

Wisconsin Human Trafficking Protocol & Resource Manual

May 2012

This document was developed by the Statewide Human Trafficking Committee, compiled and published by the Wisconsin Office of Justice Assistance (OJA) in collaboration with the Wisconsin Coalition Against Sexual Assault (WCASA), and reviewed by a panel of stakeholders, as well as local and national specialists.



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May 2012

As a “living document”, the protocol reflects current best practices in responding to human trafficking. We invite readers to contact the OJA Human Trafficking Committee to recommend and share information on emerging best practices that will contribute to the continued development of this protocol.

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About the Wisconsin Office of Justice Assistance Human Trafficking Committee

The Wisconsin Office of Justice Assistance (OJA) Human Trafficking Committee is a diverse team of service providers, community activists, attorneys, law enforcement agents, and academics working to address the problem of human trafficking in the State of Wisconsin. In February of 2008, OJA, in collaboration with the Committee, released *Hidden in Plain Sight: A Baseline Survey of Human Trafficking in Wisconsin* based on information provided by state law enforcement agencies and service providers.

Prompted by the survey results, which showed that there were potentially hundreds of victims of trafficking in our state, as well as the efforts of Human Trafficking Committee members and other stakeholders, Wisconsin policy makers have passed legislation outlawing human trafficking in Wisconsin (2007 WI Act 116).

Based on the survey report recommendations, the next crucial step in addressing human trafficking in our state is the creation of a statewide protocol that provides uniform guidelines for responding to cases of human trafficking.

Mission Statement

The OJA Human Trafficking Committee will advocate for victims of human trafficking, uphold the principles of human rights, and create an environment in Wisconsin where human trafficking and the exploitation of human beings is not tolerated or accepted. We will strive to promote respectful collaboration with and between communities and systems working to identify, serve, and protect victims of human trafficking in Wisconsin. We will invite survivors of human trafficking to share their experiences and use their wisdom to shape the anti-human trafficking movement in Wisconsin.

Trafficking Ends with Action	Voces de la Frontera
Hope House	Milwaukee PD
University of WI - Madison	WCASA
UNIDOS Against DV	University of WI – Whitewater
DAIT	We International
WI Department of Justice	Sojourner Family Peace Center
FBI Milwaukee	Respect Madison
WCADV	WI-IAFN
WI Dep. of Children & Families	UMOS
The Women's Community	Family Support Center
Milwaukee County D.A. Office	Department of Administration
Zonta Club of Madison	9to5 NAWW
Worker's Rights Center	Freedom, Inc.
WI DOC	UW-Milwaukee
SlaveFree Madison	5-Stones

Purpose of the Human Trafficking Protocol & Resource Manual

The purpose of this document is to provide individuals and agencies in Wisconsin with comprehensive resources and guidelines for responding to the crime of human trafficking.

It is hoped that the use of the protocol and resource manual will not only ensure safety for victims but also create awareness of the issue of human trafficking and promote positive systemic changes through a collaborative and transparent process.

Guiding Principles

When adopting the human trafficking protocol, understand that:

- Human trafficking violates a person's human rights.
- Each individual's experience is unique, and human trafficking cases fall on a wide spectrum of exploitation, where many rise to the level of modern-day slavery.
- It is a fundamental right to be free of labor/sexual exploitation in all of its forms.
- Victims of human trafficking are victims through force, threat of force, fraud, or coercion.
- The intersections of oppression (gender, immigration status, disability, history of abuse, economic status, ethnic background, sexual orientation, etc.) increase vulnerability of people to trafficking and present additional barriers to accessing services after they have been trafficked.
- There are many conditions that foster human trafficking, including: poverty, forced migration, racism, sexism, homophobia, xenophobia, and classism.
- Individuals alone cannot end the conditions that promote human trafficking, and a broad community response is necessary to make a substantive social and institutional change.

Note: Throughout the protocol, the terms *victim* and *survivor* are used to denote persons who have been exploited through human trafficking. However, it is important to note the implications of labeling and the need to approach each case on its own merit. Subsequent sections address best practices for engagement. Where applicable, the term "survivor" is employed for its recognition of the person's agency and self-efficacy. The term "victim" is employed when appearing in legal, statistical, or appendical sections, or when implying potential, ongoing, or hypothetical experiences of trafficking.

Best Practices for the Treatment of Victims of Human Trafficking

That all victims of human trafficking in Wisconsin should be:

- Identified
- Believed
- Treated with dignity, sensitivity and respect for their privacy
- Protected from the accused

- Informed about the options they can pursue (civil v. criminal, to report or not)
- Given accurate and timely information about their cases
- Given equal treatment and protection by law enforcement
- Assisted in finding adequate medical and social services to help in their healing
- Provided with support services that take into account the victim's cultural and linguistic needs
- Provided with access to the criminal justice system and appropriate legal referrals
- Provided with information about all of their victim rights and how to exercise those rights
- Provided with information about local, state, and federal programs that provide special options for victims of human trafficking, such as victim services, legal services, and immigration relief

Notes on Victims' Bill of Rights in Wisconsin

All victims of crime that are reported to law enforcement are entitled to rights by statute and the state constitution. Those rights are listed at "950.04, the Basic bill of rights for victims and witnesses" which can be viewed at the WI Department of Justice website at http://www.doj.state.wi.us/cvs/victims_rights/Chapter_950.asp#950.04. For additional information on State and Federal victim rights, see page 92 of the Appendix.

Overview of Human Trafficking

Global Patterns

Human trafficking is a global human rights concern that has far-reaching implications for the health, safety, and wellbeing of all people. Human trafficking is described by some as modern-day slavery. Victims of human trafficking are young children, teenagers, men, and women who are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.

Human trafficking is a hidden crime, with traffickers often operating behind a façade of legal activity and where many victims do not self-identify. Some victims do not come forward out of fear of retribution, others because they do not see themselves as victims or do not relate to, or they disagree with, the term “trafficking.” There are some who do not believe they will be better off if they come forward, since they have either witnessed or experienced systems fail victims in the past.

Therefore, it is difficult to obtain accurate data, and many believe the available data vastly underestimates the magnitude of trafficking in the world. The following data compiled by the Polaris Project, one of the nation’s largest anti-trafficking organizations, and supplemented by the information from the OJA Human Trafficking Committee members, paints a general picture of the extent and magnitude of the crime.

Human Trafficking Worldwide

- Between 12 million and 27 million adults and children are in forced labor, bonded labor, and forced prostitution around the world.^{1, 2}
- Annually, 2.45 million people become victims of either internal (domestic) or transnational trafficking.³
- Global figures estimate that 70% of victims are female; 1/3 are children.⁴
- 1 million children are exploited by the global commercial sex trade every year.⁵
- \$32 billion: Total annual profits generated by the human trafficking industry, second only to drug trafficking.⁶
 - \$15.5 billion is made in industrialized countries.
 - \$9.7 billion in Asia.
 - \$13,000 per year generated on average by each “forced laborer.” This figure can be as high as \$67,200 per victim per year.

Foreign Nationals Trafficked Into the US

- 14,500 – 17,500: Number of foreign nationals trafficked into the US each year.

¹ U.S. Department of State, *Trafficking in Persons Report:2010*

² Kevin Bales, *Disposable People, 1999*

³ Dutnick P, Belser P, Danailous Trane G., Methodologies for Global and National Estimation of Human Trafficking Victims. Working Paper, International Labor Organization (ILO). February 2007.

⁴ Id.

⁵ U.S. Department of State, *The Facts About Child Sex Tourism*.

⁶ ILO, *A Global alliance against forced labor: 2005*.

- This is the most recent U.S. government statistic. However, it is constantly being revisited, and a newer statistic is under study and review.⁷
- 1,379: Number of foreign national victims of human trafficking certified by the Department of Health and Human Services from October 2000 through FY 2007.⁸
 - 131 minors and 1,248 adults.
 - These victims originate from at least 77 different countries.
- 1,318: Number of T visas granted by the Department of Homeland Security (DHS) from FY 2000 through November 1, 2008, to human trafficking survivors. 729 visas were issued between FY 2000 and FY 2006.⁹
 - An additional 1,076 derivative T visas were granted to family members.
 - DHS is authorized to issue up to 5,000 T-visas per year.

Human Trafficking of U.S. Citizens within the US (Domestic Trafficking)

- 244,000 – 293,000: Number of American children and youth estimated to be at risk of child sexual exploitation, including commercial sexual exploitation, in 2000.¹⁰
- 38,600: Estimated number of an approximate 1.6 million runaway/throwaway youth at risk of sexual endangerment or exploitation in 1999.¹¹
- 12 – 14: Average age of first involvement in prostitution for people under 21;¹² ages 17 – 18 are the mean in studies with broader age range of 15 – 56.¹³

Characteristics of Human Trafficking in Wisconsin

The crime of human trafficking is growing worldwide, and Wisconsin mirrors this trend. While human trafficking is prevalent throughout the state, the awareness of the issue and knowledge of best practices lag behind.

Nature of Human Trafficking

- Clandestine and hidden; victims often do not self-identify.
- Victims include men, women, and children of every age, race, sexual orientation, socio-economic class, ethnicity, nationality, and religion.
- Human trafficking includes labor, sex, and other forms of exploitation.
- Elements of labor and sex in trafficking cases often overlap. E.g. a labor-trafficking victim sexually assaulted by the trafficker; a victim forced to work in one industry (meat packing) then another (stripping).

⁷ DOJ, HHS, DOS, DOL, DHS, and USAID. *Assessment of U.S. Government Efforts to Combat Trafficking in Persons*: June, 2004.

⁸ U.S. Department of Health and Human Services Anti-trafficking in Persons Department; U.S. Department of State *Trafficking in Persons Report*: 2007.

⁹ USCIS; U.S. Department of State, *Trafficking in Persons Report*: 2007.

¹⁰ Estes, Richard J. and Neil A. Weiner. *The Commercial Sexual Exploitation of Children in the US, Canada and Mexico*. The University of Pennsylvania School of Social Work: 2001. Study funded by the Department of Justice. www.womensfundingnetwork.org/AFNAP-toolkit/by-the-numbers.

¹¹ U.S. Department of Justice: Office of Juvenile Justice and Delinquency Prevention, *Runaway/Throwaway Children: National Estimates and Characteristics*. NISMART Series: 2002.

¹² Estes and Weiner, *Commercial Sexual Exploitation of Children in the US, Canada and Mexico*, 2001.

¹³ Raphael and Shapiro, *Sister Speak Out: The Lives and Needs of Prostituted Women in Chicago*, 2002.

- Women and children from poverty-stricken areas are disproportionately affected.
- Victims include foreign nationals and U.S. citizens (often referred to as victims of international and domestic trafficking).
- Crime may originate in Wisconsin, in a different state, or in another country.
- Human trafficking occurs in urban (especially metropolitan areas or centers of tourism) as well as rural settings (especially large farming communities).
- Perpetrators may be part of an organized crime group or act on their own.

Prevalence of Human Trafficking in Wisconsin

In 2007, the Wisconsin Office of Justice Assistance surveyed more than 1,300 sexual assault service providers, domestic violence providers, law enforcement officers, and district attorneys about their interactions with victims of human trafficking between 2000 and 2007.¹⁴ Survey results showed that:

- Respondents identified more than 200 individuals as potential victims of trafficking.
- Trafficking occurred in urban and rural areas, in more than half of Wisconsin's 72 counties.
- 15% of encountered victims were child victims of commercial sexual exploitation (under 18 years).
- 85% of encountered victims were adults.
- 75% of encountered victims were victims of sex-related trafficking crimes.
- Approximately 25% of encountered victims were victims of forced labor trafficking.

In 2008, a second survey by a researcher at the University of Wisconsin-Whitewater showed similar results.¹⁵ The study also found that:

- Wisconsin victims of trafficking experience multiple exploitations. For example, a victim might be in an abusive international marriage and be forced into prostitution as well.
- Approximately 25% of identified trafficking victims were male. Of those, approximately 90% were victims of labor trafficking.
- Human trafficking in Wisconsin is a crime that disproportionately affects migrants, regardless of citizenship status.

Both surveys indicated that victims come from every part of the globe. Approximately 30% of identified potential trafficking victims were native-born U.S. citizens, primarily from the Midwest, including Wisconsin, Minnesota, and Illinois.

*To date, more than **200 potential cases of trafficking** have been **identified in Wisconsin**, but there have been **only two state prosecutions** and **4 federal convictions***

(US v. Calimlim, 2005 and US v. Carter, 2009)

¹⁴ Wisconsin Office on Justice Assistance, *Hidden in Plain Sight: A Baseline Survey of Human Trafficking in Wisconsin*: February 2008.

¹⁵ Margo Kleinfeld. *Who are the Victims of Human Trafficking in Wisconsin? A Geographic Analysis*. Excerpt from Report to the UW System Institute on Race and Ethnicity. 2008.

Additional Indicators of Prevalence

- In 2008 and 2009 the National Human Trafficking Hotline, operated by the Polaris Project, received 90 calls from Wisconsin about cases of trafficking.
- According to the Bureau of Justice Statistics, the Milwaukee Human Trafficking Task Force identified 10-19 cases of human trafficking between 2007 and 2008.¹⁶

Note: These figures only refer to the identified potential victims and should not be seen as a reflection of general trends in the state or in the nation. Human trafficking is a new offense in Wisconsin, with the state law enacted in 2008. Thus, further first-hand experience working on this issue, in-depth research, and annual data collection are needed to fully understand the dynamics of this crime in Wisconsin.

Wisconsin Anti-Human Trafficking Movement

The development of the anti-human trafficking movement in Wisconsin mirrors similar national and international movements to eliminate this devastating human rights crime. The movement is a grassroots effort and is grounded in decades of experience and wisdom gained from similar movements in sexual violence, domestic violence, labor, and immigrants' rights in Wisconsin. Based on the demonstrated need for action, The Human Trafficking Committee was formed and began to address human trafficking in Wisconsin. *Hidden in Plain Sight* was the committee's effort to challenge denial and bring awareness and acknowledgement to the issue of human trafficking in the state. This protocol is a follow-up to that report—an effort to focus attention on the need for a **victim-centered, offender-focused**,¹⁷ multidisciplinary response to human trafficking.

¹⁶ Bureau of Justice Statistics. *Characteristics of Suspected Human Trafficking Incidents, 2007-08*. January 2009. Available online at: www.bjs.gov/content/pub/pdf/cshti08.pdf.

¹⁷ See SART Protocol p.7 for definitions www.wcasa.org/file_open.php?id=203.

Definitions of Human Trafficking

Human trafficking involves the deprivation of liberty of a person in order to exploit the victim for labor, services and/or the sex trade. The elements of trafficking can be subtle and complicated, making it difficult to establish one definition that is universally accepted and used.

Human Trafficking within the Human Rights Framework

“Modern slavery—be it bonded labor, involuntary servitude, or sexual slavery—is a crime and cannot be tolerated in any culture, community, or country ... [It] is an affront to our values and our commitment to human rights.”

– Hillary Rodham Clinton, U.S. Secretary of State

“Trafficking violates a range of human rights, including the rights to: physical and mental integrity; life; liberty; security of the person; dignity; freedom from slavery, slavery-like practices, torture and other inhuman and degrading treatment; family life; freedom of movement; privacy; the highest attainable standard of health; and safe and secure housing.”

– Amnesty International

“States must redress wrongs committed against trafficked persons—it is their human rights obligation.”

– UN High Commissioner for Human Rights

“The right to an effective remedy for trafficked persons is a fundamental human right and should be guaranteed to all victims of human rights violations including trafficking.”

– UN Special Rapporteur on Trafficking in Persons

Human Trafficking as Modern-Day Slavery

Although the institution of slavery was abolished in the US and most of the world in the 19th century, according to some estimates more slaves exist in the world today than at any other point in history.^{18,19} Human trafficking or *trafficking in persons*, as the U.S. State Department refers to it, is recognized around the world as modern-day slavery. It is more complex and involves a broader, more clandestine range of relationships that are different from the slavery of previous centuries. The important distinctions are summarized in the following chart:

¹⁸ Kevin Bales, *Disposable People*, 1999

¹⁹ Ben Skinner, *A Crime So Monstrous*, 2008

OLD SLAVERY VS. NEW SLAVERY

Old Slavery	New Slavery
Legal ownership of human being as property High purchase cost Shortage of potential slaves Low short-term profits Long-term relationship (generations) Encouraged to reproduce Slaves maintained	No legal ownership of human being Low purchase cost Surplus of potential slaves Very high profits accrued very fast Short-term relationship (weeks/months/years) Prevented from conceiving Slaves disposable

Human Trafficking & Commercial Sexual Exploitation of Children (CSEC)

Both state and federal law make involving a minor child in a commercial sex act or sexually explicit performance a felony offense and define each as human trafficking. Force, coercion, fraud, deception, restraint or threats are not necessary to prove human trafficking when a minor is recruited into commercial sex acts. Additionally, it does not matter if the child asserts that s/he consented or agreed to the arrangement. Minors cannot legally consent to commercial sex acts. By this definition, any involvement of a minor in sexual acts for money or anything of value including survival needs is human trafficking. Countless U.S. citizen children, as well as foreign minors, are commercially sexually exploited, and are thus victims of human trafficking.

Human Trafficking vs. Smuggling

Trafficking is an *exploitation-based* crime, while smuggling is transportation based. It is important to recognize the distinction between smuggling and trafficking. Smuggling involves the facilitation of illegal border crossing, while trafficking can occur within or across borders and does not require movement. Smuggled people are generally made aware of the conditions of their travel and voluntarily engage in the process of irregular migration. ***Trafficked people are seldom aware of the entire process even if they originally submitted freely to the trafficker.*** Ultimately, trafficked persons do not consent to the abuses, exploitation, and human rights violations to which they are subjected. Below is the summary of UN Office on Drugs and Crime and U.S. Customs and Immigration Enforcement positions on the issue. Both entities take the position that smuggling and trafficking are not interchangeable terms. See page 85 of the Appendix for a more detailed breakdown of UN and U.S. definitions.

SMUGGLING VS. TRAFFICKING

Smuggling	Human Trafficking
<ul style="list-style-type: none"> • Smuggling assumes consent of the migrant • Upon arrival, the smuggled person is free or required to work temporarily to pay off their smuggler • Smuggling involves border crossing 	<ul style="list-style-type: none"> • Trafficked persons are transported against their will or their initial consent is rendered meaningless • Victims of trafficking are enslaved indefinitely • Trafficking can be within or across local/national border and doesn't require movement

International Law

The following chart details the elements of the crime of human trafficking, as ratified by the US and defined in Article # 3 of the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime. If one condition from each category is met, the result is trafficking.

ELEMENTS OF INTERNATIONAL CRIME

Action	+	Means	+	Purpose
<p>Trafficking is the...</p> <p>Recruitment or Transportation or Transferring or Harboring or Receiving</p> <p>... of a person</p> <p>(or attempt to do so)</p>	<p>A</p> <p>N</p> <p>D</p>	<p>By means of...</p> <p>Threat or use of force or Coercion or Abduction or Fraud or Deception or Abuse of power or of a position of vulnerability or Giving or receiving of payments or benefits to achieve the consent of a person having control over another person</p>	<p>A</p> <p>N</p> <p>D</p>	<p>For the purpose of exploitation...</p> <p>Exploitation at a minimum includes:</p> <p>Prostitution, Sexual exploitation, Forced labor or services, Slavery/Similar practices, Servitude, or Removal of organs</p>

NOTE: For children, victim consent is irrelevant with or without the “Means” category.

Other applicable International Laws and Conventions:

- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
- Convention on the Rights of the Child

Federal Law

The Trafficking Victims Protection Act ("TVPA") of 2000 and the Trafficking Victims Protection Reauthorization Acts (TVPRA) of 2003, 2005, and 2008 (2011 pending reauthorization) define the crime of trafficking as having the following elements (provided that one condition from each category is met):

ELEMENTS OF THE U.S. FEDERAL CRIME

Action	+	Means	+	Purpose
<p>Trafficking is the...</p> <p>Recruitment or Harboring or Transportation or Provision or Obtaining</p> <p>...of a person (or attempt to do so)</p>	<p>A</p> <p>N</p> <p>D</p>	<p>By means of...</p> <p>Force (causing serious harm or physical restraint) or Fraud or Coercion (threats of serious harm to, or physical restraint against, a person or another person; abuse or threatened abuse of law or legal process; any scheme, plan, or pattern, force...) <i>*Either knowingly or by acting in reckless disregard*</i></p> <p>-EXCEPT THAT-</p> <p>The elements above are not required to show trafficking of a minor for commercial sex acts.</p>	<p>A</p> <p>N</p> <p>D</p>	<p>For the purpose of...</p> <p>Sex Trafficking: commercial sex acts or Labor Trafficking: involuntary servitude, peonage, debt bondage, or slavery</p>

NOTE: The standard to keep in mind is "SERIOUS HARM:" any harm, including psychological, financial, or reputational harm, that would compel a reasonable person with the victim's background and in the victim's circumstances to perform labor, services, or commercial sex acts to avoid that harm (Means Section).

Sex Trafficking of a Minor: the "Means" element is not required for minors under age 18. Knowledge-of-age requirement is eliminated when the defendant had a reasonable opportunity to observe the minor.

Federal Statutory Definition:

- Title 22 USC, Chapter 78, Sec 7102

Federal Statutes on Labor Trafficking:

- Forced Labor (18 USC ch. 77, Sec.1589)
- Peonage (18 USC Sec.1581)
- Involuntary Servitude (18 USC Sec.1584)
- Trafficking with Respect to Peonage, Slavery, Involuntary Servitude or Forced Labor (18 USC Sec.1590)
- Document Falsification in Furtherance of Trafficking, Involuntary Servitude or Forced Labor (18 USC Sec.1592)

Federal Statutes on Sex Trafficking:

- Sex Trafficking by Force Fraud or Coercion or Sex Trafficking of Children (18 USC Sec 1591)

Federal Immigration Laws on Benefits for Victims of Trafficking:

- Title 8 USC, Chapter 12, Sec 1101 T and U²⁰

Wisconsin State Law

In Wisconsin, human trafficking can also be prosecuted as a state crime. For the purpose of prosecution in Wisconsin, state law defines two trafficking crimes: Human Trafficking and Trafficking of a Child, § 940.302 and § 948.051 Wisconsin Statutes, effective date April 3, 2008 (WI Human Trafficking Act 116 of 2007).

The Wisconsin crime of human trafficking § 940.302(2)(a),(b) is a class D felony.

The penalty for a class D felony is a fine not exceeding \$100,000, a prison time not exceeding 25 years, or both.

²⁰ Available online at: http://www.law.cornell.edu/uscode/html/uscode08/usc_sup_01_8_10_12_20_I.html.

ELEMENTS OF THE STATE CRIME

Action	+	Means	+	Purpose
Trafficking means knowingly... Recruiting or Enticing or Harboring or Transporting or Providing or Obtaining ... an individual without consent of the individual ---OR--- Attempting to do so	A N D	Done by any of the following... Causing or threatening to cause bodily harm to any individual or Causing or threatening to cause financial harm to any individual or Restraining or threatening to restrain any individual or Extortion or Fraud or deception or <i>Debt bondage</i> or Controlling any individual’s access to an addictive controlled substance or Using any scheme or pattern to cause an individual to believe that any individual would suffer bodily harm, financial harm, restraint, or other harm.	A N D	For the purpose of... <i>Commercial sex act</i> or labor or services Note Whoever benefits in any manner from a violation of trafficking is guilty of a Class D felony if the person knows that the benefits come from an act of trafficking.

