





# Colorado Human Trafficking Council

## 2015 Annual Report

Report to the Judiciary Committees of the House of Representatives and the Senate,  
pursuant to C.R.S. § 18-3-505



The Colorado Human Trafficking Logo  
*designed by John Patzman*

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## Acknowledgements

The Colorado Human Trafficking Council embarked on its inaugural year in FY2014-2015. It has been a tremendous first year and we are grateful for the hard work, commitment and expertise of all the Council members. The Council is especially thankful for the leadership provided by the Council Chair, Stephanie Villafuerte and Vice Chair, Janet Drake.

The Council is also appreciative for its dedicated task force co-chairs: Claude d'Estrée and Amanda Finger who co-chaired the Data and Research Task Force as it worked to conduct the Council's first baseline data collection on the prevalence of human trafficking in our state; Debi Grebenik and Sterling Harris who co-chaired the Standards and Certification Task Force that explored the utility, need and benefits of establishing standards and a certification process for service providers who work with victims of human trafficking; and Don Mosely and Dan Steele who co-chaired the Legislative Task Force that tackled the challenging issue of responding to HB 15-1019, which required the Council to consider and make recommendations on Safe Harbor legislation.

The Council is especially indebted to the many task force members who volunteer their time to the Council's efforts. Task force membership reflects a diverse group of experts committed to improving the lives of victims of human trafficking and improving the state's response to cases of human trafficking. These individuals invest considerable time engaged in study, discussion, education and reflection on human trafficking issues. The Council's effectiveness depends on their expertise and commitment to meet its statutory mandates.

Finally, the Council's work does not occur in a vacuum, and the Council is deeply grateful for the many agencies and multidisciplinary collaborations that devote their time and energy to improving the lives of human trafficking victims across the state, and seeking justice through the arrest and prosecution of traffickers.

## Council Members\*

*\*The composition of Council membership is set forth in C.R.S. § 18-3-505*

### **Stephanie Villafuerte**

*CHTC Chair*

Rocky Mountain Children's Law Center  
*Rep. of a statewide organization that provides legal advocacy to abused, neglected, & at-risk children*

### **Janet Drake**

*CHTC Vice Chair*

Colorado Department of Law  
*Rep. of Colorado Department of Law*

### **Tom Acker**

Western Slope Human Trafficking Initiative  
*Rep. of a regional or city-wide human trafficking task force or coalition*

### **Lester Bacani**

University of Colorado Hospital  
*Community member*

### **Jill Brogdon**

Colorado Department of Transportation  
*Community member*

### **Maureen Cain**

Colorado Criminal Defense Bar  
*Rep. of statewide organization of criminal defense attorneys*

### **Claude d'Estrée**

University of Denver  
*Rep. of a college or university department that conducts research on human trafficking*

### **Mari Dennis**

Colorado Springs Police Department  
*Rep. of an organization that provides direct services to victims of human trafficking*

### **Matthew Dodson**

Archuleta County Department of Human Services  
*Rep. of a rural county department of social services*

### **Amanda Finger**

Laboratory to Combat Human Trafficking  
*Rep. of a regional or city-wide human trafficking task force or coalition*

### **Debi Grebenik**

Maple Star Colorado  
*Rep. of an organization that provides direct services to victims of human trafficking*

### **Sterling Harris**

Colorado Organization for Victim Assistance  
*Rep. of a statewide organization that provides services to crime victims*

### **Lawrence Hilton**

Colorado State Patrol  
*Rep. of Colorado State Patrol*

### **Lynn Johnson**

Jefferson County Human Services  
*Rep. of an urban department of social services*

### **Katie Kurtz**

Colorado District Attorney's Council  
*Rep. of a statewide organization of district attorneys*

### **Jason Korth**

Restore Innocence  
*Rep. of a faith-based organization that assists victims of human trafficking*

**Angela Lytle**

Arapahoe County Department of Human Services  
*Rep. of child welfare services for a county department of social services*

**Patricia Medige**

Colorado Legal Services  
*Rep. of a statewide immigration rights organization*

**Sara Nadelman**

Denver Anti-Trafficking Alliance  
*Rep. of a regional or city-wide human trafficking task force or coalition*

**Saida Montoya**

Colorado Division of Labor  
*Rep. of the state Department of Labor & Employment*

**Cara Morlan**

Arapahoe County Human Trafficking Task Force  
*Rep. of a regional or city-wide human trafficking task force or coalition*

**Don Moseley**

Ralston House  
*Rep. of a child advocacy center*

**Jo-Ann O'Neil**

Human Trafficking Task Force of Southern Colorado  
*Rep. of a regional or city-wide human trafficking task force or coalition*

**Michelle Salazar**

San Luis Valley Immigration Resource Center  
*Person appointed by the Commissioner of Agriculture*

**Tammy Schneiderman**

Division of Youth Corrections  
*Rep. of the Department of Human Services*

**Justin Smith**

Larimer County Sheriff's Office  
*Rep. of a statewide association of county sheriffs*

**Dan Steele**

Denver Police Department  
*Rep. of a statewide association of police chiefs*

**Robert Werthwein**

Colorado Department of Human Services  
*Rep. of the Department of Human Services*

**Marty Zaffaroni**

Excelsior Youth Center  
*Rep. of a nonprofit organization that facilitates the treatment or housing of human trafficking victims*

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**Rebecca Owens-Bullard** (resigned May 2015)

Denver Anti-Trafficking Alliance  
*Rep. of a regional or city-wide human trafficking task force or coalition*

**Bob Coulson** (resigned May 2015)

Colorado Department of Human Services  
*Rep. of the Department of Human Services*

**Karen Moldovan** (resigned June 2015)

Colorado Coalition Against Sexual Assault  
*Rep. of a statewide coalition for victims of sexual assault*

## Task Force Members

### Data and Research Task Force

<b>Name</b>	<b>Affiliation</b>
Claude d'Estrée (Co-Chair)	University of Denver, Human Trafficking Center
Amanda Finger (Co-Chair)	Laboratory to Combat Human Trafficking
Angelika Carnes	Colorado Organization for Victim Assistance
Don Dillard	Boulder County Sheriff's Office
Kim English	CO Department of Public Safety, Division of Criminal Justice
Joe Gabbard	La Plata County Sheriff's Office
Melina Leodas-Whelan	Colorado Legal Services
Kirby Lewis	Colorado Bureau of Investigation
Amber McDonald	University of Denver
Monica Petersen	Human Trafficking Center at the University of Denver
Scott Rogers	8 <sup>th</sup> Judicial District Attorney's Office
Laura Said	U.S. Department of State - Denver Resident Office
Michelle Salazar	San Luis Valley Immigrant Resource Center
AnnJanette Alejano-Steele	Metropolitan State University of Denver
Amy Sciangula	Jefferson County Child and Youth Leadership Commission

### Legislative Task Force

<b>Name</b>	<b>Affiliation</b>
Don Moseley (Co-Chair)	Ralston House
Dan Steele (Co-Chair)	Denver Police Department
Tom Acker	Western Slope Anti-Trafficking Initiative
Chad Bingham	Jefferson County Sheriff's Office
Kathy Breidenbach	Larimer County Anti-Trafficking Community Response Team
Maureen Cain	Colorado Criminal Defense Bar
Janet Drake	Colorado Attorney General's Office
John Feyen	Larimer County Sheriff's Office
Megan Hope	Rocky Mountain Immigrant Advocacy Network
Lynn Jonson	Jefferson County Department of Human Services
Katie Kurtz	First Judicial District Attorney's Office
Paul Lundeen	State House of Representatives
Robert Lung	District Court Magistrate, 18 <sup>th</sup> Judicial District
Angela Lytle	Arapahoe County Department of Human Services
Saida Montoya	Colorado Department of Labor and Employment
Sara Nadelman	Denver Anti-Trafficking Alliance
Justin Smith	Larimer County Sheriff's Office
Lauren Timkovich	Denver Health
Stephanie Villafuerte	Rocky Mountain Children's Law Center
Robert Werthwein	Colorado Department of Human Services

## Standards and Certification Task Force

<b>Name</b>	<b>Affiliation</b>
Debi Grebenik (Co-Chair)	Maple Star Colorado
Sterling Harris (Co-Chair)	Colorado Organization of Victim Assistance
Lester Bacani	Community Member
Laurie Billington	Southern Peaks Regional Treatment Center
Jill Brogdon	Community Member
Cheryl Davis	CO Department of Public Safety, Division of Criminal Justice
Mari Dennis	Colorado Springs Police Department
Matthew Dodson	Archuleta County Department of Human Services
Vista Exline	Victim Outreach Inc.
Lawrence Hilton	Colorado State Patrol
Alane Holsteen	First Judicial District Attorney's Office
Jeannie Killebrew	Lakewood Municipal Probation
Jason Korth	Restore Innocence
Billie McIntire	Social Wellness Advocacy Network
Patricia Medige	Colorado Legal Services
Cara Morlan	18 <sup>th</sup> Judicial District Attorney's Office
Jo-Ann O'Neil	Human Trafficking Task Force of Southern Colorado
Tammy Schneiderman	Department of Youth Corrections
Martin Zaffaroni	Excelsior Youth Center

## Grant Programs Work Group

<b>Name</b>	<b>Affiliation</b>
James Meadows	Department of Youth Corrections
Caleb Stewart	Colorado Legal Services

## Executive Legislative Sub-Committee

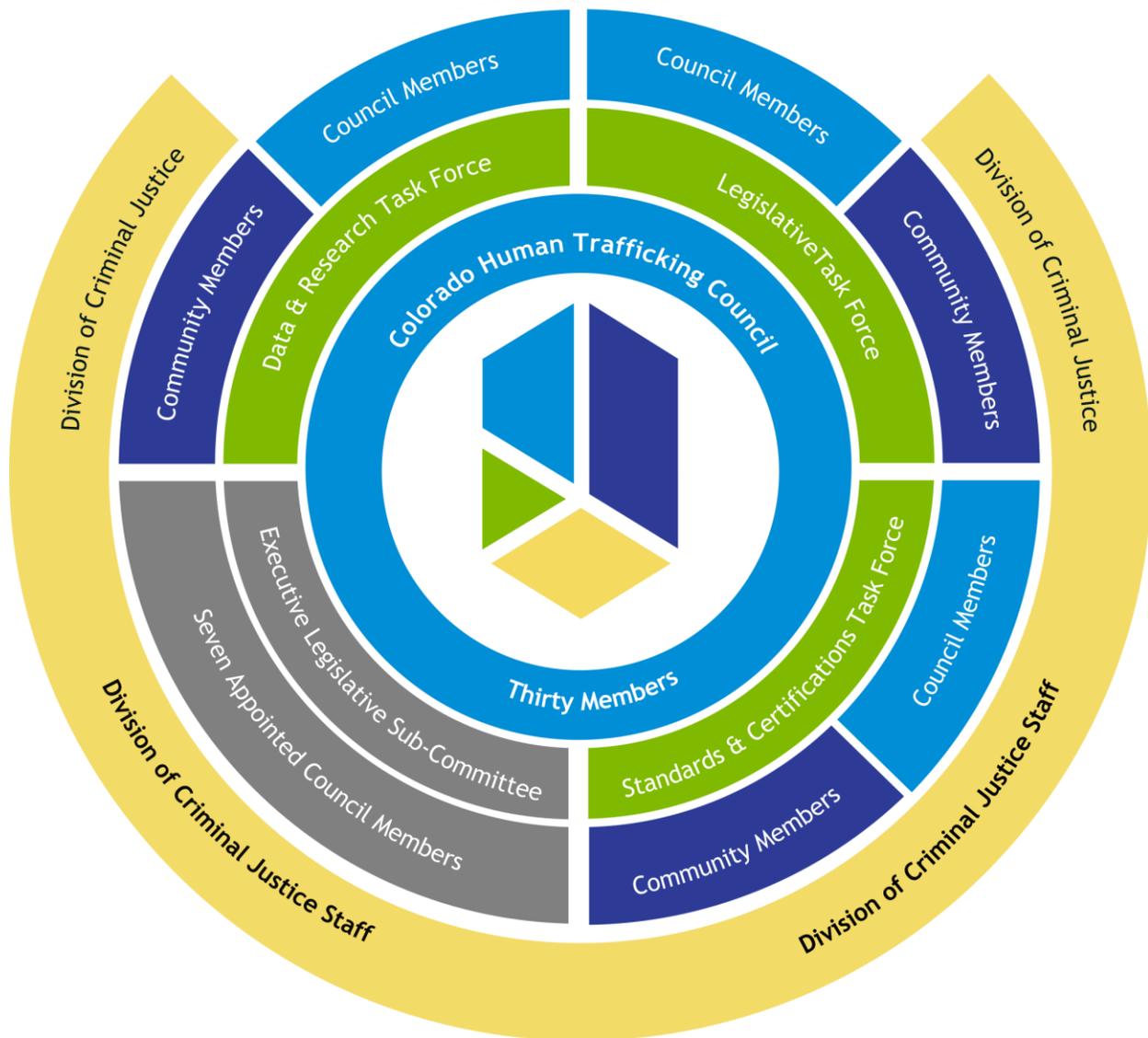
<b>Name</b>	<b>Affiliation</b>
Stephanie Villafuerte <i>Chair of the Council</i>	Rocky Mountain Children's Law Center
Janet Drake <i>Vice Chair of the Council</i>	Colorado Attorney General's Office
Don Moseley <i>Co-Chair of the Legislative Task Force</i>	Ralston House
Dan Steele <i>Co-Chair of the Legislative Task Force</i>	Denver Police Department
Maureen Cain	Colorado Criminal Defense Bar
Katie Kurtz	First Judicial District Attorney's Office
Angela Lytle	Arapahoe County Department of Human Services

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## Colorado Department of Public Safety, Division of Criminal Justice Staff

<b>Name</b>	<b>Role</b>
Jeanne Smith	Division of Criminal Justice, Director
Kelly Kissell	Office for Victims Programs, Manager
Maria Trujillo	Office for Victims Programs, Human Trafficking Program Manager
Catherine Bowman	Office for Victims Programs, Human Trafficking Program Coordinator
Terri Livermore	Office for Victims Programs, Program Coordinator
Brendan Davidson	Office for Victims Programs, Program Assistant
Nancy Feldman	Office for Victims Programs Manager (Retired)

## The CHTC Graphic Representation



This visual provides a representation of the constituent parts that make up the Council. There are thirty members on the CHTC. Of these members, seven are appointed to serve on the Executive Legislative Sub-committee (grey section). Highlighted in green are the three task forces of the Council for 2015, established to provide information and recommendations to the Council. Each Task Force is comprised of both community representatives and Council members. Last, DCJ staff highlighted in yellow provides administrative, technical, and informational support to ensure the Council operates smoothly.

## Message from the Council Chair

On behalf of the Colorado Human Trafficking Council, I am pleased to submit our inaugural report on human trafficking to the Senate and Judiciary Committees of the Colorado General Assembly.

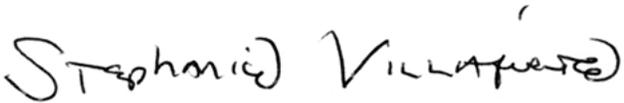
Human trafficking—in all of its forms—is a detriment to our society. It impacts the mental and physical well-being of citizens and poses a threat to the safety of the Colorado community.

With the passage of House Bill 14-1273 in April of 2014, the General Assembly created an opportunity to develop a comprehensive and consistent approach to combat human trafficking. We commend the General Assembly and Governor Hickenlooper for their leadership in creating the Council and for providing the resources to tackle this important problem.

The Colorado Human Trafficking Council—and its associated Data & Research, Legislative and Standards and Certification Task force members—are a hard working group of volunteers from all walks of life and represent vital constituency groups across the state. In our first year of work, the 30-member Council gathered on 14 different occasions and each member logged over 60 hours to tackle issues ranging from the consideration of Safe Harbor legislation to the establishment of standards for service providers who engage with human trafficking victims. This means that collectively our Council and Task Force members dedicated more than 2200 hours to mutually achieve its first-year goals. Our process has been a thoughtful one, and we hope that the recommendations put forth in the following report will serve as an important starting place in Colorado's ongoing anti-trafficking efforts.

We are honored to serve the state through our work on the Council and to share the results of our first year of activities.

Sincerely,



**Stephanie Villafuerte**  
**Chair, Colorado Human Trafficking Council**

## List of Abbreviations

BJA	Bureau of Justice Assistance (federal)
CBI	Colorado Bureau of Investigations
CDPS	Colorado Department of Public Safety
CHTC	Colorado Human Trafficking Council
CLS	Colorado Legal Services
CoNEHT	Colorado Network to End Human Trafficking
C.R.S.	Colorado Revised Statutes
CSEC	Commercial Sexual Exploitation of a Child
CTOCC	Colorado Trafficking and Organized Crime Coalition
DA	District Attorney
DCJ	Division of Criminal Justice (state)
DHHS	Department of Health and Human Services (federal)
DHS	Department of Human Services (state)
DOJ	Department of Justice (federal)
DOL	Department of Labor (federal)
DOS	Department of State (federal)
DRTF	Data and Research Task Force
ELS	Executive Legislative Sub-committee
FBI	Federal Bureau of Investigation (federal)
FN	Foreign National
HSI	Homeland Security Investigations (federal)
HTRS	Human Trafficking Reporting System (federally-funded)
ICE	U.S. Immigration and Customs Enforcement (federal)
ICON	Integrated Colorado Online Network (state)
LPR	Legal Permanent Resident (United States)
LTF	Legislative Task Force
NGO	Non-Governmental Organization
NHTRC	National Human Trafficking Resource Center (federally-funded)
NIBRS	National Incident Based Reporting System
ORR	Office of Refugee and Resettlement (federal)
OTIP	Office on Trafficking in Persons (federal)
OVC	Office for Victims of Crime (federal)
OVP	Office for Victims Programs (state)
Rep.	Representative
RMILTF	Rocky Mountain Innocence Lost Task Force
SCTF	Standards and Certification Task Force
TVPA	Trafficking Victims Protection Act (federal)
UCR	Uniform Crime Reporting (federal)
USAO	United States Attorney's Office (federal)
USC	United States Citizen
VRA	Victims' Rights Act (state)

## Executive Summary

During the 2014 legislative session, the Colorado legislature made a bold and pioneering move to establish the Colorado Human Trafficking Council - referred to from here on as the “Council” or “CHTC.” At the time of its formation, no other state legislature had established such a comprehensive, expansive and long-term approach to combat human trafficking. Additionally, Colorado is one of the only states to appropriate funds for full-time staff to support the work of the Council.<sup>1</sup> The legislature intentionally established a 30-member council that crosses multiple sectors (e.g. law enforcement, human services, community-based anti-trafficking collaborations, academia, etc.) and geographical regions (e.g. urban, rural, Front-Range, Western Slope, etc.) to ensure a dynamic, multidisciplinary and collaborative response to a very complex issue. The range of actors appointed to the Council is a unique feature of the CHTC that had not been seen before.<sup>2</sup> As stated in statute:

The Council’s purpose is to bring together leadership from community-based and system-based anti-trafficking efforts from across the state, to build and enhance collaboration among communities, counties and sectors within the state, to establish and improve comprehensive services for victims of human trafficking, to assist in the successful prosecution of human traffickers, and to help prevent human trafficking in Colorado.<sup>3</sup>

To focus the Council’s efforts to mitigate human trafficking in the state, the legislature tasked the Council to provide recommendations on a wide range of issues. In 2014, the General Assembly outlined eight mandates to the Council:

- By January 1, 2016, make recommendations to the Judiciary Committees of the House and Senate concerning whether the General Assembly should:
  - Establish standards and a process for the certification of organizations that provide services to victims of human trafficking; and
  - Establish a grant program to which organizations that provide services to victims of human trafficking may apply for grants, including consideration of how such a grant program may be funded;

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<sup>1</sup> Foot, K. (2015). *Collaborating Against Human Trafficking: Cross-Sector Challenges and Practices*. Lanham, Maryland: Rowman and Littlefield, pg. 36.

