

**Salmon P. Chase
American Inn of Court**

**Pupilage Group II - February 24, 2016 Presentation
Human Trafficking**

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Margeaux Gray

Advocate | Artist | Speaker

MargeauxGray.com

Margeaux Gray is a survivor of human sex trafficking.

Margeaux was born in South Central Kentucky. She was first sexually exploited by a close and trusted adult at 5 years old. She was sold by him into domestic, child sex trafficking. She remembers being taken to private residences and hotels, where she was auctioned off to anyone willing to pay.

Her trafficking began through a process of “baiting” where her trafficker gave her attention and gifts, and then threatened her family and pets if she told anyone. He made her feel guilty,

ashamed, and afraid and told her that if she said anything, she would go to jail. At around 14 years old, she disclosed to a healthcare worker that she was being sexually abused. When CPS opened an investigation, her trafficker coached her and threatened her into denying any abuse. After that the trafficking lessened, but continued.

She finally escaped at age 18; however, the trauma continued even resulting in partial blindness in her mid-twenties.

Her trafficker has never been charged. A commonwealth's attorney and police detectives wanted to go after the man but she said at the time she was too traumatized to talk about the years of abuse. Margeaux now is an advocate against human trafficking.

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Sharlene Boltz is a Professor of Law at Salmon P. Chase College of Law, Northern Kentucky University. A native of Ewing Township, New Jersey, Professor Boltz received her B.A. from Brown University and her J.D. from the University of Michigan Law School. Prior to teaching, Professor Boltz practiced law as a trial attorney in the Office of General Counsel for the United States Department of Agriculture in Washington, D.C., and in private practice in New Orleans, Louisiana.

In 1991, she began her law teaching career at Chase College of Law in the area of commercial law. In 1997, she became the first African American woman to receive tenure and promotion to full professor in the 108 year history of the law school. Professor Boltz served as the Associate Dean for Academic Affairs from 2000 to 2003 and thus became the first African American to serve as an administrator of the law school.

Professor Boltz currently teaches in the commercial law and domestic violence law areas, specializing in the area of threat assessment and behavioral analysis of abusive and controlling behavior. Her scholarship is focused on the use of threat assessment methodologies by law enforcement to prevent domestic violence homicide. Professor Boltz volunteers with the Northern Kentucky Women's Crisis Center and serves on the Northern Kentucky Partnership Against Trafficking of Humans Protocol Team which provides training to law enforcement and community organizations, and other support services for victims. She serves on the Kentucky Multidisciplinary Taskforce on Human Trafficking and was recently appointed to the Board of Directors for the Ohio Alliance for Ending Sexual Violence.

In 2011, she completed her training with Gavin DeBecker & Associates' Advanced Threat Assessment and Case Management Academy, and in 2012, she graduated from the FBI Citizen's Academy. Most recently, she is the author of two instructional case files on domestic human trafficking, entitled *Case Files in Black and Blue: In re Jules and Lasalle Blandele*; and the cooccurrence of intimate partner violence and intimate partner sexual assault, entitled *Case Files in Black and Blue: In re AJ and DC*; both published by Sentia Publishing. In September 2015, her article entitled, "Mindful Conversations: Historical Trauma, Policing and Cultural Competence" appeared in *The Police Chief*, the official publication of the International Association of Chiefs of Police. Professor Boltz consults as a threat

assessment analyst and strategic intervention specialist with expertise in abusive and controlling behavior.

Lisa Ramstetter - Bio

Lisa Ramstetter is a Human Trafficking Advocate with the Catholic Charities of Louisville. Through her studies of International Affairs, Political Science, National Security Studies, and Human Rights, she grew to become an expert in the Human Trafficking Field. Today, she works directly with victims of human trafficking through Catholic Charities' comprehensive victim services program. As head of her program's Northern Kentucky office, Ramstetter also manages Northern Kentucky's Hope Outreach Campaign which provides human trafficking resources to local hotels. By speaking publically on behalf of victims of human trafficking, through professional trainings and community awareness events, Ramstetter hopes to empower Northern Kentucky professionals and community members to better serve and advocate for this unique population of victims. Through their work with community partners and public awareness, Catholic Charities hopes to aid in mitigating the negative effects of this crime on the lives of individuals and Kentucky communities.

FEDERAL CRIMINAL STATUTES RELATED TO HUMAN TRAFFICKING

18 U.S.C. § 1581. Peonage; obstructing enforcement

- (a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, 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.
- (b) Whoever obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be liable to the penalties prescribed in subsection (a).

18 U.S.C. § 1582. Vessels for slave trade

Whoever, whether as master, factor, or owner, builds, fits out, equips, loads, or otherwise prepares or sends away any vessel, in any port or place within the United States, or causes such vessel to sail from any such port or place, for the purpose of procuring any person from any foreign kingdom or country to be transported and held, sold, or otherwise disposed of as a slave, or held to service or labor, shall be fined under this title or imprisoned not more than seven years, or both. **18**

U.S.C. § 1583. Enticement into slavery

- (a) Whoever--
 - (1) kidnaps or carries away any other person, with the intent that such other person be sold into involuntary servitude, or held as a slave;
 - (2) entices, persuades, or induces any other person to go on board any vessel or to any other place with the intent that he or she may be made or held as a slave, or sent out of the country to be so made or held; or
 - (3) obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section,shall be fined under this title, imprisoned not more than 20 years, or both.
- (b) Whoever violates this section shall be fined under this title, imprisoned for any term of years or for life, or both if--
 - (1) the violation results in the death of the victim; or
 - (2) the violation includes kidnapping, an attempt to kidnap, aggravated sexual abuse, an attempt to commit aggravated sexual abuse, or an attempt to kill.

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

- (a) 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.

- (b) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (a).

18 U.S.C. § 1585. Seizure, detention, transportation or sale of slaves

Whoever, being a citizen or resident of the United States and a member of the crew or ship's company of any foreign vessel engaged in the slave trade, or whoever, being of the crew or ship's company of any vessel owned in whole or in part, or navigated for, or in behalf of, any citizen of the United States, lands from such vessel, and on any foreign shore seizes any person with intent to make that person a slave, or decoys, or forcibly brings, carries, receives, confines, detains or transports any person as a slave on board such vessel, or, on board such vessel, offers or attempts to sell any such person as a slave, or on the high seas or anywhere on tide water, transfers or delivers to any other vessel any such person with intent to make such person a slave, or lands or delivers on shore from such vessel any person with intent to sell, or having previously sold, such person as a slave, shall be fined under this title or imprisoned not more than seven years, or both.

18 U.S.C. § 1586. Service on vessels in slave trade

Whoever, being a citizen or resident of the United States, voluntarily serves on board of any vessel employed or made use of in the transportation of slaves from any foreign country or place to another, shall be fined under this title or imprisoned not more than two years, or both.

18 U.S.C. § 1587. Possession of slaves aboard vessel

Whoever, being the captain, master, or commander of any vessel found in any river, port, bay, harbor, or on the high seas within the jurisdiction of the United States, or hovering off the coast thereof, and having on board any person for the purpose of selling such person as a slave, or with intent to land such person for such purpose, shall be fined under this title or imprisoned not more than four years, or both.

18 U.S.C. § 1588. Transportation of slaves from United States

Whoever, being the master or owner or person having charge of any vessel, receives on board any other person with the knowledge or intent that such person is to be carried from any place within the United States to any other place to be held or sold as a slave, or carries away from any place within the United States any such person with the intent that he may be so held or sold as a slave, shall be fined under this title or imprisoned not more than 10 years, or both.

18 U.S.C. § 1589. Forced labor

- (a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means--
- (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
 - (2) by means of serious harm or threats of serious harm to that person or another person;
 - (3) by means of the abuse or threatened abuse of law or legal process; or

- (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint, shall be punished as provided under subsection (d).
- (b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means, shall be punished as provided in subsection (d).
- (c) In this section:
- (1) The term "abuse or threatened abuse of law or legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.
- (2) The term "serious harm" means 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.
- (d) Whoever violates this section shall be fined under this title, imprisoned not more than 20 years, or both. If death results from a violation of this section, or if the violation includes kidnaping, an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title, 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

- (a) 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 kidnaping 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.
- (b) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties under subsection (a).

18 U.S.C. § 1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

- (a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person--
- (1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

- (2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or
 - (3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, shall be fined under this title or imprisoned for not more than 5 years, or both.
- (b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.
- (c) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (a).

18 U.S.C. § 1593. Mandatory restitution

- (a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.
- (b) (1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.
- (2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.
- (3) As used in this subsection, the term "full amount of the victim's losses" has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).
- (4) The forfeiture of property under this subsection shall be governed by the provisions of section 413 (other than subsection (d) of such section) of the Controlled Substances Act (21 U.S.C. 853).
- (c) As used in this section, the term "victim" means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

18 U.S.C. § 1593A. Benefitting financially from peonage, slavery, and trafficking in persons

Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in any act in violation of section 1581(a), 1592, or 1595(a), knowing

or in reckless disregard of the fact that the venture has engaged in such violation, shall be fined under this title or imprisoned in the same manner as a completed violation of such section.

18 U.S.C. § 1594. General provisions

- (a) Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.
- (b) Whoever conspires with another to violate section 1581, 1583, 1589, 1590, or 1592 shall be punished in the same manner as a completed violation of such section.
- (c) Whoever conspires with another to violate section 1591 shall be fined under this title, imprisoned for any term of years or for life, or both.
- (d) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States--
 - (1) such person's interest in any property, real or personal, that was involved in, used, or intended to be used to commit or to facilitate the commission of such violation, and any property traceable to such property; and
 - (2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation, or any property traceable to such property.
- (e)
 - (1) The following shall be subject to forfeiture to the United States and no property right shall exist in them:
 - (A) Any property, real or personal, involved in, used, or intended to be used to commit or to facilitate the commission of any violation of this chapter, and any property traceable to such property.
 - (B) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.
 - (2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.
- (f) Transfer of forfeited assets.--
 - (1) In general.--Notwithstanding any other provision of law, the Attorney General shall transfer assets forfeited pursuant to this section, or the proceeds derived from the sale thereof, to satisfy victim restitution orders arising from violations of this chapter.
 - (2) Priority.--Transfers pursuant to paragraph (1) shall have priority over any other claims to the assets or their proceeds.
 - (3) Use of nonforfeited assets.--Transfers pursuant to paragraph (1) shall not reduce or otherwise mitigate the obligation of a person convicted of a violation of this chapter to satisfy the full amount of a restitution order through the use of nonforfeited assets or to reimburse the Attorney General for the value of assets or proceeds transferred under this subsection through the use of nonforfeited assets.

- (g) Witness protection.--Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection).

18 U.S.C. § 1595. Civil remedy

- (a) An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.
- (b)
 - (1) Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.
 - (2) In this subsection, a "criminal action" includes investigation and prosecution and is pending until final adjudication in the trial court.
- (c) No action may be maintained under this section unless it is commenced not later than the later of--
 - (1) 10 years after the cause of action arose; or
 - (2) 10 years after the victim reaches 18 years of age, if the victim was a minor at the time of the alleged offense.

18 U.S.C. § 1596. Additional jurisdiction in certain trafficking offenses

- (a) In general.--In addition to any domestic or extra-territorial jurisdiction otherwise provided by law, the courts of the United States have extra-territorial jurisdiction over any offense (or any attempt or conspiracy to commit an offense) under section 1581, 1583, 1584, 1589, 1590, or 1591 if--
 - (1) an alleged offender is a national of the United States or an alien lawfully admitted for permanent residence (as those terms are defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); or
 - (2) an alleged offender is present in the United States, irrespective of the nationality of the alleged offender.
- (b) Limitation on Prosecutions of Offenses Prosecuted in Other Countries.--No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.

18 U.S.C. § 1597. Unlawful conduct with respect to immigration documents

- (a) Destruction, Concealment, Removal, Confiscation, or Possession of Immigration Documents.--It shall be unlawful for any person to knowingly destroy, conceal, remove, confiscate, or possess, an actual or purported passport or other immigration document of another individual --
 - (1) in the course of violating section 1351 of this title or section 1324 of Title 8;

- (2) with intent to violate section 1351 of this title or section 1324 of Title 8; or
- (3) in order to, without lawful authority, maintain, prevent, or restrict the labor of services of the individual.

- (b) Penalty.--Any person who violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.
- (c) Obstruction.--Any person who knowingly obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (b).

KENTUCKY CRIMINAL STATUTES RELATED TO HUMAN TRAFFICKING

KRS 529.100 Human trafficking

- (1) A person is guilty of human trafficking when the person intentionally subjects one (1) or more persons to human trafficking.
- (2) (a) Human trafficking is a Class C felony unless it involves serious physical injury to a trafficked person, in which case it is a Class B felony.
(b) If the victim of human trafficking is under eighteen (18) years of age, the penalty for the offense shall be one (1) level higher than the level otherwise specified in this section.

KRS 529.110 Promoting human trafficking

- (1) A person is guilty of promoting human trafficking when the person intentionally: (a) Benefits financially or receives anything of value from knowing participation in human trafficking; or
(b) Recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.
- (2) Promoting human trafficking is a Class D felony unless a victim of the trafficking is under eighteen (18), in which case it is a Class C felony.

KRS 529.120 Treatment of minor suspected of prostitution offense

- (1) Notwithstanding KRS 529.020 or 529.080, if it is determined after a reasonable period of custody for investigative purposes, that the person suspected of prostitution or loitering for prostitution is under the age of eighteen (18), then the minor shall not be prosecuted for an offense under KRS 529.020 or 529.080.
- (2) A law enforcement officer who takes a minor into custody under subsection (1) of this section shall immediately make a report to the Cabinet for Health and Family Services pursuant to KRS 620.030. Pursuant to KRS 620.040, the officer may take the minor into protective custody.
- (3) The Cabinet for Health and Family Services shall commence an investigation into child dependency, neglect, or abuse pursuant to KRS 620.029.

KRS 529.130 Human trafficking victims service fee

Any person convicted of an offense in KRS 529.100 or 529.110 shall be ordered to pay, in addition to any other fines, penalties, or applicable forfeitures, a human trafficking victims service fee of ten thousand dollars (\$10,000) to be remitted to the fund created in KRS 529.140.

KRS 529.140 Human trafficking victims fund

- (1) The "human trafficking victims fund," referred to in this section as the "fund," is created as a separate revolving fund within the Justice and Public Safety Cabinet.
- (2) The fund shall consist of proceeds from assets seized and forfeited pursuant to KRS 529.150, proceeds from the fee in KRS 529.130, grants, contributions, appropriations, and any other moneys that may be made available for purposes of the fund.
- (3) Moneys in the fund shall be distributed to agencies serving victims of human trafficking, including but not limited to law enforcement agencies, prosecutorial agencies, and victim service agencies in accordance with procedures developed by the Justice and Public Safety Cabinet pursuant to administrative regulation. The administrative regulation shall require that the Cabinet for Health and Family Services receive adequate funding allocation under this subsection to meet the responsibilities imposed upon it to serve minor victims of human trafficking under KRS 620.029.
- (4) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in this section.
- (5) Any interest earnings on moneys in the fund shall become a part of the fund and shall not lapse to the general fund.
- (6) Moneys in the fund are hereby appropriated for the purposes set forth in this section.

KRS 529.150 Forfeiture of property used in connection with human trafficking; distribution of proceeds

- (1) All property used in connection with or acquired as a result of a violation of KRS 529.100 or 529.110 shall be subject to forfeiture under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460, with the exception of the distribution of proceeds, which shall be distributed as required in this section.
- (2) Proceeds from the assets seized and forfeited shall be distributed as follows:
 - (a) Fifty percent (50%) shall be paid to the human trafficking victims fund;
 - (b) Forty-two and one-half percent (42.5%) shall be paid to the law enforcement agency or agencies that seized the property, to be used for direct law enforcement purposes; and
 - (c) Seven and one-half percent (7.5%) shall be paid to the Office of the Attorney General or, in the alternative, to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding, as determined by the court pursuant to KRS 218A.420(9). Notwithstanding KRS Chapter 48, these funds shall be exempt from any state budget reduction acts.

The moneys identified in this subsection are intended to supplement any funds otherwise appropriated to the recipient and shall not supplant other funding of any recipient.

KRS 529.160 Expungement of records relating to violation of chapter when person charged or convicted was a victim of human trafficking at time of offense; motion; finding; presumption

- (1) When a person is charged or convicted under this chapter, or with an offense which is not a violent crime as defined in KRS 17.165, and the person's participation in the offense is determined to be the direct result of being a victim of human trafficking, the person may make a motion in the court in which the charges were filed to expunge all records of the offense.
- (2) The motion shall be filed no sooner than sixty (60) days following the date the final judgment was entered by the court in which the charges were filed.
- (3)
 - (a) A motion filed under this section, any hearing conducted on the motion, and any relief granted are governed by KRS 431.076, 431.078, and 431.079 unless otherwise provided in this section.
 - (b) For the purposes of expungement under KRS 431.076, a finding by the court that the person's participation in the offense was a direct result of being a victim of human trafficking shall deem the charges as dismissed with prejudice.
 - (c) No official determination or documentation is required to find that the person's participation in the offense was a direct result of being a victim of human trafficking, but documentation from a federal, state, local, or tribal governmental agency indicating that the defendant was a victim at the time of the offense shall create a presumption that the defendant's participation in the offense was a direct result of being a victim.

KRS 529.170 Being victim of human trafficking is affirmative defense to violation of chapter

A person charged under this chapter, or charged with an offense which is not a violent crime as defined in KRS 17.165, may assert being a victim of human trafficking as an affirmative defense to the charge.

KRS 529.180 Ignorance of human trafficking minor victim's actual age not a defense

In any prosecution under KRS 529.100 or 529.110 involving commercial sexual activity with a minor, it shall not be a defense that the defendant was unaware of the minor's actual age.

OHIO CRIMINAL STATUTES RELATED TO HUMAN TRAFFICKING

ORC 2905.31 Definitions

As used in sections 2905.31 to 2905.33 of the Revised Code:

- (A) "Involuntary servitude" means being compelled to perform labor or services for another against one's will.
- (B) "Material that is obscene, sexually oriented, or nudity oriented" and "performance that is obscene, sexually oriented, or nudity oriented" have the same meanings as in section 2929.01 of the Revised Code.

ORC 2941.1422 Additional term; human trafficking specification

- (A) Imposition of a mandatory prison term under division (B)(7) of section 2929.14 of the Revised Code is precluded unless the offender is convicted of or pleads guilty to a felony violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code and unless the indictment, count in the indictment, or information charging the offense specifies that the offender knowingly committed the offense in furtherance of human trafficking. The specification shall be stated at the end of the body of the indictment, count, or information and shall be stated in substantially the following form:
- "SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The Grand Jurors (or insert the person's or the prosecuting attorney's name when appropriate) further find and specify that (set forth that the defendant knowingly committed the offense in furtherance of human trafficking)."
- (B) As used in this section, "human trafficking" has the same meaning as in section 2929.01 of the Revised Code.

ORC 2953.38 Expungement of the criminal record of a human trafficking victim

- (A) As used in this section:
- (1) "Expunge" means to destroy, delete, or erase a record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.
 - (2) "Prosecutor" has the same meaning as in section 2953.31 of the Revised Code.
 - (3) "Record of conviction" means the record related to a conviction of or plea of guilty to an offense.
 - (4) "Victim of human trafficking" means a person who is or was a victim of a violation of section 2905.32 of the Revised Code, regardless of whether anyone has been convicted of a violation of that section or of any other section for victimizing the person.
- (B) Any person who is or was convicted of a violation of section 2907.24, 2907.241, or 2907.25 of the Revised Code may apply to the sentencing court for the expungement of the record of conviction if the person's participation in the offense was a result of the person having been a victim of human trafficking. The person may file the application at any time. The application shall do all of the following:
- (1) Identify the applicant, the offense for which the expungement is sought, the date of the conviction of that offense, and the court in which the conviction occurred;
 - (2) Describe the evidence and provide copies of any documentation showing that the person is entitled to relief under this section;
 - (3) Include a request for expungement of the record of conviction of that offense under this section.
- (C) The court may deny an application made under division (B) of this section if it finds that the application fails to assert grounds on which relief may be granted.

- (D) If the court does not deny an application under division (C) of this section, it shall set a date for a hearing and shall notify the prosecutor for the case from which the record of conviction resulted of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court may direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant.
- (E) At the hearing held under division (D) of this section, the court shall do both of the following:
- (1) If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection;
 - (2) Determine whether the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense was a result of having been a victim of human trafficking.
- (F) If after a hearing the court finds that the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense that is the subject of the application was the result of the applicant having been a victim of human trafficking, the court shall grant the application and order that the record of conviction be expunged.
- (G) (1) The court shall send notice of the order of expungement to each public office or agency that the court has reason to believe may have an official record pertaining to the case if the court, after complying with division (E) of this section, determines both of the following:
- (a) That the applicant has been convicted of a violation of section 2907.24, 2907.241, or 2907.25 of the Revised Code;
 - (b) That the interests of the applicant in having the records pertaining to the applicant's conviction expunged are not outweighed by any legitimate needs of the government to maintain those records.
- (2) The proceedings in the case that is the subject of an order issued under division (F) of this section shall be considered not to have occurred and the conviction of the person who is the subject of the proceedings shall be expunged. The record of the conviction shall not be used for any purpose, including, but not limited to, a criminal records check under section 109.572 of the Revised Code. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.
- (H) Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars. The court shall pay thirty dollars of the fee into the state treasury and shall pay twenty dollars of the fee into the county general revenue fund.

ORC 2905.32 Trafficking in persons

- (A) No person shall knowingly recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, or knowingly attempt to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person if any of the following applies:

- (1) The offender knows that the other person will be subjected to involuntary servitude or be compelled to engage in sexual activity for hire, engage in a performance that is obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.
 - (2) The other person is less than sixteen years of age or is a developmentally disabled person whom the offender knows or has reasonable cause to believe is a developmentally disabled person, and either the offender knows that the other person will be subjected to involuntary servitude or the offender's knowing recruitment, luring, enticement, isolation, harboring, transportation, provision, obtaining, or maintenance of the other person or knowing attempt to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain the other person is for any of the following purposes:
 - (a) To engage in sexual activity for hire;
 - (b) To engage in a performance for hire that is obscene, sexually oriented, or nudity oriented;
 - (c) To be a model or participant for hire in the production of material that is obscene, sexually oriented, or nudity oriented.
 - (3) The other person is sixteen or seventeen years of age, either the offender knows that the other person will be subjected to involuntary servitude or the offender's knowing recruitment, luring, enticement, isolation, harboring, transportation, provision, obtaining, or maintenance of the other person or knowing attempt to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain the other person is for any purpose described in divisions (A)(2)(a) to (c) of this section, and the circumstances described in division (A)(5), (6), (7), (8), (9), (10), (11), (12), or (13) of section 2907.03 of the Revised Code apply with respect to the offender and the other person.
- (B) For a prosecution under division (A)(1) of this section, the element "compelled" does not require that the compulsion be openly displayed or physically exerted. The element "compelled" has been established if the state proves that the victim's will was overcome by force, fear, duress, intimidation, or fraud.
- (C) In a prosecution under this section, proof that the defendant engaged in sexual activity with any person, or solicited sexual activity with any person, whether or not for hire, without more, does not constitute a violation of this section.
- (D) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of section 2907.21 of the Revised Code based on the same conduct involving the same victim that was the basis of the violation of this section, or is convicted of or pleads guilty to any other violation of Chapter 2907. of the Revised Code based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under section 2941.25 of the Revised Code.

- (E) Whoever violates this section is guilty of trafficking in persons, a felony of the first degree. Notwithstanding division (A)(1) of section 2929.14 of the Revised Code, the court shall sentence the offender to a definite prison term of ten, eleven, twelve, thirteen, fourteen, or fifteen years.
- (F) As used in this section:
- (1) "Developmentally disabled person" means a person whose ability to resist or consent to an act is substantially impaired because of a mental or physical condition or because of advanced age.
 - (2) "Sexual activity for hire," "performance for hire," and "model or participant for hire" mean an implicit or explicit agreement to provide sexual activity, engage in an obscene, sexually oriented, or nudity oriented performance, or be a model or participant in the production of obscene, sexually oriented, or nudity oriented material, whichever is applicable, in exchange for anything of value paid to any of the following:
 - (a) The person engaging in such sexual activity, performance, or modeling or participation;
 - (b) Any person who recruits, lures, entices, isolates, harbors, transports, provides, obtains, or maintains, or attempts to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain the person described in division (F)(2)(a) of this section;
 - (c) Any person associated with a person described in division (F)(2)(a) or (b) of this section.
 - (3) "Material that is obscene, sexually oriented, or nudity oriented" and "performance that is obscene, sexually oriented, or nudity oriented" have the same meanings as in section 2929.01 of the Revised Code.

