

LABOR TRAFFICKING PROTOCOL GUIDELINES

Identifying and Responding to
Victims of Labor Trafficking
24 Years Old and Under

ACKNOWLEDGMENTS

This report was made possible by support from grant number 2016-MU-MU-K153, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, and the Minnesota Department of Health. The opinions, findings, and conclusions or recommendations expressed in this content are those of the contributors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Staff members on this project included Theresa Dykoschak, Madeline Lohman, and Jennifer Prestholdt.

We are grateful for the generous research support of our colleagues, volunteers, and interns. Nonetheless, as the author, The Advocates for Human Rights is solely responsible for the content of the report.

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SECTION 1: BACKGROUND

Essential Knowledge for
Understanding the
Labor Trafficking
Protocol Guidelines

INTRODUCTION

**THE PROTOCOL
GUIDELINES PROVIDE
A ROADMAP FOR
STATE AND LOCAL
GOVERNMENTS,
SERVICE PROVIDERS,
COMMUNITY
ORGANIZATIONS AND
OTHERS TO PREVENT
LABOR TRAFFICKING,
PROTECT AND
SUPPORT VICTIMS,
AND HOLD
TRAFFICKERS
ACCOUNTABLE.**

Labor trafficking is a serious crime and a public health issue that inflicts lasting physical, psychological, emotional, and financial harm on its victims. Labor trafficking also harms society as a whole, from businesses facing unfair competition to local communities bearing the costs of recovery from the trafficker's actions. Youth especially are at high risk of labor trafficking and deserve special protections from society because of their vulnerability to abuse and limited ability to meet their own basic needs.

Victims of labor trafficking rarely come forward on their own because they fear retaliation by their trafficker and because they do not know that they are victims of a crime. Thus, individuals across Minnesota need to be able to recognize the signs of labor trafficking and know how to respond. Minnesotans also need to work together and develop relationships between governmental and non-governmental agencies and organizations in a wide range of sectors, as recovery requires substantial resources and a victim's needs cannot be met by one organization alone.

Minnesota has an obligation and an opportunity to take action against labor trafficking. Anyone – from individuals interested in learning more about how they can help, to professionals experienced in working with trafficking victims – can and should use these protocol guidelines. These protocol guidelines provide comprehensive information on the diverse needs of labor trafficking victims and different forms of relief available to them. The protocol guidelines also provide a roadmap for state and local governments, service providers, community organizations and others to prevent labor trafficking, protect and support victims, and hold traffickers accountable.

Section 1: Background provides key information for individuals and organizations wanting to understand the definitions of labor trafficking and how it occurs.

Section 2: Universal Protocol contains information that should be reviewed by anyone who may interact with victims of labor trafficking or who would like to learn more about the multiple components to a comprehensive response to labor trafficking, centered on protecting victims.

To respond effectively, all sectors must be actively involved, and communities must understand who they should contact if they suspect labor trafficking. The Universal Protocol provides an overview of which organizations and agencies may need to be involved in a response, as well as guidance on prevention, identification, confidentiality, and special considerations for victims who are minors, foreign nationals, or vulnerable adults.

Minnesota’s unique context may place a greater burden on organizations and agencies to implement the protocol guidelines. Many government services are decentralized, with elected county and city officials exerting substantial control over agency policies and practices and affecting the conduct of law enforcement, child protection, adult protection, social welfare services, education, and other sectors. This allows policies to be responsive to local conditions, but also requires organizations and agencies implementing the protocol guidelines to investigate who is best placed to serve labor trafficking victims at the local level and the process their community will follow. **Section 3: Protocol Implementation Worksheet** provides an easy-to-use tool to help communities plan their response to labor trafficking.

As part of the development of these protocol guidelines, there were several types of organizations and agencies that were identified as regularly interacting with – or having the potential to regularly interact with – victims of labor trafficking. **Section 4: Sector-Specific Protocols** includes detailed guidelines and best practices for these sectors. These chapters are designed to be used in conjunction with the Universal Protocol Section. The Sector-Specific Protocols do not include chapters for every sector that may interact with trafficking victims; all sectors should refer to the Universal Protocol for guidance.

Section 5: Recommendations includes suggested changes in law and practice for policymakers, government agencies, and funders to improve Minnesota’s response to youth victims of labor trafficking.

Section 6: Appendices provides a detailed list of federal and state statutes related to labor trafficking, a directory of Minnesota labor trafficking service providers, a list of key resources, materials for trafficking victims, and a sample of the survey that was developed to research existing services for labor trafficking victims.

The Advocates and the Minnesota Department of Health provide training and technical assistance on implementing the protocol guidelines. Please contact The Advocates for Human Rights at (612) 341-3302 for more information.

METHODOLOGY

The Advocates developed the following protocol guidelines for the Minnesota Department of Health by applying a human rights monitoring methodology to the issue of labor trafficking of youth. The methodology combined qualitative research strategies, including interviews and data collection through survey instruments, with research and analysis of current literature, policies, and laws.

For the purposes of these protocol guidelines, “youth” is defined as people who are 24 years old or younger. Victims under age 18 who face special considerations under law are referred to by age or as minors.

The Advocates began in January 2017 by collecting preliminary data to identify organizations and agencies that were already serving youth victims of sex and labor trafficking in Minnesota. The Advocates developed an online survey that was widely disseminated to: state and federal agencies; listservs for the Minnesota Human Trafficking Task Force, Minnesota Sex/Labor Trafficking Prevention Network, Sexual Violence Prevention Network, and Minnesota Coalition for Battered Women DV Law Committee; and other stakeholders who could contribute to developing an effective response for labor trafficked youth. The survey questions are included in Appendix D. The Advocates received 365 survey responses from diverse stakeholders throughout Minnesota. The survey responses also identified individuals to interview in the next phase of research and protocol development.

In-person interviews were conducted from April to November 2017 to determine available services, barriers to

identification and accessing services, and shared goals for an effective response to youth victims of labor trafficking. The Advocates developed stakeholder interview questions tailored to specific sectors that may come into contact with labor-trafficked children and youth. The Advocates identified geographic outreach priorities based on the survey results and the Safe Harbor network of services for sex-trafficked youth, and interviewed stakeholders from the northwest, northeast, southwest, southeast, central and west Metro and east Metro Safe Harbor regions (see map on page 11). The Advocates conducted a total of 93 interviews throughout the state with prosecutors, child protection and adult protection workers, health care providers, police and other law enforcement officers, victim advocates, housing providers, legal service providers, worker organizations, public health officials, school administrators, social workers, and others who work with youth.

Based on the information obtained through the surveys and interviews, The Advocates created preliminary draft protocol guidelines to circulate to stakeholder groups convened by discipline and industry. Individual subject matter experts also reviewed the draft protocol guidelines to provide input. The Advocates made revisions based on gaps identified and areas where further clarification was needed.

WORKING WITH TRIBAL NATIONS

In Minnesota, there are seven Anishinaabe (Chippewa/Ojibwe) reservations and four Dakota (Sioux) communities. In addition, thousands of Native Americans live in Minnesota's urban communities, including Bemidji, Duluth, Minneapolis, and Saint Paul. While The Advocates interviewed some Native American service providers, these protocol guidelines focuses on non-tribal agencies and organizations. Some of its recommendations may, however, be useful to tribes developing their own response to human trafficking. Local governments, service providers, and others who work with Native American victims should collaborate with the 11 tribal nations and their service providers, including law enforcement, to create a joint response to human trafficking. Tribal nations report that they have unique, culturally-sensitive, and trauma-informed responses to human trafficking based on their legal status, existing services, and other factors. Government agencies and nongovernmental organizations should consult with each tribal nation on the best way to identify and respond to human trafficking involving Native American victims or occurring on tribal lands.

FINDINGS

Interviews with government officials, service providers, and community members revealed that currently, Minnesota does not have a well-developed response to the labor trafficking of youth, but that existing systems and policies provide a strong foundation for building an effective response.¹

Most importantly, there is a widespread lack of awareness and misunderstanding of labor trafficking among all disciplines that work with youth throughout the state. As a result, very few instances of labor trafficking have been identified. At the time the interviews were conducted, few individuals had received training on labor trafficking, and few organizations screened for labor trafficking. Most of those interviewed stated a desire for training and a willingness to include labor trafficking in existing screening processes.

In addition to a lack of training and awareness, interviewees described a lack of resources to serve labor-trafficked youth. Throughout Minnesota, transportation is difficult for those who cannot afford their own car, and there is a shortage of housing. The lack of secure housing is particularly acute, especially for men and boys. Even when services are available, the providers may not be trained or experienced in working with victims of severe trauma. Interviewees also reported a lack of culturally-specific services and services for youth with multiple needs, such as trafficking victimization and chemical dependency.

¹ For additional analysis of Minnesota's response to labor trafficking and labor exploitation, see "Asking the Right Questions: A Human Rights Approach to Ending Trafficking and Exploitation in the Workplace," Minneapolis, MN: The Advocates for Human Rights, 2016. Also available at https://www.theadvocatesforhumanrights.org/uploads/asking_the_right_questions_2.pdf.

SAFE HARBOR REGIONS FOR SEX TRAFFICKING SERVICES



Foreign-born youth, who are at high risk for labor trafficking, face additional barriers to reporting or leaving trafficking situations because of immigration status, language barriers, unfamiliarity with the U.S. legal system, and fear of authorities. Specialized services for foreign-born victims, including legal assistance and culturally-specific care, are difficult to find. Foreign-born youth also face confusing restrictions on their eligibility for public assistance, including medical care, which complicate service providers' ability to meet their needs. Many interviewees lack understanding of the various immigration system actors and risk exposing victims to detention and deportation by involving immigration enforcement in their efforts to assist victims.

The foundation exists to improve this response. Minnesota has developed a comprehensive response to sex trafficking through the Safe Harbor network of regional navigators, housing providers, and supportive services. Interviewees reported that they were ready to add screening for labor trafficking, and many could draw on their experience working with sex trafficking. Most jurisdictions have existing interagency collaborations. In addition, the state legislature has demonstrated a willingness to help trafficking victims with legal changes, expanded services, and increased funding. The number of people trained on labor trafficking has already increased since the interviews were conducted, and a number of new cases have been identified.

Interviews statewide revealed enormous opportunity to improve Minnesota's response to youth victims of labor trafficking. Currently, labor trafficking is not widely understood, identified, or addressed, but interviewees repeatedly expressed a desire to learn more and respond to it.

DEFINITIONS AND DYNAMICS OF LABOR TRAFFICKING

TRAFFICKING IN FEDERAL AND STATE LAW

The federal Trafficking Victims Protection Act (TVPA) and Minnesota law define labor trafficking as follows:

Federal Labor Trafficking Definition

A severe form of labor trafficking involves “the recruitment, harboring, transportation, provision, or obtaining of another 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.”²

Minnesota Labor Trafficking Definition

(1) The recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, for the purpose of:

- (i) debt bondage or forced labor or services;
- (ii) slavery or practices similar to slavery; or
- (iii) the removal of organs through the use of coercion or intimidation; or

(2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).³

² Trafficking Victims Protection Act, 22 U.S. Code § 7102(9)(B). The definition of “Severe forms of trafficking in persons” also includes sex trafficking. See Appendix A for a complete list of statutes.

³ Definitions, Minn. Stat. § 609.281 (2017).

Federal and state laws both impose criminal sanctions against perpetrators of human trafficking and those who use documents to further a human trafficking scheme.⁴ Federal laws against labor trafficking derive from the Thirteenth Amendment to the U.S. Constitution prohibiting “slavery or involuntary servitude.”⁵ Congress originally created criminal offenses like peonage, enticement into slavery, sale into involuntary servitude, and other crimes to give force to the Amendment.⁶ The TVPA, passed in 2000, created new criminal statutes⁷ to penalize forms of human trafficking, including: forced labor;⁸ trafficking with respect to peonage, slavery, involuntary servitude, and forced labor;⁹ and sex trafficking.¹⁰ These new statutes supplement, rather than replace, the existing criminal prohibitions.¹¹

Minnesota passed a trafficking law in 2005, creating separate offenses for labor trafficking¹² and sex trafficking.¹³ Notably, Minnesota’s law, in contrast to the federal law, does not require proving the use of force, fraud, or coercion.

DYNAMICS OF TRAFFICKING

Labor trafficking occurs when an employer¹⁴ compels or tricks a worker into providing involuntary labor. It occurs most often in industries where workers are itinerant or isolated or where an industry is fissured or illegal, making it difficult to collect data or identify the exact scope of these crimes. Trafficking cases that have been identified, however, indicate that involuntary labor typically takes place in abusive conditions, such as unsafe work environments, long hours without breaks, or work without pay.

People become susceptible to trafficking when their basic needs are unfulfilled or vulnerabilities are unprotected (e.g., youth; physical, emotional, or cognitive impairments; or lack of immigration status). People may be vulnerable to labor trafficking situations as they seek to secure food, housing, income, and physical protection for themselves and family members. Traffickers often lure victims into their schemes by promising to meet basic needs and providing some necessities, though generally not at a level that meets international standards for adequate housing, fair wages, or physical safety. Unfulfilled basic needs contribute not only to the decision to enter the trafficking situation, but also to the difficulty of leaving ongoing exploitation. In addition to using other forms of coercion, traffickers threaten the loss of housing, income, and other means of support to keep victims trapped.

Youth are at an especially high risk for trafficking for several reasons. First, youth frequently lack the experience and knowledge to recognize abusive employment practices and suspicious job offers. Second, youth face challenges securing well-paid work, both because of legal restrictions and because they lack work experience and advanced education. Some public benefits are available, especially to minors under age 18, but older youth may not be eligible. In cases where minors have family members that need support, public benefits do not typically support related adults in addition to the minor. Given this exclusion, some youth feel the only way to support their families is to work, even if they can only do so illegally, making them susceptible to trafficking. These factors are compounded in situations where youth lack support networks or face additional barriers to employment, such as a criminal record. Youth with experience in foster care or the juvenile justice system are at a particularly high risk.

Traffickers employ a variety of methods to keep victims trapped in exploitative situations. Reports suggest that methods of control can vary dramatically from case to case. Traffickers may use violence, physical abuse, sexual assault, physical restraint, or denial of food, water, medical care, and other necessities to inflict serious bodily harm

4 Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor, 18 U.S. Code § 1592 (2018); Unlawful conduct with respect to documents in furtherance of labor or sex trafficking, Minn. Stat. § 609.283 (2017).

5 U.S. Const. amend. XIII § 1.

6 See, e.g., Peonage, 18 U.S. Code § 1581 (2018); Sale into involuntary servitude, 18 U.S. Code § 1584 (2018).

7 Victims of Trafficking and Violence Protection Act of 2000, Public Law 106-386, 106th Cong., 2d sess. (October 28, 2000).

8 Forced labor, 18 U.S. Code § 1589 (2018). Note that federal law does not have a criminal statute for “labor trafficking.”

9 Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor, 18 U.S. Code § 1590 (2018).

10 Sex trafficking of children or by force, fraud, or coercion, 18 U.S. Code § 1591 (2018) (amended in 2015 to include the activities of solicitation and patronizing).

11 Federal criminal statutes also penalize those who financially benefit from any form of human trafficking. See, e.g., Benefitting financially from peonage, slavery, and trafficking in persons, 18 U.S. Code § 1593A (2018).

12 Labor trafficking, Minn. Stat. § 609.282 (2017).

13 Solicitation, inducement, and promotion of prostitution; sex trafficking, Minn. Stat. § 609.322 (2017).

14 The Advocates uses “employer” to include employers, recruiters, contractors, and others who have control over a worker.

on the victim or on the victim's family and friends. Traffickers may also threaten violence without actually employing it. Traffickers may also engage in non-physical coercion and manipulation, including blackmail, lying about the nature of work that the victim will perform, creating false debts that the victim can never pay off, and cultivating emotional dependency and feelings of guilt.

Threatening to report victims to immigration or law enforcement is an especially powerful form of coercion in the United States. Workers may be vulnerable to threats of deportation, because the worker is undocumented, because the trafficker is holding their passports or other identification documents, or because the worker's immigration status is dependent upon the employer.¹⁵ In the case of U.S. citizens or other victims with stable immigration status, traffickers may compel these victims to commit crimes such as theft or drug possession, and then threaten victims with arrest if they try to contact police. Regardless of the specific tactic, the outcome is that the trafficker can compel the victims to act against their will. Even when victims appear free to move around, the fear, dependency, and psychological harm generated by the trafficker can keep them trapped and unable to seek help or reveal what is happening.

Victims of labor trafficking very rarely come forward on their own. First, many victims do not know that they are experiencing labor trafficking, either because they are unfamiliar with U.S. law or because they believe they consented to the situation by initially accepting a job offer from the trafficker. Second, traffickers exert a level of control that prevents victims from revealing what is happening to them even when they encounter law enforcement or service providers, out of fear of retaliation. The fact that victims rarely report this crime makes it especially important for the people they encounter to recognize the signs of labor trafficking and know how to respond.

VULNERABLE WORKERS

An inability to meet basic needs is not equally distributed throughout society and reflects long-standing inequities that harm disadvantaged groups. In Minnesota, racial and ethnic minorities, low income individuals, rural residents, immigrants, people experiencing homelessness, and people with disabilities face inequities in housing, employment, education, and other areas that have lasting impacts on health and lifespan.¹⁶

The inability to meet basic needs is closely connected to two related phenomena: the difficulty in finding legal work that pays an adequate wage and the barriers to receiving public benefits that might otherwise help people secure housing, food, medical care, and other support.

Foreign-born workers face legal restrictions to employment. Undocumented immigrants are not authorized to work in any capacity in the United States. Immigrants on temporary employment visas for unskilled workers can only work for the employer who petitioned for them to come to the United States. If the employer fails to pay them or otherwise violates employment laws, the immigrant worker cannot simply find another job with a different employer, but must restart the entire process of receiving a temporary employment visa sponsored by a new employer. If the employer withdraws support of the worker, regardless of cause, the worker must leave the country. These legal restrictions leave immigrants vulnerable to abuse by the employer who holds their visa or by an employer willing to employ them illegally.

In addition to legal barriers, the effects of systemic racism create significant barriers for people of color to achieve economic stability. Bias in employment opportunities is apparent when looking at unemployment rates and household income. In both categories, African American, Native American, Asian, and Hispanic populations fare dramatically worse than white populations.¹⁷

15 Several visa programs allow employers to sponsor workers for either temporary or permanent residency in the United States. In almost all cases, the worker's visa status depends on continuing employment with the sponsoring employer. See U.S. Citizenship and Immigration Services, "Employer Information," <https://www.uscis.gov/working-united-states/information-employers-employees/employer-information>

16 Minnesota Department of Health, *Advancing Health Equity in Minnesota: Report to the Legislature* (Saint Paul, MN: Minnesota Department of Health, 2014), 5-6. Also available at http://www.health.state.mn.us/divs/che/reports/ahe_leg_report_020114.pdf.

17 Minnesota Department of Health, *Advancing Health Equity in Minnesota: Report to the Legislature* (Saint Paul, MN: Minnesota Department of Health, 2014), at 89-90. Also available at http://www.health.state.mn.us/divs/che/reports/ahe_leg_report_020114.pdf.

Criminal records make it more difficult for anyone to get a job, and this impact is particularly pronounced for African Americans and Native Americans because of Minnesota's disproportionate incarceration rates in these communities.¹⁸ While laws in Minnesota prevent public and private employers from requiring job applicants to disclose convictions, the growing national trend toward requiring licenses for work, which now applies to one in four jobs, is exacerbating the effects of criminal convictions on job prospects.¹⁹

A government-funded social safety net could address any resource shortfalls caused by disparities in employment, but the current system excludes some of the very people who are also at a disadvantage in the labor market. Undocumented immigrants and foreign-born workers on temporary visas are barred from any public benefits other than emergency medical care.²⁰ Anyone with drug-related criminal convictions must pass regular drug tests to continue receiving food stamps and cash assistance.²¹ Public assistance programs in Minnesota do not include everyone who requires assistance and exclude certain people from consideration, regardless of their needs.

DEMAND FOR CHEAP LABOR

Traffickers prey on vulnerable workers to meet the demand for low-cost goods and services. That demand is created by both businesses and consumers who prioritize cheap labor over the rights of workers.

Minnesota businesses must abide by an extensive set of laws governing the treatment of workers, including wage and hour standards, health and safety regulations, protections for workers to act collectively, and freedom from discrimination, among others. These laws increase costs for business but, in exchange, improve the lives of workers and help the United States fulfill the basic human right to an adequate standard of living. Unscrupulous employers who violate these laws, in contrast, can increase their profits with their illegal business practices. Traffickers may take their illegally acquired gains as profit for themselves or use their illegally low labor costs to gain business from other companies or attract consumers with lower prices.

LABOR EXPLOITATION AND THE CONNECTION TO LABOR TRAFFICKING

When employers profit from the illegal treatment of their workers, they are engaging in labor exploitation. Labor exploitation can occur in cases where the employer does not exercise the level of control that characterizes labor trafficking. Some employers, however, cross into trafficking by combining exploitative practices with a level of control over the workers that leaves them trapped in the situation. The overlap between exploitation and labor trafficking can complicate identification efforts.

Labor trafficking victims frequently experience multiple forms of labor exploitation, including:

- paying less than minimum wage;
- failing to pay all hours worked;
- failing to pay overtime;

18 Minnesota Department of Health, *Advancing Health Equity in Minnesota: Report to the Legislature* (Saint Paul, MN: Minnesota Department of Health, 2014), 35. Also available at http://www.health.state.mn.us/divs/che/reports/ahc_leg_report_020114.pdf.

19 National Employment Law Project, *Fair Chance Licensing Reform: Opening Pathways for People with Records to Join Licensed Professions*, Oct. 2017.

20 Minnesota House of Representatives Research Department, *Eligibility of Noncitizens for Health Care and Cash Assistance Programs*, by Randall Chun and Danyell Punelli (Saint Paul, MN: Minnesota House of Representatives, Sept. 2011). Also available at <http://www.house.leg.state.mn.us/hrd/pubs/ncitzhhs.pdf>.

21 Legal Action Center, *After Prison: Roadblocks to Reentry, Minnesota Report Card*, http://lac.org/roadblocks-to-reentry/upload/reportcards/24_Image_Minnesota%20FINAL.pdf. See also Legal Action Center, *After Prison: Roadblocks to Reentry, 2009 Update*, (New York: Legal Action Center, 2009), 11. Also available at <http://lac.org/roadblocks-to-reentry/upload/lacreport/Roadblocks-to-Reentry--2009.pdf>.

- denying meal and rest breaks;
- denying access to water and toilet facilities;
- taking illegal deductions from paychecks or requiring workers to pay “kickbacks” in cash;
- requiring workers to pay recruitment fees;
- providing unsafe working environments, including a lack of training and safety equipment;
- providing unsafe transportation or housing;
- violating visa programs, including requiring workers to pay for their visa fees, travel expenses, and housing costs;
- denying a worker’s right to medical care after a workplace injury, or refusing to pay workers’ lost wages and medical costs associated with workplace injuries; or
- misclassifying employees as contractors to avoid payroll taxes, unemployment insurance, and other costs.

Traffickers often operate in industries with persistently high rates of labor exploitation not connected to trafficking. An environment of impunity for abusive employers allows the traffickers’ violations of labor and employment laws to go undetected or unprosecuted.

LABOR TRAFFICKING AND THE CONNECTION WITH SAFE HARBOR

Labor trafficking is one form of human trafficking, which also encompasses sex trafficking. Minnesota state law defines sex trafficking as “receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual.”²² Under federal law, sex trafficking can include other forms of commercial sexual exploitation, but also requires showing that the victim is either under 18 years of age or that the trafficker used force, fraud, or coercion to control the victim.²³

Despite the differences in the law, there are areas of significant overlap between sex trafficking and labor trafficking. Victims of both forms of trafficking share common vulnerabilities, including poverty, youth, and lack of immigration status. As a result, victims of one form of trafficking may have been trafficked for different purposes in the past and are at a high risk of being trafficked in the future if they do not receive help. In some cases, victims experience both sex and labor trafficking simultaneously, if they are required to provide both commercial sexual services and other forms of work, such as massage, housekeeping, or selling drugs. Victims of labor exploitation and trafficking, in turn, may experience sexual harassment or sexual assault in the workplace. Given the close connection between the two types of human trafficking, agencies and organizations that work on sex trafficking should be familiar with labor trafficking, as well as the reverse.

Minnesota has already developed a comprehensive response to the commercial sexual exploitation and sex trafficking of youth age 24 and under. The Safe Harbor network consists of regional navigators, housing, and supportive services for victims in all parts of the state. As part of the development and continued operation of the Safe Harbor program, agencies and organizations receive training on identifying and responding to the commercial sexual exploitation and sex trafficking of youth. Where appropriate, the resources and knowledge developed as part of the Safe Harbor program can assist in protecting and supporting youth victims of labor trafficking.