Wisconsin Statute Definitions:

940.302 (1) (b) “debt bondage” means the condition of a debtor arising from the debtor’s pledge of services as a security for debt if the reasonable value of those services is not applied toward repaying the debt or if the length and nature of the services are not defined.

940.302 (1) (a) “commercial sex act” means sexual contact for which anything of value is given to, promised, or received, directly or indirectly, by any person.

940.302 (1) (c) “services” means activities performed by one individual at the request, under the supervision, or for the benefit of another person.

Wisconsin Statute on Child Trafficking:

The Wisconsin crime of Human Trafficking of a Child § 948.051(1),(2) is a class C felony. The penalty for class C felony is fine not exceeding \$100,000, prison term not exceeding 40 years, or both.

WISCONSIN CRIME OF HUMAN TRAFFICKING OF A CHILD

Action	+	Purpose
<p>Trafficking of a child means knowingly...</p> <p>Recruits or Entices or Harbors or Transports or Provides or Obtains</p> <p>... a child</p> <p>--OR--</p> <p>Attempts to do so</p>	<p>A N D</p>	<p>For the purpose of...</p> <p>Commercial Sex Act or Sexually Explicit Performance</p>

Victim Support and Assistance

In addition to the statutes directly addressing human trafficking, there are important federal and state programs that provide victim services and protection. See page 92 of the Appendix for Wisconsin and Federal services for citizen, permanent-resident, and foreign victims.

Victim Services

Despite the seeming multitude of options for crime victims, victims of human trafficking need a complex and comprehensive set of services that require sensitivity and specialized training from all that are involved in serving them. Although services for victims listed below may be helpful, the intricacies of addressing a multilayered crime of human trafficking make it difficult to rely solely on these established services to meet the needs of victims of human trafficking in the state. While some training has been underway in Wisconsin, a sustainable network of service providers specifically trained in the dynamics of human trafficking and funded to provide services to trafficking victims is still missing.

For this reason, advocates and victims should work closely with service providers in a coordinated effort, and no single provider should be relied upon for victim assistance. For example, because a county Child Protective Services agency typically does not have the experience or training in serving victims of human trafficking, it should not be assumed that, if a victim is part of the child welfare system, the issues related to being a human trafficking victim will be addressed (since cases not involving caretaker abuse are generally screened out). Although they have the best interests of the child in mind, agency social workers and supervisors will sometimes need assistance in fully understanding and comprehensively serving the specific needs related to these issues.

There are many victim service organizations throughout Wisconsin. Victim advocates may be able to help victims address the psychological and physical trauma that results from the crime. An online directory of some of the agencies that operate in Wisconsin can be found at: www.doj.state.wi.us/cvs/referrals, including system-based and community-based services.

System-Based Services

The Wisconsin Department of Justice Office of Crime Victim Services (DOJ-OCVS)

- *Victim Resource Center (VRC):*
Assists victims in understanding and exercising their statutory rights and in navigating the criminal justice system; acts as a liaison between victims and the criminal justice system; provides training and technical assistance to criminal justice professionals. Victims of crime can call 1-800-446-6564 to reach the VRC.
- *Crime Victim Compensation Program:*
If a victim of crime is injured or killed in the State of Wisconsin, they or their survivors may qualify to receive reimbursement for medical or mental health services needed as a result of the crime, lost wages or benefits resulting from the crime, or related burial expenses. Victims must qualify for the program by meeting several criteria. The Crime Victim Compensation Program is designed to assist victims who have no other source of

payment for these types of crime-related expenses. This program provides limited assistance based on the rules and regulations of Wis. Stat. Chapter 949. Victims of crime can call 1-800-446-6564 for more information about the Crime Victim Compensation Program. Information is also available online at www.doj.state.wi.us/cvs.

Victim/Witness Assistance Programs

Nearly every county's district attorney's office has a victim/witness assistance program within their agency. Some of Wisconsin's law enforcement agencies also have victim/witness assistance units. Victim assistance programs lend emotional and practical support and help victims understand their rights and how to exercise them.

The Wisconsin Department of Children and Families (WI DCF)

- *Bureau of Migrant, Refugee & Labor Services:*
WI DCF Immigration Services manage and monitor contracts for programs designed to assist refugees in achieving economic self-sufficiency and social self-reliance. Services are provided by partner agencies that are responsible for comprehensive, bilingual, and bicultural employment services, as well as supportive services that may include health screening, English as a Second Language, and family-focused case management. Employment services may include assessment, vocational training, job application support, job referral, job retention, and job upgrading. Services are available to foreign victims of trafficking who have completed the Federal certification process.

County Child Protection Services and the Bureau of Milwaukee Child Welfare

Wisconsin's Child Protective Services (CPS) program is state-supervised and county-administered in 71 counties, and state-administered in Milwaukee County. Reports of alleged child maltreatment are responded to by all 71 County Human/Social Services Departments in the state and to the Bureau of Milwaukee Child Welfare. Any concerned individual may report suspected abuse or neglect directly to a local child protective service agency or law enforcement agency. The focus of CPS is to assure child safety and to work with families to determine whether the child and family are in need of any services. CPS caseworkers assess child safety and work with the family to determine what if anything must be done to protect the child and help the family. Examples of services available to help the family and the child include counseling, in-home services, assistance regarding home and financial management, parent education, etc. If necessary for the child's safety, the child will be placed in out-of-home care under a court order until the child can be returned safely home. If a safe reunification with the family is not possible, other permanency options such as adoption or guardianship must be pursued for the child.

Temporary Assistance to Needy Families (TANF)

TANF provides assistance and work opportunities to needy families. The goal of the program is to provide temporary assistance to help families with childcare, job preparation, and a variety of individual and family services aimed at helping families remain together.

Community-Based Services

Sexual Assault and Domestic Violence Services

Agencies around the state provide victims of sexual assault and domestic violence in their geographic areas with support services, advocacy, shelter, and health services, including Sexual Assault Forensic Exam administered by Sexual Assault Nurse Examiners (SANE). These agencies are community (non-system) based, and they are funded through a variety of federal, state, and private sources. Wisconsin Coalition Against Sexual Assault (WCASA) and Wisconsin Coalition Against Domestic Violence (WCADV) provide training and technical assistance to these service providers on various issues, including human trafficking. For sexual assault and domestic violence agency directories visit: www.wcasa.org & www.wcadv.org

Worker Rights Groups

The Workers' Rights Center is a community center dedicated to educating and advocating for worker justice. The Center is committed to empowering workers. A major focus has been training people in the community as advocates to assist others in resolving workplace problems. By its work and advocacy, the Workers' Rights Center seeks to affirm the dignity of work and the dignity and respect that should be afforded to all members of our community, as expressed in the social teachings of many faiths. The group publishes a Wisconsin Workers' Rights Manual that can be accessed online at: www.wrcmadison.org/. See also www.workerjustice.org

Non-Traditional Service Providers

Besides the well recognized system-based (i.e. victim/witness specialists, child protective workers) and community-based (i.e. sexual assault and domestic violence advocates) providers, there are multiple grass-roots agencies providing outreach, advocacy, HIV/STI prevention and treatment, substance abuse intervention, reproductive healthcare, and peer support in traditionally underserved communities in many Wisconsin's counties. They work with youth, immigrants, communities of color, people with disabilities, LGBTQ individuals, migrant workers, as well as minor and adult survivors of trafficking.

Immigration Relief for Foreign Victims of Trafficking

Immigration relief is available for victims of trafficking who lack immigration status in the United States. This is determined by the individual circumstances surrounding the victimization and the specific eligibility requirements of the type of relief sought. The victim (or someone acting on the victim's behalf) may be eligible to apply for Continued Presence and T or U nonimmigrant visa.

Continued Presence (CP)

Continued Presence allows victims, who lack legal status and are assisting law enforcement as potential witnesses, to remain in the country for the course of criminal investigation. It is granted for the duration of one year, but can be renewed. Victims can apply for T or U nonimmigrant visa after receipt of CP, or independent of it.

Visas and HHS Certification

T Nonimmigrant Status (T visa)

- Allows eligible victims to remain in the US for up to 4 years.
- May be available to victims of a severe form of trafficking in persons who have complied with any reasonable law enforcement (LE) requests for assistance in the investigation or prosecution of acts of trafficking.
- Minors under the age of 18 do not have to comply with such requests in order to be eligible.
- A victim must be physically present in the US or a port of entry thereto on account of trafficking, and must demonstrate s/he would suffer extreme hardship involving unusual and severe harm upon removal.
- Trauma Exception removes law enforcement cooperation requirement for adults (TVPRA 2008).

U Nonimmigrant Status (U visa)

- May be available to immigrants who have suffered substantial physical or mental abuse as a result of having been the victim of certain criminal activity, including trafficking.
- To be eligible victims must demonstrate that the crime occurred in the US or violated U.S. law, and that they possess information about the crime.
- Victims must also include a certification from a law enforcement official stating that the victim has assisted, is assisting or will assist in the investigation or prosecution of the criminal activity.

Family members of T or U visa holders

- T or U visa holders may apply for certain family members to also become visa holders.
- T or U visa holders under the age of 21 may apply for their parent(s) and/or sibling(s) under the age of 18 years.

Employment eligibility of T or U visa holders

- Recipients of both the T and U visas are eligible for employment authorization and may, after three years, adjust their status to that of lawful permanent resident in accordance with federal law and regulations.

Applying for T or U Nonimmigrant Visas

Victims of a severe form of trafficking who wish to apply for a T nonimmigrant visa should complete [Form I-914, Application for T Nonimmigrant Status](#). Victims of certain criminal activity who wish to apply for a U visa should complete [Form I-918, Petition for U Nonimmigrant Status](#). By statute, only 5,000 T visas (T visa is extremely under used with only 200 visas processed annually on average) and 10,000 U visas may be issued to victims annually. These limits do not apply to family members. After 3 years T and U visa holders are eligible to apply for legal permanent residency (LPR - green card).

Due to the complexity of the documents required it is highly recommended to enlist help of an immigration attorney.

HHS Certification

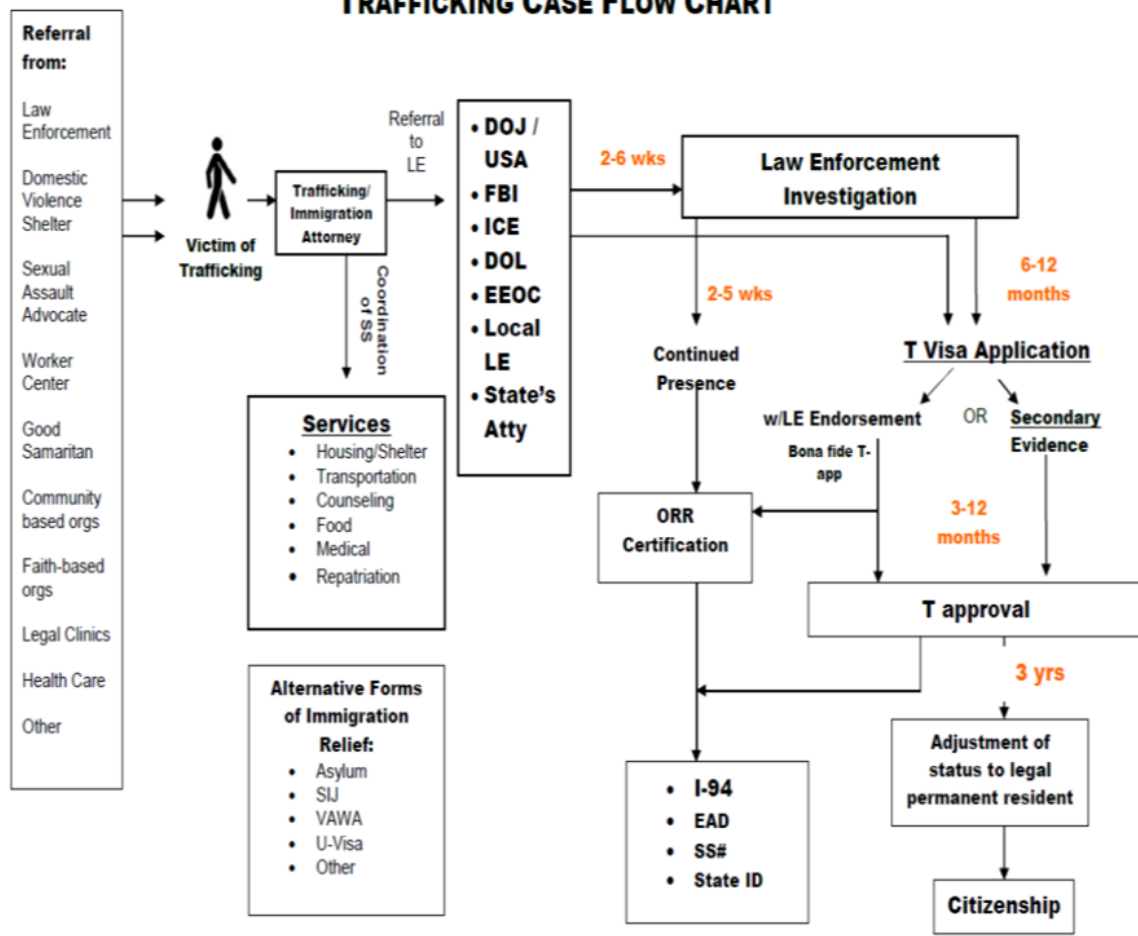
Adult foreign victims of human trafficking (age 18 and over) who are certified by the U.S. Department of Health and Human Services (HHS) can receive federally funded services and benefits to the same extent as refugees. To receive certification, an individual must have completed an application for a T-visa or have received Continued Presence status from the U.S. Department of Homeland Security. Child victims (under 18) are immediately eligible for benefits and do not need to apply for a T-visa or Continued Presence status. Certified and eligible victims can receive benefits and services necessary for their safety including:

<ul style="list-style-type: none"> • Housing or shelter assistance • Food assistance • Income assistance • Employment assistance 	<ul style="list-style-type: none"> • English language training • Health care assistance • Mental health services • Assistance for victims of torture
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Trafficking Case Flow Chart

The Trafficking Case Flow Chart below, developed by the National Immigration Justice Center, provides a snapshot view of the process and timeline by which foreign victims may seek immigration relief. To ensure trafficking victims' rights are protected, the first step in seeking immigration relief is to secure legal representation with an immigration attorney. It is highly encouraged that victims should seek legal counsel before contacting law enforcement, or at the earliest possible time thereafter. Legal counsel provides an extra layer of protection that ensures that victims receive fair treatment within the boundaries of current immigration law.

TRAFFICKING CASE FLOW CHART



**Adopted from the National Immigration Justice Center.*

Other Immigration Remedies

Even though the primary sources of immigration relief for foreign victims are T and U visas, there are a number of other options available.

VAWA Self Petition - This statute prevents citizens or residents from using the residency process as a means to exert control over an immigrant spouse or child.

- Self-Petitioning for Battered & Abused Immigrant Women and Children **8 U.S.C. §1154.**
- Spouses and children of citizens and lawful permanent residents may petition for independent legal residency.
- Allows victims to remain in the US independent of their abusive husbands/parents.

Asylum

- Apply within 1 year of arriving in US.
- Must fear persecution from government of country of origin or from a group that the government is unable or unwilling to control.
- Persecution based on race, religion, politics, nationality, or social group.
- Can apply for Legal Permanent Residency (LPR) after 1 year of being an Asylee.

SIJS – Special Immigrant Juvenile Status

- Designed specifically for children in out-of-home care; can lead to LPR.
- Under 21; unmarried.
- Dependent on a juvenile court (CHIPS, JIPS, juvenile delinquent, GN): there must be a court order in place.
- Reunification with one or both parents is not viable due to abuse, neglect, or abandonment.

Family-Based Immigration

- One of victim's immediate family members who already holds U.S. citizenship or permanent residency may act as a sponsor when applying for immigration visa.
- Priority Categories for immediate family members of U.S. citizens include: Spouse, Minor Children (unmarried and under 21), and Parents.

Deferred Action & Deferred Enforced Departure

- Allow qualified individuals to remain in the US for limited periods of time; not an immigration status.
- Qualified individuals generally may also apply for work authorization.

Significant Public Benefit Parole

- Request can only be submitted by a law enforcement agency.
- It is used to allow a foreign individual to take part in legal proceedings when there is a benefit to the government.

Humanitarian Parole

Used sparingly to bring someone who is otherwise inadmissible into the US for a temporary period of time due to a compelling emergency.

General Guidelines for Responding to Trafficking Victims

Adopting a Victim-Centered Approach

Human trafficking is first and foremost a violation of an individual's inalienable human right to freedom. The exploitations and violence perpetrated by traffickers against their victims violate this freedom. For many, recovery and rehabilitation for the victims of this heinous crime is dependent upon a restoration of their health and humanity. This process of restoration can only be facilitated when using a victim-centered approach.

Before they are identified, once they are rescued, and long after any criminal case is closed, trafficked individuals are human beings with a right to live with freedom and dignity. When serving these victims, one must be cognizant of the physical and emotional abuse that has been exacted. The exploitation suffered by victims is extensive, pervading body and mind; recovery is a long and arduous process that can be facilitated or hindered by the types of interactions victims have with law enforcement and service providers. A victim-centered approach employs patience, empathy, and compassion for victims while responding to their needs.

Victims have complex backgrounds. Many have existed without basic human rights for so long that they have been conditioned not to fight back. They may fear real consequences that the full disclosure of their activities may bring, and many mistrust formal systems. Law enforcement and prosecution should temper their expectations of victim cooperation with this understanding. Cooperation is best achieved by recognizing and protecting a victim's rights and by demonstrating a commitment to assist the victim to rebuild her/his life free of a former trafficker. When law enforcement, prosecution, service providers, or any other actors are involved in a human trafficking case, advocacy for victims must not be overlooked and must remain central in the process. Victims have to be heard, and believed. It is unacceptable to criminalize or further ostracize a victim.

Law enforcement, prosecution, service providers, and all other actors involved in a human trafficking case must advocate for the victims. It is unacceptable to criminalize or further ostracize a victim. This requires patience, empathy, and compassion for these individuals.

Understanding the Complexity of Trafficking Cases

The victim-centered approach requires that all actors involved in a trafficking case understand the complexity of trafficking, how victims become entrapped, and how mislabeling victims as offenders undermines efforts to eliminate this crime.

At Risk / Vulnerable Populations

Victims of trafficking often come from vulnerable populations, including: oppressed or marginalized groups; inhabitants of impoverished or disaster areas; individuals with drug

dependency; runaways and at-risk youth; and migrant workers, temporary foreign workers, and undocumented immigrants.²¹ Traffickers specifically target individuals in these populations because they are often easiest to recruit and control and are least likely to be protected by law enforcement. The common elements in the factors that expose people to human trafficking and slavery-like practices include inequality and oppression based on gender, age, race and caste, and low economic status, all of which are exploited through deception, corruption, and greed on the part of the trafficker.

Trafficking affects individuals of all ages, races, sexual orientations, and social standings. However, impoverished women and children, women of color, and LGBT youth are the most vulnerable victims of modern-day slavery.²² This makes trafficking particularly repulsive because it shows the ways in which gender discrimination, racism, homophobia, and poverty converge and create extreme forms of violence.

Length of Servitude

The length of time a trafficked person spends in servitude varies enormously, especially in places where both types of servitude (sex and labor trafficking) coexist. While some trafficking cases span decades, today many slaves are exploited for a few months or a couple of years. In many instances it is simply not profitable for traffickers to keep victims if they are not immediately useful. Under these circumstances, there is no reason to invest heavily in their enslavement; victims are re-sold, abandoned, or even killed. Some traffickers believe there is no reason to protect their victims from disease or injury because medication and medical treatment are expensive. Other traffickers, however, when they believe they can still turn a profit, may allow their victims to seek health services, which makes hospitals and clinics at times the only points of contact victims have with first responders.

Social Determinants of Trafficking

Increased global inequality and government corruption, the vast number of people and their ongoing impoverishment, and the feminization of poverty have contributed to this new form of slavery. For the first time in human history there is an absolute accumulation of potential people to be exploited. The increase in trafficking is a dramatic illustration of the laws of supply and demand: with so many possible workers, the value of any one worker is very low. Trafficking victims are now so cheap that they have become cost-effective in many new kinds of work, completely changing how they are seen and used. Traffickers treat people like cheap/free and abundant merchandise. When the product is not cost-effective anymore, it becomes a burden and is quickly disposed of, only to make room for another.

Complicated and Multilayered Scenarios

There are four crucial points that make human trafficking cases extremely complex. Understanding the finer distinctions of trafficking and exploitation will deconstruct myths and

²¹ Raymond, Janice G. and Donna M. Hughes. *Sex Trafficking of Women in the United States: International and Domestic Trends*. Coalition Against Trafficking in Women. March 2001.

²² McClain, Natalie M. and Stacy E. Garrity. "Sex Trafficking and the Exploitation of Adolescents." *Journal of Obstetric, Gynecological & Neonatal Nursing*. Association of Women's Health, Obstetric and Neonatal Nurses. March/April 2011. Vol 40. Issue 2. Pages 243-255.

misperceptions about victims.

1. *Choice and Coercion: In the overwhelming majority of cases, the distinction between voluntary free choice and being trapped or enslaved is not easily determined or proven.*

Seeking a distinction between free choice and enslavement does not address the complexity of the conditions of exploitation that women, men, and children actually experience. Frequently, people trafficked to the US are aware of the nature of a stated job but unaware of the abusive conditions they will ultimately encounter. This is exemplified in the variety of profitable businesses that involve the exploitation of foreign women, such as unlicensed mail-order-bride companies, au pair schemes and domestic servant operations, sweatshops in the apparel industry, nail parlors, and massage salons. Typically, women know they are coming to the US for marriage, maid or nanny services, garment production, or salon work, but they do not know that they will be abused and exploited after they arrive. Violence in domestic and international sex trafficking is a common tactic to subordinate victims, and they are routinely assaulted emotionally, sexually, and/or physically. Victims experience prolonged and repeated trauma that increases their vulnerability to exploitation and victimization.

Typically, in such scenarios, sexual exploitation and trafficking for labor go hand in hand. Sexual violence is the ultimate power-and-control tool, used initially to break the victim's spirit, and then continuously to keep the victim subordinated. Sexual violence is employed in abusive intimate partner relationships, by acquaintances, and strangers. It has further cultural implications based in war, genocide, and oppressive religious practices such as female genital mutilation. Rape is the most common and brutal tactic. As an ever-present tool of older institutions of slavery, sexual violence is now the most common tool used by traffickers to wield control over their female, child, and (in some cases) male victims in both sex and labor trafficking.

When engaging the issue of victims' free choices, it is crucial to understand how trauma, fear, force, coercion, violence, manipulation, and prolonged exposure can impact and distort victims' decisions, actions, and experiences. This understanding is required at all levels of engagement, and it informs reporting, sustained support, and legal processes.

