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Virginia General Assembly

Human Trafficking
Commission

Introduction to Human
Trafficking

December 2007

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Presentation Goals and Purposes

- **“What is Human Trafficking?”: Basic Understanding and Scope**
- **Review current federal and state laws on human trafficking**
- **Understand the challenge of victim identification**
- **Understand gaps in VA legislative policy as a basis for future Commission activities**

Part I. Human Trafficking:
Overbearing a Person's Will in
Order to Exploit the Victim's
Labor, Services or Commercial Sex
Acts

The A-M-P Model – A Good Way to Understand the Definitional Elements of the Crime of Trafficking in Persons

ACTION

Recruits,
Harbors,
Transports,
Provides,
OR
Obtains
(or so attempts)

MEANS

(Force, Fraud, Coercion)

Force - Causing serious harm or physical restraint

Fraud

Coercion – Threats of serious harm to, or physical restraint against, a person or another person

Coercion – Abuse or threatened abuse of law or the legal process

Coercion – Any scheme, plan, or pattern...

PURPOSE

Commercial sex acts

OR

Labor or Services

***Sexual Servitude of a Minor: Means (entire 2nd column) not required for minors under age 18 for commercial sex acts

***NOTE: Standard to keep in mind is “SERIOUS HARM”

Modified from Original model – MIHRC, copyright 2003

Points to Note

- Trafficking does not require transportation
- Human trafficking is different from human smuggling
- Trafficking can occur internally within a country or transnationally between different countries
- U.S. Citizens can be and are victims of human trafficking
- Physical force or physical bondage is not always required
- Human trafficking can occur in legitimate businesses
- Initial consent or voluntary migration is irrelevant
- Human trafficking is likened to forced labor, involuntary servitude, and modern-day slavery

Scope of the Problem

- Total of 42 Virginia Cases Identified by Four D.C. Area Anti-Trafficking Orgs (As of Dec 06)
- 14,500 – 17,500 Persons Trafficked *Into* The United States Each Year
- 250,000+ Children At High Risk of Commercial Sexual Exploitation in the United States
- 800,000 Victims of Transnational Trafficking and 27 Million Slaves Worldwide
- Second or Third Largest Global Criminal Industry

Part II. Human Trafficking: Legal Definitions

International Law

The UN Protocol

United States Federal Law

The Trafficking Victims Protection Act (TVPA) of 2000

TVPRA of 2003 and 2005 (and 2007!)

State Law

The Trafficking Victims Protection Act (TVPA) of 2000

“3 Ps” paradigm: Protection, Prevention, and Prosecution

- PROTECTION –
 - Certification process and eligibility for benefits for foreign national victims
 - Creation of the T-visa (5000/yr)
 - Witness Protection
- PREVENTION –
 - International initiatives for economic alternatives in source countries
 - Interagency Task Force, TIP Office, Annual Report (Three Tiers), SPOG
- PROSECUTION –
 - Creates new criminal offenses (18 U.S.C. 1589 et seq.) and increases penalties for existing offenses

Federal Trafficking Crimes

- Title 18, Part 1, Chapter 77 – Peonage, Slavery and Trafficking in Persons
 - 1581 – Peonage; Obstructing Enforcement
 - 1582 – Vessels for Slave Trade
 - 1583 – Enticement into Slavery
 - 1584 – Sale into Involuntary Servitude (“bodily” harm)
 - 1585 – Seizure, detention, transportation or sale of slaves
 - 1586 – Service on vessels in slave trade
 - 1587 – Possession of slaves aboard vessel
 - 1588 – Transportation of slaves from United States

 - 1589 – Forced labor (“serious” harm)
 - 1590 – Trafficking with respect to peonage, slavery, involuntary servitude or forced labor
 - 1591 – Sex trafficking of children or by force, fraud, or coercion
 - 1592 – Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor
 - 1593 – Mandatory restitution
 - 1594 – General provisions

18 USC § 1589: Forced Labor

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

- (1) by threats of serious harm to, or physical restraint against, that person or another person;
- (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) by means of the abuse or threatened abuse of law or the legal process,

shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

18 USC § 1591: Sex Trafficking of Children OR by Force, Fraud, or Coercion (Excerpts)

- (a) Whoever knowingly—
 - (1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or
 - (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing that force, fraud, or coercion ... will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).
- (b) The punishment for an offense under subsection (a) is—
 - (1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or
 - (2) if the offense was not so effected, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.

