



# Federal Prosecution and Human Trafficking

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# Criminal Offenses - Trafficking

- Investigative Agencies
  - Federal Bureau of Investigation
  - Dept. of Homeland Security, Immigration & Customs Enforcement
  - Dept. of Labor – Office of Inspector General
  - IRS-Criminal Investigations
  - State and local law enforcement (King County, Pierce County, WSP, Seattle Police Dept, etc)
  - U.S. Attorney
  - State and local prosecutor's offices



## Federal Crimes

# Human Trafficking

- 18 U.S.C. § 1581 (Peonage)
- 18 U.S.C. § 1584 (Involuntary Servitude)
- 18 U.S.C. § 1589 (Forced Labor)
- 18 U.S.C. § 1590 (Trafficking into Servitude)
- 18 U.S.C. § 1591 (Sex Trafficking by Force, Fraud & Coercion, and Child Sex Trafficking)
- 18 U.S.C. § 1592 (Document Servitude)
- 18 U.S.C. § 1594 (Attempts)



# Forced Labor: 18 U.S.C. § 1589

- Providing or obtaining another person's labor or services through one of three means:
  - 1) Threats of serious harm or physical restraint;
  - 2) Scheme, Plan or Pattern intended to instill fear of serious harm or physical restraint; or
  - 3) Abuse or threatened abuse of legal process
- Penalties: 10 year maximum, \$250,000 fine and restitution



# What is “Serious Harm”??

- Serious harm encompasses “a broad array of harms ... both physical and nonphysical” and includes:
  - Isolation
  - Sexual Abuse
  - Starvation
  - Threats
  - Psychological Harm
  - Coercion
- Abuse of legal process means:
  - Using process for a “purpose for which it is not designed” or to “compel” someone to take or refrain from taking action
  - Classic examples:
    - threat of deportation perceived as risk of arrest
    - detention, and
    - being returned home as a criminal



# Sex Trafficking

## ■ Sex Trafficking

- In or affecting interstate commerce
  - crossing state lines
  - use of phones, internet, pagers to conduct business
  - use of condoms manufactured out of state
- Recruits, entices, harbors, transports, provides, obtains a person by any means
- For commercial sex act, that is, receives or is given anything of value for a sex act
- By force, fraud or coercion involved OR
- Victim under 18 years old
- Penalties: 15 years to life maximum
- Fine and restitution applicable



# “Force, fraud or coercion”

- Coercion here matches definition in Forced Labor Statute:
  - 1) Threats of serious harm or physical restraint
  - 2) Scheme, Plan or Pattern intended to instill fear of serious harm or physical restraint; or
  - 3) Abuse or threatened abuse of legal process



# Federal Prosecution of Sex Trafficking Cases

## ■ “Traditional” Statutes

- Mann Act
- Travel Act
- RICO
- Alien smuggling
- Forfeiture

## ■ TVPA 2000

- Sex trafficking
- Document servitude
- Forced labor
- Immigration relief

\*\* Requires “coercion”



# Criminal Prosecution - State

## ■ Trafficking in the First Degree

(Maximum penalty – 20 years prison)

- Recruits, harbors, transports, provides, obtains another person, by force, fraud, coercion, and causes victim to engage in forced labor or involuntary servitude, OR
- Benefits financially or receives anything of value
- AND aggravating factors:
  - kidnapping, attempt to kidnap, sexual motivation, or death

## ■ Trafficking in the Second Degree

(Class B felony – 8 to 20 years prison)

- Same elements but no aggravating factors

## ■ Other State crimes

- Commercial Sex Abuse of a Minor
- Promoting Prostitution
- Assault
- Child Rape
- Kidnapping
- Felony Harassment



# Criminal Restitution & Asset Forfeiture

- State and Federal laws allow financial restitution
- Federal – general criminal restitution
  - Victim can seek restitution for financial losses (ex: back wages, fees paid, medical, etc)
- Federal – mandatory restitution
  - Victim entitled to recoup full losses suffered if offense involved forced labor, involuntary servitude, or sex trafficking
- Asset Forfeiture: Identify assets used or obtained by smugglers/traffickers to commit crimes
  - Real property (houses, land)
  - Bank accounts, cash
  - Vehicles, jewelry, weapons
  - Businesses



# Case Study: Forced Labor of Juvenile

- Student visa
- Uncle and aunt allowed overstay
- Withdrew from school
- Threats and verbal abuse
- Worked 10-12 hours/day, 7 days per week, at Uncle's family business
- No earnings
- Third parties (teachers, police officers, customers) failed to report
- Rescued by co-workers
- Age 12 to 16



## Case Study – Prostitution by Minor

- Girls ages 12 to 16
- Controlled by pimp
- Romantic or paternal relationship
- Pimp grooms the girls
- Girls work the “track” or online
- Common characteristics: runaways, angry, lack of trust, rebellious



# Domestic sex trafficking - prostitution

- Lured by romance, lavish lifestyle
- May come from educated, middle-class family
- Coerced, forced to engage in prostitution
- Shame and guilt to report
- Travel interstate, the “circuit”
- Earnings turned over to “pimp”
- Physically and verbally threatened