

Human Trafficking

A guide for criminal justice professionals

A guide to assist criminal justice professionals and agencies in evaluating preparedness to:

Recognize the crime of human trafficking

Protect victims

Hold offenders accountable

Office of the Attorney General
Wisconsin Department of Justice



Attorney General Brad D. Schimel

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Introduction & Overview

The purpose of this guide is to provide information and resources to criminal justice professionals to assist them in assessing and improving their ability to respond to the crime of human trafficking. Human trafficking is a crime that involves obtaining or maintaining the labor or services of another through the use of force, fraud or coercion. Trafficked victims are compelled to work in the commercial sex industry and service and labor sectors by traffickers who gain financially from the victims' labor.

Human trafficking is a criminal enterprise carried out in urban and rural communities. It is not easy to detect because it can involve mainstream businesses and victims are afraid to seek help; **victims often do not even identify themselves as**

“Everyone has the potential to discover a human trafficking situation in any town of any size in Wisconsin. Our partnerships are key in sharing information to raise awareness, provide training and to ensure an effective prosecution that holds perpetrators accountable and responds to the needs of victims.”

-Wisconsin Attorney General Brad D. Schimel

victims. Trafficked persons can be from any background or ethnicity and might be citizens, legal residents or people without legal immigration status.

Traffickers use threats, deception, violence and coercion to impose physical and psychological tactics to

maintain control of their victims. Victims become completely dependent on their traffickers to meet their basic human survival needs. They become isolated and conditioned to fear cooperation with the criminal justice system. It is common that in addition to the crime of human trafficking cases contain elements of attendant crimes such as battery, sexual assault, physical abuse and financial crimes.

Human trafficking is a **lucrative criminal enterprise** supported by high demand. Traffickers profit with little fear of detection or prosecution. Human trafficking will not be contained until the risk of operating as a trafficker poses a threat greater than what the trafficker stands to gain from the enterprise. Criminal justice agencies must enforce anti-trafficking laws and raise the cost of doing “business” for those who profit from trafficking human beings. This guide will assist agencies in assessing agency preparedness to investigate and prosecute the crime of human trafficking. It provides resources for moving forward to develop protocol and procedures to keep victims safe, to conduct thorough investigations and to hold perpetrators accountable through successful prosecutions.

1-888-373-7888 or Text BeFree (233733)

The National Human Trafficking Resource Center takes calls from anywhere in the country, 24 hours a day, 7 days a week, every day of the year. Available services include crisis intervention, urgent and non-urgent referrals, tip reporting, and technical assistance.

Human Trafficking Laws

Human trafficking is prohibited by federal law and by Wisconsin state law. The crime of human trafficking involves the full process of trafficking from the initial recruitment of the victim to the commercial exploitation of the victim. Attempts to traffic are also a crime.

Sex trafficking of children is a crime that involves the use of children in the commercial sex industry, whether or not any force, fraud or coercion is involved. By definition, minors cannot consent to participate in the commercial sex industry. **Any involvement of a minor in sexual acts for money or anything of value, including basic survival needs, is against the law.**

Wisconsin's Anti-Trafficking Statutes

Human Trafficking

See Wis. Stat. § 940.302

Human trafficking is recruiting, enticing, harboring, transporting, providing or obtaining an individual (or attempting to do so)...



...For the purposes of a commercial sex act or labor or services...



By means of causing or threatening to cause bodily or financial harm to any individual; or restraining or threatening to restrain any individual; or by violating or threatening to violate a law; or by extortion or fraud or deception or debt bondage; or destroying, concealing, removing, confiscating or possessing or threatening to do so with any actual or purported passport or any other actual or purported official identification document of any individual; or controlling or threatening to control any individual's access to an addictive controlled substance; or using any scheme or pattern or other means to directly or indirectly coerce, threaten or intimidate any individual; or to use or threaten to use force or violence against any individual; or to cause or threaten to cause an individual to do any act against the individual's will or without the individual's consent.

Wis. Stat. § 940.302 (2)(a) 2.

Human Trafficking of a Child (Wis. Stat. § 948.051)

(1) Whoever knowingly recruits, entices, provides, obtains, or harbors, or knowingly attempts to recruit, entice, provide, obtain, or harbor, any child for the purpose of commercial sex acts, as defined in s. 940.302 (1) (a), is guilty of a Class C felony.

(2) Whoever benefits in any manner from a violation of sub. (1) is guilty of a Class C felony if the person knows that the benefits come from an act described in sub. (1).

IT IS IMPORTANT TO NOTE:

- Whoever benefits in any manner from a violation of human trafficking is guilty of a Class D felony if the person knows or reasonably should have known that the benefits come from or are derived from an act or scheme described above. *See Wis. Stat. § 940.302(2)(b).*
- Whoever knowingly receives compensation from the earnings of debt bondage, a prostitute, or a commercial sex act (as defined) is guilty of a Class F felony. *See Wis. Stat. § 940.302(2)(c).*
- Wis. Stat. § 973.015 (2m) creates a procedure whereby a victim of trafficking for the purpose of a commercial sex act may request a court to vacate a conviction, adjudication, or finding, or to expunge the record for a violation of prostitution.
- In prostitution cases, if the person charged has not attained the age of 18 years and if the court determines that the best interests of the person are served and society will not be harmed, the court may enter a consent decree under s. 938.32 or a deferred prosecution agreement in accordance with s. 938.245, 971.39, or 971.40. *See Wis. Stat. § 944.30 (2m).*
- Wis. Stat. § 904.04 (2) provides that in criminal proceedings alleging human trafficking, evidence of similar acts by the defendant(s) may be admissible as evidence of the person's character without regard to whether the victim of the crime is the same as the victim of the similar act.

