

Beyond Trafficking

The Impact of Forced Criminality on Youth



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Welcome



www.cornerhousemn.org



History of CornerHouse

- 1989 CornerHouse opened our doors
- 2nd/Second Child Advocacy Center in the US
- 1989 Created RATAC Forensic Interviewing Protocol
- 1998 CornerHouse & NCPCA create Finding Words using the CornerHouse (RATAC Protocol)
- 2007 Finding Words becomes ChildFirst
- 2013 RATAC updated and becomes CornerHouse Forensic Interviewing Protocol



Thoughts to Ponder

Victim vs Offender

Who is “safe”

What is “safe”

“In a/the system”

Inequities in services

Time expires

Not recognizing trafficking victimization

Not disclosing trafficking victimization

Not comprehending the spectrum of forced
criminality





Dictionary

Definitions from [Oxford Languages](#) · [Learn more](#)



scope

/skōp/

noun

1. the extent of the area or subject matter that something deals with or to which it is relevant.
"we widened the scope of our investigation"

Similar: extent range breadth width reach sweep purview span ▼

2. the opportunity or possibility to do or deal with something.
"the **scope for** major change is always limited by political realities"

Similar: opportunity freedom latitude leeway capacity liberty room ▼

verb

1. assess or investigate (something).
"they'd scoped out their market"
2. **INFORMAL • NORTH AMERICAN**
look at carefully; scan.
"they watched him scoping the room, looking for Michael"



Defining Human Trafficking

- U.S. law defines human trafficking as the use of force, fraud, or coercion to compel a person into commercial sex acts or labor against their will. The **Action-Means-Purpose (AMP) Model** can be helpful in understanding the federal law. Human trafficking occurs when a perpetrator, often referred to as a trafficker, takes an **Action** (induces, recruits, harbors, transports, provides), and then employs the **Means** of force, fraud or coercion for the **Purpose** of compelling the victim to provide commercial sex acts (sex trafficking) or labor/services (labor trafficking). At a minimum, one element from each column must be present to establish a potential situation of human trafficking.





Escort Services
Illicit Massage, Health, & Beauty
Outdoor Solicitation
Residential Sex Trafficking
Domestic Work
Bars, Strip Clubs, & Cantinas
Pornography
Traveling Sales Crews
Restaurants & Food Service
Peddling & Begging
Agriculture & Animal Husbandry
Personal Sexual Servitude
Health & Beauty Services
Construction
Hotels & Hospitality
Landscaping
Illicit Activities
Arts & Entertainment
Commercial Cleaning Services
Factories & Manufacturing
Remote Interactive Sexual Acts
Carnivals
Forestry & Logging
Health Care
Recreational Facilities



CornerHouse

Trafficking Language

- Force*
- Fraud*
- Coercion*
- Violence
- **Duress****
- Threat
- Isolation
- Deception
- **Recruitment**
- Harboring
- Transportation
- Provision
- Obtaining
- Servitude
- Bondage
- Slavery



Vulnerability

- Lastly, but perhaps most importantly, we must understand what “vulnerability” means. It is used to refer to “those inherent, environmental or contextual factors that increase the susceptibility of an individual or group to be trafficked” (Gallagher & McAdam, 2013).

• Risk Factors



Risk Factors

- Trauma History
- Trading Sex (Survival Sex)
- Missing or Runaway*
- Involvement in CPS*
- Involvement in Foster Care*
- Involvement in Juvenile* Justice System
- Lack of Employment/Under Employment
- Intellectual deficits
- Immigrant Status/Language
- Homelessness
- LGBTQIA+ youth
- Familial
- Mental Health Struggles
- Substance Use/Abuse
- Poverty/Unmet Basic Needs
- Pregnancy/Parenting*



“Traffickers recruit vulnerable victims through positive reinforcement like grooming, showing love, and fulfilling needs. Through these methods, they disarm their victims and neutralize support systems. Traffickers then coerce or force a victim to cross a line, like physical abuse, sexual abuse, or **forced criminality**. The fact that victims crossed that line is then used to further control them, enforce their silence, or discredit them if they ever come forward. The more times those lines are crossed, the more tools the trafficker gains against the victim. As the horror of the victim’s situation escalates, turning against the trafficker gets harder and harder.”



