

National Judicial Network Forum on Human Trafficking and Immigration in State Courts

What Any Court Can Do: Your Role When You Encounter Victims of Human Trafficking

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Upcoming Peer-to-Peer Sessions & Webinars

June 4, 2024

Summer Webinar – TBD

September 3, 2024

October 1, 2024

November 5, 2024

December 3, 2024

What is Human Trafficking?

Judge Laurie A. Clark, Denver Juvenile Court
Judge Rosemary Collins (Ret)
Leslye Orloff, Director NIWAP



“I didn’t have a home, so selling myself was a survival mechanism. I felt alone in the world, like I had no choices. I look back now and wish that 21-year-old Audrey could talk to 15-year-old Audrey and tell her there is hope ... but back then, I felt no hope.”

Audrey (human trafficking survivor)

Objectives for Judges



- Recognize individuals who are at high risk of sex and/or labor trafficking
- Interact with them in a way that is most likely to obtain a positive response (trauma-informed)
- Understand legal solutions for human trafficking victims
- Refer appropriate resources

Human trafficking =

A severe form of exploitation for labor (including sex) through the use of force, fraud, or coercion. (Palermo Protocol)

Trafficking laws in the United States (TVPA): Three categories of trafficking

1. Those under 18 involved in commercial sex acts
2. Those 18 and 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***

Not limited to people who are foreign-born, youth, or females



Action

Recruit
Harbor
Transport
Provide
Obtain

Means*

Force
Fraud
Coercion

Purpose

Commercial
sex acts
OR
Labor or
Services

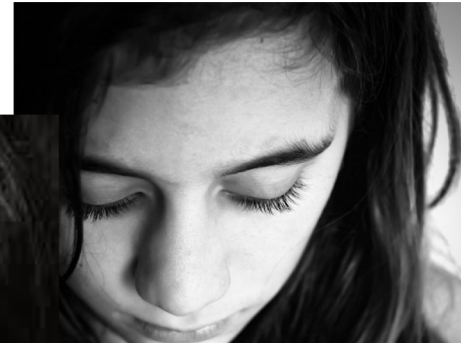


Factors that contribute to human trafficking

- Agriculture/Ranching/Energy
- Tourism/ski resorts
- Construction
- Transfer points (highways)
- Marijuana grows
- Denver International Airport
- Demand for sex with minors
- Demand for cheap products
- Immigration influxes



The Ideal Victim



**LOOK
BENEATH
THE SURFACE**

**HUMAN TRAFFICKING IS
MODERN-DAY SLAVERY**

A victim of trafficking may look like many of the people you see everyday.

Ask the right questions and look for clues. You are vital because you may be the only outsider with the opportunity to speak with a victim.

There are safe housing, health, immigration, food, income, employment, legal and interpretation services available to victims, but first they must be found.

**CALL 911 or 888-3737
TEXT BeFree to #233**

This hotline is intended to help victims of human trafficking. Local resources are available within your community and state. For more information, visit www.humantraffickinghotline.org.

Don't be afraid to say it for her!

Your courage is her hope. If you believe she is being hurt or kept against her will, please call us and we'll help. All calls and emails are anonymous.

**Tel: +420 605 988 566
+420 222 717 171**

www.say-it.cz mail@say-it.cz

**TOGETHER AGAINST
HUMAN
TRAFFICKING**

If you think someone is a victim of trafficking, **call 1.888.3737.888**
For more information about human trafficking visit www.acf.hhs.gov/trafficking.

Who is missing?



Complexities of Identification

•
**Most
survivors will
not ask for
help!**

- Language
- Unaware of or unable to access rights
- Social or physical isolation
- Stigma or shame
- Fear of retribution
- Distrust of systems, law enforcement, or outsiders

Myriad societal and interpersonal abuses which can lead to:

- Increased risk of trauma
- Increased risk of homelessness
- Isolation
- Stigma & discrimination (fear)
- Institutionalized bias in education, law enforcement, child welfare and healthcare systems (trust)
- Not being included in the common narrative (less identification)
- Biased notions of who is “innocent” and who is “guilty”
- Barriers to accessing resources due to identity (religious organizations, gender-specific)

Additional complexities for people who identify as LGBTQ+



Red Flags and Indicators of Trafficking: Physical Indicators

- Unexplained injuries (multiple scars, broken teeth)
- Evidence of prolonged infection or time since injury
- Signs of malnourishment or generally poor health:
Malnutrition, dehydration, exhaustion
- Frequent or repeated STIs
- Multiple or frequent pregnancy/abortions
- Tattoos or other types of branding
- Evidence of sexual trauma
- Substance misuse

Red Flags and Indicators of Trafficking: Behavioral Indicators

- Individual claims to be “just visiting” an area; the individual does not know their current location
- Individual has numerous inconsistencies in their story
- Someone is claiming to speak for, or on behalf of them
- Individual does not have any type of legal documentation
- Not making eye contact
- Individual not being in control of their identification documents
- Paying with cash



Red Flags and Indicators of Trafficking:

Mental health Indicators

How a survivor responds will be affected by their own experiences, the accessibility of support, their coping and life skills and those of immediate family, and the responses of the larger community in which they live.

