

HUMAN RIGHTS CENTER

UC Berkeley School of Law

Pursuing justice through science and law



LIFELINES

Supporting Human Trafficking Survivors
in the San Francisco Bay Area

HUMAN RIGHTS CENTER

UC Berkeley School of Law

LIFELINES

Supporting Human Trafficking Survivors
in the San Francisco Bay Area

April 2018

**Khaled Alrabe
Eric Stover**

Human Rights Center

School of Law
University of California, Berkeley

In partnership with the

International Human Rights Law Clinic

School of Law
University of California, Berkeley

HUMAN RIGHTS CENTER

The Human Rights Center at the University of California, Berkeley, School of Law conducts research on war crimes and other serious violations of international humanitarian law and human rights. Using evidence-based methods and innovative technologies, we support efforts to hold perpetrators accountable and to protect vulnerable populations. We also train students and advocates to document human rights violations and turn this information into effective action.

Human Rights Center, UC Berkeley School of Law, 396 Simon Hall, Berkeley, CA 94720

Telephone: 510.642.0965 | Email: hrc@berkeley.edu

hrc.berkeley.edu, [Medium.com/humanrightscenter](https://medium.com/humanrightscenter) | [@HRCBerkeley](https://twitter.com/HRCBerkeley)

INTERNATIONAL HUMAN RIGHTS LAW CLINIC

UNIVERSITY OF CALIFORNIA, BERKELEY, SCHOOL OF LAW

The International Human Rights Law Clinic (IHRLC) designs and implements innovative human rights projects to advance the struggle for justice on behalf of individuals and marginalized communities through advocacy, research, and policy development. IHRLC employs an interdisciplinary model that leverages the intellectual capital of the university to provide innovative solutions to emerging human rights issues. IHRLC develops collaborative partnerships with researchers, scholars, and human rights activists worldwide. Students are integral to all phases of IHRLC's work and acquire unparalleled experience generating knowledge and employing strategies to address the most urgent human rights issues of our day.

For more information, please visit: www.humanrightsclinic.org

Photo credit: ©Geoff Stearns/Creative Commons

Design and graphics: Nicole Hayward

CONTENTS

	ACRONYMS / v
	EXECUTIVE SUMMARY / 1
I.	INTRODUCTION / 5
II.	SERVICES / 10
III.	INVESTIGATIONS AND PROSECUTION / 17
IV.	LABOR TRAFFICKING / 23
V.	CONCLUSIONS AND RECOMMENDATIONS / 28
	AUTHORS AND ACKNOWLEDGEMENTS / 31
	NOTES / 32

ACRONYMS

BAATC	Bay Area Anti-Trafficking Coalition
CSEC	Commercially Sexually Exploited Children
CFS	Children and Family Services
HEAT	Human Exploitation and Trafficking
ILO	International Labor Organization
NGO	Nongovernmental Organization
POST	Peace Officer Standards and Training
TVPA	Trafficking Victims Protection Act



Using semi-structured questionnaires, researchers at the Human Rights Center, in partnership with the International Human Rights Law Clinic, interviewed 50 key informants, including law enforcement, service providers, and prosecutors in five Bay Area counties: Alameda County, San Francisco County, Santa Clara County, Marin County, and Contra Costa County.

EXECUTIVE SUMMARY

THIS REPORT PROVIDES the findings of a study of human trafficking in the San Francisco Bay Area. The primary objective of the study was to document the challenges law enforcement, service providers, and prosecutors face in (1) identifying, investigating, and prosecuting sex and labor trafficking cases, and (2) providing trafficking survivors with adequate services, protection, and shelter.

California is a major locus of human trafficking—defined as recruiting, smuggling, transporting, harboring, buying, or selling of a person for exploitation¹—largely because of its international border, demand for cheap labor, criminal gangs, and a relatively thriving economy.² In 2015, the National Human Trafficking Resource Center reported that its hotline had received more reports of sex and labor trafficking from California than from any other state.³ In addition, the thirteen areas identified by the FBI as having the highest incidence of sex trafficking domestically, three are in California: San Francisco, San Diego, and Los Angeles.⁴

The Bay Area is home to a number of human trafficking task forces and coalitions that vary in terms of focus, structure, leadership, and geographic interest. Some task forces, such as the San Jose Police Human Trafficking Task Force and the Santa Clara County Sheriff’s Task Force, focus on coordination within law enforcement in the pursuit of traffickers. Other coalitions, such as the South Bay Coalition to End Human Trafficking, work to improve services and to strengthen local capacity to

Human Trafficking Task Forces and Coalitions in the San Francisco Bay Area

- Alameda County HEAT Watch
- Bay Area Anti-Trafficking Coalition (BAATC)
- Human Trafficking Task Force San Jose Police
- Human Trafficking Task Force of the Santa Clara County Sheriff’s Office and the Santa Clara County District Attorney’s Office
- Marin County Coalition to End Human Trafficking
- Mayor’s Task Force on Human Trafficking
- South Bay Coalition to End Human Trafficking
- San Francisco Collaborative Against Human Trafficking (SF)

identify and assist trafficking survivors. Most counties have a human trafficking task force or other collaborative mechanism that include representatives from law enforcement, service providers, and local government. These organizations include the San Francisco Collaborative Against Human Trafficking, Contra Costa Alliance to End Abuse, Marin County Coalition to End Human Trafficking, and Alameda County HEAT Watch. Many of these organizations are led by local governing bodies, such as the Mayor’s office or the Attorney General’s office.

Methodology

Using semi-structured questionnaires, researchers at the Human Rights Center, in partnership with the International Human Rights Law Clinic, interviewed 50 key informants, including law enforcement, service

providers, and prosecutors in five Bay Area counties: Alameda County, San Francisco County, Santa Clara County, Marin County, and Contra Costa County. Researchers developed inductive codes based on themes and patterns that emerged from the interview data. Dedoose, a qualitative data analysis software, was used to code interviews, analyze patterns, and reveal key shared experiences and major themes across interviews. In all, more than 50 codes were developed and tagged, resulting in 563 pages of coded data. The codes covered a range of topics, including the relationship between victim and trafficker, housing and shelter, cultural and language issues, courtroom challenges to prosecuting trafficking, victims' reluctance to cooperate, mistrust between law enforcement and victims, geographical transience of traffickers, technology related challenges to investigating human trafficking, and coordination across jurisdictions. The codes were reviewed to find subject clusters where key informants related similar or dissimilar experiences. The coding thus served as an index of common experiences. (The study's methods and limitations are described in greater detail in the Introduction.)

Conclusions and Recommendations

Our research suggests that a key to tackling the challenges of addressing human trafficking is the recognition that helping victims and survivors is a long-term process in which immediate results cannot be expected. Building trust with trafficking victims, which is an essential element of providing services and conducting a successful investigation, requires interacting with victims in a consistent and nonjudgmental manner.

Building trust is crucial because victims expose themselves to real and perceived risks when they interact with service providers or law enforcement. Some respondents noted that victims fear the ire of their trafficker if they were to reach out. Other respondents asked why traumatized victims should be expected to put their trust in systems, such as foster care or juvenile justice, when they had failed them time and time again. Respondents said that

victims often reported having experienced negative interactions with law enforcement and, as a result, were fearful of trusting them. For all these reasons, victims often distrust service providers and law enforcement and, at the onset of investigations, have no desire to cooperate with them. Respondents made it clear that it is the responsibility of service providers, law enforcement, and prosecutors to gain the trust of trafficking victims through repeated, long-term, and positive interactions.

With this in mind, we offer the following conclusions and recommendations:

1. IMPROVING SERVICES FOR SURVIVORS OF

SEX TRAFFICKING: We highlighted four inter-related challenges to providing services to victims of sex trafficking: (1) addressing the hold of traffickers over victims; (2) providing shelter and basic needs; (3) building trust with survivors and victims; and (4) adapting to recent legislative changes. To address these issues, we recommend the following:

First, government agencies and nongovernmental organizations (NGOs) that work directly with victims and survivors should ensure that all staff receive trauma-informed training on how to engage with victims of human trafficking. Training should focus on stressing the importance of non-conditional, honest, and consistent interactions with victims. Training should also instill in staff an understanding of the importance of developing agency in victims.

Second, counties in the Bay Area should increase the availability of housing dedicated to victims of human trafficking. Shelter is sorely needed across the Bay Area, and special attention should be paid to providing transitional and long-term housing, appropriate fostercare placements, and shelter appropriate for queer and gender non-conforming survivors.

Third, beyond housing, Bay Area counties should increase resources available to survivors of human trafficking. Victims of trafficking

should have more access to support with both short-term basic needs, such as clothing, food, and hygiene products, and long-term needs, such as employment and educational opportunities. Many victims of trafficking end up trafficked and become trapped by their trafficker due to lack of resources. The ability of government agencies and service providers to offer tangible and much-needed resources to victims can facilitate the victim's separation from his or her trafficker and help foster trust with victims.

Finally, Bay Area counties should conduct an assessment of the response of each county's children and family services department and each county's law enforcement efforts to recent legislative changes. Our research found that both law enforcement and social service agencies have struggled to adapt to recent legislative changes, such as the prohibition on arresting Commercially Sexually Exploited Children (CSEC), the changes to group homes, and the transition of the CSEC population to child welfare. An assessment of how children and family services and law enforcement are adapting to these changes is an essential first step to addressing challenges to adapting to a new legislative framework.

2. **IMPROVING THE INVESTIGATION AND PROSECUTION OF SEX TRAFFICKERS:** Based on our interviews, we have identified five key challenges to investigating and prosecuting sex trafficking cases: (1) mistrust between law enforcement and victims of sex trafficking; (2) victims' fear of cooperating with law enforcement; (3) technological advances that have made it easier for perpetrators to engage in sex trafficking; (4) lack of awareness and bias against sex workers among juries and judges; and (5) the geographically transient nature of sex trafficking.

To address these challenges, we recommend the following:

First, law enforcement agencies across the Bay should require that all agents, especially first responders, receive trauma-informed training particularly focused on helping agents understand why victims react negatively to law enforcement. Training should also focus on developing creative strategies for engaging with victims in a manner that is honest, nonjudgmental, and consistent.

Second, law enforcement agencies should strengthen and increase their partnerships with advocates and service providers. Investigators should make it a practice to have independent advocates or service providers with them during investigations. Partnership with service providers improves trafficking investigations by fostering trust between victims and law enforcement and increasing the likelihood of victims cooperating with law enforcement.

Third, Bay Area counties should provide law enforcement agencies with more resources to help investigators access the tools and trainings required to address the challenges of online investigations. This should include (1) resources to hire expert staff or consultants, such as forensic technology specialists, and (2) trainings on how to improve online investigations and the process of obtaining cellphone warrants in a timely manner.

Fourth, Bay Area counties should continue to engage in public awareness campaigns on the nature and prevalence of sex trafficking. A more aware community will result in less biased jury pools, particularly if awareness campaigns focus on changing attitudes towards victims and clarifying the nuances of what it means to be a victim of sex trafficking.

Fifth, Bay Area counties should convene a training workshop on sex trafficking for county judges, district attorneys, and public defenders. The workshop should include how sex trafficking cases have been prosecuted in California and

nationwide, with a particular focus on how the coercion element can be proven.

