



NEBRASKA COMMISSION ON LAW
ENFORCEMENT AND CRIMINAL JUSTICE



HUMAN TRAFFICKING RESPONSE...

A MANUAL FOR CRIMINAL JUSTICE
PRACTITIONERS

2013

FOREWARD

Human trafficking is a form of modern-day slavery where people profit from the control and exploitation of others. Victims of human trafficking include children involved in the sex trade, adults who are coerced or deceived into commercial sex acts, and anyone forced into different forms of labor or services, such as domestic workers held in a home, or farm-workers forced to labor against their will. Every year, human traffickers generate billions of dollars in profits by victimizing millions of people around the world, and here in the United States. Human trafficking is considered to be one of the fastest growing criminal industries in the world.

Legislature Bill 1145 was passed by the 102nd Legislature, signed by the Governor, and became law on July 19, 2012. The law establishes a Human Trafficking Commission, whose duties include studying and investigating key aspects of human trafficking including the availability of victim services and the scope of human trafficking in the state. Additionally, the task force was directed to develop a human trafficking training curriculum for law enforcement agencies, prosecutors, public defenders, judges, juvenile detention center staff and others involved in the juvenile justice and criminal justice systems. These objectives are presented in a format that will allow the reader to gain an understanding of the issues involved in human trafficking as well as follow a systematic process when conducting human trafficking investigation. The Nebraska Commission on Law Enforcement and Criminal Justice encourages the sharing of this information with all law enforcement personnel who may serve as liaisons between human trafficking victims and the criminal justice system.

The Commission appreciates the contributions of the Human Trafficking subject matter experts, in particular the California Commission on Peace Officer Standards & Training, for their assistance in providing this information.

NEBRASKA TASK FORCE ON HUMAN TRAFFICKING MEMBERS

| | |
|-----------------------|---|
| Jon Bruning | Attorney General |
| Mike Behm | Executive Director, Nebraska Crime Commission |
| David Sankey | Colonel, Nebraska State Patrol |
| Robert Houston | Director, Department of Correctional Services |
| Roger Breed | Education Commissioner |
| Lazaro Spindola | Latino-American Commission |
| Jim Peschong | Lincoln Chief of Police |
| Bob Lausten | La Vista Chief of Police |
| Tim Dunning | Douglas County Sheriff |
| Pat Condon | Lancaster County Attorney |
| Lee Klein | Madison County Commissioner |
| Stan Clouse | Mayor, City of Kearney |
| Lynn Ayers | Child Advocacy Center |
| Linda Burkle | Salvation Army |
| Al Riskowski | University of Nebraska |
| Carol Russell | |
| Chris Webster | Lincoln Public Schools |
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TABLE OF CONTENTS

Forward / Nebraska Human Trafficking Task Force Members | page 2

Human Trafficking Learning Objectives

Objective 1 – Laws | page 4

Objective 2 – Scope of the Problem | page 7

Objective 3 – Smuggling | page 7

Objective 4 – Victim Recruitment | page 8

Objective 5 – Manifestations | page 9

Objective 6 – Indicators | page 11

Objective 7 – Responsibilities (of the initial responding officer) | page 12

Objective 8 – Identifying, Assessing, and Communicating (with victims) | page 13

Objective 9 – Victim Dynamics | page 14

Objective 10 – Appropriate interviewing techniques | page 15

Objective 11 – Community Resources and Referrals | page 16

Objective 12 –Victim Assistance | page 17

Objective 13 – Types of Evidence | page 18

Objective 14 – Case Development | page 20

Objective 15 – Arrests | page 21

Objective 16 – Agencies | page 22

Appendix

Appendix : Statutes and Cases | page 23

Note: “Personnel” as referenced in the Learning Objectives is inclusive of law enforcement officers, prosecutors, public defenders, judges, juvenile detention center staff and others involved in the juvenile justice and criminal justice systems.

OBJECTIVE NUMBER 1

Personnel should

Explain the **definition of human trafficking and describe the laws** associated with human trafficking

WHAT IS HUMAN TRAFFICKING?

Human trafficking, commonly referred to as “modern day slavery” is a global phenomenon that involves obtaining or maintaining the labor or services of another through the use of force, fraud, or coercion in violation of an individual’s human rights. Unlike the trade in narcotics and weapons, those who traffic in humans can sell and resell their “commodity” forcing each victim to suffer repeatedly.

NEBRASKA STATE STATUTES

28-830. Human trafficking; forced labor or services; terms, defined.

For purposes of sections 28-830 to 28-832, the following definitions apply:

- (1) Actor means a person who solicits, procures, or supervises the services or labor of another person;
- (2) Commercial sexual activity means any sex act on account of which anything of value is given, promised to, or received by any person;
- (3) Financial harm means theft by extortion as described by section 28-513;
- (4) Forced labor or services means labor or services that are performed or provided by another person and are obtained or maintained through:
 - (a) Inflicting or threatening to inflict serious personal injury as defined by section 28-318;
 - (b) Physically restraining or threatening to physically restrain another person;
 - (c) Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document of another person; or
 - (d) Causing or threatening to cause financial harm to another person;
- (5) Labor means work of economic or financial value;
- (6) Maintain means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement by the victim to perform such type of service;
- (7) Minor means a person younger than eighteen years of age;
- (8) Obtain means, in relation to labor or services, to secure performance thereof;
- (9) Services means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of services under this section. Nothing in this subdivision shall be construed to legalize prostitution;
- (10) Sexually-explicit performance means a live or public play, dance, show, or other exhibition intended to arouse or gratify sexual desire or to appeal to prurient interests; and
- (11) Trafficking victim means a person subjected to any act or acts prohibited by section 28-831. **Source:**Laws 2006, LB 1086, § 10.

