

21.1. Describe the concept of human trafficking from a domestic and global perspective.

- Human trafficking has been described as one of the most atrocious crimes against humanity.
- Human trafficking is essentially a form of slave labor or involuntary servitude and is described as a new modern-day form of slavery which involves the exploitation of humans for the sexual gratification of others and/or the exploitation of humans for any form of labor.
- It is a venture that thrives on the exploitation of humans for financial or economic reasons where victims are forced to labor against their will and various control techniques, such as severe physical punishment, are in place not only to prevent escape but also to inhibit victims from testifying against their traffickers.

In 2019, the Polaris Project reported 11,500 trafficking situations from the U.S. National Human Trafficking Hotline with 22,326 survivors and 4,384 traffickers. Even as large as these numbers are, Polaris concedes that human trafficking is notoriously underreported, so these numbers are likely only a fraction of the actual problem.

The International Labour Organization (ILO), a United Nations agency whose mandate is to advance social and economic justice, estimates that there are over 40 million victims of human trafficking globally with hundreds of thousands in the United States.

- Admittedly, no one knows for certain how many victims fall prey to human trafficking because this is a clandestine crime and because most of the efforts focus on identified victims.
- However, what is known is that men, women, and children all over the globe and of diverse ages become victims of this crime primarily because of economic and political instability in their countries of origin as well as economic prosperity and disposable incomes in the countries of destination.
- Most sex trafficking victims in the United States are domestic, and most labor trafficking victims are not. It is important to note that labor trafficking can be domestic as well with the extremely at-risk populations such as the homeless and the mentally ill.

Instructor Note: Discuss human trafficking statistics with the class. How accurate do they feel they are? If not, why not?

Human trafficking has quickly become one of the most well-known transnational crimes. One of the reasons for the existence of this problem is that the sale of human beings is highly profitable. In fact, one could argue that human trafficking is a more profitable business when compared to other transnational crimes such as arms trafficking or drug smuggling because humans can be sold over and over again. Thus, unlike drugs and arms which are usually sold to only one customer for a one-time profit, humans can be resold to different customers and sold numerous times for an exponential amount of profit.

According to the United Nations Office on Drugs and Crime, human trafficking is the second most profitable international crime with an estimated \$32 billion a year. Recent research suggests that the scope is actually much larger, but trafficking has passed illicit trading of firearms (\$320 million annually) and is right behind drug trafficking (\$320 billion). As of 2016, the International Labour Organization estimates that 40.3 million people were victimized worldwide through a form of trafficking or modern-day slavery.

Of those 40.3 million, it is estimated that 29 million were women and girls; forced sexual exploitation accounts for almost 5 million (20% were children). Traffickers may believe there is a relatively low risk of being apprehended, punished, and incarcerated when compared to prosecution rates for weapons- and drug-related crimes. This perception, coupled with law enforcement's historic prostitution/VICE-styled approach, may inadvertently create a false sense of security that drives the willingness of traffickers to continue their economic venture.

21.2. Discuss definitions and key terminology associated with human trafficking.

Trafficking in persons has a broad definition.

- The Palermo Protocol defines trafficking as: "The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."
- Using the international definition as a foundation, the U.S. Congress adopted the Victims of Trafficking and Violence Protection Act of 2000 (TVPA; reauthorized multiple times since) which categorizes human trafficking into two primary components.
 - Sex trafficking involves the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person forced to perform such an act is under the age of eighteen years old.
 - Labor trafficking is defined as the recruitment, harboring, transportation, provision, or obtaining of a person for labor services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery. Labor trafficking may arise in situations where exploitation can easily occur, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.

Although sex-trafficking and labor trafficking have differing definitional elements, both contain three vital components: force, fraud, and coercion.

- The term “force” means:
 - the use of a weapon
 - the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or
 - inflicting physical harm sufficient to coerce or compel submission by the victim.
- The term “fraud” consists of some deceitful practice or willful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury. In the context of human trafficking, fraud often involves false promises of jobs or other opportunities.
- The term “coercion” means:
 - threats of serious harm to or physical restraint against any person;
 - 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
 - the abuse or threatened abuse of the legal process.

Human trafficking can also be defined within the context of the methods and/or activities of the trafficker(s) or those who actively engage in the sale and enslavement of persons.

- For instance, the trafficker usually recruits persons, whether adults or children, to be sold into slavery.
- Recruitment generally involves some form of deception or fraud such as lying about finding and/or providing legitimate employment for persons.
- Previously, recruitment involving the abduction of persons was seen as a large percentage of trafficking victim situations.
- Internationally, this does rarely occur, but domestically, trafficking is more subtle and is not as overt as abduction.
- The trafficker then needs to make the transaction or the sale of the person in exchange for money or any other service. This usually involves transporting a person to a specific destination.
- Finally, the receipt or transfer of the person to the paying customer or client must be made. The threat or use of force or any other means of coercion is present throughout the components or phases of the sale.

Although the definition of human trafficking does not necessarily need to involve the sale, transportation, or transfer of a person across international borders, victims of this crime are usually sold on an international scale and thus necessitates the need to classify human trafficking as a transnational crime. However, the transnational nature of this crime does not negate the fact that individuals can be victims of internal trafficking operations, such as those where victims are recruited, sold, and enslaved in their native countries.

Instructor Note: Countries in Asia, such as Thailand and China, have been identified to be major focal points for internal trafficking operations as are some countries in Africa.

The U.S. is not immune from internal or domestic trafficking. Due to the nature of the crime, there is an unknown number of U.S. citizens and legal residents that are trafficked within the United States for sex and labor trafficking. Cases of human trafficking have been reported in all 50 states, Washington D.C., and the U.S. territories. According to Thorn, a nonprofit organization combating online child sexual abuse, anyone can be a victim of this crime. However, children who are homeless or runaways, LGBTQ+, African American or Latino, and youth interacting with the child welfare system are more vulnerable to this type of exploitation. The Department of Justice notes, that child sex trafficking refers to the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a minor for the purpose of a commercial sex act.

It is important to approach human trafficking with terminology as defined within the human trafficking context. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) features programs and initiatives to support efforts to protect children and their communities.

- The Commercial Sexual Exploitation of Children (CSEC) refers to a range of crimes and activities involving the sexual abuse or exploitation of a child for the financial benefit of any person or in exchange for anything of value (including monetary and non-monetary benefits) given or received by any person.
- Examples of crimes and acts that constitute CSEC include child sex trafficking, the prostitution of children, child sex tourism involving commercial sexual activity, commercial production of child pornography, and online transmission of live video of a child engaged in sexual activity in exchange for anything of value.

Note: CSEC is not legally defined by federal statute or case law. However, several federal criminal provisions can be applied to conduct that falls within this definition of CSEC.

Definition of Child Sex Trafficking Under Texas Law

- Child sex trafficking occurs when a person knowingly:
 - Traffics a child under the age of 18 and causes by any means the child to engage in or become the victim of commercial sex acts or child sex abuse;
 - Receives a benefit from participating in a venture that involves child sex trafficking; or
 - Engages in sexual conduct with a trafficked child.
- Trafficking has been explicitly included in the child abuse statute since 2011 per Texas Family Code 261.001 DEFINITIONS.
 - "Abuse" includes the following acts or omissions by a person:
 - (G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or

- (8) Penal Code, prostitution under Section 43.02 Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;
- (L) knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8) Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections.

* Regardless of whether the actor knows the age of the child at the time of the offense
Tex. Penal Code §20A.02 TRAFFICKING OF PERSONS

Consent is officially defined as the instance when one person voluntarily agrees to the proposal or desires of another. According to the Human Rights Watch, there are three fundamental differences.

- Consent. The smuggled person agrees to being moved from one place to another. Trafficking victims, on the other hand, have either not agreed to be moved or, if they have, have been deceived into agreeing by false promises, only to then face exploitation.
- Exploitation. Smuggling ends at the chosen destination where the smuggler and the smuggled person part ways. In contrast, traffickers exploit their victim at the final destination and/or during the journey.
- Transnationality. Smuggling always involves crossing international borders whereas trafficking occurs regardless of whether victims are taken to another country or moved within a country's borders.

The Office of the High Commissioner for Human Rights protocol outlines the use of terms for the purposes of this protocol as:

- "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- "Child" shall mean any person under eighteen years of age.

Human trafficking vs. human smuggling

- Human trafficking involves exploiting men, women, or children for the purposes of forced labor or commercial sexual exploitation.
- Human smuggling involves the provision of a service (typically, transportation or fraudulent documents) to an individual who voluntarily seeks to gain illegal entry into a foreign country.
- More simply, human trafficking is a crime against a person, while human smuggling is a crime against a country.

Instructor Note: Discuss the differences and similarities of trafficking vs. smuggling in detail. Develop questions and/or case studies to measure internalization of information. Understanding the difference is a vital component of understanding human trafficking.

Prostitution vs. trafficking

- When it comes to prostitution, law enforcement will often state that a human trafficking victim was being prostituted out to clients. This is an incorrect statement as a prostitute can be trafficked, but a trafficking victim can't be a prostitute.
- A consensual sex worker isn't involved in human trafficking. A trafficking victim is a rape victim.

Instructor Note: Discuss the difference between prostitution and trafficking and why it is important to differentiate between the two.

21.3. List the different forms of human trafficking including sex trafficking, sex tourism, child pornography and CSEC, familial trafficking, labor trafficking, debt bondage, and trafficking via the internet.

There are many forms of trafficking, but one consistent aspect is the abuse of the inherent vulnerability of the victims. Typically, victims of human trafficking are sold and enslaved to perform a variety of jobs. The most common of which primarily involves women being forced to work in the sex industry as a prostitute, exotic dancer, or exotic entertainer. In the case of children, they are most often victims of sex tourism operations.

Sex tourism occurs when people of one country, usually because of strict enforcement of human trafficking laws in that country, travel to a foreign location for sexual gratification. The travel is undertaken with the knowledge the government of the visiting country does not have the capability, or is unwilling to, enforce trafficking laws or prostitution laws. Sex tourism does not generally occur in the United States, but U.S. citizens are a large portion of the sex tourists to other countries.

Commercial Sexual Exploitation of Children (CSEC) and child pornography are factors of vulnerability and abuse that often make victims vulnerable to subsequent trafficking. Unlike other forms of human trafficking, no proof of force, fraud, or coercion is needed

when the victim is under the age of 18. According to a 2013 report sponsored by the Justice Department, commercial sexual exploitation, and sex trafficking of minors in the United States is commonly overlooked, misunderstood, and an unaddressed form of child abuse. CSEC and sex trafficking of minors refers to a range of crimes, to include:

- recruiting, enticing, harboring, transporting, providing, obtaining, and/or maintaining (acts that constitute trafficking) a minor for the purpose of sexual exploitation,
- exploiting a minor through prostitution,
- exploiting a minor through survival sex (exchanging sex/sexual acts for money or something of value [e.g., shelter, food, drugs]),
- using a minor in pornography,
- exploiting a minor through sex tourism, mail order bride trade, and early marriage; and
- exploiting a minor by having her or him perform in sexual venues (e.g., peep shows or strip clubs).

Some child sex trafficking victims are trafficked or exploited by a parent, a legal guardian, or other family member—called familial trafficking. According to a 2004 study, when one considers child pornography, which fits the definition of commercial sex when it is traded for something of value, the involvement of family members is found in a number of cases. Among juvenile victims of child pornography offenses whose offender could be identified in the National Incident-Based Reporting System, 25% were family members of the offender.

Forced labor, or involuntary servitude, results when unscrupulous employers take advantage of vulnerable workers. These workers are made more vulnerable to forced labor practices because of high rates of unemployment, poverty, crime, discrimination, corruption, political conflict, and/or cultural acceptance of the practice. Forced labor is often harder to identify and estimate when compared to sex trafficking.

In most cases, victims of human trafficking are forced to perform/continue the work because the trafficker insists that they must pay an impending debt—money owed which they are said to have accumulated as the result of the trafficker having to purchase fraudulent travel documents, pay for any expenses of travel, and room and board. Essentially, the traffickers create a situation of debt bondage to keep the person under subjugation where the victim must perpetually perform some type of service to “earn” their freedom. However, freedom is rarely a reality because the trafficker is constantly adding to the unlawful debt purportedly incurred. Overinflated living expenses, medical expenses, and assorted other expenses, including the trafficker’s commission, all keep the victim from earning their freedom.

When it comes to trafficking via the internet, most sex trafficking has moved to the internet through ads. This is due to the level of anonymity the internet provides and also

because it gives traffickers the ability to vet customers and potentially identify law enforcement. More recently, internet trafficking has taken on the form of exploitation through video chat and video sales in exchange for money.

Instructor Note: In addition to discussing the specific examples, discuss the prevalence of each of these types of trafficking in the student's home community in Texas.

- Discuss the following labor trafficking examples: working in domestic situations as a nanny or maid, sweatshop factories, janitorial jobs, construction sites, farm work, restaurants, and panhandling.
- Discuss the following sex trafficking examples: working in massage parlors, brothels, strip clubs, escort services, and internet related.
- Discuss the following document servitude consideration: what document(s) do they keep and why?
- Discuss the following early/forced marriage consideration: Where is this practice still being done? Why? Is forced marriage the same as an arranged marriage?
- Other examples of forced labor could include servile marriages, agricultural/farm labor, begging/street peddling, restaurant work, construction work, carnival work, motel/hotel housekeeping, criminal activities, any form of day labor.

21.4. Discuss modern trafficking patterns with a focus on domestic systems.

Human trafficking is a global enterprise, and many countries may serve as places of origin, transit, and destination for victims. According to the United Nations Office on Drugs and Crime (UNODC) (2018), there are distinguishable global trafficking flows or regional routes based on data from countries who report incidences of human trafficking. Over the last ten years, the capacity of national authorities to track and assess patterns and flows of trafficking in persons has improved in many parts of the world.

- Africa is primarily an origin region for victims of human trafficking. Victims primarily come from Nigeria, Benin, Ghana, and Morocco. However, Africa is also a transit and destination country meaning that although these countries recruit many victims they also serve as mid-point locations for traffickers whose distant and far-ranging transportation schemes necessitate a temporary rest stop and serve as locations where victims learn their fate and are forced to labor against their will.
- In Asia, countries such as China and Thailand are considered main suppliers of trafficking victims. Asia is a region of origin and destination.
- Central and Southeastern Europe is predominately an origin sub-region. Victims trafficked out of this sub-region are trafficked to Western Europe.
- Although countries in Africa, Asia, Central and Southeastern Europe have been identified as main destination countries, Belarus, Moldova, the Russian Federation, Ukraine, Armenia, Georgia, Kazakhstan, and Uzbekistan are ranked as the top or primary origin countries worldwide. It is believed that the majority

of trafficked victims originate in these countries; these countries are rarely places of destination for victims.