Finally, local law enforcement agencies should increase coordination across agencies. Specifically, agencies should explore the possibility of developing a database for tracking individuals who have been or are currently being investigated for sex trafficking, making it accessible to all agencies.

- 3. IMPROVING EFFORTS TO ADDRESS LABOR TRAFFICKING:** Our research revealed that labor trafficking, while prevalent in the Bay Area, is not being adequately addressed. Respondents noted five key challenges: (1) negative attitudes towards victims of labor trafficking; (2) a lack of training and resources specific to labor trafficking; (3) vulnerabilities specific to undocumented immigrants; (4) language and cultural barriers among law enforcement and service providers; and (5) lack of shelter and employment.

To address these challenges, we recommend the following:

First, law enforcement agencies and district attorney's offices across the Bay should invest more resources into investigating labor trafficking. Specifically, agencies should establish specialized investigative units solely dedicated to labor trafficking that partner with key state agencies tasked with investigating labor abuses and financial crimes. Additionally, agencies should hire more investigators with diverse language skills and cultural familiarity with immigrant communities.

Second, government agencies, NGOs, and law enforcement agencies that work with victims of labor trafficking should ensure that all staff receive training specific to engaging this victim population. Training should emphasize best practices for working with foreign nationals, such as using interpreters and developing cultural competency, and an understanding of the interplay between labor trafficking and the stigma of being undocumented.

Third, local law enforcement agencies should engage in community outreach programs with key immigrant groups in their counties. Outreach should be focused on developing trust with immigrant communities, increasing awareness of labor trafficking, and clarifying the difference between local law enforcement and federal immigration authorities. A key element of any trust-building between law enforcement and the immigrant communities most susceptible to labor trafficking is an assurance by local law enforcement that they will not work with federal immigration authorities to deport immigrants.

Fourth, Bay Area counties should initiate public awareness campaigns on labor trafficking. Campaigns should focus on increasing public awareness as to what is labor trafficking, *where* it is most likely to occur, *who* are most vulnerable to it, and *how* to report suspicious activity.

Finally, Bay Area counties should increase the availability of housing dedicated to victims of labor trafficking. There are currently no shelters dedicated to labor trafficking survivors. There is a need for emergency shelters, transitional housing, and shelter appropriate for male survivors.

I. INTRODUCTION

HUMAN TRAFFICKING is reported to be the world's fastest growing criminal enterprise, ensnaring an estimated 25 million victims worldwide and generating billions of dollars in profits.⁵ In the United States alone, tens of thousands—and possibly hundreds of thousands—of trafficking victims are forced or coerced into the trade each year.⁶ California is particularly vulnerable to trafficking due to its large population and economy, proximity to international borders, and number of ports.⁷ According to data from the National Human Trafficking Hotline, 16 percent of the 4,460 human trafficking cases reported to the hotline in 2017 came from California, more than any other state by a wide margin.⁸

San Francisco's Bay Area is a hub of human trafficking and designated by the FBI as one of the top ten "High Intensity Child Prostitution Areas" in the United States.⁹ Recently, several East Bay law enforcement agencies have been beset by a high-profile case involving police officers who engaged in sexual relations with a child victim of sex trafficking.¹⁰ Meanwhile, Bay Area agencies and service providers have established a number of innovative anti-trafficking programs, including some of the nation's first anti-trafficking task forces. Alameda County alone has prosecuted 46 percent of all human trafficking cases in California since 2011.¹¹

Over the past decade, several national studies have examined the barriers and challenges to investigating trafficking cases and providing services to victims, but few studies have been conducted at

the county and municipal level. In this report, we examine the specific challenges that Bay Area law enforcement, service providers, and prosecutors face as they work to identify trafficking victims and provide them with adequate services, protection, and shelter. The report is a companion to the Human Right Center's 2017 study, *Building Trust: Perspectives on a Victim-Centered Approach to Human Trafficking Investigations in Los Angeles County*. The primary objective of that study was to document the strengths and challenges the Human Trafficking Bureau (Bureau) of the Los Angeles Sheriff's Department has encountered as it applies a victim-centered approach to investigations of human trafficking.¹² The Bureau is a member of the Los Angeles Regional Human Trafficking Task Force.

The Nature and Definition of Human Trafficking

Human trafficking is a multifaceted crime in which people exploit others for profit or benefit through force, fraud, or coercion. It can take many forms, including forced labor, child sex trafficking, domestic servitude, debt bondage, forced prostitution, and the recruitment of child soldiers. Traditionally, human trafficking is categorized into two forms: labor trafficking and sex trafficking.

Labor trafficking typically involves either the fraudulent recruitment of victims to seemingly attractive job opportunities that result in forced labor or the exploitation of the vulnerabilities of persons

unable to enter the job market legally. In the United States, the majority of labor trafficking victims tend to be immigrants.¹³ Common strategies used by labor traffickers include threatening victims or their families back home with violence, illegally confiscating their passports, and threatening to report them to immigration authorities if they are in the country illegally.

Sex trafficking generally involves traffickers profiting from coercing or forcing victims into prostitution or sexual slavery. Most reported cases of human trafficking in the United States are sex trafficking cases.¹⁴ Many sex trafficking victims in the United States are American-born, and most are women or children. Sex traffickers typically manipulate their victims by presenting as an intimate partner and/or threatening them with physical harm or blackmail. Traffickers also rely heavily on the Internet to recruit and sell victims online, making it difficult for law enforcement to monitor their activities.

Human trafficking is internationally recognized as a crime and a violation of human rights. In 2000, the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, known as the “Trafficking Protocol,” established an international definition of the crime of human trafficking and required all state parties to adopt legislative measures to criminalize it.¹⁵ Because the United States is a state party, the Protocol’s definition of human trafficking informs how trafficking is defined on the federal and state levels. Human trafficking became a federal crime in the United States through the Victims of Trafficking and Violence Protection Act of 2000.¹⁶

Under the Trafficking Protocol, the crime of human trafficking consists of three elements: an act, a means, and a purpose. The act element requires that there be recruitment, transportation, transfer, harboring, or receipt of persons. These acts must be done by specific means which include the threat or use of force, coercion, abduction, fraud, or deception. When the victims are children, however, the acts do not require specific means to qualify as

human trafficking. Finally, these acts must be done for the purpose of exploitation, which includes sexual exploitation or forced labor.¹⁷

In California, human trafficking became a state crime in 2006 after the California legislature passed the California Victims Protection Act of 2005.¹⁸ Both the federal and the state crimes model their definition of human trafficking after the Trafficking Protocol in that they include the three key elements. A person is guilty of human trafficking in California if he or she “deprives or violates the personal liberty of another with the intent” either “to obtain forced labor or services” or to commit a number of predicate offenses such as pimping or pandering.¹⁹ The elements of force, fraud, or coercion, which are included within the deprivation or violation of personal liberty, are required except where the victim is a minor under 18 years of age.²⁰

Decriminalizing Commercial Sex by Minors

In September 2016, California joined dozens of other states in passing a “safe harbor” law that provides immunity to minors from prosecution for prostitution and certain prostitution-related offenses as a result of engaging in commercial sex. Senate Bill 1322, which went into effect January 1, 2017, renders charges of prostitution, loitering, and solicitation inapplicable to minors under the age of 18. This legislation represents a significant paradigm shift in the way both law enforcement and the public understand the victimization of minor sex trafficking victims, also known as Commercially Sexually Exploited Children (CSEC). Yet, to date only a small percentage of minors have been arrested on solicitation and loitering charges as they are overwhelmingly picked up on other offenses closely tied to trafficking but not necessarily related to prostitution, such as drug possession.²¹

However, Senate Bill 1322 does not change existing law allowing law enforcement to take CSEC classified as dependents into temporary custody in limited situations to address safety risks.²² It remains to be seen whether arrest rates for minors engaging in commercial sex will decline and whether Senate

Bill 1322's symbolic power will translate into practical outcomes.

Other Legislative Changes

In addition to Senate Bill 1322, California has enacted a myriad of laws in the past couple of years to address human trafficking. Relevant to this report, Assembly Bill 403, which went into effect on January 1, 2016, aims to improve housing for CSEC youth by phasing out group homes for youth and replacing them with short-term residential treatment centers by 2019. The bill also provides support and training to families who provide foster care to CSEC youth. Another bill, Assembly Bill 1276, which went into effect on January 1, 2017, seeks to protect minor trafficking victims during criminal prosecution against traffickers. The bill seeks to protect underage victims from trauma and emotional distress by allowing them to testify via closed-circuit television if their testimony involves recitation of facts of the alleged trafficking. Finally, Senate Bill 855, passed in June 2014,²³ clarified that a CSEC whose parent or guardian has failed to or is unable to protect the child, may be served through California's child welfare system, rather than the juvenile justice system, providing avenues for the child to receive critical services outside of the criminal system.²⁴

Duties of Law Enforcement

California has enacted several laws governing the duties of local law enforcement during investigations of human trafficking. Assembly Bill 2810, passed in 2008, sought to improve local law enforcement's response to human trafficking by requiring officers to "use due diligence to identify all victims of human trafficking, regardless of the citizenship of the person" and to consider whether specific indicators of trafficking are present during their contact.²⁵ These statutes also impose additional duties on law enforcement with regards to protecting and assisting trafficking victims, including informing victims that their names will become a matter of public record unless they request otherwise.²⁶

In 2005, California passed the Human Trafficking Collaboration and Training Act (creating Penal Code § 13519.14) mandating that the state's Commission on Peace Officer Standards and Training (POST) create a course of instruction for training law enforcement officers on human trafficking investigations. In 2012, Proposition 35 imposed the additional requirement for all law enforcement assigned to "field of investigative duties" to complete a minimum of two hours of training on human trafficking response. Despite the combined efforts of the state legislature, voters, and POST to improve officers' training on human trafficking response, it is unclear what percentage of officers in California have received the two hours of training on human trafficking. This is largely due to the statute's failure to impose a penalty on agencies that fail to provide their officers with this training.

John Vanek, a retired San Jose Police Department lieutenant who led his department's human trafficking task force, explains why the lack of training is one of the most significant barriers to an effective law enforcement response to human trafficking: "If victims don't report being trafficking victims and the police don't know how to recognize trafficking incidents, then few—if any—cases are identified, leading police leadership to believe trafficking is not occurring in the community."²⁷

Challenges of Addressing Human Trafficking

Despite this growing legal framework,²⁸ challenges remain to investigating and prosecuting human trafficking as well as providing services to survivors. Past studies have shown that such challenges are tied to the hidden nature of the crime and the power hierarchies that make victims unwilling or unable to seek assistance or work with law enforcement.²⁹ In addition, local law enforcement agencies tend to lack specialized training in anti-human trafficking or disproportionately believe that human trafficking is not a serious crime in their jurisdiction.³⁰ Another serious challenge to investigations is

getting corroboration from victims who are unwilling to testify against their traffickers.³¹

With respect to prosecuting traffickers, victim's willingness to cooperate is an essential prerequisite to proving the "means" element, such as coercion or fraud, of the crime.³² Studies have shown that victims often decide not to cooperate with investigators because they do not self-identify as victims or are fearful of their trafficker. Even when they do identify as victims, several factors, including shame, stigma, fear, and a lack of trust, make it difficult for them to seek services.³³ Service providers, meanwhile, often lack awareness of or resources to address what constitutes human trafficking.³⁴ Moreover, the relatively new nature of human trafficking as a crime has created legal uncertainty at the prosecution level, which incentivizes prosecutors to prosecute more familiar crimes instead.³⁵

The Study

During the spring of 2017, researchers at the Human Rights Center, in partnership with the International Human Rights Law Clinic, conducted in-depth, semi-structured interviews with 50 key informants—prosecutors, service providers, and law enforcement involved in human trafficking cases in the Bay Area. The researchers followed a detailed interview protocol, which was reviewed and approved by UC Berkeley's Committee for the Protection of Human Subjects.