ORC 2907.21 Compelling prostitution

- (A) No person shall knowingly do any of the following:
- (1) Compel another to engage in sexual activity for hire;
 - (2) Induce, procure, encourage, solicit, request, or otherwise facilitate either of the following:
 - (a) A minor to engage in sexual activity for hire, whether or not the offender knows the age of the minor;
 - (b) A person the offender believes to be a minor to engage in sexual activity for hire, whether or not the person is a minor.
 - (3)
 - (a) Pay or agree to pay a minor, either directly or through the minor's agent, so that the minor will engage in sexual activity, whether or not the offender knows the age of the minor;
 - (b) Pay or agree to pay a person the offender believes to be a minor, either directly or through the person's agent, so that the person will engage in sexual activity, whether or not the person is a minor.
 - (4)
 - (a) Pay a minor, either directly or through the minor's agent, for the minor having engaged in sexual activity pursuant to a prior agreement, whether or not the offender knows the age of the minor;

- (b) Pay a person the offender believes to be a minor, either directly or through the person's agent, for the person having engaged in sexual activity pursuant to a prior agreement, whether or not the person is a minor.
- (5)
 - (a) Allow a minor to engage in sexual activity for hire if the person allowing the child to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the minor;
 - (b) Allow a person the offender believes to be a minor to engage in sexual activity for hire if the person allowing the person to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the person the offender believes to be a minor, whether or not the person is a minor.
- (B) For a prosecution under division (A)(1) of this section, the element "compel" does not require that the compulsion be openly displayed or physically exerted. The element "compel" has been established if the state proves that the victim's will was overcome by force, fear, duress, or intimidation.
- (C) Whoever violates this section is guilty of compelling prostitution. Except as otherwise provided in this division, compelling prostitution is a felony of the third degree. If the offender commits a violation of division (A)(1) of this section and the person compelled to engage in sexual activity for hire in violation of that division is sixteen years of age or older but less than eighteen years of age, compelling prostitution is a felony of the second degree. If the offender commits a violation of division (A)(1) of this section and the person compelled to engage in sexual activity for hire in violation of that division is less than sixteen years of age, compelling prostitution is a felony of the first degree. If the offender in any case also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code. **ORC 2907.22 Promoting prostitution**

- (A) No person shall knowingly:
 - (1) Establish, maintain, operate, manage, supervise, control, or have an interest in a brothel or any other enterprise a purpose of which is to facilitate engagement in sexual activity for hire;
 - (2) Supervise, manage, or control the activities of a prostitute in engaging in sexual activity for hire;
 - (3) Transport another, or cause another to be transported, in order to facilitate the other person's engaging in sexual activity for hire;
 - (4) For the purpose of violating or facilitating a violation of this section, induce or procure another to engage in sexual activity for hire.
- (B) Whoever violates this section is guilty of promoting prostitution. Except as otherwise provided in this division, promoting prostitution is a felony of the fourth degree. If any prostitute in the brothel involved in the offense, or the prostitute whose activities are supervised, managed, or controlled by the offender, or the person transported, induced, or

procured by the offender to engage in sexual activity for hire, is a minor, whether or not the offender knows the age of the minor, then promoting prostitution is a felony of the third degree. If the offender in any case also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

ORC 2907.323 Illegal use of a minor in nudity-oriented material or performance

- (A) No person shall do any of the following:
- (1) Photograph any minor who is not the person's child or ward in a state of nudity, or create, direct, produce, or transfer any material or performance that shows the minor in a state of nudity, unless both of the following apply:
 - (a) The material or performance is, or is to be, sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance;
 - (b) The minor's parents, guardian, or custodian consents in writing to the photographing of the minor, to the use of the minor in the material or performance, or to the transfer of the material and to the specific manner in which the material or performance is to be used.
 - (2) Consent to the photographing of the person's minor child or ward, or photograph the person's minor child or ward, in a state of nudity or consent to the use of the person's minor child or ward in a state of nudity in any material or performance, or use or transfer a material or performance of that nature, unless the material or performance is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance;
 - (3) Possess or view any material or performance that shows a minor who is not the person's child or ward in a state of nudity, unless one of the following applies:
 - (a) The material or performance is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.
 - (b) The person knows that the parents, guardian, or custodian has consented in writing to the photographing or use of the minor in a state of nudity and to the manner in which the material or performance is used or transferred.

- (B) Whoever violates this section is guilty of illegal use of a minor in a nudity-oriented material or performance. Whoever violates division (A)(1) or (2) of this section is guilty of a felony of the second degree. Except as otherwise provided in this division, whoever violates division (A)(3) of this section is guilty of a felony of the fifth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or section 2907.321 or 2907.322 of the Revised Code, illegal use of a minor in a nudity-oriented material or performance in violation of division (A)(3) of this section is a felony of the fourth degree. If the offender who violates division (A)(1) or (2) of this section also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

ORC 2929.18 Financial sanctions; restitution; reimbursements

- (8) (a) If an offender who is convicted of or pleads guilty to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to
- the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following:
- (i) The gross income or value to the offender of the victim's labor or services;
 - (ii) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 20 U.S.C. 207, and state labor laws.
- (b) If a court imposing sentence upon an offender for a felony is required to impose upon the offender a financial sanction of restitution under division (B)(8)(a) of this section, in addition to that financial sanction of restitution, the court may sentence the offender to any other financial sanction or combination of financial sanctions authorized under this section, including a restitution sanction under division (A)(1) of this section.
- (9) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for a felony that is a sexually oriented offense or a child-victim oriented offense, as those terms are defined in section 2950.01 of the Revised Code, may impose a fine of not less than fifty nor more than five hundred dollars.

INDIANA CRIMINAL STATUTES RELATED TO HUMAN TRAFFICKING

IC 35-42-3.5-1 Promotion of human trafficking; sexual trafficking of a minor; human trafficking

Sec. 1. (a) A person who, by force, threat of force, or fraud, knowingly or intentionally recruits, harbors, or transports another person:

(1) to engage the other person in:

(A) forced labor; or (B) involuntary servitude; or

(2) to force the other person into:

(A) marriage;

(B) prostitution; or

(C) participating in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking, a Level 4 felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:

(1) eighteen (18) years of age with the intent of:

(A) engaging the child in:

(i) forced labor; or

(ii) involuntary servitude; or

(B) inducing or causing the child to:

(i) engage in prostitution; or

(ii) engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) (child exploitation); or

(2) sixteen (16) years of age with the intent of inducing or causing the child to participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor, a Level 3 felony.

Except as provided in subsection (e), it is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or to participate in sexual conduct.

(c) A person who is at least eighteen (18) years of age who knowingly or intentionally sell or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor, a Level 2 felony.

(d) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

(1) forced labor;

(2) involuntary servitude; or

(3) prostitution; commits human trafficking, a Level 5 felony.

(e) It is a defense to a prosecution under subsection (b)(2) if:

(1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or (2) all the following apply:

(A) The person is not more than four (4) years older than the victim.

(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(C) The crime:

(i) was not committed by a person who is at least twenty-one (21) years of age;

(ii) was not committed by using or threatening the use of deadly force;

(iii) was not committed while armed with a deadly weapon;

(iv) did not result in serious bodily injury;

(v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(vi) was not committed by a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

IC 35-42-3.5-2 Restitution to victim

Sec. 2. In addition to any sentence or fine imposed for a conviction of an offense under section 1 of this chapter, the court shall order the person convicted to make restitution to the victim of the crime under IC 35-50-5-3.

IC 35-42-3.5-3 Civil cause of action for victim; limitation

Sec. 3. (a) If a person is convicted of an offense under section 1 of this chapter, the victim of the offense:

(1) has a civil cause of action against the person convicted of the offense; and

(2) may recover the following from the person in the civil action:

(A) Actual damages.

(B) Court costs (including fees).

(C) Punitive damages, when determined to be appropriate by the court.

(D) Reasonable attorney's fees.

(b) An action under this section must be brought not more than two (2) years after the date the person is convicted of the offense under section 1 of this chapter.

IC 35-42-3.5-4 Treatment of alleged victim of offense; LEA Declaration; denial and reconsideration of LEA Declaration

Sec. 4. (a) An alleged victim of an offense under section 1 of this chapter:

- (1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;
- (2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and
- (3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:

(A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and (B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public. This subsection shall be administered by law enforcement agencies and the Indiana criminal justice institute as appropriate.

(b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under section 1 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

(c) If a law enforcement agency detains an alleged victim of an offense under section 1 of this chapter who is less than eighteen (18) years of age, the law enforcement agency shall immediately notify the department of child services that the alleged victim:

- (1) has been detained; and
- (2) may be a victim of child abuse or neglect.

**MAIN POINTS OF DISTINCTION BETWEEN KENTUCKY, OHIO, INDIANA
& FEDERAL HUMAN TRAFFICKING LAWS**

EXPUNGEMENT

Kentucky, KRS 529.160

- ! 60 days after the final judgment
- ! Doesn't necessarily need proof, but documentation from an agency stating the person was a victim shall create a presumption

Ohio, ORC 2953.38

- ! Must have evidence showing the person is entitled to relief
- ! The statute talks about the steps of the hearing and how the prosecutor may file an objection and then what eventually happens at the hearing.

RESTITUTION

Kentucky, KRS 529.130 & KRS 529.140

- ! \$10,000 shall be paid to the victim's fund which is a fund supported by the property seized from human traffickers, grants, and the \$10k.
- ! None of it goes to the victim...but rather the victim's fund

Indiana, IC 35-42-3.5-2

- ! Shall pay...no specific amount and it goes directly to the victim.

Federal, U.S.C. § 1593

- ! Mandatory restitution
- ! Goes directly to the victim
- " Full amount of victim's losses
- # Gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under minimum wage

PENALTIES

Indiana

- ! Promotion of human trafficking: a Level 4 felony
- ! Promotion of human trafficking of a minor: a Level 3 felony
- ! Sexual trafficking of a minor: a Level 2 felony
- ! Human trafficking: a Level 5 felony

Federal

- ! Generally, for the more serious offenses (trafficking, enticing into trafficking) there is a maximum penalty of 20 years, but if there are aggravating factors (like kidnapping, sexual assault) a term of life imprisonment is available.
- " For most, obstruction to the enforcement of the statute holds the same penalties
- ! Less serious offenses like the creation of vessels for slave trade: fined or imprisoned not more than seven years, or both.
- ! Seizure, detention, transportation or sale of slaves: same as vessels

Kentucky

- ! Human trafficking is a Class C felony unless it involves serious physical injury to a trafficked person, in which case it is a Class B felony. If the victim of human trafficking is under eighteen years of age, the penalty for the offense shall be one level higher than the level otherwise specified in this section.
- ! Promoting human trafficking is a Class D felony unless a victim of the trafficking is under eighteen, in which case it is a Class C felony.

Ohio

- ! Ohio penalties closely resemble Federal Penalties

- ! Trafficking in persons: a felony of the first degree. The court shall sentence the offender to a definite prison term of ten, eleven, twelve, thirteen, fourteen, or fifteen years.
 - " Mandatory minimum of 10 years.
 - " Specification: offender knowingly committed the offense in furtherance of human trafficking.
 - " Obstruction of justice for trafficking in persons is a second-degree felony.
- ! Compelling prostitution: felony of the third degree, for compelling a minor to prostitution who is sixteen years of age or older but less than eighteen years of age, compelling prostitution is a felony of the second degree. If the offender commits a violation of division of this section and the person compelled to engage in sexual activity for hire in violation of that division is less than sixteen years of age, compelling prostitution is a felony of the first degree.

CIVIL REMEDIES

Indiana

- ! Has a civil cause of action against the person convicted of the offense; and may recover actual damages, punitive damages, attorney's fees
 - " Statute of limitations: Two years after the date the person is convicted of the offense.

Federal

- ! Civil action against the perpetrator (or whoever knowingly benefits,) and may recover damages and reasonable attorneys fees.
 - " Statute of limitations: 10 years after the cause of action arose; or 10 years after the victim reaches 18 years of age, if the victim was a minor at the time of the alleged offense.

Kentucky

- ! Civil remedies are limited only to minor victims. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault

Ohio

- ! The victim of a violation of trafficking in persons of the Revised Code has and may commence a civil cause of action for compensatory and punitive damages against the trafficker for harm that resulted from the violation.

**Concurrent Jurisdiction for the Office of the Attorney General to
Investigate and Prosecute Human Trafficking
House Bill 229 (Rep. Overly)**

Human Trafficking is impacting communities large and small across Kentucky. Human trafficking, or modern day modern slavery, is where through force, fraud or coercion, Kentuckians, including our children, are forced into labor or commercial sex. Some examples of human trafficking include:

- A foster parent, an individual entrusted with a girl's care, trading the girl's body for furniture and other household items.
- Adolescent children dressed up in provocative clothing and sold outside of a movie theater in a small Kentucky town by their parents to adult men.
- Teenagers, who have run away from home, sold online and moved from city to city, state to state, along highways and truck stops forced to engage in repeated sexual activity.
- Individuals with disabilities, forced to live as virtual slaves, laboring 7 days a week, long hours each day in farms, restaurants and in private homes.

Since 2007, the Kentucky Legislature has passed some of the strongest human trafficking laws in the nation to protect trafficked children and go after labor and sex traffickers. Additionally, faith communities, law enforcement, victim advocates, our courts, our juvenile and child welfare systems and prosecutors are working together each day to address this horrific crime.

Reports of Human Trafficking of KY children are on the rise. Since the Human Trafficking Victims Rights Act was passed in 2013, we have seen that reports of child trafficking to our Cabinet have increased by almost 50 % each year, from 51 victims identified in 2013 to 125 victims identified 2015. Some alarming trends include:

- Kids being trafficked across this state, from east to west, north to south, in our cities as well as our small towns and rural areas
- Majority of reports of child trafficking involve commercial sex, although we also have reports of children caught in forced labor
- Highest risk group are girls from ages 13-17
- A large percentage are trafficked by their caretakers, their parents and foster parents, people they should be able to trust.
- Nearly 1/3 of reports involve the drug trade, including youth being fed with drugs to keep them dependent
- A number of these children have been sold by their traffickers on the internet, on sites such as Backpage, Craigslist and Facebook.

However, only about 10% of these reports of child trafficking to the Cabinet resulted in criminal investigations. Across Kentucky, there are still more cases of labor trafficking, in restaurants and farms and sex trafficking of adults online and in massage parlors that have not been successfully investigated and prosecuted. **There are not enough specially trained officers and prosecutors statewide to attack these complex cases.**

Concurrent Jurisdiction to Investigate and Prosecute: House Bill 229 would allow the Office of the Attorney General, including the Department of Criminal Investigations, the Child Abuse and Exploitation Unit and the Office of Victims Advocacy to work together to conduct victim centered investigation and prosecution of human trafficking cases.

Other states have found this to be an effective strategy. In Indiana, the Attorney General has concurrent jurisdiction to investigate and prosecute human trafficking and they have seen a dramatic increase in the number of prosecutions as a result.

Sample Criminal Prosecutions, Eastern District of Kentucky - January 2001 to present

Defendant	Division	Statute	Sentence	Judge
Marco Flores Benitez	Lexington (5:12-cr-19)	18 USC § 1591 - Sex Trafficking of Children by Force or Coercion	180 months	Forester
Thomas Smoot	London (13-cr-29)	18 USC § 2422 - Coercion or Enticement of Female	240 months	Van Tatenhove
Yowceph Israel	Covington (2:11-cr-39)	18 USC § 2422 - Coercion or Enticement of Female	120 months	Bunning
William White	Covington (2:11-cr-47)	18 USC § 2422 - Coercion or Enticement of Female	125 months	Reeves
Patrick Riley	Lexington (5:08-cr-81)	18 USC § 2422 - Coercion or Enticement of Female	151 months	Reeves
Douglas Steele	Lexington (5:07-cr-21)	18 USC § 2422 - Coercion or Enticement of Female	120 months	Forester
Daryl Kimberly	Covington (2:05-cr-17)	18 USC § 2422 - Coercion or Enticement of Female	84 months	Bunning

Kevin Richmond	Covington (2:10-cr-27)	18 USC § 2423 - Coercion or Enticement of Minor Female	120 months	Bunning
Charles Wise	Lexington (5:06-cr-19)	18 USC § 2423 - Coercion or Enticement of Minor Female	360 months	Forester
Cecil Chain	Ashland (01-cr-13)	18 USC § 2423 - Coercion or Enticement of Minor Female	168 months	Wilhoit
James Young	Lexington (5:11-cr-94)	18 USC § 2423 - Coercion or Enticement of Minor Female	135 months	Caldwell
Solomon Waters	Pikeville (7:12-cr-17)	18 USC § 2423 - Coercion or Enticement of Minor Female	135 months	Thapar
David Hurst	Lexington (5:06-cr-150)	18 USC § 2423 - Coercion or Enticement of Minor Female	63 months	Hood
Robert Baker	Lexington (5:10-cr-33)	18 USC § 2423 - Coercion or Enticement of Minor Female	57 months	Caldwell
Myong Rogers	Covington (2:08-cr-47)	18 USC §§ 1962(c) & 1963(a) - Racketeering - Prostitution (16 counts)	57 months	Reeves

Recent Sixth Circuit cases on human trafficking prosecutions:

United States v. Jackson, 2015 WL 5692528 (6th Cir. Sept. 28, 2015) (affirming defendant's conviction in the Western District of Michigan for three counts of child sex trafficking and the district court's imposition of a 360-month sentence as procedurally and substantively reasonable).

United States v. Callahan, 801 F.3d 606 (6th Cir. Sept. 8, 2015) (upholding conviction of defendant couple in the Northern District of Ohio for forced labor, conspiracy to defraud the U.S. and conspiracy to illegally obtain prescription drugs and finding sentence of 384 months for forced labor conviction was substantively reasonable).

Petition for Certiorari docketed with U.S. Supreme Court on Feb. 16, 2016



Bureau of Justice Statistics Data Brief

October 2006, NCJ 215248

Federal Prosecution of Human Trafficking, 2001-2005

Mark Motivans
Tracey Kyckelhahn
BJS Statisticians

Between 2001 and 2005, U.S. attorneys investigated 555 suspects in matters involving violations of Federal human trafficking statutes. Over half of the matters (58%) opened during this period were for offenses created under the Trafficking in Victims Protection Act (TVPA) of 2000.

This report used data from the Federal Justice Statistics Program (FJSP) to describe violations of Federal human trafficking statutes from 2001 to 2005. (See Notes for specific statutes).

Annual data sets from the Executive Office (EO) for U.S. Attorneys' National

LIONS system and the Administrative Office of the United States Courts (AO) were combined to report on four distinct case processing stages: matters opened by U.S. attorneys, matters closed by U.S. attorneys, cases filed in U.S. district court, and cases terminated in U.S. district court.

This report describes persons processed at each stage for the 5-year period. It does not track persons or cases through the entire case process.

(See Notes). The groups at each stage should not be compared.

In matters opened, U.S. attorneys investigated 58% of suspects for violating TVPA offenses

Of the 555 human trafficking suspects in matters opened by U.S. attorneys between 2001 and 2005, more than half (58%) were investigated for offenses created by TVPA:

- forced labor (24%)
- sex trafficking of children (23%)
- trafficking slaves (9%)
- unlawful conduct or general provisions (2%) (table 1).

The Federal Bureau of Investigation referred 61% of the human trafficking matters investigated by U.S. attorneys. Agencies of the Department of Homeland Security (DHS) referred 22% of matters.

Almost half of the human trafficking matters opened by U.S. attorneys (48%) were in Federal judicial districts in four States: California (17%), Florida (14%), Texas (9%), and New York (8%). (See map on page 2). Thirtyseven percent of sex trafficking of children matters were referred by U.S. attorneys in California.

146 suspects prosecuted in matters closed by U.S. attorneys

From 2001 to 2005, a total of 377 matters where human trafficking was the lead charge were closed by U.S. attorneys. In the closed matters, U.S. attorneys prosecuted 146 suspects (39%) in U.S. district courts.

Table 1. Suspects in matters referred to U.S. attorneys with human trafficking offenses as lead charge, 2001-2005

Lead charge	Suspects	
	Number	Percent
Total	555	100.0%
Peonage/involuntary servitude	63	11.4%
Sale into involuntary servitude	155	27.9
Transportation for slavery ^a	16	2.9
Forced labor ^b	134	24.1
Trafficking slaves ^b	49	8.8
Sex trafficking of children ^b	129	23.2
Other ^{b,c}	9	1.6

^aIncludes vessels for the slave trade, enticement, and transport of slaves from the U.S.

^bOffenses added to the human trafficking statute by the TVPA.

^cIncludes misuse of documents and general provisions.

Source: Executive Office for U.S. Attorneys, National LIONS database, fiscal year.

Seventy-three percent of suspects with sex trafficking of children as the lead charge and 52% of suspects referred for forced labor were prosecuted. The median time from receipt of matter to decision to prosecute was 1.8 months (not shown in table).

U.S. attorneys declined to prosecute suspects in 222 matters or 59% of the matters closed during this period, due to —

- lack of evidence of criminal intent (29%)
- weak or insufficient admissible evidence (28%)
- prosecution by other authorities or facing other charges in federal court (14%)
- no federal offense evident (9%)
- and other (20%) reasons.

The median time from receipt of matter by a U.S. attorney to the decision to decline a matter was 9.9 months.

2 in 3 human trafficking defendants had sex transportation or alien smuggling offenses

The Administrative Office of the United States Courts (AO) provided data on cases filed that show a total of 131 defendants with a human trafficking offense. Two in three of these human trafficking defendants were also charged with one or more sex transportation offenses (33%), one or more alien smuggling offenses (27%), or both sex transportation and alien smuggling offenses (5%) (not shown in table).*

75 human trafficking defendants convicted; 57 pleaded guilty

The AO also provided data on cases terminated between 2001 and 2005. A total of 75 of the 78 defendants in cases terminated were convicted under human trafficking statutes (table 2). Of convicted defendants, 57 pleaded guilty and 18 were found guilty at trial.

Convicted defendants received —

- prison sentences, 85%
- probation only sentences, 7%, or
- other sanctions (fines, suspended sentence), 8%.

Forty-two percent of human trafficking defendants had private counsel, followed by Criminal Justice Act appointed counsel (41%) and public defender (17%) (not shown in table). The median processing time from case filing to disposition was 10 months. The median prison sentence was 70 months.

*Sex transportation offenses include Title 18 U.S.C. §§ 2421-2427. Alien smuggling offenses include Title 8 U.S.C. §§ 1322-1328

Almost half of the human trafficking suspects referred to U.S. attorneys were in four states, 2001-2005

Table 2. Defendants adjudicated in Federal courts for a human trafficking offense as any charge filed, 2001-2005

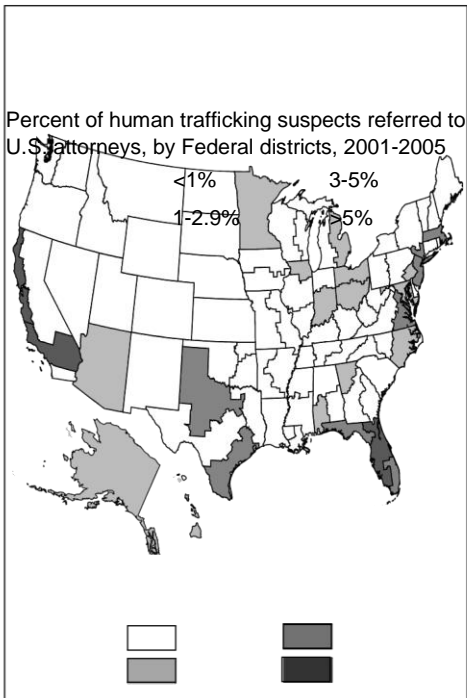
Number of defendants	Cases concluded
Total	78
Disposition	
Convicted	75
Guilty plea	57
Jury trial	18
Not convicted	3
Dismissed	2
Acquitted	1
Type of sentence imposed ^a	
Prison	64
Probation	5
Other ^b	6
Median prison sentence imposed	70 mos
Median case processing time	10 mos

^aIncludes convicted defendants only.
^bIncludes fines and suspended sentences.
 Source: Administrative Office of the U.S. Courts, criminal master file, 2005.

