

Labor Trafficking

Colorado Human Trafficking Council

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“It was very hard. It is still very hard. I think to myself how I should just die. How can I see my children without having a future to offer them? It was very hard to sleep, and I had lots of nightmares. I was afraid and fearful of everybody. They offered counseling. It helped a lot to help us move on.”

➤ *survivor, trafficking in assisted living facility, from Urban Institute report, 2014*

Urban Institute Study

- ▶ Study of 122 closed labor trafficking cases from four sites around the country
- ▶ Most common venues: agriculture, hospitality, domestic service in private residences, construction, and restaurants.
- ▶ 71 percent of survivors had entered with lawful visa
- ▶ USDOL was rarely involved in cases
- ▶ Roughly half the victims we studied were male. Agricultural workers: mostly male; domestic service: mostly female.

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UI study, continued

- ▶ **Recruiters** engaged in fraud and coercion during the recruitment process, using a combination of false promises and high-pressure, coercive tactics to get victims to commit to employment offers.
- ▶ All victims in sample experienced elements of force, fraud, and coercion necessary to substantiate labor trafficking: **document fraud, withholding documents, extortion, sexual abuse and rape, discrimination, psychological manipulation and coercion, torture, attempted murder, and violence and threats against victims and their family members.**

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Freedom Network member survey

- ▶ Data from 2010–2012, 24 members:
- ▶ Served at least 2236 clients (all forms of trafficking)
- ▶ 73 percent labor trafficking, 23 percent sex trafficking, 3 percent both
- ▶ 15 percent were over 40 at the time of trafficking (all forms)
- ▶ Almost half were male
- ▶ Difficulty finding housing for men and boys

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Photo, Colorado Legal Services

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State Definition of Labor Trafficking

- ▶ Colo. Rev. Stat. §18-3-403, Human trafficking for 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 commits human trafficking for involuntary servitude.”

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Federal Definition of Labor Trafficking

Labor Trafficking: Use of force, fraud or coercion to recruit, harbor, transport, obtain or employ a person for labor or services in involuntary servitude, peonage, debt bondage or slavery.

Forced Labor, criminal statute (18 U.S.C. § 1589)

Obtaining or providing labor through force, physical restraint, serious harm to that person or another (or any threats of force, restraint, serious harm); by means of the abuse or threatened abuse of law or legal process; *or by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint.*

Also a crime to knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in forced labor, knowing or in reckless disregard of the fact that the venture has engaged in forced labor.

- ▶ The term "**serious harm**" means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

Unlawful Conduct with Respect to Documents:

- ▶ Now, also a crime to destroy, conceal, remove, confiscate or possess passport or other government identification in the course of committing a trafficking offense or to prevent or attempt to prevent the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons. *18 USCS § 1592*

General Comments

- ▶ Crime of exploitation, not transport (misnomer)

Smuggling ≠ Human Trafficking
Not all labor exploitation is human trafficking
Not all prostitution/sale of sex is trafficking

Underlying Commonality: traffickers identify and exploit vulnerabilities:

- Poverty
- Physical/mental disabilities
- Language barriers
- Addiction
- Lack of immigration status
- Temporary visa that does not allow worker to change employers
- Youth
- Fear of harm to self or families
- Dreams of a better life
- Criminal or immigration history causing fear of law enforcement
- Isolation, lack of community support
- Others?

What Methods Do Traffickers Use to Exert Control over Victims?

Ways of Controlling

- Threats of violence
- Threats of deportation
- Familiarity with system, community
- Providing drugs, alcohol
- Verbal abuse
- Withholding of identification, other documents
- Threats of returning youth to abusive home
- Direct/implied threats to family members
- Deception
- Lack of food, water
- Exaggerating power
- Others?

In the words of one Department of Justice prosecutor:

Totality of the Circumstances

Case Example 1



Photo: Colorado Legal Services

Omaha construction workers subjected to forced labor in Colorado Springs.

Omaha Workers

- ▶ Four workers were recruited in Omaha to work in framing of apartment building for low-income seniors in Colorado Springs. Upon their arrival, they were housed in crowded apartment with their immediate bosses (second-tier subcontractors on the project). They were underfed, unpaid, verbally abused, monitored day and night and isolated. They spoke an indigenous Mayan language and had no way of seeking help in the community.