The primary objectives of the study were to document the key challenges that the key informants faced with respect to: (1) identifying, investigating, and prosecuting human trafficking and (2) providing trafficking survivors with adequate services, protection, and shelter. The study was conducted in partnership with the International Human Rights Law Clinic.

Respondents were selected from three sectors in each of five counties in the Bay Area (Alameda, Contra Costa, San Francisco, Santa Clara, and Marin):

1. SERVICE PROVIDERS who regularly interact with and serve survivors of human trafficking.

Respondents included NGO directors, case managers, attorneys, therapists, shelter managers, victim witness advocates, child welfare caseworkers, and other service providers (26 interviews).

- 2. LOCAL LAW ENFORCEMENT** with experience investigating human trafficking cases. Respondents included heads of departments with a specific mandate to investigate human trafficking cases, probation officers, detectives, and other investigators (12 interviews).
- 3. PROSECUTORS** who have had experience prosecuting trafficking cases. Respondents included one district attorney and multiple deputy district attorneys (12 interviews).

Researchers developed inductive codes based on themes and patterns that emerged from the data. Dedoose, a qualitative data analysis software, was used to code interviews, analyze patterns, and reveal key shared experiences and major themes across interviews. In all, more than 50 codes were developed and tagged, resulting in 563 pages of coded data. The codes covered a range of topics, including the relationship between victim and trafficker, housing and shelter, cultural and language issues, courtroom challenges to prosecuting trafficking, victims reluctance to cooperate, mistrust between law enforcement and victims, geographical transience of traffickers, technology related challenges to investigating human trafficking, and coordination across jurisdictions. The codes were reviewed to find subject clusters where key informants related similar or dissimilar experiences. The coding thus served as an index of common experiences.

Researchers designed the interview survey to reduce potential bias or threat to the report's viability. Nevertheless, possible limitations must be acknowledged. First, the five counties examined differ in their population density, local government, and the nature of their anti-human trafficking efforts in terms of structure, collaboration, resources, and available services. To address this, our findings

focus only on general trends that arose in interviews across counties rather than on insights specific to one area. Second, we recognize that our interviews are with professionals who work on human trafficking and not with survivors. (While some of our respondents were survivors, we only interviewed them in their professional capacity.) Our findings, therefore, are specific only to the challenges faced by service providers, law enforcement, and prosecutors who work on human trafficking and do not necessarily reflect the experiences of survivors.

Throughout this report, we use terms “victims” and “survivors” interchangeably. The term “victim” is used in law and confers certain rights. It also implies that those exposed to human trafficking are not responsible for their misfortunes and directs attention to traffickers and the damage they have inflicted on others. Some people dislike this term. They argue that it robs individuals who have survived human trafficking of their individuality and oversimplifies

what are essentially complex personal and social issues. They prefer “survivor,” a term that implies resilience and strength in overcoming adversity. We have chosen to use both terms, to keep both the victimization of individuals who have suffered from human trafficking and their struggle to cope before the reader.

The research findings are presented in three sections based on the key themes that arose during the interviews. The first section addresses the challenges respondents have faced while providing services to survivors of sex trafficking. The second section examines the challenges faced by law enforcement and prosecutors when investigating and prosecuting sex trafficking cases in the Bay Area. The final section focuses on the challenges specific to labor trafficking. Each section highlights both the major obstacles faced by respondents as well as how respondents think these challenges can be overcome.

II. SERVICES

THIS CHAPTER ADDRESSES the main challenges faced by social workers, legal advocates, victim witness advocates, shelter directors, law enforcement, and others who provide services to victims of human trafficking or help them leave their trafficking situation.

When respondents were asked about the main obstacles they faced in their work, four main themes emerged. First, the powerful grip traffickers have over their victims is a major hurdle that prevents victims from self-identifying and seeking assistance or accepting services. Second, the shortage of resources, especially short- and long-term housing, makes it difficult for service providers to help victims leave their trafficker and stabilize their lives. Third, building trust with victims is one of the biggest challenges faced by service providers and makes engaging with victims on any level challenging. Finally, recent legislation preventing law enforcement from detaining minors is viewed by some respondents as a challenge to helping minor victims leave their trafficking situation, especially when coupled with the inadequacy of the foster care system.

Relationship to Trafficker

The vast majority of respondents singled out a traffickers' use of emotional manipulation, threats of violence, and isolation as major barriers to victims seeking services or even self-identifying as victims.

Respondents noted that it was common for victims of sex trafficking to have a strong emotional

attachment, including feelings of loyalty, romance, and kinship, to their trafficker. "Girls will often refer to their traffickers as their boyfriends," one service provider said.

Several respondents said that traffickers develop these types of intense emotional bonds by exploiting victim's vulnerabilities. One service provider described a typical example of how these bonds are developed:

They've been homeless, or they've been in a group home or in juvenile hall and just not having a parental figure actually responsible for them for a while. This makes it very easy for them to be recruited by an older male authority figure . . . who tells them that they're beautiful and that they'll take care of them and buy them nice things, and tells them that they're in love.

Beyond exploiting vulnerabilities to recruit victims, respondents described a number of techniques traffickers use to further their emotional hold over their victims including the use of violence or fathering victims' children. "Exploiters often have them have children because it bonds them to them; it strengthens the trauma bond; it's so depressing," said a Children and Family Services employee.

When it comes to minors in foster care, respondents noted that they are especially more vulnerable to traffickers' manipulation and emotional attachment because of the shortfalls of being in the

system. “They’re in a system that doesn’t provide love,” a Children and Family Services worker said, continuing:

Foster care doesn’t provide love. [The state tries] to give you a safe and stable home [and] find you a family, but we all know how well child welfare does at that. That’s a lot different than some guy saying they love you and they’ll love you forever, baby, and here’s 500 bucks. Who can compete with that?

Because of these powerful service providers often find it difficult to engage with victims. Many respondents reported that victims do not identify their exploitation and are a lot less likely to approach service providers because of their relationship with the trafficker. “When you’ve got people that are identifying with an abuser, or linking love and abuse, that’s a real bond, and it’s a really hard bond to break,” said a government service provider.

Respondents had varying opinions about how to break the bond between the trafficker and victim. Some respondents, especially law enforcement and a few service providers, said that separating the victim from the trafficker is the most effective method of breaking the bond. Several respondents also recommended housing victims in out-of-state facilities where their traffickers could not reach them.

Others, especially service providers, highlighted the importance of developing “victim agency.” This means not dismissing a victim’s view of their relationship with their trafficker, but rather helping them understand why it is dysfunctional. “We always advise mirroring their language. If they’re calling somebody that we would call a trafficker their boyfriend or girlfriend [we should be] using that language. Then, [we can start] asking really open, curious questions,” explained one service provider.

Another service provider stressed the role of building the agency of victims to help them make their own decision to cut-off from their trafficker:

[To make progress] we have to have supported a young person as much as possible. Maybe we planted a seed. Maybe we helped them create

increased safety. Maybe we did more. We don’t have control over their lives. What they choose to do in the places in which they actually have choice, we’re not in control of that either, nor should we be. We have to hope that what we’ve given them is supportive enough to help them move into increasing safety.

Adequate Shelter and Other Basic Needs

Once survivors are no longer in their trafficking situation, service providers noted that a new set of challenges arise tied to meeting survivors’ basic needs. There is an immediate need for shelter, employment, clothes, and other necessities that is not being met. If survivors believe that there are no good alternatives or that their basic needs are not met, there is a risk that they will return to their exploiter.

Many respondents highlighted the key role that poverty and homelessness play in leading victims to exploitation by traffickers. By virtue of their exploitation, victims get some of their basic needs met by their trafficker. One service provider framed this dynamic from a victim’s perspective:

[I]t’s not just about that emotional bond, it’s about what that emotional bond means from a logistical, practical standpoint, right? ‘My investment in a person means that I’m alive. My investment in a person means that I have food, shelter, clothing.’

When survivors reach out to service providers or law enforcement, they take the risk that some of their most basic needs will be taken away.

One key need that is not being met is housing. More than any other issue, housing was consistently cited by service providers, law enforcement, and prosecutors as a major challenge. Many respondents expressed concern that there was simply not enough housing for victims and survivors of human trafficking in the Bay Area. Although different counties in the Bay Area have varying types and levels of shelter capacity, the concern for housing appeared to be a top priority for almost every respondent.

Additionally, many respondents explained that much of the housing that is available is inappropriate. They noted that most of what is available is short-term in nature and fails to address the long-term needs of survivors. “On average, trafficking survivors require two years of services. That is really difficult because that includes housing, and we actually don’t have transitional housing,” explained one service provider. A victim advocate echoed this view, noting, “We can put people up in a hotel for a night immediately. We can do that for a week. We can sometimes do that for two weeks. It’s finding the next step—the long-term that ends up being a big challenge for us.”

Respondents also noted the lack of available placement for CSEC. A large part of that was attributed to the dearth of foster care placements. Additionally, as mentioned earlier, under Senate Bill 403 group homes are being phased out as placement options for youth and being replaced with residential centers that provide short-term, high quality, and intensive treatment. While all respondents who discussed group homes noted that they were problematic as recruiting grounds for traffickers, one prosecutor felt that they were not being replaced with enough short-term residential treatment centers, stating that:

The group homes have phased out. I’m not sure they were the safest environment anyway. The goal is wonderful. It’s really therapeutic, wrap-around holistic environments where kids can be placed. Perfect. In the real world, a lot of the group homes or the foster homes that were providing housing for CSEC, are not going to qualify for the new way of doing business. We have a potential of losing that.

Other housing concerns, according to our respondents, included the lack of options for male and gender non-conforming victims of human trafficking and the practice of housing trafficking victims with domestic violence victims, which is not always appropriate because the two groups have different

needs and placing them together can exacerbate the situation for both.

In addition to the lack of shelter, trafficking survivors need clothing and hygiene products and eventually employment or educational opportunities. “[Many trafficking survivors] have no history of employment. They have no education. They [are] entirely disconnected from family,” one service provider explained. “Lacking access to resources is partly why you ended up trafficked. That doesn’t go away once you’ve been identified,” said another service provider.

Building Trust

Many respondents noted that building trust with victims was extremely challenging. They attributed this to a number of inter-related factors, including a mistrust of law enforcement, prior trauma, past failures of the foster care and juvenile justice systems, and the negative attitudes of some service providers towards victims.

Respondents noted that many victims have a history of neglect, abuse, and trauma which, in turn, hinders their ability to trust outsiders. “There’s a high level of prior trauma, either [from] family abuse, domestic violence drugs, either within the family or in their own histories of abuse and addiction,” said one service provider. A number of respondents spoke of how this history of trauma instills a sense of distrust in a victim. As one service provider put it:

It’s hard to access people that have learned to negotiate the world by not trusting people. There’s a lot of trauma and pain that is built into their ability to sustain being exploited. Those things protect them from help. [So] it’s hard to engage [with them].