This report in portable document format and in ASCII and its related statistical data and tables are available at the BJS World Wide Web Internet site: <<http://www.ojp.usdoj.gov/bjs/abstract/fpht05.htm>>.

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<http://www.ojp.usdoj.gov> **Notes**



This report defined human trafficking according to Title 18 U.S.C. §§ 1581-1594. The TVPA of 2000 created: forced labor (18:1589), trafficking slaves (18:1590), sex trafficking of children (18:1591), and misuse of documents for trafficking persons (18:1592).

Data from the EO LIONS system and the AO criminal master file were used in this report (available at <<http://fjsrc.urban.org>>). In the EO data "lead charge" is the basis for investigation and for which at least 1 hour of investigation time is spent. Differences exist in the numbers reported by each agency, in part due to the case processing time, case filing definitions in agency databases, and the details on case statutory information. (See

Reconciling Federal Criminal Case Processing Statistics, BJS, <<http://www.ojp.usdoj.gov/bjs/abstract/rfccps.htm>>.

In this report, 44% of the 555 human trafficking matters opened by U.S. attorneys from 2001 to 2005 occurred in 2005. A significant portion of these matters will not be reported in subsequent stages until after 2005.

Additional resources

2 *Federal Prosecution of Human Trafficking, 2001-2005*

Trafficking in Persons Report, June 2006. U.S. State Department at <<http://www.state.gov/g/tip/ris/tiprpt/2006/>>.

Report on Activities to Combat Human Trafficking, 2001-2005. Civil Division, U.S. Department of Justice at <http://www.usdoj.gov/crt/crim.trafficking_report_2006.pdf>.

The Bureau of Justice Statistics is the statistical agency of the U.S.

Department of Justice. Jeffrey L. Sedgwick is director.

This Data Brief was written by Mark Motivans and Tracey Kyckelhahn, under the supervision of Steven K. Smith. Thomas H. Cohen verified the report. Carolyn C. Williams edited the report and Jayne Robinson prepared the report for final printing under the supervision of Doris J. James. October 2006, NCJ 215248

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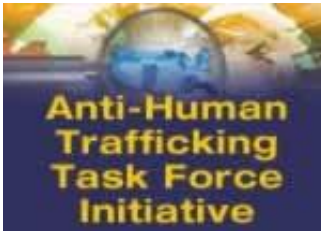


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ANTI-HUMAN TRAFFICKING TASK FORCE INITIATIVE

Overview

Human trafficking is reputed to be one of the most profitable endeavors of organized crime and the fastest growing; an endeavor which enslaves thousands of people within our borders each year and perhaps millions outside those borders. It is a crime of increasing proportions, fully repugnant to American beliefs; a crime that preys on the world's most vulnerable people.



The crime of human trafficking is slavery. It is the sexual exploitation of children for commercial purposes; it is compelling people to labor or provide services through force, fraud, or coercion, whether citizens, legal residents, or persons having entered the country illegally. It is also taking from a person his or her travel documents (passports and or visas, whether authentic or forged) to compel that person's labor or services.

The United States is generally a destination for trafficking victims who are recruited in their home countries and transported through other countries. But movement is not required for human trafficking to occur. Many U.S. citizens are trafficked, usually run-away teenage girls, who are preyed upon by pimps and trafficked for prostitution. The Department of Justice has included investigating human trafficking among its top priorities.

BJA Anti-Human Trafficking Efforts

In Summer 2004 following the First National Human Trafficking Conference, the Bureau of Justice Assistance (BJA) began building on Office for Victims of Crime (OVC) efforts to assist victims of trafficking in persons. While the TVPA provides for services to foreign victims of trafficking and prosecution of human trafficking at the federal level, it is often local law enforcement personnel who initially encounter victims of trafficking in the course of their daily operations. Local law enforcement agencies may often uncover trafficking situations when making routine service calls for aggravated assault, domestic disturbance, battery, and other crimes. Therefore, local-level policing that is informed about victim

identification and the available victim services, when combined with federal investigative capacity and coordinated with the U.S. Attorney's Office, presents a formidable force for the investigation and prosecution of human trafficking.

To combat human trafficking, BJA's efforts have been two-pronged: 1) to develop training for law enforcement and communities to identify trafficking in persons and rescue victims by working with federal law enforcement and victims service providers; and 2) to support and fund task forces (in coordination with OVC and HHS) based on a sound strategy of collaboration among state and local enforcement, trafficking victim services providers, federal law enforcement, and U.S. Attorneys Offices.

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Federal Legislation

Congress has passed and Presidents have signed into law, "The Trafficking Victims Protection Act (TVPA) of 2000" (P.L. 106-386), which was reauthorized in 2003, 2005, and 2008 by the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 (P.L. 108-193), the TVPRA of 2005 (P.L. 109-164), and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008

(P.L. 110-457). The TVPA and its reauthorizations seek to combat human trafficking by punishing traffickers, protecting victims, and mobilizing U.S. government agencies to wage a global anti-trafficking campaign. These Acts contain significant mandates for the U.S. Departments of State, Justice, Labor, Homeland Security, and Health and Human Services and the U.S. Agency for International Development.

The TVPA includes two forms of severe trafficking: sex trafficking and labor trafficking. TVPA defines "severe forms of trafficking" as:

- Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.
- 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.

State Legislation

Since 2002, when the State of Washington enacted the first state human trafficking criminal statute, more than three-fourths of the states have passed legislation making human trafficking a felony offense. In addition, when the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 becomes effective later in 2009, Human Trafficking will be classified as a Part I Crime in the Federal Bureau of Investigation's (FBI) Uniform Crime Reports. Tracking human trafficking as a Part I Crime reflects the growth throughout the U.S. of this offense.

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Funding for Task Forces to Combat Human Trafficking
BJA is pleased to announce the recipients of the FY2015 Anti-Human Trafficking Law Enforcement Task Force awards. The agencies and jurisdictions receiving these cooperative agreements were selected through a very competitive process, under the [FY 2015 Enhanced Collaborative Model to Combat Human Trafficking solicitation](#).

[Click here to access a list of the FY 2015 BJA-funded Enhanced Collaborative Model Human Trafficking Task Forces](#)

The International Association of Chiefs of Police (IACP) has been selected to serve as the new National Human Trafficking Training and Technical Assistance provider. IACP in partnership with AEquitas and Urban Institute will implement a comprehensive approach to provide training and technical assistance to support the work of BJA-funded Law Enforcement Anti-Human Trafficking Task Forces and other law enforcement agencies, criminal justice professionals and communities, across the U.S., in combatting all forms of human trafficking. <http://www.theiacp.org/>

[Attorney General Lynch Delivers Remarks at the Washington Advisory Committee on Human Trafficking Meeting](#)


Prior Accomplishments

Since 2004, BJA has funded a total of 48 Anti-Human Trafficking Task Forces. Those task forces have identified 3,336 persons as potential victims of human trafficking and had requested either continued presence or endorsed T-visa applications for 397 of those potential victims. The task forces have also trained 85,685 law enforcement officers and others in identifying the signs of human trafficking and its victims. BJA has four previously-funded, active task forces combatting human trafficking in the State of Ohio; Harris County, TX; City of Arlington, TX; and Fairfax County, VA. The FY 2015 task forces will bring the number of BJA-funded, operational task forces to 20, located in 17 states.

Report Trafficking

Suspected incidents of trafficking can be reported by contacting your [local FBI office](#).

In addition, the Department of Health and Human Services maintains, through the Polaris Project, the [National Human Trafficking Resource Center \(NHTRC\)](#), which operates 24-hours, 7-days-a-week. Please call

1-888-373-7888  or text BeFree (233733).

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Characteristics of Suspected Human Trafficking Incidents, 2008-2010

by Duren Banks and Tracey Kyckelhahn, *BJS Statisticians*

Federally funded human trafficking task forces opened 2,515 suspected incidents of human trafficking for investigation between January 2008 and June 2010 (figure 1). Most suspected incidents of human trafficking were classified as sex trafficking (82%), including more than 1,200 incidents with allegations of adult sex trafficking and more than 1,000 incidents with allegations of prostitution or sexual exploitation of a child. Eleven percent of the suspected incidents opened for investigation were classified as labor trafficking, and 7% had an unknown trafficking type.

Data in this report are from the Human Trafficking Reporting System (HTRS), which was designed to measure the performance of federally funded task forces. HTRS is currently the only system that captures information on human trafficking investigations conducted by state and local law enforcement agencies in the United States. This report is the second in a Bureau of Justice Statistics (BJS) series about the characteristics of human trafficking investigations, suspects, and victims. It reports about case outcomes, including suspect arrests and the visa status of confirmed victims, and describes the characteristics of incidents entered into the HTRS prospectively by the task

forces beginning in 2008. The *Methodology* details the HTRS data collection procedures and data quality issues.

Figure 1
Cumulative number of incidents of human trafficking between January 2008 and June 2010, by suspected trafficking type and reported



Highlights

- ④ Federally funded task forces opened 2,515 suspected victims, who were more likely to be Hispanic (63%) or incidents of human trafficking for investigation between Asian (17%).
January 2008 and June 2010.
 - Four-fifths of victims in confirmed sex trafficking incidents
- ④ About 8 in 10 of the suspected incidents of human trafficking were classified as sex trafficking, and about 1 in 10 incidents classified as labor trafficking. aliens (67%) or qualified aliens (28%).
 - Four-fifths of victims in confirmed sex trafficking incidents were identified as U.S. citizens (83%), while most confirmed labor trafficking victims were identified as undocumented were
- ④ Federal agencies were more likely to lead labor trafficking investigations (29%) than sex trafficking investigations (7%).
 - Most confirmed human trafficking suspects were male (81%). More than half (62%) of confirmed sex trafficking
- ④ Among the 389 incidents confirmed to be human trafficking suspects were identified as black, while confirmed labor by high data quality task forces— trafficking suspects were more likely to be identified as Hispanic (48%).
 - There were 488 suspects and 527 victims. ④ Among trafficking incidents opened for at least one year,
 - More than half (62%) of the confirmed labor trafficking 30% were confirmed to be human trafficking, 38% were victims were age 25 or older, compared to 13% of confirmed not to be human trafficking, and the remaining confirmed sex trafficking victims. incidents were still open at the end of the study period.
 - Confirmed sex trafficking victims were more likely to be white (26%) or black (40%), compared to labor trafficking
 - ④ The confirmed human trafficking incidents open for at least a year led to 144 known arrests.



The Trafficking Victims Protection Act of 2000 is the first comprehensive federal law to combat human trafficking and help victims.

Under the Trafficking Victims Protection Act of 2000 (TVPA, 2000), human trafficking is defined as the system between January 1, 2007, and September 30, 2008,³ harboring, transportation, provision, or

obtaining of a person for one of three purposes:¹

③ Labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.

③ A commercial sex act through the use of force, fraud, or coercion. The HTRS is an incident-based data collection system:

③ Any commercial sex act, if the person is under 18 years of age, regardless of whether any form of coercion is involved.

Since 2008, HTRS has captured information from 42 jurisdictions covering nearly 25% of the U.S. resident population at midyear 2010. Although the task forces are not representative of the entire nation, they are widely dispersed geographically.

coercion. The HTRS is an

③ An incident is any investigation into a claim of trafficking, or any investigation of other crimes in which elements of potential human trafficking were identified.

The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA, 2005) requires biennial reporting on the scope and characteristics of human trafficking in the U.S., available data from state and local authorities.² As part of an effort to meet these congressional mandates, reports)

③ An investigation is any effort in which members of the task force spent at least one hour investigating (e.g., using collecting information, taking statements, and writing part of an

the Bureau of Justice Statistics (BJS), in partnership with the Bureau of Justice Assistance (BJA), Northeastern

Each incident is uniquely identified by an incident date (date of occurrence) and incident number. Once entered

University (NEU), and the Urban Institute (UI), developed the Human Trafficking Reporting System (HTRS).

into the system, an incident upon further investigation may or may not be determined to involve human trafficking.

system is designed to capture information on incidents investigated by federally funded task forces, and is the first to focus specifically on state and local human trafficking investigations in the U.S. BJA provides support for state and local law enforcement to work more collaboratively with victim services organizations, federal law enforcement, U.S. Attorneys' Offices, and the Civil Rights Division of the U.S. Department of Justice in the identification and rescue of trafficking victims who are in the United States.

retained in the HTRS. To be confirmed as human trafficking—

services organizations, federal law enforcement, U.S. Attorneys' Offices, and the Civil Rights Division of the U.S. Department of Justice in the identification and rescue of trafficking victims who are in the United States.

③ The case must have led to an arrest and been subsequently confirmed by law enforcement, or

③ The victims in the case must 1) have had a "continuing presence" requested on their behalf, or 2) have received an endorsement for a T or U visa application.⁴ human

report, case, incident, and investigation are used interchangeably. This report is based on information collected from these

BJA-funded task forces through the HTRS.

⁴Congress created the T and U nonimmigrant classifications

The first report developed from HTRS information, with the passage of the TVPA, 2000. The T nonimmigrant status was created to provide protection to victims of severe

Characteristics of Suspected Incidents of Human Trafficking,

forms of human trafficking. The U nonimmigrant status was designated for victims of certain crimes who had suffered mental or physical abuse and who were willing to assist in the

¹Victims of Trafficking and Violence Protection Act of 2000. Pub. L. No. 106-386, 114 Stat. 1464.

²Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, 119 Stat. 3566.

investigation between January 1, 2008, and June 30, 2010. These suspected incidents include allegations that, through subsequent investigation, may or may not be determined to meet the definition of human trafficking according to the TVPA, 2000. (See box on page 2.)

Nearly half of all incidents investigated between January 1, 2008, and June 30, 2010, involved allegations of adult prostitution (48%). Forty percent involved prostitution of a child or child sexual exploitation (table 1). Elements of sexualized labor, including exotic dancing and unlicensed massage parlors, were found in 6% of the incidents reported.

Fourteen percent of cases contained allegations of labor trafficking, including 9% with suspected labor trafficking

Table 1
Human trafficking incidents opened for investigation between January 2008 and June 2010, by type of

Type of trafficking ¹	Number	Percent ²
All incidents	2,515	100.0%
Sex trafficking	2,065	82.1%
Adult prostitution/commercial sex act	1,218	48.4
Prostitution or sexual exploitation of a child	1,016	40.4
Sexualized labor	142	5.6
Other	61	2.4
Labor trafficking	350	13.9%
Commercial industry labor	132	5.2
Unregulated industry labor	230	9.1
Other	26	1.0
Other suspected trafficking	65	2.6%
Unknown trafficking	172	6.8%

involved allegations of one type of human trafficking.

Human trafficking incident cases opened for investigation between January 2008 and June 2010, by type of trafficking and task force location

Type of trafficking	Task force located in—					
	Number	Percent	Number	Percent	Number	Percent
Total incidents	2,515	100.0%	1,377	100.0%	1,138	100.0%
Sex trafficking	2,065	82.1%	1,230	89.3%	835	73.4%
Labor trafficking	278	11.1	92	6.7	186	16.3
Unknown	172	6.8	55	4.0	117	10.3
	Total incidents		Vice unit		Another unit	

¹ Type of trafficking is identified as the type of suspected incident reported to or investigated by the law enforcement agency. The type of trafficking investigated is not necessarily the same type of trafficking that may be confirmed, charged at arrest, or prosecuted. Where the type of alleged trafficking may suggest elements of sex or labor trafficking, BJS classified the type through an analysis of the other characteristics of those cases, as identified by the investigative agencies. For example, sexualized labor was categorized as a type of alleged sex trafficking after further analyses found

in potentially unregulated industries, such as day labor, drug sales, forced begging, roadside sales, or domestic workers (e.g., nannies). Approximately 5% of the incidents involved suspected labor trafficking in more commercial industries, such as hair salons, hotels, and bars.

Nine percent of incidents involved allegations of an unknown human trafficking type or allegations that could not be defined as either labor or sex trafficking, such as mail order brides, child selling, and unspecified Internet solicitations.

Task forces may have entered multiple types of human trafficking per incident. Among the incidents described in this report, up to six different types of trafficking were identified per incident, although most (77%) incidents

Cases were classified by whether they included allegations of sex trafficking or labor trafficking. Cases that had elements of both sex and labor trafficking (72 cases, or 3% of the total) were classified as sex trafficking cases for analysis purposes. Cases that did not include allegations that could be defined as sex or labor trafficking were classified as an unknown trafficking type and reported in total statistics throughout the report. Most investigations were classified as suspected sex trafficking (82%), followed by 11% as suspected labor trafficking and 7% unknown (table 2).

The types of trafficking cases differed between task forces located in a vice unit and those located in another type of unit within the law enforcement agency. (Vice units in law enforcement commonly pursue crimes related to prostitution, pornography, gambling, alcohol, and drugs.) Task forces classified as located in vice were in units either dedicated solely to investigating vice crimes or in units

that investigations into sexualized labor were most commonly associated with characteristics of sex trafficking as opposed to labor trafficking.

² Percent will add to more than 100 because incidents may involve more than one type of trafficking.

Table 2

focused on vice and other crimes, such as sexual assault or domestic violence. Those task forces not located in vice units were located in divisions specializing in human trafficking, intelligence units, or units dedicated to investigating organized crime. Eighty-nine percent of incidents reported by task forces located in a vice unit were incidents of suspected sex trafficking, compared to 73% of incidents reported by task forces located outside of vice units.

Federal agencies were more likely to lead labor trafficking investigations (29%), compared to sex trafficking investigations (7%)

A law enforcement agency was identified as the lead agency for nearly all suspected sex trafficking cases (98%). Among suspected labor trafficking cases, 88% had a law enforcement lead agency, and 11% had a victim advocacy lead agency (table 3).

In sex trafficking cases, 92% involved a lead agency identified as a state, local, or territorial level government agency, while 7% of lead agencies were identified as

federal agencies, such as the FBI, U.S. Attorneys' Offices, or Immigration and Customs Enforcement. Labor trafficking investigations were more likely to have a federal lead agency (29%) than sex trafficking investigations (7%).

Table 3

The number and type of task force agencies involved in suspected human trafficking incidents varied more for labor trafficking cases than for sex trafficking cases. Among suspected labor trafficking incidents, 82% involved multiple agencies as part of the task force team; 49% of suspected sex trafficking incidents involved multiple agencies. In a review of all types of agencies involved in the case, 99% of sex trafficking cases included a law enforcement agency, and 16% included a victim advocacy agency. Most labor trafficking incidents also included a law enforcement agency in the case (91%); however, labor trafficking incidents were more likely to include a victim advocacy agency (40%) and a regulatory agency (10%), such as a code enforcement or professional licensing agency, when compared to suspected sex trafficking cases.

Agencies involved in human trafficking investigations between January 2008 and June 2010, by type of trafficking						
Type of agency	Number	Percent	Number	Percent	Number	Percent
Number of incidents	2,515	100.0%	2,065	100.0%	278	100.0%
Lead agency						
Law enforcement/prosecution/corrections	2,425	96.9%	2,018	98.1%	242	88.3%
Victim advocacy	63	2.5	30	1.5	29	10.6
Human services agency	3	0.1	3	0.1	0	0.0
Regulatory agency	11	0.4	7	0.3	3	1.1
Unknown	13	:	7	:	4	:
Lead agency level						
State, local, or territorial	2,204	88.1%	1,885	91.6%	167	60.9%
Federal	235	9.4	143	6.9	78	28.5
Nongovernmental organization/private	63	2.5	30	1.5	29	10.6
Unknown	13	:	7	:	4	:
Number of agencies 1						
1	1,161	46.3%	1,039	50.4%	49	17.7%
2-3	1,009	40.2	781	37.9	143	51.6
4-6	304	12.1	215	10.4	77	27.8
7 or more	33	1.3	25	1.2	8	2.9
Unknown	8	:	5	:	1	:
Type of agencies involved^b						
Law enforcement/prosecution/corrections	2,462	97.9%	2,040	98.8%	254	91.4%
Victim advocacy/defense	465	18.5	334	16.2	112	40.3
Human services agency	25	1.0	23	1.1	2	0.7
Regulatory agency	44	1.7	14	0.7	28	10.1
Level of agencies involved^b						
State, local, or territorial	2,377	94.5%	2,002	96.9%	216	77.7%
Federal	688	27.4	484	23.4	157	56.5
Nongovernmental organization/private	464	18.4	334	16.2	111	39.9

^aPercent not calculated for missing or unknown data. ^bIncludes incident trafficking type. ^cPercents add to more than 100% because more than one agency could be involved.

	Total^a	Sex trafficking	Labor trafficking
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Data quality and consistency in reporting

The HTRS project team identified a number of data quality issues despite efforts to ensure consistent and complete reporting.

The most significant issues were—

- ③ Missing individual-level information about suspects and victims, and
- ③ Failure to update cases as the investigations progressed.

The type of trafficking suspected and the agencies involved were entered into the system because this information was typically available at the outset of an investigation (figure 2). The availability of information on case confirmation, victims, and suspects was not necessarily a function of the length of time the case was open, and was missing for a significant number of the incidents (table 4).

Cases observed for 12 or more months generally had more valid data about whether the incident was confirmed to be human trafficking. Among all cases opened for investigation between January 2008 and June 2010, confirmation of the outcome was pending for 39% of the incidents at the conclusion of the study period (June 2010). Among cases open for at least 12 months in task forces that consistently updated case information and provided individual-level data, 38% had not reached a confirmation outcome at the conclusion of the study period. However,

83% of the cases that ultimately reached an outcome were able to do so within 12 months.

Identifying the characteristics of individuals involved in human trafficking was problematic overall. The quality of the data was associated more with the task force itself than with the date the case was opened or the type of suspected trafficking. Valid suspect and victim data were clustered in certain task forces identified as providing high data quality.

- ③ High data quality task forces (18 of 42) met three criteria: 1) regularly entered new cases into the system, 2) provided individual-level information for at least one suspect or victim, and 3) updated case information on a regular basis. Individual-level information for at least one suspect was available for 75% of the confirmed human trafficking investigations open for at least one year in selected task forces.
- ③ Low data quality task forces (24 of 42) did not meet any of the three criteria listed above.

Case confirmation outcomes and individual-level statistics are therefore restricted to data provided by selected task forces (18 of the 42). These task forces regularly entered new cases into the system, provided individual-level information for at least one suspect or victim, and updated case information on a regular basis.

Figure 2
Percentage of cases with valid data for critical variables, by number of months the cases were observed

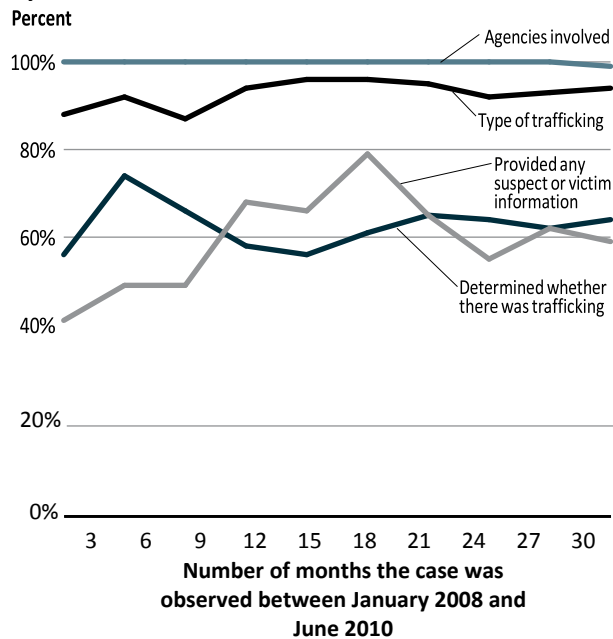


Table 4
Percentage of incidents with valid information entered between January 2008 and June 2010, by quality of task force data

Type of information	Quality of task force reporting identified as—	
	Low	High
Type of trafficking	91%	95%
Human trafficking confirmed (or not)	61%	62%
Incident status is closed or inactive	57%	65%
Agencies involved	100%	100%
Information associated with the incident		
Any individual-level information (suspect or victim)	35%	88%
Any suspect information	20	62
Any victim information	30	75

Note: High data quality task forces (18 of the 42) regularly entered new cases into the system, provided individual-level information for at least one suspect or victim, and updated case information on a regular basis. Low data quality task forces (24 of 42) did not demonstrate one or more of these data quality indicators.