28-831. Human trafficking; forced labor or services; prohibited acts; penalties.

- (1) No person shall knowingly subject or attempt to subject another person to forced labor or services. If an actor knowingly subjects another person to forced labor or services by:
 - (a) Inflicting or threatening to inflict serious personal injury as defined by section 28-318, the actor is guilty of a Class III felony;
 - (b) Physically restraining or threatening to physically restrain another person, the actor is guilty of a Class III felony;
 - (c) Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of such other person, the actor is guilty of a Class IV felony; or
 - (d) Causing or threatening to cause financial harm to another person, the actor is guilty of a Class I misdemeanor.
- (2) No person shall knowingly recruit, entice, harbor, transport, provide, or obtain by any means or attempt to recruit, entice, harbor, provide, or obtain by any means a minor for the purpose of having such minor engage in commercial sexual activity, sexually-explicit performance, or the production of pornography, or to cause or attempt to cause a minor to engage in commercial sexual activity, sexually-explicit performance, or the production of pornography. A person who violates this subsection shall be punished as follows:
 - (a) In cases in which the actor uses overt force or the threat of force, the actor is guilty of a Class II felony;
 - (b) In cases in which the victim has not attained the age of fifteen years and the actor does not use overt force or the threat of force, the actor is guilty of a Class II felony; or
 - (c) In cases involving a victim between the ages of fifteen and eighteen years, and the actor does not use overt force or threat of force, the actor is guilty of a Class III felony.
- (3) Any person who knowingly (a) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, a person eighteen years of age or older, intending or knowing that the person will be subjected to forced labor or services or (b) benefits, financially or by receiving anything of value, from participation in a venture which has, as part of the venture, an act that is in violation of subsection (1) of this section, is guilty of a Class IV felony.

Source:Laws 2006, LB 1086, § 11.

UNITED STATES CODE

VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000 (Reauthorized in 2003, 2005 and 2008) 22 U.S.C. §7102

The term "severe forms of trafficking in persons" means –

- a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. The term "sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

Federal Human Trafficking Statutes

Peonage, 18 U.S.C. § 1581. Section 1581 of Title 18 makes it unlawful to hold a person in "debt servitude," or peonage, which is closely related to involuntary servitude. Section 1581 prohibits using force, the threat of force, or the threat of legal coercion to compel a person to work against his/her will. In addition, the victim's involuntary servitude must be tied to the payment of a debt.

Involuntary Servitude, 18 U.S.C. § 1584. Section 1584 of Title 18 makes it unlawful to hold a person in a condition of slavery, that is, a condition of compulsory service or labor against his/her will. A Section 1584 conviction requires that the victim be held against his/her will by actual force, threats of force, or threats of legal coercion. Section 1584 also prohibits compelling a person to work against his/her will by creating a "climate of fear" through the use of force, the threat of force, or the threat of legal coercion [i.e., If you don't work, I'll call the immigration officials.] which is sufficient to compel service against a person's will.

Forced Labor, 18 U.S.C. § 1589. Section 1589 of Title 18, which was passed as part of the TVPA, makes it unlawful to provide or obtain the labor or services of a person through one of three prohibited means. Congress enacted § 1589 in response to the Supreme Court's decision in *United States v. Kozminski*, 487 U.S. 931 (1988), which interpreted § 1584 to require the use or threatened use of physical or legal coercion. Section 1589 broadens the definition of the kinds of coercion that might result in forced labor.

Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor, 18 U.S.C. § 1590. Section 1590 makes it unlawful to recruit, harbor, transport, or broker persons for labor or services under conditions which violate any of the offenses contained in Chapter 77 of Title 18.

Sex Trafficking of Children or by Force, Fraud, or Coercion, 18 U.S.C. § 1591. Section 1591 criminalizes sex trafficking, which is defined as causing a person to engage in a commercial sex act under certain statutorily enumerated conditions. A commercial sex act means any sex act, on account of which anything of value is given to or received by any person. The specific conditions are the use of force, fraud, or coercion, or conduct involving persons under the age of 18. The punishment for conduct that either involves a victim who is under the age of 14 or involves force, fraud, or coercion is any term of years or life. The punishment for conduct that involves a victim between the ages of 14 and 18 is 40 years.

Unlawful Conduct with Respect to Documents in Furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor, 18 U.S.C. § 1592. Section 1592 makes it illegal to seize documents in order to force others to work. By expanding its coverage to false documents as well as official documents, § 1592 recognizes that victims are often immobilized by the withholding of whatever documents they possess, even if the documents are forged.

OBJECTIVE NUMBER 2

Personnel should

Describe the **scope of the problem** of human trafficking

Statistics: International

- The United States Department of State estimates that 600,000 to 800,000 individuals are trafficked annually.
- The United States Department of Health and Human Services states that after drug dealing, human trafficking is tied with the illegal arms industry as the second largest criminal industry in the world today, and it is the fastest growing.
- The profits associated with human trafficking exceed billions of dollars per year.

Statistics: Domestic

- The United States Department of Justice estimates that 14,500-17,500 people (primarily women and children) are trafficked into the United States annually.

