Trends in State Courts
2013

25th Anniversary Edition

A nonprofit organization improving justice through leadership and service to courts.
Best estimates indicate that 10 million to 30 million people worldwide are human-trafficking victims (Tanneeru, 2011). After drug trafficking, human trafficking is the second largest criminal industry, generating over $32 billion annually (International Labour Organization, 2005). In the United States, estimates for the number of trafficking victims range from 300,000 to 2 million U.S. citizens and non-U.S. citizens. The U.S. Department of State has estimated that the number of people trafficked into the United States annually is between 14,500 and 50,000. The data regarding the number of people trafficked within the United States are limited, but there is a sizable at-risk population (Clawson et al., 2009).

A large proportion of these individuals are trafficked for commercial sex purposes, such as pimp-controlled prostitution, escort services, residential and underground brothels, and pornography. An even greater proportion are forced or coerced into involuntary servitude, peonage, debt bondage, or other forms of trafficking for labor purposes. This includes trafficking for domestic servitude, peddling rings, and the construction, agriculture, forestry, restaurant, and hospitality industries (Texas Advisory Commission to the U.S. Commission on Civil Rights, 2011).

Moreover, between 100,000 and 300,000 children in the United States, including tens of thousands of juveniles labeled “prostitutes” who have contact with state courts, are at risk of becoming trafficking victims (Estes and Weiner, 2002). Court practitioners are now becoming aware that human trafficking can manifest itself in numerous ways, including drug sales by individuals who may be trafficking victims, child thieves who are part of trafficker-controlled organizations, and abused and neglected children in a variety of settings. In short, only now are state courts becoming aware that many people in our courts may have been induced, recruited, harbored, obtained, or transported, by force, fraud, or coercion, for commercial sex or labor.

There is a vast disparity between the substantial attention directed at trafficking issues by federal and state executive agencies and the relative lack of attention paid to those issues by
state courts. For example, the National Association of Attorneys General (NAAG) 2011-12 priority initiative “Pillars of Hope: Attorneys General Unite Against Human Trafficking” has advocated and provided guidance for strong state and local efforts to combat trafficking. The recently elected president of the American Bar Association (ABA) has made human trafficking a number-one priority and has established a human-trafficking task force.

Traditional justice partners have also undertaken similar anti-human-trafficking initiatives, including national, state, and local law enforcement; child protection; and human-service and health-care agencies. For example, there has been increased federal enforcement of national trafficking laws and immigration laws involving traffickers and victims in recent years. Federally sponsored efforts have encompassed everything from working internationally to stem the flow of victims and increasing the protections for trafficked immigrants, to sponsoring state- and local-level human-trafficking task forces. Over the past few years, 49 of the 50 states have passed anti-human-trafficking laws (Polaris Project, 2012).

As a result, state courts are finding themselves without the knowledge, expertise, processes, and basic infrastructure needed to keep up with changes in state laws; aggressive law-enforcement and social-service priorities, policies, and practices; and state statistical reporting and service mandates. State courts remain the last recourse for trafficking victims who have not been identified by other parts of the justice system.

### STATE COURTS AND THE CHALLENGES OF HUMAN TRAFFICKING

Although there is an extensive and expanding body of literature about the types and dynamics of human trafficking, only now are we beginning to inventory all the challenges human trafficking raises for state courts. We do know, however, that three of the more significant challenges human trafficking pose for state courts are:

- identifying and understanding the numerous types of human-trafficking victims, traffickers, and trafficking;
- determining how cases that potentially involve trafficking might appear on court dockets; and
- linking trafficking victims with appropriate resources.
Numerous forms of sex-and-labor human trafficking involving adults, children, immigrants, and citizens occur throughout the United States.