<sup>2</sup> Foot, K. (2015), pg. 36.

<sup>3</sup> The Council’s purpose is outlined in C.R.S. § 18-3-505(1)(a).

- By January 1, 2017, (and each year thereafter), submit a report to the Judiciary Committees summarizing the activities of the council during the preceding year;
- Consider and make, as it deems necessary, recommendations concerning any statutory changes that the council deems necessary to facilitate the prosecution and punishment of persons who engage in, and to protect the victims of, human trafficking;
- Develop an implementation plan for a public awareness campaign to educate the public about human trafficking and place victims services contact information in places where victims of human trafficking are likely to see it;
- Develop training standards and curricula for organizations that provide assistance to victims of human trafficking, for persons who work in or who frequent places where human trafficking victims are likely to appear, and for law enforcement agencies;
- Identify best practices for the prevention of human trafficking, particularly for the prevention of child sex trafficking;
- Collect data relating to the prevalence of, and the efforts of law enforcement to combat, human trafficking in Colorado. The Council shall annually report the data to the Judiciary Committees;
- Research and pursue funding opportunities for the council.<sup>4</sup>

Additionally, with the passage of House Bill 1019 in April of 2015, the General Assembly further directed the Council to consider the enactment of legislation concerning:

- A. The prosecution of, or granting of immunity to, a child victim of commercial sexual exploitation for offenses related to that exploitation;
- B. The creation of other legal protections, including statutory defenses for child victims of commercial sexual exploitation for offenses related to that exploitation and the creation of any necessary changes to Title 19, C.R.S., to implement those legal protections or defenses;
- C. Standards, guidelines, or mandates regarding the appropriate assessment, placement, and treatment of child victims of commercial sexual exploitation through Title 19, C.R.S., including but not limited to the use of locked placement.<sup>5</sup>

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<sup>4</sup> C.R.S. § 18-3-505(4)(a)-(h).

<sup>5</sup> C.R.S. § 18-3-505(4)(a)(III)(A)-(C).

By providing a clear set of mandates, the General Assembly struck an innovative balance between providing focus to the Council's work and empowering it to evolve and sustain its activities over time. Among the nine mandates, the Council prioritized three challenging and complex issues for 2015: the collection of data relating to the prevalence of human trafficking; standards and certification for human trafficking victim services providers; and statutory recommendations for Safe Harbor legislation. In order to tackle these substantive issue areas the Council divided into three task forces. Task force membership included Council members as well as community members who brought additional expertise. Based on the findings of the task forces, the CHTC makes a series of recommendations and findings to the Judiciary Committees of the House of Representatives and Senate, all of which are contained in this inaugural report. These recommendations represent what the Council determined were the most viable proposals for change in its first year of work responding to human trafficking statewide. These recommendations are outlined in brief here and described in further detail in sections two through four of this report.

### [Collecting Data on Human Trafficking in Colorado](#)

In its first year, the Council sought to understand which data and data collection mechanisms currently exist on human trafficking incidence rather than prevalence due to data gaps and methodological issues. The Council also wanted to determine current law enforcement efforts underway to combat the crime, and to identify the current gaps in data collection. Through this exercise the Council discovered that similar to the national landscape, Colorado does not have a standardized approach for collecting and reporting data on human trafficking. Since human trafficking constitutes a hidden crime, policy makers are hard pressed to arrive at a reliable method for counting all known cases in the state or for estimating the number of unreported cases. Colorado-based law enforcement and service providers presently rely on multiple data management systems to document cases, which tend to be uncoordinated. Moreover, existing systems do not always capture suspected human trafficking activity when criminal activity is initially recorded or formally charged as a separate crime, and in situations where law enforcement personnel are not trained or funded to conduct human trafficking investigations. Nonetheless, the Council identified very important trends in the available data worth noting, especially when it comes to law enforcement efforts to combat the crime.

- Dedicated law enforcement task forces on human trafficking have doubled their investigative activity between 2012 and 2014.
- District attorneys are more actively pursuing human traffickers as evidenced by the steady increase in human trafficking and minor sex trafficking prosecutions; moreover, in districts where investigators and/or prosecutors have prioritized the crime of sex trafficking, an increase in prosecutorial activity has followed.
- Colorado-based law enforcement and service providers report distinct human trafficking victim populations: whereas law enforcement identifies more U.S. minor victims of sex trafficking, service providers report a majority of foreign national adult labor trafficking victims.

Given these findings, the Council recommends several changes that will improve data collection activities on human trafficking. First, it recommends that all law enforcement agencies collect and report on incidents and arrests containing the human trafficking offense codes of a) “involuntary servitude” and b) “sexual servitude” as part of the National Incident Based Reporting System (NIBRS) data they submit to CBI. Second, it recommends that the District Attorney or relevant law enforcement agent shall indicate at the time of charging if an offense is alleged to include an underlying factual basis of human trafficking—regardless of the crime charged. Third, it recommends that training standards and curricula for Colorado-based law and applicable code enforcement agencies, including but not limited to the Colorado Department of Labor and Employment and the Colorado Department of Regulatory Affairs, should include the following topics: a) the indicators of sex and labor trafficking; b) how to collect and report on human trafficking incidents and arrests. These recommendations seek to improve upon existing systems as an important starting place in the Council’s long-term efforts to build a stronger and more coordinated human trafficking data collection process.

### **[Policy Recommendations for Safe Harbor Legislation](#)**

Following extensive deliberations, in which multiple viewpoints were discussed, the Council recommends that the Colorado General Assembly enact into law Safe Harbor legislation for child victims of commercial sexual exploitation. The Safe Harbor legislation should include an immunity provision for the charge of prostitution that would go into effect on January 1, 2018.

The Council further recommends the inclusion of a 24-month implementation plan (which is outlined in greater detail in this report) that will allow for improvements of the multiple systems that would play a role in working with this population. Additionally, the immunity for prostitution provision should include a sunset and post-enactment review that will take place two years after the immunity provision goes into effect.

The existing temporary custody provisions contained in Title 19 (C.R.S § 19-3-401 through 405) should be used to accomplish the short-term assessment, placement and treatment needs of victims. Placement should be based on least-restrictive placement and the Council advocates an addition to the statute of the option for hospitalization if criteria are met. Placement options should also include the use of locked detention facilities for up to 24 hours as currently delineated in Title 19. The Council encourages a mandated child welfare response in all suspected, high-risk and identified cases of juvenile sex trafficking (including commercial sexual exploitation of children) regardless of the relationship of the trafficker to the victim. Further, the Council recommends the use of a multidisciplinary response team, including but not limited to, law enforcement, child welfare, and victim advocates, as well as requiring notification between child welfare and law enforcement on all suspected or identified cases of child sex trafficking.

### **Recommendations for Standards, Certification and Grant Funding for Human Trafficking Victim Service Organizations**

During this first year, the Council conducted a desk review to ascertain the existence of documents (e.g. frameworks, policies, protocols, etc.) that outline standards, practices and/or certification processes for service providers that engage with victims of human trafficking. The desk review yielded the discovery of 52 documents from across the globe, of which only five originated from the US. The documents revealed limited information on the topic of establishing minimum standards for human trafficking service providers. In response, the Council sought to develop a thoughtful and detailed process for providing recommendations on this subject.

As a result of this process, the Council recommends that standards be developed for organizations and professionals that provide direct services to victims of human trafficking but suggests limiting standards to the following five professional sectors 1) community-based

victim advocates, 2) treatment providers, 3) housing program providers, 4) case managers and 5) social service providers. In addition, the Council recommends the development of guiding principles that would guide any professional engaging with this victim population from a law enforcement officer to a teacher. However, the Council recognizes the incredible challenge in developing standards for such a large array of professional sectors. It is also important to strike a delicate balance between setting a high enough bar that would elevate service provision in order to reduce the number of victims who receive inadequate services while not being overly prescriptive, which could lead to limiting rather than growing the number of service providers. The Council also wants to ensure that the standards developed are responsive and inclusive of those service providers that would be most affected and who are subject matter experts in their field. Therefore, the Council further recommends the formation of work groups comprised of these experts to facilitate the Council's work in the coming year to crystalize the minimum standards for each of the five professional sectors. The final recommendations for standards for each of the professionals sectors will be contained within the 2016 Annual Report.

Given the complexity involved in developing standards for service providers, it is the recommendation of the Council to explore the concept of a certification process in more detail in conjunction with the work that the Council will commit to with developing standards. The Council recognizes that there are many regulatory bodies that already exist in the State and a number of potential avenues in which a certification process could be implemented. Additionally, a cost benefit analysis should be performed before any final recommendations are put forth for consideration. Despite the challenges named, the Council does see many benefits for establishing a certification process, such as:

- Creating streamlined, reliable, and comprehensive processes for agencies to be vetted by a third party regarding their service provision, experience, and training to work with this population.
- Professionals who are looking for referrals or placement for their clients can refer to a list of certified providers, which would increase confidence that their client will receive the appropriate services they need.
- Decreasing the waste of resources when multiple professionals duplicate efforts to vet service providers.

- Minimizing the risk that trafficking victims could be re-traumatized by being placed with a provider who is untrained and/or lacks the experience to work with victims of human trafficking.
- Increasing the pool of suitable services being provided that will result in positive outcomes for trafficking victims.

Finally, the Council finds that it is equally important to establish a grant program to support the work of professionals and organizations who serve victims of human trafficking. The Council recommends grants funds to be used in three key ways: 1) funds should be made available to meet the needs of victims to recover fully from their horrific experiences; this often requires long-term and high-cost care; 2) funds should be dedicated to assist organizations and professionals to meet the minimum standards set forth by the Council. Providing funding assistance will help strike a balance between setting standards that will benefit the field while also helping to grow a pool of organizations and professionals who have the capacity and resources to serve this population; and 3) funds should be set aside for evaluation and research on the efficacy of the standards and the certification process established, as it is a new venture that very few have tried before. Evaluating the success and potential challenges will be crucial in making a better and stronger system to support victims of human trafficking in the future. However, before any grant program is established the Council recommends spending additional time exploring how such a program can be funded in a sustainable way.

The Council has covered a number of topics in its inaugural report. The recommendations build off nationally established promising practices and the work of other states. While the recommendations are ambitious, the Council seeks to leverage existing systems in order to avoid duplicative efforts and to build sustainable practices. The work of the Council is only at the beginning and there is much more work to be done. However, the recommendations contained in this report represent a significant first step towards combating and ultimately preventing human trafficking in Colorado.





# SECTION 1

## Introduction

### **The Colorado Human Trafficking Council**

The Council was established by HB 14-1273, which went into effect on July 1, 2014.<sup>6</sup> The bill was sponsored by Representatives Beth McCann and Jared Wright from the House of Representatives and Linda Newell and Gail Schwartz from the Senate. In brief, HB 14-1273 recognized that human trafficking constitutes a serious problem in the state and that a comprehensive approach to combat the crime includes prevention, protection, prosecution and partnership.<sup>7</sup> HB 14-1273 was also written, in part, to bring Colorado law into better alignment with common standards and definitions as outlined by the National Conference of Commissioners on Uniform State Laws in its 2013 publication *Uniform Act on Prevention of and Remedies for Human Trafficking*<sup>8</sup> and to better align with federal law as delineated in the Trafficking Victims Protection Act (TVPA), originally passed in 2000.

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<sup>6</sup> When HB 14-1273 was signed into law, it became embedded in Colorado Law in C.R.S. § 18-3-501 *et seq.*

<sup>7</sup> The CHTC is guided by the “4P” paradigm established by the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000) and the United States Trafficking Victims Protection Act (2000).

<sup>8</sup> National Conference of Commissioners on Uniform State Laws. (2013). *Uniform Act on Prevention of and Remedies for Human Trafficking*. Retrieved on November 12, 2015 from [http://www.uniformlaws.org/shared/docs/Prevention%20of%20and%20Remedies%20for%20Human%20Trafficking/2013AM\\_UPRHT\\_As%20approved.pdf](http://www.uniformlaws.org/shared/docs/Prevention%20of%20and%20Remedies%20for%20Human%20Trafficking/2013AM_UPRHT_As%20approved.pdf)

### **Federal Definitions from the Trafficking Victims Protection Act<sup>9</sup>**

Sex Trafficking (22 USC § 7102(9)-(10)): The recruitment, harboring, transportation, provision, obtaining, *patronizing or soliciting*<sup>10</sup> of a person for the purpose of a commercial sex act, in which a commercial sex act is induced by force, fraud, or coercion, or in which the person forced to perform such an act is under the age of 18 years.

Commercial Sex Act (22 USC § 7102(4)): Any sexual act for which anything of value is given to or received by any person.

Labor trafficking: (22 USC § 7102(8)): The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

### **An Overview of Human Trafficking**

The breadth and complexity of the human trafficking issue is immense. Victims of human trafficking constitute a unique population due to the multiple forms that the crime may take, their varying levels of risk and vulnerability, and the complex traumas endured as part of this severe form of exploitation. Human trafficking involves force, fraud and/or coercion of individuals into illegal activities such as panhandling, drug dealing, and commercial sex work. It may also occur in the context of legal workplace activities and familiar spaces, such as construction sites, restaurants, schools or private homes. To date, trafficking cases have been documented in 20 distinct industries across the United States. Moreover, human trafficking victims do not conform to a single demographic category. A victim may be male, female, or transgender. A victim can be an adult or a child, a foreign national or a U.S. born citizen. The realities of the crime confound efforts to fight it, since human trafficking involves multiple indicators and a wide range of victim profiles.

In general, human trafficking falls into two broad categories: labor trafficking and sex trafficking. Labor trafficking can occur in a wide variety of contexts and industries such as agriculture, hospitality, construction, domestic service (e.g. nannies, maids), and more. Immigration status, desire for a better life, debt bondage, isolation, lack of strong labor

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<sup>9</sup> See Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102(4), (8)-(10).

<sup>10</sup> The sex trafficking definition was updated to add the two words italicized “patronizing or soliciting” as part of the Justice for Victims of Human Trafficking Act that was signed into law on May 30, 2015.

protections, and poverty are some of the vulnerabilities that can lead to a person's exploitation by a trafficker. Labor trafficking is often categorized as a form of involuntary servitude.

### **Colorado State Statute on Labor Trafficking<sup>11</sup>**

**Involuntary Servitude:** A person who knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives or obtains by any means another person for the purpose of coercing the other person to perform labor or services.

Human trafficking for involuntary servitude of an adult is a class 3 felony.

Human trafficking of a minor for involuntary servitude is a class 2 felony.

Sex trafficking also involves force, fraud or coercion of men, women, transgender individuals and children to engage in commercial sex (e.g. forced prostitution, sex chat lines, pornography, strip dancing) against their will. According to state and federal law, any minor under the age of 18 years of age induced into commercial sex is a victim of sex trafficking. Sex trafficking occurs in a variety of venues within our community. This includes, but is not limited to, massage parlors/spas, residential brothels located in homes and apartment complexes, designated streets called "tracks" and at truck stops across the state. However, one of the most prevailing venues for sex trafficking is the Internet. There are numerous websites where the buying and selling of sexual services can be arranged. The Internet is not only a main venue for the selling of commercial sex but also a widely used avenue for recruitment.

### **Colorado State Statute on Sex Trafficking<sup>12</sup>**

**Sexual Servitude of an Adult:** A person who knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives or obtains by any means another person for the purpose of coercing the person to engage in commercial sexual activity.

Human trafficking for sexual servitude of an adult is a class 3 felony.

**Sexual Servitude of a Minor:** A person who knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, *obtains by any means, maintains or makes available a minor* for the purpose of commercial sexual activity.

Human trafficking of a minor for sexual servitude is a class 2 felony.

<sup>11</sup> C.R.S. § 18-3-503(1)-(2)

<sup>12</sup> C.R.S. § 18-3-504(1)-(2)

### Guiding Principles of the Council

The CHTC was established to address all forms of human trafficking and to seek dignity and justice for all trafficked persons in Colorado. One of the first tasks of the Council was to develop a set of Guiding Principles in order to better focus its work. These principles instruct and inform the Council's core mission and actions. The Guiding Principles of the Council are as follows:

- Survivor safety and security is paramount.
- All services provided to survivors should be holistic.
- Combating human trafficking requires a collaborative, coordinated team approach that is guided by survivor voices.
- Decisions of the Council will be based on thoughtful discussions and deliberation of promising and/or evidence-based practices, available research and expertise of council members.
- Offenders who perpetrate crimes of human trafficking should be held accountable.
- Prevention of human trafficking in Colorado is the ultimate goal.

### Council Membership

Council membership is comprised of subject-matter experts across various levels of government, law enforcement, nonprofit agencies, community-based service providers and local anti-trafficking collaborations. The Council reflects representation from urban and rural areas of the state and a balance of expertise from both governmental and non-governmental organizations. The Council is housed within the Department of Public Safety, Division of Criminal Justice, Office for Victims Programs. Membership of the Council includes:

- (I) Two representatives from the department of human services, each to be appointed by the executive director of the department of human services;
- (II) A representative of the department of law, to be appointed by the attorney general;
- (III) A representative of the state department of labor and employment, to be appointed by the executive director of the department of labor and employment;

- (IV) A representative of the division of the Colorado state patrol that addresses human smuggling and human trafficking pursuant to section 24-33.5-211, C.R.S., to be appointed by the executive director of the department of public safety;
- (V) A representative of a statewide association of police chiefs, to be appointed by the governor or his or her designee;
- (VI) A representative of a statewide association of county sheriffs, to be appointed by the governor or his or her designee;
- (VII) A representative of a statewide coalition for victims of sexual assault, to be appointed by the governor or his or her designee;
- (VIII) A representative of a statewide organization that provides services to crime victims, to be appointed by the governor or his or her designee;
- (IX) A representative of a statewide immigrant rights organization, to be appointed by the governor or his or her designee;
- (X) A representative of a statewide organization of district attorneys, to be appointed by the governor or his or her designee;
- (XI) A representative of a statewide organization of criminal defense attorneys, to be appointed by the governor or his or her designee;
- (XII) At least three but not more than five persons, each representing a regional or city-wide human trafficking task force or coalition, each to be appointed by the governor or his or her designee;
- (XIII) A representative of a nonprofit organization that facilitates the treatment or housing of human trafficking victims, to be appointed by the governor or his or her designee;
- (XIV) A representative of a college or university department that conducts research on human trafficking, to be appointed by the governor or his or her designee;
- (XV) A representative of a statewide organization that provides legal advocacy to abused, neglected, and at-risk children, to be appointed by the governor or his or her designee;
- (XVI) Two representatives of organizations that provide direct services to victims of human trafficking, to be appointed by the governor or his or her designee;
- (XVII) One representative of a faith-based organization that assists victims of human trafficking, to be appointed by the governor or his or her designee;

- (XVIII) Two persons, each of whom is a director of a county department of social services, one from an urban county and the other from a rural county, each to be appointed by the governor or his or her designee;
- (XIX) One person who provides child welfare services for a county department of social services, to be appointed by the governor or his or her designee;
- (XX) Two persons who are former victims of human trafficking, one who is a former victim of human trafficking for involuntary servitude and one who is a former victim of human trafficking for sexual servitude, each to be appointed by the governor or his or her designee;
- (XXI) A representative of a child advocacy center; and
- (XXII) One person to be appointed by the commissioner of agriculture.<sup>13</sup>

In total, the Council is comprised of 30 members. At the writing of this report, only 29 of the Council seats were filled. Each member has been appointed for a four-year term. Appointments by government agencies were made by the executive director of that agency and community-based appointments were made by Governor Hickenlooper. The Council commenced regular meetings in October 2014. In order to address the many areas prescribed to the Council by the General Assembly, it was decided by its members to convene monthly meetings on the fourth Friday of each month. During these initial meetings it was important to provide an overview of the anti-trafficking field nationally as well as the landscape in Colorado. It was also an opportunity for Council members to have a better understanding of the expertise that is represented on the Council and how their experience and knowledge would contribute to the work ahead. In January 2015, the Council held an all-day retreat to set the priority areas for the year, which are: standards and certification for service providers, recommendations for statutory changes and data collection and research. In order to best address these priority areas, the Council established three corresponding task forces.

