



SECTION 2

Collecting Data on Human Trafficking in Colorado

Summary of Recommendations

Recommendation 1: Efforts should be made to channel anti-trafficking expertise and resources, from metro-area jurisdictions to those located outside the metro area. Two avenues for knowledge and resource transfer for prosecution are:

- Colorado District Attorneys' Council (CDAC) - sponsored training on investigating and prosecuting complex cases in which human trafficking is featured as a key content area;
- implementation of a CDAC-based human trafficking listserv administered by prosecutors with significant human trafficking case experience in order to share promising practices and lessons learned, and to respond to case-related questions posed by prosecutor colleagues from other districts.

Recommendation 2: Based on the Council's prosecution study findings highlighting the valuable role that cross-agency, multijurisdictional collaboration plays in furthering sex trafficking investigations and prosecutions, a Council-based labor trafficking task force should be created to promote new resources for case referrals and better coordination of labor trafficking response. The task force should consider membership for and outreach to a wide representation of relevant stakeholders, specifically, the Colorado Departments of Regulatory Agencies, Revenue, and Environmental Health; representatives from the Economic Crimes units of District Attorney's offices; worker's compensation insurance providers; federal regulatory and enforcement agencies; and immigrant/ethnic and community-based organizations not currently represented on the Council.

Recommendation 3: The Council should conduct further analysis emphasizing the needs and experiences of human trafficking victims/survivors, especially as they relate to their participation in the criminal justice process.

Introduction

With each passing year since the enactment of HB 14-1273, the Council has amassed a larger and more comprehensive set of data, which allows for a more sophisticated evaluation of how the 2014 statutes have been implemented and makes it possible for the Council to better fulfill its legislative mandate.²¹

The Council set three key data and research priorities for 2017:

1. Collect data on the incidence of human trafficking in Colorado.
2. Gather preliminary information on the current practices of law enforcement to collect and report on its human trafficking incidents and arrests through Colorado's National Incident-Based Reporting System.
3. Complete a two-year study of prosecution activities in the state's 22 judicial districts and the Attorney General's office.

This section of the report provides recent federal, state, and local data on human trafficking *incidence* and service provision as reported by law enforcement agencies, prosecutors, and nongovernmental organization (NGO) service providers for the three-year period of 2014, 2015, and 2016.²² It also includes a summary of key takeaways from a meeting with law enforcement personnel in which current NIBRS data collection practices were discussed. This meeting was convened to consider the factors that may contribute to underreporting on human trafficking case work as well as steps that could be taken by the Council and its law enforcement partners to improve the accuracy of NIBRS reporting. Finally, this section provides a summary of key prosecution study findings.

²¹ C.R.S. § 18-3-505(4)(f).

²² As was true in years past, a reliable calculation of the prevalence of human trafficking remains elusive given the current data gaps and methodological challenges of documenting the crime nationally and in Colorado. For a full discussion of human trafficking data collection challenges and Colorado's current data collection practices, see the 2015 *Colorado Human Trafficking Council Report*, pp. 12–16.

Colorado Law Enforcement Measures of Incidence and Activities to Combat Human Trafficking

Federal Law Enforcement Activities in Colorado

As in previous reporting years, the Council collected data on the number of human trafficking investigations, recoveries of trafficking victims, arrests of suspected traffickers, prosecutions, and convictions among federal law enforcement agencies with field offices in Colorado, namely the Federal Bureau of Investigation (FBI), Homeland Security Investigations (HSI), and the U.S. Attorney's Office. The Council includes national reporting from these federal agencies on their human trafficking activities in addition to state reporting. It should be noted that national reporting captures federal fiscal years, while Colorado data often reflect the calendar year. This difference will be noted throughout the report by using FFY for fiscal year or CY for calendar year.

FBI Activities

As Table 4 shows, the total number of Department of Justice (DOJ) investigations nationwide increased dramatically in FFY 2016 to more than 1,800 investigations, up from 802 investigations in FFY 2015. This number does not include human trafficking investigations carried out by DOJ Enhanced Collaborative Model (ECM) anti-trafficking task forces. DOJ funds 11 ECMs around the country to further the development of multidisciplinary human trafficking task forces that implement collaborative approaches to combating all forms of human trafficking. Colorado currently does not have an ECM operating within the state; thus, it currently has no ECM data to report.

The Rocky Mountain Innocence Lost Task Force is one of several task forces across the country funded by DOJ to combat the commercial sexual exploitation of children (CSEC) born in the United States. RMILTF represents a joint effort, with representatives from the FBI, the police departments of Denver and Aurora, the Colorado State Patrol, and the sheriff departments of Arapahoe and Douglas counties, as well as investigators from the 1st and 18th Judicial District Attorney's offices. For a fourth straight year, RMILTF reported an increase in the number of open investigations, up from 86 investigations in CY 2015 to 152 in CY 2016 (see Table 5). The overall number of victim recoveries also rose in CY 2016 (119, up from 72 in 2015), as did the number of males recovered, from 10 male recoveries in 2015 to 15 recoveries in CY 2016. RMILTF attributes these increases in investigations and recoveries primarily to a growth in

high-risk minor reporting from counties to the RMILTF in 2016, but also to increased task force investigator capacity.

The other local FBI human trafficking law enforcement working group, the Colorado Trafficking and Organized Crime Coalition, reported a slight decrease in its activities in 2016. CTOCC's mission is to focus on adults and international victims of labor and/or sexual exploitation within Colorado. CTOCC investigates venues that support human trafficking, including the internet, restaurants, hotels, bars, labor camps, and businesses associated with prostitution. CTOCC partners with 25 local, state, and federal law enforcement agencies. CTOCC's lower reporting in 2016 stems in part from a change in the way it reports its activities to the Council. Whereas for the 2015 and 2016 reports, CTOCC attempted to account for all investigative work conducted by FBI and its partners, for the 2017 report CTOCC representatives only reported *FBI-led* investigations, operations, and arrests. For CY 2016, FBI personnel assigned to CTOCC reported eight investigations opened, six joint operations conducted, and 15 human trafficking arrests made (see Table 6).

Table 4: Department of Justice (DOJ)/FBI National Investigations, Federal Fiscal Year 2014–16	
Year	DOJ Investigations Totals
2014	835
2015	802
2016	>1,800

Data source: National data were obtained from the U.S. Department of State, *Trafficking in Persons Report* (2015, 2016, and 2017).

Table 5: FBI: Rocky Mountain Innocence Lost Task Force Activities, Calendar Year 2014–16*			
Year	Investigations Opened	Recoveries (breakdown by gender)**	Arrests***
2014	81	88; 2M, 86F	55
2015	86	72; 10M, 62F	55
2016	152	119; 15M, 104F	35

Data source: Federal Bureau of Investigation-Denver Office.

* The focus of the RMILTF is on investigations involving the CSEC and minor sex trafficking.

**M stands for male and F stands for female.

*** Arrest data include arrests for sex trafficking of a minor, pimping-related activity, sexual assault on a child, and patronizing a child prostitute.

Table 6: Colorado Trafficking and Organized Crime Coalition Activities, Calendar Year 2014-16*

Year	Investigations Opened	Joint Operations Conducted	Arrests
2014	19	12	11
2015	7	14	17
2016**	8	6	15

Data source: Federal Bureau of Investigation-Denver Office.

* The focus of CTOCC is on adults and international victims of labor and/or sexual exploitation within Colorado.

** While the 2014 and 2015 numbers include both FBI-Denver led and supported CTOCC investigations, the 2016 numbers reflect only FBI-Denver led activity for calendar year 2016.

HSI Activities

HSI, the investigative arm of the Department of Homeland Security, is likewise charged with combating human trafficking. HSI pursues a broad range of suspected human trafficking and related activity—from cases involving adult foreign nationals to the investigation of child sexual exploitation, child pornography, and the forced labor of minors, especially situations involving the use of the internet to lure and/or victimize minors.