- Latin America and the Caribbean, particularly Brazil, Colombia, Dominican Republic, Guatemala, and Mexico, are also regions of origin. Conversely, the United States, Canada, Australia, and New Zealand rank as top destination countries.

In Texas, immigrants are often escaping poverty, political/civil unrest, and many other reasons. They are generally subject to physical and sexual abuse, and even death to get across the border. Once in Texas, they are usually going to major cities such as Houston, Dallas, and San Antonio for labor purposes. Law enforcement will most often interact with these victims on traffic stops and other routine law enforcement calls. Due to the victims' vulnerabilities, they will be fearful of law enforcement, which traffickers use to their own gain. Patterns can be seen on the major interstates moving through these major cities across Texas.

Global trafficking routes illustrate that there are certain push and pull factors that drive the sale and enslavement of humans. Economic and political instability are push factors found in countries of origin which reduces the effort required to recruit victims. On the other hand, disposable income and affluent countries serve as pull factors. Thus, the sale and enslavement of humans is driven by the economic principles of supply and demand.

21.5. Discuss the factors giving rise to human trafficking cases including public awareness and preventative programs.

Trafficking has always occurred. The difference now is that prevention initiatives and a general awareness level is present in the community, coupled with law enforcement efforts to proactively look for situations where trafficking may be occurring in an attempt to the opportunity and prevalence of trafficking.

Free trade has had a positive impact on our society, but it also globalizes criminal enterprises. The trade of drugs was the first to profit from a global economy in the 1960s followed by the trade of weapons and humans in the latter half of the twentieth century.

Another factor is economic marginalization which describes a group of people, or countries, that are excluded from participating equally in the economic system. Some countries reap the benefits of free markets and free trade (get richer) while others suffer as a result of free trade (get poorer). For those who live in countries that suffer from extreme poverty, criminal activity becomes one of the few options to make a living with a high profit margin associated with international criminal ventures. Extreme poverty also means that some individuals, particularly women and children, become targets of exploitation while other individuals seek employment opportunities abroad and the potential for exploitation is imminent. Economic marginalization also contributes to what sociologists refer to as the feminization of poverty which is the dire

economic circumstances that most women face when there are a finite number of jobs available, and most jobs are afforded to men. Thus, women become suitable targets for deceptive employment ventures (Shelley, 2010).

The high profitability of trafficking persons is certainly a factor that contributes to the prevalence of this crime, but other factors have also contributed to its pervasiveness. Advances in communication and technology, such as the internet and smartphones, the relative ease of global travel, and the deregulation of trading opportunities around the globe are all factors that contribute to crimes committed on a larger international scale. Ironically, just as it is relatively easy to trade legitimate goods and items across oceans, the same occurs for the trade of illicit items such as drugs, weapons, and humans (Farr, 2005).

Apart from economic disparity, another factor in the rise of transnational crime is political instability and war which weakens already tenuous social protection issues. The destabilization and displacement of populations increases their vulnerability to exploitation and abuse through trafficking and forced labor. One example would be the armed conflicts in Central America and the economic collapse in Venezuela. These failing Latin American economies are the biggest contribution to the rise in people seeking prosperity elsewhere and therefore vulnerable to trafficking situations.

Although these global factors are important to understanding labor trafficking, they only serve to explain the supply-side of the criminal enterprise. Indeed, most victims of human trafficking originate in countries who suffer from instability. However, as with any business venture, there must be a customer willing to purchase a commodity. Thus, the demand-side of human trafficking creates a quite ironic situation. Countries that profit from free trade or the deregulation of trade have the financial ability to support this transnational crime. It should come as no surprise that the United States ranks very high as a destination country for victims of human trafficking. Thus, there is certainly a demand or steady flow of customers to facilitate this crime in the United States (Ryf, 2003).

Instructor Note: Lead a discussion on the key terms identified: economic marginalization, globalization, instability, and profit margins.

- Break the students into groups and have each group brainstorm and list possible solutions to the “demand” component of trafficking. Have each group select a spokesperson to report back with a synopsis of the group’s discussion and potential solutions or courses of action identified. Example questions include:
 - How does demand affect trafficking?
 - What are some sex buyer demographics?
 - What are deterrents to buying sex?

There is perhaps a more simplistic reason for the prevalence of human trafficking around the globe. Though the factors discussed above certainly fuel the supply and

demand of humans, trafficking is a seemingly unstoppable crime for several reasons. Using contemporary crime theory, traffickers rationalize the gains to be made from the sale and enslavement of humans against the risk of detection and apprehension by law enforcement. If the gains outweigh the risk, human trafficking will continue to thrive.

Felson and Cohen (1979) believe that motivated offenders can be dissuaded from engaging in crime if potential victims are better protected and if the community, together with the police, becomes more vigilant of such offenders. Felson and Cohen, in their discussion of routine activities theory, suggest that diminishing the suitability of a potential crime target or the potential for victimization is important. Although their theory is primarily applied to property-related crime, routine activities theory may be applicable to the crime of human trafficking. As discussed by Felson and Cohen, it is not only important to diminish the vulnerability of potential victims, but it is equally important to increase vigilance of possible offenders. In what they call capable guardians, Felson and Cohen believe that it is essential for not only the police, but also the community, to help identify potential offenders in an effort to increase the risk of apprehension. It is then that the risk will outweigh the gain of selling and trading humans and the motivation to engage in this crime will diminish. Thus, it is imperative to increase awareness not only among the law enforcement or criminal justice community but also the community at large. This undertaking requires a concerted effort by all to act as capable guardians.

21.6. Explain the characteristics of human trafficking victims and offenders, the stages of recruitment and exploitation, and examples of vulnerable victim populations.

Although worldwide data on offenders, victims, and customers is limited, the United Nations Office on Drugs and Crime (UNODC) recently compiled a profile of both victims and offenders based on information provided by various law enforcement agencies, government reports, non-governmental organizations (NGOs), research reports, and media reports.

Characteristics of Victims:

- Worldwide, it is believed that most victims are adult women and children, primarily girls younger than 17 years of age.
- Men comprise the smallest category.
 - It is important to note however that much less is known about male victims of human trafficking.
 - Because trafficking is a clandestine crime that is underreported and because labor trafficking is not perceived to be a grave offense when compared to sex trafficking, male victims are often a forgotten population.
 - Thus, even though statistical reports regard male victims as a small population of victims, this may not be entirely accurate if accounts of labor trafficking are significantly underreported.

- Additionally, in some countries human trafficking is a gendered crime, meaning that men who are exploited for sexual and/or labor purposes are not considered victims of this crime. This may be another reason for the limited information of male victims of human trafficking.

There are other common victim characteristics. These include:

- Low level of education or no education
- Unemployment
- Limited employment opportunities in countries of origin
- Dire economic circumstances
- Social and economic inequality in countries of origin
- Armed conflict, military occupation, and/or regional conflict in countries of origin

Although these are common characteristics, anyone can be a victim of human trafficking. Recruitment-by-force cases, although less common than recruitment-by-persuasion cases, does not require any of the above-mentioned characteristics to be present. Human trafficking can happen to anyone, but some people are more vulnerable than others. Significant risk factors include recent migration or relocation, substance use, mental health concerns, involvement with the child welfare system and being a runaway or homeless youth.

Instructor Note: Discuss the most common forms of trafficking in Texas. Due to the size of Texas, how do these forms differ in different parts of Texas?

Youth who are exploited may not self-identify, may not view themselves as victims, or even know they are being exploited due to the ongoing exploitation. Other risk factors include:

- History of physical and sexual abuse, neglect, or sexual assault
- Youth who have run away or are experiencing homelessness
- History of teen dating violence
- History of parent/guardian or personal drug use

Victims of human trafficking often have similar characteristics such as dire economic circumstances, hopelessness, and desire for a better life. Poverty has been identified to be a principle component that makes victims vulnerable to human trafficking schemes. This component predisposes individuals to search for economic opportunities without fully being aware of potential hazards or to disregard potential dangers. They fall prey to false promises of employment simply because of a desire for a better life. This desire is not usually a selfish aspiration but one that involves the health and wellbeing of family members. The economic situation most victims find themselves in is not self-imposed; rather the victim does not have stable employment or there are a limited number of available and legitimate jobs.

Instructor Note: Lead the class in a discussion of the commonalities and differences (compare/contrast) of these two forms of human trafficking: recruitment-by-force and recruitment-by-persuasion.

Offender Characteristics:

With respect to gender, human trafficking operations are not exclusively male-operated.

- There are schemes operated by both men and women and there are also men-only and women-only operations.
- There are also husband and wife operations.
- As mentioned, traffickers are generally associated with the victim in some way. It is not unusual for traffickers to recruit acquaintances, neighbors, and even family members to be sold into trafficking.
- In a different study of sex trafficking into the United States, Raymond et al. (2001) found that female victims were too often recruited by spouses/boyfriends.

The ages of traffickers can vary greatly as can their educational and occupational backgrounds; individuals as young as 19 have been involved in human trafficking schemes, some even have advanced educational degrees. It is most common however, that traffickers have a criminal history. For instance, traffickers operating in the United States also actively participate in money laundering, extortion, child pornography, and drug trafficking. However, traffickers are also involved in legitimate business, often as a cover for their illegitimate activities.

A job requirement, especially for entrepreneurs, is knowledge of the local area, its customs and culture, as well as its people. Thus, most entrepreneurs handle the recruitment process, although some are also involved in making travel arrangements for victims and involved in all stages of the trafficking operation. In a sense, the network capitalizes on the skills of different players: the individual entrepreneur's knowledge of the area and ability to recruit victims, another group's ability to falsify travel documents, and another group's ability to bribe immigration officials.

Instructor Note:

Salt and Stein (1997) report that trafficking from Albania to Italy is facilitated by "mom-and-pop operations...that employ about a dozen people, including a driver in charge of getting the boat over and back, one or two crew members acting as enforcers during the voyage, and various others in charge of rounding up customers, collecting money, transporting passengers to secret departure points and acting as lookouts."

The human trafficking network has made it possible for virtually any person, even those with no prior criminal experience, to enter the business. It has also complicated the job of authorities who have found it especially difficult to crackdown on this crime. Because networks can vary in size and sophistication as well as exist in any part of the world, authorities often lack resources to fully investigate human trafficking. Also, with such fluidity and diversification of roles, it is not easy to pinpoint the players or even detect

that human trafficking operations exist. Furthermore, because of the large profit margin, so many new players are constantly entering the business which makes enforcement of this crime even more difficult.

Stages of recruitment and exploitation:

Given the victim characteristics, traffickers often find it easy to recruit victims.

- The recruitment process almost always begins with a local recruiter who knows the culture and vulnerability of victims. Often these recruiters are acquaintances or friends of the victims and may even be a family member.
- Recruiters are often victims themselves; though there is the appearance that they are free to do as they wish, in reality these “bottoms” are also being victimized and are not the source of the problem.
- Regardless of the manner in which the local recruiter obtained his/her position, exaggerated stories of money to be made are often used to lure victims.
- Newspapers and/or online ads may also be used to attract victims. For instance, help-wanted ads describing opportunities for legitimate employment are placed in newspapers to increase the pool of exploitable individuals. Farr (2005) refers to this as recruitment-by-persuasion and it is the most common manner in which victims fall prey to this crime.
 - For this type of recruitment, the recruiter must gain the trust of the victim because it lays the foundation for control during subsequent stages and for the beginning of the exploitation and enslavement. Trust is also necessary to gain willing consent from the victim to travel abroad. Trust tricks the victim into believing that the employment opportunity is legitimate and also convinces them to consent to illegal activity such as obtaining a fraudulent passport. Trust may also persuade the victim to give a small down-payment to facilitate travel abroad.

Recruitment-by-force: In this situation, recruiters abduct, kidnap, or drug victims. Refugee camps are prime targets for abductions and those displaced due to civil war or political strife become targets for recruitment-by-abduction schemes. Displacement due to a natural disaster also makes some vulnerable to this type of recruitment, particularly children.

Transportation was previously seen as a common stage of trafficking. While victims are sometimes transported to the trafficking location, that does not exclude trafficking situations with no transportation. The law states that “obtained by any means” applies to all trafficking victims. Therefore, if a victim is trafficked from their own home, they still are a victim.

Exploitation may begin immediately, or it may take a few weeks to materialize. Normally, it is immediately upon arrival at the destination country that the victim becomes aware that they were deceived about the true nature of the employment because passports, identification, and travel documents are typically confiscated. It is

also upon arrival that the victim learns she/he is being sold into trafficking and that their fate is now in the hands of the trafficker who purchased her/him.

Instructor Note: The victim is usually told that a huge debt has incurred from the travel and that they will have to be exploited as a sex trafficking victim, garment worker, factory worker, agricultural worker, domestic servant, miner, or any other work demanded by the trafficker. Although the victim is told that freedom may be a distant reality if the debt is paid, this seldom occurs because the debt continues to increase over time making it virtually impossible to escape.

There is always a possibility that physical abuse is part of the trafficking victim's life, however this isn't always the case.

- Victims are routinely subjected to physical assaults, beatings, rape, and other forms of violence to not only make them compliant to the wishes of the trafficker and customers but also to prevent escape.
- Psychological torture comes about through confined living quarters where 15-20 victims must share a small apartment.
- Also, victims are often monitored with technology and are not allowed to leave the premises of their place of employment or living quarters without supervision.

The final stage is when a resolution to the ordeal is reached. Unfortunately, resolution for some victims is death. There are some who die trying to pay off the debt; others who are killed due to physical torture; and yet others who contract sexually transmitted diseases and die. Those who escape their enslavement or are granted their freedom may find it difficult to return to their hometown due to shame or ostracism. In some cultures, laboring as a prostitute, even if it was induced by force, is not acceptable and thus going home is not an option. Those that make it home find themselves in the same economic situation as before and although they are aware of trafficking schemes, remain vulnerable to this crime. Unfortunately, many victims who escape or are granted their freedom continue a life of personal enslavement. As a result of the torture endured, many victims have life-long health and psychological problems.

Instructor Note: This is an involved section so review stages again utilizing examples from known area cases.

Vulnerable victim populations:

Consumers of human trafficking exist in every part of the world and the profile of a consumer is diverse. Consumers can be men or women of varied ages. Occupations can range from the working class to professional men and women, some of whom are prominent businessmen, doctors, lawyers, and politicians.

- In Long Island, New York, a millionaire couple, who owned and operated a perfume business, were arrested for holding two Indonesian women captive for five years. The couple, a 35-year-old woman and a 51-year-old man, traveled to

Indonesia and recruited these women to work as maids promising them \$300 a month. The women were forced to sleep on mats, not allowed contact with anyone, and forced to labor for long hours. The women were also beaten by the alleged female offender and their passports were confiscated to prevent escape.