### Task Forces

Task forces of the CHTC are fluid in nature, and reflect the needs and priorities of the Council. According to Council bylaws, task forces may be created to address specific issues and provide recommendations to the Council based on membership expertise, research, and discussions

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<sup>13</sup> Council membership is set forth in C.R.S. § 18-3-505(1)(b). To see the full list of members of the CHTC refer to the Council Members section at the beginning of the report.

that occur in these groups. Task forces are comprised of both Council members as well as community members with expertise in the area the task force would address. In order to obtain the best, most appropriate and representative task force membership, the Council established an open application process for possible task force members. Final appointments for all task force members were made by the Chair of the Council. In order to accomplish the work designated to a task force and to meet the deadlines set by the Council, task forces also elected to convene monthly meetings. Below is the list of the three task forces, the appointed co-chairs for each of the task forces and their primary scope of work.

**The Data and Research Task Force** will collect data related to the prevalence of, and the efforts of law enforcement to combat, human trafficking in Colorado. It will also identify gaps in data collection in the state and provide recommendations to the Council for improvements in data collection.

**Co-Chairs:** Amanda Finger and Claude d'Estrée.

**The Standards and Certification Task Force** will provide recommendations to Council on whether the General Assembly should establish standards and a certification process for organizations that provide services to victims of human trafficking and whether to establish a grant program to which organizations that provide services to victims of human trafficking may apply.

**Co-Chairs:** Debi Grebenik and Sterling Harris

**The Legislative Task Force** will make recommendations to the Council concerning any statutory changes that it deems necessary to facilitate the prosecution and punishment of persons who engage in, and to protect the victims of, human trafficking. In particular, the LTF was tasked to provide recommendations on whether to enact Safe Harbor legislation in Colorado.

**Co-Chairs:** Don Moseley and Dan Steele

While Colorado statute requires the CHTC to examine several other issues pertaining to trafficking in the state, the three task forces established by the Council lay the foundation upon which future work by the CHTC will take place. The complete list of task force members is

provided in the membership section of this report. The activities and recommendations from each task force are contained in this report under each corresponding section.

### **Sub-Committees**

According to the Council bylaws, sub-committees may be created by the CHTC to address a specific issue or to accomplish a specific task associated with the Council's mission. A sub-committee may produce recommendations and/or issue a report to the CHTC. Sub-committees shall meet at times and locations as determined by the sub-committee chair. In order to establish a streamlined process for responding to legislation related to human trafficking, the Council established the Executive Legislative Sub-committee (ELS). Though the Council is encouraged to take a position on trafficking legislation, the Council does not see itself as a clearinghouse for all human trafficking legislation and at no time will members promote the concept that all human trafficking-related legislation must be routed through, approved by, or examined by the Council. However, the Council will adopt positions on introduced legislation via the ELS. This sub-committee is comprised of seven Council members who have the authority to take positions on legislation generated outside of the Council on behalf of the Council. The ELS can take positions of support, opposition, or no position on legislation, as well as monitor and propose amendments to legislation. The ELS is responsible to notify the Council of all relevant legislation introduced and which legislation is under consideration for the Council to take a position. During the legislative session, the ELS will meet weekly, or as needed, depending on the introduction of relevant legislation. The ELS must have a two-thirds majority vote in order to adopt a position on a bill. Members of the ELS are the Council Chair, Vice Chair, Legislative Task Force Co-Chairs, and three other Council members appointed by the Council Chair. The ELS is the only body, aside from the Council itself, with the authority to adopt Council positions on legislation generated outside of the Council.

### **Trafficking in Colorado**

The CHTC is part of a national trend of state governments that recognize the severity of human trafficking in their communities and the need to combat this issue in a more comprehensive manner. Today, Colorado is in a favorable position as it has a long history of agencies, task

forces and collaborations that have worked extensively on the issue of human trafficking.<sup>14</sup> This work dates back to 2002, when Colorado Legal Services was first awarded federal funding to represent victims of trafficking. In 2005, the first federally funded task force was formed that later evolved into the Colorado Network to End Human Trafficking (CoNEHT). In 2008, both Colorado Legal Services as well as the Colorado Office for Victim Assistance received federal funds to identify victims and provide services to Colorado’s human trafficking victim population. In 2010, the Laboratory to Combat Human Trafficking launched a three-year study called the “Colorado Project to Comprehensively Combat Human Trafficking.” In 2012, another milestone occurred for the statewide anti-trafficking effort: the Denver Police Department received funding to establish the Rocky Mountain Innocence Lost Task Force (RMILTF). Additionally, there has been a dramatic expansion of the anti-trafficking landscape in Colorado in the last three years, including the establishment of the statewide Human Trafficking Council. Over the last several years, a number of community collaborations have formed to tackle this issue at the local level. These agencies, task forces and collaborations have done an admirable job addressing the issue of human trafficking across the state over the last 10+ years. It is the hope of the Council to build upon the work that these groups have begun and to bring these efforts together to address human trafficking in a more comprehensive and cohesive manner.

In addition to the work of local and regional groups to address human trafficking issues, the state of Colorado made significant strides in improving its legislative response to human trafficking. Colorado passed a series of laws outlined in Table 1 to remedy identified gaps in policy.

<b>Table 1. Recent legislation in Colorado concerning Human Trafficking.</b>	
<b>Bill Number</b>	<b>Title</b>
House Bill 12-1053	Concerning the Victims’ Rights Act <sup>15</sup>
House Bill 14-1273	Concerning human trafficking
House Bill 15-1019	Prostitution by a minor and minor victims of human trafficking
Senate Bill 15-30	Removing culpability for prostitution for a victim of human trafficking

<sup>14</sup> For a more comprehensive timeline of the Colorado anti-trafficking field, see Appendix 1

<sup>15</sup> HB 12-1053 added human trafficking of an adult and minor to the crimes covered by the Victim Rights Act.

Furthermore, the Council has had substantive conversations with other states that have pioneered trafficking legislation. With this information, Colorado is in a position to create and implement more elegant and constructive policy by taking lessons learned from other states and applying them to Colorado's unique context.

The remainder of this report endeavors to outline the Council's specific recommendations to better address human trafficking in Colorado pursuant to the mandates that were prioritized by the Council this year and laid out in Colorado statute.



## SECTION 2

### Collecting Data on Human Trafficking in Colorado

#### Summary of Recommendations

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Based on findings from the law enforcement survey that was carried out by the Council in August of 2015, and considering its initial assessment of the current data collection practices in Colorado, the Council recommends that:

1. All law enforcement agencies collect and report on incidents and arrests containing the human trafficking offense codes of a) “involuntary servitude” and b) “sexual servitude” as part of the National Incident Based Reporting System (NIBRS) data it submits to the Colorado Bureau of Investigation pursuant to C.R.S. § 24-33.5-412(5).
2. For the purpose of data collection to measure the prevalence of human trafficking in Colorado, the District Attorney or relevant law enforcement agent shall indicate at the time of charging if an offense is alleged to include an underlying factual basis of human trafficking, regardless of the crime charged. This information shall be collected through a data system best determined by stakeholders.
3. Pursuant to the mandate outlined in C.R.S. § 18-3-505(4)(e) for the Council, it is recommended that training standards and curricula developed for Colorado-based law and applicable code enforcement agencies, including but not limited to the Colorado Department of Labor and Employment and the Colorado Department of Regulatory Affairs, include the following topics:
  - a) The indicators of sex and labor trafficking; and
  - b) How to collect and report on human trafficking incidents and arrests.

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#### Introduction

The Data and Research Task Force (DRTF) was established by the Council to collect data on the prevalence of, and efforts of law enforcement to combat, human trafficking in Colorado. The

DRTF began its work by first defining key terms contained in the mandate and then determining the best approach to accurately and responsibly collect and present the requested data. In response to this mandate, the Council reports on available information relating to the incidence of human trafficking since measuring prevalence would require a method of estimating the number of reported and unreported human trafficking cases. Such a calculation is not possible given the current data gaps and methodological challenges of documenting the crime of human trafficking nationally and in the state.

### Measuring Prevalence vs. Incidence

**Prevalence:** Prevalence is a measurement of all individuals trafficked at a particular time.

**Incidence:** Incidence is a measure of the number of new individuals who are identified as human trafficking victims during a particular period of time.

Source: The U.S. Centers for Disease Control

Despite the present data collection limitations, Council members are deeply committed to the goal of accurately and comprehensively reporting on the scope and magnitude of human trafficking and current efforts to combat it statewide. Thus, in addition to presenting information currently available on the incidence of human trafficking, this section of the report describes the various methodological and conceptual challenges inherent to collecting data on human trafficking and identifies potential sources of information on the crime that are still missing. The Council offers recommendations that seek to address gaps in knowledge by building off existing data collection practices.

## National Human Trafficking Data Collection: Methodological Challenges

With the passage of the TVPA in 2000, U.S. lawmakers acknowledged that human trafficking was a serious crime, yet 15 years later the U.S. government still lacks a consistent and uniformly applied method to comprehensively define, measure, and quantify the problem. Human trafficking constitutes a hidden crime, of which the size and boundaries are unknown and for which no sampling frame exists.<sup>16</sup> Researchers and data experts continue to grapple with *who* to count within these hidden populations: persons at risk of being trafficked, current

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<sup>16</sup> Tyldum, G. and Brunovskis, A. (2005). Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking. *International Migration*, 43(1-2), 17-34.

victims, former victims, or whose victimization is still undetermined.<sup>17</sup> Likewise, data analysts do not always have a way of capturing incidents of human trafficking that may initially present as other forms of violence or exploitation. Furthermore, many cases go unreported, either due to the illegal activities often involved with human trafficking and the vulnerable status of victims. In other instances, traffickers may hamper victim reporting because they are an influential employer both in the U.S. and/or in the worker's country of origin. For example, victims of sex trafficking may be reluctant to recount their victimization to a law enforcement officer because they have engaged in prostitution, despite the fact that their illegal conduct was coerced. Or, lawfully present farm workers might stay in a trafficking situation for fear they will lose their legal status or be deported for reporting a long-standing employer of temporary foreign workers.

In addition to the covert nature of human trafficking, current federal data collection is largely uncoordinated within and between law enforcement and human trafficking service responders.<sup>18</sup> As Latecia Engram, Data Lead at the newly established federal Office on Trafficking in Persons (OTIP) within the Department of Health and Human Services acknowledged in a September 17, 2015 public address, governmental and federally funded nonprofit human trafficking service providers lack the means to coordinate, build capacity and organize data collection activities.<sup>19</sup> This limitation contributes to a lack of awareness of the crime, which, in turn leads to unreliable reporting. Engram explains: "Twenty years ago we could not see domestic violence either. What we don't see we don't count, and what we don't count, we don't change." To counter this problem, OTIP unveiled its plans to develop the first uniform data collection tool with common definitions and data fields that may be used by federal agencies and non-governmental organization (NGO) grantees that serve human trafficking victims. Yet, at the time of writing this instrument was still in development.

Another federal effort to collect data on human trafficking commenced in 2007 with the U.S. Bureau of Justice Assistance's (BJA) creation of a web-based Human Trafficking Reporting

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<sup>17</sup> See Tyldum, G. and Brunovskis, A. (2005), pg. 20.

<sup>18</sup> See Government Accountability Office. (2006). *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-Trafficking Efforts Abroad* (GAO Publication No. 06-825). Retrieved on October 6, 2015 from <http://www.gao.gov/new.items/d06825.pdf>

<sup>19</sup> Engram, L [Department of Health and Human Services IDEA Lab]. (2015). *Now You See Me: The Human Trafficking Data Collection Project* [Video File]. Retrieved on October 1, 2015 from [https://www.youtube.com/watch?v=Xrt4t9\\_wEoA](https://www.youtube.com/watch?v=Xrt4t9_wEoA)

System (HTRS). HTRS was the first tool of its kind to capture information on human trafficking investigations conducted by federal, state, and local law enforcement agencies. However, HTRS is limited in scope to capturing only the law enforcement activities of BJA-funded human trafficking task forces. Efforts of non-BJA task forces and law enforcement working groups are not reflected in HTRS. Moreover, since many BJA law enforcement task force members originated within or in conjunction with pre-existing vice units, a majority of cases represented in HTRS identify sex trafficking rather than labor trafficking given their specialization in prostitution-related crimes.<sup>20</sup> Thus, while HTRS provides a valuable source of information on cases investigated by law enforcement, the scope of its data is limited by the investigative focus area of BJA-taskforce members and by the limited number of human trafficking specific law enforcement task forces funded by BJA.

Additionally, while the Federal Bureau of Investigation (FBI) added human trafficking offenses—involuntary servitude and forced commercial sex acts—to its Uniform Crime Reporting program in 2013, only 27 states (including Colorado) added the capability to collect human trafficking data by the end of 2014.<sup>21</sup> As Engram’s observations about domestic violence and the national data collection initiatives make clear, accurate measures to evaluate the scope and magnitude of a crime typically lag behind the enactment of legislation. At the national level, the passage of comprehensive anti-trafficking laws represented a critical first step in creating awareness of the crime. But the development and synchronization of data collection systems across jurisdictions and sectors has involved continuous augmentation and remains a work in progress.

### Colorado’s Current Data Collection Practices

Like most states around the country, Colorado does not have a standardized approach to collecting and reporting data on the incidence of human trafficking.<sup>22</sup> However, various studies

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<sup>20</sup> See California Department of Justice. (2012), *The State of Human Trafficking in California*, pg. 49. Retrieved on October 1, 2015 from <http://oag.ca.gov/sites/all/files/agweb/pdfs/ht/human-trafficking-2012.pdf>.

<sup>21</sup> Federal Bureau of Investigation (Criminal Justice Information Service Division). (2014). *Crime in the United States, 2014*. Retrieved on October 11, 2015 from <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/additional-reports/human-trafficking-report/human-trafficking.pdf>

<sup>22</sup> For a discussion of data collection challenges in other states, see California Department of Justice. (2012), pg.48; Massachusetts Department of Justice. (2013). *Massachusetts Interagency Human Trafficking Policy Task Force Report*, pg. 37. Retrieved on October 1, 2015 from <http://www.mass.gov/ago/docs/ihttf/ihttf-findings.pdf> and Florida Department of Children and Families. (2011). *Statewide Human Trafficking Task Force Report*, pg. 11. Retrieved on October 1, 2015 from. <https://www.dcf.state.fl.us/programs/humantrafficking>

on human trafficking have featured Colorado in their analysis.<sup>23</sup> For example, in 2012 the “Colorado Project to Comprehensively Combat Human Trafficking”, a three-year research project involving over 40 multi-sector core partners, measured efforts to comprehensively address human trafficking by evaluating efforts centered on the “4Ps” of prevention, protection, prosecution, and partnership. This effort provided a baseline, descriptive study of existing anti-human trafficking efforts statewide. The project’s findings outlined Colorado’s strengths and gaps in the areas of the “4Ps” and the study’s authors proposed subsequent recommendations to address them (see Appendix 2, for a summary of the Colorado Project’s key findings and recommendations).<sup>24</sup>

While the work of the Colorado Project has been important to the Council, the state lacks the adequate resources to investigate potential human trafficking incidents or to collect comprehensive data on the problem. For example, the state currently has no BJA-funded anti-trafficking task forces whereby data would be collected by HTRS. Colorado does have two law enforcement working groups that specifically address the crime of human trafficking: the RMILTF and the Colorado Trafficking and Organized Crime Coalition (CTOCC). Of these two groups, RMILTF—representing primarily Denver metropolitan law enforcement agencies—collects and routinely reports its data to the FBI Crime Against Children Unit’s Innocence Lost Database. CTOCC, an unfunded coalition of law enforcement members, does not have a shared data collection tool to systematically capture its joint operations; thus CTOCC only reports to Sentinel, a separate FBI database, for those cases in which FBI agents were directly involved.

<sup>23</sup> For more information on human trafficking analyses that have included Colorado as a research site, see Verite. (2010). *Immigrant Workers in US Agriculture: The Role of Labor Brokers in Vulnerability to Forced Labor*. Retrieved on December 3, 2015 from [https://www.verite.org/sites/default/files/images/HELP%20WANTED\\_A%20Verite%CC%81%20Report\\_Migrant%20Workers%20in%20the%20United%20States.pdf](https://www.verite.org/sites/default/files/images/HELP%20WANTED_A%20Verite%CC%81%20Report_Migrant%20Workers%20in%20the%20United%20States.pdf); Dank et al. (2014). *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major U.S. Cities*. Retrieved on November 3, 2015 from <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413047-Estimating-the-Size-and-Structure-of-the-Underground-Commercial-Sex-Economy-in-Eight-Major-US-Cities.PDF>; Clawson, H. et al. (2008). *Prosecuting Human Trafficking Cases: Lessons Learned and Promising Practices*. Retrieved on November 2, 2015 from <https://www.ncjrs.gov/pdffiles1/nij/grants/223972.pdf>; Morris, M. et al. (2012). *Prostitution-related arrests in the City and County of Denver: Who Pays*. Retrieved on November 2, 2015 from <http://www.combathumantrafficking.org/whopays>; Owens et al. (2014). *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*. Retrieved on November 5, 2015 from <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413249-Understanding-the-Organization-Operation-and-Victimization-Process-of-Labor-Trafficking-in-the-United-States.PDF>; and Shively, M. et al. (2012). *A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts*. Retrieved on November 2, 2015 from <https://www.ncjrs.gov/pdffiles1/nij/grants/238796.pdf>

<sup>24</sup> See Colorado Project to Comprehensively Combat Human Trafficking Project Team. (2013). *Colorado Project Statewide Data Report*. Retrieved on November 2, 2015 from <http://coloradoproject.combathumantrafficking.org/resultsandfindings/statereport>

These distinct and incomplete reporting patterns—concentrated primarily along the Front Range—produce a fragmented account of human trafficking in Colorado.

While the state’s passage of House Bill 14-1273 brought its human trafficking statutes into better alignment with federal laws, and improved the tools available to law enforcement to successfully investigate and prosecute human trafficking statewide, the statutes have only been in place since July of 2014; thus little data exist on them. Similarly, Colorado added human trafficking offenses to its Uniform Crime Reporting/National Incident Based Reporting System (NIBRS) programs in 2013 as a result of changes in federal law.<sup>25</sup> Yet, even though the state actively collects and reports human trafficking incidents and arrests to the FBI, individual law enforcement agencies around the state may or may not have added the human trafficking codes to their individual record management systems. Thus, the data generated from these codes remain too new to provide a reliable measure of human trafficking-related criminal activity.<sup>26</sup>

Regardless of the challenges of presenting a complete and accurate picture of incidence of human trafficking in Colorado, data collection and evaluation efforts are nonetheless vital to identifying and serving victims of these crimes and to providing a critical tool for law enforcement to identify and prosecute traffickers. The data presented below provide multiple snapshots of human trafficking incidence based on available data from Colorado-based law enforcement and victim service provider sources.

## **Colorado Law Enforcement-based Measures of Incidence and Activities to Combat Human Trafficking**

### **Federal Law Enforcement Activities in Colorado**

The reports of investigations, recoveries, arrests, prosecutions and convictions among federal law enforcement agencies with field offices in Colorado provide relevant information about human trafficking incidence and related law enforcement response. The Council sought such data from the FBI, HSI, DOL, and the USAO. All agencies, with the exception of the DOL, provided data on its human trafficking-related investigative or prosecution efforts.