Omaha Workers: Methods of Control

- ▶ Hunger, thirst = weakness, submission
- ▶ Continual promises of pay soon
- ▶ Isolation
- ▶ Degradation
- ▶ Dangerous conditions at work site
- ▶ Lack of money to leave
- ▶ Constant monitoring
- ▶ Relatively powerless compared with bosses
- ▶ Determination to be breadwinners for families

Totality of the circumstances

Omaha Workers: Outcome

- ▶ Workers eventually borrowed money to get back to Omaha
- ▶ Member of faith community searched continually for help until referred to Colorado Legal Services
- ▶ Workers filed suit, alleging human trafficking, wage and hour violations, violations of state labor law
- ▶ Obtained \$1.2 million judgment against traffickers and settlement with general contractor

Where Does Labor Trafficking Occur?

Where does labor trafficking occur?

Typically, but not always, in labor-intensive, lower-skilled jobs

- **Housekeeping, child care**
 - Sweatshop factories
 - Janitorial jobs
 - Construction
 - Agriculture
 - Restaurants
 - Panhandling
- Sales crews (esp. youths)
 - Others?

Red Flags for Labor Trafficking

- ▶ Accompanied by controlling person or boss; not free to speak for self;
- ▶ Lack of control over personal schedule, money, identification documents;
- ▶ Transported to or from work; lives and works in same place;
- ▶ Debt owed to employer/crew boss; inability to leave job;
- ▶ Bruises, depression, fear, overly submissive
- ▶ Others?

Systemic Challenges:

- ▶ They know what labor trafficking is, but again I think it's a little bit difficult because sex [trafficking] is so much easier. This woman is being raped 30 times a night. We have a case. With labor trafficking....[I]t's a little bit like we all work hard. It's easier to dismiss people working really hard as victims of trafficking as opposed to people who are forced to have sex and [are] controlled. (federal law enforcement)

• *Urban Institute report*

Systemic Challenges:

- ▶ Although the police expressed gratitude when they received referrals from victim service providers, victim service provider involvement with the victim could cause problems in the investigation and prosecution. The police expressed concern about information received from victims who had been working with service providers, who often conducted interviews with victims before letting the police know they were working with a victim.

Urban Institute report

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Systemic Challenges:

- ▶ A willingness to support CP [continued presence] obviously is an issue. It's still pretty rare. Overall there is a sense they're going to see somebody as a perpetrator before they are going to see them as a potential victim [referring to law enforcement]. (attorney)

Urban Institute report

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Case Example 2 “Giant Labor Solutions”

United States v. Askarkhodjaev, et al.

- ▶ Successful prosecution of labor recruitment ring operating in 14 states, including Colorado.

United States v. Askarkhodjaev, et al.

- ▶ The prosecution was one of the country’s largest labor trafficking cases. A federal grand jury indicted 12 defendants on human trafficking and related charges arising from alleged violations in 14 states. According to the indictment, a labor leasing company exploited hundreds of male and female laborers in the hotel/resort, casino, and construction industries. The government alleged that the defendants underpaid the immigrant workers, threatened them with deportation, imposed various arbitrary fees on the workers, charged unconscionable rents for crowded and unsanitary housing and threatened to charge their families exorbitant fees if they escaped. In May, 2011, the alleged ringleader was sentenced to 144 months in prison after pleading guilty to various counts.

Other Legal Needs

- ▶ Criminal Justice Advocacy
- ▶ “Private Right of Action” (right to sue trafficker)
- ▶ Possible Continued Presence, T-Visa, U-Visa (for foreign nationals)
- ▶ Reintegration into Society: paying taxes, traffic laws, tenant-landlord law, public benefits issues, obtaining identification
- ▶ Special issues regarding minors (foster care, immigration options)

What the General Public Can Do

- ▶ Thousands of people are being forced to work in the United States, often invisible to the outside world, even here in Colorado.
- ▶ If you suspect human trafficking or exploitation, do not put yourself in danger, but take action. Call the Colorado Network to Combat Human Trafficking (CoNEHT) hotline:
(866) 455-5075
Or NHTRC: **(888) 3737.888**
- ▶ Many cases uncovered by “Good Samaritans.” But do not attempt rescue!

Calculate Your Slavery Footprint



Resources

- ▶ <https://www.ovcttac.gov/TaskForceGuide/EGuide/>
- ▶ <http://www.urban.org/UploadedPDF/413249-Labor-Trafficking-in-the-United-States.pdf>
- ▶ Department of Health and Human Services, Office of Refugee Resettlement, Rescue & Restore Materials:
<http://www.acf.hhs.gov/trafficking/about/form.htm>
- ▶ Freedom Network (USA), freedomnetworkusa.org
 - Annual Conference

Questions/Discussion

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