Forced Criminality Understanding Human Trafficking through the Lens of Utah’s Victor Rax Case1 Jane Anderson, Attorney Advisor, AEquitas and Daniel Strong, Assistant Attorney General, Utah Attorney General’s Office

Forced Criminality

- Human trafficking for criminal exploitation, or forced criminality, is a type of trafficking in which the victim is exploited by being **forced** to engage in illegal activities, such as street crime, begging, or drug trafficking (NIJ: National Institute of Justice, 2023)



Forced Criminality

- Anti-Slavery International describes it as a situation where “a trafficked person is **forced** to undertake a range of criminal activities by the person or persons exploiting them” (Anti-Slavery International, 2014).



Forced Criminality

- The use of children in compelled, coerced, or **forced** criminal acts is unfortunately not a new or uncommon phenomenon. Forced criminality generally involves activities such as prostitution, drug smuggling, drug production, benefit fraud, theft, begging, exotic dancing, and other criminal acts induced by adults. **The way our legal systems respond to children compelled to perform these acts, however, does not align with what we know about child and adolescent development, and it disregards human trafficking laws.** (ABA: American Bar Association, 2023)



Forced Criminality

- Status Offenses

- Truancy
- Running
- Curfew Violations
- Underage Consumption

- Poverty/Homelessness

- Loitering
- Fare evasion
- Driving Offenses/Fines
- Trespassing
- Disorderly Conduct
- Other Fines

- Prostitution/Pornography
- Stripping
- Shoplifting
- Drugs*
- Theft/Stolen Property
- Trick Rolls
- Recruiting/Madaming
- Weapons*
- Posting Ads/Paying
- Credit Card Fraud
- Identity Theft
- Imposing “punishments”





Understanding the Scope and Nature of Forced Criminality in the United States

Award Information

Awardee: [NEW YORK UNIVERSITY](#)

Award #: 15PNIJ-23-GG-01927-HT

Funding Category: Competitive Discretionary

Location: [NEW YORK, NY](#)

Awardee County: New York

Congressional District: [10](#)

Status: Open

Funding First Awarded: 2023

Total funding (to date): \$997,729

Original Solicitation: [NIJ FY23 Research and Evaluation on Trafficking in Persons](#)

[Current Funding](#)

[Forthcoming Funding](#)

[Expired Funding](#)

[Awards: Listing of Funded Projects](#)

[Guidance for Applicants and Awardees](#)

[Fellowship & Student Programs](#)

[Travel Scholarships](#)



Forced Criminality Funding

Forced Criminality

The reasons sex trafficking victims have suggested forced criminality is used by sex traffickers in sex trafficking situations include (Roe-Sepowitz, 2019):



The victim has a desire to please the trafficker, with whom they are in love or of whom they are afraid.

Getting the victim to commit crimes is a strategy used by the sex trafficker to keep the victim in their control due to the victim's fear of being caught or limiting the victim's exit opportunities due to their criminal history.



The other crimes bring in money or contribute things to the 'family' or trafficking enterprise and contributing to the family is a core rule and expectation in sex trafficking stables (a trafficker with multiple victims).

Forced criminality crimes, including recruiting other victims for their trafficker, demonstrates their commitment and loyalty to the trafficker.



The criminal activities are part of the required quota (minimum amount to be earned each day) for the victim outside of commercial sexual exploitation. For example, and if they bring in a watch or cash, the trafficker is satisfied.

The trafficker exploits the victim's knowledge of other vulnerable people and expects or forces the victim to recruit the vulnerable people into the sex trafficking situation as new victims.



By meeting their quota for the day by stealing valuable items from sex buyers, the victims do not have to stay visible while looking for more customers which has the risk of possible detection and arrest.

Dictionary

Definitions from [Oxford Languages](#) · [Learn more](#)



fo·cus

/ˈfōkəs/

noun

1. the center of interest or activity.
"this generation has made the environment a focus of attention"

Similar: center focal point central point center of attention hub pivot ▼

2. the state or quality of having or producing clear visual definition.
"his face is rather **out of focus**"

Similar: focal point point of convergence sharp crisp distinct clear-cut ▼

verb

1. (of a person or their eyes) adapt to the prevailing level of light and become able to see clearly.
"try to **focus on** a stationary object"
2. pay particular attention to.
"the study will focus on a number of areas in Wales"





Can't see the forest for the trees





Victim or Offender?