2. *Coerced Migration: Although a significant number of human trafficking victims are U.S. citizens or foreigners who enter the country legally, a large number of trafficked victims are undocumented immigrants.*

Misidentified as willing participants in the smuggling schemes that exploit them, victims of trafficking are often labeled as criminals and frequently receive harsh treatment by law enforcement authorities. In addition to the atrocities they may encounter as victims of trafficking, they suffer further stresses under the authority of government—such as prison time, deportation, and police violence—and are sometimes forced to return to their traffickers. Many anti-trafficking initiatives have failed to distinguish between consensual migration, albeit clandestine, and coerced movement that nullifies victim consent. The trafficking of humans is different from human smuggling or illegal migration, and, as such, it requires specialized measures for its investigation (for differences between smuggling and trafficking, see page 85 of the Appendix). It is important to stress that *trafficked individuals are victims and not offenders*. Therefore, trafficking cases should not be handled by units with operating procedures designed to enforce borders or employment violations. The merging of roles within

a unit, office, or agency makes it almost impossible for victims to come forward, because they believe they will be treated as criminals.

In certain instances, the crime of trafficking may not be obvious until after illegal migration. Some situations may start out as smuggling, with people acting as willing participants in crossing international borders without proper documentation, but may turn into trafficking, at which point those individuals are not free to leave after being smuggled into the country, and they are enslaved. Men, women, and adolescents arrive to their destinations to find that their debts to their employers for the expense of bringing them to the US have increased exponentially, or the terms of the repayment have changed. In addition to having to pay off the cost of their travel and recruitment fees, upon arrival victims are charged exorbitant amounts for room and board and other necessities such as clothing and medicine, putting them permanently in debt bondage. Victims find themselves in forced prostitution or working for no pay in terrible conditions to “pay off” the debt. If they try to escape, traffickers retaliate against victims, their friends, and families, sometimes forcing family members to take their places. Unfortunately, in most such instances, people are not recognized as victims: they are detained, charged with prostitution or working without authorization, and put in deportation proceedings.

Specialized training is key to recognizing trafficking victims. Agencies, departments, and enforcement units that may come in contact with instances of trafficking should seek training and develop policies for identifying victims. As human trafficking renders consent meaningless, these victims should be supported by governmental systems and not be viewed as illegal immigrants.

3. *Sex Work and Sex Trafficking: The lack of a clear distinction between sex work and sex trafficking perpetuates exploitation.*

A crucial distinction must be made between chosen sex-work and forced sex-trafficking. The commonalities and the shared experiences between trafficking victims and sex workers may make identifying exploitation (and therefore trafficking) difficult. However, victims who are forced or coerced into sex trafficking suffer trauma, hardship, and a lack of consent that separate them from individuals that willfully engage in sex-work. Accordingly, laws which are designed to combat, sanction, or eliminate sex-work may negatively impact victims of sex trafficking, and it is important to ensure legal safeguards which protect trafficking victims from criminalization for coerced actions over which they have no control.

Further complicating this distinction are the sensationalization and feminization of the issues around sex labor. Stereotypes, cultural taboos, religious perspectives, and gender biases undermine the delivery of services to victims and beneficial policy development. Indeed, victims may choose not to use existing services if the services place them under pressure, shame, or guilt by stressing certain cultural biases or assumptions. In addition, laws and programs that broadly address commercial sexual activity without regard to important distinctions of experiences and social scientific data only inhibit victim identification and support. Furthermore, by disproportionately focusing on sex workers (often women), these approaches can minimize the role of the infrastructural organizations at the sources of sex-work and sex trafficking and actualize cause victims more hardship. In both policy and direct service, it is important to engage victims with empathy, understanding, and openness, focusing on serving, assisting, and healing them, *not* correcting or persecuting them as victims of sexual slavery.

4. *Inconsistent and Paternalistic Treatment of Minors in Sex Trade*

It is important to understand how social context and relationships impact cases of sex trafficking involving minors. While exploited, child victims' understandings of their experiences and the age differences between trafficker and trafficked can contribute to complex, paternalistic relationships between minor victims and the people that exploit them. These relationships can be problematic in victims' abilities to distance themselves from their traffickers, seek safety, and end the abuses they experience.

However, trafficked minors may also receive inconsistent, paternalistic, or detrimental treatment by adults outside of those who exploit them (e.g. by family members and friends, service providers, school officials, etc.). In some cases, victims face blame for their abuses or labels of promiscuity, and their experiences are not discussed in the appropriate context of abuse and exploitation. Since some minors assert that they choose their involvement in commercial sex acts, it is important that adults consistently maintain that minors are incapable of consenting to such acts. While minors may indeed understand they have few choices and at times exchange sex for money to survive, this decision should not and cannot legally be seen as consent to human trafficking (see *Minors in Commercial Sex Trade*, pages 14, 18). Adults must also refrain from pointing out victims' "risky choices," blaming minors for the abuse they experience, or condescending and marginalizing victims' voices. Labeling and blaming are detrimental to identifying trafficking victims, and an inconsistent message of support only hinders their recovery processes. The responsibility for the crime must fall on the traffickers, not the trafficked; perpetrators are only supported by systems and social mores that hold victimized minors responsible for the abuses they encounter.

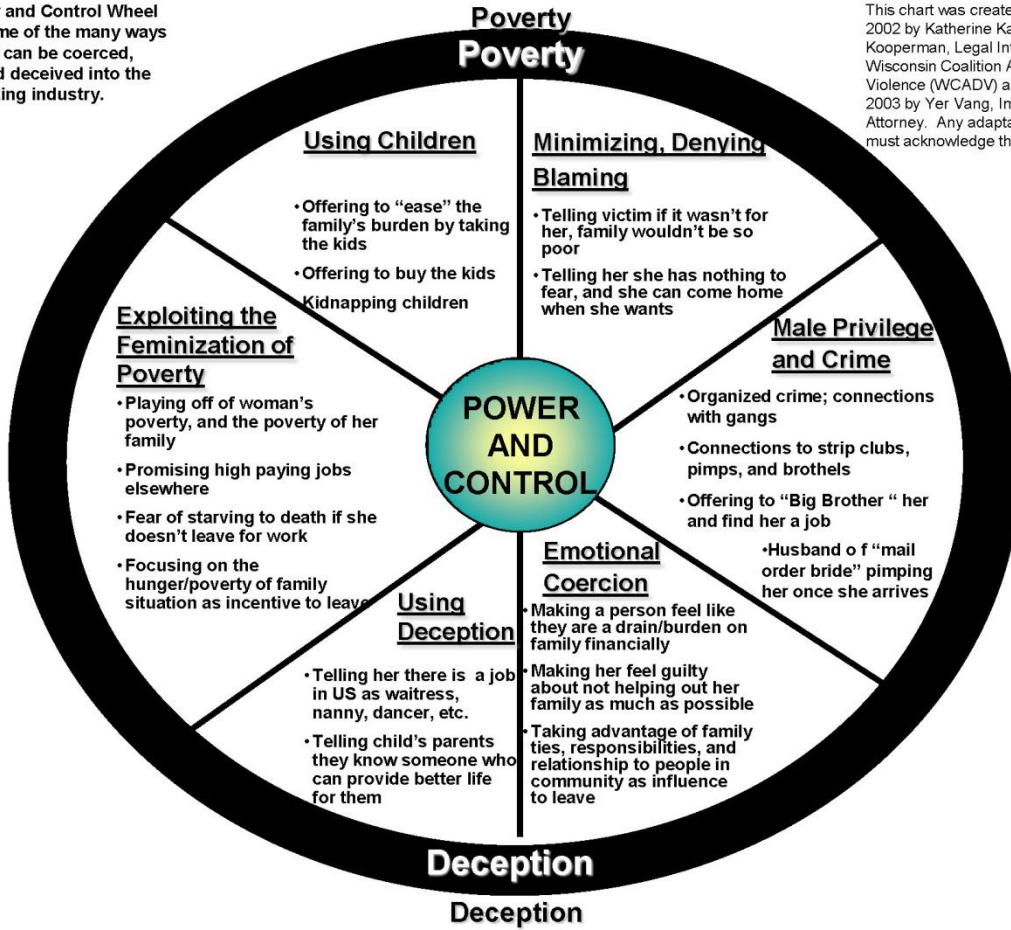
Power and Control Factors

Victims of human trafficking are almost universally coerced and deceived into servitude. Traffickers use a variety of means to entrap and control them. Wisconsin domestic violence advocates have adopted the traditional Power and Control Wheel to reflect the complexity of such dynamics in human trafficking cases. The Power and Control Wheel below depicts the tactics that traffickers use and why victims stay with their traffickers, in much the same way that victims of domestic violence and sexual assault stay with their partners.²³

²³ Wisconsin Coalition Against Domestic Violence is credited with the adaptation of the Power and Control Wheels.

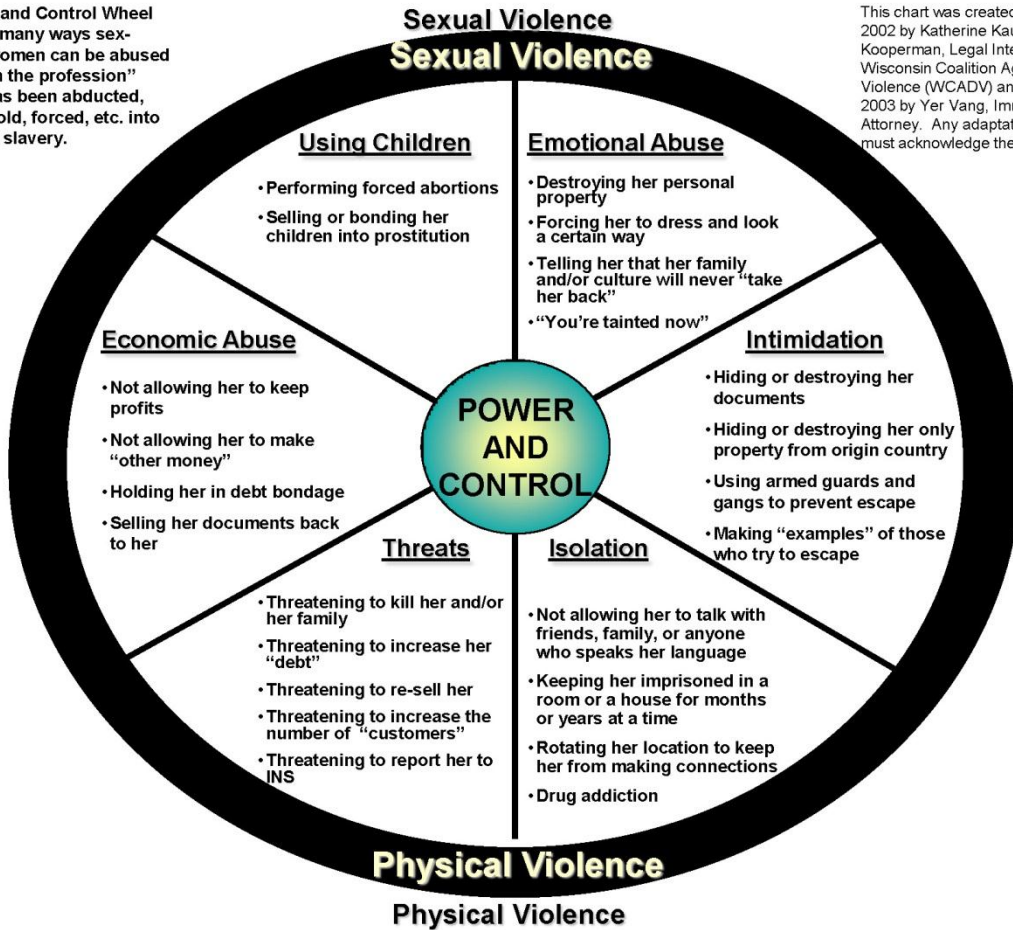
This Power and Control Wheel depicts some of the many ways individuals can be coerced, tricked, and deceived into the sex-trafficking industry.

This chart was created in November 2002 by Katherine Kaufka and Todd Kooperman, Legal Interns with the Wisconsin Coalition Against Domestic Violence (WCADV) and updated in 2003 by Yer Vang, Immigration Attorney. Any adaptation or reprinting must acknowledge the WCADV.



This Power and Control Wheel depicts the many ways sex-trafficked women can be abused and kept “in the profession” once she has been abducted, deceived, sold, forced, etc. into this form of slavery.

This chart was created in November 2002 by Katherine Kaufka and Todd Kooperman, Legal Interns with the Wisconsin Coalition Against Domestic Violence (WCADV) and updated in 2003 by Yer Vang, Immigration Attorney. Any adaptation or reprinting must acknowledge the WCADV.



Note: the wheels primarily depict the dynamics female victims face in trafficking situations and should not be considered representative of everyone's experiences.

Identifying and Assisting Victims

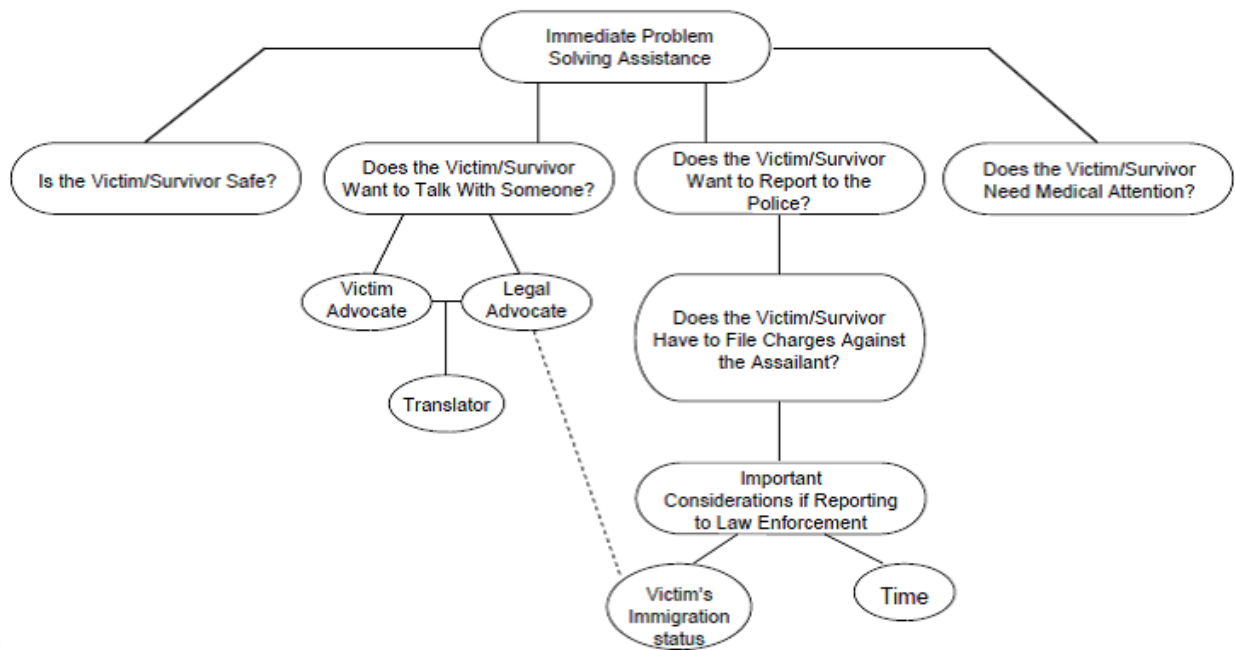
First responders play a critical role in uncovering human trafficking victims. While anyone may encounter a victim of trafficking, certain professionals, by virtue of their work, have greater access to potential victims and have a better chance of uncovering this hidden crime. Examples include emergency room personnel, health care providers, law enforcement, emergency rescue personnel, domestic violence and sexual assault advocates, homeless and shelter agencies, and clergy. It is important that these professional groups and others who encounter victims receive training on how to identify human trafficking victims, and then how to engage and assist them. Due to the complexity and the uniqueness of each human trafficking case, the following guidelines should be used with caution and not as a rigid set of questions and observations.

Immediate Assistance and Problem Solving

First responders who discover a victim of human trafficking have an obligation to take action to ensure the victim’s safety. The coordinated efforts of service providers, local and federal law enforcement, local advocates, victim service providers, religious organizations, and others are needed to combat human trafficking. Throughout the process of identifying the victim and addressing her/his needs, **safety must be the highest priority.**

The flow chart below was originally designed by Dane County Commission on Sensitive Crimes to assist first responders in sexual assault cases. It is equally applicable for first responders who encounter victims of human trafficking. Following these steps will ensure that victims’ rights are prioritized and that their needs are addressed.

IMMEDIATE PROBLEM SOLVING ASSISTANCE



Clues to Identifying Trafficking Victims

The following sections outline ways in which victims of human trafficking can be identified.

Observational Cues

Several cues and behaviors may flag a potential victim of human trafficking. One cue in isolation should not raise suspicion, but a cluster of these cues may warrant further exploration.

Visual Cues	Behavioral Cues
<ul style="list-style-type: none">• Malnourishment• Avoids eye contact• Injuries• Extremely nervous• Doesn't speak or is incoherent• Signs of physical abuse• Evidence of Sexual assault	<ul style="list-style-type: none">• Lack of Documentation• Shy and submissive• Lack of concentration while speaking• Observable psychological disorder• Appears afraid to speak• Can't identify place of residence• May present as defiant and combative

Other Trafficking Indicators

Federal Law Enforcement identifies a number of indicators that signal a person is a victim of human trafficking.

- Is the victim in possession of identification or travel documents; if not, who has control of those documents?
- Was the victim coached on what to say to law enforcement or to immigration officials?
- Was the victim recruited for one purpose and forced to do some other job?
- Is the victim's salary being garnished to pay off a smuggling fee or another debt?
- Was the victim forced to perform sexual acts?
- Has the victim or family been threatened with harm if the victim attempts to escape?
- Has the victim been threatened with law enforcement action or deportation?
- Has the victim been harmed or deprived of food, water, sleep, medical care, or other life necessities?
- Can the victim freely contact friends or family?
- Is the victim a juvenile engaged in commercial sex?
- Is the victim allowed to socialize or attend religious services?
- Is someone controlling access to controlled substances?
- Is there an identifiable source of income?

Interviewing Potential Victims

Asking the right questions may help determine if someone is a victim of human trafficking. It is important to meet with a potential victim in a safe and confidential environment. Victims may not self-disclose if they do not feel safe or if they believe you won't be able to help. Regardless of whether the victim is accompanied by someone who may or may not seem controlling, it is best practice that practitioners separate the victim from the person accompanying her/him. When talking to a possible victim, be mindful of the literacy or education level of the individual and any language variances that may exist. Modify your questions to be accessible for the individual. Sample questions to ask include:

Living Situation and General Wellbeing

- How do you feel? Tell me about ways/places in which you feel safe. Tell me about ways/places in which you feel unsafe.
- Describe your current living situation. What are the people you live with like?
- Help me understand what a day in your life is like. What kinds of activities do you do throughout the day?
- Who are the people closest to you? Which friends or family do you feel you can confide in?

Work Situation

- Do you have a source of income?
- How do you get by?
- Tell me about your job. What type of work do you do? Do you like your job?
- What are your working conditions like? What is your workspace like?
- How are you compensated for the work that you do? Are there specific work rules that you have to follow?
- Can you leave your job if you want to? Tell me why you do the job that you do.

Freedom of Movement

- What are the sleeping arrangements where you live?
- Are there activities that you enjoy outside the home? How often or for what reasons do you leave your home?
- Tell me what would happen if you left your home or job.
- Tell me about the rules in your home. Are there specific rules about your schedule for eating, sleeping, or using certain rooms in the house?
- Tell me about why you stay in your home. Are there locks on your doors and windows? (If yes): Are these locks there to prevent you from leaving?
- Has there ever been a time when you went without food, water, sleep, or medical care? How often does this happen?

Safety Issues

- Has there ever been a time when someone made you do something you didn't want to do? When was this? How did it happen? How often does this happen?
- Tell me about things you worry about or are scared of.

- Have you ever been threatened? What kind of threats have you experienced?

Note: It is best practice to resort primarily to **open-ended questions** and allow the victim to tell her/his story. A Screening Tool with additional interview questions is available on page 86 of the Appendix.

Challenges in Victim Identification & Self-Disclosure

As stated previously, human trafficking is a hidden crime. Even the most earnest and sincere questioning may not result in a victim self-disclosing. Traffickers are experts at not only controlling victims: they are experts at coaching victims about how to respond to questions. In addition, the very nature of trafficking makes it difficult to identify victims. Factors that make identification difficult include:

- Victims are moved around frequently and often do not stay in one location long enough to initiate contact with advocates or agencies.
- Victims fear the authorities and their traffickers.
- Victims are conditioned not to trust service providers and institutions.
- Victims perceive themselves as “invisible” to others.
- Victims may not regard themselves as victims.
- Victims may be non-English speaking.
- Victims may think that they are getting what they deserve.
- Shame and guilt may prevent victims from self-disclosing.
- Victims are usually isolated and have no opportunity to share their stories.
- Victims may be illiterate.
- Victims often believe they have no options.
- Victims often lack knowledge of their location. Some victims do not even know where they are.
- Victims view their traffickers as authority figures.
- Victims sometimes mistakenly believe that their traffickers have documentation showing traffickers own them.

Trauma and Survival Strategies

Abuse and maltreatment can lead to survival strategies that are often anti-social and/or self-destructive. Law enforcement and service providers may see these or other manifestations of trauma.

Systemic Challenges

In addition to fears regarding personal safety, victims fear losing their children or bringing harm to their families, either through the system of crime that victimizes them, or a system of governmental response that wrongfully addresses their experiences. Traffickers may control victims with threats of harm to their families, abduction of their children, or similar measures of retribution carried out by the structure of organized crime that facilitates the trafficking. On the other hand, laws and agencies involved in immigration, enforcement, and child protection may inhibit victims from coming forward; victims’ misunderstandings about these laws and agencies further complicate the issue. This creates a scenario in which victims are isolated

between two intimidating systems, both of which pose threats to themselves or their loved ones. Mistrust also comes from first-hand negative experiences with systems and service providers, e.g. police treating self-disclosures as false reports, responders engaging in trafficking themselves, hospitals turning away patients perceived as problematic or unable to pay, child protection workers taking children away, etc. Furthermore, victims from communities of historical trauma may be socialized against institutions due to histories of discrimination, corruption, or political turmoil.

The Anti-Human Trafficking Response

Principal Actors

A victim-centered approach to addressing human trafficking requires the cooperation and collaboration of many stakeholders. The principal actors include both private and public agencies, and individuals. A brief description of each of the principal actors is provided below, followed by detailed recommendations on the role and responsibility that each plays in supporting victims of human trafficking.

Service Providers

In Wisconsin, system-based (public) and community-based service providers (often referred to as non-governmental organizations or NGOs) assist with victims' basic needs such as food, clothing, shelter, and medical and mental health services, as well as long-term rehabilitation. Very often, these agencies are the first responders in cases of human trafficking as well as partners in raising awareness related to human trafficking. In Wisconsin, service providers include public health and human service agencies, publicly assisted shelters, community-based advocacy groups, members of the faith community, health care providers, immigration and workers' rights groups, and many others.

