Regional Attorney or Trial Attorney***

# TIMELINESS, EQUITABLE TOLLING: NIWAP *EEOC v. Willamette Tree Wholesale* (Oregon)

- Farm worker raped with shears to throat on first day and repeatedly forced to perform oral sex once a week for 10-12 week in the fields; warned that if she told anyone about the rapes that she, co-employee relatives and family in Mexico would be killed; **failed to file EEOC charge within 300 days; missed deadline by 62 days**
- Can she still pursue claims after deadline?
- Court grants **equitable tolling** citing *Stoll v. Runyon* (9<sup>th</sup> Cir. 1999); company can't benefit from having traumatized claimant so badly that she can't complain; ***relied on psychologist and therapist reports;*** allows case to proceed

# The Application of Title VII of the Civil Rights Act of 1964 (Title VII) and the Americans with Disabilities Act, as amended (ADA) to Applicants or Employees Who Experience Domestic or Dating Violence, Sexual Assault, or Stalking

Mary Tiernan

Outreach and Education Coordinator

EEOC Philadelphia District Office

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# What are the protected categories?

- Race
- Color
- National origin
- Religion
- Sex
- Pregnancy
- Transgender status
- Sexual orientation
- Age
- Disability
- Genetic information
- All of our laws prohibit unlawful retaliation

# Interplay between EEO laws and survivors of domestic/dating violence, sexual assault or stalking

- Title VII and ADA do not prohibit discrimination against applicants or employees who experience domestic or dating violence, sexual assault, or stalking.
- But there could be situations where survivors would be protected from employment discrimination or retaliation under these laws.



# Questions And Answers: The Application Of Title VII And The ADA To Applicants Or Employees Who Experience Domestic Or Dating Violence, Sexual Assault, Or Stalking

- <https://www.eeoc.gov/laws/guidance/questions-and-answers-application-title-vii-and-ada-applicants-or-employees-who>

# Examples of employment decisions that may violate Title VII

- Terminating an employee who has been subjected to domestic violence because the manager says he fears the potential "drama battered women bring to the workplace."
- A manager who believes that men can't really be victims of domestic violence does not promote a qualified male employee because he learned that the employee obtained a restraining order against a male domestic partner.

# Examples of employment decisions that may violate Title VII (continued)

- An employer allows a male employee to use unpaid leave for a court appearance in the criminal prosecution of an assault, but does not allow a similarly situated female employee to use equivalent leave to testify in the criminal prosecution of domestic violence she experienced.
- A seasonal farmworker's supervisor learns that worker has recently been subject to domestic abuse, and is now living in a shelter. Viewing her as vulnerable, he makes sexual advances. When she refuses, he terminates her.

# Examples of employment decisions that may violate the Americans with Disabilities Act and involve applicants or employees who experience domestic or dating violence, sexual assault or stalking

- The ADA prohibits different treatment or harassment at work based on disability, which could include impairments resulting from domestic or dating violence, sexual assault or stalking.

# Additional Examples of employment decisions that may violate the Americans with Disabilities Act

- An employer learns that an employee was a complaining witness in a rape prosecution and received counseling for depression. The employer doesn't promote her based on a concern that she may require future time off for continuing symptoms or further treatment of depression.

# The ADA and reasonable accommodation

- The law requires an employer to provide reasonable accommodations to employees and job applicants with an actual disability or record of a disability, unless doing so would cause significant difficulty or expense for the employer.
- A reasonable accommodation is a change in the workplace or in the way things are usually done that an individual needs because of a disability and may include time off for treatment, modified work schedules, and reassignment to a vacant position.

# Example of employment decisions that may violate the ADA (continued)

- Denying a request for a schedule change or unpaid leave to get treatment for depression and anxiety following a sexual assault by an intruder in her home.

# ADA and Confidentiality

- The ADA prohibits disclosure of confidential medical information.



# Retaliation

- Title VII prohibits retaliation for engaging in protected activity.
- The ADA prohibits retaliation or interference with an employee's exercise of his or her rights under the statute.
- Protected activity can include actions such as filing a charge of discrimination, complaining to one's employer about job discrimination, requesting accommodation under the EEO laws, participating in an EEO investigation, or otherwise opposing discrimination.