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<sup>25</sup> NIBRS is the data collection system that police, sheriff and Colorado State Patrol officers use to report crime data to the CBI, who, in turn provides statewide data to the FBI.

<sup>26</sup> In January 2013, the national UCR Program began collecting offense and arrest data regarding human trafficking as authorized by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.

### ***FBI-Sponsored Task Forces and Working Groups***

FBI task forces and work groups specializing in human trafficking investigations provide one measure of the crime's incidence in Colorado. Appendix 3 (pg. 67) features FBI human trafficking enforcement activity at the national and state levels. The RMILTF is one of several task forces across the country that is federally funded to combat the commercial sexual exploitation of U.S. born youth. It formally commenced its work in 2012. As Appendix 3 highlights, the number of RMILTF investigations has almost doubled over the last three years, from 33 in 2012 to 63 in 2014.

Whereas the focus of RMILTF is on the commercial sexual exploitation of children, including sex trafficking, CTOCC, an unfunded law enforcement working group comprised of 25 Colorado-based law enforcement agencies, specializes on human trafficking involving adult, foreign-national individuals. CTOCC reporting is partial, however, since only those cases initiated by the FBI were included; any investigations in which another CTOCC agency was the lead investigating agency were not counted. As is the case with RMILTF, Appendix 3 demonstrates that CTOCC investigations have more than doubled in the last three years from 6 to 19 investigations.

Overall, RMILTF and CTOCC data reveals a gradual upward trend over the three-year period in investigations, operations conducted, recoveries of juvenile victims and arrests made of suspected traffickers.

### ***Homeland Security Investigations***

HSI also collects data on its efforts to combat human trafficking; its reported investigations are captured in Appendix 4 (pg. 67). Due to privacy concerns, HSI declined to report the number of victims associated with each investigation. HSI likely underreports investigations that involve elements of human trafficking when an investigation is initiated—and thus recorded—as a different crime. For example, a high profile labor trafficking case involving a Colorado resident and naturalized U.S. citizen, Kizzy Kalu, was coded in its system as visa fraud since facts available when the investigation began did not initially include human trafficking.<sup>27</sup> This

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<sup>27</sup> McGhee, T. (2013, July 1). Jury Finds Kalu Guilty of Human Trafficking. *The Denver Post*. Retrieved on October 31, 2015 from [http://www.denverpost.com/ci\\_23577659/highlands-ranch-businessman-convicted-human-trafficking-case](http://www.denverpost.com/ci_23577659/highlands-ranch-businessman-convicted-human-trafficking-case)

example underscores the challenges of obtaining a full picture of law enforcement activities given the constraints of existing case management systems and case tracking practices.

### *Department of Justice*

Within the USAO, human trafficking prosecutions initiate out of three separate units: Major Crimes (typically, labor trafficking of adults), Special Prosecutions (crimes against children), and Economic Crimes. In FY2012, the USAO for the District of Colorado prosecuted one labor trafficking case and obtained a conviction in a separate sex trafficking case. It reported no prosecutions or convictions in FY 2013; while one labor trafficking defendant was found guilty in 2013 he was not sentenced until the following year. In FY2014, the USAO for the District of Colorado prosecuted one case of sex trafficking and obtained one labor trafficking conviction.

### State and Local Law Enforcement Data Collection Activities

To gain insights from state and local law enforcement agencies on the incidence of human trafficking and current efforts to combat it, the Council drew from three primary data sources: police departments, sheriff offices and Colorado State Patrol reports of human trafficking incidents and arrests; state judicial filings containing human trafficking statutes or ancillary statutes; and results from a survey it administered to Colorado-based law enforcement investigators in August of 2015.

### *Colorado's National Incident Based Reporting System (NIBRS) Data*

As was previously mentioned, the FBI added the human trafficking offense and arrest codes of sexual servitude and involuntary servitude and began collecting the associated data through UCR and NIBRS in 2013. Colorado promptly complied with the changes in federal policy by adding these codes to its statewide crime data collection and reporting activities. In 2014, Colorado-based law enforcement agencies reported 11 known incidents of sexual servitude and two known incidents of involuntary (labor) servitude to CBI. In the same year, there were two reported arrests of sexual servitude and one arrest involving involuntary servitude. As of August 2015, law enforcement reported seven known incidents of sexual servitude and three incidents of involuntary servitude; there was only one reported arrest involving sexual servitude in 2015.

The Council does not necessarily equate these initially low reports of incidence among patrol officers with an absence of human trafficking in the state. Rather, they are likely attributable to the recent addition of human trafficking offense codes and a potential lack of awareness and training among those tasked with recognizing and responding to the crime and reporting it in record management systems. Hence, the Council recommends that Colorado law enforcement agencies that have not already done so add the human trafficking codes to their respective systems to progressively enhance the quantity and quality of data on human trafficking incidence (see a discussion of this recommendation on pg. 25).

### *Judicial Filings of Human Trafficking and Related Statutes*

To complete the analysis of judicial filings potentially involving human trafficking, human trafficking statutes and statutes commonly related to the crime were extracted from the Judicial Branch's Integrated Colorado Online Network (ICON) system. Appendix 5 (pg. 68) contains filings under the new Human Trafficking statutes (C.R.S. § 18-3-503 and C.R.S. § 18-3-504), and under the original human trafficking statutes enacted in 2006 and repealed in 2014 (C.R.S. § 18-3-501 and 18-3-502). It should be noted that in 2011 a child sex trafficking conviction (using C.R.S. § 18-3-502) was challenged on the grounds that the law restricts the definition of child trafficking to the barter, lease, sale or exchange of a child, not a child's *services*. This appeal placed the statute in legal limbo as reflected in the low filings for this charge in 2012 and 2013 (see Appendix 5).<sup>28</sup>

Cases containing formal human trafficking statutes, however, only represent a fraction of the ongoing work among several Colorado judicial districts to prosecute suspected human trafficking—especially prior to the passage of the 2014 laws. Specifically, when addressing the crime of sex trafficking, prosecutors on the Council reported that before HB14-1273 was enacted they often charged suspected sex traffickers using a number of prostitution-related statutes other than human trafficking, which are outlined in Appendix 6 (pg. 69). For the purpose of the present analysis, the Council opted to limit the presentation of data to cases

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<sup>28</sup> The Colorado Court of Appeals issued its ruling in the *People of Colorado vs. Dallas Cardenas* in 2014 (COA 35 No. 11CA1954). It vacated a conviction of sex trafficking, finding that the prosecution must provide concrete proof of the elements of the crime, such as a showing that a defendant transferred physical or legal custody of a child to another person permanently or for a defined period in exchange for money or other consideration. This legal challenge to § 18-3-502 led many prosecutors to utilize other charges to indict suspected sex traffickers until Colorado's human trafficking laws were reformed in 2014.

involving prostitution-related conduct in which *minors* are the suspected victims since such conduct constitutes sex trafficking pursuant to state and federal definitions of human trafficking. In the case of adults, the Council was unable to discern from available judicial data if the incident reflected a situation of prostitution or one of sex trafficking. An analysis of statutes contained in Appendix 6 was conducted for years 2009-2015. The results of this analysis are presented in Appendix 7 (pg. 69).

The Council acknowledges that the presentation of judicial filings using ancillary child sex trafficking statutes does not allow for an analysis of the factors that push minors into prostitution and keep them there. For example, a 2014 John Jay College of Criminal Justice study found that the relationship between pimp and prostitute may be much more nuanced and that fewer young prostitutes (between the ages of 16-24) have pimps than once thought.<sup>29</sup>

Additionally, due to the current inability to distinguish labor exploitation from those situations that potentially rise to the level of labor trafficking in the state's judicial data collection system, the Council was unable to conduct an equivalent analysis of judicial filing information for labor-related crimes, such as criminal extortion or coercion of involuntary servitude.

While the analysis of judicial filing data does present certain limitations, some very important trends are nonetheless worth noting from Appendix 7. Judicial filings containing formal human trafficking statutes and prostitution-related offenses involving a minor have increased over the seven-year period. Moreover, in districts where investigators and/or prosecutors have prioritized the crime of sex trafficking—namely in the first, second, fourth, seventeenth and eighteenth districts—a notable increase in prosecutorial activity has followed. This suggests initial success as a result of the 2014 legal reform of human trafficking statutes since they are being used with greater frequency than the 2006 human trafficking statutes. They also affirm the vital importance of accompanying statutory reform with an affirmative commitment to combating human trafficking.

In future years the Council aims to supplement the presentation of judicial filings involving formal human trafficking statutes, and especially those involving ancillary charges to sex trafficking, with qualitative data obtained through interviews with prosecutors, labor

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<sup>29</sup> Marcus, H. et al. (2014). Conflict and Agency among Sex Workers and Pimps: A Closer Look at the Domestic Minor Sex Trafficking. *The Annals of the American Academy of Political and Social Science*. 653, 225-246.

advocates, and prostitution and child sex trafficking experts. In so doing, it aims to better understand the factors underlying cases involving the prostitution of minors and about the potentially misleading stereotypes and unintended consequences that may result from partial representations of human trafficking prosecution information. The Council also seeks to learn why more human trafficking cases are not charged at the federal level and what factors might contribute to the comparably fewer labor versus sex trafficking prosecutions statewide.

### *The 2015 Colorado Law Enforcement Survey*

Recognizing the limitations of current law enforcement data on human trafficking, the Council distributed a survey to law enforcement agencies in August of 2015. The survey was administered to deepen the Council's knowledge of the efforts of law enforcement and their perceptions of issues and challenges that surround the investigation of human trafficking.<sup>30</sup> The survey was distributed to 265 law enforcement agencies,<sup>31</sup> including Colorado State Patrol, 22 district attorney's offices, and three federal agencies (USAO, HSI, and the FBI), for a total of 290 agencies. The response rate by type of agency is indicated in the table below. The overall response rate was 37% (n=107), with 73% of sheriffs' departments responding, 32% of DA offices responding, and 19% of police departments responding.

<b>What type of agency/organization do you work for?</b>	<b>N responses</b>	<b>%</b>
Local police department	57	52.1
Sheriff's office	39	38.8
State Patrol	2	1.7
District Attorney Investigator	7	5.8
Federal Law Enforcement	2	1.7
<b>TOTAL</b>	<b>107</b>	<b>100.0%</b>

These data were collected and analyzed by the Division of Criminal Justice, Office of Research and Statistics. Below is a summary of the findings from the survey.<sup>32</sup> The Council acknowledges that the survey, while informative, potentially double counts cases (i.e. a member of a task force

<sup>30</sup> Some questions in the survey are included with permission from the Laboratory to Combat Human Trafficking and Northeastern University. One completed survey per agency was requested.

<sup>31</sup> These include 64 county sheriff offices and 201 members of the Colorado Association of Chiefs of Police (CACCP). Note that not all police departments are members of CACP.

<sup>32</sup> A list of survey questions is provided in Appendix 8 (pg. 70).

reports its total case investigations and a district attorney's investigator, who worked on some of the same cases, might also report the same cases). Since the sample size did not include all potential law enforcement agencies, it is also susceptible to underrepresentation of the total number of human trafficking-related law enforcement activities carried out within the reporting period.

### **Key Law Enforcement Survey Findings:**

- Approximately one-quarter (28%) of 107 respondents said they were “unsure” about the prevalence of human trafficking in their jurisdiction. Over half reported that human trafficking was “rare” or “nonexistent.”
- A total of 278 human trafficking cases investigated in 2014 were reported in this survey; 186 cases investigated during the first 8 months of 2015 were likewise reported. 72% of respondents reported investigation of no human trafficking cases in 2014; 80% reported no human trafficking investigations through August 2015.
  - 17% reported 1-2 cases in 2014
  - 6% reported 3-10 cases in 2014
  - 6% reported over 10 cases in 2014:
- Two-thirds of respondents (n=71) reported that their agency uses a task force during the course of human trafficking investigations.
- When asked about challenges to addressing human trafficking, respondents reported the following:
  - 67% reported that lack of awareness within their community was “very” or “occasionally” challenging
  - Lack of agency support was “seldom” or “never” challenging for 70% of respondents
  - Challenges related to the identification of victims of human trafficking was cited by 70% of respondents
  - Lack of agency resources was reported by 72% of respondents
- 44% of respondents said no member of their department had received training on how to identify and respond to human trafficking cases
  - 55 respondents reported that 1,962 personnel have been trained on identifying and responding to human trafficking cases. The Denver Police Department reported training 1,500 officers, mostly with bulletins or roll call briefings.
- Three-quarters of the respondents reported that they did not have a protocol for identifying victims of human trafficking; 71% reported that they did not have a specific protocol for working with victims.

- 38% of respondents reported having an existing relationship with victim service providers who can meet the immediate need of victims.

Several important findings were obtained from the law enforcement survey. First, those who responded to the law enforcement survey reported that broader community awareness and training of law enforcement personnel is fundamental to properly identifying and responding to human trafficking cases. Second, establishing or enhancing internal agency protocols for responding to potential human trafficking cases represents a pressing need for many law enforcement agencies in Colorado. Finally, while a lack of resources to work human trafficking cases was noted, survey respondents indicated that taskforce participation provides a valuable avenue for pursuing human trafficking investigations.

## **The Role of Victim Service Providers in Identifying and Responding to Human Trafficking**

While law enforcement data outlined above represents a vital source of information on the incidence of human trafficking, community based providers—including federally funded human trafficking service providers—also possess valuable information on human trafficking incidence. Owing to the potential vulnerabilities to human trafficking previously mentioned—ranging from homelessness to immigration status and interfamilial violence—an individual’s circumstances may prevent victim detection by law enforcement. Persons vulnerable to or experiencing human trafficking may live in unstable conditions and/or work in the shadows of the formal economy, and thus be hard to find, or actively avoid interaction with governmental human service agencies and law enforcement. Others have been failed by the system or have mistrust of law enforcement. Given this reality, the work of Colorado-based service providers to proactively outreach and engage with vulnerable populations, to screen for human trafficking, and to address the complex needs of victims, provides an additional and rich source of data on the incidence and impact of human trafficking in Colorado communities.

### ***Department of Justice, Office for Victims of Crime Victim Assistance Program Reporting***

Currently, there are two service organizations funded through the DOJ Office of Victims of Crime (OVC) to provide case management and legal services to victims of labor and sex trafficking, including adults and minors and U.S. citizen/legal permanent resident and foreign national individuals. Appendix 9 (pg. 75) provides a demographic breakdown of Colorado’s

OVC victim population. The OVC representation of *who* is victimized by human trafficking differs significantly from that provided by available law enforcement data: Reports of Colorado-based law enforcement agencies indicate a majority of human trafficking involving U.S. citizens and elements of sex trafficking while reports among OVC providers demonstrate a majority of labor trafficking cases (87%) involving foreign national individuals (85%). These differing victim profiles suggest that Colorado-based victim service providers are identifying and responding to a set of victims that differs from those that law enforcement agencies are identifying through the course of their efforts.

### ***Department of Health and Human Services Per-Capita Funding Program for Foreign National Victims of Human Trafficking***

The Department of Health and Human Services funds two Colorado-based service organizations to provide case management services to federally ‘pre- and post-certified’ foreign national individuals on a per-capita funding basis. Those with pre-certified status have been deemed potential victims while those with certification meet specific federal government criteria as victims of a severe form of trafficking. Appendix 10 (pg. 75) captures total numbers of human trafficking victims who received services between fiscal years 2012-2014. A more detailed description of the DHHS victim population was not available at the time of writing. During FY2010-2015, T-visas<sup>33</sup> were issued to approximately 50 victims located in Colorado.<sup>34</sup>

### ***Human Trafficking Hotline Call Information***

In addition to direct service provision, NGO-administered human trafficking hotline call data provides a complementary source of information on the potential incidence of human trafficking. At the national level, the Polaris Project receives federal funding to operate the National Human Trafficking Resource Center (NHTRC) Hotline. The Polaris Project has been managing the operation of the NHTRC since December of 2007. At the state level, the Colorado Network to End Human Trafficking—a coalition representing human trafficking service providers in the Denver metropolitan area and across the state—established the first Colorado-based human trafficking hotline in 2008. The CoNEHT hotline is currently administered by the

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<sup>33</sup> T-visas are a non-immigrant status specifically for individuals who are or have been victims of human trafficking, allowing victims to temporarily remain in the United States to assist in an investigation or prosecution of human trafficking. The T-visa was created by the TVPA in 2000.

<sup>34</sup> The source of T-visa data is the Department of Homeland Security’s Office of Policy and Strategy.

Laboratory to Combat Human Trafficking. A detailed report of NHTRC and CoNEHT hotline call data is featured in Appendix 11 (pg. 76). NHTRC and CoNEHT hotline data reveal a steady increase in the number of Colorado-related hotline calls since 2012.

Without the efforts of human trafficking advocacy and victim service providers, many victims would go unidentified, or might otherwise abandon the criminal justice process without their immediate and ongoing needs being met. Victim service providers represent a critical partner in the fight against human trafficking. In the Council's ongoing efforts to better track the contributions of victim service providers and to capture critical information about the populations they serve, the Council has developed a victim service survey which it plans to carry out with relevant organizations in 2016.

## Data and Research Recommendations

Based on the variety of information the Council has collected and presented, it proposes the following recommendations:

### Enhancement of NIBRS Data Collection Practices in Colorado

**Recommendation #1:** All law enforcement agencies should collect and report on incidents and arrests containing the human trafficking offense codes of a) "involuntary servitude" and b) "sexual servitude" as part of the National Incident Based Reporting System (NIBRS) data they submit to the Colorado Bureau of Investigation pursuant to C.R.S. § 24-33.5-412(5).

The Council recognizes the need for more robust law enforcement data collection in the state. The Council anticipates that this will likely involve a series of measures to enhance data collection instruments and practices, and to develop a central repository for data across federal, state, regional and local law enforcement agencies.<sup>35</sup> The Council believes that a logical and feasible starting place is to recommend that all Colorado law enforcement agencies add the FBI human trafficking offenses of "involuntary servitude" and "sexual servitude" to their record management systems, thus enabling them to report human trafficking activity and law enforcement response efforts to the CBI on a routine basis.

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<sup>35</sup> The Commonwealth of Massachusetts has made a similar recommendation in its 2013 report. The Colorado Council has consulted its data working group members about this process and will monitor their progress on this effort.

### Improvement of Judicial Data Collection Capacity

**Recommendation #2:** For the purpose of data collection to measure the prevalence of human trafficking in Colorado, the District Attorney or law enforcement agent shall indicate at the time of charging if an offense is alleged to include an underlying factual basis of human trafficking, regardless of the crime charged. This information shall be collected through a data system best determined by stakeholders.

This proposed measure potentially creates the ability to track criminal cases that might not involve formal human trafficking statutes but do have an underlying factual basis of human trafficking, whether related to sex trafficking, labor trafficking or both. Currently, Colorado's judicial data management system, ICON, lacks this flag which precludes prosecutors from reporting this information, and prevents policy makers and researchers from accurately and fully capturing human trafficking incidence and prosecutorial activity. The Council acknowledges that the District Attorney or relevant law enforcement official may not always know at the time of charging whether human trafficking activity is involved. But, the intent with this recommendation is similar to that of creating a domestic violence flag within law enforcement and judicial data record management systems. It provides an additional way to track and document cases that might not be charged as human trafficking but may contain elements of the crime. Such flags have helped to promote awareness and a better accounting of a crime when they have been added and properly used.