Confirmed victims of labor trafficking were more likely to be male, older, and foreign than confirmed victims of sex trafficking

Federally funded high data quality task forces entered 389 confirmed incidents of human trafficking during the study period. These cases had consistently complete reporting on case outcome and individual-level information. The selected task forces identified 527 confirmed human trafficking victims in the 389 confirmed incidents. Confirmed sex trafficking victims were overwhelmingly female (94% of victims with known gender). Of the 63 confirmed labor trafficking victims, 20 were male and 43 were female (table 5).

Confirmed labor trafficking victims were more likely to be older than confirmed sex trafficking victims. Sixty-two percent of confirmed labor trafficking victims were identified as 25 years of age or older, compared to 13% of

confirmed sex trafficking victims, based on victims with known age.

In addition, confirmed labor trafficking victims were more likely to be identified as Hispanic (63% of victims with known race) or Asian (17%) compared to sex trafficking victims, who were more likely to be white (26%) or black (40%). Four-fifths of victims in confirmed sex trafficking cases were identified as U.S. citizens (83%), while most confirmed labor trafficking victims were identified as undocumented aliens (67%) or qualified aliens (28%).

More than half of confirmed sex trafficking suspects were black, while confirmed labor trafficking suspects were more likely to be Hispanic

Overall, individual information was collected for 488 suspects in confirmed human trafficking incidents in high data quality task forces (table 6).

Table 5

Victim characteristics in cases confirmed to be human trafficking by high data quality task forces, by type of trafficking

Victim characteristic	Total ^a	Sex trafficking	Labor trafficking
Sex			
Male	49	27	20
Female	477	432	43
Age			
17 or younger	257	248	6
18-24	159	142	17
25-34	68	46	22
35 or older	27	12	15
Unknown	16	12	3
Race/Hispanic origin			
White ^b	106	102	1
Black/African American ^b	167	161	6
Hispanic/Latino origin	129	95	34
Asian ^{b, c}	26	17	9
Other ^{b, d}	35	23	11
Unknown	63	61	2
Citizenship			
U.S. Citizen/U.S. National	346	345	1
Permanent U.S. resident ^e	6	6	0
Undocumented alien ^f	101	64	36
Qualified alien ^e	19	1	15
Temporary worker	2	0	2
Unknown	50	41	9
Number of victims identified	527	460	63

Note: Analysis restricted to cases opened and observed between January 2008 and June 2010 in high data quality task forces. See definition of high data quality task forces on page 5. ^aIncludes cases of unknown trafficking type. ^bExcludes persons of Hispanic or Latino origin.

^cAsian may include Native Hawaiian and other Pacific Islanders or persons of East Asian or Southeast Asian descent. ^dIncludes persons of two or more races.

^ePermanent residents and qualified aliens are legal residents in the U.S., but do not have citizenship. ^fUndocumented aliens reside in the U.S. illegally.

Table 6

Suspect characteristics in cases opened between January 2008 and June 2010 and confirmed to be human trafficking by high data quality task forces, by type of

Suspect characteristic	Total ^a	Sex trafficking	Labor trafficking
Sex			
Male	368	314	54
Female	88	71	17
Unknown	32	25	7
Age			
17 or younger	11	10	1
18-24	147	145	2
25-34	114	105	9
35 or older	100	65	35
Unknown	116	85	31
Race/Hispanic origin			
White ^b	24	22	2
Black/African American ^b	224	219	5
Hispanic/Latino origin	119	89	30
Asian ^{b, c}	28	18	10
Other ^{b, d}	20	5	15
Unknown	73	57	16
Citizenship			
U.S. Citizen/U.S. National	276	269	7
Permanent U.S. resident ^e	12	2	10
Undocumented alien ^f	44	39	5
Qualified alien ^e	8	2	6
Unknown	148	98	50
Number of suspects identified	488	410	78

trafficking

Note: Analysis restricted to cases opened and observed between January 2008 and June 2010 in high data quality task forces. See definition of high data quality task forces on page 5. ^aIncludes cases of unknown trafficking type. ^bExcludes persons of Hispanic or Latino origin.

^cAsian may include Native Hawaiian and other Pacific Islanders or persons of East Asian or Southeast Asian descent. ^dIncludes persons of two or more races.

^ePermanent residents and qualified aliens are legal residents in the U.S., but do not have citizenship. ^fUndocumented aliens reside in the U.S. illegally.

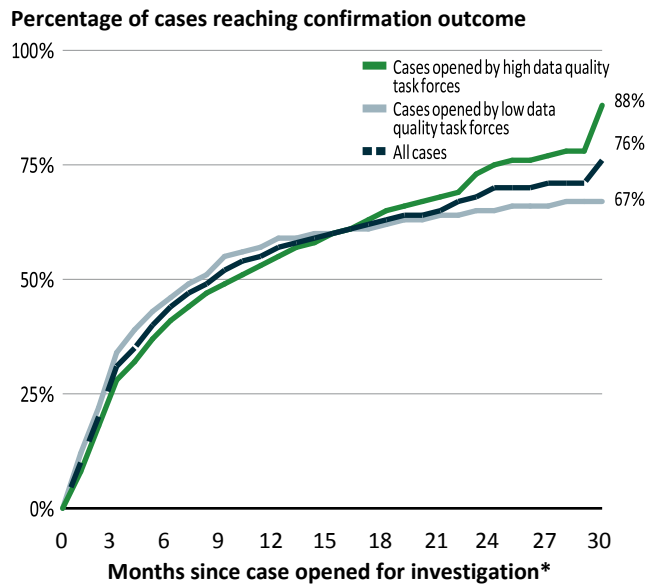
Most confirmed human trafficking suspects were male (81%), while 19% were female. Based on cases in which race was known, nearly two-thirds (62%) of confirmed sex trafficking suspects were identified as black. Confirmed labor trafficking suspects were more likely to be identified as Hispanic (48%). Most suspects in confirmed sex trafficking incidents were between the ages of 18 and 34 (77%) and were U.S. citizens (86%).

Analysis of case outcomes was restricted to incidents opened by high data quality task forces and observed for one year

Seventy-six percent of human trafficking cases had reached a confirmation outcome at the conclusion of the study period, including 88% of cases opened in high data quality task forces and 67% in the remaining task forces (**figure 3**).

Figure 3

Percentage of cases reaching confirmation outcome, by months observed and by task force data quality



Note: See box on page 5 for definition of high data quality task forces.
 *Fewer than 50 cases were observed for at least 29 months and still pending confirmation outcome.

Victim service providers report serving more labor trafficking victims than sex trafficking victims.

The HTRS collects information on human trafficking opened for investigation by state and local law enforcement agencies that received federal funding task force activities. The data described in the information that was available to, these state and local law enforcement

agencies, which receive support from the Bureau of Justice Assistance (BJA) in the Office of Justice Programs, U.S. Department of Justice.

The Office for Victims of Crime (OVC), also in the Office of Justice Programs, provides grant funding to victim service agencies in many of the BJA-funded task force locations.

The OVC funds support comprehensive services to human victims. Between January 2008 and June 2009, grants to 32 task force agencies to provide victims of human trafficking.

OVC data are compiled through the Trafficking Information and Management System (TIMS). Between 2003 and June 2009, support for victim service agencies and law enforcement the OVC initiative provided services to a total of 2,699 pre-national suspected victims of trafficking. all trafficking crimes and providing services to trafficking victims regardless of citizenship or age.

TIMS data consistently show that the majority of victims cases served are classified as labor trafficking victims. Between January 2008 and June 2009, 64% of the victims served by to support OVC-funded service providers were identified as victims of this report reflect labor trafficking only, 22% as victims of sex trafficking only, and entered by, and 10% as victims of both labor and sex trafficking.

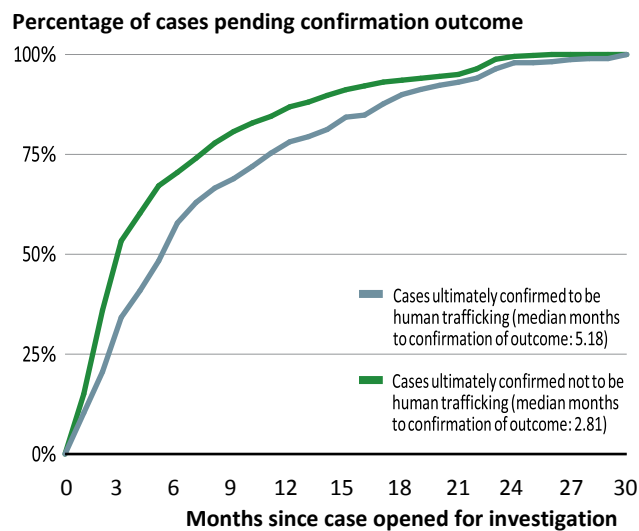
Among confirmed victims of human trafficking identified by high data quality task forces in the HTRS, approximately

43% of undocumented aliens and qualified aliens were victims of labor trafficking, compared to 64% of the foreign national suspected victims of human trafficking served by the OVC task forces.

OVC expanded the victim services initiative to include U.S. trafficking citizens who are minors beginning in late 2009, and in 2010 OVC awarded grants to 32 task force agencies to provide services to foreign national victims of human trafficking, regardless of citizenship or age. In 2010, BJA and OVC began joint support

Cases that were ultimately confirmed to be human trafficking in high data quality task forces were open for a median of five months before the case was confirmed. Cases that were ultimately confirmed not to be human trafficking in these selected task forces were open for a median of 3 months before the allegations were determined to be unfounded (figure 4).

Figure 4
Percentage of cases reaching confirmation outcome, by months observed and ultimate confirmation status



Most (83%) of the cases that ultimately reached an outcome were able to do so within 12 months of observation (not shown in table). Statistics about the outcomes of cases are therefore restricted to incidents observed for at least 12 months in the study period, and opened by task forces that reliably updated information.

Table 7
Approximately a third of cases opened for investigation were confirmed to be human trafficking

Among cases opened for at least one year in selected task forces, 30% were confirmed to be human trafficking and 38% were confirmed not to be human trafficking as defined in the TVPA, 2000. Nearly a third of the cases had a pending confirmation outcome (table 7).

Any commercial sex act if the person is under 18 years of age, regardless of whether any form of coercion is involved, is defined as human trafficking by the TVPA, 2000. (Adult prostitution is not considered human trafficking unless it is proven that the victim was coerced.) Of cases confirmed to be human trafficking, 64% involved allegations of prostitution or sexual exploitation of a child, and 42% involved allegations of adult prostitution. Most cases confirmed not to be human trafficking (64%) or pending confirmation status (66%) involved allegations of adult prostitution (table 8).

Outcome of human trafficking incidents opened for at least 12 months by high data quality task forces, by type of trafficking

Outcome	Number*	Confirmed to be human		Confirmed not to be human	
		Number	Percent	Number	Percent
All human trafficking cases	849	714	100.0%	101	100.0%
Confirmed	257	218	30.3%	39	38.6%
Not confirmed	322	267	37.9	32	31.7
Pending or unknown confirmation status	270	229	31.8	30	29.7
	Total	Sex trafficking		Labor trafficking	

Note: Analysis restricted to cases opened and observed between January 2008 and June 2009. See definition of high data quality task forces on page 5.

*Includes cases of an unknown trafficking type.

Table 8

Human trafficking incidents opened for at least 12 months by high data quality task forces, by outcome

Incident type	Confirmed to be human		Confirmed not to be human		Pending confirmation	
	Number	Percent	Number	Percent	Number	Percent
Total	257	100.0%	322	100.0%	270	100.0%
Sex trafficking						
Adult prostitution	108	42.0	205	63.7	178	65.9
Prostitution or sexual exploitation of a child	164	63.8	80	24.8	83	30.7
Sexualized labor	6	2.3	18	5.6	19	7.0
Other	1	0.4	4	1.2	3	1.1
Labor trafficking						
Labor trafficking in commercial or public industry	24	9.3	19	5.9	16	5.9
Labor trafficking in unregulated industry	37	14.4	24	7.5	28	10.4
Other/Unknown	7	2.7	33	10.2	38	14.1
	trafficking		trafficking		Pending confirmation	

About a quarter of foreign nationals confirmed as victims received U.S. visas

Nearly 90 victims identified in confirmed human trafficking incidents open for at least a year were described as undocumented or qualified aliens. Of these 87 foreign victims, 21 received T visas, while 46 visa applications were still pending or had an unknown status. (See footnote 4 on page 2.) Most confirmed victims in cases open for at least a year were described as U.S. citizens, U.S. nationals, or permanent U.S. residents (67%)(not shown in table).

Nearly 150 arrests were reported by law enforcement agencies in confirmed human trafficking incidents

Law enforcement agencies in the selected task forces reported arresting 144 suspects in confirmed human trafficking incidents open for at least a year during the study period, including 139 sex trafficking suspects and 5 labor trafficking suspects (table 9). Most sex trafficking arrests occurred at the state level (114), while all 5 labor trafficking arrests occurred at the federal level.

The HTRS relies primarily on local law enforcement to update information about arrests. Local law enforcement may not always have current or complete information about arrests made by other agencies. (See *Methodology*.)

Methodology

Table 9

Victim and suspect outcomes in incidents opened between January 2008 and June 2009 and confirmed to be human trafficking by high data quality task forces, by type of trafficking

Type of incidents	Total	Sex trafficking	Labor trafficking
Number of selected confirmed incidents	257	218	39
Victims in confirmed incidents			
Foreign victims identified T or U visa status ^a	87	43	44
Yes	21	9	12
No	20	8	12
Pending/unknown	46	26	20
Suspects in confirmed incidents			
Suspects identified	343	279	64
Suspects arrested	144	139	5
State arrest	114	114	0
Federal arrest	21	16	5
Both	9	9	0
Suspects not arrested	19	13	6
Unknown	180	127	53

This report relies on information from task forces receiving federal support from the Bureau of Justice Assistance (BJA). Since the Human Trafficking Reporting System (HTRS) was implemented in 2008, a total of 45 jurisdictions have received funds from BJA to provide support for state and local law enforcement to work more collaboratively with victim services organizations, federal law enforcement, U.S. Attorneys' Offices, and the Civil Rights Division of the U.S. Department of Justice in the identification and rescue of human trafficking victims who are in the United States. The HTRS was designed to facilitate incident-level management and tracking of human trafficking investigations opened by BJA-funded task forces.

Between January 1, 2008, and June 30, 2010, 42 of the 45 federally funded human trafficking task forces reported at least one human trafficking incident in the HTRS. The task forces involve partnerships with varying coverage areas, including entire states/territories and regions, multiple counties, single counties, and metropolitan areas. Combined, the task forces operated in jurisdictions that were home to nearly 25% of the nation's resident population at midyear 2010. Although the task forces are not representative of the entire nation, they are widely dispersed geographically.

Collection procedures

Sex Labor

Note: Analysis restricted to cases opened and observed between January 2008 and June 2009 in high data quality task forces. See definition of high data quality task forces on page 5.

^aCongress created the T and U nonimmigrant classifications with the passage of the TVPA, 2000. The T nonimmigrant status was created to provide protection to victims of severe forms of human trafficking. The U nonimmigrant status was designated for victims of certain crimes who had suffered mental or physical abuse and who were willing to assist in the investigation of human trafficking activity.

Each task force designated a person for data collection and reporting. Reporters were responsible for adding new human trafficking incidents on a monthly basis, updating information for existing records with new activity, and submitting data automatically through an online data portal. Reporters were provided training and follow-up technical assistance via phone or onsite as needed by Northeastern University (NEU) and Urban Institute (UI) staff. Task forces began entering data in January 2008.

Task force reporters enter information about investigations into the HTRS if they have spent at least one hour of investigation time on a potential trafficking case. At the time that data are originally entered into the system, many investigations are still ongoing. As investigations proceed, additional information may become available or the original information may be updated. As a result, the HTRS provides a snapshot of information currently known and reported. Once an investigation has progressed to the point of having information about potential suspects or victims, task force reporters are instructed to enter this information into the HTRS. Information for each suspect and each victim is then added by completing automated data entry screens identified as a *Suspect Information Form* or a *Victim Information Form*. As more information becomes available, task force reporters are asked to update the information on each screen. (For additional details, see the Human Trafficking Reporting System User's Manual at <https://www.humantrafficking.neu.edu>.)

Data quality

Every effort was made to ensure consistency and completeness in task force reporting to the HTRS. NEU and UI developed a detailed HTRS Users' Guide to introduce the platform to task forces and promote consistency in reporting. Training and onsite technical assistance was provided to all task forces. An advisory board made up of task force representatives helped guide the development and implementation of the data management system. Three sites were also funded to provide immersion training to task forces that did not update the HTRS regularly. NEU and UI also conduct random data quality audits and provide quarterly data quality reports to BJS.

Finally, random audits are conducted to compare paper files from closed human trafficking investigations with the data that are reported to the HTRS. BJS and its partners continue to implement enhancements to the HTRS to improve data reliability and consistency in reporting.

Despite these efforts, consistency and completeness in reporting vary across task forces (see text box on page 5). The statistics described in this report should be examined

Table 10

in light of this variability. Although all task forces received federal funding during the study period from BJA, the ability to collect and report data varied by task force. Some task forces indicated that they were unable to provide individuallevel information due to the sensitivity of the information, and others stated that they did not have access to many of the case outcome measures collected through HTRS. The volume of incidents reported varied between task forces (ranging from 1 to 483). Seven of the participating task forces reported fewer than 10 cases of suspected human trafficking between January 2008 and June 2010, while six task forces reported 100 or more cases during this same period.

Task forces that were classified as having high data quality (18 of 42) regularly entered new cases into the system, provided individual-level information for at least one suspect or victim, and updated case information on a regular basis. Task forces classified as having low data quality did not meet any of these three criteria. High and low data quality task forces reported similar information with respect to human trafficking type, lead investigative agency level, and lead investigative agency type. High quality task forces were more

Human trafficking case characteristics by quality of task force data

Case characteristic	Low		High	
	Number	Percent	Number	Percent
Total number of cases opened for investigation	1,209		1,306	
Type of trafficking				
Sex trafficking	978	80.9%	1,087	83.2%
Labor trafficking	127	10.5	151	11.6
Unknown	104	8.6	68	5.2
Location of human trafficking task force in law enforcement agency				
Vice unit	803	66.4%	574	44.0%
Criminal intelligence, organized crime, or human trafficking-dedicated unit	406	33.6	732	56.0
Lead investigative agency level				
State/local territorial	1,061	87.8%	1,143	87.5%
Federal	93	7.7	142	10.9
Private/NGO	48	4.0	15	1.1
Missing/unknown	7	0.6	6	0.5
Lead investigative agency type				
Law enforcement/prosecution/corrections	1,149	95.0%	1,276	97.7%
Victim advocate	48	4.0	15	1.1
Health/human/education services	1	0.1	2	0.2
Regulatory agency	4	0.3	7	0.5
Missing/unknown	7	0.6	6	0.5
Number of agencies involved				
1	733	60.6%	428	32.8%
2-3	376	31.1	633	48.5
4-6	89	7.4	215	16.5
7 or more	7	0.6	26	2.0
Unknown	4	0.3	4	0.3
Any victims identified	362	29.9%	982	75.2%
Any suspects identified	247	20.4%	814	62.3%
Confirmation outcome				
Confirmed to be human trafficking	146	12.1%	389	29.8%
Confirmed not to be human trafficking	589	48.7	420	32.2
Pending confirmation	474	39.2	497	38.1

Quality of task force reporting identified as—

likely to be located in criminal intelligence, organized crime, or human trafficking-dedicated units (56%) than low quality task forces (34%). Low quality task forces were typically in vice units (66%) compared to high quality task forces (44%). High data quality task forces also reported a greater percent of cases that involved multiple agencies, had at least one victim identified, had at least one suspect identified, and were confirmed to be human trafficking (table 10). Analyses that included any data on victims, suspects, or confirmed cases were restricted to information provided by selected task forces.

As of June 30, 2010, the HTRS included information on more than 3,100 cases of suspected incidents of human trafficking. However, this report covers cases opened in January 2008 to minimize variations in reporting over time due to changes in data collection methodology. The HTRS project team collected retrospective case information on investigations opened prior to the launch of the system in 2008.

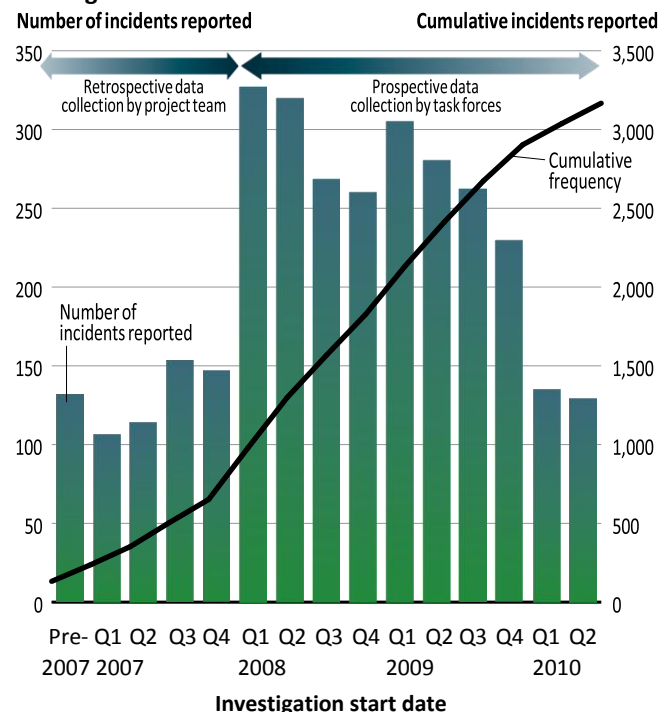
Analyses of the retrospective data collected by the project team prior to 2008 found that this information was not consistently updated by the task forces once prospective data collection began. Therefore, the characteristics of these incidents (652) are fully described in the previous report, *Characteristics of Suspected Human Trafficking Incidents, 2007-2008*. There is an overlap of cases opened between January 2008 and September 2008 between the previous report and the current report, as many of these incidents were entered prospectively by the task forces, and were updated following the release of the previous report.

During the first year (2008) of prospective voluntary data collection, task forces opened at least 250 suspected cases of human trafficking for investigation in each quarter. This volume of new cases continued well into 2009, yet dropped to less than 150 new cases per quarter in 2010 (figure 5).

Modifications designed to help alleviate many of the data quality issues described in this report went into effect in October 2009. Participation in HTRS became a requirement of continued federal funding from BJA. Several HTRS fields were converted from “non-required” to “required” data elements. Additionally, a task force is unable to close a case unless individual-level information about victims and suspects is entered for those incidents with identified numbers of victims and suspects in investigation records. Open cases that have not been updated during the previous six months are now automatically flagged for task forces whenever they log into the system. Not only does this new feature facilitate the updating of open investigations for task forces, it also helps project staff track the number of open but inactive cases for each task force, which could affect the quality of data extracted from the HTRS.

The requirement to update cases once they have been entered into the system may in part explain the decrease in new cases entered in quarters one and two of 2010. In addition, six of the 42 task forces had let their funding expire as of December 31, 2009. The project team continues to work with these task forces to update information on cases already entered into the HTRS, but no new cases were entered into the HTRS from these six task forces as of January 1, 2010.

Figure 5
Suspected incidents of human trafficking, by reported investigation start date



u.s. department of justice

office of justice programs

Bureau of justice statistics Washington, dc 20531 official Business penalty for private use \$300

ncj233732

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Office of Justice Programs • Innovation • Partnerships • Safer Neighborhoods •
<http://www.ojp.gov>

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. James P. Lynch is the director.

This report was written by Duren Banks and Tracey Kyckelhahn. Ron Malega verified the report.