- **According to new research published in January 2023, law enforcement in NJ interacted with nearly every LTFC victim who eventually sought shelter at Covenant House New Jersey, but each time they saw only juvenile delinquents and criminals. Yet, the majority of these victims were trafficked long before they were ever arrested.**
- *Their first arrests look like children in need of help more than hardened criminals: disorderly conduct, loitering, trespassing, fare evasion, simple assault, possession, and driving offenses. In layman's terms, these offenses are crimes of poverty, and a signal of the possible presence of childhood trauma. But in all cases, these signals were missed as indicators of LTFC experiences.*



Dictionary

Definitions from [Oxford Languages](#) · [Learn more](#)



vic·tim

/ˈvɪktəm/

noun

a person harmed, injured, or killed as a result of a crime, accident, or other event or action.
"victims of domestic violence"

Similar: [sufferer](#) [injured party](#) [casualty](#) [injured person](#) [wounded person](#) [▼](#)

- a person who is tricked or duped.
"the victim of a hoax"

Similar: [dupe](#) [easy target](#) [easy prey](#) [fair game](#) [sitting target](#) [▼](#)

- a living creature killed as a religious sacrifice.
"sacrificial victims for the ritual festivals"

Similar: [sacrifice](#) [offering](#) [burnt offering](#) [scapegoat](#)



Dictionary

Definitions from [Oxford Languages](#) · [Learn more](#)



com·plic·it

/kəm'plisət/

adjective

involved with others in an illegal activity or wrongdoing.

"all of these people are **complicit in** some criminal conspiracy"



compliant

[kuhm-plahy-uhnt] [SHOW IPA](#)



See synonyms for: [compliant / compliantly](#) on [Thesaurus.com](#)

adjective

1. [complying](#); obeying, obliging, or yielding, especially in a submissive way:
a man with a compliant nature.
2. manufactured or produced in accordance with a specified body of rules (usually used in combination):
Energy Star-compliant computers.



What Can We Do? What We Can Do!

- Recognize Victimization/Forced Criminality
- Interventions vs Punitive Actions
- MOUs with MDTs Pre-Team Agreement FIs
- Policies/Procedures for Disclosures
- Fill the Need
- Legal Assistance for Criminal Record*
- Services/Services/Services
- Financial Assistance
- Employment/Education
- Validate Duress*



Dictionary

Definitions from [Oxford Languages](#) · [Learn more](#)



du·ress

/d(y)ə'res/

noun

threats, violence, constraints, or other action brought to bear on someone to do something against their will or better judgment.

"confessions extracted **under duress**"

Similar:

coercion

compulsion

force

pressure

pressurization

intimidation



- **LAW**
constraint illegally exercised to force someone to perform an act.
- **ARCHAIC**
forcible restraint or imprisonment.



Requirements Are Too Narrow

Duress refers to situations where a person is coerced through imminent threats to perform unlawful conduct.³⁶ Duress in criminal law requires elements of a reasonable belief of imminent danger of death or serious bodily harm to which an actor then engages in criminal conduct to avoid the threat and a “direct causal relationship” between the action taken and avoidance of harm.³⁷ However, the defense is inapplicable if the defendant had a “reasonable opportunity to both refuse to do the criminal act and avoid the threatened harm.”³⁸ An element of duress is an imminent threat of death or serious bodily harm, and, therefore, “duress doesn’t align with all manifestations of human trafficking.”³⁹

The imminent proponent required for duress is not always present when victims of sex trafficking participate in forced criminality. Duress does not acknowledge a trafficker’s use of nonphysical coercion, which roughly occurs 30% of the time in federal human trafficking prosecutions.⁴⁰ Nonphysical coercion may include but is not limited to the following: withholding pay, inducing/exploiting substance addiction, the threat of law enforcement, fraudulent representation of romantic relationships, branding a firearm, etc.⁴¹ Psychological means like manipulations, threats, and lies are not imminent threats of danger but still control