OBJECTIVE NUMBER 3

Personnel should

Understand differences between **smuggling and human trafficking**

Smuggling

- The relationship between the parties ends at the destination when fees are paid.
- The transaction is made for the smuggling service.
- The person is free to leave upon payment of the fee.
- It is a crime against the national border
- It requires movement across a state or international border.
- It can become trafficking once a person is compelled to provide labor or services.

Trafficking

The relationship does not end at the destination. It involves compelled labor or service through the use of force, fraud, or coercion.

- Debts are incurred.
- The person is not free to leave and becomes enslaved.
- It is a crime against persons and does not require movement across a state or international border.

OBJECTIVE NUMBER 4

Personnel should

Describe the **dynamics** of human trafficking

Victim Recruitment

Victims of human trafficking can be recruited in a variety of different ways, such as:

- Direct recruitment
- Employment agencies
- Modeling agencies
- Career fairs
- Educational opportunities
- Illegal foreign adoptions
- Internet
- Public advertisements
- Friends or family
- Other Victims
- Befriending
- Romancing
- Seduction

Vulnerability

The key element associated with human trafficking is vulnerability. Many victims are individuals who:

- Are escaping oppression, domestic violence, child abuse, and/or other conflict.
- Are economically disadvantaged.
- Have limited education.
- Are homeless and/or runaway children.
- Are women and children.
- Are adults and children seeking employment.

Perpetrators

Perpetrators of human trafficking can take on many shapes and forms, including but not limited to, the following:

- Friends and family members
- Organized criminal groups/local gangs
- Smugglers
- Pimps/madams
- Adult entertainment industry providers
- Massage parlor operators
- Labor subcontractors

How Perpetrators Operate

Small scale:

- Organization of family and friends
- Local street gangs employed by organized crime syndicates

Legal businesses:

- Buy workers from smugglers, entice those desperate for work, or hire through subcontractors.

International networks:

- Russian mafia
- Chinese triads
- Japanese Yakusa

OBJECTIVE NUMBER 5

Personnel should

Become familiar with the **manifestations** of human trafficking

Manifestations

Victims of human trafficking may be found in numerous settings and involved in various activities such as:

- Agricultural labor

- Begging/panhandling
- Construction labor
- Debt bondage
- Hotel/motel cleaning services
- Illegal transporters (humans and narcotics)
- Organized theft rings
- Pornography (including child)
- Prostitution/sex industry
- Restaurant business/waitress/cleaning service
- Servile marriage (mail-order brides)
- Sweatshops/factory workers

Types of Calls

Human trafficking may be discovered during a variety of calls for service such as:

- Sexual assault
- Aggravated assaults/battery
- Domestic violence
- Kidnapping/false Imprisonment
- Lost/found reports (child/adult)
- Traffic stops
- Casual contact
- Prostitution complaint/observation
- Community member/citizen complaint
- Labor dispute
- Thefts/robbery
- Suspected narcotic activity that turns out to be human trafficking
- Any other type of call

OBJECTIVE NUMBER 6

Personnel should

List the **indicators** of human trafficking

General Indicators

- Victims live on or near their work premises.
- They have restricted or controlled communication/transportation.
- They are not free to leave.
- They are frequently moved by the traffickers.
- There are a large number of occupants for the living space.
- They have a lack of private space, personal possessions, and/or financial records.
- They have limited knowledge about how to function or navigate in a community.
- They have no access to telephones.
- They have access to only one spokesperson, or third party who insists on interpreting.
- There is excessive taxi traffic at their residence or workplace.
- The neighbors observe heavy male foot traffic but rarely see the occupants.

Physical Indicators

- Victims may have visible injuries from beatings with or without weapons used.
- They exhibit signs of being exposed to torture (e.g., cigarette burns).
- They have brands, scars, or tattoos indicating someone else's ownership.
- They exhibit signs of malnutrition.

Financial / Legal Indicators

- Someone else has possession of the victim's legal and/or travel documents.
- They have existing debt issues.
- One attorney claims to represent multiple victims detained at different locations.
- The victim was forced to sign a contract.

Labor Camps / Sweatshops

Human traffickers often implement security measures intended to keep victims confined as evidenced by the following:

- Barbed wire surrounding the facility

- Bars on the windows
- Self-contained camps
- Bouncers, guards, and/or guard dogs
- Shopping allowed only at a “company store”

Sex Industry / Brothels

The following are indicators of traffickers involved in the sex industry:

- There are large amounts of cash and condoms at the location.
- There is a customer logbook or receipt book (also known as a “trick book”).
- The rooms are sparse.
- Men come and go frequently.
- There are mattresses in the rooms instead of massage tables
- Service menus are available.
- There are hidden passages/areas and trap doors.
- Covert video security systems are in place.

OBJECTIVE NUMBER 7

Personnel should

Explain the **responsibilities** of the initial responding officer

- Contact the victim as soon as possible to address safety concerns and summon emergency medical assistance if needed.
- Preserve the crime scene. The scene will vary by type of activity being investigated.
- Notify the first-level supervisor, such as a sergeant or detective, who will decide whether to notify:
 - a. the United States Immigration Customs Enforcement (ICE) or
 - b. the FBI

OBJECTIVE NUMBER 8

Personnel should

Be familiar with **identifying, assessing, and communicating** with victims of human trafficking

Victim Veracity

- The initial story from victims of human trafficking may not be the truth. Instead, the officer may receive a trained or canned response from the victim.
- The officer should be cognizant of the fact the victim may have endured physical and/or psychological imprisonment.