Vanessa Curto and Jill Thomas edited the report, Tina Dorsey and Barbara Quinn produced the report, and Jayne Robinson prepared the report for final printing, under the supervision of Doris J. James.

April 2011, NCJ 233732

This report in portable document format and in ASCII and its related statistical data and tables are available at the website: <http://bjs.gov/index.cfm?ty=pbdetail&iid=2372>.

UNDERSTANDING CHILD EXPLOITATION & HUMAN TRAFFICKING

Honorable Virginia M. Kendall
United States District Court -Northern District of IL

Virginia_kendall@ilnd.uscourts.gov

Co-author, *Child Exploitation and Trafficking*
Examining the Global Issues and U.S. Response

SOURCES OF INVESTIGATIONS

- Local law enforcement officers and local complaints
- Federal law enforcement agencies: FBI, Secret Service, ICE, HHS, US Postal Inspection Service
- Task Forces: combination of local and federal law enforcement with specific purpose of child exploitation prevention and enforcement
- Cooperation with State prosecuting authorities

TYPES OF FEDERAL PROSECUTIONS

- Production of child pornography
 - Possession, receipt, transmission of child porn
 - Travel with intent to engage in sexual conduct with a minor
 - Transporting a minor with intent to engage in illegal sexual conduct
 - Coercing, enticing a minor to engage in sexual conduct (interstate component)
 - Kidnapping, child prostitution rings,
 - TRAFFICKING
-

SCOPE OF THE TRAFFICKING PROBLEM

- 20 million victims of human trafficking world wide according to 2014 reports (44,000 identified victims)
- 100,000 United States Children sexually trafficked
- \$32 billion in profits to the traffickers
- Frequently linked to organized crime –complex organizations with specific roles along the route
- Challenge of working internationally across borders to share information and evidence
- Big money: money laundering; false identification, bribery
- Public corruption inherent in its success

TYPES OF TRAFFICKING

- Forced prostitution of both nationals and foreign born women and children
 - Forced agricultural labor (farm worker)
 - Domestic servitude
 - Domestic sex trafficking
 - No need to cross international borders for trafficking
 - Crime of control and coercion
-

DIFFERENCE BETWEEN TRAFFICKING AND SMUGGLING

- SMUGGLING
- Offense against the integrity of borders
- Business relationship consummated once alien has reached border
- Requires illegal border crossing
- TRAFFICKING
- Offense against a person
- Coerced or compelled labor or service
- Smuggling debt
- Traffickers maintain control over their victims after the border is crossed

THE NUMBER OF PROSECUTIONS

- Only 5,776 convictions worldwide
 - Low numbers of prosecutions due to:
 - Lack of training, understanding, ability to locate the crime and identify victims
 - Lack of focus on protecting a class of individuals who have little voice or recognition
 - Lack of prosecutors charging HT statutes –charging older and often simpler charges
 - Lack of coordinated local, state, federal task forces
 - Difficulty in working with challenging victim class
 - Difficulty in working with immigration and social services
-

IS THERE HUMAN TRAFFICKING IN THE UNITED STATES?



FROM OVER 9,000 CALLS IN THE PAST 5 YEARS TO THE NHTRC

- Sex trafficking 5932 (63.80%)
 - Labor trafficking 2027 (21.80%)
 - Sex and labor trafficking 234 (2.52%)
 - Other / not specified 1105 (11.88%)
-

VICTIM DEMOGRAPHICS

- sex trafficking 52% (adults) 33% (minors)
- labor trafficking 70% (adults) 20% (minors)
- sex trafficking 5% (male) 85% (female)
- labor trafficking 40% (male) 27% (female)
- labor trafficking 20% (US citizens) 66% (foreign nationals)

STATES WITH THE HIGHEST REPORTS OF HUMAN TRAFFICKING

1. California
 2. Texas
 3. Florida
 4. New York
 5. Illinois
 6. District of Columbia
 7. Virginia
 8. Ohio
 9. North Carolina
 10. Georgia
-

MOST SIGNIFICANT FORM OF
TRAFFICKING IN US = SEX TRAFFICKING
OF FEMALES THRU PIMP



Over 40% of
cases
referenced
children
under 18.

WHO IS RECRUITING FOR ST AND HOW?

- Pimps
 - Use of romantic interest/grooming
 - Socially through friends
 - In public places
 - 18% from on line
 - Posing as a benefactor for lodging food, or job
- over 80%

WHERE IS THE LABOR TRAFFICKING?

Domestic Work 27.13%
Labor, Other/Not Specified 16.82%
Restaurant/Food Service 10.85%
Peddling Ring 10.56%
Traveling Sales Crew 9.57%
Other Small Business 8.04%
Agriculture 4.54%
Construction 2.37%
Begging Ring 1.78%
Factory 1.33%
Health & Beauty Services 1.13%
Housekeeping/Cleaning Service 0.94%
Carnival 0.84%

IMMENSE GAP BETWEEN NUMBERS OF VICTIMS AND NUMBERS OF PROSECUTIONS/RESCUES

YEAR	PROSECUTIONS	CONVICTIONS	VICTIMS IDENTIFIED	NEW OR AMENDED LEGISLATION
2006	5,808	3,160		21
2007	5,682 (490)	3,427 (326)		28
2008	5,212 (312)	2,983 (104)	30,961	26
2009	5,606 (432)	4,166 (335)	49,105	33
2010	6,017 (607)	3,619 (237)	33,113	17
2011	7,909 (456)	3,969 (278)	42,291 (15,205)	15
2012	7,705 (1,153)	4,746 (518)	46,570 (17,368)	21
2013	9,460 (1,199)	5,776 (470)	44,758 (10,603)	58

WHY?

- Victims do not self identify
- Victims fear law enforcement
- Corruption within the states
- Prosecution of the Victims for crimes
- Prosecution of the Victims for immigration offenses
- Fear of Deportation
- Fear of the reality of their situation: loss of ability to control their lives
- Shame
- SOCIETY'S INABILITY TO SEE THE CRIME

TRAFFICKING = COERCION

- Victims kept in isolation with no ability to learn their surroundings or moved from location to location
- Victims owe a debt for the transportation to the country
- Victims do not hold their own money; all basic “needs” are provided by the trafficker
- Victims often have their passports held by the traffickers or worse by the police who act in conjunction with traffickers
- Victims often do not speak the language

COERCION

- Victims believe that the trafficker will harm them, or their families, or bring other siblings to the country to be trafficked
 - Victims lose self confidence and shame of who they have become is overwhelming
 - Victims feel that there is no way to escape – traffickers have convinced them that they will be harmed or deported
-

COERCION

- Sexual abuse, battery, rape
- Isolation, neglect of basic needs
- Physical abuse
- Observing other victims being raped or abused
- Psychological abuse: threats of harm to victims or family
- Controlling all aspects of daily life: food, shelter, health care
- Threats of reporting their criminality to the authorities
 - Debt bondage

UNDERSTANDING THE VICTIMIZATION

- Malleable victims often seeking “better life”
 - Some leaving war torn area, poverty, natural disaster
 - Some duped into coming and do not understand they will be isolated and controlled and lose freedom
 - Others understand they will be working for little pay but soon learn that they are no longer free to leave
 - All become controlled and manipulated through a variety of psychological and physical means
-

TRAFFICKER'S CONTROL LEADS TO PSYCHOLOGICAL TRAUMA

- Victim believes there is no way out of the situation
- Even if victim were to leave, despair over what she has become prevents her from seeking help from family
- Victim often has no identification documents to prove who she is
- Victim is completely reliant on trafficker for food, shelter, knowledge of the outside world and medical care
- Victim is broken psychologically and incapable of asserting independence

SIGNIFICANCE OF TRAUMA: INCONSISTENT STATEMENTS

- Psychological trauma:
 - efforts to avoid thoughts on the traumatic experience;
 - to avoid anything that reminds the victim of the traumatic experience;
 - inability to recall specific details or strange focus on one detail;
 - inability to remain focused on the discussion; exhaustion
-

RECOGNIZE THE UNIQUE VICTIMIZATION OF THE CRIME

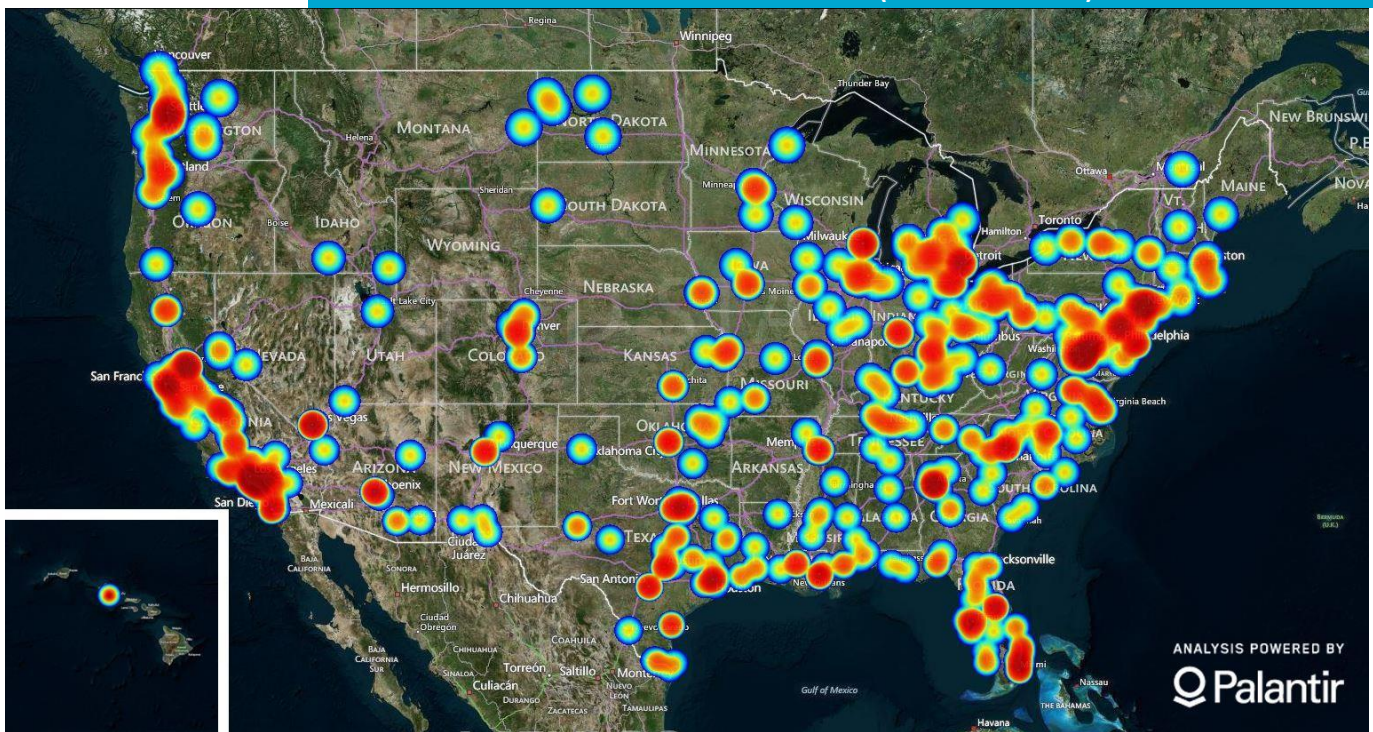
- Fear, physical illness, lack of basic needs (food, shelter, clothing), potential criminal exposure –all work against the ability to present your case
- A victim needs to know and have access to services
 - Physical health (medicine, IV testing, STD testing)
 - Mental health (counseling, support, time)
 - Shelter and Basics (food, safe haven, clothing)
 - Communication about the next step

NATIONAL HUMAN TRAFFICKING RESOURCE CENTER (NHTRC) DATA BREAKDOWN

**Human Trafficking and Minors
1/1/2014-12/31/2014**

Between 1/1/2014 and 12/31/2014, the NHTRC hotline received reports of 5,042 potential human trafficking cases in the United States. **1,581** of these cases (31.4%) involved minor victims. The NHTRC defines a minor as an individual under 18 years of age. The following report is based on these cases.

LOCATION OF POTENTIAL TRAFFICKING CASES (WHERE KNOWN)*



*This map only reflects cases in which the location of the potential trafficking was known. Some cases may involve more than one location and are not reflected in this map.

Venue/Industry of Potential Trafficking	# of Cases	% of Cases
Sex	1322	83.6%
Online Ad, Venue Unknown*	155	9.8%
Hotel/Motel-Based	154	9.7%
Street-Based	108	6.8%
Pornography	101	6.4%
Residential Brothel	85	5.4%

Other Venue	70	4.4%
Truck Stop-Based	66	4.2%

This publication was made possible in part through Grant Number 90ZV0102 from the Anti-Trafficking in Persons Division, Office of Refugee Resettlement, U.S. Department of Health and Human Services (HHS). Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Anti-Trafficking in Persons Division, Office of Refugee Resettlement, or HHS.



Escort/Delivery Service	62	3.9%
Commercial-Front Brothel	49	3.1%
Bar/Club-Based	21	1.3%
Hostess/Strip Club-Based	9	0.6%
Venues Referenced in Fewer than Three Cases**	3	0.2%
Venue Not Specified***	439	27.8%
Labor	143	9.0%
Traveling Sales Crews	39	2.5%
Begging Ring	27	1.7%
Peddling Ring	16	1.0%
Domestic Work	10	0.6%
Restaurant/Food Service	10	0.6%
Illicit Activity (e.g. Drug Running/Smuggling)	9	0.6%
Health & Beauty Services	5	0.3%
Construction	3	0.2%
Industries Referenced in Fewer than Three Cases**	12	0.8%
Industry Not Specified***	12	0.8%
Type of Trafficking Not Specified***	67	4.2%
Sex and Labor	49	3.1%
TOTAL # OF POTENTIAL TRAFFICKING CASES	1581	100.0%

**These cases typically involve reports of sex trafficking in which an individual is advertised for commercial sex online but the venue of the sex act is unknown or not specified.*

***To protect the identity of the people we serve, the NHTRC does not disclose exact statistics related to venues, industries, victim information or caller information referenced fewer than three times. *** In these cases, this information was not reported to the NHTRC.*

VICTIM DEMOGRAPHICS* (LABOR TRAFFICKING CASES)	# OF CASES	% OF CASES
Minors Only	91	63.6%

Adults and Minors	52	36.4%
Females	84	58.7%
Males	90	62.9%
Transgender	0	0.00%
US Citizen/Legal Permanent Resident	31	21.7%
Foreign Nationals	54	37.8%
non-cumulative*		

**These statistics are non-cumulative. Cases may involve multiple victims and include female, male, and transgender individuals, foreign nationals and U.S. citizens, adults and minors. In some cases, demographic information is not reported. This table shows the number of cases referencing trafficking in which the labeled populations were involved, not the total number of individuals involved in the trafficking situations.*

***To protect the identity of the people we serve, the NHTRC does not disclose exact statistics related to venues, industries, victim information or caller information referenced fewer than three times.*

Get Help. Report a Tip. Request Services.

TEL: 1-888-373-7888 • www.TraffickingResourceCenter.org • nhtrc@polarisproject.org



VICTIM DEMOGRAPHICS* (SEX TRAFFICKING CASES)	# OF CASES	% OF CASES
Minors Only	974	73.7%
Adults and Minors	348	26.3%
Females	1195	90.4%
Males	108	8.2%
Transgender	6	0.5%
US Citizen/Legal Permanent Resident	558	42.2%
Foreign Nationals	145	11.0%
non-cumulative*		

**These statistics are non-cumulative. Cases may involve multiple victims and include female, male, and transgender individuals, foreign nationals and U.S. citizens, adults and minors. In some cases, demographic information is not reported. This table shows the number of cases referencing trafficking in which the labeled populations were involved, not the total number of individuals involved in the trafficking situations.*

***To protect the identity of the people we serve, the NHTRC does not disclose exact statistics related to venues, industries, victim information or caller information referenced fewer than three times.*

POTENTIAL VICTIM(S) COUNTRY OR COUNTRIES OF ORIGIN	# OF CASES	% OF CASES
U.S.A	599	37.9%
Multiple Nationalities Referenced*	51	3.2%
Mexico	27	1.7%
Nationalities Referenced in Fewer than Three Cases**	24	1.5%
China	11	0.7%
Guatemala	8	0.5%
Honduras	7	0.4%
Philippines	6	0.4%
Russia	6	0.4%
El Salvador	6	0.4%
Romania	4	0.3%
United Kingdom	3	0.2%
Unknown/Not Specified***	829	52.4%
TOTAL # OF POTENTIAL TRAFFICKING CASES	1581	100.00%

***Cases may involve multiple victims of multiple nationalities.*

***To protect the confidentiality of the potential victims involved, the NHTRC does not disclose specific nationalities referenced in fewer than three cases.*

**** In these cases, demographic information was not reported to the NHTRC.*

Important Note: The data displayed in this report was generated based on information communicated to the National Human Trafficking Resource Center hotline via phone, email, and online tip report. The NHTRC cannot verify the accuracy of the information reported. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change as new information emerges.

Get Help. Report a Tip. Request Services.
 TEL: 1-888-373-7888 • www.TraffickingResourceCenter.org • nhtrc@polarisproject.org

Human Trafficking Statistics in Kentucky 2015

SINCE 2007

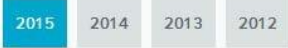
Total Calls: 1,246

Total Cases: 249

Total Victims - Moderate: 287

Total Victims - High: 265

2015 statistics are current as of December 31, 2015.



VICTIMS & SURVIVORS IDENTIFIED

High Indicators

45

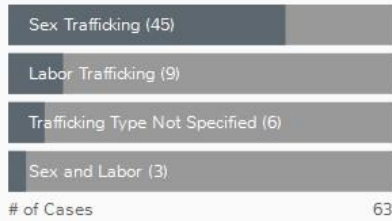
Moderate Indicators

56

Calls From Victims & Survivors

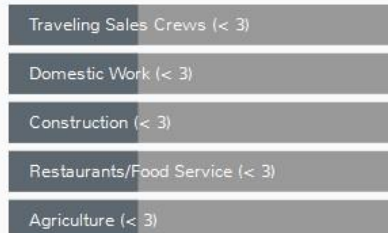
50

TYPE OF TRAFFICKING



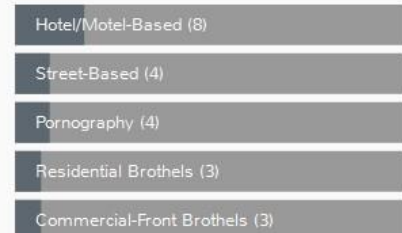
of Cases 63

TOP VENUES/INDUSTRIES FOR LABOR TRAFFICKING



of Cases 9

TOP VENUES/INDUSTRIES FOR SEX TRAFFICKING



of Cases 45

These statistics are non-cumulative. Cases may involve multiple victims and include males and females, foreign nationals and U.S. citizens, adults and minors. In some cases, callers do not provide demographic information.

GENDER



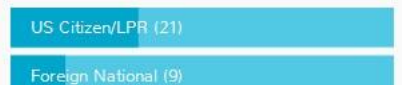
of Cases 63

AGE



of Cases 63

CITIZENSHIP



of Cases 63

These statistics are non-cumulative. Cases may involve multiple victims and include males and females, foreign nationals and U.S. citizens, adults and minors. In some cases, callers do not provide demographic information.

BREAKDOWN OF REQUESTS ON HUMAN TRAFFICKING CASES



of Cases 63

TOP WAYS THE CALLER FOUND THE HOTLINE



of Calls 257

TOP CALLER TYPES



of Calls 257

The data displayed on this site is generated from information communicated to the National Human Trafficking Resource Center via calls, emails, or webforms. The NHTRC cannot verify the accuracy of the information reported. This is not a comprehensive report on the scale or scope of human trafficking within an area. These statistics may be subject to change.

<https://traffickingresourcecenter.org/state/kentucky>

HUMAN TRAFFICKING In Kentucky

JUNE 2015 FACT SHEET



The KY Rescue & Restore Coalition was created in 2008 to:

- ◊ Support a statewide anti-human trafficking coalition in Kentucky
- ◊ Increase identification of human trafficking victims through awareness, training, and outreach
- ◊ Provide direct services to survivors of human trafficking throughout Kentucky

For more information or to donate to victim services, visit our website: www.rescueandrestoreky.org

:: Human Trafficking In Kentucky- THE NUMBERS ::

- 332 victims of human trafficking have been identified in Kentucky. Of these 332 victims, 197 were trafficked as children. The youngest reported victim was 2 months old.
- The most frequently occurring ages of trafficking victims in Kentucky are 15 and 17 year olds.
- 432+ victims (some from other states or trafficked in other countries) have received services (housing, advocacy, medical care, interpretation services, food, therapy services, etc) through Kentucky governmental and non-profit agencies.
- More than 23,000 individuals in Kentucky have been educated about human trafficking since 2008.

Indictments & Prosecutions

There have been 60 State and 8 Federal charges/indictments in Kentucky on human trafficking, of which a much smaller percentage have been convicted on the trafficking charges. Many have been amended down or dismissed for various reasons. Several cases involving human trafficking have been charged/convicted on other charges.

Human Trafficking Task Forces

- ◆ Lexington ◆ PATH (Northern KY)
- ◆ Louisville Metro ◆ Bardstown
- ◆ Kentucky Statewide (Frankfort)
- ◆ Shelbyville ◆ Frankfort
- ◆ PATH- Ursuline Sisters (Louisville)

National Human Trafficking Hotline and Resource Center: 1-888-3737-888

CASE DEMOGRAPHICS	#cases	%
Sex Trafficking	264	79%
Labor Trafficking	52	16%
Both Labor and Sex	10	3%
Trafficking type not known	6	2%
Child Victims	197	60%
Adult Victims	107	32%
Victim age not known	28	8%
Foreign Nationals	71	21%
Domestic Victims	113	34%
Nationality not known	148	45%
Male Victims	30	9%
Female Victims	184	58%
Gender not known	108	33%



DATA GATHERED FROM: Local and Federal Law Enforcement, KY Administrative Office of the Courts, KY Cabinet for Health and Family Services, The Center for Women and Families, Catholic Charities of Louisville, and various local media sources.

Human Trafficking Statistics in Ohio 2015

SINCE 2007 i

Total Calls: 3,693
Total Cases: 833

Total Victims - Moderate: 859 i
Total Victims - High: 606

2015 statistics are current as of December 31, 2015.



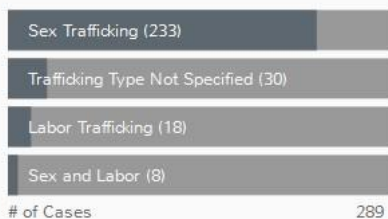
VICTIMS & SURVIVORS IDENTIFIED

High Indicators
255

Moderate Indicators
251

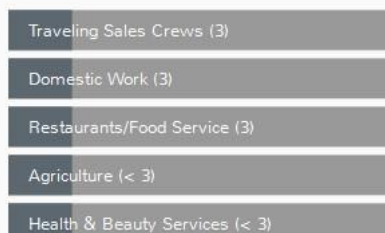
Calls From Victims & Survivors
159

TYPE OF TRAFFICKING



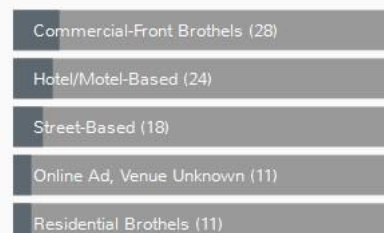
of Cases: 289

TOP VENUES/INDUSTRIES FOR LABOR TRAFFICKING



of Cases: 18

TOP VENUES/INDUSTRIES FOR SEX TRAFFICKING



of Cases: 233

These statistics are non-cumulative. Cases may involve multiple victims and include males and females, foreign nationals and U.S. citizens, adults and minors. In some cases, callers do not provide demographic information.

GENDER



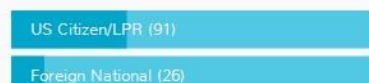
of Cases: 289

AGE



of Cases: 289

CITIZENSHIP



of Cases: 289

These statistics are non-cumulative. Cases may involve multiple victims and include males and females, foreign nationals and U.S. citizens, adults and minors. In some cases, callers do not provide demographic information.