Immigration Legal Services

Ensuring that victims have access to legal services is an indispensable part of the victim-centered approach to human trafficking. Counsel should represent victims from the outset, and all parties that encounter a trafficking victim have a responsibility to ensure the victim has legal representation. Immigration attorneys that specialize in victims of human trafficking need to be readily available. In addition, governmental and non-governmental advocates can assist victims—as can prosecutors and defense attorneys—at the local, state, and federal level in the event that charges are filed against the trafficker.

If a human trafficking attorney is not readily available in your area, other options should be considered. As a short-term solution, some trafficking attorneys may be willing to travel to rural areas to interview victims. A more common solution is for the victim to relocate to communities where legal services are available. As a long-term strategy, every community should strive to identify a local legal advocate, be it a human trafficking attorney specifically or general immigration and other pro-bono attorney, who is trained in serving victims of trafficking.

Local, State, and Federal Law Enforcement

It is helpful to differentiate between local law enforcement (Wisconsin police and sheriff's departments), state law enforcement (special agents of the Wisconsin Department of Justice) and federal law enforcement [Federal Bureau of Investigation (FBI), Immigration and Customs Enforcement (ICE), and the United States Customs and Immigration Service (USCIS), which are all part of the Department of Homeland Security].

Local law enforcement is often the first responder in situations of human trafficking and may intercede because of a suspected crime. In the course of an investigation, law enforcement may

uncover a case of human trafficking. Depending on the situation, local law enforcement may contact state or federal law enforcement. Law enforcement agents should reach out to service organizations to provide victim assistance.

When federal law enforcement is contacted, a case may be opened. Typically, the FBI opens trafficking investigations and develops “actionable intelligence” for ongoing and future cases. They also employ Victim Specialists trained to work with human trafficking victims to ensure that they get the help they need, such as legal and repatriation services, immigration relief, housing, employment, education, job training, and childcare. USCIS is responsible for T-Visa and U-Visa applications as well as those related to the Violence Against Women Act at its Vermont Service Center. If other non-victim, immigration-related violations are indicated, ICE will be contacted as well, however, it should be noted that trafficking victims are exempt from immigration violations by virtue of their status under the TPVA.

Department of Labor (DOL)

The DOL – Wage and Hour division is responsible to investigate labor violations and enforce the Fair Labor Standards Act. Although their role is often a supportive one in cases of human trafficking, experts have noted that a degraded labor environment may encourage abuse of workers and human trafficking violations.

Department of Justice (DOJ)

At the federal level, the DOJ Civil Rights Division is responsible for prosecuting all adult human trafficking cases. When minors are involved, cases are managed by the Child Exploitation and Obscenity Section within the DOJ.

Health Care Providers

Health care providers are also first responders that play a special role in the identification of trafficking victims. As front-line providers, healthcare practitioners may encounter trafficking victims in their daily practice. This is especially true for public health professionals who serve uninsured and undocumented populations. In many cultures, health care professionals have a trusted and respected status. For this reason, victims may be more likely to disclose their status to a health care provider, if they feel safe and believe their disclosures will be kept in confidence. Because traffickers severely limit the contact of their victims with the outside world, a health care provider may be the only contact the victim is allowed to have with the “outside world.” For this reason, health care providers must be knowledgeable about how to identify trafficking victims and must have clear policies in place for how to link victims to appropriate assistance.

Need for Coordinated Case Management

Once the victims of trafficking have been identified and rescued, they present very complicated needs that challenge the services provided by advocate organizations. The principal actors in any comprehensive protocol should include representatives from many systems and areas. Collaboration is important for an effective and comprehensive human trafficking protocol.

Principles of Collaboration

1. All partners will make victim safety, privacy, and wellbeing their priority;
2. All partners in the protocol must have a good understanding of each other's roles, and the assets and limitations of each partner in the system;
3. All partners must foster and promote activities that create stronger relationships amongst them.

The collaboration should include:

- Adopting victim-centered protocols;
- Creating a more transparent process to increase effectiveness in addressing trafficking and minimizing further trauma for the victims;
- Establishing a small workgroup to facilitate communication and partnerships between key actors working to end trafficking in Wisconsin;
- Providing specialized training and cross-training between disciplines to improve understanding of each other's roles;
- Conducting an assessment of resources and making them known and available;
- Publishing brochures that list the trafficking and related community-based resources within each region/area of the state;
- Minimizing the fragmentation that exists within and between the system's partners addressing trafficking cases.

Key Groups That Make Up Anti-Human Trafficking Work In Wisconsin

There are currently three established multi-disciplinary groups that seek to fight human trafficking and foster connections between partners. The experience of these groups may be helpful when creating collaborations at the local level.

1. *Wisconsin Office of Justice Assistance Human Trafficking Committee*: The Human Trafficking Committee is an interdisciplinary group of social service providers, domestic violence and sexual assault providers, women's groups, faith-based organizations, law enforcement, government officials, academics, and others dedicated to fighting human trafficking in the State of Wisconsin. In keeping with other grassroots movements focused on protecting victim's rights, the group strives to ensure that:
 - Victims have a voice in shaping policies and practices developed to combat and respond to trafficking;
 - All stakeholders and first responders are knowledgeable about the impact of trafficking on victims and how to respond when they encounter trafficking victims;
 - Best practice guides community responses to trafficking victims;
 - Anti-trafficking efforts at all levels are victim-centered, meaning stakeholders place a high priority on the rights and the needs of victims;
 - Victim advocacy and victim protections are fully integrated into community responses to address trafficking.
2. *Milwaukee Human Trafficking Task Force, Eastern District of Wisconsin*: The Milwaukee HT Task Force is one of 42 national task forces, funded by a grant from the U.S. Department of Justice Office for Victims of Crime and the Bureau of Justice Assistance.

The Milwaukee Task Force mission is to form a “collaboration of local, state and federal law enforcement agencies working together with area social service organizations to identify, assist, and protect the dignity of the victims of human trafficking and to effectively identify, apprehend and prosecute those engaged in trafficking.”

3. *Dane County Coordinated Community Response to the Commercial Sexual Exploitation of Children:* The mission of this Community Response is to work to end child sex trafficking in Dane County. The Response works to create, educate and communicate a community standard of non-violence and anti-human trafficking; to promote the prosecution of traffickers; to promote the protection and assistance to victims, and to prevent child trafficking. The response does this by developing a community consensus of the crime, and improving and maintaining coordination and cooperative efforts among agencies which may come into contact with victims including law enforcement, prosecutors, correctional officers, healthcare providers, educators, children, victim’s service providers, and the community at large.

For lists of additional resources and agencies see pages 75 and 79 of the Appendix.

Service Provider Response

For the purposes of this protocol, “service providers” are *system-based*—operating within state and local government agencies that most often utilize a case-management model—and *community-based*—operating within nonprofit and grassroots organizations, some of which also use case-management, while others have adopted advocacy model. Both system- and community-based providers assist with victims’ basic needs such as food, clothing, shelter, medical and mental health services, advocacy, and long-term rehabilitation. Very often, these agencies and organizations are the first responders in cases of human trafficking as well as partners in raising awareness related to human trafficking. In Wisconsin, these entities include the domestic violence and sexual assault services, immigrant and workers’ rights organizations, women of color groups, faith communities, health care providers, human service agencies, and others. However, at this time there is no state money dedicated to anti-trafficking efforts, so very few groups in Wisconsin are directly funded to serve trafficking victims and must use their already very limited resources originally dedicated for other work.

Front-Line Responders

Service providers are uniquely positioned to identify and support trafficking victims. They are more likely to encounter trafficking victims because they provide services to low-income, underserved, and marginalized people who make up the majority of trafficking victims. Service providers may also encounter trafficking victims in the process of conducting community outreach. Non-English-speaking victims may contact service providers because services are available in their native language. Additionally, service providers may be perceived as a safer pathway into services by victims who are less likely to access formal systems (e.g. criminal justice, public service agencies) out of the fear of perceived retribution.

The needs of trafficking victims are complex and vary from individual to individual. Agencies should develop specific policies to direct case work and advocacy when assisting victims of human trafficking. Human trafficking victims will often need special services related to complex mental and physical health needs, based on the physical and sexual violence they are subjected to and/or harsh working conditions. Legal assistance in the form of solid criminal defense representation, for foreign and domestic victims, may also be necessary, particularly if the victim has been charged with crimes directly relating to the trafficking. Victims will also need legal assistance with their immigration status, if they or their primary caregivers are foreign born. U.S. Federal law provides immigration relief and funding for services to victims of human trafficking.

Without proper training, many advocates and caseworkers will not have the tools necessary to identify a situation as one of human trafficking. Victims of human trafficking are often wrongly treated as criminals (charged with prostitution or put in deportation proceedings if they are mistaken for smuggled individuals or people who remain in the country undocumented by choice), when in fact they need protection from traffickers and services to address the conditions of exploitation, abuse, and manipulation under which they have lived. Often, it is up to the service provider agency to direct the victim’s case toward organizations that provide such services before law enforcement becomes the dominant agency guiding the community response.

The following recommendations are presented as a guide to assist service providers who encounter a victim of trafficking. Human service and other system-based agencies should also follow their own protocols for assuring safety or providing services that are applicable to any case in their jurisdiction, in addition to the guidelines provided below:

1. Assess the victim's immediate safety concerns. Ensure that the victim is not in immediate danger. In the event that the victim is in imminent danger of harm, service providers should contact 911.
 - Programs also need a back up plan for when 911 doesn't respond in a helpful way, e.g. 911 won't respond because they don't believe someone is in enough danger, the victim is believed to be a liar by law enforcement, or the victim won't give enough information when law enforcement are called.
2. Arrange for interpretation services. If possible, identify someone who speaks the victim's native language, or a translator, to assist you in communicating with the victim. Victims will be more comfortable if they are interacting with someone from their own culture. See page 86 of the Appendix for interpreter best practices.
3. Assess the immediate and long-term needs of the victim. Immediate needs may include safety planning, translation services, food, shelter, clothing, transportation, and medical care. Long-term needs may include housing, employment, health care, mental health counseling, ESL classes, independent living education, and support through criminal proceedings, immigration processes, and community integration.
4. Provide basic education to the victim about her/his rights, protections, and services available to her/him. Use plain, straightforward language. Remember that most victims will not understand the term "human trafficking." They may disagree with the labels "trafficked" and "victim," and may identify differently. Be sensitive to the fear/mistrust that victims experience about seeking outside help. Do not overstate your ability to protect the victim.
5. Ask the victim for her/his consent to contact federal, state, and local resources. Empower the victim to choose the services s/he needs most. Respect the decisions of victims who decide not to contact law enforcement or participate in the investigation and prosecution of their trafficker(s). Give victims the time they need to decide what next steps they are willing to take. When a mandated reporter is working with a minor victim, inform them both that law enforcement will have to be contacted.
6. Engage law enforcement only after obtaining the victim's consent. Assist and support law enforcement in their efforts to protect the victim while remembering that the victim's wellbeing is your primary priority.
7. Prioritize the victim's confidentiality as much as possible. Confidentiality is especially important in securing shelter for the victim.
8. Collaborate with other organizations and public agencies to ensure the victim is connected to services that will support her/his independence from traffickers. Be cautious about offering to provide assistance that is outside your area of expertise. The services that trafficking victims require are many and varied. For this reason, no single organization or person will be able to meet all of the victim's needs.

9. Document your communications. Documentation may be valuable in the event that the victim chooses to seek services or report to law enforcement now or in the future.
10. Be mindful of your own personal safety while assisting a victim of human trafficking. Traffickers are not above targeting advocates who are “interfering in their business.” Staff should consider having unlisted phone numbers, unpublished home addresses, different routes home, and alternative places to stay when it appears their homes are unsafe. Be prepared to shut down for a day to a week in an emergency. Screen people before letting them into the agency. Some programs have cameras to monitor entry into their offices. Document threats on voice mail, phone calls, email, and notes.
11. Develop a policy for mandated reporting for minors. Certain individuals whose employment brings them into contact with children are required by law to report any suspected abuse or neglect or threatened abuse or neglect to a child seen in the course of their professional duties. Anyone who suspects a child is being maltreated may make such a referral. Reports are made to the county in which the child or the child’s family resides. It is important to note that not all types of child maltreatment will be accepted for follow-up with county service providers. Many child victims will be screened out and will require additional resources.

In addition to the guidelines provided above, human service and other system-based agencies should also develop and follow their own protocols for assuring safety and providing services that are applicable to any case in their jurisdiction.

Organizational Preparedness

As the number of trafficking victims increases in the US and Wisconsin, it becomes more necessary for service providers to be prepared to identify, assist, and advocate for victims. Organizations interested in developing a victim-centered approach to addressing human trafficking should consider the following recommendations:

- a) Train staff on the dynamics of human trafficking and laws, protections, and services available to trafficking victims. Invite organizations that serve trafficking victims to present at an in-service to describe their services.
- b) Review organization policies to ensure that trafficking victims are included as being eligible for services.
- c) Develop policies that outline how to identify trafficking victims and steps that staff should take when they encounter a trafficking victim.
- d) Meet with representatives from your district attorney’s office victim witness program and law enforcement victim assistance unit to discuss how to collaborate when assisting victims, as well as other healthcare and service providers.

Interview Questions

Asking the right questions may help determine if someone is a victim of human trafficking. It is important to meet with a potential victim in a safe and confidential environment. Victims may not self-disclose if they do not feel safe or if they believe you won’t be able to help. Regardless of whether the victim is accompanied by someone who may or may not seem controlling, it is best practice that practitioners separate the victim from the person accompanying her/him.

When talking to a possible victim, be mindful of the literacy or education level of the individual and any language variances that may exist. Modify your questions to be accessible for the individual. Sample questions to ask include:

Living Situation and General Wellbeing

- How do you feel? Tell me about ways/places in which you feel safe. Tell me about ways/places in which you feel unsafe.
- Describe your current living situation. What are the people you live with like?
- Help me understand what a day in your life is like. What kinds of activities do you do throughout the day?
- Who are the people closest to you? Which friends or family members do you feel you can confide in?

Work Situation

- Do you have a source of income?
- How do you get by?
- Tell me about your job. What type of work do you do? Do you like your job?
- What are your working conditions like? What is your workspace like?
- How are you compensated for the work that you do? Are there specific work rules that you have to follow?
- Can you leave your job if you want to? Tell me why you do the job that you do.

Freedom of Movement

- What are the sleeping arrangements where you live?
- Are there activities that you enjoy outside the home? How often or for what reasons do you leave your home?
- Tell me what would happen if you left your home or job.
- Tell me about the rules in your home. Are there specific rules about your schedule for eating, sleeping, or using certain rooms in the house?
- Tell me about why you stay in your home. Are there locks on your doors and windows? (If yes): Are these locks there to prevent you from leaving?
- Has there ever been a time when you went without food, water, sleep, or medical care? How often does this happen?

Safety Issues

- Has there ever been a time when someone made you do something you didn't want to do? When was this? How did it happen? How often does this happen?
- Tell me about things you worry about or are scared of.
- Have you ever been threatened? What kind of threats have you experienced?

Resort primarily to **open-ended questions** and allow the victim to tell her/his story. A Screening Tool with additional interview questions is available on page 92 of the Appendix.

Victim Legal Counsel Response

Role of Independent Legal Counsel

The role of independent legal counsel is to protect the rights of trafficking victims and assist foreign victims in seeking immigration status. A victim of trafficking who is in the United States without having legal immigration status should retain immigration legal counsel as soon as is practicable. Additionally, law enforcement personnel who identify a potential victim of trafficking should work with their agency victim witness coordinators to secure immigration legal counsel when possible.

General Legal Counsel

It is strongly recommended that both foreign and domestic victims seek counsel for potential and active charges. Trafficking victims can have pending criminal charges that won't be dropped (drugs, theft, statutory offenses) and can severely impede their chances to access safe housing, stable jobs, and vital services. Victims of trafficking are entitled under the law to representation if they so choose, especially if they are misidentified or treated like criminals by the criminal justice system. It is also critical that trafficking victims avoid talking to law enforcement or others in the criminal justice system before consulting with and having counsel present. Legal counsel is equally important for foreign nationals, as it is for U.S. citizens and permanent residents, since guilty pleas or convictions on criminal offenses have serious implications for their immigration status, potentially making them "inadmissible."

Immigration

Immigration legal counsel for a trafficking victim can ensure that a critical witness to a trafficking investigation and prosecution can remain in the United States. Furthermore, a victim who is represented by immigration legal counsel will be more likely to cooperate freely and effectively with law enforcement, when s/he believes that her/his immigration status is in the process of being rectified. Counsel can also facilitate communication, arrange interviews, and address many of the issues that arise with respect to the investigation, such as media requests for interviews, navigation of administrative hurdles with respect to benefits, etc.

Victims of trafficking who are identified by non-law enforcement agents should consult with an immigration attorney before reporting to law enforcement. Immigration counsel can advise the victim of the potential benefits and consequences of reporting to law enforcement, and can facilitate reporting to the appropriate agencies involved. Not all law enforcement agents are trained on trafficking issues, and immigration counsel can protect the victim from some risks associated with an undocumented person's involvement in the criminal justice system.

Immigration Relief

Foreign victims of human trafficking are entitled to legal protections, including immigration relief and services through the Trafficking Victims Protection Act (TVPA) of 2000 and Trafficking Victims Protection Reauthorization Acts (TVPRA) of 2003, 2005, and 2008.

Under the Act, to be considered eligible for immigration relief, foreign victims must show that they would suffer extreme hardship involving unusual and severe harm upon removal from the US. In the TVPA Reauthorization in 2005, victims were also required to cooperate in the investigation of traffickers in order to be eligible for immigration relief and assistance. Under the TVPA Reauthorization Act of 2008 this requirement has been changed. Foreign victims who have suffered severe psychological or physical trauma are now eligible to obtain immigration relief and services without immediate cooperation with law enforcement. 2011 is pending.

Provisions for immigration relief under these Acts, as well as the Violence Against Women Act include:

- **Continued Presence:** Allows victims who lack legal status and are assisting law enforcement as potential witnesses to remain in the country for the course of criminal investigation. Through continued presence, victims can receive temporary immigration relief. How to Obtain Continued Presence:
 1. Request for Continued Presence
 2. Law Enforcement Agency Certification for Continued Presence
 3. Form I-102: Application for Replacement/Initial Nonimmigration Arrival-Departure Document (for I-94 entry card) www.uscis.gov/files/form/i-102.pdf
 4. Form I-765: Application for Employment Authorization
<http://www.uscis.gov/files/form/i-765.pdf>

More long-term solutions are T and U visas that could be obtained directly or after receipt of continued presence:

- **T Visa:** Provides victims of human trafficking with legal non-immigrant status in the United States for four years with the possibility of adjusting to lawful permanent resident status. In certain situations, T-visas may be available for family members. Application for T Nonimmigrant Status: www.uscis.gov/files/form/i-914.pdf
- **U Visa:** Provides immigration protection to victims who have suffered mental or physical abuse because of certain crimes and who are willing to assist law enforcement in the investigation of a case. Application for U Nonimmigrant Status: www.uscis.gov/files/form/i-918.pdf

Both T and U visa provisions include a path to Legal Permanent Residency (LPR).

Inadmissibility: Prior criminal history of foreign victims of trafficking may make them “inadmissible,” effectively preventing them from being granted immigration status. Inadmissibility waivers exist and are usable if the victim was forced to commit a crime that made her/him inadmissible.

Civil Remedies: Civil remedies are also available to victims of trafficking under federal and Wisconsin law, which allow victims to recover lost wages and punitive damages from traffickers. Case managers, victim advocates, and counsel should work together to advise clients of this possibility for recovery, when appropriate. Identifying attorneys with expertise

in relevant areas, such as employment law, is very important. Common civil causes of action include:

- Trafficking Victims Protection Reauthorization Act
- Racketeer Influenced and Corrupt Organizations Act
- Thirteenth Amendment and Involuntary Servitude
- Alien Tort Claims Act
- Title VII
- Fair Labor Standards Act
- Migrant and Seasonal Agricultural Worker Protection Act
- State torts and contract claims: Assault/battery, false imprisonment, intentional infliction of emotional distress, misrepresentation, negligence, breach of oral/written contract, unjust enrichment

Prosecutors who are incorporating restitution during the sentencing phase of a trafficking prosecution should also consult with specialized civil litigators regarding the potential impact of the sentencing on the victim's ability to recover civil damages in the future.

Interview Questions

Asking the right questions may help determine if someone is a victim of human trafficking. It is important to meet with a potential victim in a safe and confidential environment. Victims may not self-disclose if they do not feel safe or if they believe you won't be able to help. Regardless of whether the victim is accompanied by someone who may or may not seem controlling, it is best practice that practitioners separate the victim from the person accompanying her/him. When talking to a possible victim, be mindful of the literacy or education level of the individual and any language variances that may exist. Modify your questions to be accessible for the individual. Sample questions to ask include:

Living Situation and General Wellbeing

- How do you feel? Tell me about ways/places in which you feel safe. Tell me about ways/places in which you feel unsafe.
- Describe your current living situation. What are the people you live with like?
- Help me understand what a day in your life is like. What kinds of activities do you do throughout the day?
- Who are the people closest to you? Which friends or family members do you feel you can confide in?

Work Situation

- Do you have a source of income?
- How do you get by?
- Do you have a work visa?
- Do you have your own identification and other documentation, or does someone else keep it for you?
- Tell me about your job. What type of work do you do? Do you like your job?
- What are your working conditions like? What is your workspace like?

- How are you compensated for the work that you do? Are there specific work rules that you have to follow?
- Can you leave your job if you want to? Tell me why you do the job that you do.

Freedom of Movement

- What are the sleeping arrangements where you live?
- Are there activities that you enjoy outside the home? How often or for what reasons do you leave your home?
- Tell me what would happen if you left your home or job.
- Tell me about the rules in your home. Are there specific rules about your schedule for eating, sleeping, or using certain rooms in the house?
- Tell me about why you stay in your home. Are there locks on your doors and windows? (If yes): Are these locks there to prevent you from leaving?
- Has there ever been a time when you went without food, water, sleep, or medical care? How often does this happen?

Safety Issues

- Has there ever been a time when someone made you do something you didn't want to do? When was this? How did it happen? How often does this happen?
- Tell me about things you worry about or are scared of.
- Have you ever been threatened? What kind of threats have you experienced?

Resort primarily to **open-ended questions** and allow the victim to tell her/his story. A Screening Tool with additional interview questions is available on page 86 of the Appendix.

Law Enforcement Response

The Role of Law Enforcement

The role of law enforcement is to protect and serve the public, which includes the obligation to investigate alleged crimes, including the crime of human trafficking. In some cases, law enforcement may encounter victims of human trafficking while investigating other criminal offenses, such as prostitution, a domestic dispute, labor dispute, or a drug offense. There are several outward indicators at a potential crime scene that may indicate that an individual is a human trafficking victim:

- The absence of any official documentation for suspected victims
- Controlled exits at the scene, e.g. gates, locks, secured entry
- Sparse living conditions modified to accommodate several persons
- Individuals acting as premise guards
- Well rehearsed and consistent alibis
- The presence of several limited- or non-English speaking persons
- The presence of minors residing without traditional guardians or with a male adult posing as their as care giver
- Evidence of controlled substance use

Law enforcement may also be called to investigate a report of a possible trafficking victim. In some cases, reports may come from service providers, health care providers, or from the general public.