²² Solicitation, inducement, and promotion of prostitution; sex trafficking, Minn. Stat. § 609.322 (2017).

²³ Trafficking Victims Protection Act, 22 U.S. Code § 7102(9)(A).

SECTION 2: UNIVERSAL PROTOCOL

What Everyone Needs to Know
When Working with
Labor Trafficking Victims and
High-Risk Populations

UNDERLYING VALUES FOR WORKING WITH VICTIMS OF LABOR TRAFFICKING

VICTIMS SHOULD HAVE AS MUCH CONTROL OVER DECISIONS AFFECTING THEM AS POSSIBLE TO AVOID REPLICATING THE CONTROL EXERCISED BY THE TRAFFICKER.

Responses to victims of labor trafficking should be based on shared underlying values, regardless of which organization or actor provides the response.²⁴

As part of creating Minnesota’s Safe Harbor model for working with sexually exploited and sex-trafficked youth, advocates and government officials developed a list of underlying values for everyone involved in the system. Based on interviews conducted throughout the state, many of the same underlying values were identified as applicable to labor trafficking responses, with only minor changes.

- **Service providers must prioritize the youth’s safety and well-being.**
- **Service providers should be committed to understanding labor trafficking.**

Labor trafficking of youth occurs in Minnesota and affects youth across the state. Youth who are victims of labor trafficking often do not identify as such. Therefore, those who come into contact with youth should be trained to identify labor trafficking to ensure that Minnesota youth will be directed to services and support. See Identification: Laying a Foundation on page 29.

- **Youth who are labor trafficked are victims of a crime and should be treated as victims, not perpetrators or illegal aliens.**

Victims of labor trafficking can be forced to work in illegal industries, such as the drug trade, theft rings, commercial sex,

²⁴ Based on Minnesota Department of Public Safety, Office of Justice Programs, “No Wrong Door: A Comprehensive Approach to Safe Harbor for Minnesota’s Sexually Exploited Youth,” Saint Paul, MN: Minnesota Department of Public Safety, 2013, 8. Available at <https://dps.mn.gov/divisions/ojp/forms-documents/Documents/!2012%20Safe%20Harbor%20Report%20%28FINAL%29.pdf>.

and others. They may be in the United States without authorization. They should be recognized as victims and not face criminal charges or immigration consequences for their coerced criminal acts.

→ **Victims should not feel afraid, isolated, or trapped.**

Victims should have as much control over decisions affecting them as possible to avoid replicating the control exercised by the trafficker. Threats of prosecution or deportation should not be used to compel youth to testify against traffickers.

→ **Youth should receive comprehensive services based in trauma-informed care.**

Labor trafficking can involve many forms of abuse – physical, sexual, psychological, or economic. As a result, victims may respond to the trauma in various physical, psychological, behavioral, and social ways. Those who work with labor trafficking victims need to understand that this trauma may exist and should remove practices, policies, and activities that may re-traumatize someone. See Protecting and Supporting Victims on page 35.

→ **Comprehensive services should be responsive to the needs of individual youth.**

This includes making services available that are gender-responsive, culturally competent, age-appropriate, and supportive for youth who are gay, lesbian, bisexual, transgender, and questioning (LGBTQ). See Protecting and Supporting Victims on page 35.

→ **Services should be offered statewide and designed to reflect the specific regional needs of different areas.**

Labor trafficking occurs in all parts of the state but may take different forms depending on local industries and vulnerable populations. Services can meet these varied needs if they are given the funding to do so.

→ **Youth have a right to privacy and self-determination, including the right to understand and consent to the data that is collected and shared about them.**

Trauma can remove a victim's sense of safety and protection. One way to rebuild that sense of safety is through building trust in others. It can be devastating for victims to reveal personal information and experiences, sometimes putting their own safety at risk, and then to have those same people not protect what victims thought would be confidential. Thus, anyone who works with a labor trafficking victim should identify who they are, what their role is, and what kinds of information they share and with what agencies, so that labor trafficking victims understand the consequences of sharing information and can decide what they are comfortable disclosing. For further information on confidentiality concerns, see Confidentiality on page 35 and Immigration Enforcement on page 48.

This transparency is especially important if agencies or organizations play similar roles in labor trafficking responses but have different duties. For example, victim advocates play similar roles, but a victim advocate who works for the county attorney's office or a federal agency may have disclosure and reporting requirements that are different from those of a non-governmental victim advocate. In addition, law enforcement agencies – even within the same city and county – may have different policies and procedures on disclosing immigration status to Immigration and Customs Enforcement (ICE).

→ **Services should be based on positive youth development principles.**

While minimizing the risks that make youth vulnerable to trafficking is vital to the safety and recovery of labor-trafficked youth, ensuring that services are based on positive youth development principles is equally important. Positive youth development builds on the strength and resiliency of youth, engages youth as equal partners, and ensures they have the support needed to become successful in life.²⁵

→ **Labor trafficking can be prevented.**

While these protocol guidelines addresses youth victims of labor trafficking, it is equally important that everyone undertakes efforts to change the culture and environment that allows for and accepts the exploitation of all workers. For additional information, see Prevention on page 22.

²⁵ Youth.gov, "Positive Youth Development," <https://youth.gov/youth-topics/positive-youth-development>.

PREVENTION

EFFECTIVE CHANGE REQUIRES A CULTURAL SHIFT AWAY FROM A SOCIETY THAT TOLERATES POVERTY AND THE VIOLATION OF FUNDAMENTAL HUMAN RIGHTS.

Trafficking can cause a wide variety of negative outcomes, including physical, psychological, and sexual health problems. Victims are frequently exposed to workplace and environmental hazards that impact their health. Because of the clear health impacts of trafficking, Minnesota has adopted a public health approach to the issue. This approach expands anti-trafficking efforts beyond criminal prosecution and victim services to the social and economic factors that make someone more vulnerable to trafficking. Prevention efforts target those factors.

Labor trafficking is driven by two primary factors: a population of workers vulnerable to exploitation and businesses seeking to maximize profits without taking into account the treatment of workers who perform the labor. Both factors are the result of complicated systemic inequities that can be addressed only through long-term changes in law, policy, and culture.

Both international and U.S. federal laws address trafficking prevention efforts,²⁶ with an emphasis on education campaigns and reducing the vulnerabilities of workers. Service providers can incorporate these standards into their local communities by including the following in their responses to labor trafficking:

- Policy measures to counter the demand for exploitative labor;
- Programs that help vulnerable populations secure their livelihoods;
- Information for potential migrants on migration risks and on legal avenues to migrate;

²⁶ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), 2000; Protection and assistance for victims of trafficking, 22 U.S. Code § 7105 (2018).

- Trafficking awareness campaigns for the general public;
- Removing policies that may compel irregular labor migration;
- Increased opportunities for legal, non-exploitative labor migration; and
- Increased criminal prosecution of trafficking.²⁷

PREVENTION TACTICS

A best practice for developing successful prevention efforts relies on identifying at-risk populations and pursuing multiple strategies to reduce vulnerabilities.

a. Outreach and Education

Educating high-risk populations on their rights in the workplace and the warning signs of labor trafficking can help them identify and avoid potential labor trafficking situations. If they are trafficked, public awareness campaigns can help them recognize what is occurring and find assistance.

The organizations best suited to provide this education are those that work with high-risk populations, including, but not limited to, youth (especially those in foster care, shelters, and detention centers), immigrants, people with intellectual disabilities, and people experiencing homelessness. Organizations that have access to areas where labor trafficking victims may be present should also consider public education campaigns. Examples include airports, highway rest stops, churches, schools, and free and low-cost health clinics. Organizations and agencies that address trafficking but do not have relationships with high-risk populations should consider developing collaborations with community groups. For more information, see Collaborative Responses to Labor Trafficking on page 25.

An effective anti-trafficking campaign realistically depicts trafficking, showing victims in a variety of high risk occupations without focusing on stereotyped images (e.g., only agricultural workers or only people who are physically restrained or abused). Such a campaign does not present victims in exploitative ways, provides avenues to take action for both victims and community members, and can be tailored to various environments. See Appendix D: Resource List on page 106 for a list of anti-trafficking education campaigns.

b. Enforcement of Criminal and Civil Laws Against Exploitation and Trafficking

Effective enforcement of anti-trafficking laws can deter traffickers by increasing the risks of engaging in trafficking beyond the expected return. Since traffickers take advantage of lax workplace oversight, expanded enforcement of laws against labor exploitation also increases the likelihood that traffickers will be detected. Enforcement is a crucial part of the response to trafficking, and is discussed further in Offender Accountability on page 53.

c. Addressing Root Causes

Businesses can take steps to reduce the demand for cheap labor that drives labor trafficking. They can incorporate anti-trafficking provisions into their contracts and increase supply chain oversight. By directly recruiting and employing workers instead of hiring intermediaries, scrupulous businesses can avoid unknowingly engaging a trafficker's services. Laws that require supply chain and contracting transparency can encourage businesses to adopt these practices.

No matter how thorough the education campaigns and enforcement efforts, however, trafficking will continue unless Minnesota addresses persistent human rights violations that leave people without adequate housing, food, health care, clothing, education, familial support, or legal status. People who lack these fundamental rights are vulnerable to traffickers who promise to fulfill these needs and may be more likely to overlook warning signs or to accept poor

²⁷ UN Office of the High Commissioner for Human Rights (OHCHR), Recommended Principles and Guidelines on Human Rights and Human Trafficking, May 20, 2002, U.N. Doc. E/2002/68/Add.1. Also available at: <http://www.refworld.org/docid/3f1fc60f4.html>.

working conditions that are often intertwined with trafficking.

Children and youth have the same right to personal security and a decent standard of living as all other Minnesotans. Since youth are particularly susceptible to human trafficking, addressing child poverty should be a priority. Individuals with experiences of child abuse or neglect are overrepresented among youth trafficking victims. Providing safety and stability to children at risk of harm not only helps them in the moment, but also makes them less vulnerable in the future.

State and federal governments have the primary responsibility to protect, respect, and fulfill human rights and thus address the root causes of trafficking. At the federal level, laws that increase opportunities for safe, legal migration by unskilled workers or that allow undocumented immigrants to gain legal status can help prevent trafficking. At the state level, laws that provide greater access to public assistance based on need rather than strict eligibility criteria or that provide effective protection to children at risk of abuse can also help prevent trafficking. Effectively combating trafficking requires a cultural shift away from a society that tolerates poverty and the violation of fundamental human rights.

COLLABORATIVE RESPONSES TO LABOR TRAFFICKING

**ESTABLISHING
A SYSTEM
WHERE TRUSTED
COMMUNITY-BASED
ORGANIZATIONS
SERVE AS
INTERMEDIARIES
REQUIRES
DELIBERATE
EFFORTS TO BUILD
TRUST BETWEEN
INSTITUTIONS THAT
MAY NOT ALWAYS
SHARE THE SAME
PRIORITIES.**

Traffickers purposefully prey on individuals who may be vulnerable precisely because they are not connected with institutions that can protect them. Age, race, ethnicity, language, culture, immigration status, and other factors can inhibit victims from trusting, or even knowing how to contact, service providers and government officials. In turn, that lack of knowledge and trust may make it difficult for service providers and government officials to interact with vulnerable populations and to identify labor trafficking during those interactions.

One of the first steps, therefore, to protecting trafficking victims is connecting them with organizations and government agencies with the training and resources to respond to labor trafficking. No single organization or entity can respond comprehensively to a labor trafficking victim's needs. Communities need to deliberately create systems that make connections if they do not already exist. Ideally, these connections are established before there are identified victims. See Protocol Implementation Worksheet: Identify Resources to Meet Victim Needs on page 62.

Organizations and agencies must develop a comprehensive response to labor trafficking that addresses both immediate safety concerns and long-term needs for stability and justice. Referrals and collaboration are necessary to meet all of the victim's needs, as indicated in the sample diagram on the next page.

SYSTEM RESPONSE ACTIONS

Each community should identify who is best placed to perform each action step. Potential responders include: victim advocates, health care providers, legal services, housing organizations, child welfare agencies, law enforcement agencies, schools, faith communities, and anyone else who identifies or works with a labor trafficking victim. See Protocol Implementation Worksheet on page 61 for a tool to help build an effective response.

IMMEDIATE RESPONSE



Assess safety



Evaluate special needs



Basic needs assessment



Contact victim advocate

SHORT-TERM RESPONSE



Decide criminal justice plan



Mandated reporting for minors & vulnerable adults



Find providers for housing, social services, etc



Secure access to benefits (SSN, immigration status, etc)

LONG-TERM RESPONSE



Pursue criminal restitution & civil compensation



Establish formal collaboration structure



Create plan based on victim's long-term goals



Continue providing services, case management, & advocacy



Ensure family reunification

INVOLVING TRUSTED COMMUNITY-BASED ORGANIZATIONS

Traffickers often target individuals who do not have strong connections to institutions that can protect them or who are from communities that do not have trusting relationships with government agencies. Institutions that work on labor trafficking must form mutually supportive relationships with organizations that occupy trusted positions in their communities. Those relationships can ensure that victims both receive the services they need and feel safe when interacting with law enforcement and service providers.

In some cases, communities may have trusted institutions that already interact with vulnerable populations and where victims feel more comfortable revealing traumatic experiences and seeking assistance. These trusted institutions may not have the capacity or ability to provide many of the services that trafficking victims may need. Instead, those institutions can serve as intermediaries, connecting victims to dedicated anti-trafficking organizations and agencies.

Establishing a system where trusted community-based organizations serve as intermediaries requires deliberate efforts to build trust between institutions that may not always share the same priorities and may face different constraints on their ability to act or on their resources. Criminal and civil enforcement agencies, in particular, should prioritize developing these relationships. Clear policies should be laid out at the start regarding how partners will handle issues such as immigration status, mandatory reporting, coerced criminal acts, and other potential disagreements.

CREATING MULTI-DISCIPLINARY TEAMS

In addition to making individual connections with agencies and organizations, service providers should work together to provide a comprehensive response to labor trafficking. Multi-disciplinary teams (i.e., agencies and organizations from various disciplines working together) are recognized around the world as a best-practice response to human trafficking, and can result in increased victim reporting, cooperation, and satisfaction with services and the criminal justice system. Multi-disciplinary teams can take several approaches, from discussing specific cases, to analyzing best practices and implementing policy changes. There is a need for all forms of multi-disciplinary teams to respond to labor trafficking to ensure that individual victims receive comprehensive services and that agencies and organizations identify and address gaps in their systemic responses.

For labor trafficking responses, multi-disciplinary teams should include, at a minimum, community-based advocates (including housing providers and trusted community-based organizations), health care providers, legal service providers, law enforcement, prosecutors, and child welfare. Teams can also include trafficking survivors and community members, especially from cultural organizations.

In many areas of the state, multi-disciplinary teams already exist to address domestic violence, sexual assault, and sex trafficking, among other things. An initial step that communities can take, even before labor trafficking cases are identified, is to identify which multi-disciplinary teams already exist and in which team or teams labor trafficking may best be incorporated. If communities do not already have teams that can address labor trafficking cases, they should consider establishing them.

No matter what approach multi-disciplinary teams take, successful teams include the same core considerations. When establishing multi-disciplinary teams or incorporating labor trafficking into existing teams, communities can review the following considerations:²⁸

28 Office of Justice Programs, "OVC Human Trafficking Task Force e-Guide: Forming a Task Force," <https://www.ovcttac.gov/taskforceguide/eguide/2-forming-a-task-force/>.

- What role do victims and victim advocacy organizations play? Are these organizations at the core of the collaboration? Are victim concerns reflected in the team's response to labor trafficking? Organizations that provide services to victims should be at the center of these teams to ensure that responses are victim-centered.
- Who should be on the team? In addition to victims and victim advocacy organizations, teams should also include agencies and organizations that interact with labor trafficking victims in criminal, civil, or immigration proceedings, and should identify who within those organizations and agencies should be involved. It is important that leadership of the agencies and organizations invests in these efforts to ensure their active participation in the process and the implementation of shared goals.
- How will the team ensure the continuity of relationships among the agencies and organizations? Agencies and organizations should commit their institution to participating in the team, rather than relying on a single individual to maintain involvement. Relationships among the team members should not depend solely on personal relationships between the representatives. One way to address this concern is to establish a Memorandum of Understanding among the agencies and organizations on the team.
- What are everyone's roles in responding to labor trafficking? What services or actions can the agencies or organizations take? What are each agency's or organization's policies with respect to victims who are not U.S. citizens? What is the conflict resolution process if there is confusion about team member roles? Answering these questions clearly will provide all team members with an understanding of and respect for what other team members can and cannot do and may identify where there are gaps in responses.
- What are the goals of the multi-disciplinary team? Best practice goals for interventions include preventing trafficking, securing victim safety and autonomy, eliminating an offender's opportunity to commit violence, and changing a culture that tolerates violence. The team should establish a clear mission, purpose, and vision for its work.
- Do all team members share the same philosophical framework on the issue? Do team members understand the dynamics of labor trafficking? Do they implement victim-centered and trauma informed practices?
- What are the protocols and rules for the team? For example, will participants be able to share information with other team members? How often will the team meet, and how will it structure the meetings? What are the team's policies regarding immigration status, mandatory reporting, and coerced criminal acts? Will team members keep information and conversations confidential? Team members can create written policies for all of the stakeholders involved.
- How will the team evaluate and assess the system's response? What data will the team collect, and how will they collect it? Are confidentiality agreements needed for the team to review ongoing cases? Teams should envision how they will monitor the effectiveness of their work.

IDENTIFICATION

AGENCIES AND ORGANIZATIONS SHOULD INCORPORATE SCREENING FOR LABOR TRAFFICKING INTO THEIR INTAKE OR ASSESSMENT PROCEDURES.

Connecting victims with people trained and equipped with the tools to recognize and respond to labor trafficking is essential for successful identification. Organizations trained to respond to labor trafficking may not have connections to vulnerable communities, while organizations based in those communities may not have the capacity to address labor trafficking. A successful identification system bridges the gap between trusted communities groups and agencies and organizations that respond to labor trafficking. For more on building systems that can identify and respond to labor trafficking, see Collaborative Responses to Labor Trafficking on page 25.

LAYING A FOUNDATION

All individuals working in agencies or organizations that potentially interact with labor trafficking victims should receive basic training on how to identify labor trafficking and how to refer to available services. This basic training should answer the following questions:

- What is labor trafficking?
- How does it occur?
- Where does it occur?
- How can it be identified?
- How can victims access services?

- What is the current response at the state and local level?
- What are the agency's or organization's internal policies on responding to labor trafficking victims?
- How does trauma affect an individual, and what are trauma-informed practices?

Those who provide direct services to labor trafficking victims should also be adequately trained on the potential criminal and civil remedies, immigration relief, and best practices for interacting with victims. See Protecting and Supporting Victims on page 35.

In addition, agencies and organizations should ensure that all staff are trained for the roles that they serve. Turnover is high in many agencies and organizations, especially among new staff. Even veteran staff members may need refresher trainings if they do not regularly work with labor trafficking cases.

WHO SHOULD BE TRAINED?

Trusted organizations: Faith communities, cultural organizations, immigrant and minority community leaders, libraries, neighborhood centers, homeless and runaway youth programs, schools, worker/labor organizers

Service providers and government agencies: Law enforcement, health care, housing providers, legal aid, child protection, adult protection, county social services, labor enforcement agencies, workforce centers

Organizations present in places where trafficking may occur: Transit companies, code compliance inspectors, public health officials, industry-specific groups such as labor unions and agricultural extension services

CONDUCTING ASSESSMENTS: SELECTING TOOLS

Agencies and organizations should incorporate screening for labor trafficking into their intake or assessment procedures. There is no uniform assessment that fits every organization. Assessments have been developed for certain victim populations, including youth, and particular industries and service providers.²⁹ When adopting an assessment tool, organizations should primarily consider what information they need to provide services to the victims and how best to ensure that victims receive all services that are necessary (which may require collaboration with several agencies or organizations) while minimizing harm to the victim. Victims can be re-traumatized when they must repeatedly share detailed descriptions of their experiences. A best practice is to collect only the amount of information necessary to decide next steps and the possible relief available for the victim.

A simple way to avoid re-traumatization is to use assessments of differing lengths and detail. Organizations should administer an initial shorter screening to determine who should receive a longer assessment or a referral to specialized services where they will conduct a detailed assessment. The Minnesota Department of Health and the Minnesota Department of Human Services are currently preparing a labor trafficking screening tool as part of the grant received from the OVC. Until that specific tool is released, agencies and organizations can use the best practices and resources listed in these protocol guidelines.

a. Identify need for internal or external referral

The goal of an initial screening should be to identify red flags that indicate whether the person may need a more in-depth screening for labor trafficking. An initial screening is not intended to make a definitive determination that a person has or has not experienced labor trafficking. The questions should be short, few in number, easy to understand and answer, and not require details that may be traumatizing for the victim. Ideally they can be added to any existing intake. Victims may also reveal experiences that indicate potential trafficking outside of a formal intake. Staff can use familiarity with the indicators included in an initial screening to recognize those red flags no matter when victims choose to share their experience.

²⁹ See Resource List; Identification/Screening Tools which includes a list of resources specifically designed for potential youth victims.



1. Is someone holding your personal documents for you?
I.D., passport, or papers
2. Does someone else control the decisions you make about your life?
Where you go; where you live; who you talk to; when you see your family; whether you take breaks at work; whether you work when you are sick or injured; or how you spend your money
3. Do you owe money to your boss, the person who hired you, or the person who helped you find the job?
Money is taken directly from your pay to cover a debt or for travel; the amount you owe increases; or the amount you owe does not decrease
4. Are you receiving all your pay?
Not paid at all; not paid on time; not paid as promised; or paid in housing, food, or other things
5. Are you afraid something bad will happen to you or someone else if you leave your work?

IF YOU OR ANYONE YOU KNOW ANSWERED YES TO ANY OF THESE QUESTIONS, CONTACT THE NATIONAL HUMAN TRAFFICKING HOTLINE TO GET HELP NOW.

YOU CAN GET HELP WITHOUT FEARING YOU WILL BE ARRESTED OR DEPORTED.

The self-assessment card available from The Advocates for Human Rights includes examples of questions that could be asked at this stage. Created by a multi-disciplinary working group, the Labor Trafficking Self-Assessment Card provides workers with discreet and easy-to-carry information about labor trafficking.

The card contains five simple questions to help workers assess their situations and determine if they want to seek help. The card also provides the number for the National Human Trafficking Resource Center 24-hour hotline (888-373-7888) that can direct them to help in their area.

This level of screening is useful for most organizations, including:

- Agencies and organizations that come into contact with populations at high risk for labor trafficking, such as youth or immigrants
Examples: cultural organizations, youth after-school programs
- Agencies and organizations that work in industries where labor trafficking can occur
Examples: groups involved in home health care, parks and landscaping organizations
- Organizations that provide services to many different populations, which could include labor trafficking victims, and that need a way to identify individuals who need more comprehensive screenings
Examples: hospitals, schools, law enforcement, housing organizations, legal services

- Organizations that work predominantly with labor trafficking victims but that also receive calls or referrals from others and that need to screen out people who are not victims of labor trafficking

Examples: trafficking assistance program case managers, state labor trafficking service providers

b. In-Depth Intake

This screening gathers in-depth information that can be used to determine whether someone is a labor trafficking victim under federal or state law. This screening would not typically be given during every intake, but would be used only when the screeners identify elements of a client's story that indicate potential trafficking victimization, either because the screeners have already asked basic identification questions or based on their own knowledge of labor trafficking.

An in-depth intake should include questions about any work or services performed by the victim, including formal work in a legal business, informal work such as domestic service, or illegal work. For each instance of work, the interviewer should ask questions about how the person was recruited or hired for the job, the conditions of work, pay, living arrangements, and any threats or abuse by the trafficker.

The key characteristics of this type of assessment are that the questions are not too narrow and capture the wide variety of experiences that fall under labor trafficking. For example, screeners should use a broad definition of "employment" or "work." Victims of labor trafficking in informal or illegal employment may not recognize that they

are engaged in work, and could potentially exclude those experiences from their answers. The assessment should also capture the many ways traffickers can control their victims and focus on the trafficker's actions. People in trafficking situations may not feel they are victims and may not describe the actions of the trafficker as coercive.