# Deadline for filing a charge against a private sector employers and state and local government employers

- The laws enforced by EEOC, except for the Equal Pay Act, require an individual to file a charge before they can file a lawsuit for unlawful discrimination.
- There are strict time limits for filing a charge.
- The 180-calendar-day filing deadline is extended to 300- calendar days if a state or local agency enforces a state or local law that prohibits employment discrimination on the same basis.
- However, for age discrimination, the filing deadline is only extended to 300 days if there is a state law prohibiting age discrimination in employment and a state agency or authority enforcing that law.

# How to file a charge against a private sector employers and state and local government employers

- [www.eeoc.gov/employees/howtofile.cfm](http://www.eeoc.gov/employees/howtofile.cfm)
- 1-800-669-4000/ 1-800-669-6820 (TTY).
- ASL Video Phone 1-844-234-5122

# Different process and time frames for federal employees/applicants for federal employment

- A federal government applicant or employee who believes that his/her/their employment rights have been violated under Title VII or the ADA and wants to make a claim against a federal agency must file an "EEO complaint" with that agency.
- For more information concerning enforcement procedures for federal applicants and employees, visit the EEOC website at [www.eeoc.gov/federal/fed\\_employees/index.cfm](http://www.eeoc.gov/federal/fed_employees/index.cfm).

# Poll 5: Have you been in contact with or worked with EEOC in your community?

- A. Yes, I have contacted them
- B. Yes, I work with them as part of community collaborations on victim's issues
- C. Yes, my courthouse provides know your rights information about the EEOC
- D. No, I have not
- E. I do not know whom I would refer someone to at the EEOC in my area

If you encounter a case where an employer may be preventing victims and witnesses from participating in court, what steps might you take?



# Labor Trafficking

Case Examples from Jane Anderson,

# Case Example

## Dependency Court

- 21 referrals to Child Welfare Dept. between 2004-2018
- 10 reports to law enforcement from 2012-2018.
- Human trafficking training at school prompted another referral
  - Children were often absent
  - When at school, they were tired, dirty, and had sunburned scalps
- Investigation revealed that 3 young children were forced to panhandle to support their father's drug habit



# Relationship to Trafficker

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Intimate  
Partner

Family

Social  
Circle

# Case Example

## *Missing Person Report*

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- When missing 11yo girl was recovered, she disclosed that she had been working at a strip club
- Victim had runaway and had been living in a house with several men and a woman
- Victim was told that she needed to pay to stay at the house
- Older woman was working at a strip club and she introduced the victim to the club
- Victim danced 100% nude at the club on two occasions