Recommendations

Regardless of the point of introduction to a possible victim, there are several steps that law enforcement can follow to secure the safety of victims and determine whether a crime has been committed.

1. Separate the potential victim from her/his trafficker prior to questioning her/his status. It is more likely than not that a trafficking victim will refuse to self-disclose her/his status. Most trafficking victims have been programmed to believe that their traffickers are their protectors. They have been coached on how to respond to police questioning. They have also been conditioned to believe that law enforcement is a threat to their safety, which is only reinforced by some victims' previous negative experiences with law enforcement.

Law enforcement officers can mitigate the trafficker's emotional stronghold over the victim by physically separating a trafficking victim from their trafficker whenever possible. **However, taking the victim into custody through an arrest for a violation of the law as a strategy to separate the victim from her/his trafficker is not a recommended practice.** Such an approach will only increase the victim's mistrust of law enforcement. It will also reinforce the victim's belief that cooperation with law enforcement is not in her/his best interest. Finding safe placement for the victim through a victim service organization or taking her/him into protective custody are the alternatives in line with the victim-centered approach.

2. Conduct an initial assessment to determine whether the individual is a possible victim of human trafficking. After the individual has been moved to a safe environment, law enforcement may question the individual to determine whether the person is a trafficking victim. Key indicators to explore include:

KEY LAW ENFORCEMENT INDICATORS TO IDENTIFY VICTIMS

<ul style="list-style-type: none"> • Victim’s biographical background • Official identification documents • Recruitment method used by traffickers • Method of entry into the country if victim is not a U.S. citizen • Terms of labor and type of labor • Condition of workplace(s) 	<ul style="list-style-type: none"> • Personal living conditions • Frequency of relocation to new residences • Physical barriers that limit freedom • Use of threats to intimidate the individual • Signs or reports of physical abuse • Report of accumulated debt to trafficker
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It is not necessary to gain information in all of the above areas to establish a case that the individual is a victim of human trafficking. In many cases, it can be reasonably presumed that the person is a trafficking victim if adequate answers are obtained in **six** of the above areas.

3. Adopt a victim-centered approach to investigating human trafficking. A victim-centered approach to investigating human trafficking is predicated on the need to protect the victim’s safety, privacy, and wellbeing while attempting to determine if a crime has been committed. The goal of this approach is to decrease re-victimization by ensuring that the victim is treated with compassion and respect. Law enforcement is uniquely positioned to demonstrate to trafficking victims that their safety and rights will be protected and that they will not be exploited during the investigation.
4. Contact social service providers to evaluate services needed to ensure the safety and wellbeing of the victim. Social service providers are a valuable resource for reaching and providing services to trafficking victims. They can establish rapport with victims, assess victim needs, and educate victims about resources available to support their independence from the trafficker(s). Involving social service providers may also reduce the isolation that binds victims to their trafficker(s) and create a safety zone for victims to disclose information. This will increase the likelihood that victims will choose to cooperate with the investigation of their trafficker(s). For these reasons, it is important to provide a confidential environment for the victim to meet with social service providers to learn about their services.

In smaller cities or rural communities where there is no identified resource assigned to support trafficking victims, law enforcement should consider contacting their local sexual assault or domestic violence service provider. These providers are well trained to provide victim advocacy and to link victims to needed services.

5. Consult with the district attorney's office about proceeding with the case. If the victim chooses to cooperate with the investigation, law enforcement should contact their local district attorney to consult on next steps. A trafficking violation requires federal investigation and prosecution as a statutory federal offense under the Victims of Trafficking and Violence Protection Act (TVPA) of 2000. In Wisconsin, human trafficking can also be prosecuted as a state crime: § 940.302 and § 948.051 Wisconsin Statutes, effective date April 3, 2008.
6. Inform federal and state agencies responsible for investigating and prosecuting human trafficking crimes. In cases where there is an interest in pursuing a trafficking case, the district attorney and law enforcement should contact the local U.S. Attorney's Office, the FBI, and ICE to report the crime. In some cases, it may be beneficial to arrange a multi-agency, strategic-case conference to discuss the case and to develop a plan to assist the victim.

Interview Questions

Asking the right questions may help determine if someone is a victim of human trafficking. It is important to meet with a potential victim in a safe and confidential environment. Victims may not self-disclose if they do not feel safe or if they believe you won't be able to help. Regardless of whether the victim is accompanied by someone who may or may not seem controlling, it is best practice that law enforcement separate the victim from the person accompanying her/him. Questions to ask include:

Living Situation and General Wellbeing

- How do you feel? Tell me about ways/places in which you feel safe. Tell me about ways/places in which you feel unsafe.
- Describe your current living situation. What are the people you live with like?
- Help me understand what a day in your life is like. What kinds of activities do you do throughout the day?
- Who are the people closest to you? Which friends or family members do you feel you can confide in?

Work Situation

- Do you have a source of income?
- How do you get by?
- Tell me about your job. What type of work do you do? Do you like your job?
- What are your working conditions like? What is your workspace like?
- How are you compensated for the work that you do? Are there specific work rules that you have to follow?
- Can you leave your job if you want to? Tell me why you do the job that you do.

Freedom of Movement

- What are the sleeping arrangements where you live?
- Are there activities that you enjoy outside the home? How often or for what reasons do you leave your home?
- Tell me what would happen if you left your home or job.

- Tell me about the rules in your home. Are there specific rules about your schedule for eating, sleeping, or using certain rooms in the house?
- Tell me about why you stay in your home. Are there locks on your doors and windows? (If yes): Are these locks there to prevent you from leaving?
- Has there ever been a time when you went without food, water, sleep, or medical care? How often does this happen?

Safety Issues

- Has there ever been a time when someone made you do something you didn't want to do? When was this? How did it happen? How often does this happen?
- Tell me about things you worry about or are scared of.
- Have you ever been threatened? What kind of threats have you experienced?

Resort primarily to **open-ended questions** and allow the victim to tell her/his story. A Screening Tool with additional interview questions is available on page 86 of the Appendix.

Law Enforcement Statutory Duties to Victims of Crime

Wis. Stat. Chapter 950.08(2g) requires that the investigating law enforcement agency provide a victim of crime with specific written information no later than 24 hours after contact with the victim. The law specifies that this information must include a list of the victim's rights, contact information for getting more information about the case, and how to get information about the taking into custody, arrest, or release of a suspect. A model form compliant with this requirement is available at: www.doj.state.wi.us/cvs.

Prosecution Response

The Role of Prosecution

The primary role of prosecution is to see that justice is accomplished. In the case of human trafficking, this means protecting the safety and rights of the victim and community by holding traffickers accountable. To accomplish this goal, prosecutors must work in a coordinated and collaborative fashion with the victim, law enforcement, federal agencies, and service providers.

Prosecutors' Statutory Duties to Victims of Crime

Wisconsin law requires that district attorneys provide a victim of crime with certain written information including: a list of her/his rights; contact information to get more information about the case; the procedure to apply for crime victims' compensation; and information about how to exercise her/his rights. See Wis. Stat. Chapter 950.08(2r)

When the victim of a crime is under the age of 18, the child's rights can be exercised by her/his parent, guardian, or legal custodian. In addition to the rights given to adults, child victims have an extra protection: the right to expedited proceedings:

- **Wis. Stat. 971.105 Child victims and witnesses; duty to expedite proceedings.** In all criminal and delinquency cases, juvenile fact-finding hearings under s. 48.31 and juvenile dispositional hearings involving a child victim or witness, as defined in s. 950.02, the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of the child's involvement in the proceeding. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the wellbeing of a child victim or witness.

Recommendations

The following recommendations can guide district attorneys in their efforts to address human trafficking in their local communities.

1. Be knowledgeable about Federal and State statutes related to human trafficking. A trafficking violation requires federal investigation and prosecution as a statutory federal offense under the Victims of Trafficking and Violence Protection Act (TVPA) of 2000. In Wisconsin, human trafficking can also be prosecuted as a state crime under the WI Human Trafficking Act 116 (2007).
2. Adopt a victim-centered approach to addressing human trafficking. A victim-centered approach to the prosecution of human trafficking is predicated on the need to protect the victim's safety, privacy, and wellbeing while holding traffickers accountable. The goal of this approach is to decrease re-victimization by ensuring that the victim is treated with compassion and respect. The myths and misinformation surrounding the crime of human trafficking present unique challenges in the identification and prosecution of the crime of human trafficking. Prosecutors are uniquely positioned to educate the community, jury by jury, about the dynamics of trafficking and the tactics

that traffickers use to control their victims. The need for prosecutors to support victims' rights cannot be overstated.

3. Be vigilant about the identification of victims of trafficking in your community. District attorneys are referred cases by their local law enforcement agencies. There may be occasions when a case referred to a district attorney has indicators of being a trafficking case, but has not yet been identified as such by the investigating officer.
4. Collaborate with law enforcement in the investigation of trafficking cases. In cases where a D.A. uncovers a previously unidentified victim of trafficking, the D.A. may send the case back to local law enforcement for additional assessment to screen for the elements of a trafficking case. In some cases, the D.A. may elect to have a D.A. Investigator conduct an assessment to screen for the elements of a trafficking case.
5. Involve social service providers to evaluate services needed to ensure the safety and wellbeing of the victim. Social service providers are a valuable resource for reaching and providing services to trafficking victims. They can establish rapport with victims, assess victim needs, and educate victims about resources available to support their independence from the trafficker(s). Involving social service providers may also reduce the isolation that binds victims to their trafficker(s) and create a safety zone for victims to disclose information. This will increase the likelihood that victims will choose to cooperate with the investigation.
6. Engage federal agencies responsible for investigating and prosecuting human trafficking in cooperative assessment and planning. In cases where there is an interest in pursuing a trafficking case, the district attorney should contact the local U.S. Attorney's Office, the FBI, and ICE to report the crime. In some cases, it may be beneficial to arrange a multi-agency, strategic-case conference to discuss the case and determine whether Federal or State court is the appropriate venue to address the trafficker's conduct as well as address the legal and logistical issues inherent in a dual prosecution.
7. Practice vertical prosecution of human trafficking cases. Vertical prosecution of human trafficking cases means that the same prosecutor, who has specialized training in human trafficking, is assigned to the case from beginning to end. With vertical prosecution, victims are able to work with the same prosecutor and investigator from the time charges are filed through the sentencing of the trafficker. Vertical prosecution will reduce victim trauma and increase victim cooperation with the investigation and prosecution.

Interview Questions

Asking the right questions may help determine if someone is a victim of human trafficking. It is important to meet with a potential victim in a safe and confidential environment. Victims may not self-disclose if they do not feel safe or if they believe you won't be able to help. Regardless of whether the victim is accompanied by someone who may or may not seem controlling, it is best practice that practitioners separate the victim from the person accompanying her/him. Questions to ask include:

Living Situation and General Wellbeing

- How do you feel? Tell me about ways/places in which you feel safe. Tell me about ways/places in which you feel unsafe.
- Describe your current living situation. What are the people you live with like?
- Help me understand what a day in your life is like. What kinds of activities do you do throughout the day?
- Who are the people closest to? Which friends or family members do you feel you can confide in?

Work Situation

- Do you have a source of income?
- How do you get by?
- Tell me about your job. What type of work do you do? Do you like your job?
- What are your working conditions like? What is your workspace like?
- How are you compensated for the work that you do? Are there specific work rules that you have to follow?
- Can you leave your job if you want to? Tell me why you do the job that you do.

Freedom of Movement

- What are the sleeping arrangements where you live?
- Are there activities that you enjoy outside the home? How often or for what reasons do you leave your home?
- Tell me what would happen if you left your home or job.
- Tell me about the rules in your home. Are there specific rules about your schedule for eating, sleeping, or using certain rooms in the house?
- Tell me about why you stay in your home. Are there locks on your doors and windows? (If yes): Are these locks there to prevent you from leaving?
- Has there ever been a time when you went without food, water, sleep or medical care? How often does this happen?

Safety Issues

- Has there ever been a time when someone made you do something you didn't want to do? When was this? How did it happen? How often does this happen?
- Tell me about things you worry about or are scared of.
- Have you ever been threatened? What kind of threats have you experienced?

Resort primarily to **open-ended questions** and allow the victim to tell her/his story. A Screening Tool with additional interview questions is available on page 86 of the Appendix.

NOTE: Many of the Best Practices for Prosecution recommended in the Sexual Assault Response Team Protocol are equally applicable to prosecutions for Human Trafficking. The SART Protocol can be found at www.wcasa.org/pages/Programs_SART.php.

Federal Law Enforcement Response

The Role of Federal Law Enforcement

Department of Justice prosecutors from the Civil Rights Division and the U.S. Attorneys are responsible for the prosecution of trafficking cases. However, U.S. Attorneys should work closely with local D.A. offices to ensure that cases are brought forward where the greatest penalties are afforded. The FBI, ICE and the Wage and Hour Division of the Department of Labor also have the ability to conduct their own investigations in human trafficking and collaborate with attorneys from DOJ and the U.S. Attorney’s Office. There may be cases where all of these agencies are involved with an investigation. The table below outlines the role of each federal agency in the investigation and prosecution of human trafficking, and the responsibility each has to the trafficking victim.

FEDERAL ROLES IN HUMAN TRAFFICKING CASES

DOJ	U.S. Attorney	FBI	ICE	DOL
Discovery	Discovery	Discovery	Discovery	Discovery
Assessment	Assessment	Assessment	Assessment	Assessment
Investigation	Victim Interview	Investigation	Investigation	Investigation
Victim Services	Victim Services	Victim Services	Victim Safety	Referral
Prosecution	Prosecution			

Recommendations

Whenever a crime of human trafficking is discovered, whether at the local level or by a federal agency, a trafficking violation requires federal investigation and prosecution as a statutory federal offense under the Trafficking Victims Protection Act of 2000. The following recommendations can guide federal agents in their efforts to address human trafficking.

1. **Be vigilant in the identification of victims of trafficking.** There may be occasions where federal law enforcement will encounter a victim of human trafficking while investigating other criminal offenses, such as gang violence, labor violations, or prostitution. There are several outward indicators at a potential crime scene that may indicate that an individual is a human trafficking victim:
 - The presence of several limited- or non-English speaking persons
 - The absence of any official documentation for suspected victims
 - Controlled exits at the scene, e.g. gates, locks, secured entry
 - Sparse living conditions modified to accommodate several persons
 - Individuals acting as premise guards
 - Well rehearsed and consistent alibis

2. Be knowledgeable about the complex nature of human trafficking. This means understanding the stronghold that traffickers have over their victims and exercising patience, empathy, and compassion for the victim. Victims have complex backgrounds. Most have been traumatized and feel deeply indebted to their traffickers. They have also been conditioned to mistrust law enforcement, and will likely view inquiry about their status as a threat to their safety.
3. Adopt a victim-centered approach to addressing human trafficking. A victim-centered approach to the investigation and prosecution of human trafficking is predicated on the need to protect the victim's safety, privacy, and wellbeing. **It is also predicated on not criminalizing the victim.** The goal of this approach is to decrease re-victimization by ensuring that the victim is treated with compassion and respect. The need for prosecutors to support victim's rights cannot be overstated.
4. Utilize victim witness coordinators and other established resources to support victims. The U.S. Attorneys' offices, FBI, ICE, and DOJ all have victim witness coordinators who can assist in linking victims to needed services. The DOL may also be helpful in determining restitution for victims. Referring victims to agencies that have established programs to serve trafficking victims is also recommended.
5. Involve social service providers to evaluate services needed to ensure the safety and wellbeing of the victim. Social service providers are a valuable resource for reaching and providing services to trafficking victims. They can establish rapport with victims, assess victim needs, and educate victims about resources available to support their independence from the trafficker(s). Involving social service providers may also reduce the isolation that binds victims to their trafficker(s) and create a safety zone for victims to disclose information. This will increase the likelihood that victims will choose to cooperate with the investigation.
6. Engage in cooperative assessment and planning with local district attorneys and State agencies responsible for investigating and prosecuting human trafficking. In cases where there is an interest in pursuing a trafficking case, U.S. Attorneys should work with local district attorneys, the FBI, and ICE in the investigation. In some cases, it may be beneficial to arrange a multi-agency, strategic-case conference to discuss the case and determine whether Federal or State court is the appropriate venue to address the trafficker's conduct, as well as address the legal and logistical issues inherent in a dual prosecution.

Interview Questions

Asking the right questions may help determine if someone is a victim of human trafficking. It is important to meet with a potential victim in a safe and confidential environment. Victims may not self-disclose if they do not feel safe. Regardless of whether the victim is accompanied by someone who may or may not seem controlling, it is best practice that practitioners separate the victim from the person accompanying her/him. Questions to ask include:

Living Situation and General Wellbeing

- How do you feel? Tell me about ways/places in which you feel safe. Tell me about ways/places in which you feel unsafe.
- Describe your current living situation. What are the people you live with like?

- Help me understand what a day in your life is like. What kinds of activities do you do throughout the day?
- Who are the people closest to you? Which friends or family members do you feel you can confide in?

Work Situation

- Do you have a source of income?
- How do you get by?
- Tell me about your job. What type of work do you do? Do you like your job?
- What are your working conditions like? What is your workspace like?
- How are you compensated for the work that you do? Are there specific work rules that you have to follow?
- Can you leave your job if you want to? Tell me why you do the job that you do.

Freedom of Movement

- What are the sleeping arrangements where you live?
- Are there activities that you enjoy outside the home? How often or for what reasons do you leave your home?
- Tell me what would happen if you left your home or job.
- Tell me about the rules in your home. Are there specific rules about your schedule for eating, sleeping, or using certain rooms in the house?
- Tell me about why you stay in your home. Are there locks on your doors and windows? (If yes): Are these locks there to prevent you from leaving?
- Has there ever been a time when you went without food, water, sleep, or medical care? How often does this happen?

Safety Issues

- Has there ever been a time when someone made you do something you didn't want to do? When was this? How did it happen? How often does this happen?
- Tell me about things you worry about or are scared of.
- Have you ever been threatened? What kind of threats have you experienced?

Resort primarily to **open-ended questions** and allow the victim to tell her/his story. A Screening Tool with additional interview questions is available on page 86 of the Appendix.

Health Care Response

The Role of Health Care Providers

The role of health care providers is to promote the health and wellbeing of their patients. Victims of human trafficking are at risk for a number of health problems and associated health issues that are direct results of their victimization.

A study from Europe found that 28% of trafficking victims encountered a healthcare provider while they were in captivity.²⁴ Another study found that 57% of victims experienced 12 or more concurrent health symptoms at the time of discovery.²⁵ The most prevalent health issues include sexually transmitted infections (STIs), HIV, AIDs, adverse reproductive health outcomes, substance abuse, physical injuries from violence, and post-traumatic stress and other psychological trauma. Many trafficking victims have been subjected to physical and sexual abuse, and even torture; the damage to their health and wellbeing is often profound and enduring. Unfortunately, little or no effort is being made to train healthcare providers regarding modern-day slavery. This prevents many providers from recognizing their patients as victims of trafficking and, consequently, from providing appropriate care and referrals.

The forms of abuse that trafficking victims experience include physical, sexual, and psychological abuse; the forced or coerced use of drugs and alcohol; social restrictions and manipulation; economic exploitation and debt bondage; legal insecurity; abusive working and living conditions. They also experience a range of risks associated with being migrants and/or marginalized populations. These abuses and risks impact victims' physical, reproductive, and mental health, may lead to the misuse of drugs or alcohol, diminish their social and economic wellbeing, and limit their access to health and other support services.

Tips for Identification

Health care providers are in a unique position to identify and assist victims of human trafficking. As front-line providers, healthcare practitioners may encounter trafficking victims in their daily practice. This is especially true for public health and emergency room professionals who serve uninsured and undocumented populations. In many cultures, health care professionals have a trusted and respected status. For this reason, victims may be more likely to disclose their status to a health care provider if they feel safe and believe their disclosure will be kept in confidence. Because traffickers severely limit the contact of their victims, a health care provider may be the only contact the victim is allowed to have with the "outside world." Understanding the context of trafficking is important for healthcare providers because these patients could be perceived as uncooperative. It is imperative for healthcare

²⁴ *Turning Pain into Power: Trafficking Survivors' Perspectives on Early Intervention Strategies*. Family Violence Prevention Fund in Partnership with the World Childhood Foundation, March 2005.

²⁵ Zimmerman C, Yun K, Shvab I, Watts C, Trappolin L, Treppete M, et al. *The health risks and consequences of trafficking in women and adolescents. Findings from a European study*. London: London School of Hygiene and Tropical Medicine, 2003.

providers to use trauma-informed care when identifying and serving this population of patients.

It is important to understand that trafficking comes in many forms. Healthcare providers may encounter victims of sex trafficking, labor trafficking, and even organ trafficking. The following signs may alert a healthcare provider to a possible trafficking victim:

SIGNS TO ALERT HEALTH CARE PROVIDERS OF POSSIBLE VICTIMS

<ul style="list-style-type: none"> ▪ Lack of knowledge about whereabouts ▪ Evidence of malnourishment/dehydration ▪ Refuses to speak or cannot speak ▪ Multiple injuries (past and present) ▪ Signs of physical, sexual, and emotional abuse or neglect ▪ Genital, bacterial, and/or yeast infections, wound infections, STIs, Pregnancy ▪ Anxious or fearful presentation ▪ Branding 	<ul style="list-style-type: none"> ▪ Lack of proper identification ▪ Not in control of personal identification ▪ Flat affect and/or submissive demeanor ▪ Inconsistent story ▪ Overdose, evidence of drug/alcohol misuse ▪ Third party insists on being present, speaks for the person and/or interprets ▪ Claim of “just visiting” ▪ Few or no personal possessions
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The health impacts of any one of the abuses or risks victims may experience can be devastating. When these abuses or risks occur in combination and repeatedly, they result in a symptomatology similar to that observed in victims of other types of chronic abuse and trauma, such as domestic violence and torture.

It is also important to note that the health risks are multiple, and that consequences may be overlapping and reciprocal in nature. For example, physical risks may cause negative psychological responses, which in turn may result in additional physical health problems (e.g., frequent headaches, digestive disorders). Most of the categories of risk have mental health implications.

Health outcomes largely depend on the degree and duration of the coercion, and the individual’s capacity to cope (which is often strongly influenced by the quality of support available). The various forms of abuse and coercion intersect numerous times and in different ways to create an inextricable labyrinth of physical and psychological risk. Trapped in such a state, most survivors develop coping mechanisms that help them anticipate and avert the most ominous dangers, manage imminent risks, and endure the negative consequences. However, in the longer term, once out of the threatening environment, these survival responses can inhibit an individual’s resilience and normal functioning.

Engaging Trafficking Victims

Gaining a victim's trust is essential to assisting a victim of human trafficking. Practitioners can establish rapport with victims by remaining calm and assuring the victim that what s/he shares will be kept confidential within the limits of the law. Remember that most victims fear their traffickers—and being deported. Because of this, it is important to reassure victims that you will do everything in your power to keep them safe and get them the protection and assistance they need to rebuild their lives. Simple messages that will help to gain the victim's trust include:

- My first priority is your safety.
- I will not call the police without your permission (for adults over 18 years).
- I'm going to let you decide what you need; I just want to give you options.
- We're here to give you the medical care that you need.
- We can connect you with people who will find you a safe place to stay.
- You have a right to live without being fearful, threatened, or abused.
- You deserve the chance to become self-sufficient and independent.
- You have rights, including immigration relief.
- We can help you in seeking assistance.