Nationally, HSI reported a marginal decrease in its human trafficking investigations, from 1,034 in FFY 2015 to 1,029 in FFY 2016 (see Table 7). At the state level, HSI reported a decrease in its human trafficking investigations, from 16 in FFY 2015 to 10 in FFY 2016 (see Table 7). New this year, HSI provided a breakdown of investigation by type: seven involved sex trafficking and three involved labor trafficking.

Table 7: HSI National and Colorado-Based Investigations, FFY 2014–16

	National Data	Colorado Data
Year	Investigations Involving Potential Human Trafficking	Colorado-Based HSI Investigations Officially Recorded as Human Trafficking-Related
2014	987	5
2015	1,034	16
2016	1,029	10
		7 sex trafficking
		3 labor trafficking

Data sources: National data were obtained from the U.S. Department of State, *Trafficking in Persons Report* (2014, 2015, and 2016), and Colorado data were obtained from the HSI Denver field office.

Federal Criminal Case Filings

In FFY 2016, the United States Attorney's Office, District of Colorado, reported no federal human trafficking prosecutions. However, in January 2016, a defendant was sentenced to 151

months (more than 12 years) in federal prison based on a conviction for Transportation with Intent to Engage in Criminal Sexual Activity.

State and Local Law Enforcement Activities

In order to gain a picture of the state and local law enforcement counter-trafficking efforts—not already captured through RMILTF and CTOCC reporting—the Council drew primarily from state judicial filings containing human trafficking statutes. The Council also considered local law enforcement efforts, including personnel allocations to carry out anti-trafficking activities and activity recorded in NIBRS.²³

Expansion of Colorado Bureau of Investigation Human Trafficking Team

In mid-2017, funding from the Colorado State Patrol's (CSP) Smuggling and Trafficking Interdiction Section (STIS) made it possible for the Colorado Bureau of Investigation (CBI) to allocate two agents to assume a human trafficking caseload. Among their key priorities is to support any human trafficking interdiction cases or leads generated by STIS or the CSP in general. CBI will also provide support to rural agencies should they have a human trafficking case or leads that need to be pursued, as well as assist in proactive sting operations. The agents selected for this role have significant experience investigating sex crimes, and one CBI agent assisted in the state's first labor trafficking case under the new 2014 statutes.

Local Law Enforcement Reporting on Human Trafficking

Apart from tracking recent anti-trafficking initiatives and personnel expansions, the Council considered NIBRS reporting for 2014, 2015 and 2016. NIBRS data on human trafficking incidents and arrests are drawn from the record management systems (RMS) of local police departments, sheriff's offices, the Colorado State Patrol, and CBI. All of these local and state law enforcement agencies are mandated to report their crime fighting activities to CBI's Crime Information Management Unit, which in turn submits statewide data to the FBI's Uniform Crime Reporting (UCR) database.²⁴ Council staff determined that data collected by CBI for calendar years 2014, 2015, and 2016 significantly underreport human trafficking incidents and arrests, especially when taking into account the multiple local law enforcement agencies'

²³ Unless otherwise indicated, the reporting period for state and local law enforcement activities is January 1–December 31st.

²⁴ C.R.S. § 24-33.5-412(5).

workforce hours dedicated to RMILTF and CTOCC activities alone. Due to these concerns about inaccuracies, the Council has not included NIBRS data in its report.

Nonetheless, given the Council's data reporting and training mandates, Council staff convened a meeting on June 6, 2017, with representatives of several law enforcement agencies actively engaged in anti-trafficking activities to learn about the factors that might contribute to low law enforcement reporting on human trafficking in NIBRS. Those in attendance included the Thornton and Aurora police departments, the Jefferson County Sheriff's Department, CSP, CBI, and the FBI. Also in attendance was the UCR Manager for the state of Colorado. Law enforcement in attendance generally agreed that their human trafficking work is underreported, and offered several possible reasons for this problem:

- Law enforcement personnel carrying out human trafficking investigations and/or arrests within their own jurisdictions may not be reporting them to their home agencies when that work is carried out under the auspices of RMILTF or CTOCC.
- Similarly, the activities of law enforcement members on human trafficking multidisciplinary teams (MDTs) are potentially not reflected in NIBRS data, especially in those circumstances where participating law enforcement agencies lack a protocol for updating their RMS based on their MDT-related investigative work.
- Some agencies may only be reporting the highest offense into their RMS, despite the fact that **all** conduct can and should be recorded.
- One agency explained that its current protocol is to record/update its RMS based on the charges that the District Attorney's office ultimately pursues. This practice potentially results in underreporting since the decisions and activities of the District Attorney's office should have no bearing on what is reported by law enforcement in their agency's RMS.
- Multiple law enforcement representatives explained that initial incidents or arrests are commonly not reported as human trafficking because of the complexity of the crime and the many steps normally involved in determining whether human trafficking conduct occurred. Often the detective assigned to investigate the alleged human trafficking is responsible for alerting the records management staff or updating the RMS independently once a human trafficking investigation is opened. Many detectives may not know that this is their responsibility.

- Suspected cases of sex trafficking of a minor may initiate as a runaway incident and are only recorded as such. If further investigation takes place as a result of suspected human trafficking activity, such activity should be recorded as a human trafficking incident for NIBRS reporting purposes and the suspect should be listed as unknown.

At the conclusion of the June 6th meeting, attendees agreed upon a series of next steps. These steps include informal agency audits of how human trafficking law enforcement activities are currently being recorded in the agencies' systems. Attendees also agreed to communicate with relevant personnel to correct the inaccurate reporting practices identified at the stakeholder meeting. Council staff plans to reconvene the group in late 2017 or early 2018 to formulate NIBRS-related recommendations for its 2018 annual report. It also aims to create key training points on law enforcement reporting that it can incorporate into the Council's law enforcement training module.

Human Trafficking and Related State Judicial Case Information

Another measure of local counter-trafficking efforts is the number and outcome of state judicial human trafficking cases.

Table 8 provides the breakdown of the number of times the newly enacted human trafficking statutes have been filed, along with the overall number of cases involving human trafficking statutes in the years 2014, 2015, and 2016.

Table 8: State Judicial Cases with Filings of the 2014 Human Trafficking Statutes, CY 2014 to 2016				
	2014*	2015	2016	Total
Statute	# of Filings	# of Filings	# of Filings	# of filings
Involuntary Servitude § 18-3-503**	1	1	3	5
Sexual Servitude - Adult § 18-3-504	7	22	17	46
Sexual Servitude - Minor § 18-3-504(2)	1	30	55	86
Total Filings (cases)	9 (8 total cases)	53 (39 total cases)	75 (50 total cases)	137 (97 total cases)

Data sources: All case filings containing formal human trafficking statutes were queried using the Judicial Branch's Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS).

*The 2014 case filings only reflect activity from July–December, since the new statutes did not go into effect until July.