Much of this mistrust is attributable to the systematic failures that led to victims’ trauma in the first place, particularly during their youth. Many respondents described child welfare, probation, and juvenile justice as traumatizing institutions that failed to protect victims or even contributed to their

exploitation. A Children and Family Services employee said:

If all the people [and systems] that were supposed to take care of them failed them, then it's really . . . an oxymoron to go to those people and systems and ask them for help.

Respondents repeatedly described how not having shelter or resources can reinforce the idea instilled by traffickers that victims cannot trust anyone. A victim-witness advocate, for example, reflected that it is absolutely essential to follow through with services “because if you don't, then you're just like everybody else that's let them down their whole life.”

A final obstacle to building trust are negative attitudes by government and service providers towards victims when they are seemingly uninterested in being helped. “I think that we sometimes have unrealistic expectations of working with trafficked and exploited people. There is this sort of sense of rescuing and then if people don't take advantage of being rescued then we stop helping them,” said one service provider. Another explained that seeing youth failing to engage in a consistent way can lead some service providers to burnout which, in turn, can lead to “a kind of resentment which, if not checked, can lead to service providers justifying not providing services.”

When asked about how to best foster trust, respondents underscored the importance of having consistent, non-conditional, and honest interactions with victims. Such interactions take a significant amount of time and require consistent interaction. One service provider explained that long-term consistency, even when victims are seemingly uninterested in engagement, has been a successful strategy:

The most effective way to reach [trafficking victims] is to be consistent, to be there time and time again . . . to be there when they are having good times and bad times, and then [waiting] for their trajectory to change and for them to want to make some kind of change in their lives. It's long-term work.

Another service provider described the importance of honesty and consistency when engaging with victims. Building trust, she said, means “showing up, being there, following through, not over promising or under promising, just being able to do those things [that were promised], and being real people with them.”

Respondents emphasized the importance of recognizing that helping victims leave their trafficking situation is a long-term process in which immediate results cannot be expected. The most that can be done is building trust with victims and creating the right environment for them to seek help or leave when they are ready. As one service provider put it:

It's very rare you get someone safe and they're like, cool, and then it never happens again. It's just not what happens. Part of it is you get them safe and you get them stable and you build that relationship of trust and then you build all the networks that they can reach out to when things go awry, knowing that things are going to go awry and then knowing that when they go awry you have supports and systems there which gives the youth every opportunity

Finally, respondents recommended (1) the inclusion of survivors in efforts to help victims and (2) an increase in trauma-informed training for service. Such efforts, they said, will service providers understand why it can be difficult for victims to immediately accept assistance. Some respondents also stressed the importance of recognizing the larger systematic and structural issues that contribute to victims' trauma beyond just their individual or family experience. As one service provider put it:

I think . . . we often treat [trafficking victims] as if it's their own kind of experience or trauma rather than pulling back and looking at the social structures at play. Racism is certainly in there. Sexism is in there. Hierarchical power—there's so much embedded in that young person's experience. [And] if we [fail] to see how those things are generating this problem and we

only treat it as ‘Why have you done this thing with your body,’ or ‘Why have you let people [exploit you]?’—I think it’s an unfair approach.

Recent Legislative Changes

As noted earlier, in September 2016, Governor Jerry Brown signed Senate Bill 1322, a California law that aims to put an end to the criminalization of trafficked children by exempting minors from being charged for prostitution or solicitation. California joined 18 other states in recognizing that children cannot be charged as prostitutes. This change in law represents a drastic shift in California’s anti-trafficking efforts with respect to minors since many jurisdictions relied on a juvenile-justice approach to addressing trafficked youth.

Because the law came into effect on January 1, 2017, many of our respondents described what they perceived as its effect on helping minor victims leave their trafficking situation. Many respondents, particularly law enforcement, expressed serious concern that the law will make it more difficult to break the bond between traffickers and victims because police will no longer be able to place minor victims in custody. Other respondents, especially service providers, noted that the juvenile justice system is ill-equipped to help trafficked children and placing them in custody will only exacerbate their distrust of law enforcement.

While the majority of law enforcement respondents noted that placing minors in juvenile hall is not an ideal solution, many had safety concerns about not being able to detain trafficked minors. Not arresting minors, they said, can be more detrimental to victims than letting them go or dropping them off at a service center because the minors often are unaware that they are being exploited and choose to return to their trafficker. As one investigator put it:

I know nobody likes to have [trafficked youth] locked up in juvenile hall, and that’s not the best place for them. But, at least, they are safe because they’re kind of a danger to themselves

in a way, [especially if] they don’t self-identify as victims, [as they think] it’s okay to go back to their ‘boyfriend,’ whom they love.

Several law enforcement respondents felt that detaining the minor victim allows for a necessary period of separation that helps break the bond between victims and their trafficker. “When they were in juvenile hall it gave us enough time to get them deprogrammed,” explained one investigator. “It wasn’t just us going in there and making contact with them. It was the advocates. They were getting services.” Similarly, another investigator described his ability to detain minor victims as “one of my best tools for protecting a juvenile.”

Ultimately, a large part of law enforcement concerns about the change in law were tied to respondents’ feeling that they are no longer able to help minor victims. “It’s like Groundhog’s Day all over again. We’re starting from ground zero,” one prosecutor said. “Now that the law has changed, there’s nothing we can do to stop it. We’re trying to think of innovative ways in which to engage [with trafficked youth] without detaining [them].” Respondents were especially concerned that their inability to detain minors for prostitution will make it easy for victims to be picked up by their trafficker immediately following the victim’s interaction with police. One investigator said:

Now that the trafficker knows that an underage sex worker can’t be charged, and all we’re going to do is contact Child Protective Services, and then take them to a drop-off center, and not a locked facility, and say, ‘Here you go.’ Within 15 minutes to an hour, they walk out of that facility back into the trafficker’s hands.

A number of investigators conceded that they still arrest suspected trafficked minors for other charges in situations where they feel it is necessary to keep them away from their trafficker. For example, in cases involving trafficked minors from out of state, one investigator said:

If that child has cigarettes or something, we'll book them on something we can book them on. I don't want to arrest a kid. I get that. I don't. I have kids of my own. We would book her in the jail—and this has happened—and the very next morning [the service provider partners] shows up, the District Attorney drops charges, and [the] child is taken to the airport . . . To me, that's a way better outcome.

However, the majority of service providers said that the new legislation is not only beneficial to minors, but also a necessary step to helping them leave their trafficking situation. Several respondents described the juvenile justice system as re-traumatizing, unsafe, and unhealthy for trafficking victims. "It's not a safe environment," said one service provider referring to juvenile hall, "nor is it . . . a therapeutic environment because, again, you're criminalizing the victim."

The punitive nature of detention as an intervention, several respondents said, can not only undermine a victim's trust in law enforcement and service providers but even serve to strengthen the relationship between the trafficker and victim. One service provider expressed concern about the long-term effects of seemingly punishing victims for their own abuse:

How does that make [victims] feel about [our] systems and how does that make them feel about anyone who's trying to 'help,' right? That can be problematic and have longstanding impacts on their ability to seek safety in the future.

Several respondents questioned the notion of detaining victims for their own good. Said one service provider:

In many counties, they still incarcerate [trafficked minors], which is funny because you wouldn't do that to a domestic violence victim. You would actually try to find them a shelter. [But with] a minor who's being sex trafficked, you stick them in juvenile hall.

While service providers were sympathetic to law enforcement's concerns, they largely viewed them as misplaced. They argued that these concerns stemmed from law enforcement's belief that detaining minors is the only way they know how to help minors. For example, one service provider who runs a 24-hour service center where law enforcement can drop-off minors described the problem in this way: "We'll work with [trafficked youth] until we can find a safe place for them to go to . . . A lot of counties do lock them up, but their reason is it's a default plan. They don't have alternatives, [while] we have some alternatives here." Another service provider expressed concern that "it's problematic to utilize locking somebody up just because nothing else is working" or because "this is the only tool that I know is going to work."

Across all sectors, respondents were critical of the child welfare system for its inability to place trafficked youth in the proper facilities and for its inability to develop programs to incentivize minors to stay in their placements. Viewed in that light, the issue of minors returning to their traffickers is particularly serious. Respondents' recommendations for addressing this issue fell into two broad categories.

Some respondents expressed interest in having a system that lies somewhere between incarceration and the current system where minors can be held in a non-juvenile justice setting that focuses specifically on providing them services. "I wish there was some legislative, lawful authority that we could keep them in detention," explained one investigator, "not for criminal purposes, but for victim advocacy purposes." A service provider described her ideal system as follows:

I have a fantasy that down the road there'd be another kind of hold that doesn't imply that you're crazy or criminal but says, 'For this period of time, we're just going to keep you here. You're not in trouble. You're not crazy. But we want to just stabilize you for a minute to figure out what the next steps should be.'

Other respondents, especially those who feared that detention in any form will always be counter-productive, recommended placement programs that are specific to trafficked youth and that focus on giving them a reason to stay instead of going back to their traffickers. One prosecutor envisioned a center dedicated exclusively to trafficked youth where police can drop them off and where “you can do things

like feed them, get them manicures, pedicures, fix their hair, make them feel good. [A place where they can] take a breather . . . and have service providers there and try to keep them engaged.” Another prosecutor said: “In the end, it’s really about us creating an environment or providing services that give an incentive to [trafficked youth] to want to stay . . . for them to say, ‘I’m done. I want to stay. I want the help.’”

III. INVESTIGATIONS AND PROSECUTION

THIS CHAPTER DESCRIBES the main challenges detectives, prosecutors, police officers, probation officers and other law enforcement agents face while investigating or prosecuting human trafficking in the Bay Area. Respondents placed these challenges in five main categories. First, the relationship between law enforcement and victims of human trafficking is fraught with mistrust due to past criminalization of trafficking victims. This mistrust, makes any investigation or prosecution incredibly difficult because victim cooperation is a central pillar of a successful human trafficking case. Second, even when victims wish to cooperate with investigators and prosecutors, many choose not to because they fear the consequences, including physical abuse by their trafficker. Third, technological advances have made it easier for perpetrators to engage in human trafficking and many local law enforcement agencies do not have the resources or expertise to conduct the type of investigations necessary for modern human trafficking investigations. Fourth, lack of awareness and bias against sex workers among juries and judges is a serious challenge in the courtroom. Finally, the geographically transient nature of human trafficking is an important obstacle to investigating and prosecuting traffickers and is complicated by the lack of systematic coordination among counties in the Bay Area and beyond.

Mistrust of Law Enforcement

The main challenge that respondents noted is the victim's lack of interest in cooperating with law enforcement. Without the cooperation, an investigator explained, "it's almost impossible to arrest and prosecute [the trafficker]. The hours of resources that it would take to literally investigate every single potential detail of that case without the victim's cooperation is just not feasibly possible."

Respondents noted that victims do not trust investigators because they have historically been targeted and criminalized by law enforcement. One legal service provider put it this way:

Most of my clients who have any experience with law enforcement or the prosecutors' offices or the criminal system in general have had really bad experiences. Usually, on the side of having been arrested and harassed and felt mistreated, so they're not very interested in voluntarily signing up to be involved with the system.