- In 1999, two Mexican immigrants, who entered the U.S. in the 1980s and worked their way up from orange pickers to farm labor contractors, were involved in a scheme to hold migrant farm workers in South Florida against their will and force them to work as laborers to citrus industry growers. The two Mexican immigrants, who were brothers, employed about 700 workers, the majority of whom were undocumented. The brothers paid for their illegal transportation, made the workers pay a huge debt that included transportation costs as well as room and board, made them work in the fields 12 hours a day, six or seven days out of the week, and used physical violence to prevent escape. The workers were also monitored by armed guards to prevent escape.
- In El Monte, California, a small community near Los Angeles, Thai immigrants were forced to labor as garment workers for 18 hours a day, earning less than \$2 an hour. The garment factory was owned and operated by a Chinese-Thai family that exploited about 72 Thai immigrants. The family confiscated passports, used physical and mental torture to prevent escape, enclosed their living and working quarters in barbed wire, and monitored the immigrants' movements with armed guards.
- In the 1960s, a group of men with intellectual developmental disabilities were collected from the Abilene State Home to work on the Johnson ranch in Goldthwaite, Texas as turkey inseminators. The venture gave them job skills and room and board and was started as a for-profit service for men who would otherwise remain in a state institution. Around 1974, the ranch owner secured contracts with other turkey plants and a group of men were sent to Atalissa, Iowa. They lived in an old run-down schoolhouse and were routinely awoken at 3:00AM to begin their day gutting turkeys. Abuse was rampant and the men never took home more than \$65 a month, regardless of the number of hours worked. The men remained in the situation until 2009 when reporters brought the labor trafficking situation to light.

21.7. Discuss the art of control over victims including document control, violence, psychological manipulation, isolation, and supervision.

There are some who wonder why victims do not attempt to escape their captors and why they choose to remain enslaved. Victims do not choose to remain enslaved; they fear harm to themselves or their family and simply do not attempt to escape.

Victims are under the control of traffickers at all times.

- Control is established through several means and is embedded at every stage of the trafficking operation.

- Control is first achieved through a false sense of security as a result of the trust established between the recruiter and the victim.
- Trust tricks the victim into believing that the employment opportunity is legitimate and tricks them into believing that no harm will come to them. It persuades them to consent to travel plans and even pay an amount for their travel.
- Once trust is established and the victim agrees to leave their hometown, the recruiter has achieved control. For those that are abducted or drugged, control is immediately established.

Victims often learn they are under the control of the trafficker when passports and other travel documents are confiscated and when they are forced to labor against their will. Since documents have been confiscated, victims have no legal status or legal identity in the location they were transported to. Lying to victims or brainwashing them is another control mechanism. Victims are reminded that due to their illegal status, police authorities will not help but rather arrest them.

They are also told that family members have forgotten about them and there is no one to help them. Feelings of isolation and then dependence soon convince victims that escape is futile. Psychological manipulation, isolation, and constant supervision “breaks down the victim’s sense of agency, often resulting in the belief that nothing can be done” (Farr, 2005). Sadly, many victims become dependent on drugs and alcohol to cope with their conditions of confinement, and this serves to also diminish their desire to escape, providing another control mechanism for the trafficker.

To deter escape or any form of disobedience, violence or the threat of violence is used. Violence, either a physical assault or rape, is used initially to break-in victims. Most victims vehemently object to their enslavement and break-in violence is used to establish compliance. Routine violence is then used to maintain control. Eventually, the fear of violence or the threat of violence becomes sufficient to gain compliance. The fear of violence or threat of violence against family members is also a control technique used by traffickers.

Restricting the movement of victims is another control mechanism. Victims are not permitted to leave either their place of work or living quarters without permission or without supervision. Victims are constantly watched and usually under the supervision of a guard at all times, either in person or via technology.

Power and control tactics and psychological manipulation of human trafficking victims is similar to those of domestic violence. The human trafficking power and control wheel demonstrates how the trafficker manipulates and subjugates the victim through coercion and threats, including intimidation, emotional abuse, isolation, minimizing, denying and blaming, sexual abuse, residency privilege, economic abuse, coercion and threats.

Instructor Note: Review and discuss the Human Trafficking Power and Control Wheel.

21.8. Explain the invisibility of victims and the difficulty identifying and interacting with the victim of human trafficking.

Human trafficking is often confused with human smuggling, which involves illegal border crossings and an individual agreeing to be moved from one place to another.

- The crime of human trafficking does not require any movement whatsoever.
- Trafficking victims have either not agreed to be moved or, if they have, have been deceived into agreeing by false promises, only to then face exploitation.
- In both trafficking and smuggling, criminal networks stand to profit from a business involving the transportation of human beings. In the case of smugglers, their clients agree to pay and understand what the risks are, while in the case of trafficking, traffickers make their money from exploiting people who have not consented.
- Individuals can be recruited and trafficked in their own hometowns, even their own homes (Polaris Project).

As far as victimization is concerned, contemporary society tends to view individuals recruited for trafficking by force or abduction as the true victims of trafficking, whereas the individuals who are deceived or seemingly agree to the situation are not. It is this latter category of individuals which impedes the identification of victims due to a societal and perhaps an individual moral view that consent diffuses the issue of victimization and that working in the sex industry is "at the bottom of virtually any scale of goodness" (Farr, 2005).

Controversy exists over the extent to which victims contribute to their own victimization and whether the law should provide any protection for these victims. Opposing views exist over the extent to which the law should protect victims, such as prostitutes or agricultural workers, who might have initially consented to being transported across national or international borders in order to find employment and then enslaved. Thus, one of the most debatable points in defining situations of human trafficking is whether or not consent should be a factor in determining who should be labeled a victim as opposed to a willing participant in the migratory scheme to move or transport humans across international borders. There seems to be hesitation to treat those who initially consented to leave their countries of origin, especially those who knowingly and willingly consented to work in the sex industry, as victims. This hesitation also intensifies when individuals agree to the falsification of travel documents and when they aide others to help enter a country illegally. Historically some law enforcement officials have viewed trafficked persons as willing participants and hesitate to label them as victims.

Instructor Note: Engage the students in a discussion regarding the controversy of this perspective. What biases are present? Are there factors that they are not considering?

It is important to note that the Palermo Protocol, as well as U.S. law, consider consent irrelevant to whether a person should be considered a victim of human trafficking. If a person consents to be smuggled into a country of which they are not a legal or permanent resident and upon reaching the destination of choice is forced to work or labor against their will, the initial consensual decision becomes irrelevant. Any smuggled migrant becomes a victim of human trafficking when they are forced into employment against their will.

Another factor that complicates the identification of victims is their illegal status in a destination country, which makes some individuals complacent to render help and assistance to such victims. Most victims that enter destination countries do so with illegal passports and thus are in violation of immigration laws. This illegal status will preclude the identification of trafficking victims because officials will first treat the victim as a criminal. The victim will be scheduled for a deportation hearing and returned to their country of origin where there is a lack of resources to protect them from further exploitation. The fact that some victims pay their recruiter to help them travel abroad and also consent to travel further complicates matters. Rather than providing help, some officials will treat trafficking victims as willing accomplices. If and when an investigation uncovers a human trafficking operation, consent often becomes an overriding factor that will delay a decision to assign a victim-status to the exploited.

Instructor Note: Ask the question: Do you think law enforcement officers lack proper training in this area? Engage the students in a discussion regarding the need for sensitivity to potential trafficking situations.

All of these factors increase the invisibility of victims. It is unrealistic to expect victims to identify themselves to law enforcement authorities or any person outside their circle of confinement. Most victims are severely punished for the mere attempt to escape their enslavement and running to authorities seldom occurs. Additionally, most victims are fearful of the police primarily because their countries of origin have very corrupt officers. Therefore, their distrust for such authority figures precludes disclosure of their victimization. Additionally, constant supervision by traffickers and/or armed guards makes it difficult to escape and inform authorities. Victims may not speak the language of their country of destination, may not be aware of their legal rights, and may not realize that they are a victim of human trafficking. All of these reasons contribute to the invisibility of victims and creates a problematic situation for law enforcement and other organizations that are trying to help identify victims. It is crucially important to help identify victims of trafficking in order to provide them with the proper help they need and to launch successful investigations and prosecutions of traffickers.

21.9. Explain the observational and investigative cues to help identify trafficked victims including behavioral cues from both adults and children.

There are several observational cues that can help identify victims of human trafficking. Visible injuries on a person are some of the first indicators. However, remember to

never rely on visible injuries to investigate further. It is very possible to have a trafficking victim with no injuries.

Previously, averting the eyes and cowering in the presence of police officers was seen as a behavioral indicator of someone that has had trauma. Due to new research, this behavior is no longer considered an indicator of trafficking, but can still be noted as an overall behavior in the context of the investigation.

The Blue Campaign recommends considering the following key indicators as a first step in identifying victims:

- Does the person appear disconnected from family, friends, community organizations, or houses of worship?
- Has a child stopped attending school?
- Has the person had a sudden or dramatic change in behavior?
- Is a juvenile engaged in commercial sex acts?
- Is the person disoriented or confused, or showing signs of mental or physical abuse?
- Does the person have bruises in various stages of healing?
- Is the person fearful, timid, or submissive?
- Does the person show signs of having been denied food, water, sleep, or medical care?
- Is the person often in the company of someone to whom they defer to? Or someone who seems to be in control of the situation, e.g., where they go or who they talk to?
- Does the person appear to be coached on what to say?
- Is the person living in unsuitable conditions?
- Does the person lack personal possessions and appear not to have a stable living situation?
- Does the person have freedom of movement? Can the person freely leave where they live? Are there unreasonable security measures?

While behavioral or physical indicators may not confirm the presence of child sex trafficking, officers must observe and acknowledge possible victimization based on suspicion of exploitation or where the potential victim was recovered. Possible red flags that may indicate child sexual exploitation are:

- Child avoids answering questions or lets others speak for them.
- Child appears frightened, resistant, or belligerent to law enforcement.
- Child lies about their age and identity.
- Child looks to others before answering questions.
- Child does not ask for help or resists offers to get out of the situation; does not self-identify as a victim.
- Child seems coached in talking to law enforcement.
- Child uses trafficking-related terms like “Trick,” “The Life,” or “The Game”

- Child is preoccupied with “getting money” (e.g., displaying photos of cash)
- Child has multiple cell phones and/or electronic devices.
- Child has large amounts of cash or pre-paid credit cards.
- Child has no ID or ID is held by another person.
- Multiple children are present with an unrelated person.
- Child has unusual/unexplained sexual paraphernalia (such as bulk condoms or lubrication)
- There is evidence the child has been or will be traveling; child is living out of suitcases, at motels, or in a car.
- Child has a name or symbol tattooed, burned, or branded onto their body, particularly when coupled with the child’s reluctance to explain the tattoo, the child’s tattoo matches other children’s tattoos, the tattoo indicates money or ownership (ex. MOB, barcode or \$)
- Child has hotel keys, hotel receipts, or other items from a hotel/motel
- Presence of an overly controlling or abusive person
- Child is recovered at a hotel, street track, truck stop, or strip club

Instructor Note: Ask the students to identify other possible indicators.

Responses to certain questions (with or without an interpreter) may be indicative of human trafficking. For instance, if an individual responds they are not in possession of identification documents when asked to see a passport, visa, or birth certificate. This response is perhaps one of the best indicators of trafficking. Officers should be attentive to responses to the following questions about immigration status:

- How did you enter the United States?
- Who was in control of documents during your travel to the United States?
- How did you pay for your travel?
- Who made travel arrangements?
- Who accompanied you during your travel?
- Were you aware of your travel plans and place of destination?
- Did you or someone else acquire fraudulent travel documents?
- What were you told to say to immigration officials when you arrived?

It is important to note, that questions should be asked in a non-threatening and non-authoritative manner as victims may be fearful of authority figures and uncertain of the consequences of being in a country illegally. Also, victims usually have been trained on what to say when asked about their immigration status. Thus, victims must be made to feel safe and secure during any questioning and told that they will be provided the proper help needed. Officers should additionally be interested in responses to the following questions about employment:

- Can you move about freely? If so, where do you go?
- How much money are you paid in a week and where does that money go?
- Did you come to the U.S. for a specific job or purpose?

- What type of employment do you have?
- Who is your employer?
- Do you owe any money and/or service to your employer?
- Is there an employment contract? If so, what were the terms of employment?
- Were you forced to have sex as part of the job?
- What happens if you make a mistake at work?
- Does the employer hold your wages?
- Are there video cameras to monitor your activities?
- Are you happy with your employer/employment? If so, what makes them happy?

Instructor Note: Discuss the last question with the class. This is a loaded question. The answer is very often “yes” simply because they are happy to be providing for a family in another country.

Prosecutors often don’t want to move forward with a “victim” who is as happy as can be, so evidence should have to speak for itself. Responses to questions about safety and/or coercion are also important. Victims should be asked:

- Have you or your family been, or felt threatened, with harm if you try to leave?
- What is your understanding of what would happen if you tried to leave?
- Have you been physically harmed, deprived of food, water, sleep, medical care, or other life necessities?

Responses to the following questions are also crucial:

- Are you allowed to buy clothing and food on your own?
- Can you come and go as you please?
- Can you freely contact (phone, write, email) friends and family?
- Are you free to have a relationship with someone?
- Are you isolated from the community?
- Can you bring friends home?

Instructor Note: Initiate a role play utilizing a pre-planned scenario to practice questioning techniques. Allow time for all class members to participate in a scenario.

Officers should be attuned to canned responses or mechanical responses but also to the correlation between responses and a victim’s physical appearance and non-verbal behavior. In essence, assessments should be made based on the three channels of communication:

- Non-verbal
- Verbal
- Paralinguistic (e.g., tone or pitch of voice, response latency, and length of response).

Based on social science research, “as much as 70% of a message communicated between persons occurs at the non-verbal level” (Inbau et al., 2001, p. 143) and thus awareness of body language may not only reinforce the officer’s suspicion but may serve to justify further inquiry.

Non-verbal behavior:

- Dryness of mouth
- Restlessness
- Excessive sweating are indicative cues.
- Posture
- Hand movements
- Grooming gestures (e.g., trying to clean clothing)
- Personal gestures (e.g., scratching, pulling ear lobe)
- Facial expressions (e.g., such as those associated with discomfort, being scared)

Verbal responses are equally important as are paralinguistic cues.