Federal Anti-Trafficking Statutes

The **Trafficking Victims Protection Act** (“TVPA”) and its reauthorizations seek to combat trafficking by promoting what is often described by federal officials as a national policy of “3 Ps”:

Prosecution –Pass and enforce laws that criminalize trafficking and raise the risk of benefiting in any manner from human trafficking.

Protection –Identify victims, provide them with services and witness protection if necessary, and when appropriate, provide them with immigration relief.

Prevention –Raise awareness of the abhorrent practices involved in the trafficking trade to reduce the demand for services obtained through human trafficking.

Severe Forms of Human Trafficking are defined in federal code 22 U.S.C. § 7102:

a) Sex trafficking (the recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act) in which the commercial sex act is induced by force, fraud, or coercion, **or in which the person induced to perform such an act has not attained 18 years of age**; or

(b) The recruitment, harboring, transportation, provision, or obtaining of a person for **labor or services**, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Additional Federal Trafficking Statutes

- 18 U.S.C. § 1581 (Peonage)
- 18 U.S.C. § 1584 (Involuntary Servitude)
- 18 U.S.C. § 1589 (Forced Labor)
- 18 U.S.C. § 1590 (Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor)
- 18 U.S.C. § 1591 (Sex Trafficking of Children or by Force, Fraud, or Coercion)
- 18 U.S.C. § 1592 (Unlawful Conduct with Respect to Documents in Furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor)
- 18 U.S.C. § 1593 (Mandatory Restitution)
- 18 U.S.C. § 1594 (a) and (b) (Attempt and Forfeiture)
- 18 U.S.C. § 1595 (Private Right of Action)
- 18 U.S.C. § 2423 (Transportation of Minors into Prostitution)
- 18 U.S.C. § 1546 (Visa Fraud)

Detailed information on the statutes can be read [here](#).

Glossary of Statutory Terms

Note that terms are defined according to federal or state statutes, as indicated.

Coercion

a) Threats of serious harm to or physical restraint against any person; b) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or c) the abuse or threatened abuse of the legal process. *See 22 U.S. Code § 7102.*

Commercial Sex Act	Any sex act, on account of which anything of value is given or received by any person. <i>See 22 U.S. Code § 7102.</i>
Commercial Sex Act	Any of the following for which anything of value is given to, promised, or received, directly or indirectly, by any person: sexual contact, sexual intercourse, sexually explicit performance, or any other conduct done for the purpose of sexual humiliation, degradation, arousal, or gratification. <i>See Wis. Stat. § 940.302 (1) (a).</i>
Debt Bondage	<p>The status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. <i>See 22 U.S. Code § 7102.</i></p> <p>The condition of a debtor arising from the debtor’s pledge of services as a security for debt if the reasonable value of those services is not applied toward repaying the debt or if the length and nature of the services are not defined. <i>See Wis. Stat. § 940.302 (1) (b).</i></p>
Services	Activities performed by one individual at the request, under the supervision, or for the benefit of another person. <i>See Wis. Stat. § 940.302 (1) (c).</i>
Involuntary Servitude	A condition of servitude induced by means of (a) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition that person or another person would suffer serious harm or physical restraint; or (b) the abuse or threatened abuse of the legal process. <i>See 22 U.S. Code § 7102.</i>

“Due to the covert nature of the crime, human trafficking will likely come to your attention indirectly. Some examples of state and federal violations that may lead you to uncover elements of human trafficking include: domestic violence crimes, labor disputes, prostitution and pimping offenses, shoplifting, and cases of assault.”

Source: *The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation*, International Association of Chiefs of Police

Common Myths and Misconceptions

Misconceptions can prevent criminal justice professionals from recognizing signs of trafficking. The following is adapted from the “Top Ten Myths” according to Polaris Project, an international anti-trafficking organization (www.polarisproject.org).

Myth: **Trafficked persons can only be foreign nationals or are only immigrants from other countries.**

Fact: U.S. citizens and foreign nationals are equally protected under the Federal trafficking statutes and Wisconsin’s state statutes.

Myth **Trafficking must involve some form of travel, transportation, or movement across state or national borders.**

Fact: The legal definition of trafficking **does not require transportation**, although transportation may be involved in the crime. Transportation or migration is less of a relevant consideration for identifying trafficked persons.

Myth: **Human trafficking is another word for human smuggling.**

Fact: There are fundamental differences between human trafficking and smuggling:

Smuggling...	Human Trafficking...
Is voluntary, always involves border crossing and ends after the border crossing;	Is not voluntary; can occur domestically, with citizen held captive in own country; does not require movement;
Fees are usually paid to the smuggler in advance or upon arrival;	Entails indefinite compelled service and forced exploitation;
Is a crime against a nation’s sovereignty.	Is a crime against a person

Myth: **There must be elements of physical restraint, physical force, or physical bondage when identifying a trafficking situation.**

Fact: The legal definition of trafficking does not require physical restraint, bodily harm, or physical force. Psychological means of control, such as threats, or abuse of the legal process, are sufficient elements of the crime.

Myth: **Victims of trafficking will immediately ask for help or assistance and will self-identify as a victim of a crime.**

Fact: Victims of trafficking often do not immediately seek help or see themselves as victims due to lack of trust, self-blame, or training by the traffickers. It is important to be aware that trust will take time to develop.