BREAKDOWN OF REQUESTS ON HUMAN TRAFFICKING CASES



of Cases: 289

TOP WAYS THE CALLER FOUND THE HOTLINE



of Calls: 1,066

TOP CALLER TYPES



of Calls: 1,066

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Human Trafficking - Civil Remedies

Civil claims for which damages may be awarded in trafficking case:

Tort claims:

1. False Imprisonment
2. Intentional Infliction of Emotional Distress
3. Assault/Battery
4. Conversion (property law concerning food stamps, wages, passport)
5. Negligence
6. Fraud

Federal claims:

1. Trafficking in Persons violating Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7101, *et seq.*
2. Forced Labor violating 18 U.S.C. § 1589 and the Fair Labor Standards Act 29 U.S.C. § 201 and KRS 337.010
3. Trafficking Into Servitude violating 18 U.S.C. § 1590
4. Involuntary Servitude violating 18 U.S.C. § 1584
5. Peonage violating 18 U.S.C. § 1581
6. Document Servitude violating 18 U.S.C. § 1592
7. Conspiracy Against Rights violating 18 U.S.C. § 241
8. Violation of Thirteenth Amendment

Restitution is available under 18 U.S.C. § 1593(b)(1),(3) (Mandatory Restitution) and 29 U.S.C. § 216(b) (Fair Labor Standards - Penalties)

Case Law:

Chigangu v. Ndusha, E.D. Ky. Case No. 5:14-cv-62 (pending)

!Scheduled for settlement conference on March 14, 2016

Allegations: Plaintiff is originally from the Democratic Republic of Congo and Defendant is a citizen of Uganda. In August 2007 Defendant forced Plaintiff to move with her to Uganda to essentially be the maid, chef, and nanny for her family. This continued until September 2011 when they both moved to the United States where the Plaintiff became a domestic servant to the Defendant and her family.

Claims: Forced Labor; Involuntary Servitude; Trafficking into Forced Labor and/or Involuntary Servitude; Document Servitude; Conspiracy against Rights; Violation of the Thirteenth Amendment; Mandatory Restitution; False Imprisonment; Conversion; Fair Labor Standards Act; Negligence; IIED.

Prayer for Relief: Compensatory Damages; Punitive Damages; Restitution; Attorney's Fees.

Judgment for Plaintiff; Defendants appealed and Judgment of District Court Affirmed.

Facts: Plaintiff is a citizen of the Republic of the Philippines and the Defendants are residents of McCracken County, Kentucky. The Defendants arranged to have the Plaintiff flown to Kentucky for the purpose of becoming their domestic servant in exchange they would pay her \$500 per month for three years with the promise that if she stayed for five, the Defendants would pay her a bonus and provide her with a return flight back to the Philippines. She arrived in the United States on a tourist visa, valid for one year only. Upon the Plaintiff's arrival, the Defendants took her passport, notified her she would only receive \$250 per month and that the Defendants were pregnant and the Plaintiff would be responsible for three children, not two. Plaintiff worked for the Defendants for three years at an estimated 18 hours per day, seven days per week, 52 weeks per year where they would routinely take her to Illinois to perform manual labor on a farm they owned. Plaintiff was not permitted to leave the home, nor was she given her wages directly. The Defendants would wire the money to her family in the Philippines, typically for significantly less than the \$250 per month. In the time of her "employment" with the Defendants, the Plaintiff was threatened with jail time if she left, that the Defendants would notify the police that she was an illegal immigrant and that she had stolen from them. Plaintiff escaped in September, 2004.

Claims: Violation of the Trafficking Victims Protection Act; Forced Labor; Trafficking into Servitude; Involuntary Servitude; Peonage; Document Servitude; Conspiracy Against Rights; Violation of Thirteenth Amendment; Breach of Oral Contract; Conversion; Violation of the Fair Labor Standards Act; Outrage/IIED; Fraud.

Disposition: Judgment for Plaintiff

Damages:

\$5,114 for conversion and punitive damages against Defendant 1
\$15,000 for breach of contract/fraud & punitive damages against Def. 2
\$48,204.00 for willful violation Fair Labor Standards Act against both Defs.
\$48,204.00 for liquidated damages under the Fair Labor Standards Act
\$168,911.21 in Attorney Fees and Costs

See also Colin H. Lindsay, *Human Trafficking – The New Face of Slavery*, The Advocate (attached).

Ditullio v. Boehm, 662 F.3d 1091 (9th Cir. 2011)

*Case of first impression, before the 9th Circuit on an interlocutory appeal

*Circuit Court held that punitive damages were available under the Trafficking Victims Protection Act (TVPA); TVPA civil remedy provision created a cause of action for tortious conduct that was ordinarily intentional and outrageous, and purposes of TVPA

included increased protection for victims of trafficking and punishment of traffickers. 18 U.S.C. § 1595.

*Further held that TVPA created a civil cause of action that permitted victims of trafficking to recover compensatory and punitive damages from individuals who violated the TVPA, TVPA changed substantive law and attached new legal burdens to violations of TVPA, and TVPA created liability for conduct not encompassed by state law. 18 U.S.C. § 1595. However, civil remedy provision of TVPA did not apply retroactively to permit recovery for conduct predating the law's December 19, 2003, effective date.

Valez v. Sanchez, 693 F.3d 308 (2d Cir. 2012)

*Civil cause of action created by amendment to Trafficking Victims Protection Reauthorization Act in December 2003 does not apply retroactively to conduct prior to that time, which includes plaintiff's forced labor and trafficking claims

*Decision provides good foundation for information on Fair Labor Standards Act

*Decision provides for a detailed comprehensive guideline for FLSA. Lists "mom and pop" exception to the application of FLSA as well as distinguishing that familiar relationships between the putative employer and putative employee does not preclude the application of FLSA. The alleged employer must set the hours, duration and terms of the worker's services in order for protection of employee via FLSA.

Klwanuka v. Bakilana, 844 F. Supp. 2d 107 (D.C. 2012)

***Plaintiff received \$41,626.80 in restitution from criminal case**

*Restitution payment to former employee pursuant to judgment in criminal case against employer did not preclude employee from seeking damages from employer in civil suit for violation of FLSA pursuant to 18 U.S.C. § 3664(j)(2).

*Also, psychological coercion inflicted on domestic employees threatening deportation is sufficient to violate the Victims of Trafficking and Violence Protection Act.

Claims: Violation of the Fair Labor Standards Act; Unjust Enrichment; Breach of Contract; NIED; IED

Disposition: Dismissed with prejudice after parties entered into agreed settlement

United States v. Sabhnani, 599 F.3d 215 (2d Cir. 2010)

*Criminal case where restitution damages were awarded to each victim (2)

*Liquidated damages provision of the Fair Labor Standards Act counts as part of the "value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the FLSA" under mandatory restitution statute for peonage, slavery and trafficking in persons. FLSA of 1938 § 16(b); 29 U.S.C. § 216(b)

Disposition: Defendants convicted of (1) conspiracy to commit forced labor; (2) two counts of forced labor; (3) conspiracy to harbor aliens; (4) two counts of harboring aliens; (5) conspiracy to commit peonage; (6) two counts of peonage; (7) conspiracy to commit document servitude; and (8) two counts of document servitude.

Damages:

**-\$936,546 in restitution (\$620,744 to 1 victim and \$315,802 to the other) -
Defendants required to forfeit their property to the United States
Government under U.S.C. §§ 1594 and 982(6)(A).**

Magnifico v. Villanueva, 783 F. Supp. 2d 1217 (S.D. Fla. 2011)

*To bring a cause of action under the Alien Tort Statute (ATS) the plaintiff must be an alien suing for a tort committed in violation of the law of nations pursuant to 28 U.S.C. § 1350.

*Claims for human trafficking and forced labor may be brought under both the Trafficking Victims Protection Reauthorization (TVPRA) and the Alien Tort Statute (ATS); TVPRA provided definitions for both human trafficking and forced labor while the definitions of these terms under the ATS has to be ascertained by referenced to the law of nations, TVPRA applies to United States citizen plaintiffs, but the ATS does not, the TVPRA includes a statute of limitations and a requirement for staying civil claims during criminal procedures, but the ATS does not, and there was no evidence that Congress intended to prevent litigants from being able to bring claims for human trafficking and forced labor under both statutes. 18 U.S.C. §§ 1589, 1590, 1595; 28 U.S.C. § 1350.

Claims: Violation of the Trafficking Victims Protection Act; Violation of the Alien Tort Statute; Violation of the Racketeer Influenced and Corrupt Organizations Act (RICO); and Florida Civil Remedies for Criminal Practices Act; Violation of the Fair Labor Standards Act; Involuntary Servitude and Forced Labor; Breach of Contract; Fraud and Negligent Misrepresentation; Unjust Enrichment; IIED;

NIED; Negligent Supervision and Retention Disposition: Default Judgment

Granted to Plaintiffs

Damages:

\$13,545,923.81 to the Plaintiffs (18).

Carazani v. Zegarra, 972 F. Supp. 2d 1 (D.C. 2013)

*Bolivian employee worked for free as a housekeeper for defendant.

*The Trafficking Victims Protection Act (TVPA) recognizes emotional distress damages as a form of compensatory damages. 18 U.S.C. § 1593(b)(1, 3).

Claims: Violation of FLSA and TVPA Disposition:

Judgment in favor of Plaintiff

Damages:

**\$71,914.94 for Breach of Contract;
\$37,962.34 in Quantum Meruit,
\$102,606.21 in Liquidated Damages,**

**\$433,200 for Emotional Distress, and
\$543,041.28 in Punitive Damages** Total
damages almost \$1.2 million

Licea v. Curacao Drydock Co., Inc., 584 F. Supp. 2d 1355 (S.D. Fla. 2008)

*Cuban nationals brought action against operator of drydock facility alleging that he trafficked them from Cuba and forced them to work on ships and oil platforms. Alleged forced labor and international human trafficking of plaintiff Cuban nationals by operator of drydock facility constituted violations of universal and obligatory norms of international law, thereby constituting actionable claims falling well within the jurisdictional grant of the Alien Tort Statute. 28 U.S.C. § 1350.

Claims: Forced Labor; False Imprisonment; Negligence; Violation of RICO

Disposition: Judgment for Plaintiffs

Damages:

**Plaintiff 1 & 2: \$15 million each compensatory & \$10 million each punitives
Plaintiff 3: \$20 million compensatory & \$10 million punitives**

*See Section V of decision (attached) - Damages Under the ATS and Related Human Rights Cases Involving Cuba, which lists other decided cases across the country that awarded plaintiffs substantial compensatory and punitive damages.

FEDERAL STATUTES USED IN CIVIL CASES (in addition to criminal statutes)

Trafficking Victims Protection Act (TVPA), 22 U.S.C. §§ 7101-7112, 18 U.S.C. §§ 1589-1594

Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.*

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, record-keeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments. Covered nonexempt workers are entitled to a minimum wage of not less than \$7.25 per hour effective July 24, 2009. Overtime pay at a rate not less than one and one-half times the regular rate of pay is required after 40 hours of work in a workweek.

§ 216 Penalties

(a) Fines and imprisonment

Any person who willfully violates any of the provisions of section 215 of this title shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an

offense committed after the conviction of such person for a prior offense under this subsection.

(b) Damages; right of action; attorney's fees and costs; termination of right of action

Any employer who violates the provisions of section 206 or section 207 of this title shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Any employer who violates the provisions of section 215(a)(3) of this title shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 215(a)(3) of this title, including without limitation employment, reinstatement, promotion, and the payment of wages lost and an additional equal amount as liquidated damages. An action to recover the liability prescribed in either of the preceding sentences may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 217 of this title in which (1) restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 206 or section 207 of this title by an employer liable therefor under the provisions of this subsection or (2) legal or equitable relief is sought as a result of alleged violations of section 15(a)(3) [29 U.S.C. § 215(a)(3)].

(c) Payment of wages and compensation; waiver of claims; actions by the Secretary; limitation of actions

The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 206 or section 207 of this title, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) of this section to bring an action by or on behalf of any employee to recover the liability specified in the first sentence of such subsection and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid minimum wages or unpaid overtime compensation under sections 206 and 207 of this title or liquidated or other damages provided by this subsection owing to such employee by an employer liable under the provisions of subsection (b) of this section, unless such action is dismissed without prejudice on motion of the Secretary. Any sums thus recovered by the Secretary of Labor on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order

of the Secretary of Labor, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary of Labor under this subsection for the purposes of the statutes of limitations provided in section 255(a) of this title, it shall be considered to be commenced if the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action.

(d) Savings provisions

In any action or proceeding commenced prior to, on, or after August 8, 1956, no employer shall be subject to any liability or punishment under this chapter or the Portal-to-Portal Act of 1947 [29 U.S.C. § 251 et seq.] on account of his failure to comply with any provision or provisions of this chapter or such Act (1) with respect to work heretofore or hereafter performed in a workplace to which the exemption in section 213(f) of this title is applicable, (2) with respect to work performed in Guam, the Canal Zone or Wake Island before the effective date of this amendment of subsection (d), or (3) with respect to work performed in a possession named in section 206(a)(3) of this title at any time prior to the establishment by the Secretary, as provided therein, of a minimum wage rate applicable to such work.

(e) Child labor protections.

- (1) (A) Any person who violates the provisions of sections 212 or 213(c) of this title, relating to child labor, or any regulation issued pursuant to such sections, shall be subject to a civil penalty not to exceed--
 - (i) \$11,000 for each employee who was the subject of such a violation;
 - or(ii) \$50,000 with regard to each such violation that causes the death or serious injury of any employee under the age of 18 years, which penalty may be doubled where the violation is a repeated or willful violation. (B) For purposes of subparagraph (A), the term "serious injury" means--(i) permanent loss or substantial impairment of one of the senses (sight, hearing, taste, smell, tactile sensation);
 - (ii) permanent loss or substantial impairment of the function of a bodily member, organ, or mental faculty, including the loss of all or part of an arm, leg, foot, hand or other body part; or
 - (iii) permanent paralysis or substantial impairment that causes loss of movement or mobility of an arm, leg, foot, hand or other body part.
- (2) Any person who repeatedly or willfully violates section 206 or 207, relating to wages, shall be subject to a civil penalty not to exceed \$1,100 for each such violation.
- (3) In determining the amount of any penalty under this subsection, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of any penalty under this subsection, when finally determined, may be--

- (A) deducted from any sums owing by the United States to the person charged;
 - (B) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or
 - (C) ordered by the court, in an action brought for a violation of section 215(a)(4) of this title or a repeated or willful violation of section 215(a)(2) of this title, to be paid to the Secretary.
- (4) Any administrative determination by the Secretary of the amount of any penalty under this subsection shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of Title 5, and regulations to be promulgated by the Secretary.
- (5) Except for civil penalties collected for violations of section 12 [29 U.S.C. § 212] of this title, sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provision of section 9a of this title. Civil penalties collected for violations of section 212 of this title shall be deposited in the general fund of the Treasury.

KENTUCKY STATUTES USED IN CIVIL CASES (in addition to criminal statutes)

Title XXVII Labor and Human Rights

KRS 337: Wages and Hours KRS

337.010- Definitions

KRS 337.385 Employer's Liability; unpaid wages and liquidated damages; punitive damages for forced labor or services

- (1) Except as provided in subsection (3) of this section, any employer who pays any employee less than wages and overtime compensation to which such employee is entitled under or by virtue of KRS 337.020 to 337.285 shall be liable to such employee affected for the full amount of such wages and overtime compensation, less any amount actually paid to such employee by the employer, for an additional equal amount as liquidated damages, and for costs and such reasonable attorney's fees as may be allowed by the court.
- (2) If, in any action commenced to recover such unpaid wages or liquidated damages, the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that he or she had reasonable grounds for believing that his or her act or omission was not a violation of KRS 337.020 to 337.285, the court may, in its sound discretion, award no liquidated damages, or award any amount thereof not to exceed the amount specified in this section. Any agreement between such employee and the employer to work for less than the applicable wage rate shall be no defense to such

action. Such action may be maintained in any court of competent jurisdiction by any one (1) or more employees for and in behalf of himself, herself, or themselves.

- (3) If the court finds that the employer has subjected the employee to forced labor or services as defined in KRS 529.010, the court shall award the employee punitive damages not less than three (3) times the full amount of the wages and overtime compensation due, less any amount actually paid to such employee by the employer, and for costs and such reasonable attorney's fees as may be allowed by the court, including interest thereon.
- (4) At the written request of any employee paid less than the amount to which he or she is entitled under the provisions of KRS 337.020 to 337.285, the commissioner may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court. The commissioner in case of suit shall have power to join various claimants against the same employer in one (1) action.

KRS Statutes of Limitations - counsel should be mindful that each of these various legal theories under state common and/or statutory law used for seeking civil relief vary in applicable statute of limitations, and so counsel should confirm what time period applies to the particular claim or claims being advanced.

KRS 337.990 Penalties

The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

- (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.
- (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.
- (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and shall also be liable to the affected employee for the amount withheld, plus interest at the rate of ten percent (10%) per annum.
- (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars

(\$1,000) for each offense and shall make full payment to the employee by reason of the violation.

- (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and each day that the failure continues shall be deemed a separate offense.
- (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the commissioner or the commissioner's authorized representative in the performance of his or her duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or the commissioner's authorized representative shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any subsequent violation of KRS 337.285(4) to (9) and each day the employer violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.
- (8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his or her employer, to the commissioner, or to the commissioner's authorized representative that he or she has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) Any person who violates KRS 337.530 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (12) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense, and the contractor or subcontractor shall make full restitution to all employees to whom he or she is legally indebted by reason of said violation. The prime contractor shall be

jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his or her name or in the name of any other company, firm, or other entity in which he or she might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

- (13) Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each day of violation shall constitute a separate offense. If a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and the failure results in damages, injury or loss to any person, the public authority, public official, or member of a public authority may be held liable in a civil action.
- (14) A person shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:
 - (a) Made any complaint to his or her employer, the commissioner, or any other person; or
 - (b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or
 - (c) Testified, or is about to testify, in any such proceedings.

Title XL. Crimes and Punishments

KRS 431. General Provisions Concerning Crimes and Punishments

KRS 431.082. Civil Action by Victim Against Defendant; Damages; Construction

- (1) In the event of the conviction of a defendant for the violation of any offense proscribed by KRS Chapter 510 or 531 or any human trafficking offense proscribed by KRS Chapter 529, the person who was the victim of the offense may bring an action in damages against the defendant in the criminal case.
- (2) If the plaintiff prevails, he or she shall be entitled to attorney's fees and all other costs incurred in the bringing of the action, including but not limited to the services of expert witnesses, testing and counseling, medical and psychological treatment, and other expenses reasonably incurred as a result of the criminal act.
- (3) Any award of nominal damages shall support an award of attorneys fees and costs to the prevailing party.
- (4) Punitive damages as well as compensatory damages shall be awardable in cases brought under this section.

- (5) The provisions of this section shall not be construed as repealing any provision of KRS 431.080 or any other applicable statute or of any statutory or common law right of action but shall be construed as ancillary and supplemental thereto.

KRS 431.080. Conviction of a Felony Does Not Bar Civil Remedy

The conviction of a felony shall not stay or merge any civil remedy of the person aggrieved against the felon.

Human Trafficking— The New Face of Slavery

The year is 2005. An immigrant—likely illegal and very likely a woman or girl—is working under conditions of virtual slavery. She may be working as a prostitute, or she may work in a factory, on a farm, or as a nanny or household servant. Her employer has confiscated her passport and visa. She doesn't speak the local language. She has been told not to talk to anyone but her employers. She eats and sleeps where she works; she is not allowed to leave unescorted. She has been told that the police are actively searching for her and will arrest and deport her. Her pay is a small fraction of minimum wage. What little she does make, she is not allowed to touch. The money is wired to her family back home or kept in an account by her employer. These conditions are strictly enforced; having paid thousands of dollars to a trafficking network to



By his investment. Even if she Lindsay is not physically restrained, she is effectively held captive, a

procure her, the employer is determined to protect Colin H. Lindsay to protect his investment. Even if she Lindsay is not physically restrained, she is effectively held captive, a slave bound by the tools of isolation, coercion, intimidation, and fear.

Where is this happening? In Hong Kong, Saudi Arabia or Dubai? Of course, in all of these places. But, it is also happening all over the United States, in large cities, smaller towns, and rural areas. Chances are, it is happening, right now, where you work and live.

It's called "human trafficking." While this phrase may conjure up images of smugglers (known as "coyotes") bringing immigrants across

oriented to business clients, he regularly represents selected plaintiffs.

the U.S.-Mexico border,¹ or perhaps of Chinese immigrants sealed inside a shipping container,² it has a much broader meaning.

The Victims of Trafficking and Violence Protection Act

On October 28, 2000, the Victims of Trafficking and Violence Protections Act of 2000 (the Act) was signed into law.³ The Act's definition of trafficking includes "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."⁴ Thus, those who merely "obtain" a person through the specified means, even those employing nannies in suburbia, are as guilty of human trafficking as are pimps and managers of sweatshops. "Coercion" is in turn defined to include "threats of serious harm to or restraint against any person [or] 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] "the abuse or threatened abuse of the legal process."⁵ Thus those who intimidate and threaten victims into submission are as guilty of human trafficking as those who physically restrain their victims.

The Act was designed to deal comprehensively with a problem that has crept in, off the radar screen for most of us, and is spreading throughout the country. The Congressional findings in the Act should serve as a collective wake-up call for those concerned about basic human rights. They include the following:

- Approximately 50,000 women and children are trafficked into the United States each year.
- Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. They lure

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Civil Rights

- tions at relatively good pay.
- Traffickers often transport victims from their home communities to unfamiliar destinations (including foreign countries), away from family and friends, religious institutions and other sources of protection and support, leaving the victims defenseless and vulnerable.
- Force used against victims includes imprisonment, threats, psychological abuse, and coercion.
- Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, and because they are often subjected to coercion and intimidation, physical detention and debt bondage, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.
- Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.
- Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.
- Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises

worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.⁶

Civil Cases for Damages

The Act provided tools for the federal government to use in combatting human trafficking (e.g., the establishment of an Interagency Task Force⁷ and a charge to the President to establish international initiatives to enhance economic alternatives for victims in order to deter trafficking⁸). It also provided significant assistance to victims (e.g., the provision of visas for victims willing to cooperate in a criminal investigation and the provision of the same federal benefits and services available to refugees⁹). No civil remedy or right of action was expressly provided.

In December of 2003, the President signed the Trafficking Victims Protection Reauthorization Act of 2003 (the Reauthorization Act). Among the most significant provisions of the Reauthorization Act was the explicit provision for a private right of action for violation of 18 U.S.C. § 1589 (forced labor), 18 U.S.C. § 1590 (trafficking with respect to peonage, slavery, involuntary servitude, or forced labor) and 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion). Thus the Reauthorization Act obviates any need for debate as to whether a private right of action was implied by the original Act.

In addition to remedies under the Reauthorization Act, victims of human trafficking have other viable claims against those who benefit from their

labor. In the event of inadequate pay, victims may choose to assert claims for some of the benefits arising under the Fair Labor Standards Act,¹⁰ or the appropriate state counterpart.¹¹ (Note that not all the protections of these laws will necessarily apply. For example, while the FLSA's minimum wage provisions apply to domestic servants, employers are not required to pay overtime to domestic servants who reside in the household where they are employed.¹²) In the event of misrepresentations about the amount or method of their pay, victims may assert claims for common law fraud or breach of contract. Other possible claims include false imprisonment, negligent infliction of emotional distress, or intentional infliction of emotional distress.¹³

As the introductory paragraph of this article suggests, human trafficking has many manifestations. A particularly insidious tentacle reaches into the commercial sex trade. Women and girls of a distressingly young age are forced or coerced into working as prostitutes or in pornography.¹⁴ There have also been well-documented cases involving agricultural workers. One such case includes allegations that a Florida farm recruited homeless men from shelters. Once the men arrived at the distant farm, they were allegedly held captive in inhumane conditions. Some say they were not paid at all and some say they were paid in drugs.¹⁵ Many victims of human trafficking are employed as domestic servants. Among these was Nena Ruiz. Ms. Ruiz worked as a nanny for an in-house lawyer for Sony Pictures Entertainment in California. Ms. Ruiz alleged sixteen-hour days, wages well below minimum wage, and effective captivity as a result of some of the same tactics described at the beginning of this

article. A California jury was not swayed by defense counsel’s argument that Ms. Ruiz “had free access to leave anytime she wanted to. All she had to do was walk out the front gate and turn a knob.”¹⁶ Ms.