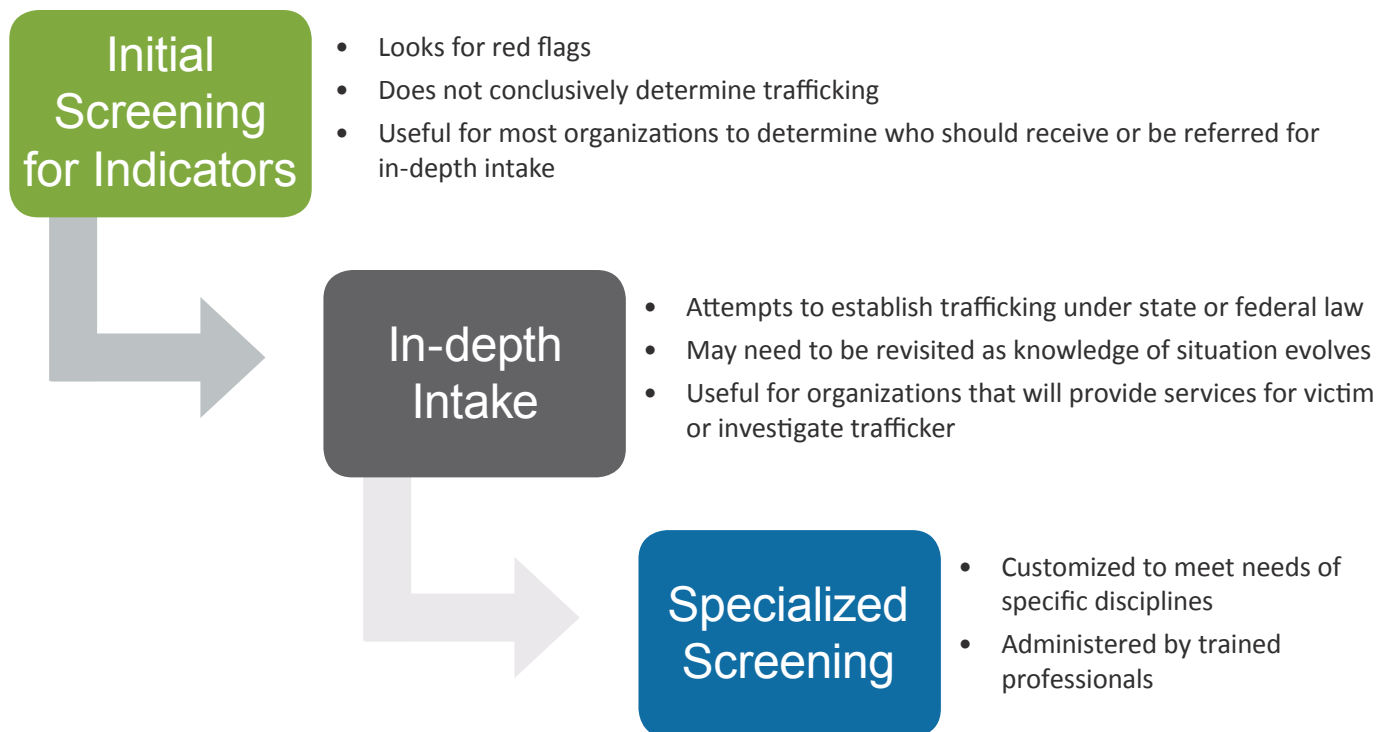
This level of screening is not appropriate for every organization. Only organizations that need detailed information, because they are either providing services for the victim or investigating the trafficker, should collect it. Repeatedly providing this level of information about their experience can re-traumatize victims and should not be required, if possible. People without experience in labor trafficking may also incorrectly interpret the answers, potentially preventing actual victims from receiving assistance.

This level of screening is most appropriate for:

- Organizations that provide services to many different populations and need to identify labor trafficking victims to provide specialized treatment and referrals to victims.
- Organizations that work predominantly with labor trafficking victims and need to know the details of the trafficking to provide targeted treatment, advocacy, and support.
- Organizations that investigate trafficking that need details to investigate and corroborate.

c. Specialized Assessment

This level of screening is specialized by discipline to meet specific legal or other guidelines. Typically, this type of screening is administered only by trained professionals and has been customized to meet their precise needs. Examples include screening for T-visas in immigration, forensic interviews with children, mental health treatment, and law enforcement investigations.



CONDUCTING ASSESSMENTS: BEST PRACTICES

Labor trafficking victims may have experienced trauma and various forms of abuse; those conducting screenings should follow best practices for working with trauma victims. These best practices include:

Environment – ensure the client is comfortable and feels safe during the screening by: meeting any basic needs for food, water, or clothing; holding the interview in a non-threatening location; and providing privacy.

Timing – respect that victims may need time and a chance to build trust before offering detailed information about their trafficking experience. Consider beginning with general conversation first and moving to screening questions later, perhaps even at later meetings after a relationship develops. Some services and forms of relief are available only after a victim has completed a thorough screening, which must be balanced against allowing clients time to feel safe and avoiding re-traumatization. In some cases, victims may want to share their entire experience initially. Be guided by their desire when determining how much information to gather.

Role – identify who is best suited to build rapport with victims so they can most easily share traumatic experiences. Consider who has the capacity to devote the necessary time to the relationship and who will be involved with victims going forward to minimize the number of times they have to tell their stories. Victims may disclose their experiences to the people they know best, not necessarily the people best suited to determine whether they have been trafficked. All staff should understand the red flags for trafficking so that victims can receive assistance even when they do not disclose their stories to a trafficking expert.

Confidentiality – tell the victim how the information from the intake will be shared. If a case meets mandatory reporting requirements, disclose this to victims, even though it may inhibit them from telling their stories. In other cases, sharing information from the interview is not mandatory but could help victims receive assistance from partner organizations and agencies without having to repeat their stories multiple times. A best practice is for agencies to be transparent with victims on how information may be used and to allow victims to decide what information they will disclose. See *Protecting and Supporting Victims: Confidentiality* on page 35.

Screening in vs. screening out – recognize that many workplace situations are ambiguous. Trafficking is complex and may be difficult to identify. Victims may also reveal information progressively as they become comfortable; situations initially identified as labor exploitation might be later confirmed as trafficking. Depending on the details, victims may be recognized as trafficking victims eligible to receive one type of assistance but may not meet the criteria for other services. Given the complexity of trafficking, a best practice is to not rely exclusively on the results of a screening to determine whether someone is a victim of labor trafficking.

Recognizing trauma – understand that victims may not tell a consistent story about what happened to them as a result of the trauma they experienced. Trauma may impair memory and recall of events, especially peripheral details. Instead of viewing inconsistencies as potential evidence of a false claim, recognize that they are common in narratives of traumatic events.

Managing expectations – the very fact of being screened for trafficking can lead some victims to assume they will be able to access certain benefits or assistance. Others may develop those expectations based on information shared with them by the person administering the assessment, in an effort to explain why the victim should participate in the assessment. When administering an assessment for trafficking victimization, organizations should consider how to manage victim expectations. Victims should understand that help may be available, but that there may also be barriers or waiting periods to access that help.

Considerations for youth – most of the considerations that apply to any victim also apply to youth. With youth victims, any screening should be conducted in age-appropriate language. Younger victims, in particular, may have difficulty recalling all the details of an event, but are also susceptible to providing less accurate information when pressed to answer suggestive questions. In these cases, it may be appropriate to consult with organizations that have expertise in child forensic interviews, such as child advocacy centers.

DETERMINING NEXT STEPS

If an assessment identifies a potential trafficking victim, the next step is to evaluate what services and support the victim may need, and whether the screening organization will provide services directly or refer to others. Completing the Protocol Implementation Worksheet on page 61 can help you identify who to contact and collaborate with in your local community. Victims under age 18 and foreign-born victims may need specialized services; see *Working with Victims under the age of 18* on page 44 and *Working with Foreign-born Victims* on page 48.

Agencies and organizations should also consider having services available for ambiguous cases where individuals are not clearly victims of trafficking. Labor trafficking is complex, and details that confirm trafficking may not be revealed until victims feel safe or share details that did not seem important to them at first. Unidentified trafficking victims may also judge whether to come forward based on what they see happen to other exploited workers, even if those other workers are not technically trafficking victims.

PROTECTING AND SUPPORTING VICTIMS

SERVICES AND REFERRALS SHOULD BE AVAILABLE TO VICTIMS REGARDLESS OF WHETHER THE VICTIM REPORTS THE CRIME TO LAW ENFORCEMENT.

At the core of a victim-centered approach is responding to the victim's needs and concerns. After being identified as a victim or leaving a trafficking situation, victims of labor trafficking may have many immediate needs, from basic food and housing to complicated legal matters. Common needs and concerns are identified in this section, and agencies and organizations should provide services and collaborate with other agencies and organizations to assess and address these and other victim needs and concerns. As victims begin to rebuild their lives, their needs may shift, but continued support is essential to prevent them from becoming vulnerable to trafficking again. Focusing on the victim's needs and hearing their concerns can empower them to exercise their rights and may encourage them to participate in investigations and prosecutions. Services and referrals should be available to victims regardless of whether the victim reports the crime to law enforcement.

CONFIDENTIALITY

Labor trafficking victims may have many reasons for not sharing information about their trafficking. For example, they may fear retaliation by traffickers against them or their families, deportation, or charges for crimes they were forced to commit while trafficked. Confidentiality can be an important factor in helping labor trafficking victims access the services they need.

Depending on their roles, individuals who interact with victims of labor trafficking may have very different confidentiality and disclosure obligations. Even those who appear to have similar roles (e.g., a county attorney's victim services staff and community-based victim advocates) may have different obligations.

Certain professionals cannot disclose information revealed to them by patients or clients, except as provided by law (e.g., attorneys, doctors). Many of these same professionals are also granted the right not to testify or disclose documents in court proceedings without the client or patient's consent. These protections, however, are not always absolute. Some professionals who work with youth are legally required to report knowledge or reasonable belief that a child is being or has been neglected or abused in the last three years. Similarly, some professionals who work with vulnerable adults must report knowledge or reasonable belief of abuse, neglect, or financial exploitation.

Confidentiality protections and disclosure requirements can be grouped into four general categories listed below, with examples of the types of service providers or system actors. This list is not exhaustive, and those referring labor trafficking victims to another organization or agency should confirm the referral's confidentiality and disclosure requirements and share that information with the victim.

CONFIDENTIAL COMMUNICATIONS, NO MANDATORY REPORTING

Attorneys and their employees cannot be compelled to disclose communications made by a client in the course of professional duties without the client's consent.

CONFIDENTIAL COMMUNICATIONS, MANDATORY REPORTING

The following individuals cannot be compelled to disclose information obtained from a patient in their professional capacity without the patient's consent, but they must report abuse or neglect of children or vulnerable adults:

- Licensed physicians, registered nurses, psychologists, consulting psychologists, and licensed social workers;
- Licensed chemical dependency counselors, except if the communications reveal the contemplation or ongoing commission of a crime.

Sexual assault counselors, except in investigations or proceedings related to neglect or termination of parental rights, can have confidential communications, but they are required to report child abuse or neglect in certain circumstances.

NO ASSURED PRIVILEGE, MANDATORY REPORTING

Some law enforcement officers will not maintain the confidentiality of communications with victims, and they are mandated reporters.

Victim services staff in county attorneys' offices or other government agencies disclose information to prosecutors.

Youth workers who are not licensed social workers are mandated reporters and do not have legally protected confidential communications, but they may have organizational policies against any voluntary breach of confidentiality.

NO ASSURED PRIVILEGE, NO MANDATORY REPORTING

A worker or immigrant rights activist does not have legally protected confidential communications, but is not a mandated reporter.

CULTURALLY-APPROPRIATE PRACTICES

In addition to following trauma-informed practices (e.g., Conducting an Assessment: Best Practices on page 33), organizations and agencies should also consider a victim's culture and incorporate culturally-appropriate practices. These can include:

- Asking victims about their cultural practices and preferences. What may be viewed as respectful in one culture may be seen differently in another. For example, maintaining eye contact may be taken as a form of respect in one culture, but it may make individuals uncomfortable if that is not their cultural practice.
- Discussing treatment approaches. For example, many Western-style counseling practices may not be familiar to certain victims; group therapy may be more common and expected.
- Recognizing that different cultures may react to trauma in different ways, and these are important factors to incorporate into an organization's or agency's assessment. These considerations should be incorporated in an analysis at every step of working with the victim, from initial identification to long-term treatment.
- Understanding how the victim perceives the role of the agency or organization. For example, in some cultures, there may be a distrust of law enforcement, but respect and regard for doctors.
- Recognizing that victims may not want to engage with certain aspects of their culture because their trafficker manipulated cultural norms and values to control them.

ACCESSIBILITY

Individuals and organizations providing services to labor trafficking victims should review their policies and procedures for their impact on victims with disabilities. Important questions to cover include:

- Is our organization physically accessible to victims with disabilities?
- What kind of assistive technology might we need?
- Do we need training to distinguish the impact of trafficking victimization from underlying mental or intellectual conditions?
- Can we accommodate victims with complex communication needs?
- What organizations can we work with to address some of these needs?

Considering these questions in advance and having a plan in place can reduce the risk that the victim will suffer additional trauma as part of the reporting and investigation process.

VICTIM ADVOCACY: WORKING WITH COMMUNITY-BASED ADVOCATES

Labor trafficking victims often need significant support when exiting a trafficking situation and afterward, as they navigate supportive services and potential criminal and civil cases against the trafficker. They have often been denied

the ability to make decisions about their lives while under the control of the trafficker, making it even more difficult for victims to identify and choose options among the many different agencies and organizations they may need. A best practice is to involve a community-based victim advocate as early as possible, including during any initial encounters with law enforcement, to support the victim.

The key characteristic of community-based victim advocates is that they prioritize the victim's needs over other objectives, such as prosecuting the offender. Some victim advocacy organizations have support available 24 hours a day through a hotline or on-call advocates, which can help victims who may not be able to safely contact anyone during business hours when they are working for the trafficker.

In addition to victim advocacy organizations, Minnesota receives federal funds to provide services for youth victims of labor trafficking, including legal assistance, counseling, and case management. These organizations can present all the options available to labor trafficking victims and help connect them with the resources they need. See Resource List on Minnesota's Safe Harbor Expansion Grantees.

SAFETY PLANS

After identifying labor trafficking victims, organizations should assess their safety. In some cases, it may not be safe for them to return to their traffickers and they will need immediate referrals to services or law enforcement. In other cases, victims may not be ready to leave their traffickers, but can take steps to protect themselves while they plan their exits. As part of the safety planning process, the identifying organization may also want to connect victims to advocates or specialists in labor trafficking who can explain their options so victims can make the best decisions about their next steps.

Safety plans help reduce the victims' risk of future harm and increase their safety and the safety of those assisting the individuals. Agencies and organizations should assist victims with preparing a safety plan or, if they are not able to assist, refer them to an organization or agency that can help prepare one.

Safety plans identify the causes and contributing factors of potential harm to victims or their families and identify steps to take in response to situations and circumstances. Considerations vary based on the victim's situation, but safety plans:

- Are personalized, realistic, involve friends and family that the victim trusts, and cover every aspect of the victim's life.
- Focus on improving safety in the victims' environment (e.g., are they still living with the trafficker or have they found new housing).
- Assess the current risk and identify current and potential safety concerns.
- Create strategies for avoiding or reducing the threat of harm.
- Outline concrete options for responding when safety is threatened or compromised, including:
 - Determining who victims will call in an emergency and memorizing those phone numbers or preparing a small card listing the numbers
 - Identifying where victims will go if there is an emergency
 - Identifying what victims will do if the trafficker contacts them after they leave the trafficking situation (e.g., retain messages, contact the police or a victim advocate), and
 - Assessing how to handle safety issues when victims have family or friends, including those in another country, who are at risk of harm from the trafficker.

- Are re-evaluated at various stages of the trafficking situation (e.g., while victims are in the situation, when they are leaving, and after they have left).
- Reflect changing circumstances in the victim’s life and changes in support or services. For example, victims may have felt safe with a particular situation at the time of preparing the safety plan, but they may not feel safe in that same situation in the future.
- Address what victims will do in response to flashbacks or triggers, including those in any new workplace.
- Strategize how to address and replace technology, such as cell phones, that the trafficker provided or had access to (e.g., leaving phones in places victims are allowed to be or providing phones just for calling 911).

Specifically for labor trafficking victims who are not U.S. citizens, safety planning should address what to do if they are arrested or detained by ICE. Those working with non-U.S. citizen populations can develop safety plans that include:

- Identifying and memorizing the phone number for an emergency contact in the United States.
- If they have children, providing authorization for an emergency contact to make medical and legal decisions for their child.
- Contacting or memorizing contact information for legal service providers who can assist with immigration and T or U visas.

Youth victims may have been more vulnerable to trafficking because they were homeless or runaways. Youth may return to homelessness after leaving a trafficking situation, especially if there is a lack of safe housing options. Safety plans with homeless or runaway youth victims should also:

- Assess the availability and safety concerns of housing options.
- Identify ways to protect the youth’s physical and emotional safety on the street if housing is not available or is only available for part of the day.

HOUSING

Housing is a crucial component of safety for trafficking victims; victims frequently depend on their traffickers for shelter and need alternatives to be able to exit the trafficking situation. Having safe and stable housing can also help victims avoid being trafficked again in the future because some victims enter trafficking situations to secure shelter. Interviewees reported, however, that there are few options when it comes to housing for labor trafficking victims. See Sector-Specific Protocols: Housing on page 84 and the Protocol Implementation Worksheet on page 61 on how to develop a list of local housing referrals.

Minnesota has a serious shortage of housing at all levels, including emergency shelter, transitional housing, long-term supportive housing, and affordable permanent housing. Victims with certain vulnerabilities can be difficult to house given their need for specialized care, such as youth with intellectual disabilities, mental illness, or chemical dependency. Men have an especially challenging time finding secure emergency shelter. Victims may have no job or source of income after leaving the trafficking situation, making it even more difficult to secure a place to live. Foreign national victims may not have work permission even if they are able to find jobs. The cash assistance available to certain trafficking victims is typically not enough to rent an apartment. There are no dedicated shelters for labor trafficking victims in Minnesota.

With all these barriers, it is important for organizations and agencies to know what options exist in their areas and discuss their responses with those housing organizations before a labor trafficking victim is identified. If safe housing is not immediately available, victims may not leave their traffickers or may disappear after identification, without receiving any assistance.

Organizations and agencies working with victims will need to evaluate different housing options. Not all options are available in all locations around the state, which makes placement difficult. Before arranging for housing in one of these locations, however, the organization or agency should discuss with the victims whether they would be comfortable in the type of housing and with the services provided and discuss safety and security with the victim.

a. Homeless Shelters

Homeless shelters are typically open to anyone needing shelter and can house trafficking victims when space is available. Minnesota has homeless shelters that are available specifically for homeless youth up to age 24. The structure of homeless shelters, however, where many people share space, can make trafficking victims feel unsafe. In some cases, traffickers have recruited victims directly from homeless shelters, which contributes to eroding victims' sense of safety. Shelters may also have rules that negatively affect trafficking victims. For instance, some shelters require residents to leave during the day, which may make victims feel unsafe and exposed to potential retaliation from their trafficker. See the discussion of safety considerations in Sector-Specific Protocols: Housing on page 84.

b. Hotel Vouchers

Some agencies use hotel vouchers in addition to or in place of homeless shelters. While hotel vouchers can give trafficking victims greater privacy, they do not address safety concerns and are an expensive option intended for short-term use only.

c. Safe Harbor Housing

Several organizations throughout Minnesota provide emergency, transitional, and permanent housing for sexually exploited or trafficked youth. This housing may be appropriate when labor trafficking occurs alongside sex trafficking or sexual exploitation.

d. Domestic Violence and Sexual Assault Shelters

These shelters exist to provide shelter for domestic violence and sexual assault victims who have an urgent need for safe and secure shelter. They tend to have higher levels of security, but may not meet trafficking victims' other needs, such as language access, or have experience with labor trafficking. Many of the shelters are dedicated to serving women and may not have a place to house men. Some shelters also have length-of-stay limitations that do not offer enough time for trafficking victims to resolve their situations and secure permission to work, public benefits, back wages, or financial restitution.

e. Foster Care and Residential Facilities

Children may be placed in family foster care or residential facilities if they cannot safely remain in their family's home. Minnesota's Department of Human Services supervises the county-run foster care system and operates residential and treatment programs. Foster care is provided in emergency shelter homes and various types of family foster homes. Residential facilities can provide mental health or chemical dependency treatment.

f. Transitional, Long-term Supportive, or Subsidized Housing

Trafficking victims frequently need assistance with housing for longer periods of time given the complexity of trafficking cases. Transitional or permanent subsidized housing can provide stability while trafficking victims rebuild their lives, but even with assistance, these units are often financially out of reach. There is also a serious shortage of subsidized housing, and victims may need to wait months or even years to get an apartment.

g. Housing Assistance

In some cases, victims may already have housing but may not have the income to remain there after exiting the trafficking situation. In cases where victims want to stay in their current housing, organizations should consider providing support for expenses such as rent, changing locks, home maintenance, and utilities. The Safe at Home program, administered by the Minnesota Secretary of State, can help victims stay safe in permanent housing by

keeping their addresses confidential.³⁰ If there are specialized services available to people in shelters, consider also making them available to victims who live independently.

TRANSPORTATION

Labor trafficking victims need access to transportation in their daily lives, and a lack of transportation options can prevent them from obtaining employment or accessing services. Victims may not be able to afford a car to get to work. Even if they have the money to purchase one, they may not be able to obtain a driver's license, either because of age (if they are under the age of 16) or immigration status. Public transportation may not solve the problem either. Rural areas in Minnesota may have no or limited public transportation options. Even in metropolitan areas, public transportation may be difficult to navigate or not reach all parts of the city. Trafficking victims may not have used public transportation on their own before because they were forced to rely on their trafficker, and they may need support before they are comfortable using the system alone.

Organizations can help trafficking victims overcome this barrier in many ways. Some organizations provide public transportation cards to their clients or have volunteers who can provide free transportation. At a minimum, anyone who works with a labor trafficking victim can help explain the local transportation system.

LEGAL NEEDS

Labor trafficking victims may have a variety of legal needs to protect and enforce their rights. When labor trafficking victims are identified, they should receive immediate referrals to legal services, whether or not they have decided to report the crime to law enforcement.

Because of the array of legal needs, it is unlikely that one organization or legal service provider will be able to meet all needs. Multiple referrals will likely be necessary, and victims may benefit from a legal case manager to coordinate efforts. These legal referrals include:

Immigration – When victims are not U.S. citizens, they should be provided with immediate access to an attorney who specializes in immigration law. This attorney can help them identify and request various forms of relief, including a T visa. See *Working with Foreign-Born Victims: Potential Forms of Immigration Relief for Labor Trafficking Victims* on page 49.

Criminal defense – Traffickers may have forced the victim to commit crimes as part of the trafficking. Victims may face criminal charges or have a criminal record from earlier arrests and convictions. Victims may want to pursue expunging or vacating their criminal convictions.

Employment law – Although victims can report employment law violations without legal representation, laws and regulations are complicated. Assistance and explanation of the system and process are often necessary so victims know their rights and options. An employment law attorney can advise victims on their rights and offer them guidance on pursuing a claim privately or making a complaint to a federal or state agency. See *Offender Accountability: Civil and Administrative Remedies* on page 55.

Criminal restitution – If the trafficker is convicted of a crime, victims are entitled to restitution. An attorney can help the victim calculate the correct amount of restitution and advocate with the prosecutor to request it.

Civil litigation – Victims can bring civil actions against traffickers under both state and federal law, regardless of whether the trafficker is prosecuted criminally. These actions can help victims receive compensation even when prosecutors do not file charges or when criminal restitution does not cover all of their losses.

³⁰ Office of the Minnesota Secretary of State, "Safe at Home: Minnesota's Address Confidentiality Program," <http://www.sos.state.mn.us/safe-at-home/about-safe-at-home/>.

Family law – Victims may wish to request a civil order for protection or harassment restraining order, especially if there is no criminal proceeding or there are no restraining orders issued by the criminal judge. Victims may also need help with divorce, custody, guardianship, or adoption.

Youth-specific proceedings – Youth victims may need representation in guardianship proceedings or school-related issues (e.g., discipline or suspension). Courts appoint a guardian ad litem to represent the best interests of the child in juvenile or family court proceedings.³¹ Children age 10 and older must receive their own court-appointed attorney in addition to a guardian ad litem in juvenile court proceedings or where they are the subject of a petition for child protection or services.³²

Public benefits access – Labor trafficking victims may be eligible for federal or state public benefits and may need assistance to access them.

Housing – Labor trafficking victims may face eviction proceedings or other legal issues.

Medical – Victims may need assistance in seeking fee waivers for medical care.

Identity recovery – Victims may no longer possess their identification documents and need legal assistance to re-establish their identities.

Worker’s compensation – Labor trafficking victims who suffered workplace injuries may want to determine if they are eligible for worker’s compensation benefits.

Probation – Labor trafficking victims on probation for other crimes may need assistance to avoid violating probation or representation if they have violated probation.

Trafficking victims may not be able to afford private attorneys. Some free or low-cost legal assistance organizations can provide an initial assessment and referral even if they cannot fully represent the victim. For a listing of Safe Harbor Expansion legal service providers that work with labor trafficking victims, see Appendix C: Labor Trafficking Service Providers.