Myth: **Trafficking victims always come from situations of poverty or from small rural villages.**

Fact: Poverty is highly correlated with human trafficking because it often is a factor of vulnerability but poverty alone is not a single causal factor or universal indicator of a human trafficking victim. Trafficked victims come from a range of income levels including families with increased socioeconomic status.

Myth: **Sex trafficking of girls and women is the only form of human trafficking.**

Fact: Elements of human trafficking can occur in both commercial sex acts but also in situations of forced labor or services. Human trafficking encompasses both forms of what are referred to as “sex trafficking” and “labor trafficking,” and can affect men and boys in addition to women and girls.

Myth: **Human trafficking only occurs in illegal underground industries.**

Fact: Trafficking can occur in legal and legitimate business settings as well as underground markets. Many industries present in Wisconsin (tourism, hospitality, agriculture) are industries in which trafficking might occur.

Myth: **If the trafficked person consented to be in their initial situation or was informed about what type of labor they would be doing or that commercial sex would be involved, then it cannot be trafficking or against their will because they “knew better.”**

Fact: A victim cannot consent to be in a situation of human trafficking. Initial consent to commercial sex or a labor setting prior to acts of force, fraud, or coercion (or if the victim is a minor in a sex trafficking situation) is not relevant to the crime, nor is payment. Wisconsin law also provides that a victim of trafficking can present such victimization as a defense when illegal acts were committed as a result of the trafficking.

Myth: **Foreign national trafficking victims are always undocumented immigrants or here in this country illegally.**

Fact: Not all foreign national victims are undocumented. Trafficked persons can be in the United States through either legal or illegal means. Some foreign national victims are undocumented; others have legitimate visas for various purposes.

Recognizing the Crime

“The locations and settings where trafficking occurs do not always appear suspicious. For instance, **trafficking could be occurring at places frequently visited by the public** such as restaurants or hotels. Therefore, it is important to remember that the key indicators of this crime may not be in the setting itself, but in the conditions and circumstances of the labor involved.”

Source: U.S. Department of Justice Anti-Human Trafficking Task Force e-Guide

Indicators of Human Trafficking

It is not possible to determine a situation of human trafficking based upon any single indicator; however, the following may raise questions worthy of further inquiry to determine a situation of human trafficking:

- A prostituted minor or a minor used in other commercial sexual activities, including runaway or homeless youth exploited through “survival sex.”
- A foreign national adult or minor who is not in possession of identifying documents he or she claims to own and declares that someone else holds the identifying documents.
- A person whose movement, speech and activities appear to be closely controlled or monitored by another.
- A person who works excessive hours but receives little or no compensation.
- A person who is fearful of discussing working conditions or is unaware that certain unsafe conditions are unlawful.
- A person who has little or no idea where they are geographically located.
- An adult engaging in prostitution or other commercial sexual activities.
- Groups of workers transported in and out of labor locations covertly and under controlled conditions.
- Workers exhibiting signs of malnutrition and/or physical abuse.
- Workers living on or near the work premises.
- Facilities surrounded by barbed wire; bars on the windows; bouncers, guards, and/or guard dogs; worksites that look like a guarded compound from the outside.
- Self-contained camps; workers have no access to telephones.
- Large numbers of workers living in the same space, particularly in a space not normally suited as a living space.

Keep in mind that law enforcement may encounter indicators when responding to or investigating other crimes, such as child pornography, arms trafficking, street gang activity, pandering, financial crimes, domestic violence, drug trafficking, kidnapping,

money laundering, organized crime, petty theft, sexual assault, traffic violations, work place violations.

Perpetrator Behavior: How Traffickers Control Victims

It may be difficult to understand why someone who is trafficked would not seek help or try to escape. Circumstances may even indicate some degree of movement and freedom. Keep in mind that no victim of trafficking has real freedom to leave because traffickers have used trickery and psychological and/or physical abuse to instill fear and maintain control. Common tactics include:

- Threatening victims with arrest or deportation;
- Threatening to harm the victim's friends or family (regardless of their location);
- Charging the victim for things such as food and housing and fining the victim for not meeting quotas or for bogus work rule violations in order to create an insurmountable debt obligation;
- Frequently moving the location of operations to create disorientation and to prevent the victim from establishing local relationships or resources;
- Employing extreme abusive psychological tactics to create a dependency similar to that seen in kidnapping and domestic violence cases;
- Convincing the victim that he or she is always being watched and followed, then dictating or restricting movement under the threat of some kind of punishment if the victim does not obey;
- Isolating the victim to the point that the victim depends on the trafficker for basic survival needs;
- Isolating the victim so the trafficker is the only translator or source of information;
- Confiscating legal documents and important papers;
- Lying about the validity of documents and papers so the victim is unsure of his or her legal status;
- Spreading fear and misinformation about laws to increase the victim's distrust of law enforcement and fear of punishment by the legal system;
- Threatening the use of violence;
- Committing acts of violence against others in front of the victim;
- Perpetrating systematic physical and sexual violence against the victim to maintain fear and control;
- Coercing the victim into illegal acts then building "evidence" of wrong-doing and convincing the victim that he or she will go to jail if detected;
- Pretending to have a relationship with influential people and the police to convince the victim that he or she will not be helped by law enforcement.