Remember that body language contributes to the comfort of a victim. Adopt an open stance or thoughtful position when speaking with victims. Remember that minors might present themselves as adults at first.

Assisting a Victim of Human Trafficking

When a trafficking victim discloses her/his status, health care practitioners should be prepared to offer immediate intervention. The following recommendations are presented as a guide to assist health care providers who identify a victim of trafficking.

1. Assess the victim's immediate safety concerns. Ensure that the victim is not in immediate danger. In the event that the victim is in imminent danger of harm, health care practitioners should contact hospital/clinic security or 911 (if victim has given her/his consent).
2. Arrange for interpretation services. If possible, identify someone who speaks the victim's native language, or an *independent translator*, to assist you in communicating with the victim. The best practice is to find an independent translator. When using a translator from within the victim's culture, make sure there is no connection between the translator and the trafficker.
3. Call in an advocate to educate the victim about her/his rights and assess the victim's immediate and long-term needs. Best practice recommends that health care providers establish a trusting relationship with an *independent advocate* who can establish rapport with the victim, assess the victim's needs, and educate her/him about resources available to support her/his independence from the trafficker(s). If you don't know an advocate, contact a local sexual assault or domestic violence service provider for assistance.

4. If the victim has been sexually assaulted, seek her/his permission to conduct a forensic examination. Conduct forensic examinations in a manner consistent with guidelines established by the Wisconsin Chapter of the International Association of Forensic Nurses.
5. Screen for STIs. Examination should also include screening for other reproductive and general health problems often associated with trafficking, as well as HBV, HCV, and other genital infectious diseases.
6. Ask the victim for her/his consent to contact federal, state, and local resources. Empower the victim to choose the services s/he needs most. Respect the decisions of victims who decide not to contact law enforcement or participate in the investigation and prosecution of their trafficker(s). Give the victim the time s/he needs to decide what next steps s/he is willing to take.
7. Unless the victim is a minor, engage law enforcement only after obtaining the victim's permission. Assist and support law enforcement in their efforts to protect the victim while remembering that the victim's safety and wellbeing is your primary priority.
8. Document all physical and emotional findings, including communications. Documentation may be valuable in the event that the victim chooses to report their trafficker now or in the future.

Screening Questions for Health Care Providers

Asking the right questions may help determine if someone is a victim of human trafficking. It is important for health care providers to meet with a potential victim in a safe and confidential environment. Victims may not self-disclose if they do not feel safe. Regardless of whether the victim is accompanied by someone who may or may not seem controlling, it is best practice that practitioners separate the victim from the person accompanying her/him. Questions to ask include:

Living Situation and General Wellbeing

- How do you feel? Tell me about ways/places in which you feel safe.
- Describe your current living situation. What are the people you live with like?
- Help me understand what a day in your life is like. What kinds of activities do you do throughout the day?
- Can you describe what are your daily meals like? Who do you eat with? Do you prepare the meals? What kinds of foods do you like to eat or normally eat during the day?
- Can you tell me how you typically feel physically? Do you ever feel unusually tired? Do you ever feel hungry at the end of the day?
- Who are the people closest to you? Which friends or family members do you feel you can confide in?

Work Situation

- Do you have a source of income?
- Tell me about your job. What type of work do you do? Do you like your job?
- What are your working conditions like? What is your workspace like?

- How are you compensated for the work that you do? Are there specific work rules that you have to follow?
- Can you leave your job if you want to? Tell me why you do the job that you do.

Freedom of Movement

- What are the sleeping arrangements where you live?
- Are there activities that you enjoy outside the home? How often or for what reasons do you leave your home?
- Tell me what would happen if you left your home or job.
- Tell me about the rules in your home. Are there specific rules about your schedule for eating, sleeping, or using certain rooms in the house?
- Tell me about why you stay in your home. Are there locks on your doors and windows? (If yes): Are these locks there to prevent you from leaving?
- Has there ever been a time when you went without food, water, sleep, or medical care? How often does this happen?

Safety Issues

- Has there ever been a time when someone made you do something you didn't want to do? When was this? How did it happen? How often does this happen?
- Tell me about things you worry about or are scared of.
- Have you ever been threatened? What kind of threats have you experienced?

Resort primarily to **open-ended questions** and allow the victim to tell her/his story. A Screening Tool with additional interview questions is available on page 86 of the Appendix.

Note: a comprehensive *Assessment and Screening Tool* developed for health care providers by the Coalition to Abolish Slavery & Trafficking is available at www.castla.org.

Health Care Preparedness

As the number of trafficking victims increases in the US and Wisconsin, it becomes more necessary for health care providers to be prepared to identify, assist, and advocate for victims. Providers interested in developing a victim-centered approach to addressing human trafficking should consider the following recommendations:

- Create and/or update policies to ensure that trafficking victims are included as being eligible for services they may need (e.g. medical care, housing, safety, job preparation, etc.).
- Develop policies that outline how to identify trafficking victims, and steps that staff should take when they encounter a trafficking victim.
- Meet with representatives from your local law enforcement agency victim witness units to discuss how to collaborate when assisting victims.
- Train first responders on the dynamics of human trafficking, and laws, protections, and services available to trafficking victims. Invite organizations that serve trafficking victims to present an in-service to describe their services.

Evidence Collection

“Blind evidence collection” gives victims the option of collecting evidence of sexual assault and other forensic evidence without giving their name, if they are unsure or do not want to report to the law enforcement.

Sexual Assault Forensic Exam Fund (SAFE Fund)

According to VAWA 2 Reauthorization, all victims of sexual assault are entitled to the collection of medical/forensic evidence if they choose to have kits collected, with or without reporting to police. For trafficking victims who have been sexually assaulted but do not wish to report the crime to law enforcement, to cooperate with law enforcement through prosecution, or to report the crime to their insurance provider or other payer source, the Wisconsin SAFE Fund can provide limited financial assistance for their healthcare needs.

Community Response

Given the hidden nature of the crime of human trafficking and its relative anonymity in Wisconsin so far, it is crucial to create awareness in the community about the essence of the crime, ways to identify victims, and things community members can do to help eradicate this crime against humanity.

Community Members as Potential Points of Contact

These are the people who, by virtue of their professions or activities, may unknowingly come in contact with trafficking victims. Their ability to notice troublesome signs of trafficking can make the difference between life and death for victims.

- Animal control division
- Bank employees
- Building inspectors
- Business inspectors
- Businessmen and women
- Cable TV, internet, and phone line installers
- Clergy/parish personnel
- College students
- Food/clothing banks
- Food delivery personnel
- Game wardens
- Hotel/motel personnel
- International vehicle insurance brokers
- Landlords/housing entities
- Local consulate officers
- Mary Kay/Avon representatives
- Newspaper delivery personnel
- Postal workers & private delivery personnel (DHL, Fed Ex, UPS, etc.)
- Property assessment personnel
- Real estate personnel
- Runaway program staff
- Sanitation workers
- Social service workers
- Street outreach
- Transportation services (taxi and bus drivers, flight attendants)
- Utility workers
- Youth program staff

Traffickers are leery of law enforcement or other government employees, and they take great care to hide their victims from these individuals. But when their air conditioners break or they decide to have pizzas delivered to their homes, they may not see utility workers or delivery persons as threats, allowing them into spaces where signs of trafficking may be present.

Clues of Human Trafficking

What are the signs that community members should look for in order to identify a potential trafficking situation?

- Sparse living conditions modified to accommodate several persons
- Controlled exits at the scene, e.g. gates, locks, secured entry
- Individuals acting as premise guards
- Individuals controlling and speaking for others

- Individuals avoiding contact with you
- People exhibiting injuries, depression, fear
- Lack of control over personal aspects of their lives

What to Do If You Suspect a Human Trafficking Situation

Do not intervene; do not probe; act natural; leave and go to a safe place to make a phone call.

- If you suspect there is a threat of immediate harm to a victim, call 911.
- If there is no immediate danger to victims, call the **national human trafficking hotline: 888-3737-888**.
- Contact Milwaukee Human Trafficking Task Force: 414.297.1580.
- See *Wisconsin Human Trafficking Resources* page 72 of the Appendix, for other contacts.

Working to Prevent Human Trafficking

The following are measures the community can take to prevent cases of human trafficking:

Policy Advocacy

- I. Strengthening industry regulations, especially around child labor
- II. Initiating and supporting comprehensive immigration reform

Business

- I. Providing micro-loans and funding for education and healthy small business development
- II. Cleaning up production and supply chains to ensure ethical, safe, and fair practices

Education

- I. Teaching K-12 and college students about trafficking to prevent them from being exploited and to inspire some to create innovative solutions to the problem
- II. Educating men about the hidden costs of prostitution, sex tourism, and pornography

Other Ways to Address Human Trafficking

Most members of the community may never come across a trafficking victim. However, there are other ways you can get involved and help fight modern-day slavery.

- Educate yourself and others about human trafficking
- Volunteer with local/national/international anti-human trafficking organizations
- Form a grassroots anti-slavery organization
- Donate to anti-human trafficking organizations
- Be a conscious consumer (buy fair trade / slave-free products)
- Contact your legislators about the importance of funding anti-human trafficking efforts

Each and every one of us can do our part in ensuring that there are no more slaves in the 21st century. Even telling your family and friends about human trafficking and making them aware of this crime will make a difference. If we stand by and do nothing, traffickers will continue to

exploit women, children, and men for labor and sex. Only creating a world with zero tolerance to human trafficking, one community at a time, will put an end to this heinous crime.

Collaboration between Key Actors

The importance of collaboration between law enforcement and non-profit direct service providers in identifying, protecting, and otherwise serving victims of human trafficking cannot be overstated. At the outset, education and outreach is crucial to introduce law enforcement both to the problem of human trafficking and the availability of services for victims. Similarly, it is equally important for service providers to learn about individual federal, state, and local law enforcement agencies and to understand their various priorities and protocols for working with victim witnesses.

It is crucial to conduct outreach and training efforts with law enforcement that focus on both (1) increasing awareness regarding human trafficking and (2) building meaningful, reliable, and reciprocal relationships with law enforcement officials. This will aid in serving victims during the trafficking investigation and prosecution processes.

Key Issues in Collaboration

To date, a number of state and local law enforcement officials in Wisconsin have received valuable training regarding human trafficking and the availability of services for victims. Victim service providers have also received training in some locations. Although the level of knowledge about human trafficking has increased, a number of issues have been identified during trainings that must be addressed in order to create a victim-centered response to human trafficking.

- Significant service and system gaps are preventing trafficking victims from receiving the services they need.

Despite efforts to increase awareness, serious gaps in services and systems place trafficking victims at risk of returning to their traffickers. Trafficking victims have complex and multidimensional needs. Housing, transportation, health care, and access to daily living supports must be available at local levels to provide a safe pathway for victims out of the bonds of trafficking. Increased coordination between system advocates and community service providers, locally and regionally, will ensure that victims have access to available services and supports.

- Victims of human trafficking must be assured their right to specialized legal counsel to protect their rights and prevent unintended legal consequences that will prevent victims from cooperating with investigation and prosecution.

Failure to provide trafficking victims with appropriate legal counsel places them at risk for a number of legal problems, including criminal prosecution and deportation. Legal consequences for victims represent de facto retaliation that only undermines attempts to hold traffickers accountable for their crimes.

Local gaps in the availability of trained immigration attorneys present a significant barrier to victim rights. More resources and regional cooperation between responders is needed to ensure that victims have access to competent legal counsel.

- More education about trafficking victim rights is needed to ensure that victims are treated fairly and have access to remedies under the TVPA as well as services afforded to all victims of crime.

Although the TVPA enacted protections for trafficking victims in 2000, there are still knowledge gaps within all systems about the rights and protections afforded to trafficking victims. The result is that victims are not informed about those protections and do not receive the services they need. The consequence is that victims do not cooperate with investigation, and traffickers escape prosecution.

Increased training at all levels is the first step of intervention to reverse this disturbing trend. Policy and practice changes are also required to ensure that all victims are fully informed about their rights and that responders follow best practice guidelines in the treatment of trafficking victims.

- More protections are needed to ensure that trafficking victims are protected from their traffickers.

Returning victims to their traffickers only re-victimizes them and erodes any trust or hope they have to escape. Anecdotal cases of victims being arrested and then released to their traffickers because they refuse to participate with the initial investigation out of fear of retaliation only reinforce victims' mistrust of formal systems.

Regardless of victims' level of cooperation, law enforcement and prosecution must strive to link victims to services that will lead to their independence from traffickers. Increased collaboration between law enforcement and immigration advocates and social service providers will ensure that victims have the opportunity to seek freedom from their traffickers.

- All actors must have a full understanding about non-disclosure as a best practice model to working with human trafficking victims.

Anecdotal information about victims in Wisconsin being reported to ICE underscores the need for greater clarity about non-disclosure in reporting. **Even today, many state and local agents falsely assume that they are required to report a victim's immigration status to the ICE. There is no such requirement.** In fact, non-disclosure of immigration status is now considered a best practice in addressing the crime of human trafficking. While it is true that the practice of non-disclosure is a nuanced issue, increased education about non-disclosure as best practice will eliminate unnecessary reporting to ICE that ultimately undermines the investigation and prosecution of traffickers.

Confidentiality agreements between law enforcement, district attorneys, and federal agencies involved in the investigation and prosecution of human trafficking add an additional layer of guarantee for victim privacy and protection. Such agreements should ensure that confidentiality is protected for all victims, regardless of their levels of cooperation.

- The role of community-based and system-based advocates must be fully understood, accepted, and integrated into a collaborative response to address victim needs.

Victims are better served when they have access to a broad array of supports and services. Unfortunately, despite the availability of community-based advocates in most

locations, not all trafficking victims are informed about how to access them. ***It is the position of the Committee that community-based advocates be fully integrated into a collaborative response to human trafficking.*** What this means is that every victim of human trafficking should be informed about and linked to community-based advocates. Community-based advocates serve a necessary role in ensuring that victims receive all the protections and services they need to escape the bondage of their traffickers.

There are also fine distinctions between the role of community-based advocates and system advocates that must be fully understood and explained to trafficking victims seeking assistance. System advocates that operate within law enforcement and prosecution have responsibilities and requirements that community-based advocates do not have. At the same time, some community-based advocates, such as sexual assault providers, hold confidentiality privileges that system based advocates do not have. It is in the best interest of victims to understand these differences before seeking support.

Victims must also have resources that are not dependant on whether or not law enforcement or other government systems believe them. Some trafficking survivors will be screened out as not credible enough for certification or pursuing a criminal case. They still need assistance. Service providers must have a plan on how to access alternative services for such victims.

Building Capacity and Sustainability

Eradicating human trafficking in Wisconsin requires a sustained commitment to cooperation and partnership from a diverse array of stakeholders. It is important that partnerships develop on the ground level—not simply in response to federal funding opportunities that are often temporary. Mutual trust and respect between all stakeholders is essential, fortified by a shared commitment to prioritize the rights and needs of victims of human trafficking.

Safety Issues for First Responders

Safety for Clients

Trafficked persons often fear their trafficker(s) and have legitimate concerns for their own wellbeing as well as for family members living in the US or in their home countries. They are frequently subjected to intimidation and threats of deportation and retribution directed at family members. Traffickers also use violence to control their victims, including torture, beatings, and rapes. Threats and intimidation do not stop after the victim is free.

Traffickers may work independently, but many operate within a network of organized crime. These networks can stretch from the US to the victim's home country—making the threat of harm to family members real. Traffickers have also been known to deal in other forms of illicit activity and may possess or have access to a variety of weapons.

It is important to note that local Wisconsin, Midwest, and U.S. pimp networks threaten minors and adults who are U.S. citizens. Additionally, gangs are also involved in threatening and controlling people.

Safety for Service Providers

Service providers should consider and take precautions to ensure their own safety and the safety of their families when working on trafficking cases. During the discovery, assessment, and provision of services to a trafficked victim, a service provider may learn information that places her/his own safety at risk. This is especially true when the trafficker resides in the same community. Service providers must remain aware of their own safety and create a safety plan. See page 42 for additional information.

General Safety Concerns

Safety measures should be taken to increase the protections for trafficked clients and service providers when the first contact is made. General threat appraisals should be conducted during the discovery phase. Formal evaluations can be documented once the trafficked person is in a safe location, with the help of her/his primary case manager. Concurrent to the formal evaluation, a safety plan should be formulated and implemented for each victim. This plan should include guidance and directions concerning the safety procedures. Threat assessments should be constantly reviewed throughout the discovery, investigation, and prosecution phases to ensure that services are being provided to the trafficked victim(s) to counter any threats.

Appendix

- **WI Human Trafficking Resources**
- **WI Migrant, Refugee, & Labor Services Agency Directory**
- **Glossary of Terms**
- **Immigration Terms Applicable to Human Trafficking**
- **General Immigration Definitions**
- **Human Trafficking vs. Human Smuggling**
- **Screening Tool For Victims of Trafficking**
- **WI Labor Standards**
- **Crime Victim Rights**
- **Key Groups that Make Up the Anti-Human Trafficking Work in WI**
- **WI Human Trafficking Jury Instructions**



Wisconsin Coalition Against Sexual Assault

600 Williamson St., Suite N2 • Madison, Wisconsin • 53703
Voice/TTY (608) 257-1516 • Fax (608) 257-2150 • www.wcasa.org

Wisconsin Human Trafficking Resources

STATE AGENCIES

Wisconsin Office of Justice Assistance (OJA)

State-wide Human Trafficking Committee <http://oja.wi.gov/vawa>

OJAVAWA@wisconsin.gov or trafficking@wcasa.org

- For the full list of Human Trafficking Committee members please contact OJA

WI Department of Justice

Human Trafficking Resource Website www.doj.state.wi.us/cvs/trafficking.asp

Office of Crime Victim Services (DOJ-OCVS) www.doj.state.wi.us/cvs

DOJ-OCVS Victim Resource Center: 1-800-446-656

Crime Victims' Compensation Program: 608-264-9497

Division of Criminal Investigation (DOJ-DCI) www.doj.state.wi.us/dci/tech

WI Clearinghouse for Missing and Exploited Children www.missingpersons.doj.wi.gov

COALITIONS

Wisconsin Coalition Against Sexual Assault (WCASA) www.wcasa.org

Human Trafficking Program – Policy, Technical Assistance, Training

Marianna Smirnova, Human Trafficking Policy Specialist, mariannas@wcasa.org

Phone: 608-284-5493

Ian Henderson, Attorney, ianh@wcasa.org

Wisconsin Coalition Against Domestic Violence (WCADV) www.wcadv.org

Morgan Young, Immigration / Poverty Attorney, morgany@wcadv.org

Phone: 608-255-0539

Greater Milwaukee Rescue and Restore Coalition

Practical Strategies – Department of Health and Human Services (DHHS)

Victims of Human Trafficking Regional Program Grant Administrator

Mary Jo Joyce, mjj@practical-strategies.com

Miles Severson, miles@practical-strategies.com

Phone: 262-334-1821

*For the full list of Rescue and Restore Coalition members please contact Practical Strategies

TASK FORCES**Milwaukee Federal Human Trafficking Taskforce**

U.S. Department of Justice (U.S. DOJ) Eastern District of Wisconsin

Assistant US Attorney Tracy Johnson tracy.johnson@usdoj.gov

Phone: 414-297-1580

Milwaukee Police Department

Detective Linda Stott, ldstot@milwaukee.gov

Phone: 414-935-7360

Denmark Morrison (main taskforce grant administrator) Phone: 414-935-7876

* For the full list of Human Trafficking Taskforce members please contact U.S. DOJ

LOCAL ORGANIZATIONS❖ **Dane County**

Slave Free Madison (SFM) <http://slavefreemadison.squarespace.com>

JoAnn Gruber-Hagen, chair, slavefreemadison@gmail.com

Phone: 608-712-7788

* For the full list of Slave Free Madison members please contact SFM

Project Respect <http://www.arcomserv.org/programs.html#RESPECT>

Jan Miyasaki, director, jan@respectmadison.com

WE International www.weinternational.org

David Lippiatt, Executive Director dlippiatt@weinternational.org

Phone: 608-334-2064

WE International UW-Campus Branch

Brenna, campus organizer, bcyr@weinternational.org

Zonta Club of Madison www.madison.com/communities/zonta/

Dane County SA CCR Committee on Commercial Sexual Exploitation of Children (CSEC)

Co-chairs: Jan Miyasaki & JoAnn Gruber-Hagen

❖ **Fox Valley**

Five Stones www.5-stones.org

Connie Campbell, head of development, ccampbell@5-stones.org.

Phone: 920-277-5510

❖ **Greater Milwaukee**

Trafficking Ends with Action (TEA) www.teawisconsin.org

Darius Alemzadeh, director, info@traffickingendswithaction.org

Phone: 414-507-3631

Milwaukee Human Trafficking Support Group

Sojourner Family Peace Center www.familypeacecenter.org

Carmen Pitre, carmenp@familypeacecenter.org

Liz Marquardt, lizm@familypeacecenter.org

Phone: 414-276-1911

UMOS www.umos.org

Human Trafficking Outreach Program

Gina Allende, gina.allende@umos.org & Astrid Ryan, aryan9@wi.rr.com

Latina Resources Center

Rethink Resources: Youth in sex trade <http://www.rethinkresources.net/>

Claudine O'Leary, claudine@rethinkresources.net

Phone: 414-212-5121

Franciscan Peace Makers - Street Outreach www.franpax.com

Basics - Afterschool Programs www.basicsinmke.org

IMMIGRATION ASSISTANCE

RISE Law Center (Formerly IP-WCADV)

<http://www.wcadv.org/?go=whatwedo/immigration>

Immigration Attorney (608) 256-1015

Catholic Charities, Archdioceses of Milwaukee www.archmil.org

Barbara Graham, Immigration Attorney, Bgraham@ccmke.org

International Institute of Wisconsin

Benjamin Shryock, Immigration Attorney, bshryock@iiwisconsin.org

Phone: 414-225-6220

National Immigrant Justice Center www.immigrantjustice.org

Angela Hernandez, Trafficking Attorney, ahernandez2@heartlandalliance.org

Phone: 312-660-1322

National Resource Center and Hotline

Polaris Project

Phone: 202-745-1119

www.polarisproject.org

<http://nhtrc.polarisproject.org/>

National Trafficking Hotline

1-888-373-7888

WI Department of Children and Families (WI DCF)
Bureau of Migrant, Refugee, and Labor Services
Agency Directory

ADVOCAP, Inc.