Protection

- The **Trafficking Victims Protection Act (TVPA) of 2000** is the first comprehensive federal law to address trafficking in persons. The law provides a three-pronged approach that includes prevention, **protection**, and prosecution. The TVPA was reauthorized through the Trafficking **Victims Protection** Reauthorization Act (TVPRA) of **2003**, **2005**, **2008**, **2013**, **2017**, and **2018**

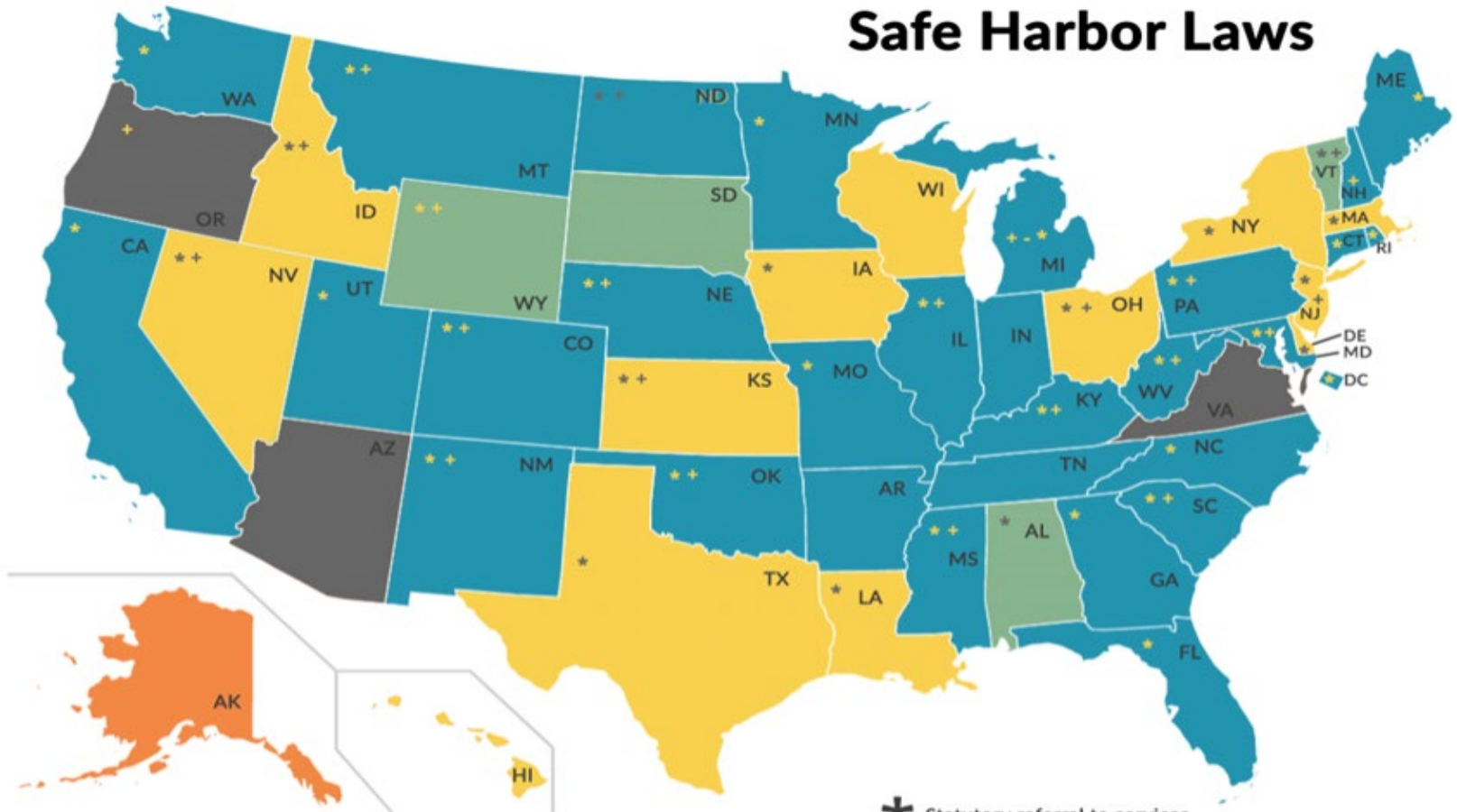


Forced Criminality Protection

- Safeguarding the rights of victims, to ensure they are provided immediate access to necessary support and services and avoid subjecting them to further trauma or victimization[;] encouraging victims to report crimes committed against them and participate as witnesses in trials against traffickers without fear of being censured themselves[;] maintaining the interests of justice by ensuring that **victims are not punished for conduct that they would not have otherwise committed but for their victimization**[;] and ensuring that victims are not punished for the conduct of traffickers.