Analysis of non-verbal and verbal behavior is commonly used in the field of policing and should not be discounted when investigating cases of human trafficking. Such analysis is known as kinesic interviewing and focuses on observable outward physical behaviors of the body in order to ascertain the person’s current emotional state and the role the body plays in communicating that information. It is important to note however that non-verbal behavior and/or verbal responses are not enough to make conclusive inferences or determinations of human trafficking but can be instrumental in making a determination to conduct a more probing investigation. Kinesic interview techniques rely on the analysis of behaviors or the interaction between the three distinctly different channels of communication.

The El Monte Case- An Example of Forced Labor:

The El Monte case was one of the most horrendous sweatshop operations in the United States. It involved the forced labor of Thai garment workers in El Monte California, a small community near Los Angeles. The slave-labor compound where the victims lived was a two-story, seven-unit apartment complex enclosed by barbed wire and guarded by armed men, who would often physically and mentally abuse the workers. The workers were forced to labor for over 18 hours a day, earning less than \$2 an hour. The victims’ passports were confiscated, telephone conversations were monitored, and mail was censored. They were forced to purchase food, toiletries, and other daily necessities from an on-site company store, where a single bar of soap cost \$20.

The workers were kept in horrific conditions. Seven to ten people slept in one bedroom and victims reported sleeping on concrete floors in roach and rat-infested rooms. Bedroom windows were boarded and attempts to escape were repressed with beatings, threats of rape, or threats against family members.

On August 2, 1995, a multi-agency task force raided the complex. Seventy-two garment workers, most of them Thai women, had been held in slavery for more than 18 months (some of them for up to 8 years) sewing clothes. Law enforcement officers arrested 8 operators of a Chinese Thai, family-owned garment sweatshop and freed the 72 Thai immigrants. Post-emancipation support provided to the victims by nongovernmental organizations (NGOs) was immense. Many of the victims chose to stay in the U.S. Several continued to work in garment industry, and several chose to go to school.

21.10. Discuss how to identify trafficking offenders based on specified indicators.

Identifying trafficking offenders will involve a more elaborate and collaborative effort. Webb and Myers identified migration, primarily illegal migration, or immigration, as the first indicator. Trafficking victims are usually transported illegally and generally travel in small groups accompanied by a chaperone/guard. There is a high probability that these victims will be met at either a port of entry or point of departure by other trafficking associates who will further transport them to their place of employment or to meet their “owner.” Forged documentation, together with the financial means to transport victims, generally indicates that an organized group was involved in the trafficking operation.

Recruitment is another variable. Officers should be alert to recruitment-by-persuasion and especially recruitment-by-force cases as these tend to involve organized crime groups. The degree of coercion, force, fraud, and deception used are important investigative cues. Organized criminal groups have the financial ability to carry out large-scale recruitment efforts and they may place advertisements in newspapers, television, radio, and online via the internet and social media. Modeling agencies and travel agencies may also be used to lure victims. Paid personnel may be used to pose as legitimate professionals and/or prospective employers to deceive victims. Thus, it takes time, effort, and funds to devise deceptive schemes to lure victims.

Equally important is the magnitude of the operation. The larger the operation the more likely it would have required an organized effort to recruit, transport, and sell humans. The distance of travel or transportation is crucial. An operation that can facilitate travel around the globe requires substantial funds and it is more likely facilitated by organized crime groups through an elaborate scheme. It is important to remember that organized crime groups have diversified their operations and networking among criminal associates makes it possible to facilitate human trafficking in many parts of the world. Officers need to be attuned to the fact that smaller organized networks of criminals perform much of the grunt work in trafficking, but such work often links to a larger, more sophisticated criminal organization.

The fourth indicator identified is the victim’s mens rea (criminal intent). Victims sometimes collude with traffickers, under false pretenses, to travel abroad but are unaware of their fate or the demands likely to be imposed upon reaching a destination. Although consent, on the part of the victim, is irrelevant to a determination of whether

a crime of human trafficking has occurred, the victim's knowledge and/or awareness of the situation is an important investigative tool. Again, the degree of force, fraud, coercion, and deception are instrumental. The more elaborate the scheme, the more likely the victim will have limited knowledge and/or awareness of the outcome of the travel and be unaware of their fate. Under a situation of recruitment-by-force, victims are completely unaware of the outcome or the demands.

Therefore, when viewed along a continuum, collusion with full knowledge and/or awareness of the outcome of travel plus knowledge of no demands on the victim would not indicate a situation of human trafficking but rather a situation of human smuggling. Collusion with some knowledge and/or awareness of the outcome of travel and demands such as work in the entertainment industry may not be a case of human trafficking unless such work is induced by force, identification documents are confiscated, and the victim is denied freedom. Collusion with no knowledge and/or awareness of the outcome of travel and no knowledge of demands is a definite example of human trafficking if demands involve exploitation, violations of human rights, and a likely indicator of organized criminal activity.

Retribution is another indicator. Retribution for noncompliance may lead to beatings, assaults, or injury to the victim and/or to the family of the victim. Although police should take any threats or actual assaults on the victim seriously, the ability to carry out retributive threats to family members is a good indicator of the existence of organized criminal activity. Perhaps a better indicator of the link between human trafficking and organized crime is the ability to bribe others. The ability to pay off officials to look the other way and take no action, to forge documents, or to facilitate illegal activity is evidence of organized criminal activity.

Profit is also an important indicator. A high profit margin is the primary reason to traffic human beings, and a substantial return on the sale of humans would be indicative of organized criminal activity. It is often thought that human trafficking is being carried out by large networks and gangs. While this does happen, individuals and very small, loose networks have also seen the high profit, low risk nature of human trafficking. 'Mom and pop shops' are engaged in much more human trafficking than previously believed.

21.11. Explain the different roles a trafficker may take in Texas trafficking cases or less organized trafficking situations.

Because of the many individuals that may be involved in the transportation, sale, and enslavement of humans, Farr (2005) identified several trafficking roles. Often, these roles are combined, not explicitly named, and not as defined. Sometimes, roles are assigned to human smugglers who are not looking to traffic anyone, yet the smuggling turns into trafficking once a person is in the United States. Keep in mind that just because one of these roles is missing, it does not mean trafficking is not occurring. Smaller operations will not have this much organization.

- Recruiter: Person who finds and brings victims into the industry; usually by deception, but sometimes by force. Recruiters sell victims to brokers or directly to employers, such as brothel owners or bar owners.
- Employment/travel agent: An employment agent arranges a “legitimate” job and job description; a travel agent arranges for a “legitimate” trip and an alleged purpose; both agent types may serve as fronts for the trafficking activity and may arrange for the victim’s visas, passports, and other identification papers. This position is usually filled by someone who has a legitimate employment or travel agency but also uses it for illegitimate purposes.
- Document thief/forgery: Person who arranges for and obtains “legitimate” documentation for travel to another country. Document specialists may steal or otherwise illegally obtain legitimate documentation, or they may create false documentation. This position may be filled by an immigration officer or lawyer.
- Transporter: Person who accompanies victims on the trip by airplane, train, bus, car, or on foot to their destination; may take the victim through one or more transit cities or countries. They usually deliver the victim to a broker at a border or inside a destination country, but sometimes the delivery is directly to an employer. May also be referred to as an escort, jockey, or coyote.
- Employer: Purchases and then sells the victim to the customer and provides a place of employment; provides the victim with a place to live and work; tells them about the conditions of their work, living arrangements, lifestyle; and informs them of demands. They are most commonly bar, club, or brothel owners or managers; a small number are street pimps and have no business establishment. May also be referred to as procurer.
- Enforcer: Provides protection for the place of business, and to a lesser extent, the victim; protects the business from other criminal gangs, from extortionists, and from police. They also make sure victims follow demands and that they do not escape, and that the customer pays for services (Farr, 2005, p. 63). May also be referred to as a guard or roof.

While there may be some variation in terminology, it is believed that the business of trafficking requires individuals performing different tasks and different functions often in different parts of the state, country, or globe. Some of these tasks and functions, particularly the recruitment of victims, may be carried out by local ‘mom and pop’ operations or small-time criminal groups that are familiar not only with the culture, but also with the financial struggles of the victims. Recruiters are often from the same town or village as victims and known to be friends, acquaintances, or family members of victims of human trafficking.

21.12. Explain terminology that may be encountered during an investigation or when engaging with a possible victim of sexual exploitation.

It is critical to be aware of the sex trafficking terms when engaging with a possible victim of commercial sexual exploitation. The following list of terms provided and defined by

the Department of Homeland Security is not an exhaustive list, however it gives context to the terminology.

- The Life/The Game – Commercial sexual exploitation or the sex industry
- Bottom Bitch/Bottom Girl – The person in a stable of victims who is appointed by the trafficker to manage, recruit, and supervise others
- Quota – The amount a victim must earn for their trafficker each night
- Daddy – The term a male trafficker might require his victims to call him
- Manager – Another term that is used for traffickers, often easier to tell people than pimp or daddy
- Branded – When a trafficker tattoos a victim to show ownership
- Family/Folks – The term used to describe the environment created by the trafficker and an attempt to recreate the family structure some youth lack
- Stable – A group of people under a trafficker's control at the same location
- Hit a stain – To contact someone to have sex for money
- Finesse – Someone who is a sweet talker and will give a person anything to catch their attention or keep them interested
- Breaking – Breaking someone down through control and force so they are subservient and lose their will to fight back
- Enforcers/Gorilla Pimp – Someone who teaches victims a lesson by beatings or showing them the consequences if someone doesn't follow the rules
- Track/Stroll – A street location for commercial sex
- Turnout – When a trafficker puts someone out to work for the first time
- Tricks/Johns/Dates – Buyers of commercial sex
- Twelve (12) – Police officer(s)
- Trappin' – Having sex with many people
- Grooming/Recruiting/Breaking-in/Training – The process a trafficker uses to manipulate a victim into prostituting for them, commonly includes romantic gestures and promises
- Incall – When a buyer comes to a residence or hotel room for sex
- Outcall – When the victim goes to the residence/hotel room of a buyer for sex

21.13. Discuss case management and interagency cooperation to aide with investigations.

Some of the best practices in conducting investigations of human trafficking are based on several elements:

- Be proactive
- Collaborate with other law enforcement agencies
- Collaborate with social service providers
- Safeguard the rights of victims and ensure their safety
- Awareness of legal issues (discussed in another section)
- Engage the community (discussed in another section)

Once a discovery of human trafficking is made, collaboration is key. Although every jurisdiction may handle cases differently depending on agency protocol, there are several agencies, at a minimum, that should be involved in the investigation. For instance, the local office of the Federal Bureau of Investigation (FBI) should be contacted, as well as the local Homeland Security Investigations (HSI) office, local federal prosecutor, Department of Justice (DOJ), local NGOs, and local victim service providers.

Texas has its own anti-trafficking law so contacting both federal and state prosecutors is pertinent. Regardless of whether the case is prosecuted at the federal or state level, assistance from the various local and federal agencies is needed to launch a successful investigation. For instance, local law enforcement is crucial to the investigation because they are the most knowledgeable of the jurisdiction, the community, and the local criminal element. They are also the first responders and thus usually the first to make the discovery of human trafficking. But local expertise needs to be supplemented by federal expertise. A request for continued presence provides the victim with a legal means to stay in the United States and keeps the victim safe while the investigation is ongoing.

According to U.S. law, federal law enforcement officials: “may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.” (22 USC 7105 (c)(3) Protection and assistance for victims of trafficking.

The U.S. Immigration and Customs Enforcement (ICE) is a federal law enforcement agency under the U.S. Department of Homeland Security (DHS). Homeland Security Investigations (HSI), the critical investigative arm of DHS is a vital asset in combating criminal organizations illegally exploiting America's travel, trade, financial and immigration systems. Among its tasks is the investigation of human trafficking. The HSI is charged with identifying individuals and/or organizations involved in these illegal activities in the U.S. and abroad. Thus, HSI can also assist with surveillance, continued presence requests, overseas investigations, immigration status review (e.g., determining an individual's immigration status), border interdiction, translation, and victim and witness assistance. Victim and witness assistance can be in the form of continued presence or the issuance of T-visas which allows the victim the opportunity to stay in the United States while the investigation and trial of traffickers is ongoing. HSI also operates a hotline (866) DHS-2-ICE / 1-866-347-2423 and an online tip form at <https://www.ice.gov/webform/ice-tip-form> or <https://www.ice.gov/about-ice/homeland-security-investigations>.

Instructor Note: Discuss DHS' Blue Campaign (<https://www.dhs.gov/blue-campaign>). Additionally note that the Trafficking Victims Protection Act of 2000 created a new class of visas, known as T-visas, that allows trafficking victims to remain in the United States for three years with work authorization and access to benefits and services. At the end of three years, T-visa holders may apply for permanent residence.

Depending on the type of human trafficking identified, the U.S. Department of Labor's Wage and Hour Division (WHD) may have to be contacted to administer and enforce U.S. labor laws or the Fair Labor Standards Act (FLSA). The FLSA is the law for minimum wage, overtime pay, and child labor. The WHD is also responsible for the enforcement of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). The MSPA requires that contractors of migrant agricultural workers register with the federal government and notify prospective workers of the wages and working conditions before they are hired. It also requires that providers of housing comply with minimum standards for the health and safety of migrants.

The DOJ, Civil Rights Division Criminal Section, should also be involved since it is responsible for the investigation of human trafficking and worker exploitation. In 2004, the Civil Rights Division announced that it would aggressively pursue proactive prosecution of human trafficking. In 2007, it created the Human Trafficking Prosecution Unit (HTPU) to consolidate the expertise of some of the nation's top human trafficking prosecutors. HTPU prosecutors work closely with Assistant United States Attorney and law enforcement agencies to streamline fast-moving trafficking investigations, ensure consistent application of trafficking statutes, and identify multijurisdictional trafficking networks. Multi-agency task forces have been formed in cities such as Houston, Atlanta, Philadelphia, Tampa, Newark, St. Louis, and Phoenix.

The U.S. Attorney's Office is the federal agency that is responsible for coordinating federal-level trafficking investigations and prosecuting trafficking cases. They can also provide assistance with victim interviews, victim assistance, witness assistance, convening grand juries, and trial preparation. Local district attorney's office should be contacted as they may elect to prosecute the case at the state level.

Just as human trafficking is an elaborate and collaborative enterprise, the investigation of such cases also needs to be. Law enforcement should combine its efforts not only to launch successful investigations but also to provide for the safety and well-being of victims. It may be helpful to develop a memorandum of understanding (MOU), which is a written document that details how the various agencies involved, such as the local police department, sheriff's department, local prosecutor's office, FBI, ICE, and social service providers, are to respond to an investigation of human trafficking. The MOU should:

- Ensure a clear understanding of roles, responsibilities, processes, and protocols for identifying and serving victims of human trafficking.