Law Enforcement Challenges

- The following are some of the challenges law enforcement will encounter in obtaining accurate statements from trafficking victims:
- They may have language barriers. *(Note: Assure translators used are impartial third parties. Do not use on-site translators because they may be tied to the traffickers.)*
- They may be experiencing the Stockholm syndrome or feeling sympathetic toward the suspects.
- They may have a false sense of loyalty or commitment to the trafficker due to “brainwashing.”
- They may distrust outsiders particularly law enforcement.
- They fear deportation.
- They are unaware of their rights and may not consider themselves victims.
- Life may be better now than it was previously.
- They are afraid and intimidated by the traffickers.
- They fear the unknown.
- They are not in possession of their legal documents
- Threats to families:
 - a. They fear what might happen to their families back in their countries
 - b. They have received threats of reprisals against loved ones
- They fear being ostracized back in their countries.
- They are financially indebted to the traffickers.
- They are isolated and may have been repeatedly moved to different locations.

Possible Victim Responses

Victims of human trafficking may respond to law enforcement in varying ways. The spectrum of victim behaviors may include:

- Evasiveness
- Fear
- Flight (possibly by force)
- Silence
- Refusal to cooperate
- Embracing their “liberators”
- Gratefulness

OBJECTIVE NUMBER 9

Personnel should

Understand **victim dynamics** and effectively respond to victims from varying life circumstances

- Victims often need to feel safe before they will speak with officers/investigators.
- Show understanding, patience, and respect for the victim’s dignity and attempt to establish trust and rapport. A supported victim may result in a more effective witness.
- Express sympathy to the victim and an interest in the victim’s well-being.
- Be familiar with the concept of a “victim-centered” approach. The victim is at the center, and often times the cornerstone of the investigation.
- When applicable, explain confidentiality rights.

OBJECTIVE NUMBER 10

Personnel should

Be familiar with **appropriate interviewing techniques**

Initial Victim Assessment

If someone insists on being the spokesperson for the victim, be very leery and separate that person from the others. It may be necessary to remove the victim(s) from the scene.

Allow the victim to describe the experience in his or her own words without interrupting. Use open-ended questions to clarify the details.

- “I am here to help you.”
- “Tell me about your current situation.”
- “Is someone holding your documents?”
- “Did someone threaten to report you to the authorities?”
- “Is this the job you were promised or expected?”
- “Can you come and go as you please?”
- “Has anyone hurt or threatened to hurt you or your family?”
- “Who is your employer?”
- “Does your employer provide housing, food, clothes, or uniforms?”
- “Did you enter into an employment contract? What does it say?”
- “Do you owe money to your employer?”
- “Did your employer/boss tell you what to say to police?”
- “Were you forced to have sex as part of the job?”
- “Can you freely leave your employment situation and work somewhere else?”
- “Does your employer hold your wages?”
- “Are there guards at work or video cameras to monitor and make sure no one leaves?”
- “What would happen if you left the job?”
- “Have you been physically harmed? Have you been deprived of food, water, sleep, medical care, or other life necessities?”
- “Were you kidnapped or sold?”
- “Are you allowed to buy clothes and food on your own?”

- “Can you freely contact (phone, write) friends and family?”
- “Are minors allowed to attend school?”

Recording Statements

Procedures regarding recording all interviews with the victim, witnesses, and suspect depend upon individual departmental policies. Recording statements can be an excellent investigative tool.

- Advantages of recording statements include:
 - a. Provides more detail than handwritten notes.
 - b. Enables investigators to be more attentive during the interview, assists investigators in synthesizing details.
 - c. Protects the interviewer should a complaint or misunderstanding arise.
 - d. Conveys the victim’s immediate response to prosecutors and jurors.
 - e. Provides training material for use in improving the quality of interviews.
- Disadvantages of recording statements include:
 - a. May be intimidating to the victim and cause reluctance to disclose.
- If recording, ensure the equipment is functioning properly.
- An in-depth follow-up interview should be conducted after the victim has been medically examined, treated, and personal needs have been met. The interview may take place at a later time or date.

OBJECTIVE NUMBER 11

Personnel should

Describe the available community resources and referrals, including the availability of civil and immigration remedies

- Trafficking victims are often uncooperative initially.
- To gain the trust and cooperation of victims, involve victim assistance programs and nonprofit social and legal services as soon as feasible in the investigation.
- Social service agencies (often referred to as “NGOs” or non-governmental agencies) and victim service organizations are resources for law enforcement. They provide services to stabilize and support victims so they can participate in the investigation as effective witnesses.
- These agencies can provide interpreter assistance, housing, access to medical/dental services, counseling, and coordination with other services such as Public Health, and the local Sexual Assault Response Team (SART). One call can access all of the services a victim will need both short and long term.

- Victims may be more successful at building victim trust.
- Victims keep victims informed of their legal rights including potential immigration relief.
- Victims can assist law enforcement in preventing conflict of interest situations.
- Victims have access to emergency funds and compensation programs.
- These services are particularly important in cases involving large numbers of victims or victims with special needs, such as children, elderly, or disabled individuals.
- Child Protective Services and the Office of Refugee Services (United States Department of Health and Human Services) may become involved and take custody and care of foreign victims under the age of 18.
- Adult Protective Services should be contacted for elder and disabled trafficking victims.