Ruiz won a judgment in the amount of \$825,000.

Lest you think that California and Florida are too far from home to be relevant, consider that there is at least

one pending civil action in Kentucky based on allegations of hu-

man trafficking. In *Celedonia Cruz v. Elmer Toliver and Genevieve Toliver*,¹⁷ the plaintiff, an immigrant from the Philippines represented by the author, alleges that the defendants employed her as a household servant for more than three years, during which she worked 18-hour days and was paid approximately 50 cents per hour. (The matter is in active litigation and defendants contest these allegations.) Ms. Cruz further alleges that the defendants employed many of the tactics typically used by human traffickers, including confiscation of her passport, limiting and monitoring her communications with her family, instructing her not to speak to neighbors, paying her wages via wire back to her family (thus depriving her of any cash on hand), and telling her that she was not allowed to leave until she had worked off the \$8,000 defendants paid to a network to procure her from the Philippines. Regardless of the

outcome of the *Cruz* matter, the case may represent the tip of the proverbial iceberg of human trafficking litigation close to home.

Human trafficking is a serious political issue on the national and international stage. It is also quickly becoming a matter of concern to attorneys in civil trial practice. Given the influx into Kentucky of immigrant populations that have been disproportionately affected by human trafficking,¹⁸ it is an issue that Kentucky practitioners will soon need to be prepared to handle.

1 E.g., *Arizona Republic*; May 7, 2004.
2 E.g., *San Francisco Chronicle*; January 16, 2005.
3 22 U.S.C. § 7101, *et seq.*
4 22 U.S.C. § 7102(8), *emphasis added.*
5 22 U.S.C. § 7102(2), *emphasis added.*
6 22 U.S.C. § 7101(b).
7 22 U.S.C. § 7103, *et seq.* 8 22 U.S.C. § 7104, *et seq.*
9 22 U.S.C. § 7105, *et seq.*

10 29 U.S.C. § 201, *et seq.*
11 In Kentucky, KRS 337.010, *et seq.* 12 29 C.F.R. § 552.100(a).
13 Also sometimes referred to as the “tort of outrage” or, in some jurisdictions, a *prima facie* tort.
14 A law enforcement official speaking on condition of anonymity related that some of the victims are killed when they are no longer deemed profitable, sometimes spending their final moments in the production of a so-called “snuff film,” which culminates in the explicit on-screen execution of the victim.
15 See “Modern Day ‘Slave Farms’ in Florida”; Morning Edition; aired July 14, 2005.
16 See “Paula Zahn Now,” aired March 8, 2005.
17 United States District Court, Western District of Kentucky; Civil Action No. 5:04-CV-231-R.
18 Included in this group are immigrants from Mexico, which appears on the U.S. Department of State’s “Special Watch List” of countries that should receive special scrutiny with respect to human trafficking.



at *3 (E.D.La. Dec. 12, 2000) (reasoning, in admiralty case, that “[a]s the zone of danger is the proper framework TTT the inquiry is whether plaintiff was threatened with imminent physical impact”).

While the *Gottshall* Court’s reasons for rejecting recovery for relative bystanders—inconsistency with FELA statutory interpretation and unlikeliness to occur in railroad worker context—may appear inapplicable in the maritime context, the importance of fostering uniformity in admiralty law weighs strongly against changing the status quo. *Cf. Yamaha Motor Corp., U.S.A. v. Calhoun*, 516 U.S. 199, 210 n. 8, 116 S.Ct. 619, 133 L.Ed.2d 578 (“The federal cast of admiralty law, we have observed, means that state law must yield to the needs of a uniform federal maritime law when this Court finds inroads on a harmonious system TTTT” (internal quotation marks omitted)); *Doe v. Celebrity Cruises, Inc.*, 394 F.3d 891, 902 (11th Cir. 2004) (“Most importantly, the purpose behind the exercise of this Court’s admiralty jurisdiction is to provide for the uniform application of general maritime law.”). Accordingly, in light of the widespread adoption of the zone of danger test by courts sitting in admiralty, this Court must reject Plaintiffs’ argument that this claim is governed by Florida law, which would allow recovery for relative bystanders. To the extent the Second Amended Complaint states a claim for negligent infliction of emotional distress under U.S. general maritime law, that claim is dismissed because Plaintiffs have not alleged any facts indicating that Gales’ daughters were in the zone of danger.

IV. CONCLUSION

For the foregoing reasons, it is

ORDERED AND ADJUDGED that Defendants’ Motions to Dismiss are GRANTED IN PART AND DENIED IN PART.

Plaintiffs’ claim for unseaworthiness is DISMISSED WITH PREJUDICE.

Plaintiffs’ claim for negligent infliction of emotional distress is DISMISSED WITHOUT PREJUDICE. Plaintiffs are granted leave to file, within fourteen (14) days of the date of this Order, a Third Amended Complaint, for the sole purpose of amending their claim for negligent infliction of emotional distress. Any other amendment requires prior leave of the Court. Defendants’ Motions to Dismiss are DENIED in all other respects.

Alberto Justo Rodriguez LICEA,
Fernando Alonso Hernandez, and Luis
Alberto Casanova Toledo, Plaintiffs,

v.

CURACAO DRYDOCK COMPANY,
INC., a/k/a Cura, caose
Dokmaatschappij NV, a/k/a CDMNV,
Defendant.

No. 06–22128–CIV–KING/BANDSTRA.

United States District Court,
S.D. Florida,
Miami Division.

Oct. 31, 2008.

Background: Cuban nationals who resided in Florida brought action against operator of drydock facility, alleging that operator and the government of Cuba trafficked them from Cuba to Curacao

under threat of physical and psychological harm, including the threat of imprisonment, and forced them to work on ships and oil platforms there.

Holdings: The District Court, James Lawrence King, J., held that:

- (1) nationals were entitled to up to \$20 million each in compensatory damages, and
- (2) nationals were entitled to \$10 million each in punitive damages.

Ordered accordingly.

1. Federal Courts O30

Federal courts have an obligation to ensure that they properly exercise their jurisdiction.

2. Aliens, Immigration, and Citizenship O763

Alleged forced labor and international human trafficking of plaintiff Cuban nationals by operator of drydock facility constituted violations of universal and obligatory norms of international law, thereby constituting actionable claims falling well within the jurisdictional grant of the Alien Tort Statute. 28 U.S.C.A. § 1350.

3. Racketeer Influenced and Corrupt Organizations O23

Drydock operator's alleged scheme to evade United States Embargo on Cuba, by providing Cuban regime reach and access to the United States ship service and repair market, had substantial effects within the United States, thereby triggering jurisdiction pursuant to civil Racketeer Influenced and Corrupt Organizations Act (RICO). 18 U.S.C.A. § 1962.

4. Aliens, Immigration, and Citizenship O766

Cuban nationals, who had been trafficked by operator of drydock facility from Cuba to Curacao under threat of physical and psychological harm and forced to work on ships and oil platforms there, were entitled to up to \$20 million each in compensatory damages under Alien Tort Statute; extreme brutality of operator's actions resulted in severe, ongoing physical and emotional damage. 28 U.S.C.A. § 1350.

5. Aliens, Immigration, and Citizenship O766

Cuban nationals, who had been trafficked by operator of drydock facility from Cuba to Curacao under threat of physical and psychological harm and forced to work on ships and oil platforms there, were entitled to \$10 million each in punitive damages against operator under Alien Tort Statute; forced labor constituted a violation of well-established universally recognized norm of international law, operator had not only gone unpunished, but had profited from 15 years of forced labor, award would deter other companies from making similar labor agreements with Cuba, and operator's actions had served to thwart official policy of the United States and prolong the suffering of the Cuban people by allowing the Cuban government access to the United States market. 28 U.S.C.A. § 1350.

John Thornton, do Campo & Thornton, P.A., Seth Eric Miles, Grossman Roth, P.A., Miami, FL, for Plaintiffs.

FINAL JUDGMENT

JAMES LAWRENCE KING, District Judge.

THIS CAUSE comes before the Court upon a non-jury trial on damages on October 20, 2008.

I. INTRODUCTION

Plaintiffs in this matter sought compensatory and punitive damages for the physical and psychological injuries they suffered, and continue to suffer, as victims of a forced labor scheme through which the Defendant, in concert with and employing the full threat of the totalitarian regime of Fidel Castro, trafficked them to Cura,cao and extracted their labor.

The Defendant, the Cura,cao Drydock Company, well-aware of the brutal tactics and repressive schemes that the Cuban regime employed to extract forced labor from Cubans, conspired with Cuba to take advantage of that forced labor by hosting an outpost of the Cuban forced labor system in Cura,cao. Through the conspiracy, Defendant enabled Cuba to skirt the U.S. Embargo; meanwhile, the Defendant enjoyed the economic advantage of between 50 and 100 trafficked, captive, forced laborers for a period of approximately 15 years. The three plaintiffs in this case escaped their bondage in Cura,cao, and, after being hunted as outlaws, were granted Significant Public Benefit Parole to enter the United States. Their suffering did not end there, however, as their ordeal still haunts them, and as the Cuban state continues to punish them by repressing their families.

II. PROCEDURAL HISTORY

On August 24, 2006, Plaintiffs filed this action under the Alien Tort Statute, 28

1. The Amended Complaint states claims for forced labor, false imprisonment, negligence and civil RICO.

U.S.C. § 1350 (2000), (“ATS”) and the Racketeer Influenced and Corrupt Organizations Act 18 U.S.C. § 1962(b) (2000) (“RICO”). The complaint was amended once on January 11, 2007.¹ On March 13, 2007, Defendant filed a motion to dismiss challenging personal jurisdiction, and arguing *forum non conveniens*. However, on September 28, 2007, Defendant filed a notice withdrawing its lack of personal jurisdiction defense, leaving *forum non conveniens* as the only challenge to the Amended Complaint.² After briefing and argument on the Defendant’s remaining challenge based on *forum non conveniens*, this Court, on February 22, 2008, issued its Order denying Defendant’s motion. *See Licea v. Cura,cao Drydock Co., Inc.*, 537 F.Supp.2d 1270 (S.D.Fla.2008). On March 3, 2008, this Court denied Defendant’s Motion for Certificate of Appealability, clearing the way for discovery and trial.

The Defendant repeatedly flouted this Court’s authority and refused to defend the matter.³ As a result, this Court, on August 8, 2008, entered an Order striking Defendant’s answer to the Amended Complaint and entering default judgment in favor of the Plaintiffs as to the issue of liability. The Court set the trial on damages to begin on October 20, 2008.

At trial, Plaintiffs presented testimonial and documentary evidence in support of their claims. Because all of Defendant’s pleadings had been stricken and the De-

2. Defendant did not file a motion challenging the sufficiency of the claims pursuant to F.R.C.P. 12(b)(6).

3. After challenging this Court's authority by first asserting it was not subject to personal jurisdiction, only to later concede the issue once the facts were known, Defendant then refused to produce its representatives for depositions despite direct warnings that such belligerence would result in its pleadings being stricken. On April 17, 2008, Plaintiffs filed a motion to compel deposition dates that was withdrawn on May 14, 2008, when Defendant agreed to have its representatives appear for depositions on June 5–6, 2008. However, on the eve of such depositions, Defendant informed Plaintiffs that its representatives would not appear. On June 9, 2008, this Court attempted to remedy the situation by setting the Defendant's depositions for July 9, 2008, and warned Defendant that if its representatives did not appear, that the Court would strike its pleadings. On the eve of these deposition dates, on July 8, 2008, the Defendant's counsel filed a motion to withdraw, indicating that Defendant was refusing to appear. The Defendant did not seek a protective order. This Court gave Defendant, a corporation, ample time to find new counsel. On July 16, 2008, this Court set a 10-day deadline to obtain new counsel. Defendant failed to do so.

Defendant chose not to defend this matter at trial, this Court accepts as true Plaintiffs' uncontroverted factual allegations from the Amended Complaint, *see, e.g., Thomson v. Wooster*, 114 U.S. 104, 5 S.Ct. 788, 29 L.Ed. 105 (1885); *Nishimatsu Constr. Co. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir.1975), as well as their uncontroverted and credible testimony at trial.

III. SUBJECT MATTER JURISDICTION

[1] Defendant did not challenge this Court's subject matter jurisdiction. Nonetheless, federal courts have an obligation to ensure that they properly exercise their jurisdiction. *See, e.g., Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94, 118 S.Ct. 1003, 140 L.Ed.2d 210 (1998). Plaintiffs invoked

4. The Cuban state's use of forced labor in violation of international law, and the repressive tactics it employs to extract that labor, are chronicled in the

this Court's subject matter jurisdiction pursuant to the Alien Tort Statute, as well as civil RICO, and invoked supplemental jurisdiction over the remaining claims pursuant to 28 U.S.C. § 1367.

A. ATS Jurisdiction

There is a split of authority over whether, in invoking subject matter jurisdiction under the ATS, one must plead a merely colorable violation of the law of nations, or whether there is a higher jurisdictional standard for ATS claims that blurs the line between subject matter jurisdiction and the sufficiency of a claim on the merits. *See John Roe I v. Bridgestone Corp.*, 492 F.Supp.2d 988, 1004–06 (S.D.Ind.2007) (discussing this split at length before holding that treating the sufficiency of a claim as a jurisdictional requirement is inconsistent with the Supreme Court's guidance in *Sosa v. Alvarez-Machain*, 542 U.S. 692, 124 S.Ct. 2739, 159 L.Ed.2d 718 (2004)).

[2] As is more fully explained in Section IV, the Plaintiffs were trafficked, held in captivity in Defendant's facility in Curaçao and forced to work under threat of the repressive tactics of the Cuban totalitarian state, including, and specifically, imprisonment.⁴ Regardless of which jurisdictional standard applies, the forced labor and international human trafficking alleged and proved in this matter clearly constitute violations of universal and obligatory norms of international law, thereby constituting actionable claims falling well within the jurisdictional grant of the ATS.⁵

United States Department of State Country Reports for Human Rights Practices for Cuba. While such documents are not evidence when alleged, "they

provide a way for a plaintiff to show a court there is likely to be some evidentiary weight behind the pleadings that the court must evaluate” in the 12(b)(6) analysis. *John Roe I*, 492 F.Supp.2d at 1007. In this case, Plaintiffs alleged clear violations of international law, referencing the documented abuses of the Cuban state generally and its forced labor system specifically; the sufficiency of the claims was not challenged; the allegations were not refuted; and the Plaintiffs provided direct testimony in fact supporting and proving the allegations.

5. See *Doe I v. Unocal Corp.*, 395 F.3d 932, 946 (9th Cir.2002) (stating that forced labor violates law of nations), *vacated on rehearing en banc*, 395 F.3d 978 (9th Cir.2003), *appeal dismissed*, 403 F.3d 708 (9th Cir.2005). The plaintiffs in *Doe I v. Unocal Corp.* testified that the Burmese military used both force and threats of force to conscript them to work on Unocal’s pipeline and supporting infrastructure. *Doe I v. Unocal Corp.*, 110 F.Supp.2d 1294, 1298 n. 3 (C.D.Cal.2000). The district court had found that such evidence showed forced labor in violation of the law of nations, *id.* at 1307–08, and the Ninth Circuit panel agreed, *Doe I v. Unocal Corp.*, 395 F.3d at 945–47, before the appeal was eventually dismissed. See generally *John Roe I*, 492

F.Supp.2d at 1007 and *Jane Doe I v. Reddy*, C02–05570, 2003 WL 23893010, at *8 (N.D.Cal. Aug. 4, 2003) for discussions of the international norms against forced labor and human trafficking.

B. Jurisdiction Pursuant to Civil RICO

[3] The goal of the conspiracy in this matter was to evade the U.S. Embargo on Cuba. The means to this end taken by Defendant was to provide the Castro regime reach and access to the United States ship service and repair market. There are thus plausible grounds to find that the scheme at issue had substantial effects within the United States, thereby triggering jurisdiction pursuant to civil RICO, 18 U.S.C. § 1962. See *Oceanic Exploration Co. v. ConocoPhillips, Inc.*, No. 04–332, 2006 WL 2711527, at *15,

6. According to the United States Department of State’s report on Cuba from the year of Plaintiffs’ escape:

Cuba, with a population of 11 million, is a totalitarian state led by a president, Fidel Castro, whose regime controls all aspects of life through the Communist Party (CP) and its affiliated mass

2006 U.S. Dist. Lexis 72231, at *55 (D.D.C. Sept. 21, 2006) (“The anti-fraud laws of the United States may be given extraterritorial reach whenever a predominantly foreign transaction has substantial effects within the United States.”) (quoting *Consol. Gold Fields PLC v. Minorco, S.A.*, 871 F.2d 252, 261–62 (2d Cir.1989)); see also *Doe I v. Unocal Corp.*, 395 F.3d 932, 961–62 (9th Cir.2002) (agreeing with the Second Circuit that RICO applies extraterritorially when the claim meets either the “effect” or the “conduct” test). Further, Defendant may have been found to have taken actions within the United States in furtherance of the conspiracy.

However, because the ATS clearly grants this Court jurisdiction over the subject matter of at least one count in this action, civil RICO simply provides an additional basis for jurisdiction.

IV. FACTS

A. The Conspiracy

The Defendant in this case, one of the largest drydock companies in the Western Hemisphere, with tens of millions if not hundreds of millions of dollars in annual revenues, conspired with the Republic of Cuba to force Cuban citizens to travel to facilities the Defendant owns in Curaçao, to hold them in captivity there, and to force them to work repairing ships and oil platforms. The Defendant knew: that Cuba is a totalitarian state that abuses human rights⁶; that Cuba has a long his-

organizations, the government bureaucracy, and the state security apparatus. Although civilian authorities generally maintained effective control of the security forces, the Ministry of Interior is the principal instrument of state security and control, and officers of the Revolutionary Armed Forces, which are led by

the president's brother, have occupied most key positions in the ministry during the past 15 years.

The government's human rights record remained poor, and the government continued to commit numerous, serious abuses. At least 333 Cuban political prisoners and detainees were held at year's end. The following human rights problems were reported:

- * denial of citizens' rights to change their government
- * beatings and abuse of detainees and prisoners, including human rights activists, carried out with impunity
- * transfers of mentally healthy prisoners to psychiatric facilities for political reasons
- * frequent harassment of political opponents by government-recruited mobs
- * extremely harsh and life-threatening prison conditions, including denial of medical care
- * arbitrary arrest and detention of human rights advocates and members of independent professional organizations
- * denial of fair trial, particularly to political prisoners
- * interference with privacy, including pervasive monitoring of private communications
- * severe limitations on freedom of speech and press
- * denial of peaceful assembly and association
- * refusal to recognize domestic human rights groups or to permit them to function legally
- * domestic violence, underage prostitution, and sex tourism
- * discrimination against persons of African descent
- * severe restrictions on worker rights, including the right to form independent unions

See Bureau of Democracy, Human Rights, and Labor, *Country Reports for Human Rights Practices, 2005, Cuba* (2006), <http://www.state.gov/g/drl/rls/hrrpt/2005/61723.htm>. This and the other excerpts to this report cited herein were alleged in the uncontroverted Amended Complaint.

7. The United States Department of State reported:

[Cuban] law provides that all legally recognized civil liberties may be denied to anyone who actively opposes the decision of the people to build socialism. *See id.*

8. The terms "therapy and reeducation" refers not to any positive rehabilitation, but rather to violent treatment in Castro's dismal prisons.

9. The United States Department of State reported:

The [Cuban] Penal Code includes the concept of "potential dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to therapy or political

- * restrictions on freedom of movement, including selective denial of exit permits to thousands of citizens

tory of forced labor and routinely compels labor under threat of imprisonment in violation of international law; that any Cuban who resists performing work is subject to persecution ⁷; that Cuba imposes prosecutions or "therapy and reeducation" ⁸ at police discretion for the crime of "potential dangerousness" on those who refuse to work for the socialist cause ⁹; that Cuba imprisons those who refuse to work at worksites ¹⁰ in prisons that are particularly inhumane and dangerous ¹¹; that Cuba employs outrageous means to persecute those who resist the will of the state; that the Cuban state was particularly con-

reeducation. Government authorities regularly threatened prosecution under this provision. *See id.*

10. The United States Department of State reported:

The law does not prohibit forced or compulsory labor by adults. The government maintained correctional centers for persons convicted of such crimes as "dangerousness" (see section 1.a.). Prisoners held in such centers were forced to work on farms or at sites performing construction, agricultural, or metal work. The authorities also often imprisoned persons sent to work sites who refused to work. *See id.*

11. The United States Department of State reported:

Prison conditions continued to be harsh and life threatening. Conditions in detention facilities also were harsh. Prison authorities frequently beat, neglected, isolated, and denied medical treatment to detainees and prisoners, particularly those convicted of political crimes or those who persisted in expressing their views. Authorities also often denied family visitation, adequate nutrition, exposure to natural light, pay for work, and the right to petition the prison director. Prisoners sometimes were held in "punishment cells," which usually were located in the basement of a prison, with continuous semi-dark conditions, no available water, and only a hole for a toilet. Reading materials, including Bibles, were not allowed. Prison officials regularly denied prisoners other

rights, such as the right to correspondence. Some prison directors routinely denied religious workers access to detainees and prisoners.

In November the Cuban Commission for Human Rights and National Reconciliation denounced the worsening health of dozens of political prisoners, stating that more prisoners suffered from dangerous diseases due to the “generally subhuman and degrading conditions” in which they were held. *See id.*

cerned with the laborers it was deploying to Cura,cao because they generated hard currency; that the punishment workers would receive if they refused to work in its forced labor program would be particularly harsh because the program generated foreign currency that allowed the state to survive economic sanctions on it; and that the laborers provided by Cuba were not free individuals.

The Defendant put Manuel Bequer, Fidel Castro’s nephew, on its payroll as Production Manager at the drydock facility in Cura,cao, thereby leaving no doubt that it was employing, and making its agent, the coercive Castro regime. It also leaves no doubt that Defendant knew, through its employee Manuel Bequer, the workings of the Cuban totalitarian state discussed above. Manuel Bequer held his position with Defendant because of his ability to commandeer forced Cuban labor under color of authority of the Cuban state. The Defendant hosted members of the Cuban state security apparatus on its premises to oversee the forced laborers, who watched and threatened the laborers to prevent them from escaping and to extract labor from them. The Defendant also took direct measures to ensure that the laborers did not escape, including keeping them in a secure area, watching them and hiring security personnel to monitor them.

B. Plaintiffs’ Testimony Concerning Their Suffering and Injuries

Plaintiffs testified credibly at trial to the intimidation they felt upon being ordered to go to work for the Defendant; the fact that if they refused, they faced persecution and imprisonment; the fact that they were told that their work was of utmost importance to the Castro regime because it was a means for the regime to generate U.S. currency and thereby break the U.S. Embargo; the fact that their passports were taken upon arrival in Cura,cao; the fact that they were held in captivity at the Defendant’s facility in Cura,cao; the fact that they were ordered to work 16 hour days for up to 45 days straight; the fact that Defendant forced them to perform dangerous and physically demanding work cleaning, repairing and painting ships and oil platforms; the fact that Defendant did not provide for their safety, resulting in injuries to all three of them.

Each Plaintiff testified to significant and painful physical injuries. Plaintiff Fernando Alonso Hernandez testified to an injury to his hand. He was welding, and, because Defendant failed to provide him with proper safety equipment, fuel flooded his glove and caught fire. He did not receive proper medical care. He was forced to peel burnt flesh off of his hand down to the bone and ligaments when he changed his own homemade bandages.

Plaintiff Alberto Justo Rodriguez Licea testified that he suffered a fall down several stories along the side of a ship when substandard equipment suspending him broke in or around June 2002. He broke his foot and ankle badly. He did not receive proper medical care. In fact, Defendant left him on the ground for hours in pain and then shipped him back to Cuba (the forced laborers were kept outside of the legal and regulatory systems in Cura,cao). He was never

properly treated and still suffers from this injury.