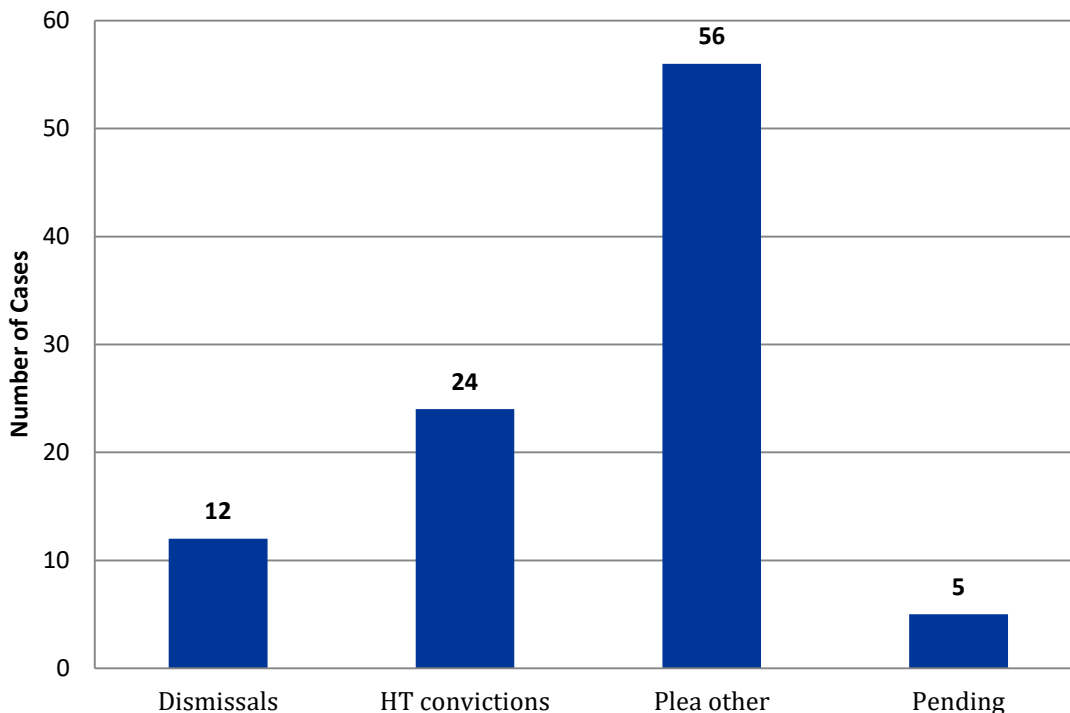
**While there was one case filing under § 18-3-503 in 2014, another in 2015, and three filings in 2016, the 2014 filing of § 18-3-503 involved allegations and evidence of a sexual assault and did not include any allegations or evidence of forced labor, suggesting that the statute was used in error. The 2015 filing involved an initial, erroneous charge of § 18-3-503. The defendant in the case pled to §18-7-403(1)(b), the pandering of a child, conduct more closely related to the sex trafficking of a minor. Likewise, of the three filings of 18-3-503 in 2016 two cases had underlying facts of sex trafficking, thus appearing to be misfiled, while the third filing was a confirmed charge of involuntary servitude and the outcome of that case is still pending.

As the table demonstrates, the number of filings of human trafficking statutes and of overall cases have steadily increased since HB14-1273 went into effect in July 2014, particularly prosecutions involving a charge of the sexual servitude of a minor (§ 18-3-504(2)). The 97 human trafficking cases originated in 11 of the 22 Colorado judicial districts. Of those 97 cases, 69, or 71%, were filed in the Denver metro area, while 28 (29%) were filed elsewhere. Only one of the five filings of involuntary servitude (§ 18-3-503) contained an underlying factual basis of labor trafficking; the four remaining filings of involuntary servitude involved allegations of unlawful sexual conduct, signaling a filing error versus a legitimate labor trafficking case. The one intended filing of § 18-3-503 in 2016 was pending trial at the writing of this report.

Figure 3 provides a breakdown of how the 97 human trafficking cases were resolved. The majority of cases (56) involving a charge of human trafficking resulted in the defendant pleading guilty to related charges, while 24 cases resulted in a human trafficking conviction. Twelve cases involving a human trafficking filing were dismissed, though in at least one case

the dismissal resulted from a consolidation of two related cases of the same defendant rather than a lack of evidence to proceed. At the time of this report, the outcomes of five cases were still pending.

Figure 3: Dispositions for Cases Involving a Human Trafficking Charge, 2014-2016

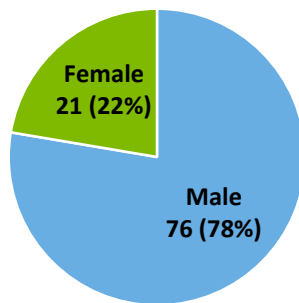


Data source: The number of total case was calculated using information obtained through the Judicial Branch's Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS). The case status for each filing was last obtained from the Colorado State Courts – Data Access system on December 1, 2017, by the Division of Criminal Justice's Colorado Human Trafficking Council staff.

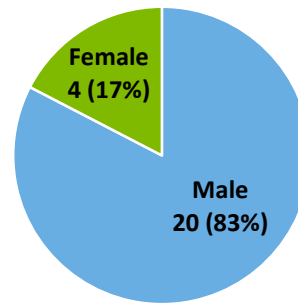
Figure 4 provides the gender breakdown of those charged with human trafficking along with the gender breakdown of those convicted of the crime.

Figure 4: Breakdown of Those Charged and Convicted of Human Trafficking by Gender, 2014–2016

Charged with Human Trafficking
N = 97



Convicted of Human Trafficking
N = 24



Data source: The Colorado Judicial Branch's Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS). These data were obtained on December 1, 2017.

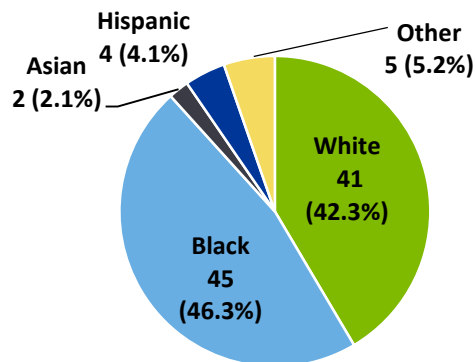
Figure 5 provides the breakdown by race and ethnicity for those charged with human trafficking and those convicted of human trafficking for the years 2014–2016. The largest share of defendants was reported as black, followed by white.²⁵ Caution should be used when making conclusions about race, however; the data indicate a possible trend toward a racial disparity between those who are charged and those who are convicted of human trafficking. Further analysis is warranted on gender, race/ethnicity, and age (demographics) as more information is collected on charges and convictions to understand the reasons for the disparity between charged versus convicted.

²⁵ It should be noted, however, that the judicial database systematically collects race but not ethnicity data; most Hispanics are in the white category. As a result, the ability to accurately interpret these data is limited.

Figure 5: Breakdown of Defendants Charged and Convicted of Human Trafficking by Race and Ethnicity, 2014–2016

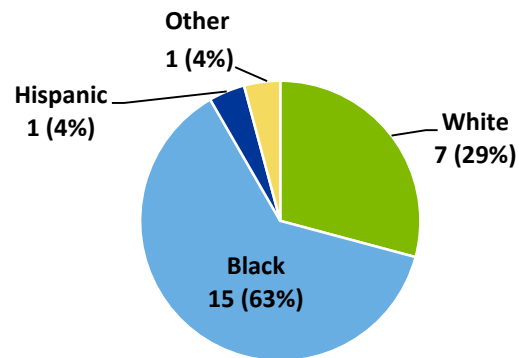
Charged with Human Trafficking

N = 97



Convicted of Human Trafficking

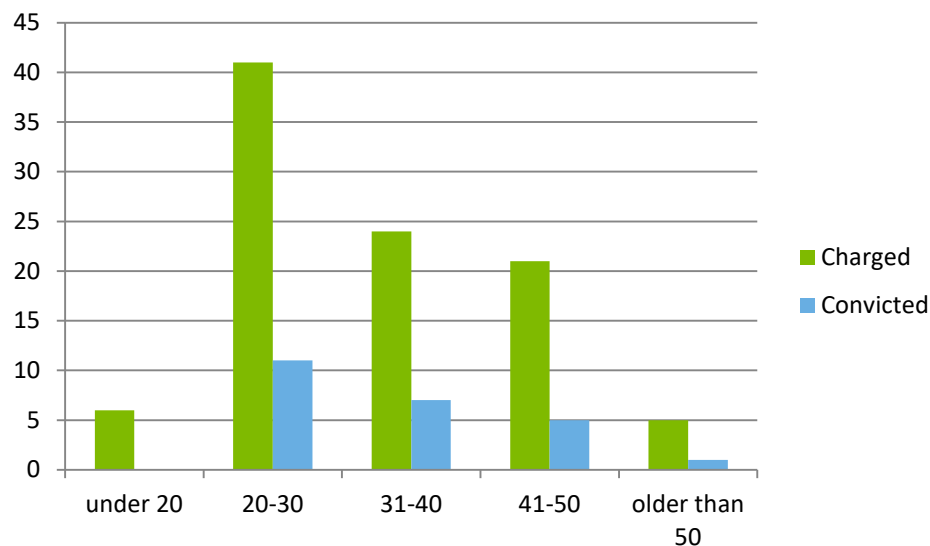
N = 24



Data source: The Colorado State Courts – Data Access system. These data were obtained on December 1, 2017.