Hotline: National Human Trafficking 888-373-7888

OBJECTIVE NUMBER 12

Personnel should

Know the information regarding victim notifications

- Victims need to be notified about victim assistance programs, their rights, and the services available under state law, including:
 - a. Crime victim compensation
 - b. Access to emergency funds
 - c. Assistance in referrals and coordination of victim services
 - d. Court support, and safety needs
- Legal services programs can provide legal representation to victims while they are cooperating with law enforcement, help them to apply for immigration status and other benefits, and pursue civil remedies against the perpetrators.

OBJECTIVE NUMBER 13

Personnel should

Explain the different **types of evidence** associated with human trafficking and proper evidence collection techniques

The responding officer should document the crime scene, including photographing, sketching, and diagramming the scene prior to it being disturbed or processed.

Physical Evidence

- Document the demeanor of the victim.
- Burns, scars
- Tattoos
- Injuries
- Condoms
- Lubricants
- Sex industry devices
- Drugs (even if not illegal, but used to sedate)
- Motel keys
- Physical aspects of crime scene/arrest (barbed wire, etc.)

Documentary Evidence

- Contractual
- Property ownership/lease agreement
- Business/financial
- Directories, client lists, ledger
- Utility bills/phone records
- Tax returns
- Bank records
- Receipts
- Business licenses
- Employment records

- Legal
- Vehicle registration
- Vehicle violations/tickets
- Temporary Restraining and/or Protection Order
- Marriage/divorce records
- Arrest/crime record

Identification Documents (real and forged)

- Passports
- Visas
- Other immigration documents (green cards, work permits)
- Birth certificates
- Identification cards
- Licenses
- Evidence of forgery
- Stolen ID

Personal

- Mail order advertisements
- Letters, journals written by victim

Travel

- Bus, airline, train tickets
- GPS tracking
- Border crossing records

Photographic / electronic / print media

- CD-ROMs
- Websites, Internet accounts, Facebook, Twitter, email
- Web bulletin boards, chat rooms, personal ads, matchmaking services
- Security system videos

- Cell phone/PDA messages, memory (including, pictures)
- Flash drives, including those on key chains

Statements

- Victims
- Witnesses
- Suspects
- Officers
- Informants
- 911 calls, recordings
- Jail calls, recordings
- Pretext phone calls

OBJECTIVE NUMBER 14

Personnel should

Be familiar with all aspects of human trafficking case development

- Identify all players.
- Conduct pertinent background information checks:
 - a. Criminal histories
 - b. Prior calls for service
 - c. Business records and licenses
 - d. Financial Crimes Enforcement Network (FINCIN) information
- Prepare a timeline/link analysis chart showing how long the victim lived where and with whom.
- Interview other witnesses.
- Identify and contact other victims, if possible.
- Re-interview the victim to clarify additional details, for example:
 - a. What were the rules?
 - b. What did the suspect promise? (family, wages)
 - c. Was the victim not allowed to speak unless spoken to?

- d. Did the suspect provide fake names?
- e. Did the suspect require the victim to wear certain clothing?
- Have the victim identify all of the locations of occurrence.
- Contact former employees and other people close to the suspect(s).
- Bring in specialized investigators, if appropriate.
- Attempt to corroborate the victim's statements through:
 - a. Search warrants on bank accounts and other records to demonstrate how the victim was paid.
 - b. Talk to family members, friends, and neighbors.
 - c. Obtain border crossing records.
- Complete background on the suspect. Interview, interrogate, and give Miranda admonitions as appropriate.
- Present the case to the prosecutor.
 - a. If applicable, assist in coordinating the pre-file interview with the victim(s).
 - b. Provide information and feedback to assist the prosecutor in the victim credibility evaluation.
 - c. Complete supplemental investigative requests.

OBJECTIVE NUMBER 15

Personnel should

Explain when **arrests** are appropriate

Statutes

28-312 False imprisonment
28-318 Sexual Assault and other sex crimes
28-830 Human Trafficking
28-802 Pandering

- Consult the U.S. attorney about federal statutes that may carry longer sentences.
- Investigations are often multi-jurisdictional and can easily cross state lines. Both state and federal laws can apply
- Consider other statutes that may be applicable.

OBJECTIVE NUMBER 16

Personnel should

Understand the importance of collaborating with federal law enforcement and other **agencies** to share resources

Federal Agencies

Immigration and Customs Enforcement/Border Patrol (ICE) **www.ice.gov**

Federal Bureau of Investigation (FBI) **www.fbi.gov**

Department of Health and Human Services **www.hhs.gov**

Department of Labor - Wage and Hour Division **www.dol.gov/esa/whd/flsa/**

Internal Revenue Service **www.irs.gov**

United States Attorney **www.usdoj.gov/**

Department of State **www.state.gov**

- Federal agencies may provide victim assistance.
- Investigations are often multi-jurisdictional and can easily cross state lines. Both state and federal laws can apply.
- Agencies should meet, lay the groundwork for cooperation and agree on protocols ahead of time.