Both prosecutors and investigators confirmed this troubling dynamic. One prosecutor described victims' general distrust of law enforcement as rooted in the fact that they are being asked to cooperate with a system under which "they've been arrested, they've been prosecuted, they have lengthy records [and] several prostitution arrests where they've covered for multiple pimps." A law enforcement agent similarly attributed this mistrust to historical policing practices:

I do believe this [mistrust stems from] the old way that we used to do business . . . Obviously [the police will conduct] these massive sweeps where maybe the girl is in acts of commercial sex, and then you approach her, you give her a citation or arrest her, but you really never have taken the time to say, ‘Hey, you want some water? You need some food? Let’s have a little chit chat. Is there anything that we should know?’

Some respondent noted that these repeated negative interactions with law enforcement not only made victims less interested in voluntarily cooperating, but also contributed to reinforcing a trafficker’s hold over his or her victim. When a victim of trafficking is arrested for prostitution or other crimes, one law enforcement officer explained, “The pimp’s like, ‘What did I tell you? They didn’t help you. I’m the only one who takes care of you . . . What did I tell you? Cops didn’t do anything for you.’”

Similarly, repeated negative interactions between law enforcement and victims reinforce unhelpful attitudes toward victims among law enforcement agents. Several respondents noted that investigators can become less interested in helping victims if they are not sufficiently trained on how to understand and react to a victim’s reluctance to cooperate. As one investigator explained:

They look at the lack of cooperation from victims and say, ‘Well, if they don’t want my help, I’ll go to someone who does want my help.’ I’ve talked with survivors who’ve said that it takes an average of 16 times of having services offered to them before they’ll be willing to take the services and leave ‘The Life.’ We’re understaffed. We’re busy. We’re slammed with work.

To address this problem, the police need more trauma-informed training to better understand why victims react to help in seemingly counterintuitive ways. Most of the investigators we interviewed emphasized the training of first responders and patrol officers was an essential element to building trust

with victims of sex trafficking. One head of a special victims unit said:

The first responder is the most important person. They actually lay the foundation. How can I say this? If you’re the asshole, and you were the cop who showed up as an investigator, for the next hour I’m going to hear [from the trafficking victim] about how you were the asshole. I’m going to hear about how [she doesn’t] trust cops.

Many respondents encouraged the practice of having law enforcement partner with service providers and victim advocates during investigations to help foster trust with victims. This practice is a growing trend in many municipalities and counties.³⁶ Several investigators and prosecutors noted that investigations were much easier when advocates and service providers were partners and helped to act as a bridge between victims and law enforcement. When asked about how to build trust between victims and law enforcement, one sergeant said, “When I talk to the victims, I always tell them about how our advocates work. That our advocates are there for them.” In effect, victims feel more comfortable when they know that service providers working alongside law enforcement are independent actors. When this dynamic is clear, victims are more likely to reveal information to a service provider knowing it will not be divulged to law enforcement.

Victims’ Fears

Even when trafficking victims trust law enforcement, many are unwilling to cooperate in investigations due to fear. Victims often worry that their traffickers or their associates will threaten or intimidate them or their families if they cooperate with investigators, and that they will not be properly protected if they agree to testify.

Traffickers have been known to threaten, intimidate, blackmail, or physically harm victims who work with law enforcement. One service provider described how he accompanied a trafficking survivor to the DMV to get her driving license. After he

dropped her off, the young woman was beaten and suffered a severe concussion. The culprits, he said, were “four kids [who] recognized her as the girl who testified and got her pimp locked up.” Another service provider said traffickers will often blackmail their victims by telling them, “If you leave me, I’ll [post] pictures of everything I’ve forced you to do.”

Even when survivors overcome their fears and choose to testify or cooperate, not enough can be done to guarantee their protection. Said one legal services provider:

It’s not like the DA’s and the police force have a [huge] budget. And it’s not like [a victim] will testify and then you go to Kansas and live in a house with a picket fence—that [simply] doesn’t happen. Everybody knows everybody in the Bay Area. It’s just a series of small towns. The fear is very real.

In addition to the explicit threats by traffickers, survivors are fearful of the unknowns that accompany the process of cooperating with law enforcement and testifying in court. A probation officer described this fear as a series of questions that run through the mind of survivors upon sharing their story with an investigator: “Will they be judged? Will they be blamed? Will that information be shared? Where does that information go? Is someone going to throw it in their face?”

Testifying against a trafficker can be traumatizing for survivors. “It’s humiliating,” noted one prosecutor when discussing the challenge of getting victims testimony. “[We should] find a way to get testimony without the person having to face the perpetrator, or be there in court, or be faced with the terrible, terrible cross examinations which just totally re-traumatize them.” California’s new law to protect trafficking victims under the age of 15 during criminal prosecution specifies that such victims can testify via closed-circuit television if their testimony involves recitation of facts of the alleged trafficking.

One law enforcement officer described how it was common for survivors to have a victim advocate

alongside them, whereas “the trafficker is usually going to have everybody, their third cousin, their third uncle. They’re going to have people from the community saying ‘[the trafficker] is a really good person. This person, he gives back to the community. She’s just a liar.’”

Technological Challenges

Sex traffickers now rely heavily on the Internet to recruit and sell victims online, making it difficult for law enforcement to monitor their activities. As a recent study of sex trafficking in San Diego notes: “The selling of sex had moved from the streets to predominately online sites like Backpage.com, mobile brothels whose locations are advertised via Snapchat, social media, or text-based [encounters],” giving traffickers ample opportunity to hide their victims behind the cyber curtain.³⁷

Most respondents said recent technologic advancements, particularly in the use of smart phones and online platforms, have had both positive and negative impacts on human trafficking investigations. On the one hand, software technology has provided law enforcement with better investigatory tools. On the other, Internet platforms, such as Backpage, have given traffickers the ability to operate more discreetly. Overall, investigators viewed technology as an impediment largely because they lacked the resources and training to take advantage of current investigatory tools.

This move away from the “streets” is also accompanied by evasive practices that allow traffickers to be even more difficult to find. Traffickers now use aliases, a detective said. They also “block out the faces on photos and change their phone numbers regularly, [making it] difficult to track them.”

While technology can make investigations more difficult, it can also vastly simplify them, particularly when law enforcement has access to cell phones or online conversations. A detective described how access to online records can make investigations much more straightforward: “In one of our last cases, everything was done over Facebook Messenger. [The

victim] kept everything [on her cell phone]. So I got a search warrant for [her trafficker's] Messenger account." By backtracking through the account and finding their messages, the detective was able to link the alleged trafficker with the victim.

Despite these benefits, most respondents said advancements in technology had made trafficking investigations even more complex and challenging. Investigators expressed concern that their departments lacked the resources to conduct the type of high-tech investigations required for today's human trafficking investigations. One investigator said it was simply "unrealistic" to expect law enforcement, especially from smaller departments, to quickly bring prosecutable cases to the District Attorney due to the lack of resources and expertise. As she put it:

You would need a technology forensic specialist who can download cell phones, who can write search warrants for cell phones, and social media records . . . Once you get the data, you have to be able to compile it and illustrate what's going on. You can't just get call records and throw it at the DA and say, 'Here's the call records.' We have to analyze all the information that we get after a search warrant, and then illustrate patterns, and people, and phone numbers. That takes hours, if not weeks, just to do on one phone. If you're talking two, three, four people, you're looking at four to six weeks of just working the technology side of [the investigation].

Even in larger police departments, the process of acquiring and forensically analyzing information from cell phones can be very time-consuming. "If you have a smartphone, and you have a 32 gig, 64, or 128, do you know how much information is on that?" one detective asked rhetorically. "It takes days and days to sift through all that information to try to make sense of it."

Respondents who work in law enforcement said this situation could be rectified if more resources and training were dedicated to helping investigators

improve their ability to access evidence on cell phones and Internet communications.

Juries and Judges

Most prosecutors interviewed for this study said pre-existing biases among juries and judges were a significant hurdle in prosecuting trafficking cases. Juries, they said, often lacked empathy toward victims of sex trafficking, while judges were not always attuned to the nuances of coercion in trafficking cases.

The attitude of juries, particularly in cases involving adult sex trafficking victims, can upend a prosecution. One prosecutor explained that sex trafficking survivors often "don't present like victims" to jury pools which, in turn, may leave some jurors unconvinced that they were forced or coerced into the trade. Prosecutors said there was general bias against sex trafficking victims due to negative societal attitudes towards sex workers generally. One prosecutor said,

I've heard potential jurors express attitudes like, 'I don't see why it's a crime to rape a prostitute,'" one prosecutor said. The respondent went on to describe a case against a man who had allegedly serially raped five sex workers while impersonating a police officer. During jury selection a potential male juror shrugged off the charge, saying the case should have been referred to a small claims court. At that point, the prosecutor said, 'Well, thank you for your candor, Mr. Smith,' and went on to ask the other potential jurors if there was "anyone else . . . who felt like Mr. Smith, [and] a bunch of hands went up.

Several respondents said judges were not sufficiently versed on the nuances of human trafficking and specifically what constitutes coercion. "You have judges—and I don't blame them—who just don't work on this issue every day and have a very different perspective on what human trafficking is and what it looks like," explained one prosecutor. He went on to say, "We see human trafficking

[as] subtle psychological manipulation...[but that] doesn't translate necessarily in court." An investigator described how a judge dismissed a trafficking case as a "just a family dispute" because it involved family members as perpetrators, while a legal service provider related how "one of the survivors told me that the judge said, 'You should be lucky you were brought to this country.'"

To address these negative stereotypes, several prosecutors recommended more public awareness campaigns about human trafficking and how it manifests itself. Judges, they said, should also receive more training on the nature of the crime and learn what other courts around the country have determined constitutes human trafficking. A legal service provider, while discussing the importance of training judges, described a training she attended which failed to inform judges about the criminal aspects of trafficking:

I used to clerk for a federal judge, and I know what judges look at. They want to see complaints and cases. They want to see where a summary judgment, or a default judgment, or a judgment was rendered. [At the training] what they did instead was have a survivor come and talk about what it was like to be a survivor. I do understand it's important. I think they needed that. [But] they also needed to show . . . something that another judge did. [They needed to see and discuss] some criminal cases. And they need to be educated about them.

Transient Population

Another key challenge faced by law enforcement during investigations is the often transient life style of both victims and traffickers. As a result, law enforcement, service providers, and prosecutors have a difficult time locating victims and developing a working relationship with them. This situation is further complicated by the lack of coordination among law enforcement and prosecutors across jurisdictions in the Bay Area and beyond.

It is not uncommon for trafficking victims to be moved from one town to another after a few nights or a weekend, as their traffickers move them constantly to avoid law enforcement or to maximize profits. An investigator described how a trafficker "would move [the victim] from state to state. So not only was she doing it here [in the Bay Area] but she was forced to fly or drive with him to Las Vegas." In all, the trafficker took the victim to about six states before being arrested. It is not only the peripatetic nature of sex trafficking that complicates investigations, but also the consequences that come from such a way of life. "Nothing stays the same," a detective said. "Their phone numbers don't stay the same. Their cars don't stay the same . . . Everything is different. That's how the pimp operates. He's moving this girl from town to town in these hot spots and just puts her out there.

The constant movement of victims not only complicates investigations, it also undermines efforts by detectives or service providers to gain the trust of victims. One service provider who works at a center for trafficking victims described the problem as follows:

You might have a very small window of time. If you're not making that connection within the first few minutes, basically [you've lost]: The child will get something to eat, maybe sleep a little bit, and then they're out of here. And you may never see them again.