Figures 6 represents the age of those charged and convicted of human trafficking. As the figures show, the highest concentration of defendants is in the 20- to 30-year-old cohort.

Figure 6: Defendants Charged/Convicted of Human Trafficking by Age, 2014–2016



Data source: The Colorado Judicial Branch's Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS). These data were obtained on December 1, 2017.

The Council also considered the ancillary charges defendants are convicted on (and how often) in cases in which they are also found guilty of human trafficking. Table 9 provides a summary of ancillary charges on which defendants were also convicted for the 24 criminal cases in which a conviction of involuntary or sexual servitude was reached between 2014 and 2016.

Table 9: Ancillary Charges on Which Trafficking Defendants Were Also Convicted		
Criminal Code	Charge	# of Cases Involving the Ancillary Conviction
§18-7-405	Pimping of a Child	5
§18-6-701	Contributing to the Delinquency of a Minor	4
§18-7-206	Pimping	4
§ 18-7-402	Soliciting for Child Prostitution	4
§ 18-7-403	Pandering of a Child	4
§ 18-6-403	Sexual Exploitation of a Child	4
§ 18-3-402	Sexual Assault	4
§ 18-7-403.5	Procurement of a Child	3
§ 18-7-405.5	Inducement of Child Prostitution	3
§ 18-7-406	Patronizing a Prostituted Child	3
§18-3-202	Assault in the First Degree	2
§18-7-203	Pandering of a Child	2
§ 18-3-404	Unlawful Sexual Contact	2
§ 18-3-302	Second Degree Kidnapping	1
§ 18-3-405	Sexual Assault on a Child	1
§ 18-7-404	Keeping a Place of Child Prostitution	1
§ 18-7-703	Victim Bribing	1
§ 18-7-707	Victim Tampering	1
§18-17-104	Colorado Organized Crime Act	1
§ 18-18-405	Unlawful distribution	1

Data source: The Judicial Branch's Integrated Colorado Online Network (ICON) information management system via the Colorado Justice Analytics Support System (CJASS) and Colorado State Courts – Data Access system. These data were obtained on December 1, 2017.

Finally, the Council evaluated the sentencing outcomes for those convicted of human trafficking. At the time of this report's publication, the sentencing of one case was pending. Of the remaining 23 cases, three defendants were sentenced to probation, while 20 received a Department of Corrections (prison) sentence. The average human trafficking conviction involving a prison sentence is 48.9 years and the median sentence is 17 years. The high sentencing average results from two particularly long sentences of 248 years and 400 years, which were handed down in 2016 and 2017, respectively. The average probationary sentence is 3.3 years.²⁶

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

The Council also collected data on the activities of Colorado-based service providers to identify and meet the complex needs of trafficking survivors living in or having ties to Colorado. Considering the Council's consistent finding that law enforcement entities report different forms of human trafficking and victim profiles than service providers do—namely, law enforcement reports more cases of sex trafficking involving U.S. citizens, while service providers report serving more foreign national labor trafficking survivors—its members believed it was vital to continue collecting data from both sources and to document such trends. As was noted in the *Council's 2016 Annual Report*, various factors may account for the diverging picture of human trafficking in the state. Service providers often have built trusting relationships with communities and persons vulnerable to multiple forms of exploitation and abuse, whether it is vulnerability resulting from one's temporary or undocumented immigration status or from one's previous victimization. Given this reality, NGO service professionals may come into contact with victims that law enforcement does not detect or is not called upon to investigate. Consequently, the NGO community provides a vital and complementary source of data on the incidence of human trafficking.

U.S. Department of Justice, Office for Victims of Crime

Historically there have been two main sources of federal human trafficking funding to support survivors and the comprehensive social and legal services they receive: the Department of Justice's Office for Victims of Crime (OVC) Service Grant and the Department of Health and

²⁶ This average is based on the sentencing for all charges upon which a defendant is convicted if that defendant is convicted on formal human trafficking statutes.

Human Services, Office for Trafficking in Persons Per-Capita Grant Program. OVC grants provide block funding to NGOs to staff legal and social service professionals and to cover or offset some of the costs of medical, housing, transportation, and related expenses. Currently two Colorado-based NGOs receive OVC funding—one to provide intensive case management and social services and the other to provide specialized legal services.²⁷ Both grantees serve all victims of human trafficking. Table 10 provides a demographic breakdown of those served nationally and by the two Colorado-based OVC grantees in fiscal years 2014, 2015, and 2016, (OVC’s fiscal year begins on July 1 and ends on June 30th).

Table 10: OVC-Funded Programs, Number of Victims Served, FFY 2014–16								
	National				Colorado			
Year	Breakdown of Victim Profile							
	Open Cases	Of Open Case Load, # of New Cases	Foreign National	U.S. Citizen/ Legal Permanent Resident	Open Cases	# of New Cases	Foreign National	U.S. Citizen/ Legal Permanent Resident
2014	2,782	1,366	1,530	1,252	54	21	46	8
2015	3,889	2,180	1,906	1,983	113	59	80	33
2016	5,655	3,195	1,923	3,732	104	40	63	41

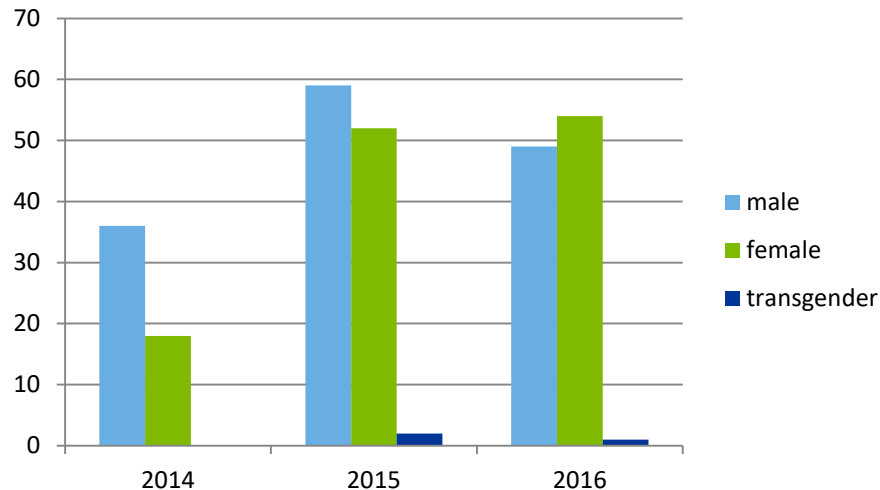
Data sources: National data were obtained from the U.S. Department of State, *Trafficking in Persons Report* (2014, 2015, and 2016) and Colorado data were obtained from the two Colorado-based grantees of the U.S. DOJ/OVC Human Trafficking Service Grant.

At the national level, the victim population has shifted from a greater share of foreign nationals served to more U.S. citizens and legal permanent residents served, while at the state level, the OVC grant still serves a greater share of foreign nationals. It should be noted that since OVC groups U.S. citizens and legal permanent residents into one category, the actual size of Colorado’s foreign-born human trafficking population is likely greater than shown in the table.

²⁷ To ensure the safety and confidentiality of human trafficking survivors, the names of the service organizations are not referenced.

Figure 7 provides the Colorado OVC client breakdown by gender, Figure 8 shows the breakdown of adults versus youth, and Figure 9 represents the distribution by type of case.