Legislative Bill 1145

Approved by the Governor April 11, 2012

FOR AN ACT relating to criminal law; to amend section 28-802, Reissue Revised Statutes of Nebraska; to change the penalty for pandering; to create a task force relating to human trafficking; to provide powers and duties; to require the placement of posters and the training of certain officials regarding human trafficking; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-802, Reissue Revised Statutes of Nebraska, is amended to read:

28-802 (1) A person commits pandering if such person:

- (a) Entices another person to become a prostitute; or
 - (b) Procures or harbors therein an inmate for a house of prostitution or for any place where prostitution is practiced or allowed; or
 - (c) Inveigles, entices, persuades, encourages, or procures any person to come into or leave this state for the purpose of prostitution or debauchery; or
 - (d) Receives or gives or agrees to receive or give any money or other thing of value for procuring or attempting to procure any person to become a prostitute or commit an act of prostitution or come into this state or leave this state for the purpose of prostitution or debauchery.
- (2) Pandering is a Class IV felony for a first offense, unless the person being enticed, procured, harbored, or otherwise persuaded to become a prostitute in violation of this section is under the age of eighteen years, in which case pandering is a Class III felony for a first offense. Pandering is a Class III felony for a second or subsequent offense.

Sec. 2. (1) A task force is hereby established within the Nebraska Commission on Law Enforcement and Criminal Justice for the purposes of investigating and studying human trafficking, the methods for advertising human trafficking services, and the victimization of individuals coerced to participate in human trafficking.

(2) The task force shall examine the extent to which human trafficking is prevalent in this state, the scope of efforts being taken to prevent human trafficking from occurring, and the services available to victims of human trafficking in this state. The task force shall also investigate the limitations upon victims who wish to come forward and seek medical attention; investigate the potential to stop human trafficking; and investigate the potential to promote recovery, to protect families and children who may be profoundly impacted by such abuse, and to save lives.

(3) (a) The Department of Labor shall work with the task force to develop or select informational posters for placement around the state. The posters shall be in English, Spanish, and any other language deemed appropriate by the task force. The posters shall include a toll-free telephone number a person may call for assistance, preferably the National Human Trafficking Resource Center Hotline (888)373-7888.

(b) Posters shall be placed in rest stops and strip clubs. The task force shall work with local businesses and nonprofit entities associated with the prevention of human trafficking to voluntarily place additional signs in high schools,

- postsecondary educational institutions, gas stations, hotels, hospitals, health care clinics, urgent care centers, airports, train stations, bus stations, and other locations around the state deemed appropriate by the task force.
- (4) The task force shall consist of the following members:
 - (a) The Attorney General or his or her designee;
 - (b) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice;
 - (c) The Superintendent of Law Enforcement and Public Safety or his or her designee;
 - (d) The Director of Correctional Services or his or her designee;
 - (e) The chief of police or director of public safety of a city of two hundred thousand inhabitants or more;
 - (f) The chief of police or director of public safety of a city of less than two hundred thousand inhabitants;
 - (g) A county sheriff;
 - (h) A county attorney;
 - (i) A county commissioner;
 - (j) A mayor or city manager;
 - (k) A person involved with the control or prevention of juvenile delinquency;
 - (l) A person involved with the control or prevention of child abuse;
 - (m) The Commissioner of Education or his or her designee;
 - (n) The director of the Commission on Latino-Americans or his or her designee; and
 - (o) Six members, at least three of whom shall be women, from the public at large.
 - (5) The Governor shall appoint the members of the task force listed in subdivisions (4)(e) through (l) and (o) of this section for terms as provided in subsection (6) of this section. The membership of the task force shall represent varying geographic areas and large and small political subdivisions. One member from the public at large shall be a professional representing child welfare, and one member of the public at large shall represent juvenile pretrial diversion programs.
 - (6) The members of the task force appointed by the Governor shall serve six-year terms, except that of the members first appointed, four shall serve initial two-year terms, four shall serve initial four-year terms, and six shall serve initial six-year terms from January 1 next succeeding their appointments. Thereafter, all members shall serve six-year terms. A member may be reappointed at the expiration of his or her term. Any vacancy occurring otherwise than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment.
 - (7) No member shall serve beyond the time when he or she holds the office, employment, or status by reason of which he or she was initially eligible for appointment. Any member of the task force appointed by the Governor may be removed from the task force for cause upon notice and an opportunity to be heard at a public hearing. One of the causes for removal shall be absence from three regularly scheduled meetings of the task force during any six-month period when the member has failed to advise the task force in advance of such meeting that he or she will be absent and stating a reason therefore.
 - (8) The chairperson of the task force shall be designated by the Governor to serve at the pleasure of the Governor. The chairperson shall be the chief executive officer of the task force but may delegate such of his or her duties to other members of the task force as may be authorized by the task force.

- (9) Notwithstanding any provision of law, ordinance, or charter provision to the contrary, membership on the task force shall not disqualify any member from holding any other public office or employment or cause the forfeiture thereof.
- (10) The members of the task force shall serve on the task force without compensation, but they shall be entitled to receive reimbursement for any actual expenses incurred as necessary incident to such service as provided in sections 81-1174 to 81-1177.
- (11) Eleven members of the task force shall constitute a quorum for the transaction of any business or the exercise of any power of the task force. The task force shall have the power to act by a majority of the members present at any meeting at which a quorum is in attendance.
- (12) All appointments shall be made not later than thirty days after the effective date of this act. The chairperson shall meet with the task force not later than sixty days after the effective date of this act.
- (13) Not later than one year after the effective date of this act, and every July 1 and December 1 thereafter, the task force shall report to the Clerk of the Legislature the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the report with the clerk.