PHYSICAL HEALTH

Labor trafficking can inflict significant harm on victims or trigger serious physiological responses. Accordingly, victims must be able to access health care to address any illnesses, injuries, or conditions that may need treatment. For example, victims may want to receive substance abuse treatment if traffickers forced or coerced the use of drugs, or alcohol or if victims misuse these substances in response to trafficking trauma. Victims often work in unsafe conditions, and they may need medical care for workplace injuries and chemical exposures.

Victims may face significant financial barriers in accessing medical care. They are unlikely to have health insurance, whether public or private. For victims who qualify for public health insurance, the process of enrolling can take time, which leaves them unable to access care for weeks. Some victims are not eligible for any kind of subsidized health insurance.

MENTAL HEALTH AND COUNSELING

Trafficking can also severely impact mental health, which can contribute to post-traumatic stress disorder, depression, anxiety, and eating disorders. Victims may need or request counseling or therapy as part of their health treatment after trafficking. When finding mental health services, one important consideration is whether the provider has training in working with trafficking victims or people with severe trauma. Trafficking victims may have reactions such

31 Guardian ad Litem Board, “Role of the Guardian ad Litem (GAL),” <https://mn.gov/guardian-ad-litem/program-information/role.jsp>.

32 Hearing, Minn. Stat. § 260C.163, subd. 3(d) (2017).

as trauma-bonding with their trafficker that require specialized care. Trafficking victims may also have different backgrounds that require culturally sensitive approaches to therapy, including a greater emphasis on group therapy or the inclusion of traditional spiritual practices.

Unfortunately, there is a shortage of therapists and counselors in Minnesota who can provide specialized mental health services, especially in rural areas of the state. Identifying both local resources and the location of more specialized services in advance can ensure victims get help faster.

As with medical care, a lack of insurance can be a barrier to receiving mental health treatment or counseling. In some places, counseling services are available only to victims in shelters or secure housing, locations that may not be suitable for all victims. Other barriers for youth may arise if parents will not authorize the services.

EDUCATION

Any response should include options for victims to continue their education so that they are better positioned for employment and less likely to be trafficked again. Youth victims of labor trafficking may have been removed from or fallen behind in school. Minors under age 17 are required to attend school and should be enrolled in a program that meets their educational needs. Youth between ages 16 and 21 are eligible for free public education, including day and evening adult basic education classes that allow the student to work. Labor trafficking victims over the age of 21 may want to enroll in English language classes, trade education, GED programs or higher education, but they will face challenges in paying for classes.

Agencies and organizations can provide assistance to victims in a variety of ways as they return to school, from helping to complete enrollment or financial aid paperwork, to assisting with applications, and providing tutoring or language assistance.

EMPLOYMENT

Victims may lose their employment or income after reporting trafficking. Victims often want to resume earning income as soon as possible to rebuild their lives, especially if they are supporting family members. Organizations and agencies, including labor unions, can provide job search and placement assistance for labor trafficking victims. Ongoing collaborations and relationships with employers can identify appropriate and safe employment opportunities. Employers may need to be advised on keeping information about their new employee confidential as part of safety planning.

Labor trafficking victims who are not U.S. citizens may be unable to obtain another job unless they receive work authorization through the immigration process. Youth may need additional assistance with securing employment given a lack of work history and can benefit from job training programs and apprenticeships.

As with other victim-centered services, individuals should have input on whether they are comfortable in the type of employment offered and asked whether they have any safety or other concerns (e.g., if the trafficking situation involved similar work). Best practices also include comprehensive services in connection with employment, recognizing that victims may also need assistance with transportation and child care. If there is a high potential for re-traumatization or victimization, the organization or service provider should seek other employment or self-employment opportunities.

WORKING WITH VICTIMS UNDER THE AGE OF 18

**AGENCIES AND
ORGANIZATIONS
SHOULD
UNDERSTAND WHAT
THEIR OBLIGATIONS
ARE WITH RESPECT
TO OBTAINING
CONSENT TO
PROVIDE SERVICES
TO MINORS AND
ESTABLISH POLICIES
REGARDING VICTIM
CONFIDENTIALITY.**

Working with minor victims of labor trafficking requires additional considerations. These considerations may vary depending on the youth's age, but youth victims should be provided with the ability to make decisions that are developmentally appropriate (e.g., a 17 year old can make different decisions than a 9 year old).

Federal law differentiates between minor and adult victims in trafficking crimes. Youth under the age of 18 are not required to cooperate with law enforcement in the investigation of crimes to receive access to services under the Trafficking Victims Protection Act. See *Working with Foreign-Born Victims: Foreign National Eligibility for Benefits* on page 50.

International best practices show a growing acceptance of a presumption of age in cases involving children. Under this presumption, a victim who may be a child is treated as a child, unless or until another determination is made.³³ Some victims of labor trafficking may not know their age or may have been directed by traffickers to lie about their age. If a victim's age cannot be immediately verified, agencies and organizations should consider applying this presumption to help victims qualify for assistance and services available to minors until their ages can be confirmed.

Many agencies and organizations have heightened reporting requirements when working with minors, which should be disclosed to the youth. Under Minnesota law, those who are engaged in "the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment,

³³ Office of the United Nations High Commissioner for Human Rights, *Human Rights and Human Trafficking: Fact Sheet No. 36* (New York & Geneva: United Nations, 2014). Also available online at http://www.ohchr.org/Documents/Publications/FS36_en.pdf.

child care, education, . . . or law enforcement” are required to report when they know or have a reason to believe that a child is being neglected or physically or sexually abused,³⁴ which are often components of labor trafficking. Agencies and organizations must be aware of their reporting requirements and explain them to victims, so that the youth are able to decide what they want to share with the service provider.³⁵

Agencies and organizations may also need parental consent to provide services or housing to youth under 18 years old. With limited exceptions, medical and mental health care providers are required to inform parents about services provided to their minor children, and parents can receive copies of the medical records. In some cases, parents may be culpable in the trafficking. Service providers should be aware of this possibility so they can appropriately investigate and provide additional safeguards for the minor. For example, if it is impractical or impossible to obtain consent for the services, agencies and organizations can request consent from child welfare workers.

Youth under age 18 may consent to medical treatment under certain exceptions, including seeking emergency care if their life or health is at risk if the treatment is delayed,³⁶ requesting medical or mental health services to diagnose and treat drug or alcohol dependence issues, and if they are living separately from parents or guardians and managing their own finances.³⁷ Agencies and organizations should understand what their obligations are with respect to obtaining consent to provide services to minors, and they should establish policies regarding victim confidentiality.

34 Reporting of Maltreatment of Minors, Minn. Stat. § 626.556, subd. 3 (2017).

35 See section on Confidentiality.

36 Emergency Treatment, Minn. Stat. § 144.344 (2017).

37 Living Apart from Parents and Managing Financial Affairs, Minn. Stat. § 144.341 (2017).

WORKING WITH VULNERABLE ADULTS

**A TRAFFICKER
MAY DEVELOP A
RELATIONSHIP
WITH THE VICTIM
AND THEN USE
THAT POSITION TO
EXTRACT SERVICES
FROM THE VICTIM.**

Vulnerable adults have specific protections under Minnesota law that can encompass labor trafficking. “The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult’s will to perform services for the advantage of another” is considered both a form of abuse and a form of financial exploitation,³⁸ regardless of whether the trafficker is a caregiver for the victim.

Under Minnesota law, vulnerable adults are defined as any person 18 years of age or older who either: 1) is a resident of a facility or receives certain types of licensed mental health care, home health care, or personal care assistance services; or 2) “possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction” that impairs their ability to care for themselves and to protect themselves from maltreatment.³⁹ Maltreatment includes physical, mental, or sexual abuse, financial exploitation, and neglect.⁴⁰ That impaired ability to protect themselves from maltreatment puts vulnerable adults at high risk of labor trafficking. Vulnerable adults may also face significant barriers to accessing services. Organizations should evaluate how to improve their ability to serve vulnerable adults. See Protecting and Supporting Victims: Accessibility on page 37.

Trafficking victims who are vulnerable adults may be eligible for adult protective services from county agencies. Minnesota has a centralized, common entry point for reporting suspected abuse, neglect, or financial exploitation of vulnerable adults – the Minnesota Adult Abuse Reporting Center (MAARC) – operated by the Commissioner of Human Services. MAARC includes a toll-free phone number for the public operated 24 hours a day

38 Definitions, Minn. Stat. § 626.5572 (2017). Financial exploitation expands the definition to include services “for the profit” of another.

39 Definitions, Minn. Stat. § 626.5572, subd. 21 (2017).

40 Vulnerable Adult Act, Minn. Stat. §626.557.

and seven days a week, and a web-reporting system designed for mandated reporters⁴¹ who are required to report suspected maltreatment immediately. Reports to the MAARC system are referred to a designated investigative agency and for emergency adult protective services, if needed.

County social services will be the lead investigative agency when the allegations involve self-neglect or non-licensed facilities or services.⁴² Suspected criminal activity, including labor trafficking, is immediately referred to law enforcement for criminal investigation. A good practice is to coordinate interviews and other evidence gathering for these civil and criminal investigations to reduce trauma for the victims.

County social services are also responsible for offering emergency and continuing adult protective services. Adult protective services can help victims obtain restraining orders against perpetrators and offer referrals for care, services, and guardianship to prevent further maltreatment.

To ensure that vulnerable adults who are victims of labor trafficking receive all the benefits and protections to which they are entitled, the designated investigative agencies should explicitly screen for labor trafficking during intake and investigation. Investigators should evaluate existing standards for identifying abuse and financial exploitation to see if they include potential red flags for labor trafficking. These can include traffickers taking the victim's Social Security benefits, forcing the victim to work for them, or financially benefiting by forcing the victim to receive housing or other services from them. Cases that initially present as a type of financial abuse should be screened further when indicators of trafficking are present. Investigative agencies should also be aware that other allegations, such as sexual, physical, or emotional abuse, may need to be evaluated for potential trafficking.

One challenge is determining when vulnerable adults are performing services against their will. A trafficker may develop a relationship with the victim in which the trafficker acts as a friend, romantic partner, protector, or mentor, and then uses that position to extract services from the victim. Vulnerable adults may have added difficulty in recognizing this manipulation tactic and therefore claim that they have consented to whatever services the traffickers are having them perform. Compounding this difficulty, vulnerable adults may choose to work for less than minimum wage because earned income can reduce disability benefits.

Another consideration when working with vulnerable adults is balancing confidentiality with mandatory reporting requirements. As with minor victims of trafficking, mandated reporters should disclose what they will be required to report and understand that the victim may avoid answering questions because of the reporting obligation. (See *Protecting and Supporting Victims: Confidentiality* on page 35).

41 Mandated reporters include professionals engaged in the care of vulnerable adults, licensed health professionals, educators, social workers, therapists, vocational rehabilitation employees, and law enforcement.

42 Other designated agencies include the Minnesota Department of Health, Office of Health Facility Complaints, for allegations involving hospitals, nursing homes, assisted living or home care agencies, and the Minnesota Department of Human Services for allegations involving adult foster care, group homes, or services that the Department licenses. <https://mn.gov/dhs/people-we-serve/seniors/services/adult-protection/contact-us/>.

WORKING WITH FOREIGN-BORN VICTIMS

**ICE VIGOROUSLY
APPREHENDS
SUSPECTED
UNDOCUMENTED
IMMIGRANTS IN ANY
PLACE WHERE IT
ENCOUNTERS THEM,
WHICH DIRECTLY
UNDERMINES
TRAFFICKING
PREVENTION AND
IDENTIFICATION BY
DETECTING VICTIMS
FROM REPORTING.**

Foreign nationals are at high risk for labor trafficking for multiple reasons, including immigration status, language barriers, unfamiliarity with the U.S. legal system, and fear of authorities. Working with foreign national victims requires addressing those factors to help victims rebuild their lives.

IMMIGRATION ENFORCEMENT

Many foreign nationals fear that contact with any part of the government, or even any public service provider, may result in deportation. Under current policy, Immigration and Customs Enforcement (ICE) vigorously apprehends and detains suspected undocumented immigrants in any place where it encounters them, creating a real fear of being in public spaces, including courthouses. This fear directly undermines trafficking prevention and identification by deterring victims from reporting. Agencies and organizations that work with labor trafficking victims should ensure that the referrals they make and the information they share does not inadvertently expose their clients to immigration enforcement. Clarify the organization's or agency's policy on sharing information with ICE before making the referral. Those who do not regularly work with foreign-born victims can contact the organizations listed in the Appendix C: Labor Trafficking Service Providers for assistance in identifying safe referrals for victim services.

Safety planning for foreign-born victims should also include immigration considerations. For instance, ICE has sometimes apprehended immigrants at courthouses. Victims may need accommodations to avoid being in spaces where ICE is known to operate. See *Protecting and Supporting Victims: Safety Plans* on page 38.

Government agencies can counter the fear of immigration enforcement to some extent by adopting and widely promoting clear policies that prohibit forms of cooperation with immigration enforcement that may result in removal. The extent to which agencies can hold victim identity and immigration status confidential varies, and public messages should be very clear about the kind of information that is collected and under what conditions. Government agencies that share geographical or topical jurisdictions may want to coordinate their policies; victims will not always distinguish between an agency with a highly protective policy and one that directly cooperates with ICE when they both operate in the same area.

CHARACTERISTICS OF EFFECTIVE SEPARATION POLICIES

- Prohibit using local resources on the enforcement of civil immigration law
- Do not detain individuals on the basis of ICE hold requests or notify ICE of release dates
- Require ICE to provide a criminal warrant or one signed by a judge before cooperating with enforcement requests
- Share only the minimum legally required information
- Do not collect information on immigration status unless necessary under the law
- Do not provide ICE agents access to jails either in person or on the phone
- Do not contract with ICE to provide bed space in jails or local law enforcement assistance with enforcing immigration law
- Do not use ICE or Customs and Border Protection (CBP) as interpreters
- Provide accountability by requiring reports on local government agency interactions with ICE¹

¹ Immigrant Legal Resource Center, "Local Options for Protecting Immigrants" (2016), <https://www.ilrc.org/local-options>.

Agencies and organizations may also consider reaching out to the local consulate of the victim's country of origin to identify if the consulate provides services and support.

POTENTIAL FORMS OF IMMIGRATION RELIEF FOR LABOR TRAFFICKING VICTIMS

Immigration status is a primary concern for many foreign national victims. Frequently, traffickers exploit victims' immigration status as a way of keeping them trapped. This is true of both undocumented immigrants and immigrants legally in the United States. Traffickers may sponsor their victims for temporary or permanent visas and then use their control over the immigration process to threaten their victims. Even when traffickers are not directly responsible for a victim's immigration status, they can use the high levels of fear and uncertainty about immigration enforcement to induce compliance. Victims being controlled through their immigration status need another option to remain in the United States legally, or they may not be able to exit the trafficking situation safely.

This list summarizes relief potentially available to labor trafficking victims, depending on the facts of the trafficking situation, age of the victim, and the relationship between the trafficking victim and trafficker. The eligibility

requirements listed below are not comprehensive and do not address numerous details. Foreign national victims should always be connected with an immigration attorney as soon as possible to explore immigration relief, especially since some forms of relief have time limits or age restrictions associated with them.

a. Continued Presence

A temporary status available to victims of human trafficking that lasts two years,⁴³ with the ability to renew annually. Only federal law enforcement and prosecutorial agencies can request this status. Recipients receive work permission and public assistance.

b. T Visa

Available to victims of human trafficking in the United States who cooperate with all reasonable requests from law enforcement, demonstrated by providing a certification from a law enforcement or other government agency or other evidence that the victim was willing to cooperate. Victims under the age of 18 or who have experienced extreme trauma are exempted from the cooperation requirements. T visa holders receive work permission and public assistance. Family members may also be eligible to receive T visas. After three years, T visa holders may apply for lawful permanent residency (LPR), also known as a “green card.” See Appendix B: Certifying Agencies for Immigration Benefits for a list of agencies that can provide certification for T visas.

c. U Visa

Available to victims of certain violent crimes, including human trafficking. A U visa may be appropriate for cases of human trafficking that do not qualify for a T visa. All U visa applications require law enforcement certification and have greater limitations on family reunification. There is currently a multi-year wait list for U visas. See Appendix B: Certifying Agencies for Immigration Benefits for a list of agencies that can provide certification for U visas.

d. Other Forms of Relief

Trafficking victims may be eligible for other forms of relief as well, depending on the specific circumstances of their case, including:

- VAWA Self-Petition or Cancellation of Removal⁴⁴
- Battered Spouse Waiver
- Asylum
- Special Immigrant Juvenile Status

FOREIGN NATIONAL ELIGIBILITY FOR BENEFITS

Foreign nationals are restricted from accessing public assistance depending on their visa category and the amount of time they have lived in the United States. In many cases, victims must stop working when they exit the trafficking situation, which leaves them without income. Since access to housing, medical care, food assistance, and other potential benefits can provide crucial support to victims, organizations and agencies must investigate if victims are eligible and if not, how they can become eligible.

⁴³ The White House, Office of the Press Secretary, “FACT SHEET: Building a Lasting Effort to End Modern Slavery,” Oct. 24, 2016, <https://obamawhitehouse.archives.gov/the-press-office/2016/10/24/fact-sheet-building-lasting-effort-end-modern-slavery> (“Immigration and Customs Enforcement updated its Continued Presence directive to make Continued Presence a two-year status in the United States for non-citizen human trafficking victims, renewable in increments of up to two years. Continued Presence is a temporary immigration status that allows trafficking victims to remain in the United States during the investigation of the crime committed against them. Extending this status to two years helps provide stability for trafficking victims while alleviating administrative burdens on victims, service providers, and the government.”).

⁴⁴ 8 U.S.C. §1154. Spouses and children of citizens and lawful permanent residents can petition for independent legal residency.

The access and use of public assistance benefits by newcomers to the United States is determined by federal eligibility rules combined with state and local rules and policies. Federal rules exclude all undocumented immigrants and most legal, temporary visa holders from receiving public benefits.

To offset the gaps in eligibility, Minnesota opted to use state money to provide limited access to state benefits to some immigrants who are not eligible for federally funded programs. Despite good intentions, these state-funded programs have been vulnerable to budget cuts and other challenges, leaving some Minnesotans at risk of not having their basic needs met.

Trafficking victims who are applying for or who have received continued presence or a T visa can access some public assistance by obtaining a trafficking certification letter from the U.S. Department of Health and Human Services (HHS). This letter grants them a Social Security number, work authorization, case management, and access to benefits equivalent to those of a refugee.⁴⁵ Trafficking victims who do not receive continued presence and have not applied for a T visa are not eligible for assistance. Even victims who have applied for a T visa can exhaust their benefits before the visa is processed. Only certain types of support are provided. Victims who are supporting family members abroad often need cash assistance that is not part of the available benefits.

Victims of trafficking under age 18 follow a different process to receive benefits. First, federal, state, and local officials must notify the Office of Trafficking in Persons (OTIP) at HHS within 24 hours of identifying a potential foreign national minor victim of trafficking. That child then receives an interim letter, allowing access to public benefits while OTIP determines if the child is a victim of trafficking under the TVPA. If the child is a victim, the child receives an HHS Eligibility Letter confirming access to benefits and case management. Victims under age 18 do not need to cooperate with law enforcement or receive continued presence or a T visa to get an Eligibility Letter. Applications for the Eligibility Letter must be filed before the victims turn 18. After victims turn 18, they are no longer eligible, even if the trafficking occurred when they were minors.

LANGUAGE ACCESS

Foreign national victims and other non-English speakers should receive services in their primary language when possible. Language access ensures that victims understand the care they are receiving and the progress of their criminal, civil, and immigration cases. Language access also provides important social connections that address the isolation victims often feel as a result of trafficking.

Victims should be able to provide input on their interpretation preferences, including the interpreter's gender and family or clan connections. In some cases where interpreters may be well-connected to the victims' communities, victims may not want an in-person interpreter so as to protect their privacy, preferring a remote interpreter over the phone or computer. The best practice is to ask victims their interpretation preferences and respect their requests whenever possible. Never use ICE or CBP as interpreters, as doing so can expose the victim to deportation.

Interpreters follow a set of principles that ensure an accurate translation and protect the victim. Organizations employing interpreters should train them on these principles and include them in volunteer agreements or contracts.

Competency: Interpretation can carry high stakes depending on the context, especially for legal matters like immigration status. Interpreters must recognize and disclose limitations they may have in precisely interpreting between languages.

Impartiality: Interpreters must not allow their own personal feelings to interfere with accurate interpretation. If the interpreter disagrees with the victim's views or feels that the victim is not being honest, the interpreter should inform the organization and withdraw from the interview. The interpreter should never tell the client what to do or say.

⁴⁵ These benefits may include the Supplemental Nutritional Assistance Program, public housing or tenant-based voucher programs, some medical services, including Medicaid and the Children's Health Insurance Program, and limited cash assistance programs, such as Temporary Assistance for Needy Families. U.S. Department of Health and Human Services, Office on Trafficking in Persons, Services Available to Victims of Trafficking, <https://www.acf.hhs.gov/otip/victim-assistance/services-available-to-victims-of-trafficking>.

Confidentiality: Confidentiality is an essential component of every interaction with a client. In addition to helping ensure the safety of the clients and their loved ones, the promise of confidentiality helps to build trust and rapport among the clients, the interpreter, and the staff member.

Accuracy and completeness: The consequences of inaccurate interpretations and translations are serious and may mean the victim loses an immigration, criminal, or civil case. Therefore, it is important to convey the exact spirit and meaning of words, even though the translation may not be word for word.

Cultural broker: Interpreting involves more than just translating words. A good interpreter must also act as a cultural broker, ensuring that each side understands the other's cultural and social systems. This keeps the interaction running smoothly and helps all parties avoid confusion and misunderstanding. Whenever interpreters are playing the role of cultural broker, they should always communicate what they are doing to all parties to avoid confusion.

Boundaries and professionalism: For the well-being of both the client and the interpreter, it is important to always maintain clear professional boundaries. Many trafficking victims have few resources or personal connections in the United States and may reach out to interpreters for assistance in matters outside of the trafficking case. This can lead to stress for both the victim and the interpreter. Remember also that interpreters have an obligation to remain impartial when interpreting for a victim. Becoming too involved a victim's life can negatively affect that impartiality.

OFFENDER ACCOUNTABILITY

**CRIMINAL,
ADMINISTRATIVE,
AND CIVIL
PENALTIES CAN
ALL BE PURSUED
BASED ON THE
SAME UNDERLYING
TRAFFICKING
SITUATION.**

Labor trafficking is a crime and it frequently involves exploitative acts that violate employment laws and other civil protections. As a result, traffickers can face criminal investigations and prosecutions involving local, state, and federal law enforcement and prosecutors. In addition, government agencies that enforce employment laws can impose financial penalties and recover lost wages for victims. Victims can also file civil lawsuits for financial compensation and damages. Criminal, administrative, and civil penalties can all be pursued based on the same underlying trafficking situation, but they operate differently and have different implications for the victim. Agencies and organizations working with potential labor trafficking victims should be aware of the various types of proceedings so that victims can decide if they want to report violations of criminal laws and pursue civil or administrative remedies.

CRIMINAL ACCOUNTABILITY

Strong criminal justice responses by law enforcement and prosecutors can prevent trafficking because traffickers know that they will be held accountable and that the risks of prosecution will outweigh the benefits of using exploited labor.⁴⁶ Labor trafficking and certain kinds of associated conduct are crimes under both federal and Minnesota law.⁴⁷

⁴⁶ To date, federal prosecutors and county attorneys have charged only a small number of labor trafficking cases and most of these cases focus on adult victims; however, this number has increased in recent years. Prosecutors may seek to charge other crimes in labor trafficking situations (e.g., visa fraud or hiring unlawful aliens). The cases mentioned here include those charged as labor trafficking and those charged as other crimes but which were determined to be trafficking based on the description or the relief available to the victims.

⁴⁷ Minn. Stat. §§ 609.281-.283. *See also* 18 U.S.C. § 1581 (peonage), § 1584

During a criminal case under state law, victims may interact with:

- Local police
- County sheriffs
- Bureau of Criminal Apprehension
- County attorneys

During a federal criminal case, victims may interact with the following agencies⁴⁸ (see Working with Federal Agencies on page 58 for a description of each agency):

- Federal Bureau of Investigation
- Homeland Security Investigations, part of Immigration and Customs Enforcement, Department of Homeland Security
- Department of State Diplomatic Security Service
- United States Attorney's Office
- Department of Justice Civil Rights Division Human Trafficking Prosecution Unit
- Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement (regarding child trafficking and access to benefits and case management for all trafficking victims)

Labor trafficking cases are complex and can take anywhere from several months to several years to conclude. Law enforcement and prosecutors consider many factors when they decide to conduct investigations or file criminal charges. For example, evidence such as financial records may be difficult to obtain and analyze. Prosecutors may decide to charge trafficking cases under other criminal statutes, such as fraud or assault, or decide not to file any charges. The decision on whether to investigate and whether to charge any crime, including labor trafficking, does not mean that labor trafficking did not occur or that law enforcement and prosecutors do not believe the victim.