Safe Harbor Laws



of States

- DC + 29 ■ Noncriminalization law (removes criminal liability)
- 4 ■ Diverts to quasi-punitive system (CHINS) instead of juvenile justice
- 13 ■ Alternative response through juvenile justice (diversion, discretionary referral/dismissal)
- 3 ■ Affirmative defense only
- 1 ■ No statutory protection from criminalization

- ✳ Statutory referral to services
- + Protection from criminalization extends beyond prostitution offenses
- In Michigan, noncriminalization extends only to children age 15 or younger and children age 16+ receive an alternative response through juvenile justice
- <https://reportcards.sharedhope.org/safeharbor>

Legislation

The Preventing Sex Trafficking and Strengthening Families Act of 2014

Enacted in September 2014, the [Preventing Sex Trafficking and Strengthening Families Act](#) mandates that State agencies “*report immediately, and in no case later than 24 hours*” information about each missing or abducted child both to [law enforcement](#) and to [NCMEC](#). [42 U.S.C. § 671\(a\)\(35\)\(B\)](#).

The Bringing Missing Children Home Act

This is a portion of the larger [Justice for Victims of Trafficking Act of 2015](#), that was enacted in May 2015. Among other improvements related to record-keeping, this legislation amended federal law to ensure that law enforcement agencies respond appropriately and coordinate with NCMEC and social service agencies when a child goes missing from foster care. [34 U.S.C. § 41308](#).

Savanna’s Act

Savanna’s Act ([25 U.S.C. § 5701 et seq.](#)) improves the response to missing or murdered Native Americans by increasing coordination among Federal, State, and Tribal agencies, expanding data collection, as well as providing additional grants and resources dedicated to reducing further tragedies.

Other Relevant Federal Laws

Federal law defines a “missing child” as any individual less than 18 years of age whose whereabouts are unknown to the child’s parent or legal guardian. [34 U.S.C. § 11292](#). It is important to note this includes children who have gone missing **for any reason at all**. In some jurisdictions, state law expands on the broad federal definition and provides further statutory guidance on how agencies should treat missing child cases in their state.

Existing federal law requires law enforcement agencies to respond in a specific way, regardless of the reason why a child is missing. Law enforcement agencies are prohibited from establishing or maintaining a waiting period before accepting a missing child report, and must promptly enter information regarding a missing child into the NCIC system within two hours of receiving a report. [34 U.S.C. § 41308](#).

<https://www.missingkids.org/theissues/missingfromcare#:~:text=Federal%20law%20defines%20a%20%E2%80%9Cmissing,for%20any%20reason%20at%20all.>



Can't see the forest for the trees

Dictionary

Definitions from [Oxford Languages](#) · [Learn more](#)



cul·pa·bil·i·ty

/ˌkʌlpəˈbɪlədē/

noun

responsibility for a fault or wrong; blame.
"a level of moral culpability"

Similar:

guilt

blame

fault

responsibility

accountability

liability



perpetrator

[pur-pi-trey-ter] [SHOW IPA](#)



[See synonyms for perpetrator on Thesaurus.com](#)

noun

1. a person who perpetrates, or commits, an illegal, criminal, or evil act:

The perpetrators of this heinous crime must be found and punished to the fullest extent of the law.



“Perpetrators of human trafficking span all racial, ethnic, and gender demographics and are as diverse as survivors. Some use their privilege, wealth, and power as a means of control while others experience the same socio-economic oppression as their victims. They include individuals, business owners, members of a gang or network, parents or family members of victims, intimate partners, owners of farms or restaurants, and powerful corporate executives and government representatives.”