- Build and/or enhance collaborative efforts between law enforcement and trafficking victim service providers that help leverage limited resources which strengthen, not duplicate, existing victim service efforts.

Instructor Note: Discuss the 2020 IACP publication “Development & Operations Roadmap for Multidisciplinary Anti-Human Trafficking Task Forces” found at: <https://www.theiacp.org/resources/document/development-operations-roadmap-for-multidisciplinary-anti-human-trafficking-task>.

It is important to also remember the rights of the victim. Although more specific legal issues will be covered in another section, the victim should be informed of their legal rights. The Texas Victim Bill of Rights states that victims have the following rights:

- The right to be treated with fairness and with respect for the victim's dignity and privacy throughout the criminal justice process; and
- The right to be reasonably protected from the accused throughout the criminal justice process.
- On the request of a crime victim, the crime victim has the following rights:
 - The right to notification of court proceedings;
 - The right to be present at all public court proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial;
 - The right to confer with a representative of the prosecutor's office;
 - The right to restitution; and
 - The right to information about the conviction, sentence, imprisonment, and release of the accused.
- The legislature may enact laws to define the term "victim" and to enforce these and other rights of crime victims.
- The state, through its prosecuting attorney, has the right to enforce the rights of crime victims.
- The legislature may enact laws to provide that a judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this section. The failure or inability of any person to provide a right or service enumerated in this section may not be used by a defendant in a criminal case as a ground for appeal or post-conviction writ of habeas corpus. A victim or guardian or legal representative of a victim has standing to enforce the rights enumerated in this section but does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

21.14 Describe the victim-centered approach in investigations involving community organizations.

Because most victims have endured physical and psychological abuse, having negative experiences with law enforcement, or intimidated by their trafficker through violence inflicted upon their children or families, they may be reluctant to disclose information to authorities. Victim service providers should always establish rapport with victims before disclosure will occur. The ability of victim service providers (or police investigators) to establish rapport and yield positive or successful investigations is invariably affected by their understanding of human needs. Molyneaux and Lane (1982) contend that an effective interviewer is cognizant of human motivational needs, such as those identified by Abraham Maslow in his work *Motivation and Personality*.

Instructor Note: Discuss Maslow's hierarchy of needs (physiological, safety, love/belonging, esteem, and self-actualization).

- Why is this important to know in this discussion of human trafficking?
- Also, discuss Maslow's concept of motivation as the primary source of personality.

Victim service providers/officers must be aware that individuals will react depending on their satisfaction of needs especially needs such as safety and security. An individual who feels physically safe and comfortable may disclose much more information than an individual who feels threatened. An individual who feels that the interviewer understands the reasons for their actions may also be more likely to disclose information. Therefore, empathy and acceptance are important components to satisfy an individual's loving, belonging, and esteem needs. Complimentary to understanding human motivation, there are three main obstacles that impede communication:

- Threats hinder communication. When a subject feels threatened by what the interviewer is saying, they are likely to stop listening to reduce anxiety.
- Strong statements of opinion stimulate an individual to respond similarly. Once strong opinions have been voiced, people tend to defend them rather than discuss them.
- Biased language increases the sense of threat; neutral language reduces it.

It is important to interview victims and traffickers separately due to intimidation as well as possible victim informants. If needed, select an interpreter. It is extremely important to look for an interpreter that is trustworthy and in the victims' first language. Do not utilize other victims as interpreters. Information may be skewed due to individual's perspectives and alliances. Do not allow the interpreter to become too friendly with the victim as the nature of the interpretation may change and compromise the investigation. Provide the victim with a choice of speaking with a male or female officer, interpreter, or social service provider. An interpreter needs to be a "qualified interpreter" per the DOJ. The interpreter should allow the victim to lead the interview. That first interview focuses on triage and care with very little deep discussion (unless

the victim wants that). The goal of the first interview is to get a second interview. As the interviews progress, they can get more and more detailed, always allowing the victim to control the progress.

Since victims are often reluctant to talk, interviews should be conducted in a safe and non-threatening environment like local domestic violence shelters or churches. Police interview rooms, which may be too authoritative and threatening to the victim may inadvertently intimidate the victim and lead to non-disclosure of information. Initial sessions should be used to establish rapport and a trusting relationship which can best be established through direct communication and without the use of videotapes and/or audiotapes (unless the agency has a policy requiring recording initial conversations; always refer to department policy). Be patient and empathetic; rather than direct questioning, an informal conversation should be used to elicit information. Remember that the goal of the first interview should not be anything more than trying to get a second one. The victim needs to be the one leading the second interview and that will not happen without rapport with the victim.

Instructor Note: Allow time for role-play of scenarios involving the use of informal conversation techniques in communicating with trafficked individual.

Try to keep note taking to a minimum; employ active listening techniques. If possible, have a second person take notes. Allow the victim ample time to tell their story. Do not make any promises because if such promises cannot be kept, the victim may refuse to cooperate in the future. Look for correlation between verbal, non-verbal, and paralinguistic channels of communication for signs of deceit. In these cases, it is not unusual for the victim to misrepresent the details or situation initially as they have not yet established trust. Some victims may develop Stockholm syndrome feeling a false emotional or psychological attachment to their trafficker and do not believe they are victims.

Instructor Note: This psychological connection develops over the weeks, months, and years of captivity or abuse. Discuss how learned helplessness impacts a victim and case examples where Stockholm syndrome played a role. You can refer to the “Trauma Bonding in Human Trafficking” topic of special interest in the 2020 Trafficking in Persons Report found at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> or “Trauma Bonding in Human Trafficking Fact Sheet” published by the U.S. Department of State found at: https://www.state.gov/wp-content/uploads/2020/10/TIP_Factsheet-Trauma-Bonding-in-Human-Trafficking-508.pdf

It is also important to be considerate of cultural differences, remembering that cultural and/or religious backgrounds may affect communication with the victim. It may be inappropriate to touch children, even when trying to comfort them. The use of drawings, anatomically correct dolls, and other methods to elicit conversations may also

confuse the child and not produce the desired outcome. Children may have a tendency not to relate a story in chronological order so multiple short interview session may have to be conducted. If the victim is a child, there are special issues to consider. Although all of the above suggestions are useful, a skillful interviewer specifically trained for children may be needed. The interview must be conducted at the child's level of understanding. Rapport building is different and empowering the child is important. Children must be reassured about their safety, that they are not to blame for their situation, and that you are there to help.

Instructor Note: Discuss how cultural and/or religious backgrounds impact communication. Emphasize gender, age, status, personal space, appearance etc.

21.15 Discuss best practices during an investigation in youth cases through a coordinated, multi-disciplinary team response by engaging with children's advocacy centers in Texas.

Commercial Sexual Exploitation of Children (CSEC), or child sex trafficking, is a form of child sexual abuse and should be afforded a multi-disciplinary team response at the local children's advocacy center (CAC).

- Texas Family Code Section 264.401-411: Defines CACs; contains mandates, requirements, and protections; allows for sharing of confidential case information.
- Texas Family Code Section 261.3126: Promotes co-location of Department of Family and Protective Services and local law enforcement investigators at CACs, where feasible.

Per Texas Family Code 264 Subchapter E CHILDREN'S ADVOCACY CENTERS (CACs)
264.401-411:

- Coordinate the activities of participating agencies relating to abuse and neglect investigations and delivery of services
- Provide formal process that requires a Multidisciplinary Team (MDT) per Texas Family Code (TFC) 264.4031 MULTIDISCIPLINARY TEAM WORKING PROTOCOL, to routinely discuss and share information regarding investigation, case status, and services needed by children and families
- Provide victim support and family advocacy services
- Provide access to specialized medical evaluations and treatment services

A CAC provides a safe environment where law enforcement, child protective services, prosecution, medical and mental health professionals may share information and develop effective, coordinated strategies sensitive to the needs of each unique case and child. There are 71 CACs in Texas. CACs offer six critical services to child victims and their families:

- Joint Investigation Coordination
- Specialized Forensic Interviews

- Medical Evaluations
- Multi-disciplinary Team Case Review
- Trauma-Focused Therapy
- Family Advocacy and Victim Support

A forensic interview is a developmentally sensitive and legally sound method of gathering factual information regarding allegations of abuse and/or exposure to violence. Due to the dynamics of child sex trafficking, trained forensic interviewers conduct neutral, fact-finding interviews while being sensitive to issues such as trauma bonds, dissociation, substance abuse, mental illness, or suicidal ideation. It is important to note that disclosure is a process, not a one-time event, particularly in child sex trafficking cases. Multi-session forensic interviews may be recommended.

Instructor Note: Refer to “How Does the CAC Model Work?” flowchart for further discussion on the CAC model (<https://www.nationalchildrensalliance.org/cac-model/>). If time allows, reach out to your local CAC to have an agency representative speak to the class regarding the role of the CAC in child abuse investigations.

For law enforcement, we have to remember our role is to investigate crimes and hold traffickers accountable. While we want to help, our role is not to provide resources for survivors. The Children’s Advocacy Center and the Multi-Disciplinary Team is where those resources come from, which is why they are so important. Victim Service Providers are able to provide victim care, relieving law enforcement of that responsibility. This frees up law enforcement to investigate the crime and gather as much evidence as possible for successful prosecution.

The Blackjack Case:

The Blackjack case occurred in Florida and involved sex trafficking and forced labor of young Mexican girls. The case is referred to as the Blackjack case because each customer received a playing card each time he paid. The card was proof of payment and given to the girls as proof that he paid for her services. The trafficker, Javier (legal name of Angel-Ambriz-Riojas), approached one of the girls while she was in school in Mexico. He lured her with promises of a better life and offered her employment in his restaurant if she came to the U.S. When the girl declined his offer, Javier persisted. He cleverly enlisted the help of his sisters to persuade her to travel abroad and even met with the girl’s parents to discuss her travel to the U.S. After her parents consented, he brought her and five others to Immokalee and Labelle, Florida.

The exploitation soon began where he routinely battered the girls and informed them that they would have to work as prostitutes. If any refused or tried to escape, Javier promised that their families would die. Javier assigned a male guard to each of the girls, who were responsible for driving the girls to different locations where they were required to have sex with a minimum of 15 to 20 men per night. Although the

customers paid \$25 to have sex with the girls, the girls never received any of the money and were only “compensated” with food, clothing, and shelter.

Javier brought a girl to a local citizen's apartment and asked if he and his roommate would like to have sex with the girl. The citizen recognized the girl as someone he went to school within Mexico, so he let them in the apartment. The citizen then paid \$25 for the girl. He took her into his bedroom, turned up the radio, and asked the girl if she needed help. She explained her situation and the citizen called the police. The investigation that ensued involved the Collier County Sheriff's Office, the Lee County Sheriff's Office, the Fort Meyers Police Department, and the FBI. Six girls were rescued. Two of the six were formally identified as trafficking victims, and the other four maintained that there were voluntarily prostituting themselves. The two trafficking victims were housed at a homeless shelter. A shelter worker felt sorry for the girls because they had not seen their families in a long time and gave them money to return to Mexico. Because the victims were no longer available to work with law enforcement and prosecutors, human trafficking could not be proven. Javier and another suspect were found guilty of lesser offenses and sentenced to 2-3 years in prison.

Instructor Note: Discuss what role collaboration played in the resolution of the case. In this case, collaboration was crucial. As with any law enforcement initiative, the community should be a partner in crime prevention. Community resources should not be overlooked but harnessed in trying to prevent or investigate human trafficking cases. This case is also an example of how law enforcement and social service providers should work together and why it is important to educate providers on what they need to do not only to help victims' emotional, medical, and intrinsic needs but also to help them seek justice under our system of law. Discuss the following questions in terms of laws against trafficking:

- What victim rights were protected or ignored?
- Did it matter that four of the girls maintained that they were voluntarily prostituting themselves?

Answer: It does not matter that the girls stated that they were voluntarily prostituting themselves. Their situation fits the legal definition of trafficking as each had a guard and were held captive meeting the definition of force and coercion.

21.16 Discuss national and international perspectives concerning efforts to end human trafficking including tiers involved in the Trafficking Persons Report each year and the efforts to comply with the Trafficking Victims Protection Act.

Instructor Note: Trafficking in persons compromises a range of human rights violations. This is compounded by the inappropriate response of governments worldwide. Trafficked persons who escape their situation often find themselves victimized again as a result of the treatment they receive at the hands of the authorities.

The international community has been tackling the problem of human trafficking since the early twentieth century, where international treaties were held to address this

problem. In 1949, the United Nations signed an international treaty to suppress the sale of humans. In 2000, 148 countries were signatories to an international treaty to prevent, suppress, and punish those who traffic in persons. This international treaty, known as the Palermo Protocol, makes it a crime to recruit, transfer, harbor, or purchase a person for the purpose of any type of exploitation. It also makes the sale of organs a crime. The Palermo Protocol considers a victim's consent irrelevant meaning that any person who is abducted, deceived, forced, suffers other forms of coercion, or initially agrees to be transported across borders shall be treated as a victim if he/she suffers any form of exploitation. The victim shall receive help to either return to their country or city of origin or to legally remain in the existing country, and during this process shall receive any medical, legal, or psychological assistance if needed. In order to stop human trafficking, the international community has to enforce its laws. The Palermo Protocol's significance cannot be understated as it is an international agreement to prevent, suppress, and punish those who traffic and enslave human beings. Despite its outward significance, some of the 148 countries have yet to finalize or execute the international law in their respective countries. Mexico for instance was a signatory of the Palermo Protocol but has yet to actualize any meaningful steps to prevent, suppress, and punish traffickers. Mexico is not alone; there are other countries that have not fully adhered to their promise to end human trafficking.

Instructor Note: How does this failure to implement meaningful steps manifest in Texas?

The United States was a signatory to the Palermo Protocol and in 2000 passed its own law against human trafficking. The Victims of Trafficking and Violence Protection Act (TVPA) is a comprehensive law that addresses the problem of human trafficking. It is a federal law that consolidates the protections of the 13th Amendment, which abolishes slavery, and the various immigration and organized crime laws (racketeering laws) that are frequently violated when traffickers, particularly those with organized crime connections, illegally transport a victim into the United States.

The TVPA is a three-level approach to combat trafficking:

- **Prevention.** It seeks to prevent the occurrence of this crime by working to identify those who traffic in persons. More importantly, the United States attempts to prevent human trafficking by educating women, in countries most vulnerable to this crime, about the dangers of human trafficking and provides governments, facing economic instability, monies to help the most vulnerable in society to find legitimate employment.
- **Protection.** If a victim of human trafficking is identified in the United States, they are placed in a secure shelter and generally provided with medical, psychological, legal, and employment aide. Victims may also be granted temporary visas to stay in the United States, and even permanent resident visas for themselves and their family, if they continue to cooperate and assist authorities with the investigation and prosecution of their traffickers.