Sec. 3. (1) It is the intent of the Legislature that law enforcement agencies, prosecutors, public defenders, judges, juvenile detention center staff, and others involved in the juvenile justice system and the criminal justice system and other relevant officials be provided mandatory training regarding issues in human trafficking. The task force established in section 2 of this act shall work with such agencies, persons, and staff to develop a proper curriculum for the training and to determine how the training should be provided. The determination and accompanying legislative recommendations shall be made by December 1, 2012. Such training shall focus on:

- (a) State and federal law regarding human trafficking;
 - (b) Methods used in identifying victims of human trafficking who are United States citizens and foreign nationals, including preliminary interview techniques and appropriate questioning methods;
 - (c) Methods for prosecuting human traffickers;
 - (d) Methods of increasing effective collaboration with nongovernmental organizations and other relevant social service organizations in the course of investigating and prosecuting a human trafficking case;
 - (e) Methods for protecting the rights of victims of human trafficking, taking into account the need to consider human rights and the special needs of women and minor victims;
 - (f) The necessity of treating victims of human trafficking as crime victims rather than as criminals; and
 - (g) Methods for promoting the safety and well-being of all victims of human trafficking.
- (2) The task force shall also seek the input and participation of appropriate nongovernmental organizations and other relevant organizations regarding the provision, preparation, and presentation of the training called for in this section.

Federal Statutory Law:

22 U.S.C. §7101-7112 – TRAFFICKING VICTIMS PROTECTION ACT

18 U.S.C. §1584 – Sale into involuntary servitude

Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

18 U.S.C. §1589 – Forced labor

Whoever knowingly provides or obtains the labor or services of a person--

- (1) by threats of serious harm to, or physical restraint against, that person or another person;
- (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) by means of the abuse or threatened abuse of law or the legal process, shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

18 U.S.C. §1590 – Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

18 U.S.C. §1591 – Sex trafficking of children or by force, fraud, or coercion

(a) Whoever knowingly--

- (1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, or obtains by any means a person; or
- (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is--

- (1) if the offense was effected by force, fraud, or coercion or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or
 - (2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 40 years, or both.
- (c) In this section:
- (1) The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.
 - (2) The term “coercion” means--
 - (A) threats of serious harm to or physical restraint against any person;
 - (B) 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; or
 - (C) the abuse or threatened abuse of law or the legal process.
 - (3) The term “venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

Federal Case Law:

U.S. v. Gasanova, 332 F.3d 297 (5th Cir. 2003)

The Gasanovas illegally brought three Uzbekistani women to the United States to dance topless in El Paso, Texas. The women had been promised modeling careers after each raised \$300,000 from topless dancing. They lived with the Gasanovas and turned over all their earnings to them. Between 1998 and 2001 the Gasanovas collected over \$500,000 from the women, the vast majority of which the Gasanovas kept for themselves. The Gasanovas also retained and refused to return two of the women’s visas and passports (along with other identifying documents). The Gasanovas were convicted of conspiracy to commit document fraud, conspiracy to harbor illegal aliens, and bringing illegal aliens into the United States for purpose of financial gain. Each was sentenced to 60 months imprisonment and to make restitution and to forfeit a residence and two vehicles.

U.S. v. Reddy

In March of 2001, Lakireddy Bali Reddy, a landlord in Berkeley, California, pleaded guilty to trafficking women into the United States and placing them into sexual servitude. An expanded investigation revealed that Reddy and certain family members conspired to bring at least 25 Indian laborers into the United States by conspiring to commit immigration fraud.
<http://www.usdoj.gov/opa/pr/2001/March/126cr.htm>

Sex Trafficking:

United States v. Carreto (Convicted 4/5/05, E.D. New York)

<http://www.usdoj.gov/opa/pr/2008/July/08-crt-641.html>

On April 5, 2005, Josue Flores Carreto, Gerardo Flores Carreto, and Daniel Perez Alonso pleaded guilty to 27 counts of an indictment that charged them with various crimes relating to their involvement with the Carreto family sex trafficking ring. They admitted that between 1991 and 2004 they recruited young women from Mexico, smuggled them into the United States, and

forced them into prostitution in brothels in the New York City area. The defendants also repeatedly physically and emotionally abused the women. They each face a maximum sentence of life imprisonment and a fine of \$250,000 for each count. Three other co-defendants pleaded guilty to charges related to the trafficking ring during earlier proceedings and two are being held in prison in Mexico on Mexican federal charges; they also face extradition to the United States to stand trial on US federal charges.

United States v. Rojas (Indicted 1/28/04, convicted 4/2004 & 8/27/04, sentenced 11/23/04, N.D. Georgia)

http://www.usdoj.gov/opa/pr/2004/August/04_crt_587.htm

Juan, Jose, and Raul Reyes Rojas were indicted January 28, 2004 on numerous charges including conspiracy, sex trafficking, importing and harboring aliens for the purpose of prostitution, alien smuggling, and interstate transportation of illegal aliens. They lured women from Mexico to the United States with promises of legitimate employment and long-term relationships. Once the victims, at least one of whom was a minor, reached the Atlanta area, the defendants forced them to have sex with numerous men every night through the use of physical violence, threats, and psychological coercion. Both Jose and Juan Rojas pleaded guilty; Jose was sentenced to almost five years (57 months) in prison and three years supervised release and Juan was sentenced to almost six years (71 months) in prison and three years supervised release. Raul remains a fugitive.