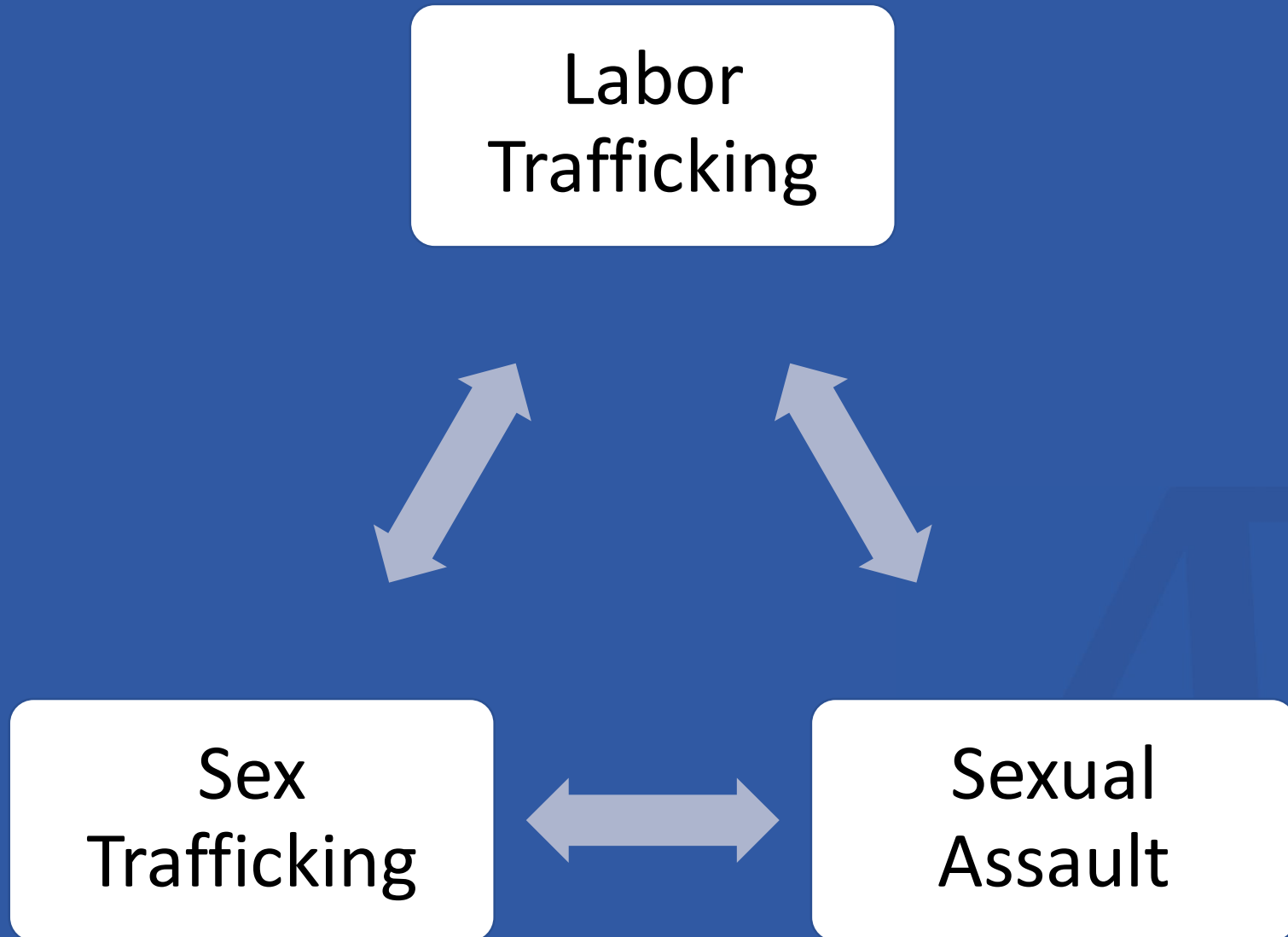
# Case Example, cont'd.

## Missing Person Report

- Prosecution review process included analysis of state and federal laws
- Federal analysis concluded that nude dancing (without more) did not constitute “commercial sexual activity”
- Feds would have to charge under labor trafficking and would have to prove “means”
- State law was more conducive, but education was necessary to ensure a trauma-informed response

# Interconnection

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# Case Example

## *Delinquency and Criminal Courts*

- Young Hispanic males were arrested for drug sales
  - Some were undocumented and/or from families that were not documented
- Young men were known to work for a known gang leader, Victor Rax

Anderson, Jane and Daniel Strong, *Understanding Human Trafficking through the Lens of Utah's Victor Rax Case*, POLICE CHIEF MAGAZINE, THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE (November 2020), available at [https://www.policechiefmagazine.org/wp-content/uploads/Police\\_Chief\\_November\\_2020\\_WEB.pdf?fbclid=IwAR10l9BHmc9aNezVPv4e\\_oWYZzIC92ORFomwL8b9dY0YfEpDyFoLA6D567M](https://www.policechiefmagazine.org/wp-content/uploads/Police_Chief_November_2020_WEB.pdf?fbclid=IwAR10l9BHmc9aNezVPv4e_oWYZzIC92ORFomwL8b9dY0YfEpDyFoLA6D567M)

# Case Example, cont'd.

## *Delinquency and Criminal Courts*

- Rax was a gang member, drug dealer, and well-known figure in the community
- Groomed boys, using gifts, money, and proximity to power
- Sexually assaulted boys and young men and then coerced them into drug dealing by using cultural fear tactics, threats of arrest and deportation, and threats to expose sexual abuse
- 30-40 victims were eventually identified

# Dynamics

*Gang & Child Abuse*

Grooming

Initiation

Shame

Fear

Delayed  
Reporting

# Labor Trafficking: What State Courts and Judges Need to Know

Commissioner Loretta Young



# Two Questions

1. What Kinds of Cases Are You Likely to See Labor Trafficking?
2. What Can a Judge DO In Response?

**Let us know what you think in the chat!**

# You Might Be Surprised...

## CRIMINAL

- Drug Cases
- Violations/Status Offenses

## CIVIL

- Protection from Abuse (PFA)
- Child Support (!)
- Guardianships

# Protection from Abuse Petition.

“He complains when I don’t make enough money. He takes my money and my pocketbook when I get home and checks my cell phone”