- **Prosecution.** The law seeks to prosecute those who traffic and enslave human beings. Under the law, it is a crime to force or coerce any person (man, woman, child) to work as a slave. More specifically, it is a crime to provide or obtain a person, whether through deception or threat of harm, for the forced labor of services regardless of whether such services are to be fulfilled in the sex industry, an agricultural field, a home, a sweatshop, etc. The trafficker and/or the customer could face up to 20 years in prison if convicted. However, if the victim is under the age of 18, or the victim dies, is kidnapped, or endures severe sexual abuse, the trafficker and/or customer could face life imprisonment. The law also makes it a crime for any U.S. citizen to travel to another country for the purposes of engaging in illicit sexual conduct (sex tourism). For this latter offense, a person could face up to 30 years in prison.

Each year, the Department of State publishes a document entitled Trafficking in Persons Report which contains findings on the government's investigation of foreign efforts to combat trafficking. The State Department places countries into different tiers based on their efforts. For instance:

- Tier 1 Countries are those that fully comply with the TVPA minimum standards for the elimination of trafficking.
- Tier 2 Countries are those that do not fully comply within the minimum standards but are making significant efforts to bring themselves into compliance.
- Tier 2 Watch List Countries are those that require special scrutiny because of (1) a high or significantly increasing number of victims, (2) failure to provide evidence of efforts to combat trafficking or, (3) an assessment as Tier 2 based on commitments to take action over the next year.
- Tier 3 Countries are those that neither satisfy the minimum standards nor demonstrate a significant effort to come into compliance.

Only countries which have previously and/or are currently receiving financial aid from the United States are subjected to this investigation. Countries that do not receive a passing grade, according to the mandates outlined by the Department of State, will no longer receive aid. Thus, countries that are not doing enough to combat trafficking will not receive assistance from the United States. This however can be problematic for such countries, especially when their inability to launch a concerted effort to fight trafficking is not intentional but hindered by internal strife or political and/or economic instability.

Instructor Note: Discuss the Tier System in detail as needed.

21.17. Explain the threshold requirements for eligibility of victim benefits and services and how it affects what you do as an officer.

The TVPA is a victim-centered law that allows victims, even if they entered the U.S. illegally, to be formally identified as crime victims rather than criminals who violated federal law. Under the law, victims are eligible to apply for certain benefits according to

their legal status, but specific criteria and threshold requirements must be met. First, it must be determined if the victim was part of a human trafficking or human smuggling scheme and second, it must be determined if the victim's services were obtained or maintained through force, threats, psychological manipulation, or confiscation of legal or illegal documents. If such services were obtained through the use of force, fraud or coercion, the victim is legally defined as a "severe victim of human trafficking."

As a reminder, the law states that:

- Sex trafficking involves the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person forced to perform such an act is under the age of eighteen years old. When a minor is trafficked for a commercial sex act, there is no need to prove force, fraud, or coercion. The offense is treated like felony statutory rape. The TVPA removes the statute of limitations involving children. It is also important to note that traffickers are liable whether they actually engage in the trafficking act of recruiting, enticing, harboring, transporting, providing, obtaining, patronizing, or soliciting of a person for a commercial sex act or whether they merely benefit financially from knowingly participating in the venture.
- Labor trafficking, on the other hand, is defined as the recruitment, harboring, transportation, provision, or obtaining of a person for labor services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery. Labor trafficking situations may arise in situations where exploitation can easily occur, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.
- Force is the use of physical restraint or physical injury to the victim. It may take the form of beatings, rape, shootings, starvation, or physical confinement.
- Fraud may include false or deceptive offers of employment, marriage, or a better life.
- Coercion includes threats of serious harm to or physical restraint against any person; any scheme 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; threats of serious harm to the victim or family members; document confiscation; and abuse of threatened abuse of the legal system (e.g., a threat that the victim will be taken into custody or deported).

Although sex trafficking and labor trafficking have differing definitional elements, both contain three vital components—force, fraud, and coercion (U.S. Department of State, 2005). It is noteworthy to mention that U.S. law also makes document servitude a criminal offense. Document servitude involves holding an actual or false identity document of a victim while committing a trafficking offense. These documents do not have to be genuine to be punished under the law. Additionally, a show of psychological

coercion is sufficient to prove that someone was held against their will; the initial consent of the victim is irrelevant and cannot be used by the trafficker as a defense to prosecution; and attempt is punishable under the law. The attempt provision of the law allows law enforcement to focus on the intent of the offender rather than having to prove actual enslavement. It shifts the burden of proof from the victim to the offender. Attempt is punishable to the same extent as completed trafficking crimes.

The TVPRA:

- Provides additional resources to assist victims of trafficking and even further strengthens the law enforcement tools designed in the original law
- Adds human trafficking to the list of racketeering offenses covered under the Federal Racketeer Influenced and Corrupt Organizations Act (RICO Statute) and allows trafficking victims to sue their captors in Federal courts

A review of how TVPA affects what you do as an officer:

- Creates laws that criminalize trafficking regarding slavery, involuntary servitude, peonage or forced labor
- Permits prosecution where non-violent coercion is used to force victims to work in belief, they would be subject to serious harm
- Permits prosecution where victim's service is compelled by confiscation of documents such as passports or birth certificates
- Increases prison terms for all slavery violations and adds life imprisonment where violation involves death, kidnapping, or sexual abuse of victim
- Requires courts to order restitution and forfeiture of assets upon conviction
- Enables victims to seek witness protection and other types of assistance
- Gives prosecutors and agents new tools to get legal immigration status for victims of trafficking during investigation and prosecution
- All 50 states now have anti-trafficking laws

21.18 Describe victim protection under the Trafficking Victims Protection Act.

The TVPA allows victims to conditionally obtain temporary legal status, which then allows them to apply for and receive benefits and services under existing refugee and social welfare programs. It allows for benefits such as medical care, witness protection, housing assistance, and other social services. It also provides law enforcement with a tool to ensure short-term immigration status for victims who are willing to help, and it gives victims who have helped or who are helping, a mechanism to seek long-term status.

If the victim is seeking to stay, whether short-term or long-term in the United States, they must agree to cooperate with the investigation. The United States defines severe forms of trafficking as:

- Sex trafficking in which a 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

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

Thus, in order to stay in the United States, even if it is temporary, the victim must agree to fully cooperate with federal prosecutors in any criminal case against the perpetrators and must undergo an evaluation, called a certification process, before any temporary visa is issued.

It is important to note that victims must prove that a child involved in sex trafficking does not have to prove coercion, force, or fraud. In the case of an adult, coercion may be proven by physical restraint or by psychological force. Thus, a commercial sexual act involving an adult that is not induced by force, fraud, or physical coercion may still fall under the definition of a "severe form of trafficking" if the victim can prove psychological coercion. They are no longer required to prove legal or physical coercion, as was the standard established in *United States v. Kozminski*. Thus, victims of severe forms of trafficking are defined as people held against their will "for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery" and are eligible for the T-visa.

The certification is conducted by the U.S. Citizenship and Immigration Services (USCIS) and is meant to ensure that the trafficking was indeed of a severe form. USCIS also ensures that victims have (1) completed a bona fide application for a T-visa or (2) have received continued presence status in order to contribute to the prosecution of human traffickers. Once they have met the certification requirements, victims of trafficking will receive an official letter of certification from the USCIS. Victims are then eligible for benefits such as medical, legal, employment, housing, and psychological assistance, dependent on the outcome of the certification process. If the applicant is under 18, they may receive TVPA benefits without certification.

While continued presence only requires victims to agree to assist in the prosecution of traffickers and grants a temporary stay in the U.S. throughout the duration of a trial, a T-visa allows victims of severe forms of trafficking to remain in the United States for four years and at the end of four years, T-visa holders may apply for permanent residence. Applying for a T-visa is complicated. It requires victims to submit an I-914 Application for T Nonimmigrant Status. To be eligible for the T-visa, the applicant must prove victimization by a "severe form of trafficking" as set forth in section 103(8) of the TVPA. Victims are encouraged to raise all arguments and to document all elements of their claim, including allegations of extreme hardship, in the application. Generally, documentation submitted as proof of victimization consists of (1) a personal narrative and/or (2) a letter by a federal law enforcement officer attesting to the victims claims of victimization.

In the personal narrative, victims have to describe:

- What were the circumstances of their entry into the U.S.
- The purpose for which they were brought into the U.S.
- How they were recruited or otherwise became involved in the trafficking situation
- When the events took place
- Who was responsible
- How long they were detained by the traffickers
- How and when they escaped, were rescued, or otherwise became separated from the traffickers
- What they have been doing since they were separated from the traffickers
- Why they were unable to leave the U.S. after being separated from the traffickers
- What harm or mistreatment they fear if they were removed from the U.S.
- Why they fear they would be harmed or mistreated

Although the personal narrative is important, victims are encouraged to also submit a Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons.

- This supplemental form is a written declaration (or certification) by a federal officer that victims have indeed suffered a severe form of trafficking and that statements made in the personal narrative are factual.
- It also contains proof that victims are cooperating with law enforcement in the investigation and prosecution of their traffickers.
- According to the requirements to obtain a T-visa, Supplement B does not necessarily need to be submitted to prove a claim of trafficking but "endorsement by a federal law enforcement officer constitutes primary evidence that the applicant is a victim and has complied with any reasonable request for assistance in the investigation and prosecution of traffickers."
- Thus, Supplement B is almost a necessity and victims are strongly encouraged to obtain this form. If victims cannot obtain certification by a federal law enforcement officer, they must state why in their personal narrative.

Victims must self-petition and must begin the process for T-visas rather than waiting for law enforcement to begin this process for them. The self-petitioning provision of the TVPA is designed to prevent possible allegations of entrapment of the victim or impeachment of the evidence of victim-witnesses. The theory is that these allegations of entrapment or impeachment of the witness cannot be made at trial if there is a cognizable separation of the process of obtaining the victim's residency from the process of law enforcement and prosecution of the perpetrator. However, federal law enforcement agents are encouraged to be proactive in gathering the information and certifications required for the issuance of the T-visa. Because

applying for a T-visa is a lengthy and complicated process, trained personnel in NGOs can aid and advise trafficking victims in an effort to make the bureaucratic process as painless as possible. In addition to the personal narrative and the supplemental form, victims must also undergo a criminal background check, submit 3 passport-like photographs, and a filing fee.

Instructor Note: Refer to the USCIS for filing fee costs as necessary.

According to the TVPA, a victim of severe forms of trafficking in persons and a potential witness to such trafficking (e.g., those granted continued presence) may be eligible for permanent residency status in the United States as well as protection for her family who is still abroad. When the victim is a lawful temporary resident in the United States, they may be granted authorization to work and be provided with an employment authorized endorsement or work permit.

The T-visa can be issued prior to trial but the law does not allow the victim to delay or even reflect on their choice to assist in prosecution. They must agree to cooperate in order to stay in the U.S. In certain circumstances, the T-visa also ensures that involved officials provide the victim and the victim's family safety, including protection "from intimidation and threats of reprisals from traffickers and their associates." Trafficked persons who hold T-visas can apply for permanent residence in the United States if they have been continually present for three years, have not committed any violations, and have complied with reasonable requests to aid in the investigation and prosecution; or if they would suffer extreme hardship involving unusual and severe harm upon removal.

The number of T-visa applicants whose status may be adjusted to that of permanent resident is limited to five thousand per year. This number does not include family members. Further clarifications to consider:

- **Smuggling:** Is voluntary. A person usually has an agreement to be taken across the border and ends after the border crossing. The fees are usually paid in advance, or upon arrival, are international in nature, and is a crime against the nation's sovereignty. However, if the smuggling becomes trafficking, the victim is still eligible.
- **Trafficking:** Not voluntary. Involves forced exploitation, can happen domestically, travel not necessary, is a crime of human rights.

Instructor Note: There are significant differences between victims of human trafficking and migrants who are smuggled into the United States. Officers may be in a situation where an individual is arrested on illegal immigration charges because they cannot produce the proper documentation. Law enforcement may assume this person was willingly smuggled into the United States illegally and is, therefore, a criminal, when the person may actually be a victim of human trafficking. Important differentiating factors to consider:

- Victims of human trafficking are forced or coerced, while persons who are smuggled have freely and knowingly given consent.
- Victims of human trafficking continue to be exploited upon arrival while the act of smuggling ends when the migrants arrive at the destination.
- Movement from place to place is not a requisite for the act to be defined as illegal trafficking. Trafficking can occur even if national borders were not crossed. In contrast, human smuggling involves the illegal transport of persons across international borders.

21.19 Identify recent changes in human trafficking laws including the most recent reauthorization of the TVPA.

The TVPA of 2000 was reauthorized in 2003, 2005, 2008, 2013, and 2017 to include greater protections for U.S. citizen victims, enhance and enact new human trafficking crimes, enhance victim service provisions, and strengthen the role of the Trafficking in Persons Office within the State Department.

Key Provisions of the 2003 Reauthorization:

- Authorizes more than \$200 million over two years to combat human trafficking.
- Requires the U.S. government to terminate contracts with overseas contractors who engage in sex trafficking or commercial sex, or who use forced labor.
- Creates a federal civil cause of action for trafficking victims to sue their traffickers.
- Allows state and local law enforcement officials to assist in identifying trafficking victims for immigration purposes, who may then become eligible for federal social benefits. The TVPRA of 2003 extends benefits to additional family members of the trafficking victim.
- Requires an annual report from the Attorney General to Congress on U.S. Government activities to combat human trafficking.

Key Provisions of the 2005 Reauthorization:

- Authorizes more than \$300 million over two years to combat human trafficking.
- Authorizes new programs to serve U.S. citizen or legal permanent resident victims of domestic human trafficking, including a pilot program for sheltering minors.
- Authorizes grant programs to assist state and local law enforcement efforts in combating human trafficking.
- Addresses sex tourism with prevention programs.
- Expands federal criminal jurisdiction to trafficking offenses committed by U.S. government personnel and contractors while abroad.
- Requires the U.S. Agency for International Development to conduct studies on prevention and protection of trafficking victims abroad and authorizes \$5 million for a pilot treatment program.

Note: The 2007 Texas Legislative Session also added additional emphasis on victim assistance through HB 1121. This bill is designed to assist prosecutors in making effective cases for victims of human trafficking crimes. In the past Visa applications have been denied because “...the federal government did not recognize the state’s prosecution as sufficient evidence that the victim has been a victim of a “severe form of trafficking in persons,” the federal definition of trafficking. This bill now allows judges to make a finding that a particular case represents a “severe form of trafficking in persons.”” This also will assist in obtaining T and U visas as well as the receipt of Federal benefits.

