

## EFFORTS TO STOP HUMAN TRAFFICKING

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I'd like to thank the *Harvard Journal of Law & Public Policy* for hosting this conversation about human trafficking. I would like to address the issue on behalf of the Department of Justice, where I serve as the Assistant Attorney General leading the Office of Legal Policy (OLP). OLP is sometimes described as the think tank for the Department of Justice. Unlike almost all of the other attorneys across the Department, we do not handle cases or even directly oversee them. Instead, we are able to take a high-level view of what is happening across the Department and to synthesize those cases and initiatives and other activities into a coherent package for Department leadership on issues that are top priorities for them. That high-level view also gives us the perspective to develop new approaches—to identify new partnerships, both inside and outside of the government, that would be useful—and to propose new policy ideas that move the ball on Departmental priorities. Another part of my role is to help get the word out about what the Department is doing. And I have found that after speaking to stakeholders outside of the DOJ, and to the public, I often go back to my office with fresh perspectives and new ideas. That is why I am grateful to be a part of this conversation and to be invited to address this important matter.

Let me start by telling you a little bit about what human trafficking is and how it is criminalized under U.S. law. Under federal law, it is a crime to compel another person to provide labor, services, or commercial sex through prohibited means of coercion, and to exploit a minor for commercial sex.<sup>1</sup> This prohibited coercion can take a number of forms—not just physical force. It includes force or threats of force, but also threats of

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1. See 18 U.S.C. §§ 1589, 1591(a) (2012).

“serious harm,” defined to include “any harm, whether physical or non-physical, including psychological, financial, or reputational harm,” as long as it is sufficiently serious to compel a reasonable person in the victim’s situation.<sup>2</sup> It also includes “abuse or threatened abuse of law or legal process,”<sup>3</sup> such as threats to have the victim arrested or deported. In other words, not every trafficking victim is forced to perform labor or engage in commercial sex at gunpoint. Many are subject to other, more subtle, but also coercive—and ultimately just as traumatizing—forms of compulsion. When a victim exploited for commercial sex is a minor, the coercion element drops out. Exploitation of a minor for commercial sex *is* human trafficking under U.S. law, regardless of whether any form of force, fraud, or coercion was used.<sup>4</sup>

Victims of human trafficking come from all backgrounds and walks of life. But traffickers most often prey on individuals who are poor, vulnerable, in an unsafe or unstable living situation, or are in search of a better or different life. Trafficking victims are often deceived by false promises of love, a good job, or a stable life and are lured or forced into situations where they are made to work under deplorable conditions with little or no pay—and with the threat of abuse constantly hanging over their heads. Victims of labor trafficking can be found in legal and illegal labor industries, including massage parlors, nail and hair salons, restaurants, hotels, factories, and farms. Some victims are hidden behind closed doors as they toil in domestic servitude in a home. Others are in plain view, and interact with people on a daily basis. Victims of sex trafficking may be exploited for commercial sex through street prostitution, illicit massage parlors, brothels, escort services, and online advertising hubs. Human trafficking occurs in communities all across the United States. Human trafficking has been likened to modern day slavery, and it is often happening right here in our own communities.

Just as there is no one type of trafficking victim, perpetrators of this crime also vary. Traffickers can be foreign nationals or U.S. citizens, family members, partners, acquaintances, or

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2. *Id.* §§ 1589(c)(2), 1591(e)(4).

3. *Id.* §§ 1589(c)(1), 1591(e)(1).

4. *See id.* § 1591(a).

strangers. They can act alone or as part of an organized criminal enterprise. Most traffickers are men, but the United States has prosecuted cases against women traffickers. Traffickers can be pimps, gang members, diplomats, business owners, labor brokers, or farm, factory, or company owners. Trafficking is big business—the FBI has estimated that human trafficking is the third-largest criminal activity in the world, after drugs and counterfeiting.<sup>5</sup>

Trafficking in persons is an offense against human dignity. Trafficking victims are treated as commodities that can be bought, used, and sold—usually not just once, but over and over. Trafficking victims are denied their freedom and often are denied even basic human needs. They are forced to live at the mercy of their traffickers and frequently endure horrific psychological and physical abuse.

Now to directly address the topic at hand: how to stop human trafficking. I will say first that the Department of Justice *is fully committed* to stopping human trafficking, using every means at our disposal. Stopping human trafficking is a top priority for the Department, all the way up to the Attorney General. We are tackling this crime with our federal law enforcement tools, our partnerships with state and local and even foreign law enforcement, and our financial resources.