### Types and Dynamics of Human Trafficking

<table>
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<tr>
<th>Types</th>
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<tr>
<td>Trafficking for labor is more common than for commercial sex, but sex trafficking represents over 90% of all trafficking-case prosecution.</td>
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<td>New York, New Jersey, Georgia, Florida, Illinois, Texas, and California have the greatest concentrations of labor trafficking and sex trafficking.</td>
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<td>Common types of labor trafficking include domestic servitude; small businesses; peddling rings; and large-scale industrial operations.</td>
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<td>Dynamics</td>
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<td>U.S. citizens account for a far greater percentage of trafficking victims in the U.S. than noncitizens.</td>
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<td>Traffickers often take advantage of vulnerabilities that marginalize victims, such as poverty, substance abuse, and mental illness.</td>
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<tr>
<td>trafficking of Youth</td>
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<td>Atlanta, Chicago, Detroit, Las Vegas, Miami, Minneapolis, New York, San Diego, San Francisco, St. Louis, Tampa, and Washington, D.C. have the highest incidents of child sex trafficking.</td>
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<td>Approximately 40% of child-sex-trafficking victims are runaway children, including children who ran from a group home, foster care, children services care, or a shelter.</td>
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<td>Over one half of all street youth engage in prostitution to meet basic needs, and the population of street youth is evenly divided between boys and girls.</td>
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See Banks and Kyckelhahn, 2011; Texas Advisory Commission, 2011; Polaris Project, 2007, 2011; Swecker, 2005; and Clinton, 2012

With regard to how human trafficking might appear in state courts, the practitioner literature has revealed four major trends. First, state court cases currently prosecuted under trafficking laws are very few proportionate to the scope of trafficking for a variety of reasons: local prosecutors often prefer to prosecute cases involving trafficking under other, more familiar laws, such as rape, kidnapping, procuring, prostitution, and unlawful imprisonment, rather than newer state human-trafficking laws; state human-trafficking laws are often more difficult to enforce than other state laws that carry similar penalties; law enforcement, social services, the courts, and other justice partners are often unfamiliar
with how to address human trafficking; the backgrounds of some trafficking victims can make prosecution challenging; trafficking victims often are reluctant to testify; trafficking, especially labor trafficking, often is viewed as a federal matter, and thus potential state cases are routinely referred to the Department of Homeland Security; and federal T and U visas and other potential federal protections for noncitizen trafficking victims are often unfamiliar to state court practitioners (see Farrell et al., 2012; Polaris Project, 2010a).

Second, trafficking victims are perhaps more easily identifiable in prostitution cases, but trafficking victims may also be present in numerous other case types, including theft, drug offenses, health-code violations, and juvenile and dependency cases (Farrell et al., 2012).

Third, a number of indicators of human trafficking might assist court personnel and other justice partners, including a variety of behaviors that reveal a mindset of fear, distrust, denial, and conflicting loyalties. For example, trafficking victims often develop general feelings of helplessness, shame, guilt, self-blame, and humiliation; suffer from shock and denial, or display symptoms of post-traumatic stress disorder, phobias, panic attacks, anxiety, and depression; suffer from sleep or eating disorders; become addicted to drugs and alcohol as a way to cope with or "escape" their situation, or as a method of control used by their traffickers; become emotionally numb, detached, and disassociated from the physical and psychological trauma ("flat affect"); or experience "trauma bonding" with the trafficker, positively identifying with the trafficker and believing that, despite repeated abuse, the trafficker is a loving boyfriend, spouse, or parent (Polaris Project, 2010b).

Fourth, many trafficking victims suffer serious health issues, including signs of physical abuse, such as bruises, broken bones, burns, and scarring; chronic pain, visual, or hearing problems from work in agriculture, construction, or manufacturing; skin or respiratory problems caused by exposure to agricultural or other chemicals; infectious diseases, such as tuberculosis and hepatitis, which are spread in overcrowded, unsanitary environments with limited ventilation; untreated chronic illnesses, such as diabetes or cardiovascular disease; or reproductive health problems, including sexually transmitted diseases, urinary tract infections, pelvic pain, and injuries from sexual assault or forced abortions (Polaris Project, 2010b).