Key Provisions of the 2008 Reauthorization:

- Prevention
 - Requires the U.S. government to provide detailed information about human trafficking, worker’s rights, and access to available assistance to all applicants for work and education- based visas.
 - Requires the Department of Labor to work toward preventing U.S. citizens from using goods produced or extracted with slave labor and sets a deadline for the Department of Labor to provide a list of goods produced by slave labor or child labor.
 - Requires the creation of an integrated database by the Human Smuggling and Trafficking Center to collect human trafficking data from all federal agencies.
 - Prevents U.S. military assistance to countries using child soldiers in military forces or government-supported armed groups.
- Protection
 - Expands immigration-related protections to human trafficking victims and families as it relates to T-Visas, U-Visas, and Continued Presence.
 - Requires unaccompanied alien children to be screened as potential human trafficking victims and to be transferred to the custody of Health and Human Services within 48 hours for assistance, whether or not eligibility determinations are made on their status at that time.
 - Authorizes a new program for providing services to U.S. citizen survivors of human trafficking.
 - Requires DHS and DOJ to develop materials to assist state law enforcement in obtaining Continued Presence status for victims.
- Prosecution
 - Expands criminal liability of financially benefiting from human trafficking crimes, as well as obstruction and conspiracy.
 - Expands federal criminal jurisdiction to U.S. citizens and permanent residents who travel abroad to commit, attempt to commit, or conspire to commit human trafficking crimes.
 - Expands the crime of sex trafficking by removing the knowledge-of-age requirement in certain instances involving minors and lowers the standard of proof to “reckless disregard” of the use of force, fraud, or coercion to cause a person to engage in commercial sex.

- Creates a new crime of fraud in foreign labor contracting, criminalizing the recruitment of foreign workers under false pretenses.
- Requires DOJ to create a new model state law to further a comprehensive approach in investigating and prosecuting human trafficking, including provisions criminalizing sex trafficking without proof of force, fraud, or coercion whether or not the victim is a minor.
- Human trafficking crimes are now placed in the most serious crime category under the two principle state reporting mechanisms (UCR and NIBRS).
- States are required to separately report prostitution and vice crimes to the FBI for annual crime statistics under the categories of (a) those directing, managing, or profiting from commercial sex act; (b) those unlawfully purchasing commercial sex acts; and (c) those unlawfully providing commercial sex acts.

Key Provisions of the 2013 Reauthorization:

- Focused on elimination of human trafficking from the supply chain of goods; built partnerships between the U.S. government and private entities to ensure U.S. citizens do not use items, products, or materials produced or extracted with the use of labor trafficking and that entities do not contribute to trafficking in persons involving sexual exploitation.
 - Extended statute of limitations for a person to bring a civil action for an injury received with a minor caused by certain sex- or labor-related violations
- Penalize the confiscation of identity documents

Key Provisions of the 2017 Reauthorization:

- Reauthorized several grant programs within the Justice (DOJ), Health and Human Services (HHS), Labor (DOL), and State (DOS) that combat trafficking in persons.
- Authorized grant funding to train school resource officers to recognize and respond to signs of human trafficking and reauthorizes the Creating Hope Through Outreach, Options, Services, and Education for Children and Youth (CHOOSE Children & Youth) grant program.

21.20. Discuss the Texas statute on human trafficking and other related statutes that could be relevant to a human trafficking case.

The Texas Statute on Human Trafficking (Title 5. Offenses Against the Person, Chapter 20A. Trafficking of Persons):

Penal Code, Sec. 20A.01. DEFINITIONS. In this chapter:

- (1) "Child" means a person younger than 18 years of age.
- (1-a) "Coercion" as defined by Penal Code, section 1.07 includes:
 - destroying, concealing, confiscating, or withholding from a trafficked person, or threatening to destroy, conceal, confiscate, or withhold from a trafficked person, the person's actual or purported government records; or

- causing a trafficked person, without the person's consent, to become intoxicated, as defined by Section 49.01, to a degree that impairs the person's ability to appraise the nature of or resist engaging in any conduct, including performing or providing labor or services; or
- withholding alcohol or a controlled substance to a degree that impairs the ability of a trafficked person with a chemical dependency, as defined by Section 462.001, Health and Safety Code, to appraise the nature of or resist engaging in any conduct, including performing or providing labor or services.

identifying information or documents.

- (2) "Forced labor or services" means labor or services, other than labor or services that constitute sexual conduct, that are performed or provided by another person and obtained through an actor's use of force, fraud, or coercion.
- (3) "Sexual conduct" has the meaning assigned by Penal Code, Section 43.25.
- (4) "Traffic" means to transport, entice, recruit, harbor, provide, or otherwise obtain another person by any means.

Sec. 20A.02. TRAFFICKING OF PERSONS.

(a) A person commits an offense if the person knowingly:

- (1) traffics another person with the intent that the trafficked person engage in forced labor or services;
- (2) receives a benefit from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services;
- (3) traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct prohibited by:
 - (A) Section 43.02 (Prostitution);
 - (B) Section 43.03 (Promotion of Prostitution);
 - (B-1) Section 43.031 (Online Promotion of Prostitution);
 - (C) Section 43.04 (Aggravated Promotion of Prostitution);
 - (C-1) Section 43.041 (Aggravated Online Promotion of Prostitution);or
 - (D) Section 43.05 (Compelling Prostitution);
- (4) receives a benefit from participating in a venture that involves an activity described by Subdivision (3) or engages in sexual conduct with a person trafficked in the manner described in Subdivision (3);
- (5) traffics a child or disabled individual with the intent that the trafficked child or disabled individual engage in forced labor or services;
- (6) receives a benefit from participating in a venture that involves an activity described by Subdivision (5), including by receiving labor or services the person knows are forced labor or services;

- (7) traffics a child or disabled individual and by any means causes the trafficked child or disabled individual to engage in, or become the victim of, conduct prohibited by:
 - (A) Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Adult);
 - (B) Section 21.11 (Indecency with a Child);
 - (C) Section 22.011 (Sexual Assault);
 - (D) Section 22.021 (Aggravated Sexual Assault);
 - (E) Section 43.02 (Prostitution);
 - (E-1) Section 43.021 (Solicitation of Prostitution);
 - (F) Section 43.03 (Promotion of Prostitution);
 - (F-1) Section 43.031 (Online Promotion of Prostitution);
 - (G) Section 43.04 (Aggravated Promotion of Prostitution);
 - (G-1) Section 43.041 (Aggravated Online Promotion of Prostitution);
 - (H) Section 43.05 (Compelling Prostitution);
 - (I) Section 43.25 (Sexual Performance by a Child);
 - (J) Section 43.251 (Employment Harmful to Children); or
 - (K) Section 43.26 (Possession or Promotion of Child Pornography);or
 - (8) receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child or disabled individual trafficked in the manner described in Subdivision (7).
- (a-1) For purposes of Subsection (a)(3), "coercion" as defined by Section 1.07 includes:
- (1) destroying, concealing, confiscating, or withholding from a trafficked person, or threatening to destroy, conceal, confiscate, or withhold from a trafficked person, the person's actual or purported:
 - (A) government records; or
 - (B) identifying information or documents;
 - (2) causing a trafficked person, without the person's consent, to become intoxicated, as defined by Section 49.01, to a degree that impairs the person's ability to appraise the nature of the prohibited conduct or to resist engaging in that conduct; or
 - (3) withholding alcohol or a controlled substance to a degree that impairs the ability of a trafficked person with a chemical dependency, as defined by Section 462.001, Health and Safety Code, to appraise the nature of the prohibited conduct or to resist engaging in that conduct.
- (b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

- (1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time of the offense;
 - (2) the commission of the offense results in the death of the person who is trafficked; or
 - (3) the commission of the offense results in the death of an unborn child of the person who is trafficked; or
 - (4) the actor recruited, enticed, or obtained the victim of the offense from a shelter or facility operating as a residential treatment center that serves runaway youth, foster children, the homeless, or persons subjected to human trafficking, domestic violence, or sexual assault.
- (c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.
- (d) If the victim of an offense under Subsection (a)(7)(A) is the same victim as a victim of an offense under Section 21.02, a defendant may not be convicted of the offense under Section 21.02 in the same criminal action as the offense under Subsection (a)(7)(A) unless the offense under Section 21.02:
- (1) is charged in the alternative;
 - (2) occurred outside the period in which the offense alleged under Subsection (a)(7)(A) was committed; or
 - (3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a)(7)(A).

Sec. 20A.03. CONTINUOUS TRAFFICKING OF PERSONS.

- (a) A person commits an offense if, during a period that is 30 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20A.02 against one or more victims.
- (b) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific conduct engaged in by the defendant constituted an offense under Section 20A.02 or on which exact date the defendant engaged in that conduct. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, engaged in conduct that constituted an offense under Section 20A.02.
- (c) If the victim of an offense under Subsection (a) is the same victim as a victim of an offense under Section 20A.02, a defendant may not be convicted of the offense under Section 20A.02 in the same criminal action as the offense under Subsection (a), unless the offense under Section 20A.02:
- (1) is charged in the alternative;
 - (2) occurred outside the period in which the offense alleged under Subsection (a) was committed; or
 - (3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).

- (d) A defendant may not be charged with more than one count under Subsection (a) if all of the conduct that constitutes an offense under Section 20A.02 is alleged to have been committed against the same victim.
- (e) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 25 years.

Sec. 20A.04. ACCOMPLICE WITNESS; TESTIMONY AND IMMUNITY.

- (a) A party to an offense under this chapter may be required to provide evidence or testify about the offense.
- (b) A party to an offense under this chapter may not be prosecuted for any offense about which the party is required to provide evidence or testify, and the evidence and testimony may not be used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury. For purposes of this subsection, "adjudicatory proceeding" means a proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.
- (c) A conviction under this chapter may be had on the uncorroborated testimony of a party to the offense.

21.21. Discuss the importance of victim service providers and the need for cooperative relations between law enforcement and victim service providers.

Human trafficking cases, perhaps more than any other cases, must be handled in association with victim service providers. In fact, these providers are indispensable to the success of an investigation and prosecution because they are usually the first to establish rapport with victims. They can also provide victims with temporary shelter and any other services needed. Although law enforcement can provide security for victims, they cannot provide the necessary accommodations and services that will be incumbent to help victims through their ordeal.

Because victims are often fearful of authority figures and require special investigative considerations, law enforcement must establish cooperative relations with victim service providers and work hand-in-hand with them to gather information for prosecutorial purposes. Victim service providers must be properly trained however to elicit the correct information from victims and thus law enforcement must be cognizant to educate them on the type of information needed for successful investigations and prosecutions.

Many domestic victims have had encounters with law enforcement that has led to them being arrested due to their victimization. An example of this is prostitution—many victims have been sexually abused by law enforcement in their home country, making it difficult for them to trust law enforcement in any country. When looking at foreign nationals, many victims are leaving areas with corrupt law enforcement, so they have been conditioned to fear law enforcement all their life.

21.22. Summarize the types of victim service providers available including those specifically in Texas.

Generally, there are three types of victim service providers.

- Governmental. The two federal government agencies with specific responsibilities for human trafficking are the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Justice (DOJ). Each agency has a hotline available: HHS' hotline is for the public to use to report suspected cases of human trafficking (1.888.373.7888) and DOJ's hotline is for criminal justice practitioners to assist them in the investigation and prosecution of cases (1-888-428-7581).
- Non-governmental (NGO). Notable NGOs in Texas include UnBound, Voice of Hope in Lubbock, Traffick 911 in North Texas, For the Silent in East Texas, SAFE in the Austin area, and MOSAIC for foreign nationals in the Dallas area. They can help with housing accommodations, victim benefits, and help the victim through the multitude of forms that must be completed in order to temporarily stay in the U.S. during the investigation and subsequent prosecution of the case. Some NGOs and community organizations may be faith-based as well.
- Combination of governmental and nongovernmental agencies

Regardless of the type of victim service providers, law enforcement must establish and maintain a working relationship to best serve and refer victims to available services.

Instructor Note: The NGO list above is not meant to be all inclusive. Refer to the following websites when discussing NGOs. Ask students to share and discuss other resources in their communities.

- UnBound (<https://www.unboundnow.org>)
- Voice of Hope (<https://voiceofhopetexas.org/>)
- Traffick 911 (<https://www.traffick911.com/>)
- For the Silent(<https://www.forthesilent.org/>)
- SAFE (<https://www.safeaustin.org/>)
- MOSAIC (<https://mosaicervices.org/>)

21.23. List victim service requirements as defined by legal parameters including an interpreter, medical needs, housing, and access to legal information.

After ensuring a victim's safety, often the first service required is the use of an interpreter. Know what resources are available. Does your agency have a DOJ qualified interpreter? Is there a university or college with a foreign language department that can provide this service? Can the court system provide an interpreter?

Next, victims must be provided with housing, either short-term or long-term, depending on the situation. Homeless shelters should not be used as housing as they may not be the most secure places for victims of human trafficking and may require victims to leave during the day. A safe house is a preferable housing option because they are operated

by service providers and located in a confidential or secret location. Be aware of safe houses in your jurisdiction and also be aware of shelters that specifically cater to trafficking victims. Consider shelters that are culturally and linguistically appropriate to lessen the victim's stress.

Medical needs are other services that must be provided. Trafficking victims often require basic, but immediate, medical care including screening for public health issues such as tuberculosis and sexually transmitted diseases. Mental health is another service that must be offered as victims often suffer both physical and mental abuse.

Legal services are also important. Victims have the right to be heard in court, to legal representation in cases prosecuted under the TVPA, and the right to civil compensation. Victims are not knowledgeable of our criminal justice system and will need an advocate to help them navigate through the system. A service provider can help with this.

Victims may also be provided with education and help finding employment. Job Corps is available for victims who are 16 to 24 years of age. It is important to note that these services are available for victims deemed to have suffered a severe form of trafficking and who are cooperating with legal authorities.

Specific benefits under the TVPA include:

- The right to access information, in accordance with Section 107(c)(2) of the TVPA, which provides that victims of "severe forms of trafficking shall have access to information about their rights and translation services."
- The right to rescue and be removed to the appropriate shelter or special shelters, in accordance with Section 107(c)(1)(A).
- The right to social assistance and economic self-sufficiency, including job counseling, skills training, and education, in accordance with Section 107(e)(4)(i)(2), which provides "the alien with employment authorized endorsement or other appropriate work permit."
- The right to medical care, including physical and psychological treatment, in accordance with Section 107(c)(1)(b)
- The right to be heard in court, including the right to legal representation in cases prosecuted under the TVPA, in accordance with Section 112.
- The right to mandatory restitution under the TVPA, in addition to the right to civil compensation under existing laws, in accordance with Section 112.
- The right to privacy and safety under the Victim and Witness Protection Act of 1982, in accordance with Section 107(c)(1)(B)(i, ii).
- The right to seek residency under the T-visa program, in accordance with Section 107(f).
- The right to return to their country of origin and not be detained in facilities inappropriate to their status as crime victims, in accordance with Section 107(c)(1)(A), and the right to receive services regardless of their immigration status, in accordance with Section 107(b)(1)(B).