According to respondents, a large part of the problem is the lack of systematic coordination among jurisdictions during investigations or prosecutions in the Bay Area. "When you go from, let's say, Sacramento to Fresno, you might as well be going to Taiwan," said one prosecutor. Explained another prosecutor: "Coordination is a big thing. These people are mobile between counties. It's something that needs more work here in the Bay Area. Alameda is doing the best, but Alameda is [only] doing it in Alameda County."

A victim-witness advocate within a District Attorney's office stressed the importance of coordination to help victims through the process of investigation and prosecution. As she put it:

Our victim might be a victim here, today. Tomorrow, she's a victim in Alameda County. The next day, she's a victim in Los Angeles County. The time after that, she's a victim in Las Vegas. And there's not a lot of interconnectedness between [investigators and service providers in these places].

As a result, an investigator or service provider may only know part of a survivor's story and have no idea that colleagues in other counties have worked with the same person.

To address the lack of coordination, several respondents recommended that a statewide or Bay Area database on known traffickers be established. One investigator said such a system would be game changer: "If I am working human trafficking and I type in the girl's name [in the database], and if she's been contacted in Oregon or Las Vegas, her name might pop up, or his name as the trafficker or something. That would be a huge tool." In addition, several prosecutors said they were unaware that their suspect was also under investigation in another county, and that a database would go a long way toward improving the quality of their investigations and prosecutions.

IV. LABOR TRAFFICKING

THE INTERNATIONAL Labor Organization (ILO) estimates that there are 16 million victims of labor trafficking globally, roughly four times as many as victims of sex trafficking.³⁸ While there are currently no accurate estimates of the prevalence of labor trafficking in the United States, a 2012 study in San Diego found that 30 percent of undocumented immigrants in that city were victims of labor trafficking and estimated that there are almost half a million victims of labor trafficking in California.³⁹

Despite the wide prevalence of labor trafficking, law enforcement has traditionally focused on sex trafficking. Of the 241 federal human trafficking prosecutions in the United States in 2016, only 5 percent (13 cases) involved labor trafficking.⁴⁰ Another nationwide study conducted in 2012 found that only 11 percent of cases investigated by law enforcement involved labor trafficking.⁴¹ Moreover, in terms of services for victims on a national level, victims of sex trafficking generally have greater access to services than those of labor trafficking.⁴²

Our interviews with law enforcement, service providers, and prosecutors in the Bay Area about the challenges of addressing labor trafficking reveal that these national trends appear to be mirrored locally. Although the majority of respondents consider labor trafficking to be widespread in the Bay Area, most believed not enough is being done to address it. Respondents highlighted a wide variety of challenges to addressing labor trafficking which can be categorized into seven major themes:

deficiencies in language capacity and culture competency on the part of all sectors; victim's fear of law enforcement; trafficker threats to victims; victims' feelings of shame; lack of shelter and employment opportunities for victims; lack of awareness of the problem among law enforcement, service providers, and prosecutors; and, to a certain extent, negative attitudes towards labor trafficking victims.

This chapter examines these challenges in detail by focusing on five areas that encompass all these themes: (1) attitudes towards labor trafficking; (2) lack of training and resources; (3) vulnerabilities specific to undocumented immigrants; (4) language and cultural barriers, and (5) lack of shelter and employment.

Attitudes Towards Labor Trafficking

Some respondents, particularly service providers, said that law enforcement and other victim service providers do not prioritize labor trafficking because of the way in which society perceives its victims. For example, victims of labor trafficking, especially males, often are viewed as having more agency than other crime victims because they are adult immigrants. Some respondents noted that trafficking that includes sexual exploitation is viewed as more urgent than labor trafficking. "As soon as you add in that sexual component, there seems to be more of a rescue mentality, where agencies want to get on board and provide services," explained one service provider.

Another service provider who works with victims of both sex and labor trafficking clarified a common theme among respondents that undocumented immigrant laborers are not viewed sympathetically especially when compared to domestic victims of sex trafficking. She put it this way:

I think it's a non-sympathetic victim population . . . I don't think there's a lot of political motivation. Again, it's not as salacious or interesting . . . as a young domestic sex trafficking victim. Those kinds of populations have a lot more sympathy from our population, from our funders, and from our government.

This characterization was echoed by an investigator who viewed sex trafficking as fundamentally more problematic than labor trafficking, stating, "If you were to put it on a scale, I would just, in my opinion, say that sex trafficking is a little bit more of an important crime. We focus our resources on that."

Several respondents emphasized the importance of increasing the amount of training that service providers, law enforcement, and prosecutors receive on labor trafficking. What is needed, a prosecutor said, is an attitudinal shift away from blaming labor trafficking victims for their own exploitation:

I think the more that we can articulate for law enforcement that the idea that a person is an undocumented immigrant in the context of exploitation, that the label of being undocumented is really just a way of victim blaming. That just as we had to overcome the idea that a woman was to blame for returning to her batterer, that a woman was to blame for wearing a short skirt when she was raped, that a sex trafficking victim is to blame for engaging in criminal activity, we have to get over the idea that labor trafficking victims are to blame because they're undocumented.

Attitudes that lead to a disproportionate focus on sex trafficking are not limited to the Bay Area. It is a common problem on a national level and

extends beyond just law enforcement or service providers. One study focusing on the media analyzed texts from U.S. newspapers and articles over a period of nine years after the passage of the Trafficking Victims Protection Act in 2000 found that media discussions about human trafficking tend to ignore labor trafficking and overwhelming focus on sex trafficking.⁴³ Similarly, in the healthcare field, a 2013 systematic review of human trafficking educational resources for health care professionals found only one resource that specifically addresses the healthcare needs of labor trafficking victims.⁴⁴

Lack of Training and Resources

While some respondents attributed the lack of focus on labor trafficking to attitudes towards labor trafficking and its victims, others highlighted deficiencies in resources and training as the main challenge. For example, several investigators said that they were unable to address labor trafficking due to a lack of training and resources, as well as the sheer complexity of labor trafficking investigations.

Prosecutors and investigators expressed concern that there is simply not enough training on how to identify and investigate labor trafficking. When asked about this disparity, a victim-witness advocate said overall law enforcement "understand sex trafficking much better than they understand labor trafficking." A prosecutor expressed frustration at the inability to identify labor trafficking as compared to sex trafficking:

[With] Backpage, it's pretty clear what's going on there. You see different behaviors on the strip or the drag, like International Boulevard, Richmond has 23rd St . . . so you learn what to look for, but with labor trafficking, it's just hard to detect. I mean you just don't know what it really looks like. . . . I haven't seen a successful labor trafficking detection model out there.

Respondents also noted that whatever training law enforcement do receive on trafficking tends to

be heavily skewed towards sex trafficking. One prosecutor expressed concern that even when government service providers or law enforcement encounter labor trafficking, they will not be able to detect it: “A lot of government entities have been trained so thoroughly on sex trafficking that when they hear human trafficking, that’s all they think of. What labor trafficking looks like, the nuances . . . they’re not thinking about it.”

Labor trafficking investigations also tend to be inherently more complex than sex trafficking investigations and require more resources and time. “Basically, we don’t really have the resources to handle labor trafficking. They are much bigger cases usually, at least in the massage parlors, than we can handle,” said one prosecutor. Issues of language and the vulnerability of undocumented immigrants, as discussed below, complicate labor trafficking investigations and necessitate investment in specialized training and resources.⁴⁵

Even within federally funded human trafficking task forces, law enforcement agencies are far less likely to identify labor trafficking than sex trafficking cases even though service providers within those same task forces identify more labor trafficking than sex trafficking victims.⁴⁶ One explanation for this disparity is the fact that law enforcement traditionally were never mandated to inspect or investigate workplace violations. A 2014 study that examined 140 closed human trafficking cases nationwide and interviewed more than 100 police officers and prosecutors found that law enforcement heavily rely on vice unit investigation strategies, such as online stings or brothel raids, which only end up identifying sex trafficking victims.⁴⁷

Language and Cultural Barriers

Traditionally, language and culture have been viewed as barriers to successful labor trafficking investigations. Respondents pointed to deficiencies in language capacity and cultural competency among law enforcement and service providers as a major challenge. Respondents also viewed cultural differences

and lack of awareness as a contributing factor to victims’ own understanding of their exploitation.

A lack of language capacity is one of the biggest hurdles to identifying and investigating labor trafficking. Respondents noted that law enforcement are less likely to investigate and identify cases when victims do not speak English. This is further compounded by the fact that victims are less likely to cooperate with service providers and law enforcement if they do not speak their language. Particularly with traumatized victims, language capacity is viewed as essential to developing trust, especially when law enforcement first encounter victims, as one prosecutor put it:

Even when you have victims that have a pretty good command of English, when you’re dealing with somebody who is recovering from trauma, you lose language abilities. When you lose things in translation you lose a lot. One of the things that you lose is the ability to develop trust and rapport.

Some respondents highlighted the importance of cultural competency beyond just language. “Even if you speak [to them in] their language, there’s often a cultural issue,” said a victim-witness advocate. “[And even when] you have somebody translating, we’re almost speaking two different languages, so it’s a back and forth of trying to get all the pieces to work together.” One prosecutor described how lack of cultural competency prevented her from proceeding in court: “We had a victim who spoke [a particular] Egyptian Arabic, and we couldn’t find an . . . interpreter. . . . In fact, we had the wrong interpreter. And that happened in court. Imagine when we’re in the field.”

When asked about what law enforcement could do better, a service provider, who sits on a task force and engages regularly with law enforcement, said that a cultural understanding of what is appropriate, such as “eye contact” or “how you speak to someone,” is essential to building trust and rapport.

Culture and language can influence victims’ own understanding of their trafficking situation. Several

service providers and law enforcement agents found that victims are not always aware that they are being trafficked because they may be comparing their experience in the United States with that in their home country, where labor exploitation may be more common. A service provider specializing in labor trafficking noted that she regularly interacts with clients who do not realize they are trafficking victims. She described one example at a local event on domestic worker abuse:

They had a woman talking about her experience being trafficked. Well, she didn't think she was trafficked . . . she was talking about how she was speaking on behalf of domestic workers and abuses that happen. I went up to her after and said, 'You're very courageous. You were trafficked.' She said, 'No, no. I wasn't trafficked. I was just abused as a domestic worker.' Then, I went through what trafficking is. She said, 'Yeah, I guess I was.' . . . That's common.

Several investigators said that part of the reason victims of labor trafficking are fearful of law enforcement and do not approach them is cultural. Some noted that many victims of labor trafficking carry with them negative attitudes and distrust towards law enforcement due to norms in their own countries, where the police can be viewed as corrupt or untrustworthy.

While many respondents highlighted the need for greater cultural and language capacity among law enforcement and service providers to address these issues, others also believed that community outreach and awareness are equally important. One service provider noted that being able to speak the language and know the culture may not be enough without community engagement:

Even if I speak Spanish, I can't go into an agricultural area . . . and talk to people there about human trafficking, and [say] 'You should trust me and tell me if you're being exploited.' They don't know me just because I speak their language.

[And if] they don't know me, they're not going to trust me.