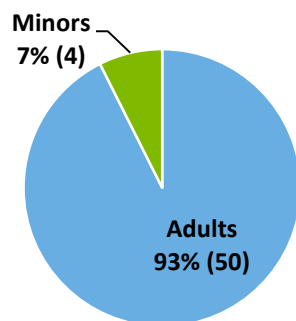
Figure 7: Gender Breakdown of Colorado OVC Clients, 2014–2016



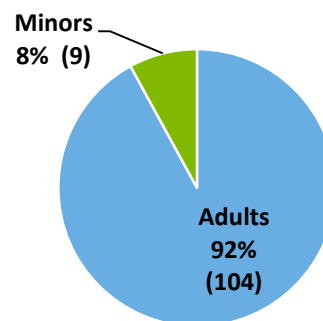
Data Source: Department of Justice, Office for Victims of Crime Trafficking Information Management System.

Figure 8: Colorado OVC Clients by Adults Versus Youth, 2014–2016

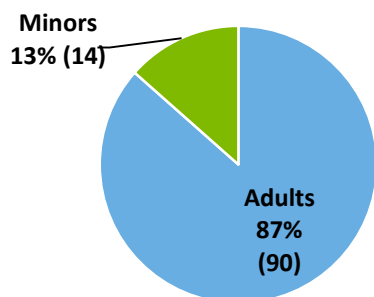
2014



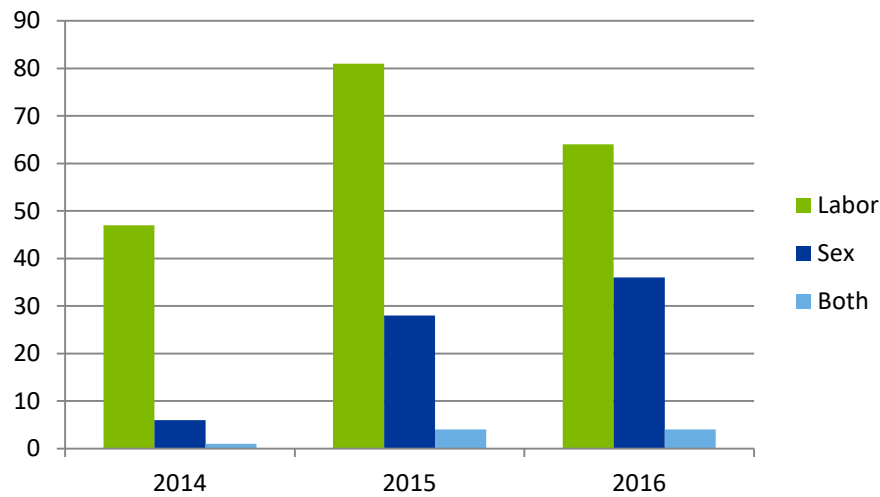
2015



2016



Data Source: Department of Justice, Office for Victims of Crime Trafficking Information Management System.

Figure 9: Distribution of Colorado OVC Clients by Type of Case

Data Source: Department of Justice, Office for Victims of Crime Trafficking Information Management System

Colorado OVC grantees continued to report serving more labor than sex trafficking survivors, and more foreign nationals than U.S. citizens/legal permanent residents. But unlike in 2015, more women were served than men in 2016, and the share of sex trafficking clients increased, as did the share of minors served.

In past years the report has also contained client information for those human trafficking survivors served under the U.S. Department of Health and Human Services, Office of Trafficking in Persons Per-Capita Grant Program. Immigrant survivors of human trafficking certified by the U.S. federal government as victims of a severe form of human trafficking are eligible for services under this program. Since the volume of clients served under this program in Colorado is, on average, less than 10 clients per year, the Council opted to omit these statistics for the current report.

Human Trafficking Hotline Call Information

Calls to the national and Colorado NGO-administered hotlines provide yet another valuable source of information on the potential incidence of human trafficking. The National Human Trafficking Hotline (NHTH) administered by Polaris tracks information about the calls it receives nationwide as well as those related to Colorado. NHTH reported an increase in its overall calls for a third straight year, with a significant increase in 2016 to 26,727 calls up from 21,947 calls in 2015 (see Table 11). Likewise, it reported an increase of total hotline calls referencing Colorado: 391 calls in 2016 compared to 310 calls in 2015 as well as an uptick in unique Colorado tips reported—120 unique tips were reported in 2016 compared to 77 unique tips in 2015. Total calls represent the overall volume, while the unique tips tally eliminates duplicate calls that refer to the same case. The majority of cases reported to the NHTH involved sex trafficking.

At the state level, Colorado has the Colorado Network to End Human Trafficking (CoNEHT) hotline. The CoNEHT hotline is currently administered by the Laboratory to Combat Human Trafficking (LCHT). Like the NHTH, CoNEHT reported a major increase in calls and unique tips: 310 calls and 194 unique tips in 2016, up from 200 calls and 163 unique tips reported in 2015 (see Table 11). LCHT also reported that one third of callers identified themselves as victims/survivors (103 callers), a positive trend if indeed individuals are becoming more likely than in the past to self-identify and report their situations. Like NHTH call data, CoNEHT data indicate more calls regarding sex trafficking than labor trafficking. It is important to note that the call data from the NHTH and CoNEHT hotlines cannot be added together to calculate a Colorado total of hotline calls due to potential duplication in callers between the two hotlines. The two hotlines do have a protocol for making referrals to each other.

Table 11: Human Trafficking Hotline Call Data, Calendar Years 2014–16						
National Human Trafficking Hotline						
	2014		2015		2016	
	National	Colorado	National	Colorado	National	Colorado
Total Number of Substantive Calls	21,431	273	21,947	310	26,727	391
Total Number of Unique Tips Reported*	5,041 unique tips reported, of which 3,593 ST, 815 LT, 181 both, 452 not specified	67 unique tips reported, of which 42 ST, 19 LT, 4 both, and 2 not specified	5,575 unique tips reported, of which 4,183 ST, 728 LT, 172 both, and 492 not specified	79 unique tips reported, of which 49 ST, 24 LT, 4 both, and 2 not specified	7,621 unique tips reported, of which 5,593 ST, 1,064 LT, 272 both, and 692 not specified	122 unique tips reported, of which 86 ST, 21 LT, 7 both, and 8 not specified.
Colorado Network to End Human Trafficking (CoNEHT) Hotline						
	2014		2015		2016	
Total Number of Calls	158		200		310	
Total Number of Unique Tips Reported**,***	137 ; 66 involved indicators of potential sex trafficking and 20 involved indicators of potential labor trafficking		163 ; 99 involved indicators of potential sex trafficking and 41 involved indicators of potential labor trafficking		194 unique tips reported, of which 129 ST, 22 LT, and 18 both.	

Data sources: National data were obtained from the National Human Trafficking Hotline and Colorado data were obtained 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 the 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.

Colorado Data Collection Summary

Overall, the Council's data collection points to a continuing increase in law enforcement task force work to address human trafficking, specifically, an increase in work related to the sexual servitude of minors as reflected by RMILTF's reported investigations and recoveries. While federal human trafficking prosecutions have decreased, the number of state criminal cases utilizing the new 2014 statutes continued to increase for a third straight year. Labor trafficking prosecutions lag significantly behind sex trafficking ones, but 2016 brought the state's first intentional filing of involuntary servitude under the new 2014 statutes. The available data indicate that human trafficking defendants in Colorado cases are most likely to be male, black, and in the 20- to 30-year-old age cohort. The average state prison sentence for someone convicted of human trafficking is 48.9 years.

With respect to service-based information, hotline calls and unique tips have risen for a third straight year, and according to CoNEHT hotline information, survivors represent a growing

share of callers. Colorado service providers with federal funds to serve trafficking survivors continue to report international labor trafficking survivors as their most common client profile, but for the first time female clients outnumbered males and the share of sex trafficking survivors and minors also rose.