Finally, with regard to appropriate resources, trafficking victims not only need the types of service available to crime victims generally, such as housing, mental health, and medical care, but also require more-specialized resources, such as new Social Security numbers, since traffickers often keep their victims’ Social Security cards and other identification documents to track their victims’ whereabouts when they flee.
### Linking Trafficking Victims with Appropriate Resources

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<th>Category</th>
<th>Description</th>
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<td><strong>Basic Needs</strong></td>
<td>Safe housing away from traffickers while their cases move through the system.</td>
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<td>Assistance with transportation to specialized programs, medical services, counseling, interviews, and court.</td>
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<td><strong>Health</strong></td>
<td>Medical care and substance-abuse treatment.</td>
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<td>Range of options for short- and long-term care.</td>
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<td>Specialized mental-health treatments since traditional counseling often has little success with trafficking victims.</td>
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<td><strong>Other</strong></td>
<td>Life skills and vocational training.</td>
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<td>New Social Security numbers.</td>
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<td>Better training for judges, court personnel, law enforcement officers, mental health providers, juvenile justice officials and child protective services workers on the dynamics of trafficking and victims’ needs.</td>
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See Swecker, 2005; Clinton, 2012; and Clawson et al., 2009.

### RESPONSES TO HUMAN TRAFFICKING—THE NEED TO EXPAND COURT CAPACITY

Beginning in early 2013, the State Justice Institute provided initial funding to form a Human Trafficking and the State Courts Collaborative to be coordinated by the Center for Public Policy Studies (CPPS). In particular, CPPS along with the Center for Court Innovation (CCI) and the National Judicial College (NJC), the three founding partners of the collaborative, have identified four strategic priorities for addressing human trafficking in the state courts:

- increase understanding and awareness about the challenges faced by state courts in dealing with cases involving trafficking victims, their families, and traffickers;
- develop and test state and local approaches for assessing and addressing the impact of human-trafficking victims and defendants in the state courts;
- enhance state and local court capacity to improve court services affected by human-trafficking-related case-processing demands; and
- build effective national, state, and local partnerships for addressing the impacts of human-trafficking case processing in the state courts.
A variety of other organizations, including the National Association of Women Judges, the National Council of Juvenile and Family Court Judges, and the American Bar Association, have expressed interest in joining the collaborative.

### Human Trafficking and the State Courts Collaborative Topics

#### Operations
- How state courts and their justice partners can effectively identify human trafficking in different types of cases.
- The general effects on court policy and operations of state human-trafficking laws and how they are implemented.

#### Policy
- State court recordkeeping and the uses of state court records in federal human-trafficking proceedings.
- The mechanics of promising approaches, such as specialty prostitution and girls’ courts, for addressing human-trafficking victims in ordinance and criminal violations.
- Addressing human trafficking in other types of specialty courts, including drug and mental-health courts.

#### Law
- The general effects on court policy and operations of state human-trafficking laws.
- Treaty and convention agreements, access to services, and working across international borders in trafficking cases.
- How state courts can use federal law protections for immigrant-juvenile and adult trafficking victims, such as U and T visas and special immigrant-juvenile status, to help in state court cases.
- The benefits, challenges, and processes associated with court practitioners using human-trafficking laws as opposed to other, more familiar state laws, such as unlawful imprisonment, rape, pandering, prostitution, or kidnapping.

#### Service Delivery
- How to link trafficking victims to appropriate services.

### Human Trafficking and the State Courts Collaborative Activities

#### General Information/Communication
- Establishing a Web-based resource network and clearinghouse.
- Identifying the major challenges and opportunities that courts must address in cases with trafficking victims and traffickers.
- Preparing topical publications for court practitioners.
- Establishing and facilitating an ongoing federal/state dialogue to improve collaboration between courts and justice organizations on human trafficking.

#### Training
- Establishing and coordinating a nationwide training network.
- Developing and conducting courses for judges and court personnel on human-trafficking-related cases.

#### Developing Tools/Approaches
- Preparing bench cards, best practice guidelines, tool kits, and other resources to help court practitioners and their justice partners address human trafficking.
- Developing and testing technical assistance for diverse jurisdictions on the challenges of human-trafficking cases.
Adequately adjudicating human-trafficking cases in state courts requires a long-term commitment. Court practitioners need to learn about the scope, forms, and dynamics of human trafficking and subsequently determine and perfect an appropriate role for the state courts in helping to eradicate 21st-century slavery in our communities.

REFERENCES