Enforcement of federal and state laws that criminalize labor trafficking may conflict with the victim's desires. In criminal investigations, prosecutors represent the government, not the victim. Law enforcement also has statutory duties to report certain crimes involving youth, and prosecutors may direct law enforcement to conduct investigations that may conflict with the victim's requests. Victims may not want the trafficker investigated or criminally prosecuted for many reasons, including ongoing relationships they may have with the trafficker or to protect their safety, but victims do not control that decision in a criminal case.

Crime victims, including trafficking victims, have certain rights under federal and state law.⁴⁹ To help victims secure these rights, Minnesota funds victim specialists in many county attorney offices to provide the required notices and explanations. See Prosecutors: Victim Considerations on page 72.

One important right for labor trafficking victims is financial compensation. When a trafficker is convicted of or pleads guilty to a crime, victims have the right to request restitution (money that a judge may order an offender to pay the

(sale into involuntary servitude), § 1589 (forced labor), § 1590 (trafficking with respect to peonage, slavery, involuntary servitude, or forced labor), and § 1592 (unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor).

48 Additional federal agencies may be involved with respect to civil recoveries.

49 These rights include notice about the final disposition of a case, the release or escape of the offender, and any sentence modifications for the offender. Victims have a right to provide statements on the impact of the crime and objections to plea deals, pretrial diversion programs, and sentences. Victims also have a right to protection from harm and can request that the state keep their contact information confidential and withhold their identities in open court. Minnesota Department of Public Service, Office of Justice Programs, "Crime Victim Rights," <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-rights.aspx>; Crime Victims' Rights Act, 18 U.S.C. § 3771 (2016).

crime victim) and reparations (financial assistance from the government for victims of violent crimes).⁵⁰ Federal law also requires the court to order forfeiture of any property used to commit or facilitate trafficking and any property derived from the proceeds of trafficking as part of the trafficker's sentence.⁵¹ Victims may need assistance from an advocate or attorney to effectively claim the full amount of compensation they are owed. For additional information, see Prosecutors: Restitution on page 76.

CIVIL AND ADMINISTRATIVE REMEDIES

In addition to criminal penalties, traffickers can be held accountable for violations of employment law and other civil protections. Civil and administrative cases can help labor trafficking victims receive financial compensation, including lost wages and damages for the pain and suffering they experienced.

Federal, state, and municipal laws⁵² govern conditions in the workplace. Important laws protecting labor trafficking victims include wage and hour standards, occupational health and safety standards, and protections from discrimination and retaliation. Immigration status is irrelevant when determining whether a worker is protected by these laws; if undocumented immigrants perform work as employees, they are entitled to wages and the same workplace rights as other workers.⁵³

Labor standards and employment laws do not apply to independent contractors. Traffickers sometimes treat their victims as independent contractors to avoid these laws, requiring victims to prove that the trafficker controlled how and when they worked, in addition to the overall labor standards violation.

Different agencies at the federal, state, and municipal levels enforce these laws and have their own process for investigating cases and assessing financial penalties on employers. Victims may need to contact multiple agencies to find the one that best fits their claim. These agencies include:

a. U.S. Department of Labor

The U.S. Department of Labor (DOL) Wage and Hour Division enforces the federal law governing minimum wage, overtime provisions, and restrictions on child labor, among other issues. Both employees whose rights were directly violated and third parties who witnessed a violation can complain to the DOL.

b. Minnesota Department of Labor and Industry

The Minnesota Department of Labor and Industry (DLI) Labor Standards unit enforces the state law establishing minimum wage and overtime regulations, as well as state laws governing child labor.

c. Equal Employment Opportunity Commission

The Equal Employment Opportunity Commission (EEOC) enforces federal laws prohibiting discrimination on the basis of "race, color, religion, sex (including pregnancy, gender identity, sexual harassment, and sexual orientation), national origin, age (40 or older), disability or genetic information,"⁵⁴ as well as retaliation for bringing a discrimination complaint. When traffickers target a particular ethnic community or other vulnerable group, they may be held liable for violating anti-discrimination laws.

50 Victims can file a civil lawsuit, in addition to seeking restitution and reparations. See Civil Lawsuits below, and Crime Victims Reparations, Minn. Stat. §§ 611A.51-.68 (2017).

51 Forfeitures, 18 U.S.C. § 2428 (2018).

52 The Fair Labor Standards Act, 29 U.S. Code §§ 201-262 (2018); Fair Labor Standards Act, Minn. Stat. §§ 177.21-177.44 (2017); Workplace Regulations, Minneapolis, Minn., Code of Ordinances, Title 2, Chapter 40 (2017).

53 Immigration status can impact the remedy available to workers. See *Hoffman Plastic Compounds, Inc. v. National Labor Relations Board*, 535 U.S. 137 (2002).

54 U.S. Equal Employment Opportunity Commission, "Prohibited Employment Policies/Practices," <https://www.eeoc.gov/laws/practices/>.

d. Minnesota Department of Human Rights

The Minnesota Department of Human Rights (MDHR) enforces the Minnesota Human Rights Act, which prohibits discrimination on the basis of “race, color, creed, religion, national origin, sex, marital status, disability, public assistance, age, sexual orientation, familial status, or local human rights commission activity.”⁵⁵

e. Minnesota Crime Victims Reparations Board

Victims of crimes involving injury or death that occurred in Minnesota or in a country that does not have a compensation program can apply for financial help for losses they or their families incurred because of the crime. Victims must have reported the crime to the police within 30 days and fully cooperate with police and prosecutors. Other requirements, including deadlines, are included in the application form.⁵⁶

f. Minneapolis Department of Civil Rights

The Minneapolis Department of Civil Rights Labor Standards Enforcement Division oversees compliance with the city’s minimum wage and sick and safe leave ordinances.

g. St. Paul Department of Human Rights and Equal Economic Opportunity

The St. Paul Department of Human Rights and Equal Economic Opportunity oversees compliance with the city’s minimum wage and sick and safe leave ordinances.

h. Other Government Agencies

Traffickers can also violate other laws governing the workplace, and victims can seek remedies from the agencies charged with enforcing those laws. Organizations focused on worker rights, employment and labor law attorneys, and other government agencies can all provide advice on the appropriate path to pursue.

- Workers’ Compensation: DLI and the Minnesota Department of Commerce
- Unemployment: Minnesota Unemployment Insurance Program, Minnesota Department of Employment and Economic Development
- Union and Other Concerted Activity for Workers’ Rights: National Labor Relations Board
- Workplace Safety: Minnesota OSHA Compliance

CIVIL LAWSUITS

Both federal and state laws include causes of action that allow victims to file civil cases relating to their trafficking. At the federal level, victims of forced labor, trafficking into servitude, or sex trafficking can file a lawsuit against their trafficker and those who knowingly benefitted from the trafficking.⁵⁷ Minnesota state law also includes a similar civil cause of action against traffickers.⁵⁸ Labor trafficking victims may have other civil remedies available against their traffickers, including intentional torts such as assault and battery, breach of contract or unjust enrichment claims, violations of employment standards and anti-discrimination laws, and constitutional claims. Although these cases give the worker greater control over the proceedings than criminal cases, workers may need to find an attorney willing to represent them.⁵⁹

⁵⁵ Minnesota Department of Human Rights, “Your Rights,” <https://mn.gov/mdhr/yourrights/>.

⁵⁶ Minnesota Department of Public Safety, Office of Justice Programs, “Minnesota Crime Victims Reparations Board,” <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-reparations.aspx>.

⁵⁷ Civil Remedy, 18 U.S.C. § 1595 (2018).

⁵⁸ Labor or Sex Trafficking Crimes; Defenses; Civil Liability; Corporate Liability, Minn. Stat. § 609.284, subd. 2 (2017).

⁵⁹ Workers can file claims for up to \$15,000 in conciliation court without an attorney.

The benefits of civil lawsuits, as compared to criminal or administrative cases, include:

Control of the case – as plaintiffs, victims have greater control in a civil case than in a criminal or administrative case. They cannot be excluded from the courtroom and have final approval of settlement proposals.

Compensation – civil actions may provide greater compensation for monetary and emotional damages suffered and may include awards of punitive damages.

Justice – even if there were no criminal proceedings, civil lawsuits hold traffickers accountable to their victims.

Burden of proof – the burden of proof in civil proceedings (preponderance of the evidence) is lower than in criminal proceedings (beyond a reasonable doubt).

Confidentiality – victims may request to file civil lawsuits under pseudonyms, use confidentiality agreements, and file cases under seal to prevent disclosure to the public.

Prevention – civil lawsuits can include other responsible parties, including businesses that failed to enact proper security measures. Civil lawsuits have resulted in increased security protection in public places and other improvements.

CRIMINAL AND CIVIL COLLABORATION

Since a labor trafficking case may give rise to both criminal and civil proceedings against the trafficker, it can be helpful if these agencies collaborate. Law enforcement agencies can benefit from the expertise of federal, state, and local labor standards agencies in analyzing payroll, documenting missing wages, and calculating restitution. Federal, state, and local labor standards agencies may encounter labor trafficking victims in the course of investigations into wage and hour complaints and other regulation violations. Those victims may need a criminal justice response to the labor trafficking they experienced. Some law enforcement agencies will have existing partnerships with civil enforcement agencies, but others will need to establish a relationship. See Collaborative Responses to Labor Trafficking on page 25 for key considerations on information sharing and confidentiality, among other issues.

WORKING WITH FEDERAL AGENCIES

**COLLABORATION
BETWEEN STATE
AND LOCAL LAW
ENFORCEMENT AND
FEDERAL AGENCIES
IS ESPECIALLY
IMPORTANT, SINCE
FEDERAL AGENCIES
CAN ALSO REQUEST
CONTINUED
PRESENCE FOR
VICTIMS.**

Multiple federal agencies are involved in labor trafficking investigations and prosecutions. State and local agencies and organizations need to understand what these federal agencies can do and how they might be able to assist victims of labor trafficking. Federal agencies often have experience providing certification to victims to assist in obtaining immigration relief. Indeed, one form of relief for foreign-born labor trafficking victims – continued presence – can only be requested by certain federal agencies. See Appendix B: Certifying Agencies for Immigration Benefits on page 102.

Federal agencies can bring additional resources and specialization to assist agencies and organizations at the state and local levels in serving victims of labor trafficking. This assistance can be beneficial to agencies and organizations that lack resources or have not had experience working with labor trafficking victims. On the other hand, federal agencies may assume control of investigations or prosecutions, removing decision-making authority from the local and state agencies and organizations that had been working with the victim.

Each of the federal agencies below has worked on labor trafficking cases, and agencies and organizations at the state and local levels may consider establishing relationships with them. Establishing these connections before an agency or organization identifies a labor trafficking victim can help to expedite providing additional resources to victims. See Protocol Implementation Worksheet on page 61.

a. Law Enforcement

Collaboration with federal law enforcement agencies is especially important, since federal agencies can request continued presence for victims who meet the federal definition

of trafficking. State and local law enforcement cannot apply for continued presence for these victims.

Department of Justice, Federal Bureau of Investigation (FBI)

The FBI investigates crimes, including crimes against children. The FBI also has victim advocates who support victims during an investigation and, sometimes, after the United States Attorney's Office has initiated a criminal case.

Homeland Security Investigations (HSI), Immigration and Customs Enforcement (ICE), Department of Homeland Security

HSI is a division of ICE within the Department of Homeland Security. HSI investigates cross-border labor trafficking cases, provides victim assistance during federal criminal prosecutions, and can submit applications for continued presence. ICE Law Enforcement Parole Branch reviews these applications and has the sole authority to approve or deny applications. HSI has a victim assistance coordinator and connects with local community advocates to provide referrals to services.

Department of State, Diplomatic Security Services

The State Department's Diplomatic Security Services also investigates trafficking crimes involving passport, visa, and travel document fraud. Because the State Department is involved with the process of issuing visas to foreign nationals to work in the United States, it can take a holistic view of labor trafficking situations both as crimes and as immigration violations.

b. Department of Justice, Offices of the United States Attorneys

U.S. Attorneys prosecute crimes under federal law, have victim assistance programs, and can submit applications for continued presence for victims of labor trafficking.

c. Department of Justice, Civil Rights Division, Human Trafficking Prosecution Unit (HTPU)

The HTPU is in the Criminal Section of the Civil Rights Division. Prosecutors in the HTPU collaborate with U.S. Attorneys and law enforcement agencies on trafficking investigations and identifying trafficking networks that cover multiple jurisdictions. Victim assistance coordinators are available to help with accessing services.

d. Department of Health and Human Services, Administration for Children & Families, Office on Trafficking in Persons (OTIP)

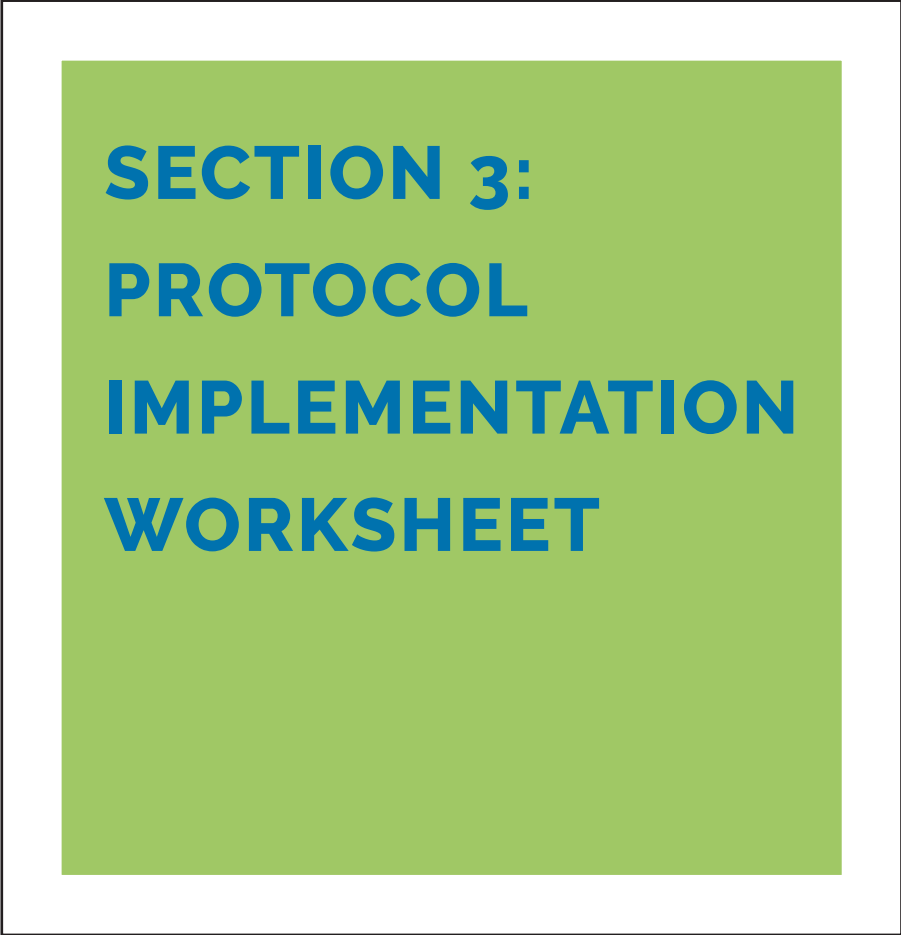
OTIP develops anti-trafficking strategies and programs to prevent trafficking, build responses to trafficking, increase victim identification and access to services, and improve outcomes for trafficking survivors. Among other things, OTIP issues certification letters to foreign adult trafficking victims and eligibility letters to foreign minor trafficking victims. OTIP also funds assistance for foreign victims and case management services for domestic and foreign trafficking victims.

e. Department of Labor, Wage and Hour Division

The Department of Labor – Wage and Hour Division investigates violations of labor laws, irrespective of a worker's immigration status. It has the authority to conduct on-site investigations and can initiate investigations independent of a worker complaint. The Department of Labor, along with the EEOC, can provide certifications for T and U visas. See Appendix B: Certifying Agencies for Immigration Benefits on page 102 for the complete list.

f. Equal Employment Opportunity Commission (EEOC)

The EEOC investigates violations and enforces laws that prohibit discrimination against employees. Labor trafficking cases may involve discrimination on the basis of national origin, race, or sex, including sexual exploitation. EEOC enforcement generally applies to employers with at least 15 employees and covers most labor unions and employment agencies.



SECTION 3: PROTOCOL IMPLEMENTATION WORKSHEET

After reviewing Section 2, the Universal Protocol, communities can begin planning their responses to potential labor trafficking victims and implementing the protocol guidelines in their communities. Planning should begin immediately, before there is an identified victim. The following worksheet will help communities identify resources they have available and any gaps that will need to be filled by resources that may be available in other communities.

IDENTIFY RESOURCES TO MEET VICTIM NEEDS

Call local organizations and ask if they have resources to assist victims of labor trafficking. Confirm any eligibility restrictions and determine their policies on confidentiality. Fill out a Victim Service Organization table on page 64 for every organization contacted. Use that information to answer the following questions:

- Have you identified organizations that can meet the following needs? Indicate who should be the first point of contact for each need.

Victim Advocacy	
Case Management	
Housing	
Emergency	
Transitional	
Long-term Supportive	
Permanent	
Transportation	
Legal Services	
Physical Health Care	
Mental Health Care	
Education	
Employment	
Language Access	

- Are there any needs not met by local organizations?
- Looking at the eligibility criteria for each organization, are there potential victim populations that do not have access to certain services? Which groups for what services?
- What organizations exist in other communities to meet those needs? Who could serve as a connection to those services outside the community?
- Who needs training? Which organizations can provide that training either on-site, locally, or remotely?
- Who is willing to be part of a collaborative response? Who can convene that group?

VICTIM SERVICE ORGANIZATION

Organization Name: _____

Address: _____

Phone: _____

Contact Person: _____

Contact Email: _____

Contact Phone: _____

→ Restrictions on eligibility:

- Age: _____
- Gender: _____
- Immigration status: _____
- Income: _____
- Other: _____

→ Experience working with trafficking or victims of trauma

- Extensive
- Some
- Very limited
- None
- Wants training

→ Willingness and ability to serve

- Resources typically available
- Willing but limited resources
- Unwilling – outside mission or no resources
- Wants to be part of collaborative response

→ Confidentiality

- Mandatory reporter
- Legally protected communications
- Other:

→ Notes

IDENTIFY LAW ENFORCEMENT AGENCIES TO HOLD OFFENDERS ACCOUNTABLE

Call local law enforcement agencies and ask how they would respond to cases of labor trafficking. Confirm the agency's policy on working with immigration, both ICE and CBP.

Agency Name: _____

Address: _____

Phone: _____

Contact Person: _____

Contact Email: _____

Contact Phone: _____

→ **Experience working with labor trafficking:**

Extensive Some Very limited None Wants training

→ **Wants to be part of collaborative response?**

Yes No

→ **Immigration policy:**

Formal policy prohibiting cooperation with ICE Informal policy of not sharing information about witnesses and victims Cooperates with ICE

→ **Notes:**

CHECKLIST FOR WORKING WITH LABOR TRAFFICKING VICTIMS

- I am a community-based victim advocate or I have immediately referred the potential victim to a community-based victim advocate.
- I have disclosed to the victim what I can and cannot do with the information that the victim shares with me. I have also disclosed to the victim what referrals can and cannot do with the information the victim shares with them.
- The victim and I have discussed if there are culturally-appropriate practices that the victim would prefer.
- The victim and I have discussed any accessibility needs and how best to meet them.
- The victim and I have prepared or updated a safety plan or I have referred the victim to an organization that can assist in safety planning.
- The victim and I have discussed any needs and concerns, and we have a plan for:
 - Housing
 - Transportation
 - Legal needs
 - Physical health
 - Mental health and counseling
 - Education
 - Employment
- I have reviewed the following sections that are relevant to the victim and followed their recommendations when relevant:
 - Working with victims under the age of 18
 - Working with vulnerable adults
 - Working with foreign-born victims
- I have reviewed and discussed potential criminal justice responses with the victim and the benefits and potential consequences of reporting.
- I have reviewed and discussed potential civil and administrative remedies with the victim and have connected the victim with organizations or individuals that can assist with the case.
- If I have questions, I have consulted with one of the Minnesota Safe Harbor Expansion Grantees.
- Other considerations specific to this victim:

SECTION 4: SECTOR- SPECIFIC PROTOCOLS

Guidelines for Key Sectors
in a Comprehensive
Labor Trafficking Response

LAW ENFORCEMENT

LAW ENFORCEMENT AGENCIES MAY BE ENCOUNTERING LABOR TRAFFICKING VICTIMS AND PERPETRATORS AMONG THE POPULATIONS WITH WHICH THEY ALREADY INTERACT.

State and local law enforcement agencies have a crucial role to play in protecting victims of labor trafficking and prosecuting traffickers. When working with youth victims of labor trafficking, law enforcement should also incorporate the best practices identified in the Universal Protocol, especially those in Working with Victims Under the Age of 18 on page 44, Collaborative Responses to Labor Trafficking on page 25, and Conducting an Assessment: Best Practices on page 33.

INTERNAL STRUCTURE

One of the first steps is determining how to assign responsibility internally for labor trafficking cases. Local law enforcement agencies use many models for determining where to place these investigations.

- **Specialized anti-trafficking teams:** A few agencies operate specialized anti-trafficking units. These units focus predominantly on sex trafficking, but officers in these units will be familiar with the emotional and psychological manipulation labor traffickers employ and how to gather evidence of that coercion.
- **Runaway youth/crimes against children:** Current Minnesota policies prioritize youth victims of human trafficking. Youth are at high risk for both sex and labor trafficking, so officers who have experience working with high-risk youth should know how to identify labor trafficking.

- **Violent crimes:** Physical violence is frequently a component of trafficking, and trafficking victims may first come to the attention of law enforcement as victims of assault.
- **Drug crimes/organized crime:** Labor traffickers are sometimes part of criminal gangs and can compel their victims to commit drug-related offenses including carrying, buying, and selling drugs. Trafficking charges are another potential point of entry for investigating organized criminal enterprises.

Law enforcement agencies take differing approaches to specialization, with some agencies rotating officers through different types of crime and others allowing officers to specialize in particular types of crime. The complexity of labor trafficking cases may be best suited to dedicated investigators, but agencies must balance that against resource constraints and other factors. If only one or two investigators work on trafficking cases, the agency may lose important institutional knowledge when they leave.

GENERATING LEADS

Law enforcement agencies may be encountering labor trafficking victims and perpetrators among the populations with which they already interact. Labor traffickers can operate in illegal industries such as the drug trade or theft rings and may come into contact with law enforcement for those other criminal activities. Labor trafficking victims may have been forced by their trafficker to commit criminal activities and could end up in the custody of law enforcement agencies as a result. One way to uncover more labor trafficking cases is to screen existing victims, witnesses, and perpetrators for potential labor trafficking where the circumstances suggest trafficking may have occurred.

For other types of labor trafficking, law enforcement agencies may not have had extensive contact with potential victim populations, perpetrators, or locations. Law enforcement agencies can increase the tips they receive through outreach to those populations that are most vulnerable to labor trafficking. Many of those potential victim populations may be distrustful of law enforcement because of previous negative encounters with government officials, including other law enforcement agencies, child protection and child welfare, and immigration, and will not provide information about potential trafficking situations without concerted effort to overcome that distrust. Partnerships with trusted community organizations are one way to overcome those barriers. See Collaborative Responses to Labor Trafficking on page 25.

INTERACTIONS WITH IMMIGRATION ENFORCEMENT

A major factor that leads to distrust of law enforcement agencies is the perception that they cooperate with immigration enforcement and that reporting a crime puts the victim at risk of deportation. Immigrants often fear deportation even when they have legal status in the United States; thus, this perception of cooperation harms not only undocumented immigrants but also immigrant communities as a whole.

Even when agencies have internal policies against investigating or reporting the immigration status of victims and witnesses, other forms of cooperation with immigration authorities can erode trust. These include using ICE and CBP as interpreters, providing ICE with access to arrestees, and contracting with ICE to provide bed space for immigrants in detention. For law enforcement agencies that have overlapping jurisdictions, such as county sheriffs and city police departments, immigrants often avoid interactions with both agencies when one of them cooperates with immigration, even if the other does not. Strong policies limiting cooperation with immigration, clearly and widely communicated, can help diminish this fear. See Working with Foreign-Born Victims: Immigration Enforcement on page 48 on how to craft policies that separate local law enforcement and public safety from federal immigration enforcement.

Federal immigration enforcement priorities may conflict with state prosecutions of labor trafficking. In addition to having clear limitations on cooperation, local law enforcement agencies and prosecutors should be prepared to advocate with ICE and CBP to ensure that they do not undermine trafficking investigations by deporting victims,

witnesses, or perpetrators before the case is resolved.