The 2016–17 Colorado Prosecution Study

Since the inception of the Council’s Data and Research Task Force (DRTF), the task force members have sought whenever possible to provide background and contextual information for the data tables featured in annual reports. While the numerical information that the Council has collected on Colorado’s 2014 human trafficking statutes suggests that prosecutors are indeed using the statutes, the Council wanted to better understand why and how this is taking place. The Council also wanted to learn about any potential challenges and gaps in use of the statutes. Moreover, since the Council conducted a survey of law enforcement anti-trafficking activities in 2015, it sought to balance this analysis with prosecution activities. As such, in 2016 and 2017 the Council prioritized an in-depth analysis of Colorado human trafficking prosecution efforts.²⁸ The prosecution study was driven by four primary research questions:

Prosecution Study Research Questions

1. What is the baseline awareness and knowledge among prosecutors on the issue of human trafficking, including knowledge and experience with the revised 2014 human trafficking statutes and experience with charging human trafficking statutes?
2. What are the current protocols and strategies prosecutors are using in their human trafficking case work—from the initial referral through sentencing?
3. What are the relationships within each jurisdiction and externally that have led to a greater awareness and willingness to prosecute suspected human trafficking offenses?
4. What are the resources and factors necessary to identify human trafficking, pursue criminal charges, and—where applicable—to form a specialization within the prosecutor’s agency?

²⁸ Council staff sought and obtained Institutional Review Board (IRB) approval from the University of Southern Maine to conduct the foregoing analysis. The Council’s prosecution study’s IRB protocol number is 17-01-883.

Methods

To address these research questions, the Council's DRTF used a multimethod approach using a survey and semi-structured interviews. DRTF worked with the Colorado District Attorney's Council (CDAC) to arrive at a mutually agreed-upon set of 16 survey questions, CDAC sent out an online survey through the Survey Monkey platform to each of the 22 districts' District Attorneys and a representative of the Colorado Department of Law (see Appendix 4 for a list of survey questions). The Survey Monkey platform protected participant anonymity. Survey instructions requested that only one representative from each office complete the survey, ideally the individual with the most direct experience handling human trafficking cases. Survey participants were asked to report their region as opposed to their jurisdiction to further protect confidentiality.

The overall survey response rate was very strong, at 78% (n = 18), with 77% of District Attorney's offices and one representative of the Attorney General's Office responding. The table below provides the number of responses by region. The survey opened on April 17 and closed on April 28th, 2017. These data were collected and analyzed by Council staff, with consultation from DCJ's Office of Research and Statistics.

Table 12: Survey Response Rate by Region		
District Attorney Region²⁹	N responses	%
Denver Metro (judicial districts: 1,2, 17, 18, 20, Attorney General's office)*	6	37.5
Northeast (8, 13, 19)	3	18.75
Northwest (5, 9, 14)	1	6.25
South (3, 11, 12)	2	12.5
Southwest (6, 7, 21, 22)	2	12.5
Southeast (4,10, 15, 16)	2	12.5

*The Attorney General's office is captured in the metro region.

Additionally, the Council carried out semi-structured interviews with seven prosecutors located around the state to provide case study accounts (see Appendix 5, Prosecutor Interview Guide). To select the sample, the Council considered a) a geographical balance, i.e., a mix of

²⁹ Two judicial districts skipped this question.

prosecutors from the Denver metropolitan area and those outside the metro area, b) a range of experience prosecuting human trafficking cases, and c) the type of human trafficking case handled (sex versus labor trafficking). To maintain the confidentiality of interview participants, the judicial districts and prosecutors interviewed are not listed.

A member of the Council staff was present for every interview and, whenever feasible, a member of the DRTF accompanied the staff member. Interviews were carried out between December 22, 2016, and May 12, 2017.³⁰

Study Limitations

While the Council took several steps to achieve a high level of research design integrity, the study has certain limitations. First, in designing the online survey it was necessary for the Council to work collaboratively with its prosecutor members and the CDAC to draft questions; through this process some questions from the original survey questionnaire that might have yielded more information about the prosecutorial process were adapted or deleted. Yet building consensus with CDAC on the survey was an important part of the research process, as it assisted in developing questions that more fully addressed prosecutor decision making, led to CDAC's endorsement of the tool, and resulted in a high survey response rate.

Second, given resource limitations, Council staff was only able to interview officials from seven of the 22 judicial districts and the Colorado Department of Law. Consequently, while instructive, the interview responses featured in the report are not generalizable to all Colorado prosecutors or all geographical regions. Third, analysis of prosecution efforts raises questions about how other stakeholders not surveyed/interviewed might view the same issues, such as the equally important perspectives of federal prosecutors, members of the Defense Bar, and victims who cooperate and/or are called on to testify in human trafficking cases. Although those perspectives are critical, eliciting them was beyond the scope of the current study.

Finally, six out of seven prosecutors interviewed for the study characterized themselves either as generalists or as specializing in the prosecution of sex trafficking cases. Indeed, this

³⁰ In order to analyze interview results, a Council staff member utilized Nvivo qualitative data analysis software to thematically code each interview. Additionally, three members of the DRTF analyzed de-identified/redacted versions of four interviews to ensure that each one was reviewed and coded by at least two analysts. Staff and DRTF members worked together to objectively identify those themes that resonated across all interviews or were particularly salient to the study's main research questions.

characterization seems to be borne out by the fact that only one of the 97 human trafficking cases filed since mid-2014 involves involuntary servitude. Consequently, the findings often pertain to prosecution strategy used to handle sex trafficking cases unless otherwise noted.

A summary of the key themes the Council identified through the survey and interview process is provided below.

Awareness and Training on Human Trafficking and the New Statutes

Results from both the survey and interviews demonstrate that study participants statewide have a robust awareness of the new human trafficking. All 18 respondents reported that they knew about the 2014 statutes. In response to a survey question about formal training on human trafficking, 11 prosecutors responded that they had received some formal human trafficking training in the past year, while seven reported that they had received no formal training. Equal numbers of metro prosecutors (five) and non-metro prosecutors (five) reported they had been formally trained, while the 11th respondent did not identify a jurisdictional region. Of the seven prosecutors who had not received formal training, five were from non-metro jurisdictional regions. Those prosecutors who had received formal training indicated that they were most commonly trained by fellow prosecutors at a CDAC-sponsored event or by law enforcement colleagues.

During the interviews, prosecutors elaborated on the ways they developed the knowledge and skills to prosecute human trafficking cases. One prosecutor noted that while formal training was helpful, it was insufficient: “I went to a class that a [prosecutor colleague] offered at the University of Denver. It was an excellent class, but it was not the kind of long-term preparation [needed] for doing this work.” Prosecutors from four of the seven judicial districts interviewed acknowledged they had not received formal human trafficking training before taking their first case. Instead of formal training, prosecutors highlighted the value of on-the-job training. For example, nearly all of those interviewed commented on how much they learned from professionals they partnered with on an initial human trafficking case, whether it was a detective with the RMILTF or a specialized prosecutor within the Attorney General’s Office. Some mentioned the benefit of informally sharing strategy and counsel with prosecutors from other judicial districts, especially districts similar to their own.

Prosecutorial Strategy for Handling Human Trafficking Cases

When it comes to pursuing suspected human traffickers, prosecutors widely agreed that these are complex, time-intensive cases that depend on:

1. The skills and experience to build victim-focused cases, i.e., cases that are centered around the statements and testimony of the victim—including a knack for building rapport and trust with victim witnesses;
2. A unique level of collaboration with fellow prosecutors and law enforcement to build evidence-based cases, i.e., cases that rely on multiple forms of digital and physical evidence to thoroughly corroborate victim statements; and
3. A sophisticated application of techniques (many times, borrowed from other case types) to promote a reasonable likelihood of conviction and strong sentencing outcomes.

Assignment of Trafficking Cases

The Council was interested to learn whether judicial districts typically had a formal protocol for handling possible human trafficking cases, including a process for assigning cases within each district. As both the survey and interviews revealed, the process for assigning cases takes one of two primary forms: Cases are either routed to a prosecutor designated as the human trafficking specialist, or, in offices that do not have a designated human trafficking prosecutor, cases are assigned to an experienced prosecutor—either a section/unit chief, or, in smaller districts, to the elected District Attorney given the complexity and time-intensiveness of human trafficking cases.