Victim Behavior in a Criminal Justice Setting

Agency training, protocol and procedures should take into account that victims of trafficking are likely operating under extreme trauma. This condition will affect the manner in which the victim provides information and his or her ability to cooperate. Procedures, attitudes or personalities that increase stress and trauma of the victim will impede a successful investigation or prosecution of the case. Those who interact with victims should be aware that traffickers instill in victims a fear of cooperating with criminal justice officials as a means to evade detection; therefore, **victim mannerisms, reactions and characteristics may not conform to what is expected.** Officials should be aware of the following:

- Victims, especially those experiencing trauma, may not be able to talk about their experience or relay facts in an organized, linear fashion. It may take time to piece together the information they are providing or to understand the significance of certain details.
- Victims may fear the system because of criminal acts they have been forced into; they may withhold information concerning such acts.
- Victims may make it challenging for you to establish trust.
- Victims may believe that protecting the trafficker is the best way to keep his or her family safe.
- Victims may exhibit signs of trauma including anti-social, hostile or self-destructive behavior.
- Victims may not see themselves as victims and may be unaware of laws or rights that protect them from being trafficked.
- Victims may not want to talk about their situation because they feel ashamed about the type of work they were made to do; it may take time for them to feel safe and comfortable enough to divulge all the facts.
- Victims might believe they are legally obligated to repay their trafficker due to “contracts” they signed or other agreements they believe are legal obligations.
- Victims may believe that when their “debt” is paid or a certain amount of time has passed, they will be free from harm.
- Victims may have very real concerns about how to meet their survival needs if they cooperate with you.
- Victims may be more cooperative after they have received services they need to feel safe (counseling, medical attention, social services, housing, food, etc.).

“Traffickers are skilled at imposing psychological coercion that often leads to a misdirected focus by law enforcement on the responsibility and willing participation of the victim.”

Source: U.S. DOJ Anti-Human Trafficking Task Force Strategy and Operations e-Guide.
www.ovcttac.gov/taskforceguide

Victim Safety & Cooperation

Collaborate to Improve the Case

The safety and well-being of victims should be the primary concern at each stage of the criminal justice process. A victim will simply not be able to fully cooperate with officials if his or her safety and survival needs cannot be met. However, it is unlikely that a single agency is going to be able to address the needs of a trafficked person which might include safety, health, emotional, legal and basic needs such as clothing, food and housing.

A multi-agency and multi-disciplinary approach has been shown to help achieve the immediate needs of the agency while attending to the needs of the victim. Agencies throughout the country have formed committees and task forces to establish and facilitate coordinated responses to the crime of human trafficking in their communities. Effective collaboration requires partnerships amongst criminal justice officials, mental and medical health care providers, housing and food assistance programs, crime victim service providers, local ethnic community leaders and legal advocates, including immigration experts. The United States Department of Justice has compiled an operations guide for agencies interested in forming an anti-trafficking task force. The guide is available online (www.ovcttac.gov/taskforceguide).

For more information about developing a multi-agency collaborative effort, agencies might interested in contacting members of the Milwaukee Human Trafficking Taskforce. The Milwaukee Human Trafficking Taskforce includes federal officials and Milwaukee police officers who investigate trafficking cases and train law enforcement and other organizations throughout the state on how to recognize and respond to the crime.

Milwaukee Human Trafficking Task Force Contacts

US Department of Justice (US DOJ) Eastern District of Wisconsin
517 E. Wisconsin Ave, Ste 530
Milwaukee WI 53202
(414) 297-1700

Milwaukee Police Department Sensitive Crimes Division
Phone: 414-935-7405

“Federal, state, and local law enforcement, prosecutors, victim service providers, and NGOs [non-governmental organizations] should establish formalized channels of communication rather than relying on traditional reactive solicitation of information about a specific case, organization or individual.”

Source: *Study of Law Enforcement Response to Human Trafficking and the Implications for Victims: Current Practices and Lessons Learned*, National Institute of Justice 2006

Identifying Services and Community/Agency Partners

Taking the time to find referrals for victims is time well spent. It not only meets the victim's needs more efficiently, it allows the agency to focus on the investigation or prosecution. The more support the victim has the less dependent he or she will be on the trafficker and the more capable of cooperating with an investigation or prosecution.

There are a variety of services available for victims of crime, many of which will be of help to a victim of human trafficking. Essential services may come from private or public local, state or federal sources depending on the circumstances involved. It is most desirable to locate services in the community where the victim lives to achieve continuity and long-term assistance. The following referrals may be helpful in identifying partners for a collaborative approach to combat trafficking in your community. Agencies should be mindful that even agencies with broad experience working with victims of crime may not have experience with the crime of human trafficking. Continued communication and cooperation may be necessary to ensure the immediate needs of victims are met.

Social Service Agencies: Social service providers can conduct ongoing assessments to identify victim needs and make proper service referrals. If a victim is to gain independence from his or her trafficker, suitable employment, education and housing alternatives must be identified. Referrals for health, nutrition and child care assistance can found at <https://access.wisconsin.gov/> and a list of contacts for Wisconsin Department of Human Services programs for which victims may be eligible is online at <http://www.dhs.wisconsin.gov/data/servicesearch.asp>.

Federal Agencies: In some cases it might be beneficial to arrange for a multi-agency case conference to discuss and/or coordinate the investigation or prosecution of a case. Agencies should identify contacts at proper U.S. Attorney's Office, the FBI and ICE for this purpose.

Community-Based Victim Support Services: There are many victim service organizations throughout the state which may be able to help victims by providing psychological support, counseling, language services, shelter, legal advocacy, etc. The Department of Justice maintains a online directory of some victim service agencies, which can be searched by county (www.doj.state.wi.us/cvs/referrals). 211 Online provides links to an online database of community services in Wisconsin (www.211.org).

Community, Ethnic and Faith-Based Service Organizations: Many communities have non-governmental groups that provide social services such as housing, food assistance, clothing and financial assistance, etc., to community members in need. Organizations that provide services and social opportunities to specific ethnic groups may also be a good source of referrals for trafficked persons.