- Trauma can affect treatment presentation, engagement, and the outcome of behavioral health services.
- Trauma can lead to memory loss, disassociation, PTSD, paranoia, fear, anxiety, submission, tension and/or hostility
- Individual may either be in crisis, or may downplay existing health problems or risks
- Sleep deprivation, sometimes mixed with substances can lead to psychosis
- Co-occurring mental and substance-related disorders



Court room red flags

- Uncertain about or does not understand the proceedings
- Unusually resigned to their circumstances (willing to enter a guilty plea without counsel, or seems anxious to rush through the proceedings)
- Not communicating with legal counsel properly
- Inconsistent recitation of identity
- Giving “scripted answers” to the court in response to questions
- Looking to another person in the courtroom for non-verbal cues or instruction before answering questions
- Another person attempts to speak for the person or refuses to allow the person to meet privately with anyone
- Under the control of another person who may or may not be in the courtroom, (e.g., a romantic partner, family member, or employer)
- The same person attends court with multiple people without a good reason



Juvenile-specific court room red flags

- Juvenile has older intimate partners
- Parental consent to juvenile to live with intimate partner
- Juvenile is unclear who their caregiver is either by name or relationship or uncomfortable disclosing who their caregiver actually is

History of criminal activity

- History of charges such as prostitution, drug possession, loitering, or theft either as an adult or a juvenile
- History of past victimization
- Abuse of legal proceedings — courts may suspect that legal procedures are being used or have been used to manipulate a victim



What types of cases may involve human trafficking situations?

Prostitution – in a prostitution case, it can be difficult to distinguish between acts of prostitution committed as an offender or as a victim of human trafficking

Gang activity – gangs often supplement income through sex or labor trafficking

Drug sales – drug sales may be forced on a victim by a trafficker

Drug use – drugs may be used to control a trafficking victim

Illegal peddling – peddling may be forced on a trafficking victim by a trafficker

Human trafficking – the victim may be required to recruit other victims for the trafficker

What types of juvenile cases may involve human trafficking situations?

Delinquency – trafficking victims who are placed in a juvenile detention center may be forced by the trafficker to recruit other victims in the detention center

Juvenile status offenses – runaways and truants are especially vulnerable to becoming trafficked

Child abuse and neglect – abused children are vulnerable to trafficking, and some parents may be trafficking their children, either for sex or labor

Guardianship – there have been cases in which a trafficker has applied for guardianship over their victims. A variety of caretakers have trafficked children under their care, including legal guardians, foster parents and even family members such as parents, uncles, aunts, and others.

What can a judge do if a case before them involves possible human trafficking activity?

Judges need to be aware of some issues relating to the safety and protection of trafficking victims, particularly those who are charged with crimes committed on behalf of or at the direction of a trafficker, and may want to take steps to protect someone who shows signs of possibly being a trafficking victim.

- 1) **Having a trauma-informed courtroom is vital** - When the courtroom feels safe, more information comes out. (Closing a courtroom or kicking someone out of a courtroom; or asking a sheriff to watch a spectator in the courtroom for signs of intimidation.)
- 2) Bond is one stage where HT should be considered, and bond violation. Judges can create a protection order, or bond conditions. (Exclusionary zones, or ankle monitors)
- 3) Judges can order a presentence investigation (PSI) - But they have to make sure that the folks doing the investigation understand human trafficking and are taking this into account.
- 4) Sentencing is another stage where judges can use discretion. They can question a disposition and give leniency, or can order specific programs as a conditional sentence. **It takes extra work to ask those extra questions!**
- 5) Judges can ask questions about the resolutions passed on by the DA if they suspect that trafficking may be part of someone's lived experience. Why is this the resolution? What information did you take into consideration?



As a reminder...

- 1) Judges need to be aware of indicators of trafficking and conversant with the screening tools used by service providers, probation officers, and others.
- 2) If the trafficker is a family member or other caretaker, they may be in the courtroom, so a trafficking victim may be reluctant to answer certain questions.
- 3) A guilty plea by a juvenile trafficking victim charged with a crime, such as prostitution, coupled with a placement with a family member, may give the trafficker more control over the victim.
- 4) There may be a need for a protocol with prosecutors, defense attorneys, and guardians ad litem to identify a potential trafficking victim before the victim has to testify in court.
- 5) The judge may want to recess or continue a trial if a trafficking situation appears to be present, to determine what steps, if any, need to be taken to protect a possible trafficking victim.
- 6) Judges should be aware of local resources to assist trafficking victims

How you ask questions and interpret responses matters!



**“A lady came up to me and asked me
if I needed help. And for some reason,
I finally said yes.”**

Audrey (human trafficking survivor)



QUESTIONS?



LABORATORY TO COMBAT
HUMAN TRAFFICKING



Session Evaluation

- Please don't forget to complete the evaluation at the end of the session!
- Link to the poll
 - <https://www.surveymonkey.com/r/SNV9M2H>
- We will also send the link in a separate email after the session.