We fight trafficking first and foremost through our law enforcement capabilities, and through the courts. Our prosecutors are our best weapons against trafficking. The ninety-three United States Attorney's Offices across the country handle most of our prosecutions of human trafficking cases. Each U. S. Attorney's Office has designated a human trafficking coordinator and a Project Safe Childhood Coordinator, to facilitate the investigation and prosecution of human trafficking cases. An experienced sex-trafficking prosecutor from the local U.S. Attorney's Office here in Boston has joined us here today—Leah Foley. Last year, Leah obtained a guilty plea from a defendant who exploited several women—whom he met at a driving instruction class, outside a needle exchange location, and at a detox center—for commercial sex, using heroin, as well as actual

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5. Amanda Walker-Rodriguez & Rodney Hill, *Human Sex Trafficking*, FBI LEGAL BULL. (Mar. 1, 2011), <https://leb.fbi.gov/articles/featured-articles/human-sex-trafficking> [https://perma.cc/G3G7-GV4P].

and threatened physical violence, to coerce them into prostituting for him.<sup>6</sup> Many sex trafficking cases in this area have a close link to drug use and the drug trade, with traffickers targeting drug-addicted women and using drugs to keep them subservient. Leah, United States Attorney Andrew Lelling, and the team at the U.S. Attorney's Office, in conjunction with other partners through the Western Massachusetts Human Trafficking Working Group, are doing tremendous work rescuing victims and putting traffickers behind bars in the Boston area and beyond.

The Department also has specialized trafficking prosecutors working out of Main Justice in Washington, D.C., in both the Human Trafficking Prosecution Unit—which handles cases of forced labor or commercial sexual exploitation of adults—and the Child Exploitation and Obscenity Section, which handles sex trafficking of children. Both of those groups take their own cases and also work hand-in-hand with U.S. Attorney's Offices to investigate and prosecute human trafficking cases in their respective areas of expertise.

These prosecutors are busy. Last year alone, DOJ obtained convictions for nearly 500 defendants in sex and labor trafficking cases<sup>7</sup>—a Department record. The vast majority of those convictions were for sex trafficking offenses. Since the year 2000, the Department has obtained convictions for over 2500 defendants in cases involving forced labor, or adult or international sex trafficking.

We are pleased that Congress has just given our prosecutors another tool to use to go after traffickers. The Department supported the passage of legislation which, among other key changes, will empower DOJ prosecutors to pursue criminal charges against website operators who turn a blind eye to sex trafficking—including of children—happening on their sites.<sup>8</sup>

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6. See *Burlington Man Sentenced For Sex Trafficking*, U.S. ATT'Y'S OFFICE FOR THE DIST. OF MASS., U.S. DEP'T OF JUST. (Oct. 20, 2017), <https://www.justice.gov/usao-ma/pr/burlington-man-sentenced-sex-trafficking> [<https://perma.cc/PFD7-9467>]; see also *United States v. Davis*, 241 F. Supp. 3d 261 (D. Mass. 2017).

7. See Jeff Sessions, *Attorney General Sessions Delivers Remarks at the Department of Justice's Human Trafficking Summit*, U.S. DEP'T OF JUST. (Feb. 2, 2018), <https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-department-justice-s-human-trafficking-summit> [<https://perma.cc/287E-KMKE>].

8. Stop Enabling Sex Traffickers Act of 2017, S. 1693, 115th Cong. (2018).

This bill passed the Senate overwhelmingly on March 21, 2018,<sup>9</sup> and will now go to the President for his signature.

We at DOJ know that we can't do this work alone. Indictments don't present themselves, fully formed, to prosecutors. Our prosecution numbers reflect the coordinated efforts of dedicated law enforcement and other personnel across the federal government. For example, DOJ prosecutors get referrals from the Department of Labor's Wage and Hour Division, whose inspectors have been trained to identify signs of trafficking and to report them to us. We also get referrals from the Department of Homeland Security's investigative force.

And, of course, the FBI works hand-in-hand with DOJ prosecutors to identify and investigate cases. Through its Operation Cross Country, the FBI works with federal, state, and local law enforcement partners to rescue victims of sex trafficking and identify perpetrators. The most recent iteration of Operation Cross Country, which took place last October, "involved 55 FBI field offices and 78 FBI-led Child Exploitation Task Forces composed of more than 500 law enforcement agencies."<sup>10</sup> Hundreds of law enforcement personnel worked together to perform "sting operations in hotels, casinos, truck stops, and through social media sites frequented by pimps . . . and their customers."<sup>11</sup> You might have read about this operation in the news: it freed eighty-four child victims of sex trafficking, including a three-month-old girl and her five-year-old sister who were rescued after a family friend agreed with an undercover officer to sell both children for sex for \$600.<sup>12</sup>

The DOJ has formalized some of our crucial—and highly effective—interagency partnerships through an initiative of which we are very proud: the Anti-Trafficking Coordination Team, or "ACTeam," Initiative. This project convenes interagency teams of federal prosecutors, agents, and other personnel from DOJ, FBI, DHS, and DOL, to develop high-impact human trafficking cases in specific districts that have applied and been selected for participation in the program. Participat-

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9. See 164 CONG. REC. S1872 (daily ed. Mar. 21, 2018) (97–2).