State Coalitions: The Wisconsin Coalition Against Sexual Assault (WCASA) and the Wisconsin Coalition Against Domestic Violence (WCADV) provide training and technical assistance to local service providers on various victim issues, including human

trafficking. Each coalition maintains a directory of local domestic violence and sexual assault agencies on their website: www.wcasa.org and www.wcadv.org.

Wisconsin Department of Justice Victim Resource Center (VRC): The VRC assists victims in understanding their rights as crime victims and can assist victims in navigating the criminal justice system. For more information, call 608-264-9497 (victims can call toll-free 1-800-446-6564) or go online: www.doj.state.wi.us/cvs.

Wisconsin Crime Victim Compensation Program: Victims of crime may qualify to receive reimbursement for certain expenses related to their victimization. The Crime Victim Compensation Program may be able to provide limited assistance to meet needs such as mental health or medical services, if victims meet the program criteria. For more information, call 608-264-9497 (victims can call toll-free 1-800-446-6564) or go online: www.doj.state.wi.us/cvs.

Wisconsin Department of Workforce Development Bureau of Migrant, Refugee & Labor Services: The Special Programs Section of this state agency helps coordinate services to all migrant workers and employers who hire foreign and Limited English Proficient (LEP) workers.

Wisconsin Department of Children and Families Refugee Assistance Services Programs: This state-level agency provides services through partner agencies to provide bilingual and bicultural employment services and supportive services such as health screening, English classes, vocational training and job application support.

Child Protective Services: The Wisconsin Child Protective Services program is a state-supervised and county run program in 71 counties. (The exception being Milwaukee County CPS; it is administered by the state Bureau of Milwaukee Child Welfare.) The focus of CPS is to assure child safety and to work with families to determine whether the child or the child's family is in need of any services. If necessary for the child's safety, the child will be placed in out-of-home care under a court order until the child can be safely returned home. For more information, go to the Department of Children and Families website (www.dcf.wi.gov).

Tips for Successful Interviews with Victims

The following tips are adapted from the International Chiefs of Police publication *The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation*:

- Be aware that traffickers might not be easy to distinguish from victims and understand that some victims may have had to “collaborate” in order to survive.
- Educate yourself on trauma, its impact and effects or collaborate with a trauma specialist to assist with interviews.
- Adopt a compassionate and non-judgmental manner.

- Conduct interviews with victims/witnesses while in plain clothes, if possible.
- Conduct interviews individually and in private, remembering that the victim may need a counselor or attorney present for support.
- When an interpreter is needed, select a skilled interpreter who you are confident is in no way connected to the traffickers.
- Do not begin your interview with documentation or legal status as this may frighten or confuse the victim and interfere with building trust.
- Do not ask “Are you a trafficking victim?”
- Allow interviewees to describe what happened to their counterparts before focusing on the victim’s own suffering; it is often easier for them to begin by talking about what happened to other people.
- Victim interviews alone may not be determinative; successful trafficking investigations take the entire situation into consideration.
- Be aware that physical removal from the situation and even a successful prosecution of a trafficker may not mean victims or their families are free from reprisals from the traffickers. The victim’s safety should be of ongoing concern.

Guidelines for Using an Interpreter

If a victim is not proficient in English, an appropriate interpreter must be located as soon as possible to address victim safety issues and ensure a proper investigation. Keep in mind that a victim may be able to speak English but not read or write English. When choosing an interpreter for a victim of crime, keep the following guidelines in mind:

- The interpreter should not be a relative of the victim or anyone who knows the victim except perhaps to establish the language needs of the victim so an appropriate interpreter can be located.
- Be wary of using interpreters from the same community or a person who appears to speak for the victim. Conduct a brief screening of the interpreter before beginning the interview to see if they may know the victim or the alleged trafficker(s) or have any friends or relatives that may know the victim or trafficker(s).
- If the victim brings his or her own interpreter, be aware that the person may be part of the criminal enterprise that is perpetrating the trafficking.
- Never, under any circumstances, use a minor as an interpreter. Although this may seem to be a convenient alternative to waiting for or locating an interpreter, there are serious safety and ethical concerns associated with using a child to interpret.

Interview/Screening Questions

Assessment and interviewing/screening tools for criminal justice and other professionals are available from a variety of sources, such as the United States Department of Health and Human Services (www.acf.hhs.gov/trafficking) and the Polaris Project (www.polarisproject.org). Reviewing and adapting such tools may assist in agency protocol development and training.

Interviewers should keep in mind that at first it may be easier for a victim to describe the conditions of others with whom they were trafficked than to relay details of their own experience. Screening questions can be adjusted to provide this line of questioning until a victim is comfortable sharing details of his or her victimization. Recommended screening questions generally employ the use of open ended questions to assess the following areas:

General Well-Being

- How do you feel? When was your last meal? Do you need something to eat or drink? Do you have any illness or physical ailments bothering you?
- When was the last time you were seen by a doctor? Where did you go to see the doctor? Do you have any illness or chronic condition that requires medication? If so, do you have access to that medication?
- What kinds of activities do you do throughout the day? Describe a typical day.
- Who do you spend time with? Are you around others throughout the day? Do you have friends or family that you feel you can confide in? Do you have the opportunity to meet new people and make friends?
- Has there ever been a time when you went without food, water, sleep or medical care? How often does this happen?

Labor Conditions

- How do you make money? Tell me about your job. How did you find out about the job?
- How do you get food and clothing and the things you need?
- Describe a typical work day. When do you start and when do you finish? What types of tasks do you do? Is any of the work you do dangerous?
- Do you live and work in the same place?