– Polaris Project (2023)



Dictionary

Definitions from [Oxford Languages](#) · [Learn more](#)



of·fend·er

/əˈfendər/

noun

1. a person who commits an illegal act.
"an institution for juvenile offenders"

Similar:

wrongdoer

criminal

lawbreaker

malefactor

felon

delinquent



2. a person or thing that offends, does something wrong, or causes problems.
"of atmospheric pollutants, the worst offender is sulfur dioxide"



“Protection” for Offenders/Traffickers

- Traffickers work very intentionally to remove criminality from themselves
 - Criminalize the Victim
 - Reinstate the fear of Law Enforcement
 - Force Labor (Sex or Labor Trafficking)
- And Exploit:
 - Accessibility
 - Vulnerability
 - Lack of Credibility



“Protection” for Offenders/Traffickers

- While at the same time create fear, duress, vulnerability and dependability
 - Withholding pay
 - Substance Addiction
 - Threat of discovery (LE, family, websites)
 - Firearms and other weapons
 - Physical and Sexual Assault
 - Being in a relationship with the trafficker (child)
 - Withholding basic needs including food and shelter
 - Manipulation
 - Threats
 - Watching others be “punished”
 - Having to “punish” others



Protection for the Buyers



Demand

[di-'mand]

An economic principle referring to a consumer's desire to purchase goods and services and willingness to pay a price for a specific good or service.

 Investopedia



“Protection” for Offenders

- An Alford plea allows a defendant to plead guilty and accept a plea bargain even if they claim they are innocent. An Alford plea is based on a voluntary and intelligent choice to avoid a harsher criminal sentence.
- AKA “Best-interests plea”



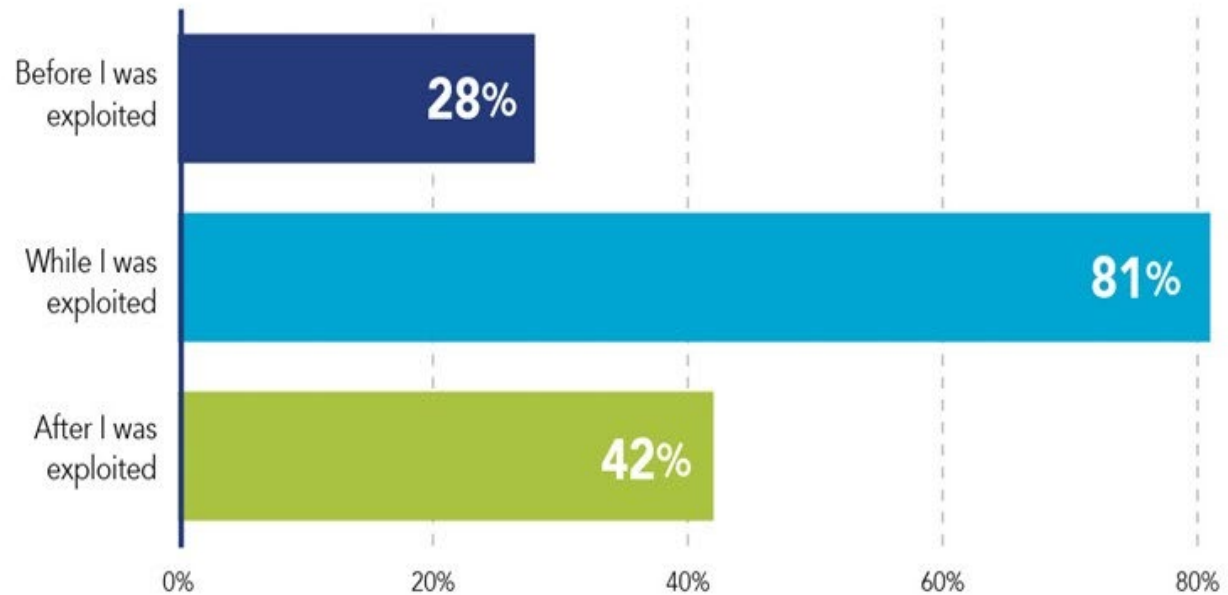
Consequences of a Criminal Record

- Employment
 - Finance, Education, Law Enforcement, Medical
- Housing
- Credit
- Benefits
- Custody
- Volunteering
- Voting
- Stigma



Many survivors were arrested or criminalized while they were trafficked.