10. *Operation Cross Country XI: Recovering Underage Victims of Sex Trafficking and Prostitution*, FBI (Oct. 18, 2017), <https://www.fbi.gov/news/stories/operation-cross-country-xi> [<https://perma.cc/L369-DUKA>].

11. *Id.*

12. *Id.*

ing districts receive advanced training and ongoing mentoring from Main Justice and other agency headquarters. The first phase of the ACTeam Initiative launched in 2011 in six districts. Those districts saw a 114% increase in human trafficking cases filed, a 119% increase in defendants charged, and an 86% increase in defendants convicted.<sup>13</sup>

Building on the success of ACTeam Phase I, the Department launched Phase II in 2016 in six new districts—including Portland, Maine, just up Route 1. Phase II will conclude this coming September, and we're looking forward to analyzing the results. We are confident that the program is continuing to make a difference.

Another important and effective partnership is called the U.S.-Mexico Bilateral Human Trafficking Enforcement Initiative. Through this program, DOJ, DHS, and Mexican law enforcement counterparts exchange leads, evidence, intelligence and strategic guidance to strengthen high-impact human trafficking investigations and prosecutions—working towards the goal of dismantling transnational organized trafficking networks operating across the U.S.-Mexico border. These efforts have resulted in successful prosecutions in both Mexico and the United States, including U.S. federal prosecutions of more than seventy defendants. In one recent case, DOJ secured convictions against eight members of a transnational organized criminal sex trafficking enterprise charged and apprehended through the Initiative.

Investigating cases and prosecuting criminals—often by working together with federal, state, local, and international partners—are the bread-and-butter of the Department of Justice. But the Department fights trafficking in another, very different, way as well: by putting enormous financial resources towards empowering organizations outside the federal government to contribute to the fight, too.

In fiscal year 2017, the Department directed \$45 million towards supporting programs that assist victims of human trafficking.<sup>14</sup> That money had a number of uses. For example, near-

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13. See *Anti-Trafficking Coordination Team (ACTeam) Initiative Fact Sheet*, U.S. DEP'T OF JUST. (May 19, 2015), <https://www.justice.gov/opa/file/623176/download> [<https://perma.cc/2DKH-RWBL>].

14. *Justice Department Invests More Than \$47 Million to Combat Human Trafficking and Assist Victims*, U.S. DEP'T OF JUSTICE (Sept. 29, 2017), <https://www.justice.gov/>

ly \$3 million funded training and support for law enforcement task forces<sup>15</sup>—training that we know has resulted in the identification and rescue of real victims, and the prosecution of their traffickers. Through an interagency agreement with the Department of Housing and Urban Development, over \$13 million funded a human trafficking housing partnership to address the housing needs of trafficking victims.<sup>16</sup> And over \$11 million went to organizations that provide services to trafficking survivors, helping them find stability and peace.<sup>17</sup> We are proud that this funding makes a real impact. For example, DOJ's Office for Victims of Crime service provider grantees reported 5655 open client cases from July 1, 2015 to June 30, 2016, including 3195 new clients.<sup>18</sup>

Those numbers represent thousands of real people who are victims of trafficking. DOJ funding provides them with help finding a safe place to live; help accessing education or job training to get their lives back on track; help from professional, trauma-trained counselors to come to terms with their experiences and to move beyond them. Funding these services supports our prosecutors by empowering victims to testify against their traffickers. But we also provide this funding to victims services providers because it's the right thing to do.

Stopping human trafficking is a very big goal—and it's one that the Department of Justice takes seriously. We plan to continue to do this work—to continue to find ways to be ever more effective, efficient, and creative in building cases, convicting traffickers, and doing our part to help victims recover—until we have won the fight against this profoundly dehumanizing crime. We are mindful of and grateful for the work that many others are doing to stop human trafficking as well. Together, we can take great strides to win this fight.

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opa/pr/justice-department-invests-more-47-million-combat-human-trafficking-and-assist-victims [https://perma.cc/Q2TX-YBMY].

15. *Id.*

16. *Id.*

17. *Id.*

18. OFFICE FOR VICTIMS OF CRIME, U.S. DEP'T OF JUSTICE, NCJ No. 251074, TIMS SNAPSHOT REPORT: SERVICES FOR VICTIMS OF HUMAN TRAFFICKING (2016), available at <https://ovc.ncjrs.gov/humantrafficking/pdf/TIMS-Overall-508.pdf> [https://perma.cc/E7EG-VMGL].

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