19 West First Street
Fond du Lac WI 54936
Contract Mgr: Michael Bonertz
(920) 922-7760 Fax (920) 922-7214
mikeb@advocap.org

Dane County Mental Health

625 W. Washington Ave
Madison WI 53703
Contract Mgr: Linda Keys
(608) 280-2404 Fax (608) 280-2707
linda.keys@mail.mhcdc.org

HMAA Sheboygan

2304 Superior Ave
Sheboygan WI 53081
Contract Mgr: ChaSong Yang
(920)458-0808 Fax (920) 458-0081
mail@hmaaweb.org

Jewish Family Services (MARC)

1300 N. Jackson Street
Milwaukee WI 53202
Contract Mgr: Sylvan Leabman
(414) 225-1350 Fax (414) 289-0185
bweber@jfsmilw.org

**UW Milwaukee Ctr for Urban and
Community Development**

161 W. Wisconsin Ave. Suite 600
Milwaukee WI 53203
Contract Mgr: Kalyani Rai
414-227-3271 FAX 414-227-3168
pa@uwm.edu

La Crosse AHMA

2613 George St
La Crosse WI 54603
Contract Mgr: Thai Vue
(608) 781-5744 Fax (608) 781-5011
Thai.Vue.LHMAA@centurytel.net

Milwaukee Christian Center

2137 W Greenfield Ave
Milwaukee WI 53204
Contract Mgr: Kathy Baillargeon
(414) 645-5350; Fax: (414) 645-1859
jevans@mccwi.org

United Asian Services

312 North Third Street
Madison, WI 53704
Contract Mngr: Chor Vang
(608 256-6400; Fax: (608)256-6501
cvang@tds.net

Wausau Area HMA

1109 N. 6th St.
Wausau, WI 54403
Contract Mngr: Peter Yang
(715)842-8390; Fax:(715)842-9202
pyang@wausauhmong.org

Workforce Resource Inc

401 Technology Dr E., Suite 100
Menomonie, WI 54751-0000
Contract Mngr: Richard Best
(715) 232-7380; Fax (715)232-2240
bestd@workforceresource.org

Sebastian Family Psychological Practice, LLC

5626 N. 91st Street, Suite 301
Milwaukee, WI 53225
Contract Mngr: Sebastian Ssempijja
(414) 461-1088 - Fax (414) 461-1049
414 915 2967 (Cellular)
(414) 603-1231 (pager)
sseba4u@aol.com

**United Hmong and Asian American Community
Center, Inc.**

401 Ninth St
Green Bay, WI 54304
Contract Manager: Staryoung Thao
(920) 432-8900
staryoungt@sbcglobal.net

City of Milwaukee HD

841 N Broadway, 3rd Floor
Milwaukee, WI 53202
Contract Mngr: Paul A. Biedrzycki
(414)286-5787

City of Appleton HD

100 North Appleton Street
Appleton, WI 54911
Contract Mngr: Kathy Stromberg
(920)832-6429; Fax:(920)832-5853

Barron City Department of HSS

Kaye Thompson
410 E. LaSalle Avenue
Barron, WI 54812
715-537-6111
kaye@co.barron.wi.us

La Crosse County Health Department

300 4th Street North
La Crosse, WI 54601
Contract Mnger: Doug Mormann
(608) 785-9807

Public Health of Madison & Dane County

2705 East Washington
Madison WI 53704
Contract Mngr: Julia Halvorsen
(608)249-5257
jhalvorsen@publichealthmdc.com

Sheboygan Co. Health & Human Services

Division of Public Health
1011 N. 8th Street
Sheboygan, WI 53081
Contract Mnger: Jean M. Beinemann
(920) 459-6435

Kenosha Division of Health

8600 Sheridan Road
Kenosha, WI 53143-6515
Wayne Krueger
(262) 605-6730

Racine County Public Health

Thelma Jones
730 Washington Avenue
Racine, WI 53403
(262) 636-9201

Waukesha Department of Health and Human Services, Public Health Center

615 W. Moreland Blvd.
Waukesha, WI 53188
Contract Mnger: Cynthia Barfknecht
(262) 896-8387
cbarfknecht@waukeshacounty.gov

WISCAP

1310 Mendota Street Ste 107
Madison WI 53714-1039
Contract Mnger: Dick Schlimm
(608)244-4422; Fax:(608)244-4064
rschlimm@wiscap.org

Refugee Services Health Department Partners**City of Milwaukee HD**

841 N Broadway, 3rd Floor
Milwaukee, WI 53202
Contract Mnger: Paul A. Biedrzycki
(414)286-5787

City of Appleton HD

100 North Appleton Street
Appleton, WI 54911
Contract Mnger: Kathy Stromberg
(920)832-6429; Fax:(920)832-5853

Neenah Public Health Department

Judy Smolarek
211 Walnut Street
P.O.Box 426
Neenah, WI 54957
920-886-6157
jsmolarek@ci.neenah.wi.us

Barron City Department of HSS

Kaye Thompson
410 E. LaSalle Avenue
Barron, WI 54812
715-537-6111
kaye@co.barron.wi.us

La Crosse County Health Department

300 4th Street North
La Crosse, WI 54601
Contract Mnger: Doug Mormann
(608) 785-9807

Public Health of Madison & Dane County

2705 East Washington
Madison WI 53704
Contract Mnger: Julia Halvorsen
(608)249-5257
jhalvorsen@publichealthmdc.com

Sheboygan Co. Health & Human Services

Division of Public Health
1011 N. 8th Street
Sheboygan, WI 53081
Contract Mnger: Jean M. Beinemann
(920) 459-6435

Kenosha Division of Health

8600 Sheridan Road
Kenosha, WI 53143-6515
Wayne Krueger
(262) 605-6730

Racine County Public Health

Thelma Jones
730 Washington Avenue
Racine, WI 53403
(262) 636-9201

Western Racine County Health Department

Cheryl Mauzmanian
(262) 763-4930
cheryl.mazmanian@aurora.org

Waukesha Department of Health and Human Services, Public Health Center

615 W. Moreland Blvd.
Waukesha, WI 53188
Contract Mnger: Cynthia Barfknecht
(262) 896-8387
cbarfknecht@waukeshacounty.gov

Glossary of Terms

The following glossary contains terms as defined by law and/or by common usage. If a definition is specific to a statute, it is so noted.

Coercion (Federal TVPA Definition): (a) threats of serious harm to or physical restraint against any person; (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (c) the abuse or threatened abuse of the legal system.

Examples of coercion include debt bondage, threats against family members, photographing or videotaping the victim in compromising or illegal situations, then threatening to turn over the video to authorities or loved ones, punishment of another victim in front of another person to instill fear, all money is controlled by the trafficker, all identity or immigration papers are controlled by the trafficker, threats of deportation or psychological abuse that intimidates and frightens the victim.

Commercial Sex Act (Federal TVPA Definition): Any sex act on account of which anything of value is given to or received by any person.

Commercial Sex Act (Wisconsin Statute Definition): sexual contact for which anything of value is given to, promised, or received, directly or indirectly, by any person.

Debt Bondage (Federal TVPA Definition): the status or condition of a debtor arising from a pledge by the debtor of her/his personal services or of those of a person under her/his control as a security for debt, if the value of those services (as reasonably assessed) is not applied toward the elimination of the debt or the length and nature of those services are not respectively limited and defined.

Debt Bondage (Wisconsin Statute Definition): the condition of a debtor arising from the debtor's pledge of services as a security for debt if the reasonable value of those services is not applied toward repaying the debt or if the length and nature of the services are not defined.

Force (Federal TVPA Definition): Physical restraint or causing serious harm.

Examples of force include kidnapping, battering, kicking, pushing, denial of food or water, denial of medical care, forced use of drugs or denial of drugs once a victim is addicted, forced to lie to friends and family about their whereabouts, being held in locked rooms or bound.

Fraud: knowingly misrepresenting the truth or concealing an actual fact for the purpose of inducing another person to act to her/his detriment.

Examples of fraud include false promises for specific employment, being promised a certain amount of money that is never paid, working conditions are not as promised, being told s/he would receive legitimate immigration papers or a green card to work but the documents are not obtained.

Involuntary Servitude (Federal TVPA Definition): forcing a person to work by means of (a) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition that person or another person would suffer serious harm or physical restraint; or (b) the abuse or threatened abuse of the legal process.

Peonage (Federal TVPA Definition): holding someone against her/his will to pay off a debt.

Recruitment of Human Trafficking Victims: victims are enticed through fraudulent employment offers posted in newspapers, by acquaintances promising opportunity abroad, through mail-order bride and other marriage arrangements and by the promise of the chance to earn large sums of money. Parents are tricked into relinquishing their children with promises the children will be schooled, employed, or otherwise cared for by the recruiter.

Services (Wisconsin Statute Definition): activities performed by one individual at the request, under the supervision, or for the benefit of another person.

Smuggling, Human Smuggling: Human smuggling is the facilitation, transportation, attempted transportation, or illegal entry of a person(s) across an international border, in violation of one or more countries' laws, either clandestinely or through deception, such as the use of fraudulent documents. Often, human smuggling is conducted in order to obtain a financial and/or other material benefit for the smuggler, although financial gain and/or material benefit are not necessarily elements of the crime. Human smuggling is generally with the consent of the person(s) being smuggled, who often pay large sums of money. Once in the country of their final destination, they will generally be left to their own devices.

Transportation: victims need not be transported in order to be trafficked. However, both federal and Wisconsin state law seek to prosecute all persons involved in any stage of trafficking, in addition to those who directly participate in and profit from the victim's sexual or labor exploitation. Persons who knowingly transport a victim for the purpose of trafficking can be prosecuted under both laws.

Immigration Terms Applicable to Trafficking

Under the federal Trafficking Victims Protection Act, victims of human trafficking in the US who are non-citizens may be eligible for a special visa and comprehensive benefits and services. (Victims who are U.S. citizens are already eligible to receive many of these benefits.)

Certification: allows victims of trafficking who are non-U.S. citizens to be eligible for certain benefits and services under any Federal or state program or activity to the same extent as a refugee.

Continued Presence: Allows victims who lack legal status and are assisting law enforcement as potential witnesses to remain in the country for the course of criminal investigation. Through continued presence, victims can receive temporary immigration relief.

Employment Authorization Document (EAD): a document that proves that one is legally employable in the United States. Trafficked victims who have continued presence are eligible to apply for an Employment Authorization Document (EAD).

T Visa: T visas provide victims of human trafficking with legal non-immigrant status in the United States for four years with the possibility of adjusting to lawful permanent resident status.

U Visa: U visas provide immigration protection to victims who have suffered mental or physical abuse because of certain crimes and who are willing to assist law enforcement in the investigation of a case.

Unaccompanied Refugees Minor Program: Assists *unaccompanied* trafficked minors who do not have a parent or legal custodian living in the US who is able to care for the minor. The program provides foster care or other licensed care settings and specialized social services including family reunification, when appropriate.

General Immigration Definitions

Adjustment of Status

The procedure which changes (adjusts) a **non-immigrant** visa status to **permanent resident** status while in the US. Example: a woman enters the US as a visitor then later while in the US, marries a U.S. citizen. She can apply for an Adjustment of Status from visitor to permanent resident without leaving the US.

Admitted

The process of coming into the US after inspection and authorization by a U.S. immigration official; the act of being allowed to pass into the US after inspection at a port. (A person who comes into the US illegally without being inspected makes an **entry without inspection** called an EWI.) Admission is shown by a stamp with the word "Admitted" placed in the passport and on a Form I-94 Entry Card (stapled into the passport) at the port inspection point.

Advance Parole

See **Parole**

Affidavit of Support

The form used by a **Sponsor** to allow an immigrant to qualify for the green card. All family immigrants must have a sponsor execute and submit an Affidavit of Support to show that the immigrant is not likely to need welfare or other public payments. The Sponsor signing the Affidavit of Support (Form I-864) is obligated to repay support benefits received by the immigrant for up to 10 years, and even a divorce does NOT end the obligation.

Asylum

See **Political Asylum**

Beneficiary

The person who hopes to benefit from an immigrant petition. In an employment case, the worker is the beneficiary. In a family case, the relative trying to get a **green card** is the beneficiary. See **Petitioner**.

Cancellation of Removal

An order of an Immigration Judge that cancels a **Removal Proceeding** and allows the applicant to become a permanent resident. The applicant must have been in the US at least ten years, must be a person of good moral character, and must prove that being expelled would cause "exceptional and extremely unusual hardship" to the applicant's U.S. citizen or Legal Resident spouse, parent, or child (not to the immigrant her/himself). It is very difficult to have this type of application approved. Since it can only be requested during a Removal Proceeding, a very strong case should exist before applying since failure could result in the applicant being expelled from the US (Formerly called **Suspension of Deportation**).

Consul

An official of the U.S. **Department of State**. Consuls are located only outside the US and are responsible for issuing visas.

Department of State

A cabinet level ministry of the U.S. government responsible for foreign affairs, consuls, and the issuance of visas. Informally referred to as the "State Department" or DOS.

Deportation

A proceeding (hearing) to determine if a person should be expelled from the US under the provisions of the Immigration and Naturalization Act; the carrying out of an order of expulsion. Under recent law changes, Deportation Proceedings are now called **Removal Proceedings**.

Dictionary of Occupational Titles (D.O.T.)

A book published by the U.S. Department of Labor describing almost every job, the usual job duties, and the amount of training or education needed to perform the job.

Entry Without Inspection

Coming into the US without authorization by an official of the Bureau of Citizenship & Immigration Services (BCIS). Examples are: coming across a U.S. border without being inspected; using someone else's passport at an inspection point. This type of entry is called "EWI".

Exclusion

A proceeding (hearing) to determine if a person should be barred from entering the US under the provisions of the Immigration and Naturalization Act. Under recent law changes, Exclusion proceedings are now called **Removal Proceedings**.

Green Card

The informal name for the card issued as proof of registry as a legal permanent resident. It is officially BCIS Form I-551. An earlier version of the card was green in color.

Immigrant

A person coming to the US to remain permanently or for an indefinite period of time and to make the US the primary place of residence. A permanent resident of the US is an immigrant. A person who plans to become a permanent resident is an **intending immigrant**. See **Visitor**.

Immigrant Visa

The visa given to a person by a U.S. consul after qualifying for **permanent residence**. After arriving in the US, the person will receive a **green card**.

Intending Immigrant

A person coming to the US who intends (plans, hopes) to remain permanently or for an indefinite period of time and to make the US the primary place of residence. If a Consul or a border or airport inspector believes a person is an intending immigrant, the person will not be admitted to the US unless they have an **immigrant visa**, a "K" Visa, a "V"

Visa, or a **green card**. For example, a person who is married to a Permanent Resident will not be given a visitor visa. The spouse of a U.S. citizen (or a person who plans to marry a U.S. citizen) will not be admitted to the US with a **non-immigrant** visa (such as a visitor or student visa) and will not be admitted with a **visa waiver**. The fiancé(e) of a U.S. Citizen can be admitted with a "K" Visa.

Labor Certificate

When no qualified **U.S. Worker** can be found for a sponsored job, the Labor Department issues a Labor Certificate that shows that giving the job to a non-U.S. worker will not harm the labor market. A Labor Certificate allows a sponsored employee to apply for permanent residence when other requirements are met.

Labor Department

A cabinet level ministry of the U.S. government responsible for employment matters. Approves and issues **Labor Certificates**. Its more official name is the U.S. Department of Labor.

Multiple Entry Visa

A visa which allows the holder to apply to be admitted to the US several times or for an unlimited number of times without having to go back to a consul for a new visa. A *Single Entry Visa* allows only one admission to the US: a new visa would be needed for the next admission.

Naturalization

The act of making a person a citizen who was not born with that status. An application for citizenship is an application for Naturalization.

Non-Immigrant

A person coming to the US for a limited period of time who intends to return to another country after the stay in the US ends. Also, a class or type of visa issued for a non-immigrant purpose such as visitor, student, diplomat, and others.

Parole

Permission given to allow a person (parolee) to be admitted to the US when not ordinarily authorized, as when lacking a visa or entry documents. When permission to re-enter is given before leaving the US, it is called *Advance Parole*.

Permanent Resident

A status held by a person after qualifying and being registered by the Immigration Service. This status allows the person to live permanently in the US, to travel in and out without a visa, to work at any job, to accumulate time toward U.S. citizenship. The status is shown by possession of an identification card commonly called a **green card**.

Petitioner

The company or other employer who signs a petition in an employment case. In a family case, the Petitioner is the U.S. citizen or **permanent resident** who signs the relative petition. Sometimes called the Sponsor. See **Beneficiary**.

Political Asylum

A status given by the U.S. government to a person who applies and shows that it is likely that s/he would be persecuted or harmed in the home country usually because of membership in a political or religious group. There must be a threat of harm to the applicant. General conditions of a country are usually not sufficient reasons to have political asylum granted.

Preference

One of the categories or classes in which the **beneficiary** of an immigrant petition is placed. The preference assigned depends on the type of petition and other factors. The petition approval notice shows the preference. Example, a petition for the spouse of a **permanent resident** will be in the Family 2A preference. A petition for a skilled worker (at least 2 years experience required) will be in the Employment 3rd preference.

Priority Date

The date assigned to an approved immigrant petition. The Priority Date determines the **beneficiary's** place in the waiting list for the immigrant **preference** category. The Priority Date is the date that a family petition is received by the BCIS or, in an employment case, it is the date the Labor Certificate application is received by the state local employment service.

Profession

For "H" visas: refers to occupations that require at least a U.S. bachelor degree as the minimum education to carry out the duties. Example: teacher, engineer, computer systems analyst.

Quota

A numerical limitation on the number of applicants, or the number of visas available to be issued to a class or group (such as people from a country, area of the world, or job classification). Example: there is a yearly Quota of 20,000 immigrant visas that can be issued to applicants born in any one country. When the immigrant visa quota is reached, a backlog or queue develops and a cut-off date is set to limit the number of applicants. Only applicants with a **priority date** earlier than the cut-off can apply. The cut-off dates are shown in the **Visa Bulletin**.

Removal Proceedings

A proceeding to determine if a person who is in the US should be expelled or if a person seeking to be admitted should be allowed to come into the US. Formerly called Exclusion or Deportation proceedings.

Seven-Year Rule

See **Suspension of Deportation**

Sponsor

A person who executes and submits an **Affidavit of Support** for an **Immigrant** is a Sponsor. NOTE: A person or organization who files a visa petition on behalf of an applicant for a visa or who files an application for a **Labor Certificate** is sometimes called a Sponsor; the correct name for a person who files a petition is **Petitioner**.

State Department

A cabinet level ministry of the U.S. government responsible for foreign affairs, consuls, and the issuance of visas. Its formal name is the U.S. Department of State.

Suspension of Deportation

In the past, an Immigration Judge could cancel a deportation proceeding and allow the applicant to become a permanent resident. The applicant must have been in the US for at least seven years. Suspension of Deportation has been replaced by **Cancellation of Removal**.

Unskilled worker, Unskilled job

May refer to jobs that require less than two years of training to learn. Examples are baby-sitters, domestic workers, store clerks.

U.S. Worker

Includes U.S. Citizens and **Permanent Residents**. When no qualified U.S. Worker is found, a **Labor Certificate** can be issued.

Violence Against Women Act (VAWA)

The purpose of the Federal VAWA program is to provide funds to specifically address domestic violence and sexual assault crimes against women. This includes providing funding for comprehensive training projects (especially multi-disciplinary training); specialized units such as programs in law enforcement or district attorneys' offices; projects developing protocols, policies, and evaluation mechanisms; projects developing data collection and communication systems; sexual assault and domestic violence victim services programs; stalking projects designed for Indian tribes dealing with violent crimes against women; development of coordinated response; training of sexual assault forensic examiners; addressing the needs and circumstances of older and disabled women who are victims of domestic violence or sexual assault; and assistance to victims of domestic violence and sexual assault in immigration matters. Due to the fact that services for human trafficking victims are scarce and entail a difficult process with complicated and often conflicting requirements, VAWA provides remedies to help victim of trafficking that include both direct services and immigration relief options through U-visa or VAWA self-petition.

Visa

An authorization issued by a U.S. consul permitting a person to come to a U.S. port or inspection point to apply to be admitted to the US for the purpose of the particular visa. A visa does NOT give the bearer the right to enter the US but only the right to apply to be admitted at an inspection point. Visa also refers to the stamp or seal placed in a passport indicating the issuance of a visa. See **multiple entry visa, non-immigrant, immigrant visa**.

Visa Bulletin

A monthly publication of the U.S. **Department of State** which lists the immigrant visa preference **quotas** and gives other information about **visas** and immigrant **preferences**.

Visa Waiver

A type of **admission** to the US by citizens of certain countries that the US has decided can be admitted without a **visa**. A visa waiver admission is for a maximum of 90 days and cannot be extended. No change to another type of visa or status is permitted. (Exception, if a person with a visa waiver marries a U.S. citizen while in the US, the visa holder may be allowed to stay and apply for a **green card**.) A person with a visa waiver admission receives a small green-colored card (I-94W) in the passport. (Do not confuse this with a Permanent Residence **green card**, which is actually not green.)

Visitor

A person coming to the US for a temporary stay of limited duration. See **Non-Immigrant**.

Waiver

Special permission that allows a person to do something or to receive a benefit to which they are not entitled without the waiver. Example: visitors from designated countries can enter the US without a visa because the US has agreed to waive the requirement for a visa for nationals of these countries.

Human Trafficking vs. Human Smuggling

United Nations Office on Drugs and Crime

The United Nations Office on Drugs and Crime defines the differences between trafficking and smuggling as follows:

Smuggling of migrants involves the procurement for financial or other material benefit of illegal entry of a person into a State of which that person is not a national or permanent resident.

Human trafficking is the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs.

www.unodc.org/unodc/en/human-trafficking/index.html

Smuggling	Human Trafficking
<ul style="list-style-type: none">• Smuggling assumes consent of the migrant• Upon arrival, the smuggled person is free or required to work temporarily to pay off their smuggler• Smuggling is always transnational	<ul style="list-style-type: none">• Trafficked persons are transported against their will or their initial consent is rendered meaningless• Victims of trafficking are enslaved indefinitely• Trafficking can be within and across local or national border

U.S. Immigrations and Customs Enforcement

U.S. Immigration and Customs Enforcement recognizes the differences between smuggling and trafficking within the immigration law as follows:

Smuggling - The importation of people into the US involving deliberate evasion of immigration laws. Includes bringing undocumented immigrants into the US as well as unlawful transportation and harboring of undocumented immigrants already in the US.

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

www.ice.gov/pi/news/factsheets/humantrafficking.htm.

Screening Tool for Victims of Human Trafficking

The following are sample questions social service organizations can ask in screening an individual to determine if s/he is a potential victim of human trafficking. As with domestic violence victims, if you think a person is a victim of trafficking, you do not want to begin by asking directly if the person has been beaten or held against her/his will. Instead, you want to start at the edges of her/his experience. And if possible, you should enlist the help of a staff member who speaks the person's language and understands the person's culture, keeping in mind that any questioning should be done confidentially.

You should screen interpreters to ensure they do not know the victim or the traffickers and do not otherwise have a conflict of interest.

Before you ask the person any sensitive questions, try to get the person alone if s/he came to you accompanied by someone who could be a trafficker posing as a spouse, other family member, or employer. However, when requesting time alone, you should do so in a manner that does not raise suspicions.

Suggested Screening Questions

- Can you leave your job or situation if you want?
- Can you come and go as you please?
- Have you been threatened if you try to leave?
- Have you been physically harmed in any way?
- What are your working or living conditions like?
- Where do you sleep and eat?
- Do you sleep in a bed, on a cot, or on the floor?
- Have you ever been deprived of food, water, sleep, or medical care?
- Do you have to ask permission to eat, sleep, or go to the bathroom?
- Are there locks on your doors and windows so you cannot get out?
- Has anyone threatened your family?
- Has your identification or documentation been taken from you?
- Is anyone forcing you to do anything that you do not want to do?