Building the Case

Prosecutors referenced the extensive amount of evidence involved in human trafficking cases and the related volume of discovery, the often sprawling cast of characters in each investigation, and the frequent need to work closely with victims to build a legal case. Human trafficking cases involving minors present the added challenge of knowing how to navigate and interpret juvenile code in addition to criminal law. One prosecutor described the experience of working human trafficking cases in the following way:

You're dealing with a really large...cast of characters, you are immediately in the zone of overlapping complex kinds of case investigations, and they web out, and

I swear to you the only limit [to] the depth of the investigation is the number of hours you have in your day, and the number of resources that you have.

To successfully manage the challenges posed by human trafficking case work, prosecutors repeatedly mentioned that a steadfast commitment to building victim-focused, evidence-based cases was required.

Key Evidence in Human Trafficking Prosecutions

Figure 10 is a visual summary of the terms prosecutors used most frequently to describe the types of evidence that prove vital in human trafficking investigations. The larger the word, the more frequently it was used by prosecutors.

Perhaps unsurprisingly, victim statements constitute core evidence in human trafficking cases. As a result, much of the remaining evidence prosecutors seek is for corroborating victim statements.

Every prosecutor interviewed mentioned digital evidence as integral for sex and labor trafficking cases. Prosecutors also cited photographs and text messages stored on victim and defendant phones and social media postings, e.g., on Facebook and Backpage, as particularly salient in sex trafficking investigations. Digital evidence also takes the form of hotel folios and video surveillance, two forms that prosecutors rely on regularly in sex trafficking cases.

Prosecutors also mentioned the role of physical evidence. Items like condoms, hotel key cards, and child pornography recovered from defendants' vehicles have constituted vital evidence. Prosecutors cited the value of records from government agencies, such as Probation, the Colorado Department of Labor, and Immigration, to verify or impeach defendants' statements about their whereabouts, employment activities, and labor recruitment activities.



Figure 10: Human Trafficking Evidence Word Cloud

Charging Decisions

The survey, interviews, and existing judicial data all confirm that Colorado prosecutors rely on a combination of formal human trafficking statutes and ancillary charges to pursue suspected human traffickers ([Table 9](#) on page 57 provides a summary of ancillary charges on which trafficking defendants were also convicted between 2014 and 2016). As one prosecutor explained, “When it comes to charging, with a juvenile who’s being sex trafficked, there’s just a pack of charges that we almost always use...we go to this child prostitution part of the [criminal] statutes and figure out what else we have.”

Prosecutors offered various explanations for why this is a common practice. One reason is that the 2014 human trafficking statute is written broadly to reflect a range of criminal conduct that commonly occurs in cases. Consequently, prosecutors noted, there are often several charges that may apply. Prosecutors explained that they file on all charges for which they have credible evidence—a practice that applies to charging decisions generally, not just human trafficking.

Another reason is that, as one prosecutor put it, the crime of trafficking is not commonly a “neatly bookended, short event,” but encompasses a pattern of conduct. As with other crimes involving a pattern of criminal conduct, prosecutors charge for each distinguishable human trafficking-related criminal activity.

The most frequently cited reason for charging multiple statutes relates to sentencing outcomes. While prosecutors commended various aspects of the new statutes, some prosecutors noted their relative weakness when it comes to criminal penalties. One prosecutor explained:

The one thing that my prosecutor colleague and I struggled with in X case is [is that sex] trafficking does not carry an indeterminate sentence in a way that normal sex offenses do, but he [the defendant] had other stand-alone offenses so we had a bit of leverage. And he absolutely deserves to be an indeterminate sentence guy.

In describing her office’s sex trafficking-related sentencing outcomes, another prosecutor explained: “[my predecessor] had a number of cases where she got a significant number of years. They always had mandatory charges attached. It was not the trafficking charge that was dominating the day.”

It is worth noting that with the passage of HB 17-1172, a person convicted of a class two felony for sexual servitude of a minor will now be subject to a minimum mandatory sentence of eight years. This statutory change does not address situations of involuntary servitude or the sexual servitude of an adult, so sentencing concerns may continue to impact charging decisions in Colorado human trafficking cases, but it may address some of the sentencing concerns prosecutors raised during this study.

Specialization

Since 2014, at least four judicial districts have established some form of human trafficking specialization by designating a human trafficking prosecutor and/or allocating in-house investigative resources. This practice has helped to build Colorado prosecutor expertise on human trafficking more quickly. Nonetheless, non-Denver metro jurisdictions reported that a human trafficking prosecutor and/or specialized unit were not practical given their scale of operations and limited resources. For the districts that pursued specialization, prosecutors credited the support of their internal leadership, e.g., the DA, and buy-in from County Commissioners to secure the funding needed for human trafficking-specific positions. Notably, two prosecutors stated that a main reason for pursuing specialization was in response to the sex trafficking caseload generated by the RMILTF.

Role of Collaboration in Combating Human Trafficking in Colorado

In response to the Council's research question about the role of relationships in human trafficking efforts, prosecutors reported that their interactions with colleagues in other judicial districts, with federal prosecutors, and with law enforcement partners—

*[P]rosecutors referenced **collaboration** as a key strength of Colorado's anti-trafficking efforts*

especially RMILTF—were integral to their success. In fact, prosecutors referenced **collaboration** as a key strength of Colorado's anti-trafficking efforts—a theme that ran through both the survey and interviews.

For example, when prosecutors were asked in the survey what their next steps would be if a case filed with their office had insufficient evidence to charge human trafficking, they unanimously reported that they would refer the case back to local law enforcement to carry out

additional investigative work. Only three prosecutors stated that they would decline a case.³¹ Similarly, when asked if they suspected human trafficking in a case not originally filed as such, the prosecutors again indicated they would refer the case back to law enforcement to carry out additional investigative work—a far more common and collaborative response than declining a case.

A lynchpin of collaboration in the Colorado context is the RMILTF. As one prosecutor explained:

Because the Innocence Lost Task Force has developed contacts in all these jurisdictions around the state...they do a good job of trying to de-conflict with other agencies and make sure that people are in the loop. Once word goes out, 'Hey-we're working a case involving this target,' suddenly we had a detective from jurisdiction X involved, and she was available to assist and connected the dots from our defendant to three key victims in the case....

Not only is RMILTF viewed as instrumental in connecting prosecutors to law enforcement they might not be personally familiar with, but RMILTF members also play an integral role in bringing together prosecutors from different jurisdictions and levels of government to determine the best venue and strategy for a case. A prosecutor described this process:

[the RMILTF detective] talked non-stop two hours just to familiarize ourselves with the cast of characters associated with the case. It was that complicated. Face charts, all the stuff that you do when you have a huge dump of information, and you got to help somebody come into your story. The thing that happened was, the detective got to the point where s/he had done all the investigations s/he knew how to do. The detective needed guidance, s/he needed a prosecutor who'd be looking at search warrants, and things like that. The detective needed to know what jurisdiction was going to be involved.

Another prosecutor similarly noted the unique level of collaboration between prosecutors and RMILTF detectives:

³¹ Prosecutors could provide multiple responses to this survey question (*see* Colorado Human Trafficking Council Online Survey, Appendix 4, question 7).

I think that the collaboration piece is bigger in these human trafficking cases than it is in any other type of case. I mean normally, like a regular felony case that we charge, there's not going to be much input from an officer in terms of what charges we decide to file...I think its partially because you need the extra brains to make sure that...there are so many potential charges that would fit in these cases, that was a big part of it. I think the other piece is, sometimes, because the investigation is big enough the officer knows the facts a lot better than we do at that point in a lot of circumstances and so we are really relying on them to say, "that one's not gonna fit because she said X."

This collaboration also extends to federal prosecutors. Prosecutors noted that federal prosecutors are typically part of RMILTF debriefing sessions and will often defer cases to state prosecutors after a discussion of how taking a case federally could affect the outcome of the case, especially in terms of sentencing.

Collaboration was not limited to RMILTF. Prosecutors in jurisdictions outside of the metro area applauded the skills and cooperation of local police departments and sheriff's offices. They also praised agencies that provided specialized assistance, including the Attorney General's Office, CTOCC agents, CBI, and regional HSI offices.