CONDUCTING THE INVESTIGATION

Labor trafficking investigations that follow best practices are often characterized as victim-centered but not victim-driven. Information from the victim is often crucial to building a case, but at the same time, the victims may have suffered a level of trauma that makes it difficult for them to participate in the investigation and prosecution of the trafficker. Victims may not wish to participate in a case for many reasons, including the fear that cooperating could trigger retaliation from the trafficker or the desire to return to their homes and rebuild their lives as soon as possible.

a. Interviewing the Victim

The labor trafficking victim may be the only person who can describe the coercion and control exercised by the trafficker that is the heart of a labor trafficking case. Law enforcement should recognize that, before victims can recount their experiences in a victim interview, victims might have certain needs that must be met. Such needs might include:

Safety: Victims, especially when they first encounter law enforcement, may not feel safe from their trafficker. Especially if their traffickers are connected to other people, they may worry that testifying against the traffickers could lead to retaliation against themselves or their families. When determining how to keep a victim safe, law enforcement agencies should consider the impact of their actions on the victims. For instance, though detaining victims in jail overnight may keep them safe from a trafficker temporarily, it may increase their distrust of the police, leading them to refuse to participate in the case and possibly return to the trafficker in the long term.

Addressing trauma: Victims may respond to the trauma they experienced in ways that can make it difficult to gather evidence against the traffickers. They may be hostile to law enforcement, defensive of their traffickers, unemotional or withdrawn when describing their experiences, or unable to recall events in a linear fashion. Best practices when interviewing victims take into account these possible responses, perhaps by giving the victims more time before asking for details about their experiences, or by conducting the interviews in spaces that do not feel threatening to the victims.

Victim support: Victims often benefit from being accompanied by a community-based advocate or attorney during their interactions with law enforcement. Advocates can help the victims feel safe telling their stories and provide emotional support during the investigations. Victims should also receive immediate referrals to other supportive services such as housing, counseling, or immigration assistance. Such services are crucial to helping victims rebuild their lives. See Collaborative Responses to Labor Trafficking on page 25.

b. Gathering Evidence

In labor trafficking cases, best practices call for reducing the burden on the victims to provide testimony by collecting supporting evidence for their stories. The supporting evidence can corroborate not only the details of the coercion and control but also other details of their experiences to establish their credibility. Some of the types of evidence that might be relevant to labor trafficking investigations include:

- Immigration records, including visa applications
- Contracts
- Recruitment correspondence
- Paystubs, checks, or money deposits
- Internet advertisements, social media posts, and online communication
- Ledgers that can establish profit and daily monetary quotas that victims must earn and that can be used

to monitor income or customer contact information

- Financial records such as MoneyPak or prepaid debit cards used by the victims to send earnings to the trafficker
- Data from cellular phones, tablets, and computers that can include calls made and received; text messages to and from victims, potential recruits, fellow traffickers, and customers; photographs (of victims or places where the trafficker visited); an Internet search history; and even historical data regarding a phone's location
- Medical records that document victims' injuries, overdoses from forced drug ingestion or self-medication, exhaustion (and sicknesses that result from exhaustion and unhealthy living), venereal diseases, and forced abortions
- Victim arrest records
- Jail calls and visitor logs or bail bond records that substantiate the connection between a victim and a trafficker
- Journals and diaries⁶⁰

Other agencies can assist with gathering evidence and evaluating records like payroll or financial accounts. See *Offender Accountability: Criminal and Civil Collaboration* on page 57 for more on coordinating with civil labor and employment enforcement agencies.

c. Balancing Victim Safety and Offender Accountability

Law enforcement agencies take different approaches to the amount of control they grant to trafficking victims over the progression of an investigation. At one extreme, law enforcement may move forward with a case over the objections of victims and even pressure the victims to testify in the case, sometimes threatening criminal consequences if they do not cooperate. At the other extreme, an investigator may keep all the details of the potential case entirely confidential unless the victim agrees to move forward, limiting what they tell other law enforcement officers and prosecutors. A more balanced approach leaves the decision to move forward in the hands of law enforcement, but does not compel victim participation. Instead, law enforcement builds a case through supporting evidence rather than victim testimony. If the supporting evidence is insufficient, the case is typically dropped unless the victim decides at that point to testify. Any analysis of which approach to take should include the likely impact of the policy on victim recovery and safety, offender accountability, public safety more generally, and efforts to build trust with communities that may be suspicious of law enforcement decisions.

⁶⁰ Office of Justice Programs, "OVC Human Trafficking Task Force e-Guide: Corroborating Evidence," <https://www.ovcttac.gov/taskforceguide/eguide/5-building-strong-cases/54-landing-a-successful-prosecution/corroborating-evidence/>.

PROSECUTORS

LABOR TRAFFICKING PROCEEDINGS CAN BE COMPLEX, AND VICTIMS MAY FEEL DISCONNECTED FROM THE CRIMINAL JUSTICE SYSTEM.

Throughout a criminal proceeding, from charging decisions to plea agreements or trials, prosecutors may face a difficult dilemma: what the victim wants or needs may conflict with the prosecutor's duties to represent the government and society as a whole. The conflict between holding offenders accountable and responding to a victim's wishes may not be resolved in every circumstance, but prosecutors can incorporate victims and their requests into criminal prosecutions for labor trafficking.

VICTIM CONSIDERATIONS

Prosecutorial practices that encourage trust have been shown to increase victim participation in cases. One such practice is to have the same prosecutor work on the case from the initial screening through disposition, if possible. This practice also prevents repeat consultations and interviews, reducing re-traumatization of the victims. In addition, when meeting with victims, prosecutors will build further trust by conducting interviews in comfortable and safe locations and by including victim advocates, interviewers of a particular gender, if requested, and qualified interpreters, if needed.

Labor trafficking proceedings can be complex, and victims may feel disconnected from the criminal justice system, which may make them reluctant to continue with their cases. Interviews and research have identified the following practices that help foster victim participation in a criminal case:

- Prosecutors explaining the victim's role and the criminal justice process. This explanation is especially helpful for foreign nationals who may be unfamiliar with judicial systems in the United States.

- Prosecutors returning items confiscated from victims as quickly as possible.
- Victims being notified of the defendant’s release from custody and receiving information on who they can contact if the defendant breaches the conditions of release.
- Prosecutors providing victims with regular updates on the status of the proceedings⁶¹ and appeals. Labor trafficking proceedings may take many years.
- Prosecutors proceeding with cases on a timely basis. Timely prosecution can address safety concerns for the victims and prevent their long-term mental suffering.
- Victims having the opportunity to provide input on plea agreements and statements at sentencing hearings.⁶²
- Prosecutors (or victim witness coordinators in their offices) introducing themselves to the victim upon or shortly after discovery. This introduction should not focus on collecting the victim’s testimony or evidence, but instead should focus on meeting the victim’s needs and developing a rapport with the victim.
- Prosecutors making efforts to ensure that their body language (e.g., crossing their arms) and spoken language (e.g., telling the victim what to do or not do) does not mirror language and actions that traffickers use.

MEET WITH VICTIMS

- Engage a victim/witness specialist to participate

KEEP VICTIMS INFORMED OF CASE PROGRESS

- Provide realistic timetables
- Schedule regular updates

DO NOT USE IMMIGRATION OR OTHER BENEFITS TO COERCE COOPERATION WITH OR TESTIMONY IN CRIMINAL PROCEEDINGS.

TRAINING AND SPECIALIZATION

Several county and city attorney offices have already instituted an effective practice by designating prosecutors to specialize in trafficking cases and by establishing multi-disciplinary teams for trafficking cases. These prosecutors can then receive additional training on effective investigation and prosecution strategies and approaches that support victim safety. These strategies and approaches can address: 1) ways to avoid secondary victimization during all stages of the proceeding; 2) special considerations when working with youth victims and victims who have experienced

61 Notification of Victim Services and Victims’ Rights: Victims’ Rights, Minn. Stat. § 611A.02, subd. 2(b)(5) (2017) (victims have a right to be informed of and participate in the prosecution process); Right to Notice of Final Disposition of Criminal Case, Minn. Stat. § 611A.039 (2017) (prosecutors shall make reasonable good-faith efforts to notify each victim within 15 days of the final disposition of the case).

62 Plea Agreements; Notification: Plea Agreements; Notification of Victim, Minn. Stat. § 611A.03, subd. 1 (2017) (prosecutors are required to make reasonable and good-faith efforts to inform victims of the contents of recommended plea agreements and the victims’ rights to be present at sentencing and plea hearings and to express their opinions on the disposition).

trauma; 3) confidentiality issues relating to the victims; 4) human rights principles; 5) safety assessments and risk management; 6) common behaviors exhibited by labor trafficking victims; 7) medical and economic issues that relate to labor trafficking prosecutions; and 8) how to address the media regarding trafficking cases.

A shortage of resources may prohibit many county attorney offices and city attorney offices from designating full-time prosecutors to specialize in trafficking. All prosecutors, however, should receive basic training on labor trafficking. County attorney and city attorney offices can identify one or two prosecutors to receive specialized training. When they identify labor trafficking situations, those prosecutors can consult with more experienced prosecutors throughout the state.

SAFETY CONCERNS AND TRAFFICKING CHARGES

A key goal of the criminal justice system is to hold offenders accountable for their crimes. Trafficking victims, however, may have serious safety concerns for themselves and their families because of the prosecutor's decision to charge (or not charge) the traffickers.⁶³ Some victims may not want to, or be able to, commit the time and effort that would be required of them to be witnesses in the criminal proceedings.

Prosecutors can incorporate all of these victim concerns in their decision to charge or dismiss a trafficking offense by asking victims:

- What are your concerns if the perpetrator is prosecuted or, alternatively, is not prosecuted?
- Are you concerned for your safety or your family's safety?
- Would you like me to request a "no-contact order" against the trafficker? Why or why not?⁶⁴
- Are there other conditions of release you believe should be imposed (e.g., travel restrictions, a ban on weapons, use of ankle bracelets)? Why or why not?⁶⁵
- What concerns do you have if the defendant is not held in custody during the criminal proceedings? Are there conditions to release that you would want imposed?
- Would you be concerned for your safety if you were identified as a victim in this case? What are those concerns?⁶⁶
- Do you have a safety plan in place?
- What were your physical, economic, or psychological injuries, and what damages did you suffer?
- Did the perpetrator use weapons?
- Has the perpetrator violated court orders?

By discussing these concerns with victims, prosecutors will be able to assess the victim's willingness or ability to participate in the criminal proceedings, if they charge the trafficker. If the victim is not able to participate, prosecutors

63 There is no current prosecutorial policy on trafficking crimes, but the National District Attorneys Association's policy on prosecuting domestic violence cases may be persuasive. Under that policy, prosecution is not mandatory in domestic violence cases, but the policy includes prosecutorial discretion and specialized trainings to provide for victim safety and abuser accountability, as recommended above.

64 Because victims are in the best position to assess the risk that the trafficker poses to them and to their families, a best practice is first to consult with the victims and understand their concerns before requesting a no-contact order.

65 Release by Court or Prosecutor: Release Conditions, Minn. Rules of Crim. P. 6.02, subd. 2 (2018).

66 Traffickers may have threatened to harm the victim or the victim's family if they report the trafficking, or they may have cohorts who continue to exert pressure or make ongoing threats to the victim or the victim's family members. As a result, victims may not want to be identified as witnesses or cooperate with the prosecution out of fear that the traffickers will carry out the threats.

will know that they will need other evidence to support the case (discussed under Evidentiary Issues and Victim Testimony below).

Prosecutors have detained sex trafficking victims to prevent them from reuniting with their traffickers when there is probable cause to believe that the victims themselves have committed a crime. Although prosecutors employ this practice to protect victims, victim detention should be used only as a last resort in extreme cases, where there are no other safe housing options available, and in consultation with victim advocates.

Foreign national victims may have additional immigration and economic concerns if the trafficker is charged. They may need clarification on whether the criminal proceedings will have an impact on their immigration status, whether they will have work authorization so they can economically support themselves throughout the criminal proceedings, and whether they will be reported to ICE for deportation. Prosecutors can address these concerns by explaining what information, if any, they will report to ICE and by providing referrals to immigration attorneys and support for U or T visa applications. Prosecutors can also ask victims whether they would like to remain in Minnesota or if they prefer to return to their country of origin. See *Working with Foreign-Born Victims: Language Access* on page 51.

In deciding whether to charge other crimes, prosecutors should also evaluate whether the defendants are potential victims of labor trafficking themselves. Victims may have been forced to commit crimes by their traffickers, and they may not self-identify as victims or understand that their situations qualify as labor trafficking. These crimes can include a variety of offenses, such as theft or drug possession. Prosecutors need to be trained to identify labor trafficking situations⁶⁷ so they can refer victims to services, rather than charging them with crimes connected to their trafficking.

Prosecutors should not hold potential criminal charges over victims of labor trafficking as a way to compel their participation or testimony as witnesses in labor trafficking cases.

EVIDENTIARY ISSUES AND VICTIM TESTIMONY

As indicated above, victims may be unable or unwilling to participate in prosecutions for many reasons. Accordingly, prosecutors may not be able to rely on victim testimony to support the case against the defendant. There are several other sources for evidence, however, including:

- physical evidence
- medical records
- forensic reports
- testimonies of psychologists and other expert witnesses
- past police reports
- evidence from the scene (photographs, phones, neighbor testimony, emergency call tapes, etc.)
- documents (passports, licenses, etc.)

⁶⁷ United Nations Office on Drugs and Crime, *Handbook on Effective Prosecution Responses to Violence against Women and Girls* (New York: United Nations, 2014), 86-87. Also available at https://www.unodc.org/documents/justice-and-prison-reform/Handbook_on_effective_prosecution_responses_to_violence_against_women_and_girls.pdf.

- electronic equipment from the scene, the victim, suspects, or vehicles

No matter what form the evidence may take, prosecutors can ensure that evidence is collected in a timely manner, the collection is free of charge to the victim, and the collection will not re-traumatize the victim. Prosecutors should also review any evidence that is being disclosed to the defendants that contains victim information to minimize the disclosure, if possible, or to inform victims so that they can incorporate the defendants' knowledge into their safety plans.

If the victim does testify, prosecutors can seek to prevent secondary victimization and assess whether there are safety measures that can be in place to protect the victim during trial, especially if there is a youth victim or if there are concerns about exposing the victim to immigration enforcement. These measures can include:

- protecting the victim's identity from the public
- imposing gag orders on publicity by the individuals in the case
- limiting questions that can be posed to the victim
- permitting a support person to attend the trial
- imposing special courtroom procedures, including:
 - using a video-recorded interview, closed circuit television, or video links
 - examining the witness through an intermediary
 - requesting in-camera proceedings
 - using witness protection boxes

RESTITUTION

Victims of labor trafficking may have suffered many losses because of their traffickers. Restitution claims provide prosecutors with another opportunity to support and assist crime victims. In addition, such claims allow victims to participate in the criminal proceedings and recover some of the losses.

Prosecutors establish the amount and appropriate form of restitution for crime victims.⁶⁸ To establish the correct amount, prosecutors should work with victims to determine the losses victims incurred because of the trafficking, and they should work with financial experts to quantify the claims. These losses can include, but are not limited to, any out-of-pocket losses resulting from the crime. Prosecutors can also consider assisting the victim in obtaining compensation from the Crime Victims Reparation Board, if applicable.

⁶⁸ Procedure for Issuing Order of Restitution: Dispute; Evidentiary Burden; Procedures, Minn. Stat. § 611A.045, subd. 3 (2017).

HEALTH CARE

THE GOAL IS NOT TO CONVINCe THE PATIENT TO LEAVE THE TRAFFICKING SITUATION, BUT INSTEAD TO TREAT PATIENTS, EDUCATE THEM ABOUT THEIR OPTIONS, ASSIST THEM WITH SAFETY PLANNING, AND PROVIDE THEM WITH AVAILABLE RESOURCES.

The health care sector offers tremendous opportunities for prevention, protection, identification, and intervention in labor trafficking cases. People who are experiencing trafficking often experience mental and physical health problems that cause them to seek medical help. An estimated 30% to 88% of trafficking victims access health care services while they are in a trafficking situation.⁶⁹ Thus, health care providers may be one of the first organizations or entities a labor trafficking victim encounters. Indeed, health care providers may be the only entity or organization that victims interact with while still in a trafficking situation. Further, due to the dynamics of labor trafficking, trafficked persons may interact with medical professionals in a variety of settings, including but not limited to the hospital emergency room after an assault or work injury, for OB/GYN services, during routine checkups, for mental health services, or for addiction treatment. Because of this unique access, health care providers should be fully integrated into any response to labor trafficking.

Some health care institutions in Minnesota, particularly hospitals with emergency departments, have begun to develop and implement protocols for serving patients who have been trafficked. The following best practices are based on this experience, as well as national and international guidelines and recommendations on caring for trafficking victims in health care settings.

⁶⁹ Corinne Schwarz, Erik Unruh, Katie Cronin, Sarah Evans-Simpson, Hannah Britton, and Megha Ramaswamy, *Human Trafficking Identification and Service Provision in the Medical and Social Service Sectors*, 18(1) Health and Human Rights Journal, 181 n. 11 (June 2016).

INITIAL RESPONSE

Interviews with health care providers throughout Minnesota confirmed that most health care providers already have protocols to address violence (intimate partner violence, child abuse, elder abuse, sexual assault, etc.). As a first step toward developing a human trafficking protocol, those existing policies and procedures should be reviewed. Health care providers should consider the extent to which a labor trafficking response can be incorporated into existing protocols to maximize efficiency in training, treatment, and referrals.

COMPONENTS OF A LABOR TRAFFICKING PROTOCOL IN HEALTH CARE SETTINGS

a. Identification

In a medical setting, the goal is not to convince the patient to disclose what has happened or to leave the trafficking situation, but to treat patients, educate them about their options, assist them with safety planning, and provide them with available resources. Identification is essential to providing the best services to the patient. As a result, a human trafficking response must include a process for identifying patients at risk for trafficking.

One best practice for improving identification in a health care setting is to set up a screening system that brings in a designated expert when labor trafficking is suspected. Front-line providers should be trained to recognize indicators of potential labor trafficking through the use of some basic screening questions about patient safety. Health care organizations should consider designating specific people to respond to indicators and ensure that those people receive training on working with labor trafficking victims. Social workers, Forensic Nurses/Sexual Assault Nurse Examiners (SANEs), or psychiatrists/clinical psychologists are all good candidates for this role. For smaller health care organizations that do not have a designated person to respond to trafficking, outside service providers who work with labor trafficking victims can serve as resources. In many cases, health care providers may not be able to make a final determination that trafficking occurred, but should still provide safety planning and other supports when indicators of trafficking are present. See Identification on page 29 and Appendix C: Labor Trafficking Service Providers on page 103.

Medical professionals also have an opportunity to conduct a more detailed physical exam than other service providers and can discover additional indicators of trafficking, such as signs of physical abuse in areas that are normally hidden from view, injuries that do not match the patient's account, malnutrition, and psychological reaction including post-traumatic stress disorder. A medical-forensic exam conducted by a Forensic Nurse/SANE can also reveal cases where sexual assault is used as a method of control or where labor and sex trafficking co-occur. Several tools provide lists of physical indicators of trafficking (see Appendix D: Resource List on page 106).

When conducting medical exams of trafficking victims, health care workers should consider patient safety and comfort. This consideration can include bringing in a chaperone, typically another health care worker, so that the victim does not feel isolated or pressured. In cases involving non-English speakers, interpreters should be independent, not someone who accompanied the victim. Victims may even feel more comfortable with an interpreter over the phone or computer, rather than in person, given the potential stigma associated with trafficking.

Speaking to the patient alone is essential. The power dynamics between the patient and the accompanying person(s) should be assessed, along with the patient's ability to speak freely. Some strategies for having a private conversation with the patient include telling the accompanying persons that it is hospital policy to interview the patient alone, directing them to the waiting room, or providing a reason for separation, such as a diagnostic test in another location.

Specialized training for staff designated as interviewers of potential victims should cover:

- The importance of obtaining consent from patients before an interview and ensuring patients are aware that they do not need to answer any or all questions;
- The importance of informing minors and others as applicable under state law that certain situations may trigger mandatory reporting;
- Strategies for conducting an interview while establishing trust and building rapport;
- The challenges one may face in obtaining an accurate medical history from a victim of human trafficking;
- Screening questions for suspected victims of trafficking;
- Potential reasons why the patient may not disclose victimization;
- Basic cognitive, emotional, social, and physiologic effects of complex trauma;
- How to monitor for signs of traumatic stress during the interview and to respond appropriately;
- Appropriate reactions to negative behaviors in a patient with a history of trauma;
- The phenomenon of trauma bonding; and
- An understanding of the complicated relationship that marginalized communities have with law enforcement.

b. Safety Considerations

Labor trafficking is a state and federal crime and can involve many forms of criminal activity. The health care provider should involve clinic or hospital security in training and developing a protocol for responding to victims of labor trafficking. In addition, the provider should consult with local, state, and federal law enforcement about local trends in trafficking, how to respond safely to a potentially dangerous situation, and how to assess the safety of the facility. Clinic and hospital staff should be attentive to safety concerns and follow hospital protocols if there are safety threats.

Questions to consider include:

- Is the trafficker present?
- What does the patient believe will happen if the patient does not leave with or return to the trafficker?
- Does the patient believe anyone else (including family) is in danger?
- Is the patient a minor?

To protect patients who are trafficking victims, a health care provider should flag the patients' records or mark them as confidential so that if someone inquires regarding their location, all staff will deny that the patients are at the health care facility. Trafficking victims should not be left unmonitored in case their trafficker discovers their location and attempts to remove them from the facility.

Labor trafficking victims may disclose sensitive information to health care providers because they assume the doctor-patient relationship requires confidentiality. Although this is generally true, health care providers should explain to

patients, in a language that they understand, when the health care provider may be required to disclose information. For example, parents and guardians have access to a minor's health care records, except for health services that the minor is legally allowed to consent to or when minors live apart from their parents or guardians and manage their own financial affairs.⁷⁰ Health care providers should understand these obligations and communicate to victims the actions that they are required to take. Health care providers should also consider explaining the confidentiality requirements under HIPAA so that victims understand what the provider is allowed to share with other service providers and what must be shared by the victim.

To protect confidentiality when patients complain about workplace abuses that may indicate labor trafficking, health care providers should be aware that employers can access patient files in connection with workers' compensation claims. Records that would need to be disclosed in those circumstances should not reveal more information than is required. Victims may also want medical providers to wait to file workers' compensation claims until they have left the trafficking situation, since the claim will reveal that the workers have discussed workplace issues without the permission of the trafficker, potentially triggering retaliation. Health care providers should have policies in place that allow for a delayed filing of a claim.

c. Multidisciplinary Treatment and Referrals

Health care providers should keep in mind that the goal of the patient encounter is not to convince the trafficking victim to leave the situation immediately but to develop a trusting, caring relationship with the patient. Treating the primary health complaints of victims builds trust that the provider will respond to their expressed needs and desires. Information and resources about trafficking should be introduced in a calm, nonjudgmental way.

Discharge planning should include safety planning as well as follow-up appointments or visits. The health care provider will need to discuss with the patients whether it is safe for the patients to follow up, as well as the safest way to communicate with them. If a patient has been identified as a potential labor trafficking victim, the health care provider will also need to be prepared with referrals for services (see *Protecting and Supporting Victims* on page 35).

Health care providers should consider the victims' safety after they leave the health care setting. If victims would like to exit the trafficking situation and there is an immediate threat to their safety, health care providers should call law enforcement. If the victims want assistance in connecting with law enforcement, then the health care providers can call the National Human Trafficking Hotline.

If victims are not in immediate danger, then the health care providers can coordinate with local organizations that provide victim advocacy, housing, or other services for trafficking victims. Sometimes victims are not ready to leave a trafficking situation for a variety of reasons (see *Definitions and Dynamics of Labor Trafficking: Dynamics of Trafficking* on page 14). In these cases, the role of the medical professional is to ensure that victims have information on resources for when they decide to leave the situation. Medical professionals should provide these referrals directly to the victim and not through or in the presence of anyone who accompanied the victim.

Note that it may not be possible for patients to take written information with them when they leave. Resources should be provided verbally to the patients while they are alone. Examples of discreet ways in which health care providers have shared resources include creating a contact with a fake name in the patient's phone with a crisis line number or writing a hotline number on a prescription pad. Providers can also offer to call a victim advocate to speak to the patient over the phone or bring a victim advocate in to meet with the patient while he or she is in the health care setting. Some providers report scheduling a diagnostic test that the patient has to wait to receive in order to allow enough time for a victim advocate to arrive.

⁷⁰ These health services include, among other things, treatment for alcohol or other drug abuse. *Living Apart from Parents and Managing Financial Affairs*, Minn. Stat. § 144.341 (2017); *Pregnancy, Venereal Disease, Alcohol or Drug Abuse, Abortion*, Minn. Stat. § 144.343, subd. 1 (2017).