- How and when are you paid for the work that you do? Do you cash your own paycheck? Does your employer hold your money? Do you have access to that money whenever you want?
- What are some of the work rules that you have to follow?
- What would happen if you decided to leave your job?

Living Conditions & Freedom of Movement

- Where do you live? Does anyone else live there with you? What are the people you live with like? What are the sleeping arrangements? Do you have privacy?
- How often do you leave your home? What do you do when you leave your home? Do you ever leave your home alone? Do you have neighbors?
- Are there activities that you enjoy outside the home?
- Tell me what would happen if you left your home or job.
- Tell me about the rules in your home.
- Are there any rules about when you or others eat, sleep or use certain areas of the house/apartment? Who makes those rules? What happens if someone breaks those rules?
- Are there locks on your doors and windows? Do they prevent you from leaving?

Force, Fraud and Coercion Indicators

- Have you seen others threatened or harmed? Tell me what happened. Have you ever been afraid that might happen to you?
- Has there ever been a time when someone made you do something you didn't want to do? When was this? How did it happen? How often does this happen?
- Do you feel safe right now? Have you ever worried that a friend or family member might be harmed because of something you did?
- Tell me about things you worry about or are scared of.
- Have you ever been threatened? Have you been physically harmed?
- What kind of threats have you experienced? Do you think they could carry out those threats?

Agencies' Statutory Obligations to Victims

Victims of human trafficking have the same rights as other victims to ensure they are kept informed and able to cooperate with the investigation and prosecution of crime. Those rights are listed in the state constitution (Wis. Constitution Article I, Section 9m) and in Wisconsin statutes. Victims of federal crimes also have special rights, as guaranteed by federal law see (18 U.S.C. 3771 (e)).

A victim's rights may differ depending on whether the crime is charged as a state offense or a federal offense. Likewise, immigration status may affect which services they are entitled to receive and from whom they will receive such services.

State Crime Victim Rights

Victims of crimes investigated and prosecuted by the state of Wisconsin have rights that help keep them informed, present and heard during the case, including but not limited to the following constitutional rights (pursuant to Wis. Constitution Article I, Section 9m):

- The right to a timely disposition of the case;
- Notification of court proceedings;
- The opportunity to attend court proceedings ;
- The opportunity to confer with the prosecution;
- The opportunity to make a statement to the court at disposition;
- The right to receive information about the outcome of the case and the release of the accused;
- The right to seek crime victim compensation [a program which may in some cases reimburse victims for certain expenses directly related to the crime];
- The right to seek restitution from the offender; and
- The right to reasonable protection from the accused

Chapter 950 of Wisconsin Statutes provides more information about how victims' rights and services are implemented. For example, there are sections specific to law enforcement agencies and district attorney offices. Be aware that some rights need to be requested while others are automatic. For assistance in determining a victim's rights, call the Department of Justice Victim Resource Center at 1-800-446-6564

Duties of Law Enforcement Agencies

Wisconsin Stat. sec. 950.08(2g) requires that law enforcement provide victims of crime with specific written information within 24 hours of having contact with the victim. The information that must be given to a victim includes phone numbers and addresses of custodial agencies and service agencies and a full list of the victim rights contained in Wis. Stat. s.950.04 (1v). The Department of Justice VRC has developed a sample form that contains all of the elements required by the statute. It can be downloaded and adapted for use by local agencies (www.doj.state.wi.us/cvs or call 1-800-446-6564.)

Duties of Prosecutors

District attorneys must provide victims of crime specific written information as soon as practicable and no later than 10 days after the initial appearance or 24 hours before a preliminary examination (whichever is earlier) of a person charged with a crime. The information must include a statement of procedure for prosecuting a crime, a list of the rights of victims under s. 950.04(1v) and information about how to exercise those rights, who to notify with a change of address or to request notices, the procedure to apply for crime victims compensation and the person to contact for more information about the case. *See Wis. Stat. Chapter 950.08(2r).*

Duty to Expedite Proceedings Involving Child Victims

The court and the district attorney are bound to take action to ensure a speedy trial in order to minimize the length of time a child must endure the stress of the case in which he or she is the victim. The court shall consider and give weight to any adverse impact a delay or continuance may have on the well being of a child victim or witness. *See Wis. Stat. Chapter 971.105.*

Federal Crime Victim Rights

When a crime is being investigated and prosecuted by federal authorities victims have the following rights in accordance with federal law [see 18 U.S.C. 3771 (e)]:

- The right to be reasonably protected from the accused;
- The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused;
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding;
- The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding;
- The reasonable right to confer with the attorney for the Government in the case.
- The right to full and timely restitution as provided in law;
- The right to proceedings free from unreasonable delay; and
- The right to be treated with fairness and with respect for the victim's dignity and privacy.

For more information about these rights, contact the Victim Witness Assistance Unit in the U.S. Attorney's Office prosecuting the crime.