Challenges in Prosecuting Human Trafficking Cases

Prosecutors cited two primary challenges in pursuing human trafficking cases: victim cooperation and the barriers to bringing labor trafficking cases.

Victim Cooperation

Results from the survey indicate that the number one challenge for prosecutors in sex trafficking cases is victim cooperation (nine out of 18 survey respondents ranked it as a major problem). In interviews, prosecutors explained that victims—particularly minor victims of sexual servitude—struggle with a range of pre-existing circumstances, such as social service or juvenile justice involvement, drug dependency, mental health illness, and/or previous trauma, that compromise their ability to cooperate in criminal cases. In fact, six out of seven prosecutors acknowledged that one or more of the victims they worked with did not want to participate in the criminal justice process and that the stress of a potential trial and/or ongoing cooperation was a factor. As one prosecutor put it:

I don't think that prosecution is the right fit for lots of things and sometimes, these [victims] have much more immediate, exigent needs that need to be tended to that have nothing to do with going to court, or being named the victim in a case.

Yet prosecutors asserted that they often had to weigh the interests of victims against the threat that defendants posed to public safety when deciding whether to move forward with a human trafficking case.

Prosecutors were specifically asked what it means to be “victim-centered.” Unlike the term “victim-focused,” which refers to a prosecutorial strategy that places the statements and testimony of victims at the center of the case, the Council interview guide used the term “victim-centered” to refer to a consideration of the needs, interests, and self-determination of victims during the criminal justice process. Prosecutors provided a range of responses to this question. For two prosecutors, it meant putting together a case in which the victim was not needed at trial. For five of seven prosecutors interviewed, being victim-centered was about taking the time to get to know the victim, keeping her or him informed, and being honest about what s/he could expect as a witness.

“*I don't think that prosecution is the right fit for lots of things and sometimes, these [victims] have much more immediate, exigent needs that need to be tended to that have nothing to do with going to court, or being named the victim in a case.*”

While five of seven prosecutors suggested that helping victims get connected to social and legal services was part of their victim-centered approach, few offered concrete examples of how this process worked or how victim witnesses they worked with fare in the long term. Only one prosecutor emphasized the importance of forging strong relationships with child welfare as a necessary part of a victim-centered approach. Instead, prosecutors tended to reference one law enforcement-based victim specialist as responsible for addressing victim needs statewide. It should be noted that this specialist's focus is primarily on minor sex trafficking victims.

A final challenge to victim cooperation mentioned through the interview process pertains to potential human trafficking victims who are minors and may have committed delinquent acts. Because the youth may also have engaged in illegal conduct relating to other offenses—in

addition to her or his potential status as a victim—there must be a careful consideration of the minor's constitutional and statutory rights to ensure they are not violated in the course of obtaining victim statements. It should be noted that concern about how victims (both minors and adults of any form of trafficking) are handled via the criminal justice system is not new or unique to Colorado. Susan Coppedge, the Ambassador-at-Large for the U.S. State Department's Office to Monitor and Combat Human Trafficking, has argued that more should be done nationwide to protect trafficking victims from criminal liability.³² Furthermore, the Council has debated these issues at length (for a discussion of the Council's decision about whether Colorado should enact Safe Harbor legislation, see the *Council's 2015 Annual Report*. For a summary of the Council's discussions about whether victims of human trafficking should have protection from criminal liability for crimes—other than prostitution—committed as a direct result of their trafficking, see the *Council's 2016 Annual Report*).

Overall, prosecutors expressed some degree of ambivalence about how victim-centered the criminal justice process is from the vantage point of victims, especially minors. Additionally, prosecutors' tendency to rely on one victim advocate to keep victims engaged and to address their needs suggests that more work may be needed to support victims during and after the criminal justice process concludes.

Barriers to Prosecution of Labor Trafficking Cases

Another important prosecution study finding relates to the barriers to prosecution of labor trafficking cases. Prosecutors cited several possible reasons for a relative lack of labor trafficking prosecutions under the new statutes:

- Law enforcement is not bringing prosecutors labor trafficking cases; most proactive case work centers on the commercial sex industry.
- The political climate facing immigrants, which may impede detection of labor trafficking and reporting among immigrant victims.
- Lack of partnerships with and referrals from regulatory agencies and nongovernmental organizations that could provide vital information and tips.

³² Coppedge, Susan. "Stop Criminalizing the Victims." CNN. Last retrieved on August 10, 2017, from <http://www.cnn.com/2016/03/17/opinions/coppedge-freedom-project-new-lives/index.html>.

When asked about the most problematic factors in bringing labor trafficking cases, five of the 16 survey takers who responded to the question ranked language barriers and access to interpretation as a major impediment. It is not clear because of the structure of the survey question whether prosecutors perceived that language barriers preclude disclosure about possible human trafficking, or whether prosecutors and their law enforcement partners lacked interpretation services to adequately investigate and prosecute the crime, or both.

When asked during the interview process why there are not more state labor trafficking prosecutions and what strategies could be adopted to increase the number of cases, prosecutor responses tended to focus on the challenges of identifying *immigrant* victims of labor trafficking.

One prosecutor made the following observation: “If you really want to have an impact on [labor trafficking], I would have the state fund the Department of Labor or something [similar] with investigators to shake the trees. You’ve got to look around for it.”

Two other prosecutors mentioned the current political climate and the potential reluctance immigrants may have to participate in the criminal justice system. One prosecutor reflected on a conversation she had with an immigration attorney about the likelihood his clients would report human trafficking:

[He] said there’s not really much advantage in his clients calling the cops. It would really depend [on] where venue was for them, and who they would report to, and that is a political issue. If they don’t see it as an advantage, then they’re not going to advise their client do it.

“
If you really want to have an impact on [labor trafficking], I would have the state fund the Department of Labor or something [similar] with investigators to shake the trees. You’ve got to look around for it.

Another prosecutor explained the challenges she observes to bringing labor trafficking cases:

I think the reason we’re not seeing more labor trafficking cases is twofold....It’s partly because law enforcement is not identifying the cases. They’re just not building the cases. They’re looking, yes. There are ways that we could enhance law enforcement’s toolbox so that they’re working more collaboratively with regulatory agencies, for example. The other

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problem is with the survivors; they don't want to be involved in the [criminal] justice system. Much like the [suspected case of labor trafficking among immigrant construction workers], half of those guys preferred to go home and [not stay] in the United States. They didn't want to be involved in any of it.

Another potential barrier to the prosecution of labor trafficking is that the backgrounds of most Colorado prosecutors specializing in human trafficking is on sex crimes and/or juvenile matters. Moreover, two prosecutors acknowledged that the human trafficking specialization created within their office was specifically to address child sex trafficking cases.

Prosecution Study Conclusion

In summary, the Council's prosecution study results point to strong awareness among Colorado prosecutors of the new 2014 statutes. While prosecutors are more likely to be aware of the human trafficking statutes than to be formally trained on the issue, on-the-job training and hands-on guidance from fellow prosecutors is what often prepares them to take on these labor-intensive, complex cases.

When it comes to human trafficking case work, prosecutors report that their overarching strategy is to build victim-focused, evidence-based cases. Victim statements and testimony constitute the core evidence in cases, while digital evidence in the form of social media content, photographs, and "phone dumps" proves vital—particularly in sex trafficking cases.

Furthermore, the study's results confirm that a common practice of prosecutors is to file multiple charges against defendants in human trafficking cases owing to the range and patterned nature of human trafficking conduct as well as sentencing considerations.

In terms of the challenges, prosecutors report that victim cooperation represents a significant challenge given that many victims are often struggling to cope with trauma, substance use, and other adverse personal circumstances—factors that may preclude a willingness to participate in the criminal justice process. Finally, the study reveals multiple barriers to the successful prosecution of labor trafficking at the state level, including limited referrals from law enforcement, a political climate inhospitable to immigrant victims of crime, and limited partnerships with regulatory agencies and NGOs—two entities that are well-positioned to identify and bring forward information about possible labor trafficking situations.