Instructor Note: It is important to be aware of various differences in the definition of human trafficking victims under federal and state law. Benefits, services, and continued presence for the victim will be granted as long as eligibility can continue to be established—meaning that the severe trafficking victim is continuing to cooperate with law enforcement and/or the victim is needed to affect a prosecution.

21.24. Explain the importance of inter-agency collaboration with a focus on a multi-disciplinary team approach.

Human trafficking cases require the involvement of many different agencies and organizations within and beyond the criminal justice system. Law enforcement agencies should begin contacting and establishing relations with these agencies and organizations prior to any real or actual incidence of human trafficking so that when an incident occurs, more time can be devoted to helping the victim and gathering evidence for apprehension and prosecution. Pre-planning is crucial and memorandums of understanding (MOUs) among the agencies should be developed that delineate roles and responsibilities for each agency. As previously stated, the MOU should:

- Ensure a clear understanding of roles, responsibilities, processes, and protocols for identifying and serving victims of human trafficking, and
- Build and/or enhance collaborative efforts between law enforcement and trafficking victim service providers that help leverage limited resources which strengthen, not duplicate, existing victim service efforts.

Inter-agency collaboration in human trafficking cases has been and continues to be a priority of the federal government. In 2004, the Bureau of Justice Assistance (BJA) provided grant funding to create law enforcement and service provider multi-disciplinary anti-trafficking task forces. As part of DOJ's efforts to address human trafficking by increasing the number of prosecutions, the grant encouraged collaboration primarily at the local level, for without the help of local law enforcement and local service providers, investigations would be quite difficult to conduct. It is local law enforcement who is best situated to identify victims of human trafficking and local victim service providers who are better able to provide victims with immediate and necessary assistance. Together with the help of federal law enforcement, capable guardians can deter and help prevent potential offenders from engaging in this crime.

21.25. Discuss the importance of seeking help from the community and communicating correct information to the public regarding trafficking.

Engaging the community in crime prevention is perhaps the oldest law enforcement strategy and predates the creation of professional police forces. Yet, it is one of the most effective strategies within the arsenal of police organizations. Community policing as well as problem-oriented policing endorse initiatives that engage the community in crime prevention. This means, the community is a vital component to any effort that attempts to curtail the amount of crime in a jurisdiction. As the "eyes and ears" of the police, the community is indispensable to a fight against human trafficking. It is the

community who may come into contact with victims and report incidents of human trafficking to the police. The police however must cultivate and maintain a positive relationship with the community in order for this strategy to yield positive and successful results.

However, for community policing to work, they have to have the correct information. Too often, the image the public sees of human trafficking portrays a female tied up with ropes, dirty, locked in a cell. This is by far not the most common situation with which the public will encounter a victim. Additionally, if a Public Information Officer (PIO) tells the public that they have arrested 50 prostitutes and are therefore fighting human trafficking, the public is misinformed that prostitution is human trafficking. Community awareness with the correct information is vital.

The public sector may not be aware of the crime of human trafficking, and it is of utmost importance that law enforcement together with social service providers commence an awareness campaign to educate the public on the nature and extent of human trafficking on a local as well as global scale. The community must be educated on indicators to help identify victims and/or offenders and must be educated on referral procedures to help rescue victims. Stories in newspapers, radio, television stations, and via the internet and social media are effective and quick means to disseminate information. Public service announcements are also useful as well as billboards. Brochures and pamphlets can also be distributed anytime a presentation by police is made to the community. In fact, the police may want to utilize Neighborhood Watch, block watch, or civic club meetings as an outlet to spread information on human trafficking. Finally, posting information on the local government's website or police department's website can also build awareness. Remember that much information is readily available through various websites such as those maintained by federal agencies such as DOJ and HHS or from social service providers such as the Salvation Army, YMCA, and the Red Cross.

Instructor Note: A sample public safety awareness campaign video is “The Faces of Human Trafficking” published by the Office for Victims of Crime. The video can be found at: <https://youtu.be/NxBilNt-PiU>. You may also refer to online safety tips when working with the community (<https://www.dhs.gov/bluecampaign/protect-yourself>).

Awareness programs for intermediaries such as: local health care workers, immigrant advocacy groups, local labor departments, or code enforcement inspectors in order to increase their awareness as well as guide them as to the proper attention victims of trafficking will require is also highly recommended.

21.26. Explain the importance of a proactive response to human trafficking including the current coalitions in Texas.

Collaboration is a way to proactively respond to the situation of human trafficking rather than taking a reactive response to the problem. Admittedly, reactive responses

are inevitable, and perhaps more common, but building relations are important and proactive thinking is crucial to handling these types of cases.

These are several steps that can be taken:

- Conduct departmental trainings on a regular basis
- Educate the community on a regular basis
- Develop foreign language resources and interpreters
- Develop collaborative relationships with the community and social service providers
- Identify hot-spots or problem locations
- Identify at-risk populations
- Look through public advertisements, such as ads that solicit individuals to be models, actors, etc.; check online forums for men; survey city locations known to have large numbers of transient people.
- Know referral sources for the state and federal government such as the two biggest, the National Center for Missing and Exploited Children (NCMEC) and the Human Trafficking National Hotline.

Instructor Note: Discuss proactive vs. reactive response to human trafficking. Some of the best practices are those that are victim centered. The first priority is to rescue the victim and address their immediate needs. They may also require assistance with housing, food, safety and security, language interpretation, legal services, mental health needs, and medical needs. In essence, a victim-centered approach is one that does not criminalize or re-victimize the victim but focuses on ensuring safety.

The Heart of Texas Human Trafficking Coalition is what the Governor's Office is using as the example of how a coalition works in Texas. Many other coalitions are modeling after those task force examples.

Instructor Note: Refer to the Heart of Texas Human Trafficking Coalition website as needed (<https://www.hothtc.org/>). Utilize examples from the state of Texas and within the student's communities to further this discussion on community assistance and collaboration.

21.27. Discuss challenges and barriers to effective investigations of human trafficking.

In 2006, the National Institute of Justice published a report, conducted by an international organization known as Caliber, which identified challenges and barriers in human trafficking cases. Officers, from local, state, and federal agencies, were asked to identify their greatest challenge.

- Difficulty gaining the victim's trust
- Lack of resources, mainly shelters
- Lack of interpreters
- Limited training on the TVPA and state laws

- Limited knowledge on how to conduct proper investigations, especially in recognizing indicators to identify trafficking victims
- Not enough task forces
- Not enough funds
- Lack of standard protocols to guide investigations
- Limited collaboration among agencies

Despite these challenges, officers interviewed believe that these barriers could be overcome with time. There is a more concerted effort underway today among the law enforcement community to combat and help victims of human trafficking, however these themes continue to emerge.

According to an FBI Law Enforcement Bulletin, law enforcement agencies can utilize the following guidance in an effort to overcome the challenges and barriers.

Victim and witness cooperation:

- The most successful results involve agents with experience in human trafficking cases, who show more sensitivity to victims and their needs, and are aware of other sources of information to corroborate evidence.
- Gaining the cooperation of victims as witnesses can be challenging. These fears must be overcome with trust and rapport in order for victims to become cooperating witnesses.
- Human trafficking survivors often do not identify themselves as victims. Law enforcement may have difficulty in identifying victims among detainees and separating them from perpetrators.
- Investigators and prosecutors can gain the trust and cooperation of victims and witnesses by showing compassion and making them feel comfortable.

Agency roles and challenges:

- Investigations require cooperation among many agencies. Investigators must consider their questioning strategy to elicit information about captivity, forced work, coerced sexual acts, and abuse by perpetrators.
- Investigators may consider working closely with prosecutors to secure corroborating testimony from trafficking victims and witnesses and consult with specialist NGOs that provide services and advocacy to trafficked persons. Other agencies, such as those dealing with labor, can assist law enforcers in the process of investigating and prosecuting.

Evidence collection:

- When investigators know where to look, they can gather evidence and locate victims and perpetrators. Traffickers use ordinary methods of commerce for activities in support of their crimes; reviewing records can provide valuable evidence. Other investigative methods such as surveillance, analysis of trash and correspondence, undercover operations and reviews of funding records can also reveal pertinent information.
- The nature of these crimes requires appropriate social and cultural orientation to effectively gather criminal intelligence and arrest perpetrators. Ethnic

community groups, immigrants' and workers' rights NGOs can assist in gaining access to culturally insulated communities. Law enforcement agencies should only seek the assistance of organizations with a proven record of assisting trafficking victims and collaborating with investigating authorities.

Interviewing considerations:

- Investigators should work together when interviewing victims and witnesses to avoid having multiple interviews on record with conflicting information.
- Sociological and psychological barriers may impede the process, including sociocultural differences, language, and gender.
- Men and women may perhaps be more willing to talk to law enforcement personnel and service providers of the same gender.

21.28. Discuss selected human trafficking case studies.

The Blush Club:

According to Bexar County Sheriff Javier Salazar, over 80 incidents (situations that merited a call to law enforcement) occurred at The Blush Club between 2017 and 2018. In the fall of 2018, a report came in of a 16-year-old runaway working at sexually oriented businesses around Central Texas, including The Blush Club and other establishments licensed by TABC. A month-long joint investigation between the Bexar County Sheriff's Office (BCSO) and TABC resulted in the recovery of the minor in November of 2018 from The Blush Club. There was evidence that the trafficker, Eric Taylor, had recruited the minor and forced her to work at various clubs including The Blush Club. There was also evidence that he had been sexually assaulting the minor. As of the summer of 2019, further investigation was ongoing to determine if any other trafficking was occurring in The Blush Club or any other club with which Taylor was associated. According to BCSO, the club lost its liquor license due to the human trafficking charges. This marked the first permit to be cancelled by TABC regarding human trafficking.

Nightclub Dancer:

In 2017, the Houston Rescue Alliance discovered a runaway 15-year-old female that was dancing at an afterhours nightclub. Law enforcement received information from her family that the victim had run away and could be in the South Houston area. The detective discovered from a surveillance video system located at the entrance of the victim's neighborhood, that the victim was traveling with several black males in a high-end sedan. Upon locating the driver of the vehicle, it was discovered that the female solicited a ride into the Houston area in order to meet an unknown individual (detectives only knew the individual's "street" name). In using social media (open-source intelligence) it was discovered that the female victim was with known gang members. Evidence was discovered on the internet (photos and videos) that the victim had been dancing at a particular afterhours club for money. As the investigation continued, the victim was recovered during a traffic stop unrelated to the investigation. Upon interviewing the victim, it was discovered that she was recruited by gang members and coerced into dancing at the club. The victim was looking for attention, a

gang member met her on Snapchat, and began a relationship. After some time passed, the suspect gained her trust, and began to manage her at the clubs. He sold her to another gang member who over time sexually assaulted the victim. He then attempted to pimp her at the club. The victim became frightened and fled the location. Warrants were issued for both gang members who trafficked the victim. After the arrest of both, it was discovered that the first subject was a recruiter and sold girls to different pimps. The second subject arrested had several juvenile victims he had been trafficking. One subject went to federal detention. The second subject fled after being released on bond.

Brothel Bust:

In 2015, the Montgomery County Sheriff's Office discovered a brothel located in The Woodlands, Texas. The brothel was located in a house rented by the traffickers. During the investigation, surveillance was conducted, and 15 other locations (mostly store front massage parlors) were discovered. Four main persons were identified as running and operating the businesses. A female was identified as the "madam" or individual running the operation. It was further discovered through surveillance that there were two males in charge of moving the females every other week. At the conclusion of the investigations, it was discovered that the movement of the victims was a tactic to keep the victims from knowing where they were located. The victims knew they were in Houston, but they could not give any other information on the locations. They were not allowed to walk around outside often. All of the locations used advertisements on Backpage.com. Undercover operations (buy walks) were conducted at several of the locations to verify that prostitution was occurring. It was discovered that approximately 14 Asian females were being forced to live at each location and provide services to buyers. The detective working the investigation served Backpage.com with search warrants for the advertisements of each establishment. It was discovered that all ads had been paid by one source: an IP address out of Flushing, NY. The information of the NY connection was passed to the New York Police Department (NYPD) Human Trafficking Task Force.

After eight months of investigation, search warrants were issued on four main locations. Eight victims were recovered during the search warrants. Three of the four suspects were arrested and charged with human trafficking. One suspect is still wanted to this date. Two of the suspects received 20 years in Texas Department of Corrections.

Landscaping:

DHS investigated a subject who owned a landscaping service company. He sought out people who were in the United States illegally to avoid paying employment taxes, social security, and other costs concerning employment. During the investigation, it was discovered that several of the crew members lived at the landscaping company office. These victims were required to pay rent for staying on site. At the conclusion of the investigation, the owner of the company was charged.

Diligent Neighbor:

In 2015, a neighbor observed odd behavior from a new neighbor. When the male and female moved in, it was only a small truck with very little furniture. The neighbor observed that only the male would exit the residence. It was further observed that the male would not stay overnight. He would arrive every few days with food and other supplies. After a few weeks, the neighbors noticed that different cars would pull up to the house, stay a short time, then leave. In time, the neighbors noticed that traffic at the house became more frequent and at all hours of the night. When law enforcement was notified, it was later discovered that the residence was rented out by a group of traffickers. The house was part of a chain of brothels. One phone call from someone who paid attention to what was occurring in their neighborhood stopped a trafficking ring.

Pulled Over:

The Houston Police Department stopped a suspicious vehicle on the north side of town. Upon making contact with the driver, the officer observed a white juvenile female in the vehicle with an adult black male driver. The officer noticed the female was attempting to keep her face hidden and avoided eye contact. The officer asked the driver about the female. The driver provided a first name, but he was unable to provide the officer with her last name. At this time the officer became suspicious of the activity. He requested that both parties step out of the vehicle. The officer's partner made contact with the female in an attempt to gain more information. The female provided a name, date of birth, and her age, but the age did not match the date of birth. The officers began to question both subjects. It was eventually discovered that the juvenile was missing from a neighboring county. The male was arrested for harboring a runaway. When detectives made contact with the juvenile, they learned the male pimped out the juvenile for a short period of time.

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