Vulnerability of Undocumented Immigrants

Many respondents believed that the specific vulnerabilities of undocumented immigrants seriously complicate efforts to investigate labor trafficking and aid its victims, particularly in the current political climate. Law enforcement agents, prosecutors and service providers brought up three recurring themes: victims' fear of law enforcement, threats by employers and traffickers, and shame.

Victims' fear of law enforcement was one of the most common responses when discussing the challenges to addressing labor trafficking in the Bay Area. Most respondents noted that victims are unwilling to seek help or cooperate due to fears of deportation. A particular concern among law enforcement and prosecutors is the effect of the publicly anti-immigrant stance of the current federal administration. Several respondents indicated that it has become even more difficult to engage with this population since the 2016 elections.

Employers and traffickers also use the fear of arrest and deportation to keep victims from leaving their trafficking situation. Typically, traffickers keep victims in line by threatening to report them for immigration violations. This fear becomes particularly acute when traffickers threaten to harm their family members in their home countries. One law enforcement agent expressed frustration at the inability to protect victims' families abroad as a result:

They're indebted, and they're not indebted here in this country but in another country, where that is real. 'You don't pay, we're gonna go after your family,' which is real. How do I protect somebody who is from another country, when especially I know that's the possibility?

Finally, several respondents noted that the undocumented status of victims can contribute to a general sense of shame or guilt that prevents them from reaching out and seeking help. Similarly,

victims may feel guilty about ratting on their trafficker. As one service provider noted:

Many of the victims know their traffickers. [And they think]: 'm going to get this person in trouble. For better or for bad, they brought me here . . . They're the only person that was there for me.' Overcoming that sense of guilt and . . . loyalty can be very challenging.

To address these challenges, many respondents emphasized the importance of raising awareness among the public and improving outreach to the immigrant community through culturally specific community-based organizations. A prosecutor noted the efficacy of community-centered outreach to alleviate the fears of undocumented immigrants:

We go out into the community and assure communities that might have a large percentage of undocumented immigrants that . . . we're here to protect all victims of crime, and that we will prosecute a trafficker even if the victim is undocumented. [Whether or not a victim is documented or undocumented] is not something we're concerned about.

Similarly, service providers also noted the importance of building trust with the immigrant community through outreach. A service provider described how developing strong bonds with only one victim in a farmworker community helped develop trust with the community as a whole: "Because her community trusted her, multiple people then came to her and said, 'Where did you go for support? Are these people we can trust?' She vouched for us, and because of that, we were able to support at least 10 individuals with different situations."

Shelter and Employment

Even when victims are able to leave their trafficking situation, they do not always have feasible housing or employment alternatives. When victims escape their trafficking situation, they lose their housing

because they are usually housed by their trafficker. Once free, survivors often find they are priced out of the rental market in the Bay Area and/or unable to find short-term and long-term housing. One prosecutor, who specializes in labor trafficking, said finding adequate housing for survivors was one of his biggest challenges:

The big problem on the labor trafficking side is that there's an awful lot of men who are being labor trafficked. Most of these shelters don't take men. Even if they do normally take men, they take men provided they have certain kinds of . . . rooming arrangements . . . Housing is always the problem.

Other respondents said the nature of the rental process itself in the Bay Area as a barrier. One service provider who works with labor trafficking victims said that many of her clients could not access the housing market even if they had money because they did not operate on credit or have a housing history.

Respondents also raised the issue of employment for survivors of labor trafficking. One service provider discussed the common dilemma survivors face once they apply for immigration relief based on their trafficking situation: "As they're waiting to receive a work permit, let alone getting their visas approved, they don't have a source of income. [And] if you don't have a source of income, you can't really pay for a new place." The lack of shelter, in turn, can mean survivors become re-exploited or homelessness.

The lack of available shelter for victims of labor trafficking is a national problem. In 2012, a nationwide survey of shelters revealed that there was not a single shelter bed in the United States that is dedicated exclusively to labor trafficking survivors.⁴⁸ A more recent study found that the need for short- and long-term housing is the single biggest challenge for survivors of labor trafficking in the United States.⁴⁹

V. CONCLUSIONS AND RECOMMENDATIONS

OUR RESEARCH SUGGESTS that a key to tackling the challenges of addressing human trafficking is the recognition that helping victims and survivors is a long-term process in which immediate results cannot be expected. Building trust with trafficking victims, which is an essential element of providing services and conducting a successful investigation, requires interacting with victims in a consistent and nonjudgmental manner.

Building trust is crucial because victims expose themselves to real and perceived risks when they interact with service providers or law enforcement. Some respondents noted that victims fear the ire of their trafficker if they were to reach out. Other respondents asked why traumatized victims should be expected to put their trust in systems, such as foster care or juvenile justice, when those systems had failed them time and time again. Respondents said that victims often reported having experienced negative interactions with law enforcement and, as a result, were fearful of trusting them. For all these reasons, victims often distrust service providers and law enforcement and, at the onset of investigations, have no desire to cooperate with them. Respondents made it clear that it is the responsibility of service providers, law enforcement, and prosecutors to gain the trust of trafficking victims through repeated, long-term, and positive interactions.

With this in mind, we offer the following conclusions and recommendations:

- 1. IMPROVING SERVICES FOR SURVIVORS OF SEX TRAFFICKING:** We highlighted four inter-related challenges to providing services to victims of sex trafficking: (1) addressing the hold of traffickers over victims; (2) providing shelter and resources to meet basic needs; (3) building trust with survivors and victims; and (4) adapting to recent legislative changes. To address these issues, we recommend the following:

First, government agencies and NGOs that work directly with victims and survivors should ensure that all staff receive trauma-informed training on how to engage with victims of human trafficking. Training should focus on stressing the importance of non-conditional, honest, and consistent interactions with victims. Training should also instill in staff an understanding of the importance of developing agency in victims.

Second, counties in the Bay Area should increase the availability of housing dedicated to victims of human trafficking. Shelter is sorely needed across the Bay Area, and special attention should be paid to providing appropriate transitional and long-term housing, foster care placements, and shelter for queer and gender non-conforming survivors.

Third, beyond housing, Bay Area counties should increase resources available to survivors of human trafficking. Victims of trafficking should have more access to support with both

short-term basic needs, such as clothing, food and hygiene products, and long-term needs, such as employment and educational opportunities. Many victims of trafficking end up trafficked and become trapped by their trafficker due to lack of resources. The ability of government agencies and service providers to provide tangible and much-needed resources to victims can facilitate the victim's separation from his or her trafficker and help foster trust with victims.

Finally, Bay Area counties should conduct an assessment of the response of each county's Children and Family Services and each county's law enforcement efforts to recent legislative changes. Our research found that both law enforcement and social services have struggled to adapt to recent legislative changes, such as the prohibition on arresting Commercially Sexually Exploited Children (CSEC), the changes to group homes, and the transition of the CSEC population to child welfare. An assessment of how children and family services and law enforcement are adapting to these changes is an essential first step toward addressing challenges to adapting to a new legislative framework.

- 2. IMPROVING THE INVESTIGATION AND PROSECUTION OF SEX TRAFFICKERS:** Based on our interviews, we have identified five key challenges to investigating and prosecuting sex trafficking cases: (1) mistrust between law enforcement and victims of sex trafficking; (2) victims' fear of cooperating with law enforcement; (3) technological advances that have made it easier for perpetrators to engage in sex trafficking; (4) lack of awareness and bias against sex workers among juries and judges; and (5) the geographically transient nature of sex trafficking.

To address these challenges, we recommend the following:

First, law enforcement agencies across the Bay should require that all agents, especially first responders, receive trauma-informed training

particularly focused on helping agents understand why victims react negatively to law enforcement. Training should also focus on developing creative strategies for engaging with victims in a manner that is honest, nonjudgmental, and consistent.

Second, law enforcement agencies should strengthen and increase their partnerships with advocates and service providers. Investigators should make it a practice to have independent advocates or service providers with them during investigations. Partnership with service providers improves trafficking investigations by fostering trust between victims and law enforcement and increasing the likelihood of victims cooperating with law enforcement.

Third, Bay Area counties should provide law enforcement agencies with more resources to help investigators access the tools and trainings required to address the challenges of online investigations. This should include (1) resources to hire expert staff or consultants, such as forensic technology specialists, and (2) trainings on how to improve online investigations and the process of obtaining cellphone warrants in a timely manner.

Fourth, Bay Area counties should continue to engage in public awareness campaigns on the nature and prevalence of sex trafficking. A more aware community will result in less biased jury pools, particularly if awareness campaigns focus on changing attitudes towards victims and clarifying the nuances of what it means to be a victim of human trafficking.

Fifth, Bay Area counties should convene a training workshop on sex trafficking for county judges, district attorneys, and public defenders. The workshop should include how sex trafficking cases have been prosecuted in California and nationwide, with a particular focus on how the coercion element can be proven.

Finally, local law enforcement agencies should increase coordination across agencies.

Specifically, agencies should explore the possibility of developing a database for tracking individuals who have been or are currently being investigated for sex trafficking, making it accessible to all agencies.

- 3. IMPROVING EFFORTS TO ADDRESS LABOR TRAFFICKING:** Our research revealed that labor trafficking, while prevalent in the Bay Area, is not being adequately addressed. Respondents noted five key challenges: (1) negative attitudes towards victims of labor trafficking; (2) a lack of training and resources specific to labor trafficking; (3) vulnerabilities specific to undocumented immigrants; (4) language and cultural barriers among law enforcement and service providers; and (5) lack of shelter and employment.

To address these challenges, we recommend the following:

First, law enforcement agencies and district attorney's offices across the Bay should invest more resources into investigating labor trafficking. Specifically, agencies should establish specialized investigative units solely dedicated to labor trafficking that partner with key state agencies tasked with investigating labor abuses and financial crimes. Additionally, agencies should hire more investigators with diverse language skills and cultural familiarity with immigrant communities.

Second, government agencies, NGOs, and law enforcement agencies who work with victims of labor trafficking should ensure that all staff receive training specific to how to engage

this victim population. Training should emphasize best practices for working with foreign nationals, such as using interpreters and developing cultural competency, and an understanding of the interplay between labor trafficking and the stigma of being undocumented.

Third, local law enforcement agencies should engage in community outreach programs with key immigrant groups in their counties. Outreach should be focused on developing trust with immigrant communities, increasing awareness of labor trafficking, and clarifying the difference between local law enforcement and federal immigration authorities. A key element of any trust-building between law enforcement and the immigrant communities most susceptible to labor trafficking is an assurance by local law enforcement that they will not work with federal immigration authorities to deport immigrants.

Fourth, Bay Area counties should initiate public awareness campaigns on labor trafficking. Campaigns should focus on increasing public awareness as to *what* is labor trafficking, *where* labor trafficking is most likely to occur, *who* are most vulnerable to it, and *how* to report suspicious activity.

Finally, Bay Area counties should increase the availability of housing dedicated to victims of labor trafficking. There are currently no shelters dedicated to labor trafficking survivors. There is a need for emergency shelters, transitional housing, and shelter appropriate for male survivors.

AUTHORS AND ACKNOWLEDGEMENTS

Khaled Alrabe and Eric Stover are authors of the report. Jenny Pierce, a 2017 Berkeley Law JD graduate, Michael Youhana, a 2018 Berkeley Law JD candidate, and Maria Tourtchaninova, a 2018 MPP and MSW candidate, joined Alrabe and Stover as principal investigators of the study. Lizzie Fulton, Shahriar Raafi, and Kevin Walker—all 2017 Berkeley Law JD graduates—and Monica Haulman, a 2017 BA graduate, provided invaluable support during the research and in editing. Andrea Lampros, Communications Director of the Human Rights Center, provided copy editing and supported production. The study was conducted in partnership with the International Human Rights Law Clinic.