### Expansion of Law and Code Enforcement Data Collection Practices

**Recommendation #3:** Pursuant to the mandate outlined in C.R.S. § 18-3-505(4)(e) for the Council, it is recommended that training standards and curricula for Colorado-based law and applicable code enforcement agencies, including but not limited to the Colorado Department of Labor and Employment (CDLE) and the Department of Regulatory Affairs (DORA), include the following topics:

- a) The indicators of sex and labor trafficking; and
- b) How to collect and report on human trafficking incidents and arrests.

While recognizing that the development of training standards and curricula has already been mandated pursuant to C.R.S. § 18-3-505(4)(e), the Council reaffirms the integral relationship

between effective training on how to recognize and report on human trafficking incidents and the corresponding potential for better data on the crime statewide. Specifically, the Council calls for the development of training standards and curricula for both *law* and applicable *code* enforcement personnel, such as CDLE and DORA employees, who may inspect worksites where the crime of human trafficking has been known to occur, such as in restaurants and agricultural work settings. It also recommends that the human trafficking training curricula include reference to the FBI's 2013 addition of the offense codes of "involuntary servitude" and "sexual servitude" and that it provide guidance on how to properly collect and report data on these two offenses to improve the quality of information on human trafficking incidence in the state.



# SECTION 3

## Recommendations for Statutory Changes

### Summary of Recommendations

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**Recommendation #1:** Enact Safe Harbor legislation regarding child victims of commercial sexual exploitation that includes an immunity provision for the charge of prostitution to go into effect on January 1, 2018.

- a) Include a 24-month implementation plan for Safe Harbor that will allow for improvements of the multiple systems that will be used to serve this victim population.
- b) Include a sunset provision with a post-enactment review that will take place two years after the immunity provision has gone into effect.

**Recommendation #2:** No further action recommended at this time regarding the creation of other legal protections for child victims of commercial sexual exploitation for offenses related to that exploitation. The legislature has already created an affirmative defense against a charge of prostitution (C.R.S. § 18-7.201.3)

**Recommendation #3:** Colorado's Safe Harbor law should utilize the existing temporary custody provisions in Title 19 for the assessment, placement and treatment of suspected child victims and identified child victims of commercial sexual exploitation.

- a) Temporary Custody should be based on least restrictive care up to and including staff secure placement, and add to the statute the option of hospitalization if criteria are met.
- b) Temporary Custody should include possible placement in a locked detention facility, as it currently exists in Title 19, for a period of not more than 24 hours.
- c) Add human trafficking of minors for sexual servitude and commercial sexual exploitation of a minor to the definition of child abuse when such conduct is committed by a third party and mandate a child welfare response in all suspected, high risk and identified cases of juvenile sex trafficking.

**Recommendation #4:** The Council recommends that the Legislative Task Force address the following issues in 2016:

- a) Continue discussions regarding the prosecution of or granting immunity to child victims of trafficking for offenses, other than prostitution, related to their exploitation;
  - b) Statutory changes related to labor trafficking;
  - c) Information sharing in trafficking cases between involved entities; and
  - d) Researching the need for any statutory changes that would aid in the prosecution and punishment of persons who engage in human trafficking.
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## Introduction

The Colorado General Assembly, in HB14-1273, tasked the Colorado Human Trafficking Council to consider and make recommendations to the Judicial Committees of the House of Representatives and the Senate concerning any statutory changes deemed necessary to facilitate the prosecution and punishment of persons who engage in, and to protect the victims of, human trafficking.<sup>36</sup> To accomplish this mandate, the Council formed a Legislative Task Force (LTF) to specifically examine:

- How are current statutes in Colorado working?
- Is there a need for criminal or civil statutory changes?
- What statutes have other states implemented related to human trafficking?
- Are there statutes at the Federal level that Colorado should consider implementing at the state-level?

Following the formation of this task force, the General Assembly passed HB15-1019, which directed the Council to examine issues regarding the response to juvenile victims of commercial sexual exploitation. The Council assigned this responsibility to the Legislative Task Force. HB15-1019 framed much of the task force's work in 2015 as the task force examined whether or not the General Assembly should enact legislation concerning:

- A. The prosecution of, or granting of immunity to, a child victim of commercial sexual exploitation for offenses related to that exploitation;
- B. The creation of other legal protections, including statutory defenses for child victims of commercial sexual exploitation for offenses related to that exploitation and the creation of any necessary changes to Title 19, C.R.S., to implement those legal protections or defenses;

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<sup>36</sup> C.R.S. § 18-3-505(4)(c).

- C. Standards, guidelines, or mandates regarding the appropriate assessment, placement, and treatment of child victims of commercial sexual exploitation through Title 19, C.R.S., including but not limited to the use of locked placement.<sup>37</sup>

The LTF made the intentional decision to focus their work exclusively on the complex task of providing recommendations to the General Assembly on whether they should enact Safe Harbor legislation. As a result, the LTF did not discuss the need for statutory changes to help facilitate the prosecution and punishment of persons who engage in human trafficking.

### **Safe Harbor Research – What Is Happening in Other States?**

To address the legislative mandates, a review of existing federal, state, and model Safe Harbor laws was conducted with a specific examination of their structure, effectiveness, and applicability for Colorado.<sup>38</sup> However, comprehensive research regarding efficacies in human trafficking<sup>39</sup> response in general and Safe Harbor laws in particular is challenging because the anti-trafficking field is rapidly evolving. Consequently, a quantitative approach was used to examine and categorize existing laws, and a qualitative approach was used to interview several individuals in four specific states selected because of their similarity to Colorado or their specific approach to Safe Harbor. Finally, and importantly, the Council relied heavily on the experience of Council and task force members who have worked extensively with juvenile victims of human trafficking.

While the legislative review and qualitative interviews informed some of the LTF's work, it also demonstrated that no consistent definition of Safe Harbor exists, the laws are relatively new, vary widely from state to state, and few outcome measures exist to evaluate the efficacy of different approaches, particularly varying approaches to protective custody and immunity provisions for crimes committed by trafficking victims. Additionally, immunity statutes typically refer to immunity from charges of prostitution only.

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<sup>37</sup> C.R.S. § 18-3-505(4)(a)(III)(A)-(C).

<sup>38</sup> An analysis of Safe Harbor statutes was conducted by the First Judicial District Attorney's office, the Colorado Attorney General's Office and Division of Criminal Justice staff.

<sup>39</sup> When used in this section of the report, the term "human trafficking" refers specifically and exclusively to juvenile sexual servitude and commercial sexual exploitation of a child.

The legislative review showed that roughly 75% of U.S. states have some form of Safe Harbor legislation.<sup>40</sup> Of that number, 38% offer some level of immunity for minors charged with prostitution and related offenses. The legal review yielded four general categories of Safe Harbor legislation:

1. Decriminalization statutes grant total immunity to minors found engaging in prostitution, though the age cut-off for said immunity ranges by state.
2. Diversion statutes give courts and prosecutors the option to either charge the minor with a crime, or to charge them and then divert them into another system/process, such as juvenile diversion, a stay or an abeyance.
3. Reclassification statutes do not charge the minor engaging in prostitution with a crime, but instead classify the minor into an existing category such as a dependent or neglected minor.
4. Affirmative defense statutes allow those charged with prostitution related offenses the opportunity to offer a defense, typically of coercion.

Some states have combined these statutory approaches, while others have built programs focused on just one form. Additionally, statutes vary in their specificity, with some prescribing clear procedures for courts and agencies to follow while others simply create broad contours.

In addition to examining existing laws, DCJ staff conducted informal qualitative interviews with government employees and non-governmental services providers in four states – Illinois, Ohio, Minnesota, and Connecticut – about existing Safe Harbor laws to gain a more detailed understanding of the practical application of statutory Safe Harbor laws. The interviews were

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<sup>40</sup> This number is an approximate because Safe Harbor statutes vary widely and some extrapolation of intent was required. Research sources included online research of current state statutes and two secondary sources: Shared Hope International. (2015). *JuST Response State System Mapping Report: a Review of Current Statutes, Systems, and Service Responses to Juvenile Sex Trafficking*. Retrieved on November 12, 2015 from [http://sharedhope.org/wp-content/uploads/2015/03/JuST-Response-Mapping-Report\\_Digital.pdf](http://sharedhope.org/wp-content/uploads/2015/03/JuST-Response-Mapping-Report_Digital.pdf) and Advocating Opportunity (2015) and *Fifty State Survey: Safe Harbor Laws and Expungement, Sealing, and Vacatur Provisions with Related Statutes Pertaining to Trafficked Persons*. Retrieved on November 12, 2015 from <http://advocatingopportunity.com/wp-content/uploads/2015/03/Fifty-State-Survey-Safe-Harbor-Laws-and-Expungement-Sealing-and-Vacatur-Provisions-with-Related-Statutes-for-Trafficked-Persons.pdf>

conducted to better understand how the states developed and implemented their laws, as well as the law's strengths and weaknesses.<sup>41</sup>

Illinois statute grants immunity but has no required referral to services; state and NGO officials have grappled with how to address service provision that adequately meets the needs of sex trafficking victims. Ohio's statute does not grant immunity but holds charges in abeyance if victims agree to access services. Their officials cited the challenges of implementing a consistent and reliable diversion process across 80 counties. Minnesota's statute grants immunity, has a referral to services, uses regional coordination, and also included a three-year implementation plan to develop their Safe Harbor service provision. Officials from Minnesota stated that, while this approach successfully provided opportunities for training and the creation of response protocols, the development of specialized treatment services has proven challenging. Connecticut statute grants immunity for youth under the age of 16 and a presumption of coercion for committing the offence for youth ages 16 and 17. Connecticut's Safe Harbor statute established a regional coordination system through their child welfare agencies to provide services. This approach to Safe Harbor, which is centralized within their child welfare system, has yielded a more consistent service approach throughout the state and better tracking of victims and outcomes.

The broad lessons learned from the interviews include:

- Training of all individuals involved in response to human trafficking, including judges, is essential.
- An implementation plan is helpful.
- Where used, regional coordination has been effective.
- The lack of specialized services for this population is pervasive and a challenging issue to address.

The legislative review was compiled into a state-by-state analysis (Table 2) that catalogued which states have some form of Safe Harbor law, whether their law provided immunity from prostitution offenses, and what form of "Safe Harbor" is provided. The table also flags states that have similar administrative structures for child welfare to Colorado and which do not.

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<sup>41</sup> Four states were interviewed: Illinois, Connecticut, Minnesota, and Ohio. These states were picked as they represented a range of responses to Safe Harbor policy and/or for their similarity to the decentralized human services system that exist in Colorado.

State-by-State Statutes			Form of Safe Harbor Provided				Child Welfare Administration Type***	
State	Safe Harbor Provision*	Possible Immunity	Diversion	Decriminalization for minors engaging in prostitution (age cut-off varies by state)	Possible re-classification of minors engaging in prostitution	Affirmative defense for those charged with prostitution	State Administered	County Administered States/hybrid State-county administered
AL	✓					✓	✓	
AK							✓	
AZ	✓					✓	✓	
AR	✓					✓	✓	
CA								✓
CT	✓					✓	✓	
DE	✓		✓		✓		✓	
FL	✓				✓		✓	
GA	✓					✓	✓	
HI							✓	
ID							✓	
IL	✓	✓		✓	✓		✓	
IN							✓	
IA	✓				✓		✓	
KS	✓				✓	✓	✓	
KY	✓	✓		✓	✓		✓	
LA	✓	✓		✓	✓		✓	
MA	✓				✓		✓	
MD	✓		✓			✓		✓
ME	✓						✓	
MI	✓	✓		✓			✓	
MN	✓	✓		✓				✓
MS	✓					✓	✓	
MO							✓	
MT	✓	✓		✓		✓	✓	
NE	✓	✓		✓	✓		✓	
NV	✓				✓			✓
NH	✓	✓		✓			✓	
NJ	✓		✓				✓	
NM							✓	

State-by-State Statutes			Form of Safe Harbor Provided				Child Welfare Administration Type***	
State	Safe Harbor Provision*	Possible Immunity	Diversion	Decriminalization for minors engaging in prostitution (age cut-off varies by state)	Possible re-classification of minors engaging in prostitution	Affirmative defense for those charged with prostitution	State Administered	County Administered States/hybrid State-county administered
NY	✓		✓					✓
NC	✓	✓		✓	✓			✓
ND	✓	✓		✓				✓
OH	✓		✓					✓
OK	✓				✓	✓	✓	
OR	✓					✓	✓	
PA								✓
RI							✓	
SC	✓	✓		✓		✓	✓	
SD							✓	
TN	✓	✓		✓			✓	
TX**	✓	✓	✓	✓		✓	✓	
UT	✓				✓		✓	
VT	✓	✓		✓		✓	✓	
VA								✓
WA	✓		✓				✓	
WV							✓	
WI								✓
WY	✓	✓		✓			✓	
<b>Total</b>	<b>37</b>	<b>14</b>	<b>6</b>	<b>14</b>	<b>13</b>	<b>14</b>	<b>38</b>	<b>11</b>

\*A Safe Harbor provision broadly refers to the existence of statute(s) that potentially protect a minor (and in some states, an adult or a minor) from criminal liability when sex trafficking is suspected.

\*\*In the case of Texas, its immunity provision was created by judicial opinion. *In re B.W.*, 313 S.W.3d 818 (Tex. 2010) the Texas Supreme Court had to reconcile conflicting provisions of Texas family and criminal laws as they related to a 13 year old convicted on a Class B misdemeanor charge of prostitution. The Court ruled that the state’s anti-trafficking legislation (2003) demonstrated the legislature’s intent to recognize that prostituted minors are victims not criminals, but its decision is limited to minors under 14.

\*\*\*Child Welfare Information Gateway. (2012). State vs. County Administration of Child Welfare Services.

Washington, DC: U.S. Department of Health and Human Services, Children’s Bureau. Retrieved on December 4, 2015 from <https://www.childwelfare.gov/pubPDFs/services.pdf>

## Safe Harbor Recommendations

The Council began working on these issues by developing an agreed upon set of core concepts:

- A victim-centered approach should guide discussions.
- Trafficked individuals (including commercially sexually exploited children) should be identified as victims.
- The state should intervene to stop and/or prevent exploitation.
- To the extent possible, state, local, and non-governmental entities should collaborate to develop programs and provide appropriate victim services to human trafficking victims through the use of existing resources.
- A multidisciplinary approach that encompasses a variety of stakeholders is necessary to address the needs of this victim population.
- An implementation plan of task force recommendations will require adequate funding for service provision and training of relevant stakeholders.

Following the adoption of the core concepts and prior to addressing the specific mandates contained in HB15-1019, the Council discussed whether the Safe Harbor recommendations should include juvenile labor trafficking victims in addition to commercially sexually exploited children (CSEC). Following the discussion, and due to the acknowledged complexities of developing Safe Harbor for CSEC victims, the Council voted to limit the recommendations, at this time, to CSEC. The Council also committed to expanding their examination of Colorado's laws and Safe Harbor, in 2016, to include labor trafficking victims.

### The Question of Immunity

**Recommendation #1:** Enact Safe Harbor legislation regarding child victims of commercial sexual exploitation that includes an immunity provision for the charge of prostitution to go into effect on January 1, 2018.

- a) Include a 24-month implementation plan for Safe Harbor that will allow for improvements of the multiple systems that will be used to serve this victim population.
- b) Include a sunset provision with a post-enactment review that will take place two years after the immunity provision has gone into effect.

Broad agreement existed within the Council regarding the need for Colorado to develop a Safe Harbor response for child victims of commercial sexual exploitation. Safe Harbor, nationally

and in Colorado, intends to provide a victim-centered response for child trafficking victims, while also seeking to maximize the capacity of the criminal justice system's response to the traffickers.

The Council approached the issue of whether or not to grant immunity to trafficking victims for exploitation related offenses by dividing the offenses into three categories: 1) prostitution, 2) "victimless" crimes or crimes where the state is the named victim, and 3) all other offenses. The majority of the discussion focused on whether to grant immunity on prostitution charges.

***The arguments for granting immunity from the charge of prostitution:***

- Juvenile prostitution is an act of sexual assault; we should not charge sexual assault victims with a crime as no other child sexual assault victim faces criminalization for the abuse inflicted upon them. By charging victims with prostitution it sends a message that juvenile victims are responsible for their own exploitation.
- Trafficked individuals (including CSEC) should be treated as victims, not criminals.
- Arrest and criminal records resulting from charges and confinement in the juvenile justice system potentially have negative long-term impacts for victims with regard to obtaining future employment and housing.
- Arrest and charging victims with prostitution creates distrust of law enforcement and state agencies, thereby discouraging relationships with those who seek to help them. This can, in turn, strengthen the trauma bond between child and trafficker. It models coercion for the victims.
- Traffickers use the system to threaten their victims by telling them they will be arrested if they get caught.
- Detention incarcerates victims with, and treats them the same as, juvenile offenders. The use of detention results in deprivation of liberty, physical restraint, strip searches and other traumatizing and stigmatizing actions.
- Detention facilities may not be equipped to provide trauma-informed care, treatment, and resources to exploited youth. Detention facilities place victims with criminal offenders who possess a serious safety risk to the victim; conversely, the victim may develop relationships with criminal offenders and delve further into delinquency.
- There have only been six cases of youth charged with prostitution in two years in Colorado, therefore there may no longer be a need to have this statute available.

- Prostitution charges are used as leverage by prosecutors to gain victims' cooperation in the case against traffickers.
- Granting immunity forced other states into action and drove the creation of treatment options.
- There are potentially numerous treatment options available through the child welfare system for exploited and victimized youth. The proposed Safe Harbor provision will mandate a child welfare response to this population.
- In Colorado, charging minors with prostitution has not proven to be an effective deterrent for minors to exit the commercial sex industry following incarceration.

***The arguments against granting immunity for the charge of prostitution:***

- Without arrest, a locked placement option, and a mandate to services through the juvenile justice system some child victims will return to their trafficker, and further endanger themselves.
- Underlying criminal actions provide the authority for the state to order juveniles into treatment; without charges, service options are unavailable through the juvenile justice system.
- The juvenile justice system can be an alternative option for services. There are more options for service provision through the juvenile justice system, particularly the ability for out of state placement.
- Prosecutors use arrest and prostitution charges as leverage to gain victims' cooperation in cases against the traffickers. There will be a loss of leverage if immunity is passed.
- Providing immunity for the charge of prostitution could hinder the investigation of the traffickers.
- Decriminalizing juvenile prostitution could encourage pimps to use juveniles rather than adults in their operations.
- If juveniles are no longer able to be charged with prostitution, officers may be discouraged from contacting juveniles involved in that behavior; limiting contact will limit discovery of these crimes.
- Juveniles will recognize they cannot be prosecuted for behavior which may increase juvenile prostitution in Colorado.

- Statewide, over the last two years, only six juveniles were charged with prostitution. Five out of those six cases were dismissed upon the juvenile receiving appropriate referrals to services and treatment. Prosecutors use appropriate discretion.
- Immunity for the charge of prostitution will not grant immunity for all crimes associated with a youth’s victimization. Therefore, it will not yield greater access to victims for forensic interviewing purposes.
- If the charge of prostitution is no longer available, juveniles will more likely be charged with felony-level sex offenses. Prostitution charges may be preferable to other charges due to expungement/sealing options available on prostitution charges.
- The affirmative defense that is provided under C.R.S. § 18-7.201.3, which passed in 2015, adequately protects victims from prosecution for prostitution.

Through the discussions, Council members acknowledged two underlying issues: 1) the lack of specialized placements and service options currently available to meet the immediate treatment needs of this specific population; and 2) the lack of comprehensive research regarding the efficacy of charging or not charging child victims with prostitution.

**Vote:** Following extensive discussions, a majority of the Council (17-6, 4 abstentions) voted to include the recommendation that child sex trafficking victims be granted immunity for the charge of prostitution. Votes are highlighted in Table 3.