If you think you have come in contact with a victim of human trafficking, call the **National Human Trafficking Resource Center at 1.888.3737.888**. This hotline will help you determine if you have encountered victims of human trafficking, will identify local resources available in your community to help victims, and will help you coordinate with local social service organizations to help protect and serve victims so they can begin the process of restoring their lives. For more information on human trafficking visit:

www.acf.hhs.gov/trafficking.

This tool contains key questions law enforcement officers should consider asking to determine whether someone is a victim of human trafficking. The questions will also help to secure information that can later be used as testimonial evidence.

Fraud/Financial Coercion Questions

- How did you get your job?
- How did you get into this country?
- Who brought you into this country?
- Did you come to this country for a specific job that you were promised?
- Who promised you this job?
- Were you forced to do different work?
- Who forced you into doing different work than what was promised?
- Was there some sort of work contract signed?
- Who organized your travel?
- How was payment for your travel handled?
- Are you getting paid to do your job?
- Do you actually receive payment or is your money being held for you?
- Do you owe your employer money?
- Are there records or receipts of what is owed to your employer/recruiter?
- Are there records/receipts of what was earned/paid to you?
- How were financial transactions handled?
- Are you in possession of your own legal (I.D.) documents? If not, why?
- Were you provided false documents or identification?
- Are you being made to do things that you do not want to do?

Physical Abuse Questions

- Were you ever threatened with harm if you tried to leave?
- Did you ever witness any threats against other people if they tried to leave?
- Has your family been threatened?
- Do you know about any other person's family ever being threatened?
- Were you ever physically abused, or did you ever witness abuse against another person?
- What type of physical abuse did you witness?
- Were there any objects or weapons used in the physical abuse?
- Where are these objects or weapons located?
- Was knowledge of this abuse ever communicated to a person outside of this situation (e.g., police reports, domestic violence reports, hospital records, social service records)?
- Was anyone else ever abused or threatened with harm in your presence?
- How were medical problems handled, and who attended to them?

Freedom of Movement Questions

- Is your freedom of movement restricted?
- Do you live and work in the same place?
- What were the conditions under which you were left unattended?
- Were there instances of physical restriction through locks, chains, etc.?
- Where are the locks used and who has the keys to them?
- How was movement in public places handled (e.g., car, van, bus, subway)?
- Who supervised your movement in public places?

- How was the purchase of private goods and services handled (e.g., medicines, prescriptions)?
- What forms of media or telecommunication did you have access to (e.g., television, radio, newspapers, magazines, telephone, the Internet)?

Psychological Coercion Questions

Behavioral indicators:

- Who are you afraid of?
- Why are you afraid of them?
- What would you like to see happen to the people who hurt you (e.g., jail, deportation)?
- How do you feel about the police? Why?

Environmental Indicators:

- Do you live and work in the same place?
- Where do you live/eat/sleep?
- Where do the alleged perpetrators live/eat/sleep?
- Are the living conditions between the two excessively disparate?

Law enforcement officers questioning the victim should consider the following:

- Is there evidence of possible "Stockholm" or "Patty Hearst" Syndrome where the victim, because of her/his dependency, actually begins to identify with the trafficker?

If you think you have come in contact with a victim of human trafficking, call the **National Human Trafficking Resource Center at 1.888.3737.888**. This hotline will help you determine if you have encountered victims of human trafficking, will identify local resources available in your community to help victims, and will help you coordinate with local social service organizations to help protect and serve victims so they can begin the process of restoring their lives. For more information on human trafficking visit www.acf.hhs.gov/trafficking.

Wisconsin Labor Standards

Labor trafficking is a growing concern in Wisconsin, especially in rural communities. Under Wisconsin law, workers have certain protections, and knowledge about these protections is important in assessing whether an individual is a victim of trafficking.

Labor rules in the following areas may apply:

- Legal age of Employment: 18 years old, or 12 – 18 with limitations (Sec.103.67 WI Statutes)
- Minimum Wage (Sec.104.01-12, WI Statutes)
- Hours Work and Overtime (Sec.103.01-03, WI Statutes)
- Fair Employment (Sec.111.31-111.395, WI Statutes)
- Employee Health and Safety (Sec.101.055 (8), WI Statutes)

Legal age of Employment (Sec. 103.67 WI Statutes)

The legal age of employment is 18 years old in Wisconsin. Youth under the age of 17 are limited in the number of hours and kind of work they can do. An employer employing minors must usually have a work permit. In certain circumstances, workers under the age of 20 years may be paid less than minimum wage.

Child Work Permits: Most Wisconsin employers hiring minors ages 12 – 17 years must possess a valid work permit for each minor before work may be performed. In addition, there are restrictions on the types of work minors may do, and on when and how much they may work.

Child Permitted Employment: Youth ages 12 and 13 may be employed only as caddies, in agriculture, domestic services, street trades, school lunch programs, or for a parent/guardian who owns a business. A worker must be at least 14 years old to work in most non-farm jobs, and at least 18 years old to work in non-farm jobs that could be detrimental to her/his health and wellbeing.

Child Work Hours: Youth ages 12 – 15 may not be required to work: (a) more than 4 hours per school day (8 hours on non-school days and the last school day of the week); (b) more than 18 hours in a week with 5 full days of school. Permitted work times are generally 7 a.m. to 8 p.m. Youth ages 16 – 17 may **not** be required to work: (a) more than 5 hours per school day (8 hours on non-school days and the last school day of the week); and (b) more than 26 hours in a week with 5 full days of school. Permitted work times are generally 7 a.m. to 11 p.m.

Child Wages: Workers under age 20 are covered by different minimum wage requirements than other workers: (a) workers under 20 may be paid \$5.90 per hour during their first 90 consecutive calendar days of employment; (b) Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage with the permission of the U.S. Department of Labor; (c) Tipped opportunity* workers under 20 years of age must receive a cash wage of at least \$2.13 per hour.

* An opportunity employee is not yet 20 years old and has been employed under a particular employee for 90 or fewer consecutive days from the initial date of employment.

Minimum Wage (Sec.104.01-12, WI Statues)

The State of Wisconsin has a minimum wage ordinance in addition to the federal ordinance. It insures that employees who work within the state of Wisconsin are compensated for work paid whether based on time, piecework or otherwise, sufficient to enable the employee receiving it to maintain her/himself under conditions consistent with her/his welfare. The ordinance applies to most employers including any person, firm, organization, agent, manager, principal; or any other person having control or direction of any person employed at any type of labor; or any person responsible directly or indirectly for the wage of another.

Effective as of June 1st, 2007, the minimum wage for employees is:

- \$6.50 per hour for adult employees
- \$5.90 per hour for opportunity employees
- \$5.90 per hour for minor employees
- \$2.23 per hour for tipped adult employees
- \$2.23 per hour for tipped minor employees
- \$2.13 per hour for tipped opportunity employees

An opportunity employee is not yet 20 years old and has been employed under a particular employee for 90 or fewer consecutive days from the date of initial employment. In addition, the minimum wage law covers: nonprofit organizations, hiring adult and minor workers under age 18 in private and public employment, either on full-time or part-time basis.

Under Wisconsin law, certain employer groups and individuals are exempt from minimum wage. These include:

- Casual employers: employers for which employment is on an irregular or intermittent basis for not more than 15 hours per week for any one employer.
- Employers with less than 15 employees
- Domestic service employer: includes butlers, chauffeurs, cooks, day workers, gardeners, graduate nurses, grooms, handy persons, house cleaners, housekeepers, laundry persons, practical nurses, tutors, valets and other similar occupations.
- Companions in private homes: persons who reside in the employer's household for the purpose of companionship and who spend less than 15 hours per week on general household work are not covered under the rates prescribed.

For more information on Wisconsin minimum wage links visit the Wisconsin Department of Workforce Development at

http://www.dwd.state.wi.us/dwd/publications/erd/pdf/erd_9247_p.pdf.

Hours Work and Overtime (Sec.103.01-03, WI Statues)

An employer can legally require one to work more than 40 hours per week. However, most hourly workers who work more than 40 hours a week are entitled to overtime pay for the extra hours. Overtime pay equals one and one-half times one's regular hourly wage. For example, a worker who gets paid \$8.00 per hour should earn \$12.00 per hour for every hour over 40 hours worked during a week. There are different Federal overtime laws for hospital, nursing home, and residential health care workers, state and local government workers, and law enforcement and fire protection personnel. Some groups not covered by Federal overtime laws

include administrative and professional workers, commissioned retail workers, farm workers, private domestic workers, and truck drivers transporting goods in commerce. For more information, visit the Wisconsin Department of Workforce Development at:

http://www.dwd.state.wi.us/er/labor_standards_bureau/publication_erd_8298_pweb.htm.

Fair Employment (Sec.111.31-111.395, WI Statues)

The Wisconsin Fair Employment Law prohibits discrimination in all areas of employment against any qualified person because of sex, race, disability, age (40 and over), creed, color, national origin, ancestry, sexual orientation, marital status, arrest and conviction record, military status, use of lawful products, and genetic testing.

A person who believes s/he has been discriminated against because of unlawful employment discrimination may file a complaint with the Equal Rights Division within 300 days of the alleged complaint. Resolution may take longer than one year. If discrimination is proven by a complainant under state law, the administrative law judge can award wages lost, interest on lost wages, attorney fees, and costs. A job offer may also be ordered, if appropriate. Additional relief for damages such as humiliation and emotional pain or for punitive damages may be awarded only if a case is filed in federal court.

Employee Health and Safety (Sec.101.055 (8), WI Statues)

A public employee who reports an actual or potential hazard to the State Safety and Buildings Division and is then retaliated against by the employer may file a complaint through the Equal Rights Division. Complaints must be filed with within 30 days of the alleged complaint.

A public employee who reasonably refuses to perform a task, which represents a danger of serious injury or death, or who exercises any other right related to occupational safety and health and then is retaliated against by the employer may also file a complaint through the Equal Rights Division. Complaints must be filed with within 30 days of the alleged complaint.

Crime Victim Rights

Victims of crime, including victims of human trafficking, have special rights to ensure they are kept informed and able to cooperate with the investigation and prosecution of crime. Those rights are listed in the state constitution and in Wisconsin Statutes Chapter 950. Victims of federal crimes also have special rights, as guaranteed by federal law.

Victims should be aware that their rights may differ depending on whether the crime is charged as a state offense or a federal offense. They should also be aware that immigration status may affect which services they are entitled to receive.

Rights in Wisconsin Cases

Victims of crimes investigated and prosecuted by the state of Wisconsin have rights that help keep them informed, present, and heard during the case, including but not limited to the following constitutional rights (pursuant to Wis. Constitution Article I, Section 9m):

- The right to a timely disposition of the case
- Notification of court proceedings
- The opportunity to attend court proceedings
- The opportunity to confer with the prosecution
- The opportunity to make a statement to the court at disposition
- The right to receive information about the outcome of the case and the release of the accused
- The right to seek crime victim compensation
- The right to seek restitution from the offender
- The right to reasonable protection from the accused

Law Enforcement Duties to Victims of Crime: Wis. Stat. Chapter 950.08(2g) requires that the investigating law enforcement agency provide a victim of crime with specific written information, no later than 24 hours after contact with the victim. The law specifies that this information must include a list of the victim's rights, contact information for getting more information about the case, and how to get information about the taking into custody or arrest or release of a suspect. A model form compliant with this requirement is available at:

www.doj.state.wi.us/cvs.

Prosecutors' Duties to Victims of Crime: Wisconsin law requires that district attorneys provide a victim of crime with certain written information including: a list of her/his rights; contact information to get more information about the case; the procedure to apply for crime victims' compensation; and information about how to exercise her/his rights. See Wis. Stat. Chapter 950.08(2r)

Rights of Child Victims in Wisconsin

When the victim of a crime is under age 18, the child is entitled to rights that may be exercised by her/his parent, guardian or legal custodian. In addition to the rights given to adults, child victims have an extra protection, the right to expedited proceedings:

Wis. Stat. 971.105 Child victims and witnesses; duty to expedite proceedings. In all criminal and delinquency cases, juvenile fact-finding hearings under [s. 48.31](#) and juvenile dispositional hearings involving a child victim or witness, as defined in [s. 950.02](#), the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of the child's involvement in the proceeding. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the wellbeing of a child victim or witness.

Contact the Crime Victim Compensation Program, administered by the Wisconsin Department of Justice at 800-446-6564 for more information about reimbursement for certain expenses related to the crime not covered by insurance or other sources.

Chapter 950 of Wisconsin Statutes provides more information about victims' rights and services, including how they are to be provided, and by whom. Witnesses of crime also have statutory rights provided in Chapter 950. Be aware that some rights need to be requested while others are automatic. For assistance in determining a victim's rights, call the Department of Justice Victim Resource Center at 1-800-446-6564. A full list of victim and witness rights is available at: www.doj.statwi.us/cvs

Rights in Federal Cases

When a crime is being investigated and prosecuted by federal authorities, victims have the following rights in accordance with federal law [see 18 USC 3771 (e)]:

- The right to be reasonably protected from the accused.
- The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- The reasonable right to confer with the attorney for the Government in the case.
- The right to full and timely restitution as provided in law.
- The right to proceedings free from unreasonable delay.
- The right to be treated with fairness and with respect for the victim's dignity and privacy.

For more information about these rights, contact the Victim Witness Assistance Unit in the U.S. Attorney's Office prosecuting the crime.

Victim Services for Trafficked Persons

There are a variety of services available for victims of crime. The services for victims of trafficking may come from local, state, or federal sources depending on the circumstances involved. See the section on page 19 (Victim Support and Assistance) for information to help determine which services might be available for a victim of trafficking.

Victim Services for “Certified” Victims

Adult foreign victims of human trafficking (age 18 and over) who are certified by the U.S. Department of Health and Human Services (HHS) can receive federally funded services and benefits to the same extent as refugees. To receive certification, an individual must have completed an application for a T-visa or have received Continued Presence status from the U.S. Department of Homeland Security. Child victims (under 18) are immediately eligible for benefits and do not need to apply for a T-visa or Continued Presence status. Certified and eligible victims can receive benefits and services necessary for their safety including:

- | | |
|---|---|
| <ul style="list-style-type: none">• Housing or shelter assistance• Food assistance• Income assistance• Employment assistance | <ul style="list-style-type: none">• English language training• Health care assistance• Mental health services• Assistance for victims of torture |
|---|---|

1276 HUMAN TRAFFICKING — § 940.302(2)(a)

Statutory Definition of the Crime

Human trafficking, as defined in § 940.302 of the Criminal Code of Wisconsin, is committed by one who knowingly engages in trafficking for the purpose of [labor or services] [a commercial sex act] and does so by [CHOOSE ONE OF THE FOLLOWING]¹

[causing or threatening to cause bodily harm to any individual.]

[causing or threatening to cause financial harm to any individual.]

[restraining or threatening to restrain any individual.]

[violating or threatening to violate a law.]

[destroying, concealing, removing, confiscating, or possessing, or threatening to destroy, conceal, remove, confiscate, or possess, any actual or purported passport or any other actual or purported official identification document of any individual.]

[extortion.]

[fraud or deception.]

[debt bondage.]²

[controlling any individual's access to an addictive controlled substance.]

[using any scheme or pattern to cause an individual to believe that any individual would suffer bodily harm, financial harm, restraint, or other harm.]

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following three elements were present.

Elements of the Crime That the State Must Prove

1. The defendant knowingly engaged in trafficking.

"Trafficking" means that the defendant [(recruited) (enticed) (harbored) (transported) (provided) (obtained)] [attempted to (recruit) (entice) (harbor) (transport) (provide) (obtain)] (name of victim) without (his)(her) consent.³

2. The defendant (use the term selected in element 1.) (name of victim) for the purpose of [labor or services] [a commercial sex act].⁴

["Services" means activities performed by one individual at the request, under the supervision, or for the benefit of another person.]⁵

["Commercial sex act" means sexual contact for which anything of value is given to, promised, or received, directly or indirectly, by any person.]⁶

3. The defendant engaged in trafficking by (use the term or terms selected in the introductory paragraph).⁷

Deciding About Knowledge and Purpose

You cannot look into a person's mind to find out knowledge and purpose. Knowledge and purpose must be found, if found at all, from the defendant's acts, words, and statements,

if any, and from all the facts and circumstances in this case bearing upon knowledge and purpose.

Jury's Decision

If you are satisfied beyond a reasonable doubt that all three elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 1276 was approved by the Committee in June 2010.

This instruction is drafted for violations of § 940.302, Human trafficking, which was created by 2007 Wisconsin Act 116 [effective date: April 3, 2008]. For an example showing how the instruction would read when typical alternatives are selected, see Wis JI-Criminal 1276 EXAMPLE.

Subsection (2)(b) of § 940.302 provides: "Whoever benefits in any manner from a violation of § 940.302 is guilty of a Class D felony if the person knows that the benefits come from that act." This instruction does not address this means of violating the statute.

2007 Wisconsin Act 116 also created § 939.46(1m) which provides an affirmative defense for any offense committed by a trafficking victim as a direct result of the violation of the trafficking statute.

2007 Wisconsin Act also created § 948.051, Trafficking of a child — see Wis JI-Criminal 2124.

1. The applicable term should be selected. The alternatives are those provided in sub. (2)(a)2.a. - i. of §940.302.

2. Section 940.302(1)(b) defines "debt bondage" as follows: "the condition of a debtor arising from the debtor's pledge of services as a security for debt if the reasonable value of those services is not applied toward repaying the debt or if the length and nature of the services are not defined."

3. The Committee recommends selecting the applicable alternative from the choices in the brackets and parentheses. The choices are those provided in the definition of "trafficking" provided in § 940.302(1)(d).

4. For example, if element 1. involved selecting the "entice" alternative, the second element should read as follows: "The defendant enticed (name of victim) for the purpose of labor or services."

5. This is the definition of "services" provided in § 940.302(1)(c).

6. This is the definition provided in § 940.302(1)(a). For a definition of "sexual contact" see Wis JI-Criminal 934 and § 939.22(34). The definition in § 939.22(34) applies to this offense; the other "sexual contact" definitions in § 940.225(5)(c) and § 948.01(5) apply to violations of § 940.225 and Chapter 948, respectively.

7. The applicable term should be selected. The alternatives are those provided in sub. (2)(a)2.a. - i. of § 940.302.

1276 EXAMPLE HUMAN TRAFFICKING — § 940.302(2)(a)**Statutory Definition of the Crime**

Human trafficking, as defined in § 940.302 of the Criminal Code of Wisconsin, is committed by one who knowingly engages in trafficking for the purpose of a commercial sex act and does so by causing or threatening to cause bodily harm to any individual.

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following three elements were present.

Elements of the Crime That the State Must Prove

1. The defendant knowingly engaged in trafficking.

"Trafficking" means that the defendant recruited (name of victim) without her consent.

2. The defendant recruited (name of victim) for the purpose of a commercial sex act.

"Commercial sex act" means sexual contact for which anything of value is given to, promised, or received, directly or indirectly, by any person.

3. The defendant engaged in trafficking by causing or threatening to cause bodily harm to any individual.

1276 EXAMPLE

WIS JI-CRIMINAL

1276 EXAMPLE

Deciding About Knowledge and Purpose

You cannot look into a person's mind to find out knowledge and purpose. Knowledge and purpose must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon knowledge and purpose.

Jury's Decision

If you are satisfied beyond a reasonable doubt that all three elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 1276 EXAMPLE was approved by the Committee in June 2010.

This instruction provides an example showing how Wis JI-Criminal 1276, which applies to violations of § 940.302, Human trafficking, would read when typical alternatives are selected.

2124 TRAFFICKING OF A CHILD — § 948.051(1)

Statutory Definition of the Crime

Trafficking of a child, as defined in § 948.051 of the Criminal Code of Wisconsin, is committed by one who knowingly [(recruits) (entices) (provides) (obtains) (harbors)] [attempts to (recruit) (entice) (provide) (obtain) (harbor)] any child for the purpose of (commercial sex acts) (sexually explicit performance).

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following three elements were present.

Elements of the Crime That the State Must Prove

1. The defendant knowingly [(recruited) (enticed) (provided) (obtained) (harbored)] [attempted to (recruit) (entice) (provide) (obtain) (harbor)] (name of child).
2. (Name of child) had not attained the age of 18 years.

[Knowledge of (name of child)'s age is not required and mistake regarding (name of child)'s age is not a defense.]¹

3. The defendant (use the term selected in element 1.) (name of child) for the purpose of (commercial sex acts) (sexually explicit performance).²

["Commercial sex act" means sexual contact for which anything of value is given to, promised, or received, directly or indirectly, by any person.]³

[Meaning of Sexual Contact]

[REFER TO WIS JI-CRIMINAL 934 FOR DEFINITION OF "SEXUAL CONTACT"]

Deciding About Knowledge and Purpose

You cannot look into a person's mind to find out knowledge and purpose. Knowledge and purpose must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon knowledge and purpose.

Jury's Decision

If you are satisfied beyond a reasonable doubt that all three elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 2124 was approved by the Committee in June 2010.

This instruction is drafted for violations of § 948.051, Trafficking of a child, which was created by 2007 Wisconsin Act 116 [effective date: April 3, 2008]. That act also created § 940.302, Human trafficking, — see Wis JI-Criminal 1276.

Subsection (2) of § 948.051 provides: "Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1)." This instruction does not address this means of violating the statute.

2007 Wisconsin Act also created § 939.46(1m) which provides an affirmative defense for any offense committed by a trafficking victim as a direct result of the violation of the trafficking statute.

1. This statement is typically included in all instructions involving offenses against children; it states the general rules set forth in §§ 939.23(6) and 939.43(2).

2. The term "sexually explicit performance" is not defined in the statute. Model trafficking statutes have offered the following definitions. The US DOJ MODEL ANTI-TRAFFICKING CRIMINAL STATUTE, § XXX.01(9) provides: "Live or public act intended to arouse or satisfy the sexual desires or appeal to the prurient interest of persons." The Polaris Project — COMPREHENSIVE MODEL STATE LEGISLATION TO COMBAT TRAFFICKING IN PERSONS, § 1.1(10) provides: "Live or public act intended to arouse or satisfy the sexual desires or appeal to the prurient interest of patrons or viewers, whether public or private, live, photographed, recorded, or videotaped."

Wisconsin law does define "sexually explicit conduct" in § 948.01(7). The jury instructions for offenses using the term use the following definition: "Sexually explicit conduct' means actual or simulated (sexual intercourse) (bestiality) (masturbation) (sexual sadism or sexual masochistic abuse) (lewd exhibition of (name intimate part))." See, for example, Wis JI-Criminal 2120.

3. This is the definition provided in §940.302(1)(a); § 948.051(1) specifically refers to this definition. For a definition of "sexual contact" see Wis JI-Criminal 934 and §939.22(34). The Committee concluded that the definition in §939.22(34) applies to the offense because § 948.051(1) specifically refers to trafficking "any child for the purpose of commercial sex acts, as defined in s. 940.302(1)(a) . . ." The definition in § 940.302(1)(a) refers to "sexual contact" and, since that statute is not part of § 940.225 or in Chapter 948, the definition of "sexual contact" in § 939.22(34) applies.