Authors

KHALED ALRABE is a Research Fellow and former Director of the Immigration Initiative at the Human Rights Center, School of Law, University of California, Berkeley.

ERIC STOVER is Faculty Director of the Human Rights Center and Adjunct Professor of Law and Public Health in the School of Law, University of California, Berkeley.

We wish to thank Laurel E. Fletcher, Clinical Professor of Law and Director of the International Human Rights Law Clinic, for her support during the study.

NOTES

- 1 Kamala D. Harris, *The State of Human Trafficking in California* (2012), <https://oag.ca.gov/sites/all/files/agweb/pdfs/ht/human-trafficking-2012.pdf>, 16.
- 2 Center for Policy Studies, *California Human Trafficking Fact Sheet*, February 2013, <http://www.htcourts.org/wp-content/uploads/CA-HT-Fact-Sheet-2.27.13.pdf?Factsheet=HT-CA>, 2–3.
- 3 National Human Trafficking Resource Center (NHTRC), *National Human Trafficking Resource Center Data Breakdown 1/1/2015–12/31/2015* (2016), <https://humantraffickinghotline.org/resources/2015-nhtrc-annual-report>, 3.
- 4 U.S. Department of Justice, Office of the Inspector General, “The Federal Bureau of Investigation’s Efforts to Combat Crimes Against Children,” January 2009, <https://oig.justice.gov/reports/FBI/a0908/final.pdf>, 70.
- 5 *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*. Geneva: International Labour Office, 2017. Accessed November 17, 2017, http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf; *Profits and Poverty: The Economics of Forced Labour*. Geneva: International Labour Office, 2017, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf; and Amanda Walker-Rodriguez and Rodney Hill, “Human sex trafficking,” *FBI L. Enforcement Bull.*, 80 (2011): 1.
- 6 See e.g. *The Global Slave Index 2016*. Walk Free Foundation, 2017, <https://www.globalslaveryindex.org/download/>; *Trafficking in Persons Report*. Washington, DC: U.S. Department of State, 2004.
- 7 Kamala D. Harris, “The State of Human Trafficking in California,” *California: Department of Justice* (2012).
- 8 National Human Trafficking Hotline. “Hotline Statistics.” Accessed January 19, 2018. <https://humantraffickinghotline.org/states>
- 9 See U.S. Department of Justice, Office of the Inspector General. “The Federal Bureau of Investigation’s Efforts to Combat Crimes Against Children,” (2009) <https://oig.justice.gov/reports/FBI/a0908/final.pdf>.
- 10 See Bond Graham, Darwin and Ali Winston. “Badge of Dishonor: Top Oakland Police Department Officials Looked Away as East Bay Cops Sexually Exploited and Trafficked a Teenager.” *East Bay Express*, June 15, 2016. <https://www.eastbayexpress.com/oakland/badge-of-dishonor-top-oakland-police-department-officials-looked-away-as-east-bay-cops-sexually-exploited-and-trafficked-a-teenagerdepartment/Content?oid=4832543>; “Oakland Police Officer to Face Trial in Sex Exploitation Scandal.” *CBS SF Bay Area*, May 18, 2017. <http://sanfrancisco.cbslocal.com/2017/05/18/oakland-police-officer-to-face-trial-in-sex-exploitation-scandal/>
- 11 Alameda County Human Exploitation and Trafficking (H.E.A.T) Watch, “Commercial Sexual Exploitation of Children (CSEC),” http://www.heatwatch.org/human_trafficking/about_csec.
- 12 Human Rights Center, School of Law, University of California, Berkeley, *Building Trust: Perspectives on a Victim-Centered Approach to Human Trafficking Investigations in Los Angeles County*, November 2017, https://www.law.berkeley.edu/wp-content/uploads/2017/11/LA_report_2017_Nov20release.pdf.
- 13 Collen Owens, Meredith Dank, Justin Breaux, Isela Bañuelos, Amy Farrell, Rebecca Pfeffer, Katie Bright, Ryan Heitsmith, and Jack McDevitt. “Understanding the organization, operation, and victimization process of labor trafficking in the

- United States.” *Urban Institute and Northeastern University* (2014).
- 14 Polaris Project. “2016 Hotline Statistics,” <https://humantraffickinghotline.org/states>.
- 15 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, art. 5(1).
- 16 Trafficking Victims Protection Act (TVPA) of 2000, Pub. Law. No. 106-386, 114 Stat. 1541 (2000).
- 17 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, art. 3(a).
- 18 California Trafficking Victims Protection Act (CTVPA), 2005 Cal. Legis. Serv. Ch. 240 (A.B. 22) (West 2005), Cal. Penal Code § 236.1.
- 19 Cal. Penal Code § 236.1 (a),(b) (West 2012)
- 20 *Ibid*, § 236.1 (a),(b),(c),(h)(3)
- 21 Polaris Project, Human Trafficking Issue Brief, <https://polarisproject.org/sites/default/files/2015%20Safe%20Harbor%20Issue%20Brief.pdf>.
- 22 S.B. 1322 (2016)
- 23 S.B. 855 amended California Welfare and Institutions Code § 300(b) to include CSEC within Neglect, Failure to Protect. It is codified in WIC § 16524.6–16524.11.
- 24 CSEC may be classified as dependents if they are sexually trafficked as defined in Cal. Penal Code 236.1, receive food, shelter or money in exchange for sexual acts, *and* whose parent or guardian failed to or was unable to protect them.
- 25 Cal. Penal Code § 236.2 (West 2012)
- 26 Cal. Penal Code § 293 (West 2012)
- 27 John Vanek (ed.), *The Essential Abolitionist: What You Need to Know about Human Trafficking and Modern Slavery* (San Bernardino: Daliwal Press, 2015), 116–117.
- 28 See e.g. Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), Pub. Law. No. 108–193, 117 Stat. 2875 (2003), 18 U.S.C. § 1595; Californians Against Sexual Exploitation Act (“CASE Act”) of 2012 (West 2016);
- 29 See Amy Farrell, “Improving law enforcement identification and response to human trafficking,” *Human trafficking: Exploring the international nature, concerns, and complexities* (2012): 181–206; Stephanie Hepburn and Rita J. Simon, “Hidden in plain sight: Human trafficking in the United States,” *Gender Issues* 27.1–2 (2010): 1–26.
- 30 See Amy Farrell, Rebecca Pfeffer, and Katherine Bright, “Police perceptions of human trafficking,” *Journal of Crime and Justice* 38.3 (2015): 315–333; Elżbieta M. Goździak, “Identifying child victims of trafficking,” *Criminology & Public Policy* 9.2 (2010): 245–255.
- 31 See Heather J. Clawson et al., “Prosecuting human trafficking cases: Lessons learned and promising practices,” National Institute of Justice (2008) and Amy Farrell, Colleen Owens, and Jack McDevitt. “New laws but few cases: understanding the challenges to the investigation and prosecution of human trafficking cases.” *Crime, Law and Social Change* 61.2 (2014): 139–168
- 32 See Amy Farrell et al. “Identifying challenges to improve the investigation and prosecution of state and local human trafficking cases” (NCJ 238795), Washington, DC: National Institute of Justice (2012).
- 33 See Heather J. Clawson, Nicole Dutch, Amy Solomon, and L. Goldblatt Grace, “Human trafficking into and within the United States: A review of the literature,” *Washington, DC: Office of the Assistant Secretary for Planning and Evaluation, US Department of Health and Human Services. Retrieved December 25* (2009).
- 34 *Ibid*.
- 35 *Ibid*; Amy Farrell et al., “The Prosecution of State-Level Human Trafficking Cases in the United States,” *Anti-Trafficking Review* 6 (2016).
- 36 See, for example, Human Rights Center, *Building Trust: Perspectives on a Victim-Centered Approach to Human Trafficking Investigations in Los Angeles County*.
- 37 Ami Carpenter and Jamie Gates, *The Nature and Extent of Gang Involvement in Sex Trafficking in San Diego County*, Joan B. Kroc School of Peace Studies, University of San Diego, 15.
- 38 *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*. Geneva: International Labour Office, 2017, http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf
- 39 Sheldon X. Zhang et al., “Estimating labor trafficking among unauthorized migrant workers in San Diego,” *The Annals of the American Academy of Political and Social Science* 653.1 (2014): 65–86.
- 40 See U.S. Department of State, *Trafficking in Persons Report*, Washington, DC, 2017.
- 41 Amy Farrell, Jack McDevitt, Rebecca Pfeffer, Stephanie Fahy, Colleen Owens, Meredith Dank, and William Adams, “Identifying challenges to improve the investigation and prosecution of state and local human trafficking cases,” (2012).
- 42 See e.g. Liza Doran, Darci Jenkins, and Megan Mahoney, “Addressing the Gaps in Services for

- Survivors of Human Trafficking: An Opportunity for Human Service Providers,” *Journal of Human Services* 34, no. 1 (2014) and Grace Chang, and Kathleen Kim, “Reconceptualizing approaches to human trafficking: New directions and perspectives from the field,” *Stan. JCR & CL* 3 (2007): 317.
- 43 Amy Farrell and Stephanie Fahy, “The problem of human trafficking in the US: Public frames and policy responses,” *Journal of Criminal Justice* 37, no. 6 (2009): 617–626.
- 44 Roy Ahn, Elaine J. Alpert, Genevieve Purcell, Wendy Macias Konstantopoulos, Anita McGahan, Elizabeth Cafferty, Melody Eckardt, Kathryn L. Conn, Kate Cappetta, and Thomas F. Burke, “Human trafficking: review of educational resources for health professionals,” *American Journal of Preventive Medicine* 44, no. 3 (2013): 283–289.
- 45 Amy Farrell, Jack McDevitt, and Stephanie Fahy, “Where are all the victims?” *Criminology & Public Policy* 9, no. 2 (2010): 201–233.
- 46 Duren Banks and Tracey Kyckelhahn, *Characteristics of suspected human trafficking incidents, 2008–2010*, Washington, DC: US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2011.
- 47 Amy Farrell and Rebecca Pfeffer, “Policing human trafficking: Cultural blinders and organizational barriers,” *The Annals of the American Academy of Political and Social Science* 653, no. 1 (2014): 46–64
- 48 Polaris Project, “Shelter Beds for Human Trafficking Survivors in the United States,” Washington, DC: Polaris Project, 2012.
- 49 Collen Owens, Meredith Dank, Justin Breaux, Isela Bañuelos, Amy Farrell, Rebecca Pfeffer, Katie Bright, Ryan Heitsmith, and Jack McDevitt, “Understanding the organization, operation, and victimization process of labor trafficking in the United States,” *Urban Institute and Northeastern University* (2014).



HUMAN RIGHTS CENTER
UC BERKELEY SCHOOL OF LAW
396 SIMON HALL
BERKELEY, CA 94720
510.642.0965

HRC@BERKELEY.EDU
HRC.BERKELEY.EDU
MEDIUM.COM/HUMANRIGHTSCENTER
[@HRCBERKELEY](https://twitter.com/HRCBERKELEY)