VICTIM ADVOCATES

VICTIM ADVOCATES PRIORITIZE THE NEEDS OF THE VICTIM OVER OTHER OBJECTIVES SUCH AS PROSECUTING THE OFFENDER.

Victim advocacy spans a range of actions from formal legal advocacy to informal assistance and accompaniment during a case. Key characteristics of victim advocates are that they prioritize the needs of the victim over other objectives such as prosecuting the offender, they provide both material and emotional support to the victim, and they support the victim during criminal or civil cases.

Victim advocates can play a powerful role in a labor trafficking case. As with domestic violence and sexual assault cases, where victim advocates are widely used, in labor trafficking cases, victims have suffered significant abuse that can reduce their ability to navigate the system by themselves. Isolation from social support is often a component of that abuse, and victim advocates can rebuild social connections and help victims feel part of a community again. During criminal proceedings against the trafficker, victim advocates can serve as a bridge between the victim and law enforcement or prosecutors. Advocates are typically familiar with the process of a criminal investigation, enabling them to explain what is happening from the victim's perspective, potentially increasing the ability of victims to participate in the case and feel they have received justice.

Labor trafficking victims also face systemic problems that can limit their ability to get help. For instance, most service providers and law enforcement agencies in Minnesota are not familiar with labor trafficking cases, and labor trafficking victims can have backgrounds that may bias responders against them. Victim advocates can push for a better response in an individual case and demand long-term changes that improve responses for all victims.

Victim advocates can also serve as a central point of coordination for referrals to services for labor trafficking victims.

Often victims need immediate assistance with safety planning, housing, counseling, and basic needs. Setting up a referral network before victims are identified can reduce the time victims must spend waiting for help, time that potentially makes them vulnerable to further harm from the trafficker.

Currently, however, there are no dedicated victim advocates for labor trafficking cases. Instead, the advocates who most commonly work with potential labor trafficking victims are domestic violence or sexual assault advocates, general crime victim advocates, and workers' rights organizers.

DOMESTIC VIOLENCE, SEX TRAFFICKING, OR SEXUAL ASSAULT ADVOCATES

Victim advocates who focus on domestic violence, sex trafficking, and sexual assault may already be encountering unidentified labor trafficking victims in their client population. Traffickers can be intimate partners or immediate family members, and they can use threatened and actual sexual assault to keep their victims trapped and afraid. Labor trafficking victims may also be trafficked for sex by the same perpetrator, or they may have been trafficked in the past by different traffickers. In cases where labor trafficking overlaps with these existing missions, specialized victim advocates can use their knowledge of complex trauma to assist trafficking victims. To prepare for when they encounter possible labor trafficking situations, domestic violence or sexual assault advocates should:

- Add questions that screen for labor trafficking to any existing intake, needs assessment, or safety planning⁷¹
- Understand special remedies available exclusively to trafficking victims that differ from remedies a domestic violence or sexual assault victim can receive
- Recognize the ways in which labor trafficking may differ from other cases of domestic violence and sexual assault, such as a higher likelihood that organized criminal networks might be involved
- Assess whether to expand their mission to include labor trafficking that does not involve domestic violence, sex trafficking, or sexual assault, given their knowledge of the impact of sustained abuse and psychological manipulation on victims

GENERAL CRIME VICTIM ADVOCATES

Labor trafficking more readily fits within the mission of victim advocates who serve victims of all crimes, including property crimes and crimes against persons. Unfortunately, in Minnesota there are very few nongovernmental advocates who work with victims of all crimes, though there is a hotline that can assist these victims.⁷² Because these advocates work with victims of many different types of crime, from burglary to homicide, they may be well positioned to work with labor trafficking victims, who often have a wide range of experiences, from extremely violent abuse to financial or reputational harms. General crime victim advocates should:

- Add questions that screen for labor trafficking to any existing intake, needs assessment, or safety planning⁷³
- Understand special remedies available exclusively to trafficking victims that differ from what other crime victims can receive
- Recognize the impact of sustained physical and psychological abuse on victims and the special needs they

71 See Conducting Assessments: Selecting a Tool on page 30.

72 Day One Services, "Services for Victims of Crime," <http://www.dayoneservices.org/services-for-victims-of-crime/>.

73 See Conducting Assessments: Selecting a Tool on page 30.

may have as a result

WORKERS' RIGHTS ADVOCATES, INCLUDING LABOR UNIONS

Advocates who work with victims of labor exploitation may already be encountering unidentified labor trafficking victims who have come forward about the exploitation they have experienced but who do not recognize the larger crime of labor trafficking. Workers' rights advocates can advise labor trafficking victims on how to seek compensation for any unpaid wages, workplace injuries, discrimination, or other employment law violations as well as bring the victims into a larger worker justice movement. They may, however, have limited resources and need to refer victims to other organizations to pursue lengthy and complex cases or to handle the effects of trauma on victims. Workers' rights advocates should:

- Add questions that screen for labor trafficking to any existing intake or needs assessment⁷⁴
- Understand the criminal law protections available for labor trafficking victims and learn how to access them effectively alongside the more familiar civil remedies
- Recognize the impact of sustained physical and psychological abuse on victims and the special needs they may have as a result
- Assess whether to expand their mission to include labor trafficking, given the high needs of victims and complexity of the cases
- Help identify when practices that are normalized by workers violate U.S. law

⁷⁴ See Conducting Assessments: Selecting a Tool on page 30.

HOUSING

SAFETY AND CONFIDENTIALITY SHOULD BE PRIORITY CONCERNS FOR ORGANIZATIONS THAT PROVIDE HOUSING TO LABOR TRAFFICKING VICTIMS.

Trafficking victims face a challenge in securing emergency shelter, transitional housing, long-term supportive housing, and affordable permanent housing. Interviewees universally reported that there is a critical shortage of affordable housing in Minnesota. Organizations that provide housing may not be able to provide shelter to those who fall outside the scope of their funding, and there are few beds for labor trafficking victims in Minnesota, especially for male labor trafficking victims.

Because of this shortage, organizations that provide housing should identify other housing options (before they are needed) for emergency, short-term, and long-term housing for male and female victims of labor trafficking. Wherever possible, victims should have a choice in their housing options, including options that meet their cultural or religious needs. In addition, as indicated in Underlying Values for Working with Victims of Labor Trafficking on page 20, all agencies and organizations should receive basic training on identifying and working with labor trafficking victims, which includes all staff at housing organizations.

Housing providers should assess the services that they offer and whether they will be able to meet common needs of labor trafficking victims, including:

- Short- and long-term counseling
- Medical care
- Addiction treatment
- Legal assistance in criminal, immigration, civil, and administrative proceedings
- Employment and education assistance

- Childcare
- Financial/social services assistance
- Transitional or long-term housing assistance

All shelters should identify where they can refer a labor trafficking victim for services that they do not provide and determine how the victim can access the services while at the shelter. See Protocol Implementation Worksheet on page 61.

Many shelters institute rules that residents must follow to remain at the shelter. For shelters that accept victims of labor trafficking, the shelter should review those rules to ensure that they are sensitive to the needs of trafficking victims (e.g. if shelter residents must leave during the day, that may expose the victim to harm from their trafficker). Those rules should be re-assessed on a regular basis and reviewed with residents when they are not in a crisis.

Safety and confidentiality should be priority concerns for organizations that provide housing to labor trafficking victims, as shelters can be used as trafficking recruitment locations. Traffickers may also attempt to contact the victims at the shelter, putting the victims, staff, and other residents in danger. Shelters should establish safety plans with labor trafficking victims to identify what they should do if their traffickers attempt to contact them at the shelter or new traffickers approach them.⁷⁵ In addition, shelters should establish procedures to respond to these situations, train all staff on the response, and identify how they can improve their current security protections (e.g., video cameras, on-site security, 24-hour staff).

⁷⁵ The contents of safety plans are described in *Protecting and Supporting Victims: Safety Plans* on page 38.

LEGAL SERVICES

SURVIVORS OF LABOR TRAFFICKING OFTEN NEED MULTIPLE LEGAL REMEDIES AND SOCIAL SERVICES, AND THEY BENEFIT GREATLY FROM A COMPREHENSIVE APPROACH THAT ADDRESSES ALL OF THEIR NEEDS.

Although there is little research to date about the intersection of legal services and positive outcomes for youth victims of labor trafficking, access to legal assistance improves the outcomes for vulnerable children and youth in other contexts.⁷⁶

TYPES OF LEGAL ASSISTANCE

Cases involving trafficking are often very complex and resource intensive. Children and youth who are victims of labor trafficking may need legal assistance across multiple areas, including:

- Immigration
- Criminal defense
- Victim assistance services
- Civil protection orders
- Private civil actions against traffickers
- Restitution
- State and federal employment law violations (wage and hour claims, EEOC claims, H-2A contract violations, etc.)

⁷⁶ Center for the Human Rights of Children, Legal Services Assessment for Trafficked Children: Cook County, Illinois Case Study, by Katherine Kaufka Walts, Linda Rio Reichmann, and Catherine Lee (Chicago: Loyola University of Chicago, 2013), 13.

- Child welfare (accessing benefits, long-term foster care or other appropriate placement)
- Family law (child custody, private guardianship, emancipation)
- School placement, truancy, special educational needs
- Expungement

Non-U.S. citizen children and youth may have additional needs for specialized legal assistance with immigration relief (continued presence, employment authorization, T visa, U visa, Special Immigrant Juvenile Status, asylum, family reunification, or a derivative immigration benefit). Because traffickers often confiscate identification documents to exert control, these victims may also need legal assistance with obtaining documents such as passports, birth certificates, and driver's licenses.

For additional information on the various forms of legal relief, see *Working with Foreign-Born Victims: Potential Forms of Immigration Relief for Labor Trafficking Victims* on page 49.

LACK OF IDENTIFICATION AND NEED FOR TRAINING

Interviews with civil legal service providers throughout the state indicated that few legal service providers are currently screening for labor trafficking. All legal professionals who routinely interact with populations at high risk for labor trafficking – particularly children and youth – should receive training on the legal issues and dynamics of labor trafficking, as well as identification and referral information.

Victims of labor trafficking often lack knowledge and understanding about labor trafficking and exploitation, which creates a barrier to self-identification and reporting. Most trafficking cases are referrals from advocates and organizations, including shelters, domestic violence programs, sexual assault centers, and food and housing providers.

PREPARING TO WORK WITH VICTIMS OF LABOR TRAFFICKING

Legal service providers can incorporate practices to work with labor trafficking victims by taking the following actions:

- Review intake forms and procedures.
- Review the case management systems and assign a code for cases involving trafficking.
- Assess the best way to screen for labor trafficking in the intake system. For example, service providers can add additional questions to intake interviews (see the screening/intake questions below) or use a screening tool developed by others.⁷⁷
- Educate all staff members on the dynamics of labor trafficking.
- Decide what aspects of a labor trafficking case fit within their service area and which will require referrals to other attorneys.
- Identify a point of contact within the legal service organization to receive training, triage cases as they come up, and coordinate with other agencies depending on needs.
- Develop relationships across disciplines to make referrals and develop a network of local resources. See Protocol Implementation Worksheet on page 61.

⁷⁷ See Appendix D: Resource List on page 106.

- Develop a safety plan process with an emergency housing referral list for situations when an employer threatens clients.
- Develop a case strategy plan that addresses and coordinates with law enforcement, administrative agencies, labor agencies, and others.
- Convey clearly to the client what information is confidential and what can be shared, and communicate those understandings with other organizations and lawyers involved in complex cases.
- Recognize the complexities of interactions with law enforcement and immigration. For trafficking victims who are non-U.S. citizens, an immigration attorney must be involved in communication with law enforcement and federal agencies.

SCREENING QUESTIONS/QUESTIONS TO ADD TO INTAKE

Legal service providers in Minnesota should consider adding the following questions to intake procedures to screen clients for potential labor trafficking. The screening should be done with the victim alone or with an independent interpreter provided by the legal service provider, not with anyone who accompanied the victim. Keep in mind that victims may not be forthcoming initially and that, if a story changes, it may not indicate that the victim was lying about the case, but was trying to remain safe.

- Have you ever been forced to work?
- Did anyone ever threaten to hurt you or your family if you did not work?
- Did anyone threaten to call the police on you?
- Did anyone force you to cook or to clean their house or provide childcare?
- Is anyone prohibiting you from contacting your family or coaching you on what to say to them?
- Were you lied to about the kind of work you would be doing?
- Did anyone take your money?
- What would have happened if you did not give that person your money?
- What did you fear would happen if you left?
- Were you ever forced to do something sexual for your abuser or someone else?
- Did you ever trade sex for money or some other benefit? If so, do you know others in the same kind of situation you were in?
- Were you able to keep your identification documents with you, or did someone take them from you?
- What were your working conditions like? How many hours did you work each day? Did you receive breaks?
- Do you feel safe at work? Were you ever injured while working? Were you allowed to go to the doctor?
- Are you free to come and go from your place of employment?
- Does anyone track your phone usage or where you go?

Additional questions for non-U.S. citizen clients:

- Were you able to keep your passport, visa, or identification with you, or did someone take it from you?
- Were you working to pay off a smuggler or other debt?
- Were you free to find another job to pay the debt, or were you forced to work at a certain place?
- Did anyone threaten to call immigration on you?

If the client came to the United States on a visa:

- Did you have to lie about who you were or what you would be doing in the United States?
- Were you coached on what to say during the interview?
- Were you ever separated from your family while en route?
- Were photos ever taken of you? Did you ever see a camera?
- Does anyone in your home country know about what is happening?
- Are you afraid of anyone making threats against you or your family?

COMPREHENSIVE CLIENT CARE

Survivors of labor trafficking often need multiple legal remedies and social services, and they benefit greatly from a comprehensive approach that addresses all of their needs. Collaboration between legal service providers and non-legal service providers is important to provide services effectively to trafficked children and youth. Best practices for effective collaboration in a trafficking case include:

- Defining and communicating each actor's role in the case
- Working together as a multidisciplinary team⁷⁸
- Scheduling regular meetings to discuss cases and common challenges
- Ensuring that youth trafficking victims have an advocate or social worker to help them in addition to a lawyer

⁷⁸ For additional information on inter-agency responses, see Collaborative Responses to Labor Trafficking on page 25.

CHILD WELFARE SYSTEM

**GIVEN THE RISK OF
TRAFFICKING FOR
CHILDREN INVOLVED
WITH CHILD
WELFARE, THE CHILD
WELFARE SYSTEM
SHOULD HAVE A
CLEAR RESPONSE TO
THE LABOR
TRAFFICKING OF
MINORS.**

Minnesota’s child welfare system includes a range of responses with the goal of providing children with safety, permanency, and well-being. Some of the specific programs are child protection and voluntary child welfare services, which may include adolescent services, parent support outreach, and children’s mental health services. The child welfare system is governed by state and federal law and policy, which counties implement as they administer their child welfare response.

Emerging Minnesota data estimates suggest that at least 28% of child sex trafficking victims served through the Safe Harbor Network of providers were already known to child welfare/protection.⁷⁹ Nationally, 50% to 80% of child sex trafficking victims are known to child welfare.⁸⁰ For these reasons, child welfare agencies and staff members are essential parts of an effective community response to human trafficking.

Children and youth may come in contact with child welfare programs while in a trafficking situation or after exiting a situation. The trafficker may be a family member, caregiver, intimate partner, or others who use violence, threats, debt bondage, and other manipulative tactics that trigger a child protection report. Children and youth who are the most

79 Minnesota Department of Health, Safe Harbor: First Year Evaluation Report, by Julie Atella, Laura Schauben, Emma Connell (Saint Paul, MN: Wilder Research, Sept. 2015), 29. Also available at <http://www.wilder.org/Wilder-Research/Publications/Studies/Safe%20Harbor/Safe%20Harbor%20First%20Year%20Evaluation%202015.pdf>.

80 U.S. Department of Health and Human Services, Administration for Children, Youth and Families, “Guidance to States and Services on Addressing Human Trafficking of Children and Youth in the United States” (2013); Minnesota Department of Human Services, Corrected #17-68-09C: Sex Trafficked Children and Youth Investigative Protocols (bulletin), January 11, 2018, <http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs-293934.pdf>.

vulnerable are homeless and runaway youth, LGBTQ youth, youth with mental illness, and children in foster care, all groups that receive child welfare services. For children in foster care (or those who have run away from foster care), the risk of being targeted for recruitment by traffickers is related to their potentially unstable living situations, physical distance from friends and family, traumatic experiences, and emotional vulnerability.⁸¹

Interviews conducted with child protection workers throughout Minnesota during the first half of 2017 revealed a lack of knowledge about labor trafficking. None of the child protection staff interviewed reported having worked with children or youth who were victims of labor trafficking. During 2017 and 2018, child protection and child welfare staff started receiving training on labor trafficking and developing a response, though the process was still in the initial stages.

LABOR TRAFFICKING AND EXISTING CHILD WELFARE RESPONSES

Given the risk of trafficking for children involved with child welfare, the child welfare system should have a clear response to the labor trafficking of minors. Labor trafficking, however, is not explicitly named in state statutes as a form of child maltreatment, though it frequently overlaps with other types of maltreatment such as physical abuse or neglect.

Most labor trafficking is carried out by non-caregivers and would not be accepted for a child protection response. However, all maltreatment reports, whether screened in or screened out, must be cross-reported to law enforcement. Labor trafficking is a crime and triggers a mandated offer of child welfare services to “safeguard and enhance a child’s welfare.”⁸² The child’s parent or guardian can choose whether to participate in the child welfare services offered. Depending on the severity of the labor trafficking at issue, child welfare agencies should consider making this mandated offer of services at a face-to-face visit.

If the alleged labor trafficker is a guardian or caregiver, the maltreatment would usually result in a child protection response. An example of such labor trafficking could be a child being forced by a family member to perform full-time housekeeping or child care. Traffickers typically employ physical, sexual, and emotional abuse, as well as neglect, to control their victims. Such reports involving a caregiver may require a child protection response.

Current screening guidelines and case databases do not identify the entire scheme as labor trafficking but instead flag each separate component of the abuse, which hinders collecting data on the number of labor trafficking cases identified. Labor trafficking victims are also eligible for certain benefits and restitution outside of the child welfare system and should be properly and consistently identified so they can be referred to those services (e.g., see *Offender Accountability: Civil and Administrative Remedies* on page 55 and *Working with Foreign-Born Victims: Foreign National Eligibility for Benefits* on page 50).

Finally, in some cases children are victims of both sex and labor trafficking simultaneously. Child protection agencies in Minnesota are in the process of fully implementing new procedures regarding child victims of sex trafficking.⁸³ Effective May 29, 2017,⁸⁴ these reports are now classified as child sexual abuse, regardless of the victim’s relationship to the offender. All reports of known or suspected child sex trafficking now must lead to a child protection investigation. Even when child victims do not meet the definition of known or suspected sex trafficking, children who are reported to be sexually exploited should be treated as victims of crime and offered child welfare services. A best

81 Child Welfare Information Gateway, *Human Trafficking and Child Welfare: A Guide for Child Welfare Agencies*, (Washington, D.C.: Child Welfare Information Gateway, Children’s Bureau/ACYF, July 2017). Also available at <https://www.childwelfare.gov/pubs/trafficking-agencies/>.

82 Minnesota Department of Human Services, *Minnesota Child Maltreatment Intake, Screening and Response Path Guidelines*, Dec. 2016, <https://www.ramseycounty.us/sites/default/files/screening%20guidelines%202012-2016.pdf>. See also *Reporting of Maltreatment of Minors*, Minn. Stat. § 626.556 subd. 10(a) (2017).

83 Recent federal legislation regarding sex trafficking of children and youth (the Justice for Victims of Trafficking Act of 2015) requires state agencies to add new requirements to their Child Abuse Prevention and Treatment Act plans and expands the definition of child abuse and neglect. The Act created new requirements for a child protection response to reports of children and youth who are known or highly suspected to be sex trafficked. Minn. Stat. §626.556, subd. 2(n) (2017).

84 Minnesota Department of Human Services, *Corrected #17-68-09C: Sex Trafficked Children and Youth Investigative Protocols* (bulletin), January 11, 2018, <http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs-293934.pdf>.

practice guide for a child welfare system response to human trafficking and sexual exploitation is currently under development by the Minnesota Department of Human Services and will be released in 2020.

BUILDING A COMPREHENSIVE CHILD PROTECTION RESPONSE TO LABOR TRAFFICKING

Even with the limitations on how child protection can respond to known or suspected labor trafficking, agencies can improve the existing response. Child protection investigations that involve any form of human trafficking should strive to secure safety and provide supportive services to youth.

Assessment tools and data collection systems should be updated so that child welfare system workers can identify and record cases of labor trafficking as distinct from other forms of maltreatment. Child protection and child welfare staff should receive training on indicators of labor trafficking and the use of any new assessment tools or changes in data collection practices.

Agencies should consider creating a procedure that ensures labor trafficking is specifically and clearly documented when cases of labor trafficking are accepted for a child protection response. Existing child protection multi-disciplinary teams should plan their local response to labor trafficking beforehand since the needs of labor trafficking victims are often significantly different from those of other abuse victims. Child welfare agencies should consider additional safeguards for unaccompanied minors (youth without a parent or guardian) in trafficking situations, since some trafficking is triggered by children fleeing conditions in their homes or countries.

Child protection staff will need to work with law enforcement to investigate human trafficking cases. Child protection and law enforcement should coordinate victim interviews between themselves to minimize re-traumatization. See Collaborative Responses to Labor Trafficking on page 25. In cases involving Native American youth, child welfare agencies should notify the tribe and follow the guidance of the Indian Child Welfare Act (ICWA). Agencies should review their ICWA policies to ensure that they cover the needs of labor trafficking victims (for more information, see Working with Tribal Nations on page 10).

Child welfare agencies should review how they provide child welfare services for victims of crime, including labor trafficking. Considerations include:

- Where will the victim live? Victims of labor trafficking frequently do not have stable housing and may be difficult to contact, requiring repeated attempts at outreach.
- Does the current procedure adequately serve the needs of labor trafficking victims who may have experienced significant trauma and have limited familial resources for support and guidance?
- Are child welfare and child mental health case workers prepared to work with victims of labor trafficking? In some cases, minor victims of labor trafficking will come into contact with the child welfare system for other needs, such as homelessness, truancy, mental health care, or guardianship. As they receive services for these other needs and become comfortable with their social worker, they may reveal that they are victims of labor trafficking.

All staff within the child welfare system should receive training on identifying indicators of labor trafficking to ensure that these children receive the help they need, even if the primary response is located within child protection or voluntary child welfare services.

In addition to the important role they play in identifying victims of labor trafficking, staff members within the child welfare system are uniquely situated to prevent trafficking. Children in foster care or otherwise involved in the child welfare system are at high risk for labor trafficking. Agencies should consider incorporating labor trafficking prevention education into the support they offer youth.

FOREIGN-BORN MINOR VICTIMS

Foreign-born victims of labor trafficking have unique needs related to their immigration status, language abilities, and culture. They also may fear that interacting with a government agency could lead to deportation. Child welfare agencies should consider developing clear policies on working with foreign-born minors, especially when the victims do not have stable immigration status. Child welfare agencies can provide certifications for U visas for crime victims and may be closely involved with helping minors receive Special Immigrant Juvenile Status; they should know their role in each process. See *Working with Foreign-Born Victims* on page 48.

SECTION 5: RECOMMENDATIONS

Suggestions for Policy Makers,
Government Agencies, and
Private Funders

Sectors should follow the current best practices set forth in the Universal and Sector-Specific chapters of these protocol guidelines; however, there are ways that the system can improve its underlying response through legislation, increased resources, and funding. Accordingly, the following are recommendations to address improvements.

STATE LEGISLATURE

Legislators should ensure that Minnesota's laws articulate, reflect, and support a commitment to ending labor trafficking.

- Ensure that victims have access to services to address their basic needs and the effects of labor trafficking regardless of immigration status, criminal history, or cooperation with an investigation or prosecution.
- Invest long-term in organizations and agencies that provide housing so that victims have access to different types of housing that respond to their specific needs as victims of labor trafficking. The different housing types should include, at a minimum, emergency shelter, transitional housing, and long-term housing or financial support for long-term housing. Policy makers should ensure that the funding allocated for labor trafficking victims does not reduce the funding that these organizations and agencies receive to support the communities that they currently serve.
- Connect state, county, or municipal business licenses to labor standards.
- Provide resources for training and investigation to law enforcement agencies on identifying and responding to labor trafficking.
- Allocate funding to agencies that investigate labor and employment law violations to support proactive investigations in high-risk industries.
- Ensure that penalties for labor violations are sufficient to deter exploitative practices.
- Ensure employer accountability for labor violations of subcontractors.
- Require state and county law enforcement agencies to provide certifications for immigration relief designated in the Trafficking Victim Protection Act in a timely fashion.
- Amend Minnesota Statute section 299A.785 to require the collection of data on the number of requests received by state and local agencies for T or U visa certifications, the number of certifications approved, and the number of certifications denied.
- Expand eligibility criteria for state-funded benefits so that suspected labor trafficking victims have access to essential services regardless of immigration status, criminal record, previous use of benefits, or other exclusionary criteria.
- Expand state-funded benefits to provide support to the families of youth victims of labor trafficking to allow labor-trafficked youth to focus on education or training programs.
- Develop a state-wide network for labor trafficking referrals and for service providers and state agencies to access labor trafficking experts.
- Fund labor trafficking experts to provide hotline services so that victims have easy access to report violations and seek help.
- Expand the affirmative defense under Minnesota Statute section 609.325, subd. 4 to crimes other than prostitution that were committed as a direct result of being a labor trafficking victim.