United States v. Jimenez-Calderon (Indicted 9/26/02, sentenced 8/7/03 & 5/4/04, D. New Jersey) http://www.usdoj.gov/usao/nj/press/files/ca0926_r.htm

On August 7, 2003, Librada and Antonia Jimenez-Calderon were sentenced to over 17½ years (210 months) in prison for conspiracy and sex trafficking. In May 2004, they also were ordered to pay a total of \$135,240 to four of their victims. The two women pled guilty to luring young Mexican girls, between the ages of 14 and 18, to the United States with promises of legitimate jobs. Upon arriving in Plainfield, New Jersey, however, the girls were confined to a brothel and forced to submit to acts of prostitution six to eight times each day for \$35 per act. They were not allowed to leave the house or speak to each other and were subjected to threats of harm, force, and psychological coercion. Their accomplices – Sergio Farfan, Angel Ruiz, Pedro Garcia Burgos, and Maritzana Diaz Lopez – were charged with various crimes, including obstruction of justice and sex trafficking. Librada and Antonia Jimenez-Calderon's two brothers, Delfino and Luis Jimenez-Calderon, are still at large and considered fugitives.

Labor Trafficking:

United States v. Lee (Convicted 2/21/03, sentenced 6/23/05, D. Hawaii)

http://www.usdoj.gov/opa/pr/2005/June/05_crt_335.htm

In the largest human trafficking case prosecuted through June 2005, Kil Soo Lee, owner of a garment factory in American Samoa, was found guilty of involuntary servitude, extortion and money laundering. From March 1999 through November 2000, Lee and other factory managers recruited over 200 workers from China and Vietnam who were willing to pay fees to gain employment in Lee's factory. Once in American Samoa, however, the victims were threatened with arrests, deportations, food deprivation, and beatings in order to force them to work. The defendants also confined the trafficked individuals to a fenced-in compound. Lee was the third and final person convicted in connection with this case and was sentenced to 40 years in prison. In 2002, a manager and a garment worker at the factory pleaded guilty to trafficking and were

sentenced to nearly 6 years (70 months) and more than 4 years (51 months) in prison, respectively.

United States v. Alamin and Akhter (Indicted 11/16/00, sentenced 5/14/01 & 4/16/01, C.D. Cal.)

A husband and wife – Nur Alamin and Rabiya Akhter – brought a young woman from Bangladesh to the United States to be their housekeeper and nanny. They repeatedly beat and threatened her. Akhter was sentenced to more than one year (16 months) in prison after pleading guilty to an immigration violation. Alamin was convicted of involuntary servitude and sentenced to more than 11 years (135 months) in prison. In addition, both offenders were ordered to pay the victim \$125,819 in restitution.

United States v. Blackwell and Blackwell (Convicted 6/9/03, D. Md.)

Barbara Coleman-Blackwell and Kenneth Blackwell were convicted of smuggling a woman from Ghana to the United States, and forcing her to work as a domestic servant and nanny, with little or no pay. In order to keep her in this position, the defendants hid her passport and threatened her with deportation and imprisonment. Barbara Coleman-Blackwell was sentenced to more than four years (63 months) of incarceration and Kenneth Blackwell to supervised release for three years. Grace Coleman, Coleman-Blackwell's mother, who is a member of the Ghanaian Parliament, faces similar charges and extradition to the United States for aiding the Blackwells.

Sexual Violence in the Context of Labor Trafficking:

United States v. Udeozor (Indicted 11/12/03, Convicted 11/18/04, D. Md.)

http://www.usdoj.gov/opa/pr/2004/November/04_crt_759.htm

On November 12, 2003, a Germantown, Maryland couple – Adaobi Stella Udeozor and George Chidebe Udeozor – were indicted on counts of conspiracy, involuntary servitude, and harboring an alien for financial gain. From September 1996 to October 2001, the couple held a 14-year-old Nigerian girl in involuntary servitude, forcing her to work for little or no pay, and also physically and sexually assaulting her. The indictment alleged that the couple had promised the girl that she would be paid and allowed to attend school. Both defendants face maximum penalties of 20 years imprisonment, a three year term of supervised release and a \$250,000 fine. As of November 19, 2004, George Udeozor was a fugitive in Nigeria and Adaobi Udeozor had been convicted of conspiracy and harboring an alien for financial gain.

United States v. Soto-Huarte (Indicted 07/31/03, sentenced 1/29/04 & 1/30/04, S.D. Tex.)

http://www.justice.gov/opa/pr/2004/January/04_crt_054.htm

Seven men were sentenced to a combined 51 years in prison on trafficking and forced servitude crimes. Juan Carlos Soto, the ringleader, was sentenced to 23 years in prison – the longest sentence ever handed out under TVPA up to that point. Arrested in March and April 2003, the men trafficked four women from Guatemala, Honduras, and El Salvador, who had agreed to pay \$5000 to be smuggled into the United States. Once they arrived here, however, the women were confined in “safe houses,” where they were forced to cook, clean, and do housework without pay. In addition, they were repeatedly raped by the defendants, who were charged and convicted on federal civil rights violations, extortion, hostage-taking, immigration offenses, involuntary servitude, and human trafficking.

***United States v. Tecum* (sentenced 2/01, D.
Fla.)<http://www.usdoj.gov/opa/pr/2001/March/126cr.htm>**

Jose Tecum is currently serving a nine-year prison sentence for trafficking a Guatemalan teenager into South Florida, through Mexico and Arizona, where he forced her to perform manual farm labor during the day and sexual acts for him at night. Tecum raped and kidnapped this young woman, then smuggled her into the United States, where he held her in servitude through sexual violence, psychological coercion, cultural isolation, and financial dependence. He was convicted of kidnapping, immigration violations, slavery, and conspiracy to manufacture false documents. This woman was one of the first human trafficking victims granted a T-visa under TVPA.