<b>Table 3. Council Vote on Immunity for the Charge of Prostitution</b>		
<b>For (17)</b>	<b>Against (6)</b>	<b>Abstain (4)</b>
Tom Acker	Janet Drake	Lawrence Hilton
Lester Bacani	Katie Kurtz	Patricia Medige
Jill Brogdon	Cara Morlan	Tammy Schneiderman
Maureen Cain	Sara Nadelman	Robert Werthwein
Claude d’Estrée	Jo-Ann O’Neil	
Mari Dennis	Justin Smith	
Amanda Finger		
Debi Grebenik		
Sterling Harris		
Angela Lytle		
Lynn Johnson		
Jason Korth		
Saida Montoya		
Don Moseley		
Michelle Salazar		
Dan Steele		
Marty Zaffaroni		

*Implementation Plan, Sunset and Post-Enactment Review*

The Council approved an additional recommendation to include a sunset and post-enactment review of immunity granted for prostitution charges to mitigate the issue of unintended consequences. This review would take place two years after the immunity provision becomes state statute. The Council also voted that the immunity for prostitution provision should have a delayed effective date of January 1, 2018. The Council wanted to heed the advice of experts in other states and include a 24-month implementation plan before the immunity provision would go into full effect. During the implementation phase, it is the recommendation of the Council to develop and mandate a statewide screening tool with local adaptability. Once the assessment tool is developed it is recommended that law enforcement, departments of human services, probation/diversion, juvenile assessment centers, and prosecutors be required to utilize the tool. The screening tool would be used to identify juveniles who are at risk for sex trafficking (including CSEC) as well as to identify victims of sex trafficking (including CSEC). Additionally, during this implementation phase protocols for the various sectors involved in responding to this victim population would be created. The Council notes the vital role training plays in the success of Safe Harbor implementation. Therefore, the Council strongly recommends training standards and curricula to be developed and delivered to all professionals who would engage with this victim population, especially those individuals who participate on a response team. The training curricula development and execution would also occur during the 24-month implementation phase.

The Council expressed concern that victims of trafficking should not be incarcerated or penalized for any acts committed as a result of being trafficked, as victims may be compelled to commit a range of crimes besides prostitution by their trafficker. The Council discussed the issue of immunity from victimless crimes related to the victims' exploitation (e.g. forced drug sales, stealing, begging, larceny, immigration offenses, etc.). The Council members acknowledged that defining and enumerating "victimless crimes" would be a challenging task. As with the issue of immunity for prostitution charges, the Council was split on granting immunity for other crimes related to the victim's exploitation, regardless of how they were defined. Consequently, due to the differing opinions regarding immunity for prostitution, the Council decided to conduct further research and discussion regarding immunity for other crimes following the development of the initial Safe Harbor recommendations.

### Other Legal Protections

**Recommendation #2:** No further action is recommended at this time regarding the creation of other legal protections for child victims of commercial sexual exploitation for offenses related to that exploitation. The legislature has already created an affirmative defense against a charge of prostitution (C.R.S. § 18-7.201.3)

The passage of SB15-30 (C.R.S. § 18-7.201.3), which provides an affirmative defense against prostitution charges for human trafficking victims, addressed the initial need to explore other legal protections for child victims of commercial sexual exploitation (see full statute in Appendix 12, pg. 77). Consequently, the Council focused their discussions on creating a comprehensive Safe Harbor framework and tabled the issue of other legal protections for child victims of commercial sexual exploitation for offenses other than prostitution, which are related to their exploitation for deliberation in 2016.

### Assessment, Placement and Treatment of Child Victims

**Recommendation #3:** Colorado's Safe Harbor law should utilize the existing temporary custody provisions in Title 19 for the assessment, placement and treatment of suspected child victims and identified child victims of commercial sexual exploitation.

- a) Temporary Custody should be based on least restrictive care up to and including staff secure placement, and add to the statute the option of hospitalization if criteria are met.
- b) Temporary Custody should include possible placement in a locked detention facility, as it currently exists in Title 19, for a period of not more than 24 hours.

Add human trafficking of minors for sexual servitude and commercial sexual exploitation of a minor to the definition of child abuse when such conduct is committed by a third party and mandate a child welfare response in all suspected, high risk and identified cases of juvenile sex trafficking. The Colorado Human Trafficking Council's Standards and Certification Task Force will address the development of standards, guidelines, or mandates for appropriate assessment and treatment of suspected child sex trafficking victims (including CSEC) as part of their overarching task. The initial recommendations can be found in that section of this report (starting on pg. 47).

The focus, as it relates to the Safe Harbor components, were on the short-term needs of child trafficking victims, which are defined as the first 72 hours after initial contact with a suspected trafficking victim or a confirmed trafficking victim. The discussion included:

- Add human trafficking of a minor for sexual servitude (C.R.S. § 18-3-504) and sexual exploitation of a minor (C.R.S. § 18-6-403) when such conduct is committed by a third party as crimes defined in the Colorado's child abuse statutes.<sup>42</sup>
- Address the third party limitation of a child welfare response, including a mandate that child welfare respond in all juvenile suspected, identified as high risk, and human trafficking (including CSEC) victim cases<sup>43</sup> (interfamilial and third-party).
- Mandate immediate communication between child welfare and law enforcement following initial contact by either entity.
- Use locked detention facilities to hold juvenile trafficking victims. This would include adding the option to utilize hospitalization, if existing criteria is met, to the existing placement options for temporary custody.
- Use a response team comprised of law enforcement, child welfare, and victim advocate(s) to conduct the initial assessment.
- Use Children's Advocacy Center or like facility for forensic interviews of suspected victims.
- Use of forensic interviewers who are trained to conduct forensic interviews with victims of human trafficking.
- Develop of a regional navigator network.
- Mandate data collection, evaluation, reporting on outcomes, and on impact and efficacy of Safe Harbor.

Currently, child welfare agency response to juvenile human trafficking cases is inconsistent throughout the state. To improve consistency, the majority of the Council recommends adding human trafficking of minors for sexual servitude and the sexual exploitation of minors when such conduct is committed by a third party as crimes defined in the Colorado's child abuse

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<sup>42</sup> These crimes exist in the child abuse statute C.R.S. § 19-1-103(1)(a)(II) which references C.R.S. § 16-22-102(9) where the specific crimes of (j) human trafficking of a minor for sexual servitude and (k) sexual exploitation of children but not with a specific reference to such an act being committed by a third-party.

<sup>43</sup> All three categories are necessary to ensure an appropriate response. The term "suspected" guarantees a response to all reports of suspected trafficking from mandatory child abuse reporters and "high-risk" encompasses juveniles identified as such through the use of a screening tool.

definitions, while also mandating a child welfare response in all suspected, high-risk and identified juvenile human trafficking (including CSEC) cases, regardless of the relationship of the trafficker to the victim.

The locked detention facility discussion focused on the issues of victim safety and victim trauma. Members advocating the use of locked detention facilities noted that the use of such facilities was the one guaranteed method of ensuring that victims could not immediately return to their trafficker or other dangerous situations. Members advocating against the use of locked detention facilities noted that trafficking victims already experience a great deal of trauma and locking them up may add to their trauma. Additionally, locking up victims reinforces the message victims receive from their traffickers that law enforcement will arrest them. The final recommendation from the Council was to affirm that temporary protective custody should be based on the least restrictive setting up to and including staff secure placement with the additional option of utilizing hospitalization, if appropriate. Additionally, the majority of the Council wanted to ensure that the existing Title 19 option for using a locked placement for up to 24 hours remain available for trafficking victims.

The Council members agreed that the initial response should be multidisciplinary with early determinations that do not rely solely on one individual or agency perspective, but instead favor a group discussion and decision-making process involving law enforcement, child welfare and victim advocate(s). The Council further recommends that whenever possible a community-based victim advocate and law enforcement victim advocate be used. Community-based victim advocates, when available, are included in the initial response team to advocate for the victim and to provide a confidential contact for victims. Law enforcement victim advocates, when available, are also a critical member of the response team. Although law enforcement victim advocates do not have confidentiality, they are required to ensure compliance with the Victim Rights Act on behalf of the investigating law enforcement agency. This compliance includes providing VRA notifications and referrals (i.e. victim compensation) to the parent or legal guardian of the minor victim as per statute.<sup>44</sup> The Council also wants to ensure that other entities, such as prosecutors, defense attorneys, guardians ad litem, civil attorneys, non-governmental agencies, and others can be included in the response team as needed (at the discretion of the core team members).

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<sup>44</sup>C.R.S. § 22-4.1-302(5).

There was additional discussion on the development of a regional navigator network as part of the response team. The regional navigator would cover a specific region of Colorado and become deeply knowledgeable of the various service avenues available in that area. This extensive knowledge base would help the response team in making informed treatment, placement, and service recommendations. The regional navigators would also play a key role in the implementation phase of Safe Harbor, assisting with training delivery and protocol implementation. The Council notes that engaging multiple agencies and resources from the outset comprises a promising practice in the response to human trafficking victims. Additionally, because Children's Advocacy Centers have experience working with child victims of sexual assault, members encourage that the forensic interview occur, when possible and appropriate, at a Children's Advocacy Center or other appropriate facility by a trained forensic interviewer. It is further encouraged that, when possible, the forensic interviewer has received additional training on conducting interviews specifically with this victim population.

Council members also wanted to ensure that immediate communication occur between law enforcement and child welfare following initial contact with a suspected or identified trafficking victim. Initial contact is defined as the time at which a juvenile is identified as high-risk for human trafficking (including CSEC) or is identified as a human trafficking (including CSEC) victim by either law enforcement or child welfare through the use of the mandatory screening tool. Members acknowledged this concept already exists in law but wanted to ensure that communication would occur for high-risk cases as well as identified cases.

### **Focus Areas for 2016**

Due to the complexities involved in developing the initial Safe Harbor structure, several issues were tabled for discussion in 2016. Those issues include:

1. Statutory changes related to labor trafficking;
2. Immunity for trafficking victims from crimes other than prostitution;
3. Information sharing in trafficking cases between involved entities; and
4. Researching the need for any statutory changes that would aid in the prosecution and punishment of persons who engage in human trafficking.

While the topics for discussion in 2016 are not limited solely to this list, the Council wanted to ensure these topics would be addressed in the continuing effort to develop an appropriate and effective response to all forms of human trafficking.



# SECTION 4

## Recommendations for Establishing Standards, Certification and Grant Funding



### Summary of Recommendations

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**Recommendation #1:** Establish standards for organizations and professionals who provide direct services to victims of human trafficking and who belong to one of the following five professional sectors:

- a) Community-based victim advocates
- b) Treatment providers (behavioral health)
- c) Housing program providers
  - *Includes group homes, shelters, residential treatment facilities, therapeutic foster care, and Division of Youth Corrections facilities as applicable for both adults and minors*
- d) Case managers
  - *Based both in state and county departments of human services and within the community*
- e) Social services providers
  - *Based both in state and county departments of human services and within the community*
- f) Any professional sectors that may be required to participate on a response team as enshrined in proposed Safe Harbor legislation that is not covered by the five named sectors above. Recommendation 1f would only be included, if safe harbor passes into law with the inclusion of a response team.

**Recommendation #2:** Develop guiding principles for all professionals who might engage with victims of human trafficking.

**Recommendation #3:** Explore a certification process that would only be applicable to the five professional sectors defined above. Any certification process that may be developed and/or adapted would take the following issues into consideration:

- a) Existing regulatory systems that already exist in Colorado.
- b) The need for a unique and specific process for each professional sector.
- c) Provision to address the challenges that rural communities may face in meeting standards to be certified.
- d) Clear process for service referrals.
- e) The potential funding costs associated with the establishment and oversight of any certification process.

**Recommendation #4:** Investigate possible funding sources for a grant program, and if reliable and ongoing funding sources are found, establish a grant program to a) assist service providers in meeting the needs of victims of human trafficking; b) assist agencies in meeting the standards put forth by the Council and c) use a portion of funds to research and evaluate the efficacy of the standards and any certification process developed.

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## Introduction

The crime of human trafficking is complex and the needs of human trafficking victims are unique and far-reaching. In reality, human trafficking often involves multiple, repeated victimizations. Victims may present with acute medical conditions or suffer from medical neglect. Others have experienced prolonged mental abuse at the hands of their trafficker. Often victims of this crime develop strong trauma bonds and suffer from Stockholm syndrome<sup>45</sup> due to the power and control mechanisms exerted by their exploiter. The level of complex trauma experienced by some victims is similar to that of torture survivors.<sup>46</sup> As a result, victims of this crime suffer from a multitude of negative physical and mental health outcomes such as depression, anxiety, self-hatred, dissociation, substance abuse and PTSD.<sup>47</sup> Many foreign-

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<sup>45</sup>Stockholm syndrome is a psychological phenomenon in which a hostage [victim] expresses empathy, sympathy and positive feelings towards their captor [perpetrator], sometimes to the point of defending and identifying with the perpetrator. These feelings are generally considered irrational in light of the danger or risk endured by the victim, who essentially mistakes a lack of abuse from their captures for an act of kindness. Stockholm syndrome can be seen as a form of traumatic bonding, which does not necessarily require a hostage scenario, but which describes strong emotional ties that develop between two persons where one person intermittently harasses, beats, threatens, abuses, or intimidates the other. For more information on Stockholm Syndrome, see de Fabrique, et al. (2007). Understanding Stockholm Syndrome. FBI Law Enforcement Bulletin. 26(7), 10-15. Retrieved on November 12, 2015 from <https://leb.fbi.gov/2007-pdfs/leb-july-2007> and Task Force on Trafficking of Women and Girls. (2014). *Report of the Trafficking Task Force on Trafficking of Women and Girls*. Retrieved on October 25, 2015 from <http://www.apa.org/pi/women/programs/trafficking/report.pdf>

<sup>46</sup>Hopper, E. (2004). Under-identification of Human Trafficking Victims in the United States. *Journal of Social Work Research and Evaluation*. 5(2), 125-135. Retrieved on November 12, 2015 from [http://www.traumacenter.org/products/pdf\\_files/underidentification\\_traf.pdf](http://www.traumacenter.org/products/pdf_files/underidentification_traf.pdf)

<sup>47</sup>For more information on the impact of trauma on victims of violence, see Williamson et al. (2010). Evidence-Based Mental Health Treatment for Victims of Human Trafficking, Office of the Assistant Secretary for Planning and Evaluation, US Department of Health and Human Services. Retrieved on November 12, 2015 from <https://aspe.hhs.gov/basic-report/evidence-based-mental-health-treatment-victims-human-trafficking>  
Herman, J.L. (1992). Complex PTSD: A Syndrome in Survivors of Prolonged and Repeated Trauma. *Journal of Traumatic Stress* Vol 5, 377-391.

national victims have unstable immigration statuses, often as a result of their trafficking situation, which can limit access to the necessary physical, mental and emotional care. Some victims face language barriers and lack the social supports that one turns to in times of crisis, such as family and friends. Other victims cannot rely on such supports because the trafficker is a parent, close relative or family friend.

Due to the complex nature of victimization these individuals experience, it is the responsibility of the Council to develop a response that is multifaceted and takes into consideration the many, varied and often long-term needs of trafficking victims. This victim population is unique from other crime victims and therefore requires a distinctive and individualized response. It is for these reasons and many more that the Human Trafficking Council was established and why the Council was given the task to address the potential need for standards for organizations that serve this victim population.

Through HB 14-1273, the Colorado General Assembly tasked the CHTC to make recommendations on whether to establish standards and a process for the certification of organizations that provide services to victims of human trafficking and whether to establish a grant program to which organizations that provide services to victims of human trafficking may apply.<sup>48</sup> In order to address these mandates, the Council formed the Standards and Certification Task Force (SCTF) to research the concepts of and the need for standards, certification processes and grant program(s) and to provide recommendations to the Council.

To begin the process, the SCTF conducted a joint desk review with a research team (comprised of anti-trafficking leaders from across the globe) of existing documents (frameworks, policies, protocols, etc.) that outline standards, practices and/or certification processes for service providers who engage with human trafficking victims. The desk review yielded the discovery of 52 documents originating from a variety of countries and agencies but only five that were specific to the United States. Of the U.S. documents, the federal government issued two while the other three documents were developed for or by the states of New York, Wisconsin and Ohio. A structural analysis of these documents using a basic matrix framework ascertained the level and depth of information they provide on a wide range of service and care provision

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<sup>48</sup> C.R.S. § 18-3-505(4)(a)(I)-(II).

categories, such as health care, education, legal assistance, and organizational and staff competencies. From that analysis the following themes arose:

1. A tendency towards general guidelines or best/promising practices that programs should strive towards or a focus on a specific service area such a mental health.
2. A focus on gaps in services rather than providing minimum service requirements for programs.
3. Few minimum standards were present.
4. No adherence mechanisms were outlined.
5. Documents rarely differentiated between victim populations (i.e. male/female, adult/minor, domestic/foreign national) but were more general in nature.

The desk review revealed that there has been limited work previously accomplished in this arena. Therefore, the SCTF sought to develop a thoughtful and detailed process to answer the question of whether to establish standards and/or a certification process. The desk review did, however, provide a baseline of information that the SCTF could build from in order to formalize the concepts of standards for service providers.

### **Standards for Organizations that Provide Services to Victims of Human Trafficking**

It is the recommendation of the Council that standards for organizations that provide services to victims<sup>49</sup> of human trafficking be established. However, it is the opinion of the Council that standards should apply to only a subset of professional sectors. The Council further recommends that standards **only** apply to those organizations and professionals who provide direct services to victims of human trafficking and who belong to one of the following professional sectors:

- Community-based victim advocates
- Treatment providers (behavioral health)

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<sup>49</sup> Throughout the document the term “victim of human trafficking” will be used rather than “survivor of human trafficking.” The Council recognizes sensitivities in using terminology such as “victim” or “survivor,” as they carry different connotations. The Council considers it a promising practice to be sensitive in using these and other terms. Professionals engaging with an individual experiencing exploitation should honor whichever term the individual deems most appropriate. Furthermore, the Council encourages the use of survivor language whenever possible (i.e. when providing public comment about this issue, when working directly with clients, etc.). For the purposes of this document, however the term “victim” will be used as it has a legal connotation that is important to capture in this framework.

- Housing program providers
  - *Includes group homes, shelters, residential treatment facilities, therapeutic foster care, and Division of Youth Corrections facilities as applicable for both adults and minors*
- Case managers
  - *Based both in state and county department of human services and within the community*
- Social services providers
  - *Based both in state and county department of human services and within the community*

Besides the sectors listed above, it is the recommendation of the Council that standards be developed for any professionals that may be required to participate on the response teams that would make decisions regarding the treatment and placement for suspected and identified juvenile sex trafficking victims referenced in the proposed Safe Harbor policy recommendations outlined in section three of this report. This particular recommendation would only apply if the response team concept is included in the final version of Safe Harbor legislation and if said legislation is approved by the General Assembly during the 2016 legislative session.

In addition, the Council recommends guiding principles be established for all professionals who might engage with a victim of human trafficking. This recommendation is made in recognition that human trafficking is a new field where promising practices are only just emerging. As the field is still in its infancy, many professionals in the community lack the experience of working with this victim population. Therefore, there is a great need for training and guiding principles for all sectors to assure victims receive the best possible care. To guide this process, the Council found it important to develop a working definition for both “standards” and “guiding principles” to ensure clarity of the intent behind each term. The definitions of these terms are listed below.

**Definitions:**<sup>50</sup>

**Standard:** A mandatory, minimum action or rule designed to achieve the best outcomes for survivors of human trafficking. Actions will be measurable and trackable.

**Guiding Principle:** A general philosophy and/or recommendation designed to achieve the best outcomes for survivors of human trafficking. A guiding principle is not mandatory; rather practices to strive towards.