## Cross PFA and Answer:

- “My wife has caused me to be emotionally distressed by abandoning me and our child and has caused loss of income”
- “she left without notice and I had to buy a burner phone and search for her in the Craigslist Personals. I found her with two other men who confronted me with a gun when I went to meet her and they told me ‘she is with us now’.
- Cross Petitioner sought an Order to “return home” and alternatively sought custody of the child and compensation for lost family income.
- **PFA was dismissed for victim’s failure to return to court**

# What Can the Court Do?

- **Contact Victim**  
**Advocate to explore social services supports to encourage autonomy**
- **Be Proactive**
  - Not legal advice
  - Not overstepping
  - Not affecting merits

## Protection From Abuse #2

- Arranged Marriage, non-citizen, expected to produce children, cook, clean, with no freedom. Humiliated and abused by MIL
- Wife Sought:
  - no contact with husband & in-laws
  - temporary spousal support
  - custody of her children

PFA #2 looked like  
extreme domestic  
violence



BUT it was also  
labor trafficking



**Entitling  
her to T  
Visa and/or  
U Visa**

# Child Support Case

Delaware resident,  
completely unaware  
he was trafficked.  
Considered this a  
“bad deal”

- “Unable to pay because I was stuck in Midwest.....”
- Answered job for solar sales
- Promised housing, salary, bonuses
- BUT was taken to Ohio, not paid, kept in squalor
- Threatened when tried to leave
- Unable to return for Delaware for 5 weeks



# Court Issued Order and Later Signed U Visa Certification

*But what ELSE could I have done?*

- How can judges make ethical and valid suggestions to counsel?

# Child Labor Trafficking – LOOKED like Entering Casino Under Age and Loitering

**BUT it was child  
labor trafficking**

## **Facts:**

- Trafficker was Agent/Guardian and friend of parents
- Child worked excessive hours
- Under poor living/work conditions
- Kept from returning to school
- Debt bondage situation

## Appropriate Judicial Response Menu:

- Child abuse hotline
- Victim Advocate
- Discuss with DAG & Defense at sidebar
- Trafficking Unit or Special Prosecutor
- Contact your Human Trafficking Council Network
- -“Do Nothing” is not an appropriate option

# What ELSE Can We Do???

## Remember – YOU have the power to do GOOD

- “Know Your Rights” publications in your courtroom and self-help center
- Utilize your victim advocates to reach out, make referrals to agencies and assist with exploring options and services
- Step Up! Play a leadership role in your Court. Discuss projects with your Court Administration to create work groups, task forces, and committees to partner with other key agencies.
- Enhance victim access to justice by continuing to hone your skills to be able to detect trafficking and protect vulnerable victims

## **Poll 6: After attending this webinar the next time you encounter a labor trafficking victim I will be able to: (check all that apply)**

- A. Identify labor trafficking victims in the cases before me
- B. Connect potential victims with resources and legal rights information
- C. Make findings that document labor trafficking
- D. Craft orders that provide relief/assistance to victims

**POLL**

# NIWAP Technical Assistance, Materials, and Training

- Judicial training manuals, toolkits, bench card and materials at [www.niwap.org/go/sji](http://www.niwap.org/go/sji)
  - **NIWAP Technical Assistance**
  - Call (202) 274-4457
  - E-mail [info@niwap.org](mailto:info@niwap.org)
- Web Library:  
[www.niwaplibrary.wcl.american.edu](http://www.niwaplibrary.wcl.american.edu)
- Future trainings – NIWAP’s SJI grant

# Jane Anderson

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# Thank You!

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- [www.eeoc.gov](http://www.eeoc.gov)



# Thank You for Joining Us!

- Please evaluate this webinar
  - <https://www.surveymonkey.com/r/njn-labor-webinar>
- If you are a judicial officer join the National Judicial Network
  - <https://www.surveymonkey.com/r/VGY9VJM>
- Upcoming Webinar:
  - Fall 2021 – Immigration Options for Survivors: The Court’s Role (SIJS and U visas)