- Fund legal services organizations that can assist labor trafficking victims expunge crimes committed as a direct result of their trafficking.
- Amend Minnesota legislation to allow trafficking victims to expunge crimes committed as a result of being a labor trafficking victim and simplify the expungement process for human trafficking victims.
- Adopt state-wide policies that limit cooperation with immigration enforcement so that labor trafficking victims can safely report crimes to law enforcement regardless of jurisdiction.
- Fund development and dissemination of prevention curricula for youth at risk of labor trafficking and exploitation.
- Fund a statewide public awareness campaign on labor trafficking in Minnesota, including distribution of materials in multiple languages on rights in the workplace and on recognizing trafficking, with special materials designed for low literacy populations and distributed by trusted community organizations.
- Allocate funding for labor rights education to reduce exploitation and potential trafficking.
- Enact supply chain transparency legislation so that Minnesota consumers know about the efforts that companies doing business in the state are making to end labor trafficking throughout their supply chains.
- Continue to fund tribal nations' responses to human trafficking and collaborate with tribal governments on trafficking responses.
- Consider aligning the definition of trafficking with the Uniform Act on Prevention of and Remedies for Human Trafficking drafted by the National Conference of Commissions on Uniform State Laws.
- Amend laws to designate penalties for labor trafficking felonies.

GOVERNMENT AGENCIES

Agency leadership should review policies, programs, grant-making requirements, and other agency practices to ensure that they are working towards the prevention, identification, and response to labor trafficking wherever it is relevant.

- Implement mandatory training on the basics of labor trafficking for all front line staff who interact with youth or other high risk populations, including:
 - all child protection personnel, with continuing education training every year;
 - health care staff at all levels; and
 - mandated reporters.
- Require advanced human trafficking training for staff and contracted service providers likely to interact with trafficked children and youth, including investigators and prosecutors of labor trafficking crimes.
- Continue training for labor standards investigators to use their authority to conduct in-person screenings and proactive investigations.
- Develop a state-wide model screening tool that can be adapted for use by different sectors.
- Provide training on labor trafficking under federal and state law to community organizations, especially those that routinely deal with workers, workplace issues, exploitation, or trafficking.

- Establish policies regarding the timely review and certification of T or U visa applications.
- Establish policies to minimize the prosecution of crimes committed as a direct result of being a trafficking victim.
- Adopt policies that presume a person whose age cannot be verified is a minor for purposes of benefits available to youth victims of trafficking until the victim's age can be confirmed.
- Create a central registry of human trafficking data collected pursuant to Minnesota Statute section 299A.785, including the number of requests for T and U visa certifications received, the number approved, and the number denied.
- Incorporate labor trafficking into statewide anti-trafficking campaigns.
- Develop anti-labor trafficking resources to share with at-risk youth.

PRIVATE FUNDERS

Philanthropists and foundations should review their priorities and grant-making policies to determine how they can best improve the prevention, identification, and response to labor trafficking.

- Allocate funding to create resources for identifying and working with labor trafficking victims.
- Allocate funding for training to identify and work with labor trafficking victims.
- Provide flexible funding for labor trafficking victims to respond to various victim needs, including cash assistance.
- Fund services, especially in rural areas, that are available for labor trafficking victims upon discovery and not contingent on law enforcement certifications as victims.
- Fund community organizations that have established relationships with populations at high risk of labor trafficking and exploitation.
- Provide dedicated funding to providers of health care, housing, legal services, and other social services to identify and serve labor trafficking victims.

SECTION 6: APPENDICES

APPENDIX A - LAWS

a. Federal Statutes

18 U.S.C. §1581, Peonage

18 U.S.C. §1584, Involuntary Servitude

18 U.S.C. §1589, Forced labor

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

18 U.S.C. §1591

18 U.S.C. §1592, Unlawful Conduct with Respect to Documents in Furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor

18 U.S.C. §1593 mandatory restitution

18 U.S.C. §1593A

18 U.S.C. §1595 Civil remedy

18 U.S.C. §2428

18 U.S.C. §3771

22 U.S.C. §7102(9), Severe forms of Trafficking in Persons

22 U.S.C. §7105

29 U.S.C. §§201-262

b. Minnesota Statutes and Rules

Minn. Stat. §144.341

Minn. Stat. §144.343

Minn. Stat. §144.344

Minn. Stat. §177.21-.44

Minn. Stat. §181A.04, subd. 1

Minn. Stat. §260C.163, subd. 3

Minn. Stat. §299A.785

Minn. Stat. §595.02 Testimony of Witness

Minn. Stat. §609.281, Definitions

Minn. Stat. §609.282, Labor Trafficking

Minn. Stat. §609.283, Unlawful conduct with respect to documents in furtherance of labor or sex trafficking

Minn. Stat. §609.284 Labor or Sex Trafficking Crimes; Defenses; Civil Liability; Corporate Liability

Minn. Stat. §609.322, Solicitation, inducement, and promotion of prostitution; Sex trafficking

Minn. Stat. §609.325, subd. 4

Minn. Stat. §611A.02

Minn. Stat. §611A.03

Minn. Stat. §611A.039

Minn. Stat. §611A.04 Order of Restitution

Minn. Stat. §611A.045

Minn. Stat. §611A.51 to §611A.68

Minn. Stat. § 626.556

Minn. Stat. §626.557

Minn. Stat. §626.5572

Minnesota Rules 3050.0100 to 3050.4100

APPENDIX B - CERTIFYING AGENCIES FOR IMMIGRATION BENEFITS

a. T Visas⁸⁵

- Federal, State, Local, Tribal, and Territorial law enforcement agencies;
- Federal, State, Local, Tribal, and Territorial prosecutors' offices;
- Federal, State, Local, Tribal, and Territorial Judges;
- Federal and State Departments of Labor; and
- Other Federal, State, Local, Tribal, or Territorial government agencies that have criminal, civil, or administrative investigative or prosecutorial authority related to human trafficking

b. U Visas

- Federal, State Local, Tribal, and Territorial law enforcement agencies;
- Federal, State, Local, Tribal, and Territorial prosecutor's offices;
- Federal, State, Local, Tribal, and Territorial Judges;
- Federal, State, and Local Child and Adult Protective Services;
- Equal Employment Opportunity Commission;
- Federal and State Departments of Labor; and
- Other Federal, State, Local, Tribal, or Territorial government agencies that have criminal, civil, or administrative investigative or prosecutorial authority

c. Continued Presence⁸⁶

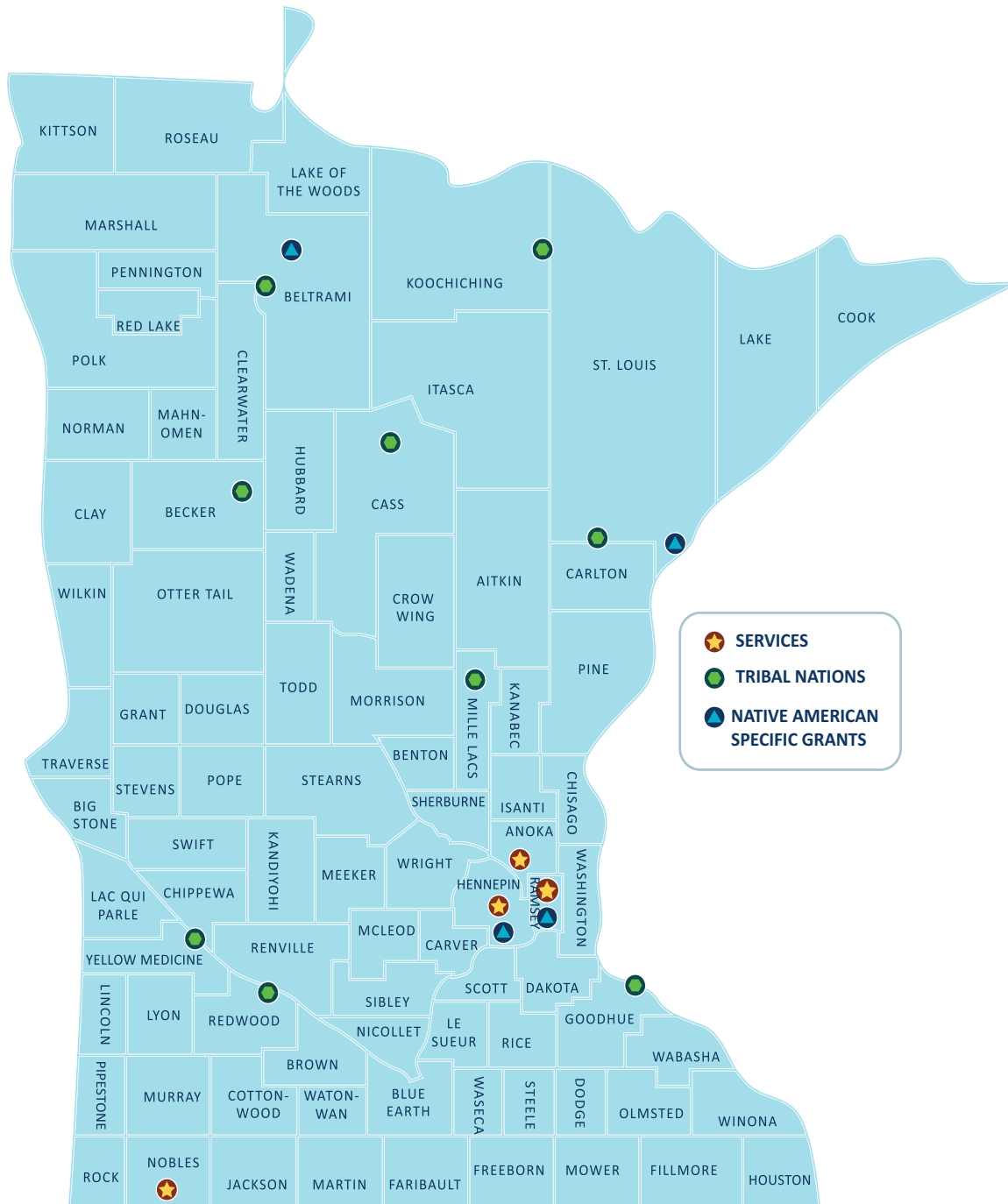
- Homeland Security Investigations
- Federal Bureau of Investigations
- United States Attorney's Offices

⁸⁵ Department of Homeland Security, "U and T Visa Law Enforcement Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement, Prosecutors, Judges, and Other Government Agencies," (2016), https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf.

⁸⁶ U.S. Immigration and Customs Enforcement, "Continued Presence: Temporary Immigration Status for Victims of Human Trafficking," <https://www.ice.gov/doclib/human-trafficking/pdf/continued-presence.pdf>.

APPENDIX C - LABOR TRAFFICKING SERVICE PROVIDERS

The Minnesota Department of Health (MDH) received federal funding to improve Minnesota's response to sex and labor trafficking. Under the grant, MDH funded five direct service providers for labor trafficking victims 24 and under, nine Tribal Nations addressing human trafficking through training and collaboration building, and four Native American specific, youth serving nonprofits in four urban centers addressing human trafficking.



a. Direct Service Providers

International Institute of Minnesota (Statewide)

St. Paul 651-647-0191 iimn.org
Provides state-wide training and intensive case management.

The Advocates for Human Rights (Statewide)

Minneapolis 612-341-2971 theadvocatesforhumanrights.org
Provides legal representation for immigrants, and one-on-one needs assessment, resource identification, referrals, and case management for the duration of the client's case.

The Enitan Story (Twin Cities)

Fridley 763-273-6624 enitan.org
Improves life skills and increased support for survivors through training programs, peer support groups, crisis case management services, and referrals to community resources.

Southwest Crisis Center (Brown, Cottonwood, Jackson, Martin, Nobles, Pipestone, Rock And Wantonwan Counties)

Worthington 507-376-4311 or 1-800-376-4311 mnsbcc.org
Provides advocacy for personal, medical, and criminal and civil situations. Provides life skills, safety planning, safe housing options, connections to local resources, financial assistance, basic living needs and more.

Standpoint (Statewide)

Minneapolis 800-313-2666 or 612-343-9842 standpointmn.org
Provides direct legal representation to youth victims of labor trafficking. Provides training for attorneys and legal staff, referrals to recruited and trained pro bono attorneys, and technical assistance for attorneys in Minnesota.

b. Tribal Nations

Bois Forte

Nett Lake 218-757-3295 or 218-248-0067 (after hours emergency number)
Attends Tribal Human Trafficking Task Force meetings and provides workshops for community awareness. Collaborates with law enforcement and other services for response for direct services.

Fond Du Lac Band of Lake Superior Chippewa

Cloquet 218-787-8208
Meets and collaborates as TRUST (Tribes United against Sex Trafficking) Task Force and trains professionals and communities to reduce human trafficking within Tribal Nations.

Leech Lake Band of Ojibwe

Cass Lake 218-335-8299
Trains, educates, and works with community and service providers to raise awareness about human trafficking.

Lower Sioux Indian Community

Morton 651-775-1389
Conducts community outreach and trainings, and strengthens the tribe's justice system through partnerships, trainings, and digital reporting.

Mille Lacs Band of Ojibwe

Onamia 320-532-7793
Provides outreach and education to community, establishes alternative reporting and multisystem response, and attends Safe Harbor workgroups specific to Tribal Nations. Direct services are available with financial assistance.

Prairie Island

Welch 651-775-1389
Trains staff and community to identify, report, and respond to sex and labor trafficking. Outreach education information and materials through training and events.

Red Lake Band of Ojibwe Indians

Red Lake 218-679-3313

Provides collaborative meetings and trainings to agencies that interact with youth to help them identify sexually and labor trafficked youth.

Upper Sioux Community

Granite Falls 320-564-6359

Trains police department and puts a system in place for reporting and follow up of all trafficking cases.

White Earth Nation

White Earth 218-983-4656

Conducts trainings for community members and staff of Shooting Star Casino, provides weekly group meetings, and establish a hotline number for youth or professionals to contact.

c. American Indian Grantees

Located in four urban centers, the following organizations are responding to human trafficking of Native youth.

American Indian Community Housing (Duluth)

Duluth 218-722-7225

Offers a culturally-specific training series, outreach campaign, and internal protocol for trafficking response.

American Indian Family Center (St. Paul)

St. Paul 651-793-3803

Develops partnerships and a service model that meets the needs of victims 24 and under. Provides trainings to American Indian Family Center staff and community workshops.

Minnesota Indian Women's Resource Center (Minneapolis)

Minneapolis 612-728-2000

Develops a Resource Guide for Tribes of a tribal multi-systemic response to human trafficking and funding resources available to tribes.

Northwest Indian Community Development Center (Northwest – Red Lake Nation, White Earth Nation, And The Leech Lake Band Of Ojibwe)

Bemidji 218-759-2022

Provides direct services support to trafficked youth and training for Tribal providers, community members, and non-tribal providers.

APPENDIX D - RESOURCE LIST

a. Dynamics of Labor Trafficking

Urban Institute and Northeastern University, *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, by Colleen Owens, Meredith Dank, Justin Breaux, Isela Banuelos, Amy Farrell, Rebecca Pfeffer, Katie Bright, Ryan Heitsmith, and Jack McDevitt (Washington D.C.: Urban Institute, 2014). Also available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413249-Understanding-the-Organization-Operation-and-Victimization-Process-of-Labor-Trafficking-in-the-United-States.PDF>.

Center for Urban Economic Development, National Employment Law Project, and UCLA Institute for Research on Labor and Employment, *Broken Laws, Unprotected Workers: Violations of Employment and Labor Law in America's Cities*, by Annette Bernhardt, Ruth Milkman, Nik Theodore, Douglas D. Heckathorn, Mirabai Auer, James DeFilippis, Ana Luz Gonzalez, Victor Narro, Jason Perelshteyn, Diana Polson, and Michael Spiller (New York, NY: National Employment Law Project, 2009), 39. Also available at <http://www.nelp.org/content/uploads/2015/03/BrokenLawsReport2009.pdf>.

b. Prevention/Public Education Campaigns

There are several existing anti-trafficking public education campaigns that include labor trafficking.⁸⁷

Blue Campaign: The Department of Homeland Security coordinates this anti-trafficking campaign. The posters show realistic scenarios of labor trafficking, domestic servitude, and sex trafficking. The campaign also contains a large collection of fact sheets, training materials, identification pamphlets, and more. The campaign includes videos with fictionalized recreations of trafficking scenes rather than victim or expert testimony. Materials encourage people to call the National Human Trafficking Hotline.

Faces of Human Trafficking: The Office for Victims of Crime created a 9-part video series on human trafficking. The videos draw extensively on the testimony of victims supported by both governmental and non-governmental experts. Fact sheets and posters accompany the videos. The posters feature a victim of trafficking speaking about their experience. Some of the posters target the general public, while others are directed at current victims of trafficking. The posters give the number to the National Human Trafficking Hotline, but also contain space for organizations to include their own contact information.

Look Beneath the Surface: The US Department of Health and Human Services coordinates this campaign. The posters show a variety of realistic labor trafficking scenarios, and some are tailored to health care and social service settings. The campaign also includes brochures and an assessment card. The materials encourage people to call the National Human Trafficking Hotline.

U.S. Administration for Children & Families, Office on Trafficking in Persons, *The Power of Framing Human Trafficking as a Public Health Issue*, Jan. 11, 2016, <https://www.acf.hhs.gov/otip/resource/publichealthlens>.

c. Identification/Screening Tools

Urban Institute, *Pretesting a Human Trafficking Screening Tool in the Child Welfare and Runaway and Homeless Youth Systems*, by Meredith Dank, Jennifer Yahner, Lilly Yu, Carla Vasquez-Noriega, Julia Gelatt, and Michael Pergamit (Washington, D.C.: Urban Institute, April 2017), 38 (Appendix. List of Reviewed Screening Tools). Also available at <https://aspe.hhs.gov/system/files/pdf/257786/Pretesting.pdf>.

Jane Herlihy, Peter Scragg, and Stuart Turner, "Discrepancies in Autobiographical Memories— Implications for the Assessment of Asylum Seekers: Repeated Interviews Study," *BMJ : British Medical Journal* 324.7333 (2002): 324–327. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC65293/>.

⁸⁷ Many anti-trafficking campaigns focus almost exclusively on sex trafficking and are not relevant in the prevention of labor trafficking.

Adult Human Trafficking Screening Tool and Guide, National Human Trafficking Training and Technical Center, (2018). https://www.acf.hhs.gov/sites/default/files/otip/adult_human_trafficking_screening_tool_and_guide.pdf.

Human Trafficking Screening Tool, Ohio Trafficking Task Force, (2013). <http://humantrafficking.ohio.gov/links/Screening-Tool.pdf>.

Out of the Shadows: A Tool for the Identification of Victims of Human Trafficking, Vera Institute of Justice, (2014). Tool is available in English and Spanish. <https://www.vera.org/publications/out-of-the-shadows-identification-of-victims-of-human-trafficking>.

Screening Tool for Human Trafficking among Runaway/ Homeless youth. Covenant House New York, (2013). Included as an appendix in the report. <https://humantraffickinghotline.org/resources/homelessness-survival-sex-and-human-trafficking-experienced-youth-covenant-house-new-york>.

American Bar Association, *Meeting the Legal Needs of Human Trafficking Victims: An Introduction for Domestic Violence Attorneys & Advocates*, by Jean Bruggeman and Elizabeth Keyes, (Chicago, IL: American Bar Association, 2009). Also available at https://www.americanbar.org/content/dam/aba/migrated/2011_build/domestic_violence/dv_trafficking.authcheckdam.pdf.

d. General Services / Response for HT victims

Sharon Doering, *Human Trafficking Recovery: Conceptual and Dimensional Considerations in a Stage Model*, Cincinnati, OH: University of Cincinnati, 2012 (dissertation). Also available at https://etd.ohiolink.edu/!etd.send_file?accession=ucin1336508012&disposition=inline.

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“Human Trafficking Identification and Service Provision in the Medical and Social Service Sectors,” Corinne Schwarz, Erik Unruh, Katie Cronin, Sarah Evans-Simpson, Hannah Britton, and Megha Ramaswamy, *Health and Human Rights Journal*, (2016). <https://www.hhrjournal.org/2016/04/human-trafficking-identification-and-service-provision-in-the-medical-and-social-service-sectors/>.

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e. Offender Accountability

“Assisting Human Trafficking Victims with Return of Property and Restitution,” Lou Longhitano, JD and Charlene Whitman, JD, (2014). <http://www.aequitasresource.org/Assisting-Human-Trafficking-Victims-with-Return-of-Property-and-Restitution.pdf>.

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f. Youth Specific

Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, The United Nations, (2005). <https://www.un.org/ruleoflaw/files/UNGuidelinesChildVictimsWitnesses.pdf>.

The Commercial Sexual Exploitation of Children: The Medical Provider’s Role in Identification, Assessment and Treatment, American Professional Society on the Abuse of Children (2013). <https://apsac.memberclicks.net/assets/documents/PracticeGuidelines/the%20commercial%20sexual%20exploitation%20of%20children%20for%20print.pdf>.

Human Trafficking of Children Protocol, Michigan Department of Health and Human Services, (2017). http://www.michigan.gov/documents/dhs/HumanTraffickingProtocol_440356_7.pdf.

Human Trafficking Assessment for Runaway & Homeless Youth, Polaris Project, (2011). <https://humantraffickinghotline.org/sites/default/files/Assessment%20-%20Runaway%20and%20Homeless%20Youth.pdf>.

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g. Foreign National Specific

Winning U Visas: Getting the Law Enforcement Certification, Gail Pendleton, (2008). http://www.asistahelp.org/documents/resources/ExpCommPendleton0208_B744054E28C97.pdf.

“Department of Labor U and T Visa Process and Protocols Q&A,” U.S. Department of Labor, (n.d.). <https://www.dol.gov/whd/immigration/utvisa-faq.htm>.

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i. Child Welfare

Human Trafficking and Child Welfare: A Guide for Child Welfare Agencies: Bulletins for Professionals, Child Welfare Information Gateway, (2017). <https://www.childwelfare.gov/pubs/trafficking-agencies/>.

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APPENDIX E - SURVEY ON TRAFFICKING REFERRALS

The Advocates administered this survey to gather baseline data on the current availability of services for labor trafficking victims and to identify organizations and individuals to interview.

Organization Name:

Contact information:

Your name _____

Your telephone number _____

Your email address _____

Your mailing address _____

Primary counties served:

Other counties served:

List the areas in which your organization or agency works: [check all that apply]

- Basic Needs
 - Basic needs – food, clothing, hygiene products
 - Short-term or emergency housing
 - Long-term housing
 - Public benefits and cash assistance
- Education
 - Education (K-12, post-secondary, adult education, ESL)
 - Vocational training and assistance
- Health Care
 - Chemical dependency
 - Medical care
 - Mental health care
- Legal
 - Birth certificates/ID/document recovery
 - Child protection/child welfare/foster care/guardianship
 - Civil legal services – immigration, family law, employment law, and others
 - Criminal defense/public defender
 - Criminal investigation and prosecution

- Support Services
 - Spiritual support
 - Support and advocacy for victims
 - Translation/interpretation
 - Transportation
- Trafficking and Abuse
 - Domestic violence services
 - Labor trafficking victim services
 - Sex trafficking victim services
 - Sexual assault services
- Other (please specify) _____

Have you ever worked with someone who said that they were afraid of their employer? Y/N

Have you ever worked with someone who said that their employer exercised control over their pay or their life outside of work? Y/N

Have you or your organization worked with recognized labor trafficking victims or survivors? Y/N

If yes, approximately how many? ____

If yes, what age(s) were the victims? [check all that apply]

- Under 18
- 18-24
- Over 24

If no, why not? [check all that apply]

- Outside mission/not interested
- Need training on labor trafficking
- Insufficient funding
- Funding or eligibility restrictions
- Have not encountered victims
- Other (please specify) _____

Do you screen for labor trafficking? Y/N

Have you ever been trained on working with labor trafficking victims? Y/N

Do you know anyone who works with labor trafficking victims? Y/N

If yes, please list the organization or agency name(s) and provide contact information. _____

If you were to encounter someone who needed the following services, which organizations would you refer them to in your region? Please provide name and contact information.

Housing, both short- and long-term _____

Legal services _____

Medical care _____

Mental health care _____

Support and advocacy to reintegrate into the community _____



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