Plaintiff Luis Alberto Casanova Toledo testified to an electric shock in December 2004. At 5:00 a.m. one morning, near the end of one of his 16-hour shifts, he was ordered to enter tight quarters on a ship and work in water. Defendant was employing 220-volt electricity in the area against safety norms, and Mr. Casanova experienced a shock so severe that the electricity shot out his tongue, leaving him bleeding from it. Defendant ordered Mr. Casanova Toledo, still recovering from the shock and with blood streaming down his mouth and soaking his shirt, back to work to finish the last hours of his 16-hour shift.¹²

These physical injuries contributed to the psychological injuries Plaintiffs suffered. Defendant's greed caused Plaintiffs to be torn from their families and placed them in an impossible dilemma: either suffer the fate of forced laborers in a foreign land in effect serving a hard-labor prison sentence with no end, or risk their lives to escape, which meant never seeing their loved ones again and triggering their loved one's persecution by the Cuban state. Ultimately, Plaintiffs could not take their treatment anymore, and in late 2004 and early 2005, escaped, risking their lives, imprisonment, persecution of their families and being denied ever seeing their families again. Their experience was harrowing. Defendant hired security agents who distributed photos of them and stated that they were dangerous, escaped prisoners who were wanted "Dead or Alive." Plaintiffs made their way to Colombia, which granted them asylum, but they were pursued there.

¹² These physical injuries occurred within years of humiliation, deprivation and suffering testified to by

Still fearing for their lives, Plaintiffs went to a United States Embassy and, on February 8, 2006, the U.S. Government granted each of them a Significant Benefit Parole to enter the United States.

Plaintiffs continue to suffer both from being separated from their loved ones and knowing that the Defendant's co-conspirator is punishing their families. Plaintiff Alberto Justo Rodriguez Licea testified that he has not seen his now four-year-old son since he was just a few months old. Plaintiff Fernando Alonso Hernandez has not seen his three children. Plaintiff Luis Alberto Casanova Toledo is now isolated from his family. The families of all the Plaintiffs suffered and continue to suffer repression because Plaintiffs exposed the conspiracy between Cuba and Defendant. Each of the Plaintiffs testified to the repressive tactics employed against themselves and their families. The catalog of repressive measures that have been visited upon the Plaintiffs' families as punishment for exposing the forced labor conspiracy between Defendant and the Cuban regime is long. For example, brothers and spouses have lost their jobs, children have been denied schooling, and angry mobs have demonstrated outside their homes in acts of "repudiation."

The Plaintiffs also testified to their ongoing depression, anxiety and health problems. For example, Alberto Justo Rodriguez Licea testified that he had nightmares and wakes up thinking that he is in jail in Cuba. Luis Casanova Toledo likewise testified to nightmares, as well as ulcers. Fernando Alonso Hernandez testified that he starts crying every time he is alone. All three testified movingly to the hardships they suffered and continue

Plaintiffs, exemplified by the following. Plaintiffs were captive and were not properly fed by Defendant.

They lived in inhumane barracks like slaves. They had no liberty. They could not walk off the premises of Defendant's drydock facility except on special occasions when they had Cuban government security agents monitoring them. After working 16-hour days for 15, 30 or even 45 consecutive days, Plaintiffs were not allowed to rest, but rather were forced to stay on Defendant's premises and, while still physical-

ly exhausted from working, to watch videotapes of Fidel Castro's rambling, hours-long speeches extolling the virtues of the Revolution. This abuse is a telling detail. In forcing Plaintiffs to watch these videotapes, Defendant and/or its agents and co-conspirators intended to humiliate and debase Plaintiffs, force them to act against their will and conscience, incite their fear and anguish, and break their physical and moral resistance. This treatment highlighted the fact that Defendant was host to an outpost of the Cuban totalitarian state's forced labor camp system.

to suffer due to prolonged absences from their families.¹³

The Plaintiffs also introduced documentary evidence supporting their histories. Photographs of the Defendant's facilities verified the large size of the operation. The Defendant's own web pages confirmed Manuel Bequer's management role. The photos Defendant and its agents used while hunting Plaintiffs were introduced. Finally, Plaintiffs introduced the agreement between the Defendant and a Cuban state entity that directly stated the debt Cuba owed, and related the fact that the debt would be paid with labor, the forced labor that Plaintiffs provided.

Given the overwhelming and uncontroverted evidence in this matter, Plaintiffs certainly proved their claim to both compensatory and punitive damages. The only remaining issue is determining the amount of those damages.

V. DAMAGES UNDER THE ATS AND RELATED HUMAN RIGHTS CASES INVOLVING CUBA

Federal district courts attempting to quantify damages in ATS and related Torture Victim Protection Act ("TVPA") cases have commented on the conceptual difficulty of quantifying damages for human rights abuses.¹⁴ In *Mushikiwabo v. Barayagwiza*, No. 94 CIV 3627, 1996 WL 164496 (S.D.N.Y.1996), a case where the Court was asked to award damages to five Rwandan Tutsi plaintiffs after the grant of default judgment against a Rwandan Hutu military leader, the Court observed:

[o]ne cannot place a dollar value on the lives lost as the result of the defendant's actions and the suffering inflicted on the innocent victims of his cruel campaign. *Mushikiwabo*, 1996 WL 164496, at *2.

As that Court said, however, "a monetary judgment is all the Court can award these plaintiffs" and went on to award each plaintiff \$500,000 in compensatory damages and \$1 million in punitive damages for each relative killed, plus an additional \$5 million in punitive damages for each plaintiff. *Id.* Fact finders in the Eleventh Circuit have likewise consistently awarded significant compensatory and punitive damages to ATS and TVPA plaintiffs. *See, e.g., Arce v. Garcia*, 434 F.3d 1254, 1256 (11th Cir.2006) (awarding three Salvadoran plaintiffs \$54 million in cumulative compensatory and punitive damages after contested trial); *Cabello v. Fernandez-Larios*, 402 F.3d 1148, 1151 (11th Cir. 2005) (awarding four Chilean plaintiffs \$3 million each in compensatory damages and \$1 million in punitive damages after contested trial); *Mehinovic v. Vuckovic*, 198 F.Supp.2d 1322 (N.D.Ga.2002) (awarding four Bosnian Muslim plaintiffs \$10 million each in compensatory damages and \$25 million each in punitive damages after bench trial on merits with defendant in

absentia); *Paul v. Avril*, 901 F.Supp. 330, 336 (S.D.Fla.1994) (awarding six Haitian plaintiffs between \$2.5 million

13. Plaintiffs' injuries were comparable in that they each suffered the fate of forced laborers. However Plaintiff Fernando Alonso Hernandez testified to 9 tours of forced labor, as compared to three each for the other two Plaintiffs. Further, he suffered more serious and disfiguring injuries. These differences are reflected in the final damage award.

14. Both the ATS and the TVPA concern only the most serious violations of international law, a short list which includes piracy, genocide, torture, extrajudicial killing, and slavery and the slave trade, and their modern incarnations, forced labor and human trafficking. The TVPA, 28 U.S.C. § 1350 note (2000), is a later amendment to the ATS. For purposes of a damages assessment in this matter, it is appropriate to look to both ATS and TVPA cases because they also concern violations of fundamental human rights norms.

\$4 million each in punitive damages after default judgment and hearing on damages).¹⁵

In making these damage awards, fact finders take a number of different factors into consideration. The court in the Eastern District of California recently surveyed the existing case law on compensatory and punitive awards under the ATS and TVPA and concluded that fact finders typically consider six factors in awarding such damages:

1. Brutality of the act;
2. Egregiousness of defendant's conduct;
3. Unavailability of criminal remedy;
4. International condemnation of act;
5. Deterrence of others from committing similar acts; and
6. Provision of redress to plaintiff, country and world.

Doe v. Saravia, 348 F.Supp.2d 1112, 1158 (E.D.Cal.2004). Courts in the Eleventh Circuit have historically

and \$3.5 million each in compensatory damages and

considered some combination of these factors when making awards. *See, e.g., Mehinovic v. Vuckovic*, 198 F.Supp.2d 1322, 1358 (N.D.Ga.2002) (brutality, egregiousness, deterrence);

Paul v. Avril, 901 F.Supp. 330, 336 (S.D.Fla.1994) (egregiousness, international condemnation); *Abebe-Jiri v. Negewo*, No. 1:90-CV-2010-GET, 1993 WL 814304, at *4 (N.D.Ga. Aug. 20, 1993), *aff'd* 72 F.3d 844, 847 (11th Cir.1996) (finding that plaintiffs were entitled to "compensatory damages sufficient to compensate for all physical and nonphysical injuries caused by the illegal act and punitive damages sufficient to punish the defendant and deter future violations."). Finally, it is worth noting that in each of the above cases, the defendant was an individual who could likely be effectively punished and deterred by a smaller award than a large business enterprise.

There is a second prism through which to view the damages in this case—through the damage awards given in cases concerning abuses of the Cuban totalitarian regime. Courts have long compensated for and punished abusive acts taken by the Cuban government with significant damage awards. *See, e.g., Alejandro v. Republic of Cuba*, 996 F.Supp. 1239, 1253 (S.D.Fla.1997) (citing long line of large awards in ATS cases in awarding \$187.6 million award against Republic of Cuba for aircraft shootdown).

The awards in the above cases inform the Court and put the analysis of compensatory and punitive damages in this case in perspective.

A. Compensatory Damages

Physical and psychological injuries such as are apparent in this case can

15. In addition to the cited cases from the Eleventh Circuit, numerous cases from other circuits have made similar significant compensatory and punitive damages awards in ATS and TVPA cases. *See, e.g., Chavez v. Carranza*, 413 F.Supp.2d 891 (W.D.Tenn. 2005) (entering final judgment on Jan. 18, 2006 and awarding four out of five plaintiffs \$500,000 each in compensatory damages and \$1 million in punitive damages); *Doe v. Saravia*, 348 F.Supp.2d 1112, 1158 (E.D.Cal.2004) (awarding \$5 million in compensatory damages and \$5 million in punitive damages); *Tachiona v. Mugabe*, 234 F.Supp.2d 401, 441 (S.D.N.Y.2002), *overruled on other grounds*, 386 F.3d 205 (2d Cir.2004) (awarding collective compensatory damage award of \$20.2 million and punitive damage award of \$51 million); *Xuncax v. Gramajo*, 886 F.Supp. 162, 197–99 (D.Mass.1995) (awarding plaintiffs between \$500,000 and \$3 million each in compensatory damages and between \$500,000 and \$5 million each in punitive damages); *Filartiga v. Pena-Irala*, 577 F.Supp. 860, 867 (E.D.N.Y.1984) (awarding plaintiffs, in the seminal ATS case that was ultimately validated by the Supreme Court, between \$175,000 and \$210,000 each in compensatory damages and \$5 million each in punitive damages).

Mehinovic v. Vuckovic, 198 F.Supp.2d 1322, 1358 (N.D.Ga.2002), the Northern District of Georgia awarded four Bosnian Muslim plaintiffs compensatory damages of \$10 million each in their ATS and TVPA case against a Serbian guard who detained and tortured them for a protracted period in a concentration camp. In *Mehinovic*, the court noted that the compensatory damage award was appropriate “in light of the gravity of the abuses involved and the serious physical and psychological injuries cause by acts such as those suffered by plaintiffs.” *Id.* The *Mehinovic* court described with particularity the various physical and psychological injuries incurred by plaintiff and noted that they were “entitled to damages for a broad range of physical, emotional, and social harms.” *Id.* at 1359. For example, the *Mehinovic* court found substantial harm shown by

result in significant compensatory damages. In

one plaintiff’s testimony about the psychological effects of prolonged separation from his wife and newborn child and becoming a stranger to his own daughter. *Id.* The court found testimony from all of the *Mehinovic* plaintiffs regarding their “nightmares, difficulty sleeping, flashbacks, anxiety, difficulty relating to others, and feeling abnormal” to be a valid basis for significant compensatory damage awards. *Id.*; *see also Paul v. Avril*, 901 F.Supp. 330, 336 (S.D.Fla.1994) (awarding \$2.5 million–\$3.5 million per plaintiff for, *inter alia*, severe pain and suffering). Courts have also emphasized the “grievous nature” and “severity” of the harm to plaintiffs when considering the appropriate amount of compensatory damages. *See Xuncax v. Gramajo*, 886 F.Supp. 162, 198 (D.Mass.1995).

[4] As Plaintiffs in the present case testified, the extreme brutality of the Defendant’s actions resulted in severe psychological damage. It is hard to imagine what it feels like to be forced into servitude. It is even harder to imagine the emotions Plaintiffs suffer from knowing that their families are being punished. But there is no doubt that the severe, ongoing physical and emotional harms and deprivations endured by Plaintiffs mandates a sizable compensatory damage award.

B. Punitive Damages

A significant punitive damages award likewise results from applying the rationale applied in similar cases. In *Paul v. Avril*, 901 F.Supp. 330, 336 (S.D.Fla.1994), the district court noted that

[a]n award of punitive damages must reflect the egregiousness of the defendant's conduct, the central role he played in the abuses, and the international condemnation with which these abuses are viewed.

Id. (citing *Filartiga v. Pena-Irala*, 577 F.Supp. 860, 866 (E.D.N.Y.1984)). The seminal *Filartiga* case, on which the court in *Paul v. Avril* drew heavily, further noted that:

Chief among the considerations the court must weigh is the fact that this case concerns not a local tort but a wrong as to which the world has seen

16. Emphasis on both the brutal nature of the defendant's conduct and the deterrent pur-

[5] Forced labor constitutes a violation of a well-established, universally-recognized norm of international law. It is widely recognized as one of the handful of serious claims for which the ATS provides jurisdiction in U.S. district courts regardless of where it occurred. It is a brutal offense condemned by the civilized world. This Court is compelled to act strongly to punish and deter it.

In considering what award is necessary and proper in this case, the Court notes that until now, the Defendant has not only gone unpunished, but has profited from 15 years of forced labor. Given that the Defendant's customers were major cruise lines, oil, and shipping companies, it is safe to say that Defendant profited greatly from Plaintiffs' forced labor. Those profits should be disgorged.¹⁷

The potential deterrent effect is especially strong in this case, in which companies today may be making the decision of whether to make a similar labor agreement with Cuba. This Court has the opportunity to ensure that they think twice. The Court notes in sending

fit to speak. Punitive damages are designed not merely to teach a defendant not to repeat his conduct but to deter others from following his example. To accomplish that purpose, this court must make clear the depth of the international revulsion against torture and measure the award in accordance with the enormity of the offense. Thereby the judgment may perhaps have some deterrent effect.

Filartiga, 577 F.Supp. at 866 (citing *Zarcone v. Perry*, 572 F.2d 52, 55 (2d Cir. 1978)).¹⁶

pose of a punitive damage award is consistent with the law of punitive damages. *See*

that message, the target audience consists of multinational corporations that may look to profit greatly from similar arrangements.

Finally, Defendant's actions served to thwart official policy of the United States and prolong the suffering of the Cuban people by allowing the Cuban government access to the United States market.

In sum, given the egregiousness of Defendant's conduct and the central role it played in the conspiracy, the role the conspiracy played in thwarting U.S. policy and perpetuating the subjugation of the Cuban people, the fact that the offenses at issue are universally condemned, the fact that Defendant retains its ill-gotten gains from the Cuban forced labor scheme, and the fact that other actors likewise must be deterred, Plaintiffs should be awarded significant punitive damages. Such an award will act as a deterrent, and will reflect the international revulsion against international human trafficking and forced labor.

VI. JUDGMENT

For the foregoing reasons, and based on undisputed facts in this case and the testimony at trial, it is:

ORDERED, ADJUDGED, and DECREED that judgment is hereby entered against Defendant as follows:

- 1) Alberto Justo Rodriguez Licea
\$15 million in compensatory damages; and
\$10 million in punitive damages;
- 2) Fernando Alonso Hernandez

\$20 million in compensatory damages; and

\$10 million in punitive damages;

- 3) Luis Alberto Casanova Toledo

\$15 million in compensatory damages; and

\$10 million in punitive damages.

Post-judgment interest will accrue at the rate set by 28 U.S.C. § 1961 (2000).

Action Marine, Inc. v. Cont'l Carbon, Inc., 481 F.3d 1302, 1318 (11th Cir.2007) (“Punitive damages should only be awarded if the defendant’s culpability, after having paid compensatory damages, is so reprehensible as to warrant the imposition of further sanctions to achieve punishment or deterrence.”).

17. Because Defendant flouted this Court’s authority, the full extent of Defendant’s profits over this 15-year period, or the size of Defendant’s business remains unknown. The documentary and testimonial evidence revealed a major shipyard, with abilities to service several major vessels simultaneously.

QUICK REFERENCES FOR HUMAN TRAFFICKING

THE LAW

FEDERAL LAW: TRAFFICKING VICTIMS PROTECTION ACT (TVPA) – Reauthorized by President Obama on March 7, 2013; 18 U.S.C. 1589-1594, 22 U.S.C. 7101 – 7112

KENTUCKY: KRS 529.010 (5) – Includes fraud.

OHIO: O.R.C. 2905.32 TRAFFICKING IN PERSONS – Does not include fraud or mere solicitation.

RED FLAGS

IDENTIFICATION

TRAVEL

EMPLOYMENT

MONEY

PHYSICAL ABUSE

SEXUAL ABUSE

FREEDOM

RESOURCES

National Human Trafficking Hotline: 888-3737-888

Greater Cincinnati Human Trafficking Hotline: 513-800-1863

Ohio Human Trafficking Taskforce: humantrafficking.ohio.gov

End Slavery Cincinnati: endslaverycincinnati.org

Rescue and Restore: www.rescueandrestoreky.org

Polaris Project: www.polarisproject.org

NKYPATHways: NKYPATHways@gmail.com

End Slavery Cincinnati: Erin Meyer, erin.meyer@use.salvationarmy.org

**The Ohio Attorney General's Human Trafficking Commission:
www.ohioattorneygeneral.gov**

FBI Innocence Lost Initiative:

http://www.fbi.gov/aboutus/investigate/vc_majorthefts/cac/innocencelost

Sharlene Graham Boltz
Professor of Law
Chase College of Law
Northern Kentucky University boltzs1@nku.edu

859-572-5358

T.A.C.L. Enterprises, L.L.C.

859-380-9590/sgboltz@yahoo.com

Human Trafficking Resources for Legal Advocates

Legal Advocacy Guides:

- http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/DV_Trafficking.athcheckdam.pdf
- <http://aaldef.org/docs/T-visa-manual-3rd-ed%281208%29.pdf>

Other Resources:

- **Polaris Project** www.polarisproject.org
- **Stop Trafficking! Anti-Human Trafficking Newsletter**
www.stopenslavement.org
- **Ohio Human Trafficking Task Force** www.publicsafety.ohio.gov/ht/
- **Kentucky Office of Victims Advocacy**, Gretchen Hunt 800-372-2551 Email: ghunt@kasap.org

Human Trafficking Resources for Victims

NHTRC | NATIONAL HUMAN TRAFFICKING RESOURCE CENTER
1-888-373-7888
Email: NHTRC@PolarisProject.org
Confidential, 24/7, toll-free hotline.
Confidential * Interpreters available!

 REPORT TRAFFICKING	 ACCESS TRAININGS	 INFORMATION & RESOURCES
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<https://traffickingresourcecenter.org/>

Local Victim Advocacy:

- **Catholic Charities of Covington**, Lisa Ramstetter 859-581-8974 x120 Email: lramstetter@archlou.org rescueandrestoreky.org
- **NKY PATHways**, Reegan Hill Email: nkypath@gmail.com
- **Refuge for Women**, Michelle Renn, 859-254-0041
Email: micheller@refugeforwomen.org

HUMAN TRAFFICKING RESOURCES

National

Department of Justice

1-888-428-7581- Trafficking in Persons Hotline

http://www.usdoj.gov/olp/human_trafficking.htm

Department of State- Office to Monitor and Combat Trafficking in Persons

<http://www.state.gov/g/tip>

Department of Homeland Security- Blue Campaign

<http://dhs.gov/blue-campaign/share-resources>

1-866-347-2423

Endslaverynow.com- labor trafficking resources

FBI- call the nearest FBI field office regarding suspected trafficking

Globalslaveryindex.org- ranking of slavery conditions internationally

The Human Trafficking Project (blog)- <http://traffickingproject.blogspot.com>

National Human Trafficking Resource Center

1-888-373-7888

www.traffickingresourcecenter.org **National**

Immigrations Law Center

<http://www.nilc.org/immlawpolicy/trafficking/index.htm> **Polaris**

International

www.polsrisproject.org

Slaveryfootprint.org- assess whether your lifestyle includes products of forced labor

Shared Hope International- sharedhope.org, dedicated to fighting sex trafficking

Xxxchurch.com- resource for men struggling with sex addiction

Kentucky

Catholic Charities of Louisville/ Covington 502-637-9786/

859-581-8974 www.cclou.org/human-trafficking

KY Rescue and Restore

888-373-7888

www.rescueandrestoreky.org

NKY PATH 859-491-

3335 www.pathnky.org

Refuge for Women- Lexington

859-254-0041

Refugeforwomen.org

Ohio

Central Ohio Rescue and Restore

www.centralohiorescueandrestore.org

614-285-4357

End Slavery Cincinnati

www.endslaverycincinnati.org **Ohio**

Human Trafficking Task Force

www.humantrafficking.ohio.gov

Salvation Army Greater Cincinnati Hotline

513-800-1863- 24 hour hotline for referrals and support
swo.salvationarmy.org/southwestohio/combating-human-trafficking

Indiana

Exodus Refugee Immigration

317-941-2200

www.exodusrefugee.org

IN Attorney General

Email: humantraffickinginfo@atg.in.gov

www.in.gov/attorneygeneral/2963.ntm

Indianapolis Trafficked Persons Assistance 24-Hour Hotline

800-928-6403

The Julian Center 317-941-2200

www.juliancenter.org

Neighborhood Christian Legal Clinic

317-415-5337

Nclegalclinic.org

Support, Volunteer, Self-Educate, Stay Informed

Books on or about Human Trafficking:

- *I Hear a Seed Growing*, by Edwina Gateley
- *Half the Sky: Turning oppression into opportunity for women worldwide*, by Nicholas D. Kristof and Sheryl WuDunn
- *The Slave Across the Street*, by Theresa Flores
- *Girls Like Us*, by Rachel Lloyd
- *Walking Prey*, by Holly Austin Smith

Noteworthy Human Trafficking Organizations:

Local

- Catholic Charities, Kentucky Rescue and Restore rescueandrestoreky.org
- NKY PATHways <https://www.facebook.com/NKY-PATHways-175357335842287/>
- End Slavery Cincinnati <http://www.endslaverycincinnati.org/>

National

- Polaris Project www.polarisproject.org
- End Slavery Now www.endslaverynow.org
- U.S. Catholic Sisters Against Human Trafficking www.sistersagainstrafficking.org
- Stop Trafficking! Anti-Human Trafficking Newsletter www.stopenslavement.org
- Mercy Investment Services www.mercyinvestmentservices.org/human-trafficking-resources
- Truckers Against Human Trafficking www.truckersagainstrafficking.org
- Slavery Footprint www.slaveryfootprint.org
- National Human Trafficking Resource Center www.traffickingresourcecenter.org
- The Campaign to Rescue & Restore Victims of Human Trafficking www.acf.hhs.gov/programs/orr/rescue-campaign
- TraffickFree-Save Our Adolescents from Prostitution (S.O.A.P.) www.traffickfree.com
- U.S. Catholic Conference of Bishops www.usccb.org/about/anti-trafficking-program
- U.S. Dept. of Labor www.dol.gov/ilab/reports/child-labor/list-of-goods
- ECPAT-USA, End Child Prostitution and Trafficking www.ecpatusa.org
- A21 <http://www.thea21campaign.net/greecead/>

International

- Free the Slaves www.freetheslaves.net
- International Justice Mission www.IJM.org
- Walk Free Movement www.walkfree.org
- CNN Freedom Project www.cnn.com/freedom
- Not for Sale www.notforsalecampaign.org
- Global Slavery Index www.globalslaveryindex.org
- UN Office of Drugs and Crime www.unodc.org/unodc/en/human-trafficking
- Shared Hope International <http://sharedhope.org/>
- Exodus Cry <http://exoduscry.com/>