The anti-human trafficking efforts in Colorado are growing rapidly as many agencies are interested in working with this victim population. Although there is a great need for additional direct service providers, there is an equal need to ensure human trafficking victims receive the best and most appropriate services to meet their needs and that their experience with service providers does not result in further traumatization. Standards and guiding principles can play a key role in helping professionals provide services to this victim population that will result in positive outcomes. The establishment of standards and guiding principles will also develop a common language among professionals who work with victims of human trafficking. The utility of a common vocabulary will help create a continuity of care and consistency across systems and service providers that does not currently exist. It is widely understood that no one organization can meet for all the needs a single victim might require. As such, victims of human trafficking must engage with a variety of systems and providers. At present, this often results in widely varied experiences and outcomes for the victim, ranging from positive to very negative. As standards and guiding principles help establish a common language across and within agencies; the result should be better outcomes for victims. Victims should receive consistent treatment that is based on a shared understanding of victim assistance and the needs of this population. The Council recognizes that any standards developed should not be stagnant. Standards will have to evolve over time, based on a growing body of literature and the emerging of promising practices. It is the intention of the Council to create an extensive network of service providers that are equipped with knowledge and experience to assist human trafficking victims in the best ways possible.

To achieve this goal, the Council requests additional time to fully develop the standards that would apply to each specific professional sector mentioned above. The Council is currently

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<sup>50</sup> The term “survivor” is used in this section in recognition that survivor language is a term that the Council encourages to use and these definitions will be included in the final document on Standards for Service Providers.

considering a number of categories for standards, which may include but are not limited to the areas of:

- Standards for assessment
- Training standards
- Emergency response standards
- Standards for survivor peer support
- Standards for trauma informed care
- Ethical standards
- Program monitoring and evaluation standards
- Shelter and short term housing standards for adults and minors
- Long-term residential housing program standards
- Case management and victim advocacy standards
- Standards for working with the media

The Council wants to ensure that the standards developed are responsive to and inclusive of those service providers that would be most affected and are subject matter experts in the victim services field. It is the recommendation of the Council to establish working groups comprised of these experts along with the current Standards and Certification Task Force to tackle the issue of developing the most appropriate standards for each of the five sectors. These working groups will spend the next year researching what is already in place in the sector, the specific standards that should be established, and the most appropriate avenue to ensure adherence to the standards. The Council has given the SCTF the goal to provide a full list of recommendations for standards and guiding principles to be included within the 2016 Human Trafficking Council Report.

### **Exploring the Establishment of a Certification Process**

Victims can and are being identified by a wide-range of front-line professionals, including but not limited, to: law enforcement, educators, health care providers, child welfare, social service providers, victim advocates, and district attorney offices, etc. Identifying a victim of trafficking is only the first step. The next step (and often more challenging) is to refer that victim to appropriate service provider(s) who can meet the many needs of that victim. Currently, there is no streamlined process for professionals to discern the quality of service by providers for this victim population. In practice, several of the larger jurisdictions in Colorado that have had more time, resources, and gained more experience in this field, have developed processes to vet individual providers. This knowledge developed over time without shared guidelines. Service

providers were used with merely the *hope* that their services and expertise would result in positive outcomes for the victim. The Council recognizes that other jurisdictions lack the time and resources to vet individual providers and evaluate their ability to provide the levels of service a victim of trafficking requires. The Council further recognizes that gaps exist in the current way victims are connected or placed with service providers. There is no mechanism to share knowledge across systems about experiences (positive and negative) with services providers, which results in inefficiencies and ineffectiveness of resources.

Therefore, it is the recommendation of the Council that a process for the certification of organizations that provide services to victims of human trafficking be explored by conducting further research into how such a process should be implemented (see items to be considered in the box below). If established, it is recommended that the certification process would only be applicable to the five professional sectors defined earlier in this report, for which standards will be developed. Reasons for establishing a certification process include:

- The creation of a streamlined, reliable, and comprehensive process for agencies to be vetted by a third party regarding their service provision, experience, and training to work with this population.
- Professionals who are looking for referrals or placement for their clients can refer to a list of certified providers, which would increase confidence that their client will receive the appropriate services they need.
- The establishment of a certification process will eliminate any duplication of vetting efforts by multiple professionals, as it will be conducted by a specific agency, making the entire referral system more efficient and effective.
- A certification process would attempt to minimize the risk that trafficking victims could be re-traumatized by being placed with a provider who is untrained and/or lacks the experience to work with victims of human trafficking.
- A certification process will help increase the pool of suitable services being provided and will result in more positive outcomes for trafficking victims.

Another key benefit to instituting a certification process is the ability to continually push out the latest promising practices that emerge from this new and evolving field. For many service providers, engaging with human trafficking victims is still relatively new. There are very little

evidence-based practices that currently exist. As the field evolves and more evidence-based practices emerge, a certification process should allow swift and easy dissemination of these practices as well as the ability to integrate new promising practices into standards across disciplines. It is the hope of the Council to create a certification program that raises the level of services victims of this crime receive while also being nimble enough to adapt and evolve with the evidence based practices that grow over time.

The Council further recommends the following items be taken into consideration in the development of a certification process:

1. Research should be conducted on the use of a multi-pronged approach for developing a certification process, which may use regulatory systems in the state of Colorado, such as but not limited to the Department of Regulatory Agencies' (DORA) auditing processes and Colorado Department of Human Services (CDHS) Volume 7 Rules and Regulations.
2. Consideration should be made for the development and adoption of varied levels of certification. A distinct certification process should be established for each of the five professional sectors.
3. Specific provisions should be written into the certification process to address the challenges that rural communities may face in meeting standards, specifically related to accessibility of services. Consideration should be made for accessibility plans that use non-traditional methods of service delivery, such as the use of technology.
4. A certification process should include a clear process for service referrals that includes a strong recommendation for agencies to use certified providers for service delivery but not make it mandatory.
5. Research should be conducted on the potential funding costs associated with the establishment and oversight of a certification process.

The Council recognizes the complexities of establishing a certification process, and the fact that there are many regulatory bodies that already exist in the State. As such, identifying potential avenues for any certification process should be done thoughtfully. In addition, the Council acknowledges that the cost of a new certification process could be high. In recognition of all these factors, the Council requests that additional time to be given to the Standards and Certification Task Force to address the above items. This additional time will allow the Council

to gather further research and develop a robust plan for certification, including the development of an implementation strategy.

### **Establishing a Grant Program**

The Council has reached a consensus that establishing a grant program for organizations that provide services to victims of human trafficking would be beneficial in Colorado. The Council requests that the General Assembly give the Standards and Certification Task Force until May of 2016 to investigate possible funding sources and provide a final recommendation. It is the opinion of the Council that a grant program is necessary due to the fact that providing services to this victim population can involve very high, long-term costs. A fund would help service providers pay for startup, training, and ongoing program costs (possibly in conjunction with other funding sources). The Council further recommends that a portion of the grant program funds be used to assist agencies in meeting the standards put forth by the Council. It is the hope of the Council that using funds for this purpose will create agency support for, and implementation of, the recommended standards. In addition, it will support the creation of a large pool of certified agencies that have the capacity and resources to serve this unique victim population. Finally, the Council encourages a portion of the funds to be designated towards funding evaluation and research on the efficacy of the standards and any certification process established.

# Section 5



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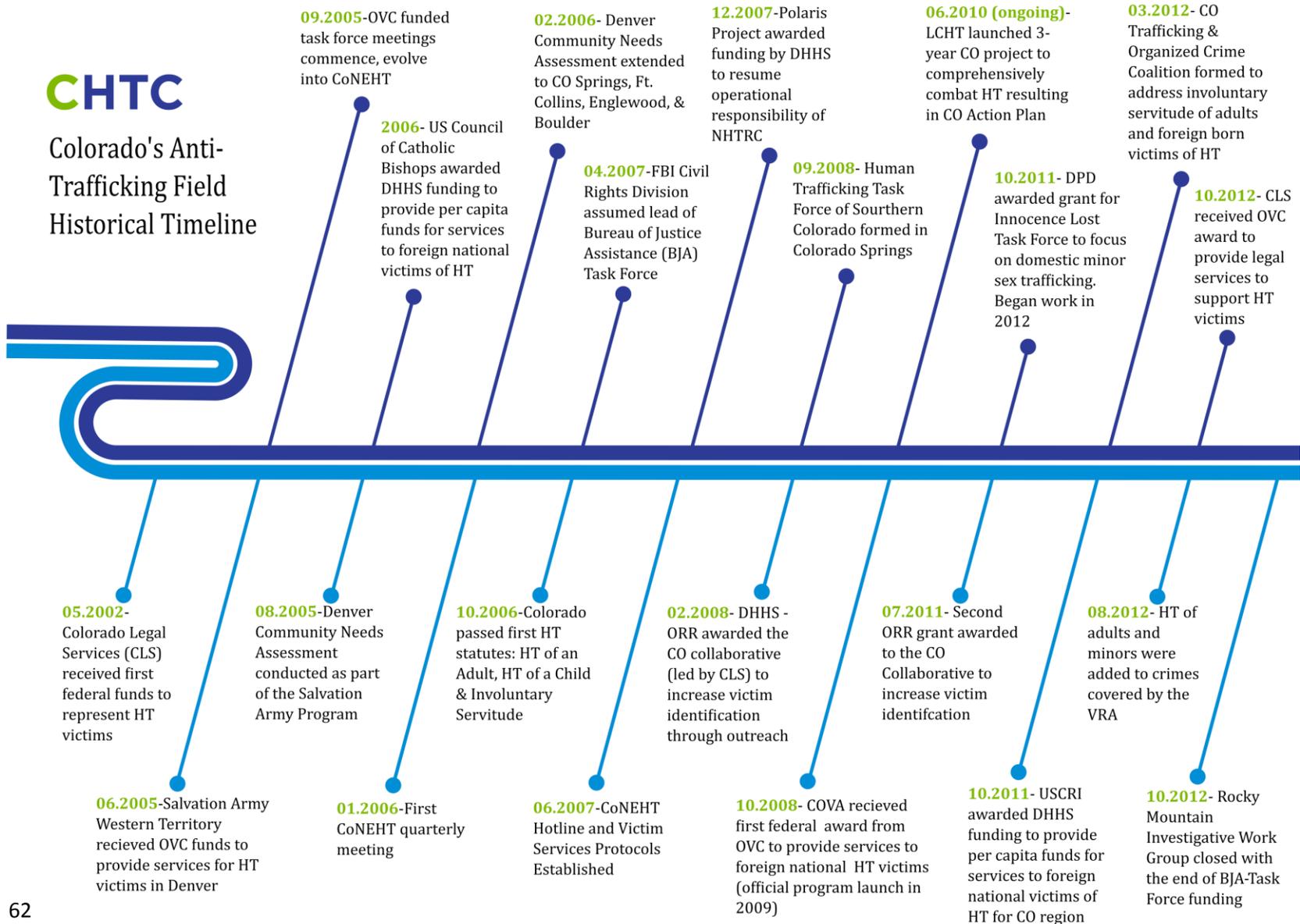
# SECTION 6

## Appendices

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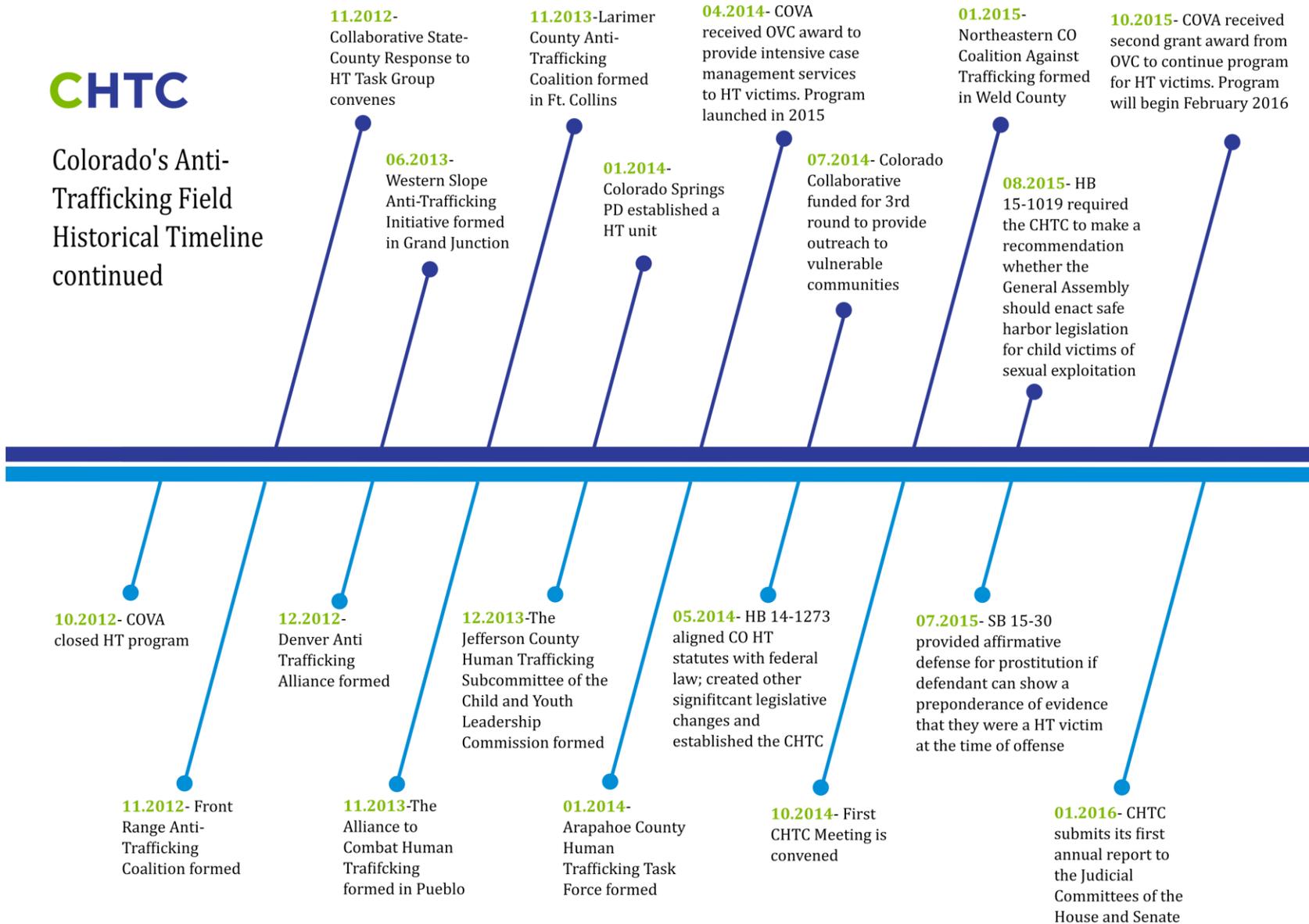
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## Appendix 1: Colorado Human Trafficking Council Timeline





Colorado's Anti-Trafficking Field Historical Timeline continued



## **Appendix 2: Summary of the Colorado Project to Comprehensively Combat Human Trafficking (2010-2013)**

For a full report, visit the Laboratory to Combat Human Trafficking's website at [coloradoproject.combathumantrafficking.org](http://coloradoproject.combathumantrafficking.org).

### **Guiding Problem Statement:**

The Colorado Project to Comprehensively Combat Human Trafficking implemented a comprehensive, interdisciplinary community-based research project to better understand the efforts essential to combating human trafficking, and within those efforts, assessed current promising practices that individuals and agencies are using to bring an end to human trafficking in the United States. The Project assessed ongoing anti-trafficking efforts in the State of Colorado under the umbrella of prevention, protection, prosecution, and partnerships (4Ps) in order to understand if and how Colorado addresses human trafficking. The Colorado Project, comprised of a core multidisciplinary team of researchers (40+ members of the Project Team, State and National Advisory Boards):

- Adopted interdisciplinary approaches that include a mix of quantitative and qualitative research tools,
- Respected the unique features of communities focusing on human trafficking,
- Documented promising anti-trafficking practices by honoring experiences of those working in the field; and,
- Created replicable tools (e.g., surveys) for other communities to adopt.

### **4P definitions that guided the project:**

#### **Prevention**

Prevention measures increase awareness, advocacy and education towards addressing a community's systemic vulnerability to a continuum of exploitation, including human trafficking. A good prevention plan recognizes that exploitation and human trafficking are symptoms of root causes like poverty, gender inequality and other forms of oppression that create vulnerable populations in the first place.

#### **Protection**

Protection measures ensure that victims of human trafficking are provided access to: (at a minimum) health care, legal aid, social services and education in ways that are not prejudicial against victims' rights, dignity, or psychological well-being. Protection also means creating an environment (social, political and legal) that fosters the protection of victims of trafficking.

#### **Prosecution**

Prosecution measures ensure the creation and implementation of laws that address the continuum of labor exploitation and the pursuit of criminal punishments for such cases, treating human trafficking as exploitation of victims rather than recruitment/transportation of workers or people in prostitution. (This includes not just criminal prosecution, but law enforcement officers and the creation of legislation).

## Partnerships

Partnership measures acknowledge that combating human trafficking requires a comprehensive response through the cooperation of multiple sectors. Partnerships bring together diverse experiences, amplify messages, and leverage resources.

## Colorado Project Prosecution Survey Items

The following prosecution efforts were measured by the Colorado Project in 2012: Human trafficking protocols and procedures; municipal trafficking and trafficking-related legislation; training and education; task forces; state trafficking and trafficking-related legislation; attempted/ successful civil and criminal prosecutions of trafficking cases; state trafficking and trafficking-related legislation; attempted/ successful civil and criminal prosecutions of trafficking cases

## Key Colorado Prosecution Survey Results, summarizing key strengths and gaps (data collected 2012)

<b>COMPONENT</b>	<b>STRENGTHS</b>	<b>GAPS</b>
	High prevalence (>50%) of activities by prosecution-relevant organizations	Low prevalence (<50%) of activities by prosecution-relevant organizations
<b>Protocols (n=15)</b>	Many agencies/ departments have tools to support investigations (e.g., surveillance, undercover operations)	Few use protocols/ procedures consistently; few departments have adequate resources (e.g., protocols and referrals). As part of the investigative process, many expressed challenges with victim cooperation
<b>Collaboration (n=17)</b>	Many agencies/ departments are committed to collaboration with other law enforcement agencies. In 2005, Colorado enacted state legislation. Since 2006, coordinated prosecution efforts have had support of U.S. Bureau of Justice Assistance grants	Low levels of community awareness of human trafficking that would aid police departments in receiving tips
<b>NGO partnerships (n=14)</b>	Many agencies/departments partner with NGO/ Victim service agencies to support cases	

## Summary Statewide Prosecution Data Results

The Statewide Survey results mirror similar national results noted by Farrell, McDevitt & Fahy (2008). Strengths that make it possible for law enforcement to investigate the crime of human trafficking include having an array of investigative tools that are used for many crimes, including surveillance, undercover protocols and partnering with other agencies for resources. Additionally, partnerships with other law enforcement departments is a strength, including non-governmental and victim service agencies that support survivors while law enforcement conduct the investigation. Conversely, prosecution gaps included inconsistent use of law

enforcement protocols and procedures, and ongoing needs for training more than five officers within any given police department.

The work of law enforcement and prosecutors needs the support of a community that can also recognize and identify human trafficking. Finally, one additional gap identified by law enforcement was the need for support in working with victims to build solid cases and prosecute on their behalf.

Moreover, data from **focus groups** revealed the need for training of prosecutors and judges. One additional note that arose from focus groups was the need for maintaining law enforcement working groups that address all forms of human trafficking; at the time of the report, the Colorado landscape of task forces was shifting dramatically due to changes in federal funding.