State-level Anti-Trafficking Laws

- A growing number of states have passed anti-trafficking criminal statutes.
- 35 states have passed anti-trafficking measures (as of Oct 07).
- 33 state laws include criminal provisions.
- A minority of state laws include crucial victim protection and prevention measures.
- Based on the recent explosion of state legislation, a future trend in the anti-trafficking movement may be a rise in state-level prosecutions of traffickers.

State-level Anti-Trafficking Laws

- Virginia does not have a trafficking crime or trafficking victim protection provisions.
- MD passed a human trafficking law, including only criminal provisions, in May 2007.
- D.C. Council Members are currently actively considering the introduction of a comprehensive human trafficking law.

Part III. Meet the Challenge of
Victim Identification

Challenges of Victim Identification

- Low public awareness of human trafficking
- Widespread myths, misconceptions, and misunderstandings about the definition of human trafficking
- Most victims do not self-identify or proactively seek help
- Human trafficking is a crime designed not to be detected
- There are myriad reasons why victims often cannot or will not leave a trafficking situation

Why Victims Don't Leave

Methods of Control – What You Can't See

- Captivity, confinement, and physical restraint (or threat thereof)
- Use and threat of violence
- Use of reprisals and threat of reprisals against loved ones and others
- Debt bondage
- Fear
- Shame
- Self-blame
- Traumatic bonding to the trafficker
- Psychological trauma and dissociation
- Hopelessness and resignation (believing no one cares to help)
- Normalization of exploitation

Why Victims Don't Leave (Cont'd)

Methods of Control – What You Can't See

- Isolation
- Language barriers, social barriers, and unfamiliarity
- Frequent movement
- Lack of personal identification documents
- Lack of awareness of available resources
- Distrust of law enforcement or service providers
- False promises and misinformation
- No self-identification as a crime victim who can be helped

Red Flags: Trafficking Indicators

Things to Look For – What You Can See

- Under 18 and providing commercial sex acts
- Signs of physical abuse, physical restraint, confinement, torture or branding
- Lack of freedom to leave living or working conditions
- Few or no personal possessions or financial records
- Demeanor - Fearful, anxious, submissive, tense, or nervous behavior
- Claims of “just visiting” coupled with inability to clarify addresses
- Individual does not possess identification documents
- Individual has no control of earnings; no wage or very low wage
- Lack of knowledge of a given community or whereabouts
- Poor working environment and lack of health care
- Excessively long working hours or odd tasks at odd hours

Types of Trafficking to Look For In Your Area

- Domestic servitude
- Agricultural areas with migrant farmworkers
- Commercial-front brothels (massage parlors)
- Residential brothels based in homes
- Escort agencies and strip clubs
- Areas where pimps are
- Sweatshops
- Peddling/begging rings and traveling sales crews (magazines)
- Restaurants and other low-wage industries

Elements of a Good Victim Identification Policy:

Raising Public Awareness

Community Outreach

Training Government Agencies

Direct Victim Outreach

Part IV: Filling the Gaps in Virginia Law

Review the “3 Ps”

- Lack of victim protection and services.
 - Special problems in law enforcement responses: foreign national victims and sex trafficking victims
 - Special problems in services: U.S. citizens
- Need for trafficking prevention and awareness initiatives
- Need to improve criminal laws to target traffickers
 - Establish crimes and increase penalties

Concluding Thoughts

Understand human trafficking



Address the challenge of victim identification



Achieve the “3 Ps”



Polaris Project is named after the North Star, which helped guide slaves to the relative freedom of the North during the centuries of slavery in the US.

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