Foreign National Victims: Immigration Issues

Due to the complexity of immigration law, this document does not attempt to provide a comprehensive guide to immigration remedies for trafficked persons. However, agencies should be aware of the following:

- Federal law provides that foreign victims of human trafficking may be eligible for federal benefits to help meet survival needs.
- Trafficked persons are exempt from immigration violations by virtue of their status under the TPVA.
- There are special immigration remedies (temporary, short-term and long-term) for victims of certain crimes, including human trafficking, so that victims can work and remain in the country in order to assist with an investigation or prosecution. The parents of a child victim may also have access to immigration remedies in some cases.
- Agencies may be asked to provide documentation as part of the process of securing immigration remedies and/or federal benefits such as food and housing assistance. Protocol should be developed to process such requests. (See “Requests for a Law Enforcement Declaration” below.)
- The requirements for foreign child victims are less stringent than those for adults and allow for expedited provision of services (see section on children, below).
- If a victim is not proficient in English, an appropriate interpreter must be located as soon as possible to address victim safety issues and ensure a proper investigation. Keep in mind that a victim may be able to speak English but not read or write English. *See Guidelines for Using an Interpreter (Page 16).*

A brief discussion of special immigration remedies for victims of trafficking is included below but agencies should consult an immigration expert for advice related to a specific case. Detailed information about immigration remedies for victims of crime is available on the U.S. Citizenship and Immigration Services website (www.uscis.gov, see the “Humanitarian” section).

Requests for a Law Enforcement Declaration

Law enforcement agencies may be asked to provide a law enforcement agency declaration for a victim of human trafficking. The purpose of the declaration is to provide evidence that a victim of a severe form of trafficking has complied with any reasonable requests for assistance in the investigation or prosecution of the crime. A victim of trafficking seeking the special visa for trafficked persons (a T visa) must prove

those elements when applying for the visa. [T visas allow a trafficked person to live and work legally in the United States and access government benefits.]

Form I-914, Supplement B, was created to assist agencies in providing this declaration. The form is filled out by the law enforcement authority but submitted to federal authorities by the victim with his or her application for immigration benefits. A law enforcement declaration does not confer any responsibilities on the agency. It is reviewed by federal authorities with other submitted information when determining whether to issue a T visa. [Click here](#) for more information from the Department of Homeland Security about the role of law enforcement agencies in providing a declaration.

Agencies should have a protocol for responding to a request for a law enforcement agency declaration, as time will be of the essence. Procedures should include a process for decision-making, communicating the decision and returning a completed form in a timely manner when the agency completes a declaration.

Continued Presence (“CP”)

CP status is an important tool for Federal, State, local, tribal, and territorial law enforcement in their investigation of human trafficking-related crimes. CP is a temporary immigration status provided to individuals identified by law enforcement as victims of human trafficking. CP allows victims to remain and work in the United States to assist an investigation or prosecution. It is granted for the duration of one year and law enforcement may request that it be renewed for someone who is cooperating with an investigation or prosecution.

According to United States Immigration and Customs Enforcement (ICE), an application for CP should be initiated immediately upon identification of a possible victim of human trafficking. State and local law enforcement agencies that wish to initiate a CP application in order to keep a victim in the country for an investigation or prosecution should contact their federal law enforcement partners. Agents from the FBI and ICE are authorized to submit CP applications, as are federal prosecutors from the U.S. Attorney’s Offices. [Click here for a brochure about CP.](#)

“Certified” Adult Victims

If a victim lacks legal immigration status, there is a special process by which he or she can receive services necessary for his or her safety. Adult foreign victims of human trafficking (age 18 and over) who are certified by the U.S. Department of Health and Human Services (HHS) can receive federally funded services and benefits to the same extent as refugees. Before receiving certification, an individual must have completed an

application for a T visa or have received CP status from the U.S. Department of Homeland Security. The certification process typically takes only a few days after HHS is notified that a person has made a bona fide T visa application or has been granted CP status (both of these actions are done by the U.S. Department of Homeland Security).

Certified and eligible victims can receive benefits and services necessary for their safety including: housing/shelter assistance, English language training, food assistance, income assistance, employment assistance, health care assistance, mental health services, and assistance for victims of torture.

Child Victims without Legal Immigration Status

Federal law requires Federal, State, or local officials to notify the U.S. Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) within 24 hours of discovering a child *who may be* a foreign victim of trafficking, to facilitate the provision of services and assistance. **Children are not required to cooperate with law enforcement or to have been granted CP or a T nonimmigrant visa by the U.S. Department of Homeland Security to receive assistance.**

A child victim without a legal immigration status is eligible for federally-funded benefits and services with an Eligibility Letter or an Interim Assistance Letter from the HHS/ORR. Such letters can be requested on behalf of a child when credible information indicates the child may be a victim of trafficking by submitting a *Request for Assistance for Child Victims of Human Trafficking* form. The form is available online at www.acf.hhs.gov/trafficking. Requests can also be submitted by e-mail to ChildTrafficking@acf.hhs.gov or by fax to 202.401.5487.

An HHS/ORR Child Protection Specialist will respond to requests and may be reached by phone at 202.205.4582. HHS/ORR issues an Interim Assistance Letter to a foreign child *who may have been* subjected to trafficking to make the child eligible to receive benefits and services for a 90-day period. After issuing an Interim Assistance Letter, HHS/ORR will consult with the U.S. Departments of Justice and Homeland Security, and nongovernmental organizations with expertise in trafficking before determining the child's continued eligibility as a victim of trafficking.

T and U Visas

T and U visas are immigration programs specifically for victims of certain of serious crimes. The U visa is for noncitizens who suffer substantial physical or mental abuse resulting from a wide range of criminal activity, including sexual assault, kidnapping, extortion and domestic abuse. The applicant must possess information about the crime(s) and must help in the investigation or prosecution of the criminal activity. The T visa is specialized for victims of human trafficking. Prior to filing for a T or U visa, victims can request CP status (see above) for 1 year while the information for the T or U visa is being collected. Detailed information about T and U visas is available on the U.S. Citizenship and Immigration Services website (www.uscis.gov).