### **Colorado Action Plan Prosecution Recommendations (issued 2013)**

After the completion of survey and focus group data collection, the Colorado Project State Advisory Board reviewed the state data and developed recommendations to initiate the creation of a prioritized statewide action plan to address gaps in anti-trafficking initiatives. The recommendations relevant to prosecution follow:

1. Form statewide cohesive prosecutorial group focusing on all forms of human trafficking.
2. Create statewide shift in prosecutorial mindset to prioritize human trafficking with the support of public awareness initiatives and successful prosecutions throughout the state.
3. Develop system-wide protocols to increase victim-centered and evidence-based cases.
4. Consult “model” legislation and legislative efforts in other states.

### Appendix 3: FBI National and Colorado Based Investigations, FY 2012-14

FBI National and Colorado-based Investigations, FY 2012-2014								
	National			Colorado				
				Rocky Mountain ILTF (DMST only)*	CTOCC (FN adult only)*			
Year	Investigations/Case-type breakdown			Investigations Opened	Recoveries (breakdown by gender)	Investigation Opened	Joint Operations Conducted	Arrests
	Total	DMST	FN					
2012	746	440	306	33	42; all female	6	15	16
2013	734	514	220	51	57; 2M, 55F	8	19	36
2014	835	Breakdown not provided		63	88; 2M, 86FM	19	12	11

Source: National data was obtained from the U.S. Department of State, *Trafficking in Persons Report* (2013, 2014 and 2015). Colorado data was obtained from FBI field office representatives of the ILTF and CTOCC respectively.

\*DMST refers to domestic minor sex trafficking and FN refers to foreign nationals

### Appendix 4: ICE/HSI National and Colorado Based Investigations, FY 2012-14

ICE/HSI National and Colorado Based Investigations FY 2012-14		
	National Data	Colorado Data
Year	Investigations involving potential human trafficking	Colorado-based HSI investigations officially recorded as human trafficking-related.
2012	894	2
2013	1025	7
2014	987	5

Source: National data was obtained from the U.S. Department of State, *Trafficking in Persons Report* (2013, 2014 and 2015) and Colorado data was obtained from the local HSI field office.

## Appendix 5: Colorado Human Trafficking Statutes Case Filings

Number of cases containing Colorado Human Trafficking Statutes from Calendar Year 2010 through August 2015, by Judicial District							
Statute/ District	2010	2011	2012	2013	2014	2015	Total
<b>2006 Human Trafficking Statutes* § 18-3-501, § 18-3-502</b>							
1	2	4	4	1	2		13
2	4	6	4	4	5		23
4				2	1		3
8		2					2
10					4		4
17						1	1
18		1		2	1		4
19					1		1
<b>2006 HT Statute Total</b>	<b>6</b>	<b>13</b>	<b>8</b>	<b>9</b>	<b>14</b>	<b>1</b>	<b>51</b>
<b>2014 Human Trafficking-Involuntary Servitude Statute: § 18-3-503</b>							
3					1		1
4						2	2
<b>2014 HT-Involuntary Servitude Statute Total</b>					<b>1</b>	<b>2</b>	<b>3</b>
<b>2014 Human Trafficking-Sexual Servitude Statute: § 18-3-504</b>							
1					1	1	2
2						3	3
4					5	5	10
8							
17						4	4
18						6	6
19					1	3	4
21						1	1
22							
<b>2014 HT Sexual Servitude Total</b>					<b>7</b>	<b>23</b>	<b>32</b>
<b>Total</b>	<b>6</b>	<b>13</b>	<b>8</b>	<b>9</b>	<b>22</b>	<b>26</b>	<b>82</b>

Source: Court records were extracted from Judicial Branch’s Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS) and analyzed by DCJ/ORS. Note these figures represent cases with these statutes charged, not individual defendants.

\*18-3-501: Trafficking in Adults; 18-3-502: Trafficking in Children.

## Appendix 6: Colorado Statutes Commonly Related to Child Sex Trafficking

Colorado Statutes Commonly Related to Child Sex Trafficking*		
Statute description	Class	C.R.S.
Patronizing a Child Prostitute	F3	18-7-406
Soliciting Child Prostitution	F3	18-7-402(1)
Pandering of a Child- Menacing	F2	18-7-403(1)(a)
Pandering of a Child- Arranging	F3	18-7-403(1)(b)
Procurement of a child	F3	18-7-403.5
Keeping a place of child prostitution- Grants USE	F3	18-7-404(1)(a)
Keeping a place of child prostitution- continued USE	F3	18-7-404(1)(b)
Pimping of a Child	F3	18-7-405
Inducement of Child Prostitution	F3	18-7-405.5

Source: Colorado Revised Statutes.

\*Other statutes, such as contributing to the delinquency of a minor are also used to charge human trafficking conduct but were not included in the present analysis.

## Appendix 7: Number of Cases Containing Statutes Commonly Related to Child Sex Trafficking

Number of Cases Containing Statutes (in Appendix 6) Commonly Related to Child Sex Trafficking, CY 2009 through August 2015 by Judicial District								
Judicial District	2009	2010	2011	2012	2013	2014	2015	Total
1	6	4	5	13	1	13	9	51
2	5	14	17	15	7	2	4	64
4	2			2	8	3	10	25
5	1					1		2
6		1		2				3
7	1		1	1		1		4
8			1					1
9					2		1	3
10						1		1
11		1						1
14	1				2			3
15							1	1
17	2	1	2	3	2	3	3	16
18	2	4	3	12	18	31	22	92
19					1	2	10	13
20						2		2
21	2			1	1	2	1	7
<b>Total</b>	<b>22</b>	<b>25</b>	<b>29</b>	<b>49</b>	<b>42</b>	<b>61</b>	<b>61</b>	<b>289</b>

Source: Court records were extracted from Judicial Branch's Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS) and analyzed by DCJ/ORS. Note these figures represent cases with these statutes charged, not individuals. Excludes Denver County court records.

## Appendix 8: Colorado Human Trafficking Council Law Enforcement Survey

1. Please enter the following so that we may contact you if we have questions (name, email, phone, agency name).
2. What type of agency/organization do you work for?
  - a. Local police department
  - b. Sheriff's office
  - c. State Patrol
  - d. District Attorney Investigator
  - e. Federal Law Enforcement
  - f. Other
3. How prevalent are the following types of human trafficking within your jurisdiction? (*select unsure, widespread, occasional, rare, or non-existent for each category*)
  - a. Labor trafficking of people who come from outside the US (and are trafficked within the United States) including victims of forced labor or domestic servitude.
  - b. Labor trafficking of people who are US citizens (and are trafficked within the United States) including victims of forced labor or domestic servitude.
  - c. Sex trafficking of people who come from outside the US (and are trafficked within the United States) including victims of commercial sex activity.
  - d. Sex trafficking of people who are US citizens (and are trafficked within the United States) including victims of commercial sex activity
4. In general, how frequently does each of the following events bring human trafficking cases to the attention of your agency/organization? (*please select unsure, widespread, occasional, rare, or non-existent for each category*)
  - a. Other units within my department
  - b. Calls for service
  - c. Referrals from community-based agency/organizations
  - d. Referrals from regulatory agencies
  - e. Referrals from criminal justice agencies that are not law
  - f. enforcement (e.g. probation)
  - g. During the course of usual investigations (e.g. drug raids, domestic violence)
  - h. Tips from informants
  - i. Schools (e.g. SROs, staff)
  - j. Hotline
  - k. Emergency room/hospital
  - l. Undercover operations (e.g. collaborative investigations with
  - m. Federal and State law enforcement)
  - n. Other

5. How many human trafficking cases did you investigate in 2014?
6. Were there cases you investigated during 2014 for other crimes that you suspected involved human trafficking (e.g. child abuse, assault, domestic violence, labor exploitation)? *(select yes or no)*
7. How many new trafficking cases did you begin to investigate in 2015?
8. How many of these cases, if any, did you refer to a prosecuting agency?
9. Does your agency/organization utilize a task force during the course of investigation? Such a task force may include other law enforcement personnel, and third sector agency/organizations such as community-based agencies, and service providers. *(please select yes or no)*
10. Please indicate which agency/organizations are represented on your task force. *(check all that apply)*
  - U.S. Attorney
  - FBI
  - Immigration and Customs Enforcement
  - Department of Labor or other federal law enforcement
  - State Attorney General
  - State Patrol
  - District/County Prosecutor
  - Sheriff's Department
  - Municipal law enforcement
  - Victim service provider
  - Community-based agency
  - Other (please specify)
11. If you have had trafficking cases, or if a case were to arise in the future, how challenging was/would it be for your agency/organization to overcome the following issues in addressing human trafficking? *(select unsure, very challenging, occasionally challenging, seldom challenging, or never challenging for each category)*
  - a. Lack of awareness or concern about human trafficking within the community that you serve
  - b. Lack of support for trafficking investigations among officers within your agency/organization
  - c. Inability to identify the existence of victims of human trafficking or a trafficking problem within the community that you serve
  - d. Lack of resources within your agency/organization to identify and investigate trafficking cases

12. How frequent are the following outcomes for foreign victims of human trafficking identified by your agency/organization? If you know that no such case has been identified to date by our agency/organization, select "no cases." If you are unsure whether any such case has been identified by your agency/organization, select "unsure." (*select unsure, very challenging, occasionally challenging, seldom challenging, or never challenging*)
- Removal (deportation)
  - Granted continued presence
  - Granted temporary visa
  - No cases
  - Unsure
  - Other
13. How frequent are the following outcomes for minor victims of human trafficking identified by your agency/organization? *Note:* If you know that no such case has been identified by your agency/organization, select "no cases". If you are unsure whether any such case has been identified by your agency/organization, select "unsure." (*select unsure, very challenging, occasionally challenging, seldom challenging, or never challenging*)
- Placed in juvenile detention
  - Released to relatives
  - Connected with Unaccompanied Refugee Minor programs through the Office of Refugee Resettlement
  - No cases
  - Unsure
  - Other
14. How frequently does your agency/organization encounter the following issues when investigating and prosecuting cases of human trafficking? (If you know that no such case has been identified by your agency/organization, select "No cases". If you are unsure whether any such case has been identified by your agency/organization, select "Unsure"). (*select unsure, very challenging, occasionally challenging, seldom challenging, or never challenging*)
- Lack of victim cooperation
  - Language barriers/lack of or inadequate interpreter services
  - Lack of coordination with federal, state or local agencies
  - Lack of support from victim service providers/community based agency/organizations
  - Reluctance from federal, state or local law enforcement to pursue or assist in case investigations
  - Reluctance from US Attorney or District Attorney to pursue cases
  - Lack of adequate resources (e.g. time, money, staff)
  - Lack of adequate training
  - Lack of procedures/protocols to identify and respond to human trafficking cases and victims of trafficking
  - No cases
  - Unsure
  - Other

15. Who oversees human trafficking investigations in your agency/organization?
- There is no designated overseer
  - Specialized human trafficking unit: Innocence Lost Task Force
  - Specialized human trafficking unit: Other
  - Specialized human trafficking group
  - Vice unit
  - Special investigations unit
  - Specific officer
  - Various departments
  - Other (please specify)
16. If you have a specialized human trafficking unit/group, what is the area of concentration of this unit/group? *(check all that apply)*
- Domestic commercial sexual exploitation of children (CSEC)
  - Domestic minor labor trafficking
  - Foreign national sex trafficking
  - Foreign national labor trafficking
  - Domestic sex trafficking
  - Domestic labor trafficking
17. Has any member of your department received training on how to identify and respond to human trafficking cases? *(select yes or no)*
18. Approximately how many personnel/officers have received training?
19. What type of training have personnel/officers received? *(check all that apply)*
- In-service training
  - New recruit training
  - Roll call briefing
  - Publications
  - Online/web based training
  - Regional conferences
  - National conferences
  - Offsite professional training
  - Other (please specify)
20. What was the source of the training? *(check all that apply)*
- Statewide curriculum
  - Department of Justice (DOJ) curriculum
  - Regional Community Policing Institute (RCPI)
  - Independent consultant/trainer
  - Community-based agency/organization
  - Service provider
  - FBI
  - Agency-developed training
  - Other (please specify)

21. Does your agency/organization have a specific protocol/procedure for identifying victims of human trafficking? *(select yes or no)*
22. Does your agency/organization have a specific protocol/procedure on how to work with victims of human trafficking? *(select yes or no)*
23. How frequently is each of the following investigation tactics/responses used to build human trafficking cases in the community that you serve? *(select unsure, frequently, occasionally, seldom, never)*
- a. Surveillance
  - b. Undercover operations
  - c. Raids or other overt operations
  - d. Collaborations with other law enforcement agencies
  - e. Collaborations with code enforcement and inspectional service agencies
  - f. Pursuing paper trails (bank receipts, tax records)
  - g. Wiretapping/communications monitoring
  - h. Investigative linkages to other criminal enterprises
  - i. Providing victim support services
  - j. Other
24. Victims of human trafficking present many unique challenges for law enforcement. How frequently is your agency/organization faced with each of the following challenges when working with human trafficking? *(select unsure, frequently, occasionally, seldom, never)*
- a. Victim distrust of law enforcement
  - b. Victim does not self-identify themselves as a victim
  - c. Fear of traffickers
  - d. Language barriers
  - e. Cultural barriers
  - f. Lack of social service for victims of human trafficking
  - g. Lack of housing or adequate shelter
  - h. Victims leave the area and we lose contact
  - i. Other
25. Does your agency/organization have an existing relationship with any service providers who are able to meet the immediate needs of victims of trafficking? *(select yes, no or "no such cases to date.")*
26. What types of agencies/organizations are able to meet the immediate needs of victims?
27. Has there been a change in the way you investigate cases since Colorado passed its human trafficking legislation in 2014? *(select yes or no)*
28. How has the way you investigate changed?

## Appendix 9: OVC Funded Programs, Reported Human Trafficking Victim Cases, FY 2012-14

U.S. Department of Justice, Office for Victim of Crimes Funded Program, Human Trafficking Victim Cases, FY 2012-14											
	National				Colorado						
Year	Investigations/Case-type breakdown										
	Open cases	Of open case load, # of new cases	% FN*	% USC/LPR*	Open Cases	Of open case load, # of new Cases	% FN	% USC/LPR	% Labor	% Sex	% both
2012	1300	775	Breakdown not provided		unavailable						
2013	1911	1009	Breakdown not provided		unavailable						
2014	2782	1366	55%	45%	54	21	85%	15%	87%	11%	2%

Source: National data was obtained from the U.S. Department of State, *Trafficking in Persons Report* (2013, 2014 and 2015) and Colorado data was obtained from the two respective OVC Grantees awarded funding to serve Colorado-based human trafficking victims.

\*FN indicates Foreign National, USC indicates United States Citizen, LPR indicates Legal Permanent Resident

## Appendix 10: DHHS Funded Programs for Foreign Nationals, Reported Victim Cases, FY 2012-14

Department of Health and Human Services (DHHS) Funding Program for Foreign Nationals, Reported Victim Cases, FY 2012-14		
Year	National Data	Colorado Data
2012	648	16
2013	915	9
2014	1137	6

Source: National data was obtained from the U.S. Department of State Trafficking in Persons Report (2013, 2014 and 2015) and Colorado data was obtained from the U.S. Committee for Refugees, the national coordinating agency for the DHHS per-capita funded services.

## Appendix 11: Human Trafficking Hotline Call Data, Calendar Year 2012-14

Human Trafficking Hotline Calls, Calendar Year 2012-2014						
National Human Trafficking Resource Center Hotline						
	2012		2013		2014	
	National	Colorado	National	Colorado	National	Colorado
<b>Total Number of Substantive Calls</b>	13,325 calls to NHTRC	165 calls to NHTRC that reference Colorado	20,579 calls to NHTRC	301 calls to NHTRC that reference Colorado	21,431 calls to NHTRC	273 calls to NHTRC that reference Colorado
<b>Total Number of Unique Cases Reported*</b>	3,729 unique cases reported, of which 2,367 ST, 622 LT, 84 both	45 unique cases reported, of which 28 ST, 15 LT, 2 type of trafficking not specified	4,884 unique cases reported, of which 3,392 ST, 871 LT, 119 both	73 unique cases reported, of which 49 ST, 12 LT, 9 both and 3 unspecified	5,042 unique cases reported, of which 3598 ST, 818 LT, 172 both	67 unique cases reported, of which 41 ST, 20 LT, 4 both, 2 not specified
Colorado Network to End Human Trafficking (CoNEHT) Hotline						
	2012		2013		2014	
<b>Total Number of Calls</b>	65		123		158	
<b>Total Number of Unique Cases Reported**,***</b>	[data not available]		113; 48 calls involved indicators of potential sex trafficking; 20 calls involved indicators of potential labor trafficking;		137; 66 calls involved a indicators of potential sex trafficking and 20 calls involved indicators of potential labor trafficking; ***	

Source: National data was obtained from the National Human Trafficking Resource Center and Colorado data was obtained with from the Laboratory to Combat Human Trafficking.

\*ST indicates Sex Trafficking, LT indicates Labor Trafficking

\*\*In the case of CoNEHT data, unique calls represent the number of total calls minus duplicates, e.g. multiple calls referring to same case. Nonetheless, in many instances a different set of information and/or resources were involved.

\*\*\* The reported numbers are not exclusive to law-enforcement related tips.

## Appendix 12: Colorado Affirmative Defense Statute for Human Trafficking Victims

### **C.R.S. 18-7-201.3: Affirmative defense – human trafficking – expungement of record protective order - definitions**

(1) A person charged with prostitution, as described in section 18-7-201 or any corresponding municipal code or ordinance, for an offense committed on or after July 1, 2015, which offense was committed as a direct result of being a victim of human trafficking, may assert as an affirmative defense that he or she is a victim of human trafficking as defined in subsection (4) of this section. To assert the affirmative defense pursuant to this subsection (1), the person charged with the offense must demonstrate by a preponderance of the evidence that he or she was a victim of human trafficking at the time of the offense. An official determination or documentation is not required to assert an affirmative defense pursuant to this subsection (1), but official documentation from a federal, state, local, or tribal government agency indicating that the defendant was a victim at the time of the offense creates a presumption that his or her participation in the offense was a direct result of being a victim.

(2) (a) On or after January 1, 2016, a person charged with or convicted of prostitution, as described in section 18-7-201 or any corresponding municipal code or ordinance, for an offense committed before July 1, 2015, which offense was committed as a direct result of being a victim of human trafficking, as defined in subsection (4) of this section, may apply to the court for a sealing of his or her records pursuant to section 24-72-702 or 24-72-706, C.R.S., as applicable.

(b) A juvenile charged with or adjudicated of prostitution, as described in section 18-7-201 or any corresponding municipal code or ordinance, for an offense committed before July 1, 2015, which offense was committed as a direct result of being a victim of human trafficking, as defined in subsection (4) of this section, may apply to the court for expungement of his or her record pursuant to section 19-1-306, C.R.S.

(c) An official determination or documentation is not required to grant a motion pursuant to this subsection (2), but official documentation from a federal, state, local, or tribal government agency indicating that the defendant was a victim at the time of the offense creates a presumption that his or her participation in the offense was a direct result of being a victim.

(3) At the request of a person who asserted the affirmative defense pursuant to subsection (1) of this section, the court may at any time issue a protective order concerning protecting the confidentiality of the person asserting the affirmative defense.

(4) As used in this section, unless the context otherwise requires:

(a) "Human trafficking" means an offense described in part 5 of article 3 of this title or any conduct that, if it occurred prior to the enactment of such part 5, would constitute an offense of human trafficking pursuant to part 5 of article 3 of this title.

(b) "Victim of human trafficking" means a "victim" as defined in section 18-3-502 (12).







## 2015 Annual Report

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<https://sites.google.com/a/state.co.us/cdps-prod/home/human-trafficking-council>