Timing of When Respondents Were Arrested, Detained, or Cited in Relation to Trafficking (N=265)

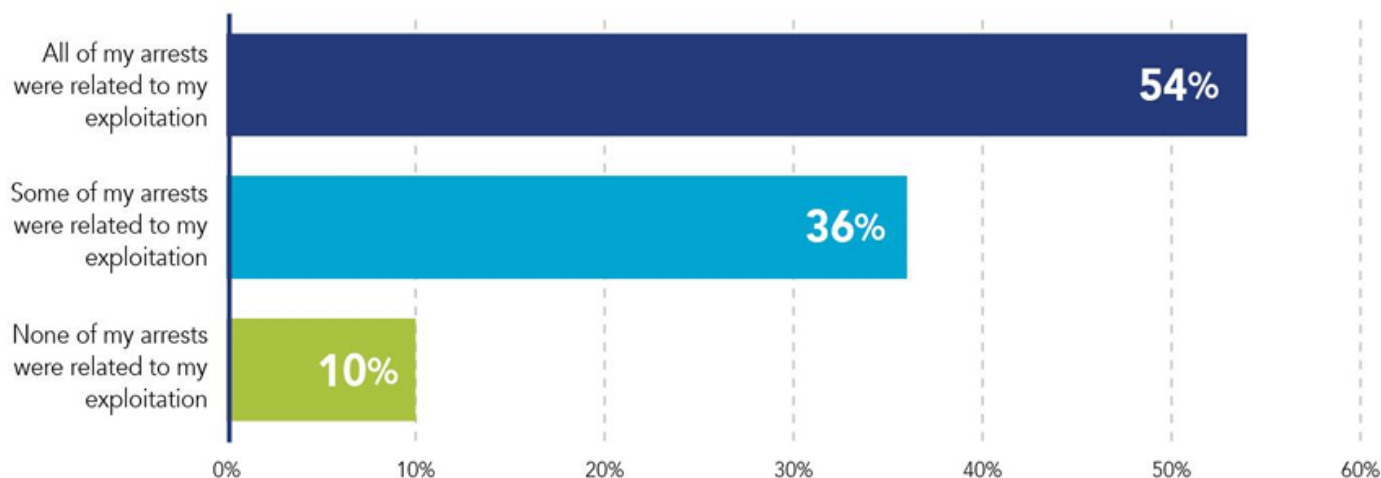


Einbond Julia, Zedalis Kaitlyn, Stoklosa Hanni. 2023. "A Case of Mistaken Identity: The Criminalization of Victims of Labor Trafficking by Forced Criminality." *Criminal Law Bulletin* 59(1):60-77.



Many survivors have criminal records as a direct result of their exploitation.

How Much of Criminal Record Was Related to Trafficking Victimization (N=163)



90% of respondents with a criminal record reported that all or some of their arrests were related to their exploitation.

Einbond Julia, Zedalis Kaitlyn, Stoklosa Hanni. 2023. "A Case of Mistaken Identity: The Criminalization of Victims of Labor Trafficking by Forced Criminality." *Criminal Law Bulletin* 59(1):60-77.

Protection

- No Criminal Charges
- Diversion
- Treatment
- Expungement
- Vacatur Laws
- Sealing Criminal Records
- How does a victim leave?
- How does a survivor thrive?
- Restitution
 - Without Culpability
 - NH HB 1137



Thoughts to Ponder

Victim vs Offender: What is influencing FC?

Who is “safe”: Where can victims go?

What is “safe”: What can victims disclose?

“In a/the system”: Recognizing past trauma

Inequities in services: ST vs LT, males vs females

Time expires: Protection/Services in Adulthood

Not recognizing trafficking victimization: Likely*

Not disclosing trafficking victimization: Improved
Screening

Not comprehending the spectrum of forced
criminality: Expanding the scope



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- *Forced Criminality Understanding Human Trafficking through the Lens of Utah's Victor Rax Case*1 Jane Anderson, Attorney Advisor, AEquitas and Daniel Strong, Assistant Attorney General, Utah Attorney General's Office



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**2024 All in
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BEYOND TRAFFICKING

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CRIMINALITY ON YOUTH**

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