Agency Preparedness

An effective response to the crime of human trafficking requires that agencies have protocol and procedures that will be effective in the community in which they operate. Some communities will be fortunate to have established partnerships with organizations that are willing to lend their services and expertise to assist on human trafficking cases; others will need to build such partnerships within their community and/or region.

There are many resources available to help an agency develop its own protocol and procedures or task force (see Resources section below). An agency self-assessment can help agency leadership identify immediate, short-term and long-term action steps to improve agency response to human trafficking.

Self-Assessment

The preceding guide contains information and referrals to start an agency on the path to strengthening its response to human trafficking. Some of the following questions might be considered when assessing whether the agency is prepared to investigate or prosecute a human trafficking case:

◆ **Would members of the agency recognize a potential human trafficking case?**

Has staff received training on the elements of the laws that prohibit trafficking?

Has staff received training on behavioral indicators of victims and perpetrators and red flags that might indicate a potential trafficking situation?

Would agency staff be misled by the common myths and misperceptions outlined on page 8?

Is staff aware of how to respond to a request for a law enforcement agency declaration?

Does the agency have jurisdiction in a community that supports an industry in which trafficking frequently occurs (hospitality, tourism, agriculture)? If so, has staff received specialized training about human trafficking relevant to that industry?

◆ **Is the agency capable of a rapid response if a potential trafficking case arises?**

Do clear standard operating procedures exist, ensuring and regulating front line officers' appropriate responses in the identification of trafficked persons?

Is there protocol for assessing the immediate safety needs of a potential victim?

Are there measures in place to prevent the detention of a person presumed to be a victim of human trafficking, regardless of her or his immigration status?

Are contacts identified with agency or community partners that could provide special services for victims and witnesses including an assessment of victims' needs, support, housing, transportation and other forms of direct assistance?

Is there a task force or a local coordinated community response team that might provide a starting point for collaboration and coordination of services for a victim of trafficking?

Has the agency discussed the protocol for a human trafficking case with its federal agency partners, such as the U.S. Attorneys Office, ICE or the FBI? Are contacts at each agency identified?

Has the agency discussed the protocol for a human trafficking case with its local criminal justice agency partners? Are contacts at each agency identified?

Has the agency developed foreign language resources? Do those who interact with potential victims and perpetrators know how to access those resources? Are there guidelines for choosing/using an interpreter to ensure victim safety and independence from traffickers?

Are there ethnic and community organizations in the locality *or region* that can provide basic services specifically to immigrants? Does the agency have a relationship with these agencies?

◆ **Is staff aware of their statutory obligations to victims regarding the provision of rights and services?**

Is staff familiar with the state's crime victims' rights obligations and how to assist victims in exercising their rights?

Is there protocol for communicating victims' rights and referrals to services?

Resources for Task Force and Protocol Development

Agency protocols should include procedures to:

1. Attend to immediate and ongoing victim health/safety and service needs.
2. Communicate with federal agency counterparts.
3. Identify appropriate community/agency partners who can provide victim support and services.
4. Interact with (and interview) victims.
5. Address special issues related to child victims.
6. Identify special investigative or prosecutorial strategies unique to the dynamics of the crime of human trafficking.
7. Increase awareness and understanding about immigration issues that affect foreign national victims (including protocol for handling requests for a Law Enforcement Agency Declaration).
8. Participate in and foster multi-disciplinary and multi-agency coordination.
9. Ensure compliance with statutory and constitutional crime victim and witness rights.

There are a variety of sample protocol, task force and training toolkits which can be consulted and/or adapted for agency use. Such samples should be evaluated carefully and may need to be adjusted to more accurately reflect the elements of Wisconsin's law:

Law Enforcement Resources (Click on bold text to be connected to resource)

- **The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation:** Training guidebook and roll call video from the International Association of Chiefs of Police.
- **Anti-Human Trafficking Resources for Law Enforcement** (United States Department of Homeland Security)
- **Anti-Human Trafficking Task Force Strategy and Operations e-Guide:** A resource guide for both established and new Task Forces, evaluated by anti-human trafficking victim service providers and law enforcement officials throughout the United States.
- **Sex Trafficking: Identifying Cases and Victims (National Institute of Justice)**
- **Rescue & Restore Tool Kit for Law Enforcement** (U.S. Department of Health and Human Services)
- **First Aid Kit for Law Enforcement First Responders In Addressing Human Trafficking** (United Nations)

- **Web-based Human Trafficking Training Course (U.S. Dept. of Homeland Security):** teaches law enforcement officers how to recognize human trafficking encountered during routine duties, how to protect victims, and how to initiate human trafficking investigations.

Prosecution Resources (Click on bold text to be connected to resource)

- **Human Trafficking Prosecution Unit Web Page** (U.S. Dept. of Justice)
- **Anti-Human Trafficking Task Force Strategy and Operations e-Guide:** A resource guide for both established and new Task Forces, evaluated by anti-human trafficking victim service providers and law enforcement officials throughout the United States
- **Lawyer’s Manual on Human Trafficking** (Supreme Court of the state of New York)
- **Prosecuting Human Traffickers** (The Prosecutor, September-October 2010, Volume 40, No. 5)
- **No Victim? Don’t Give Up: Creative Strategies in Prosecuting Human Trafficking Cases Using Forfeiture by Wrongdoing and Other Evidence-Based Techniques.** November 2012 Aquitas Newsletter
- **Human Trafficking Power and Control Wheel**
- **DC Task Force Organizational Model**
- **National Human Trafficking Resource Center Training and Technical Assistance Program**

This document and additional resources related to the crime of human trafficking can be found on the Wisconsin Department of Justice website at:

www.doj.state.wi.us