

**ISSUES AND GOOD PRACTICES FOR IDENTIFYING
POTENTIAL TRAFFICKING VICTIMS AND INTERVIEWING VICTIMS**

Karima Maloney

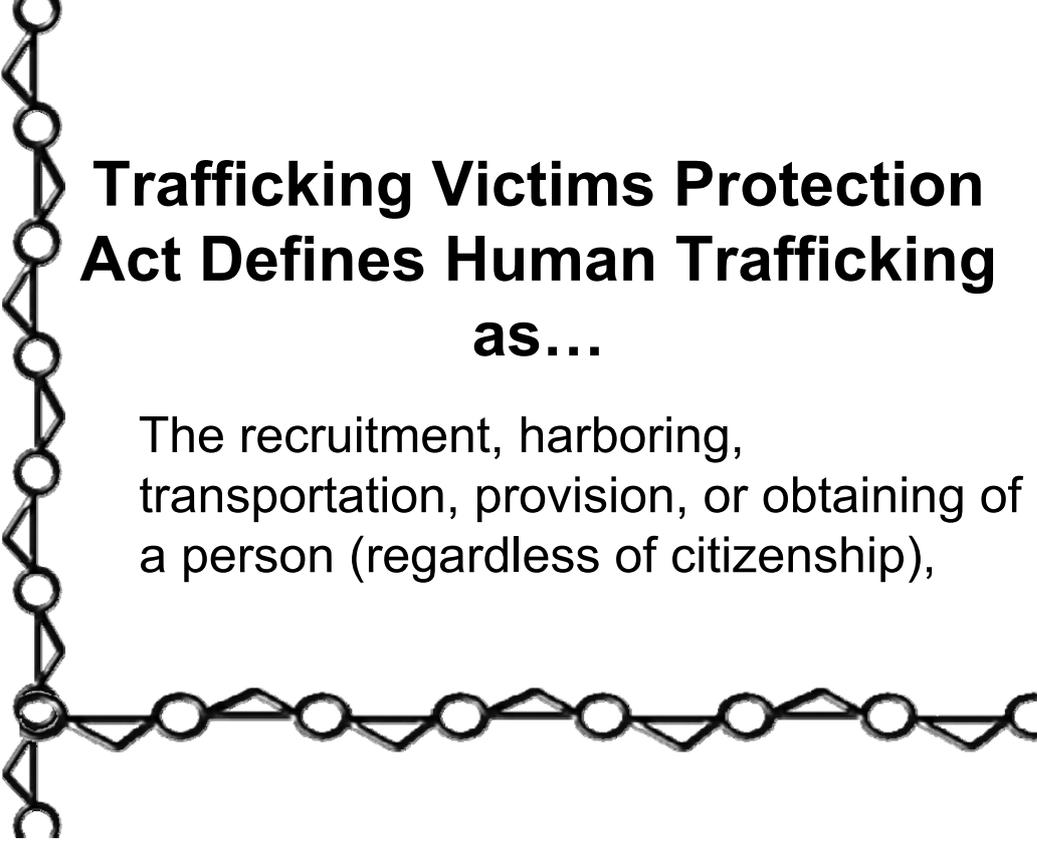


**Issues and Good Practices for
Identifying Potential Trafficking
Victims and Interviewing Victims**

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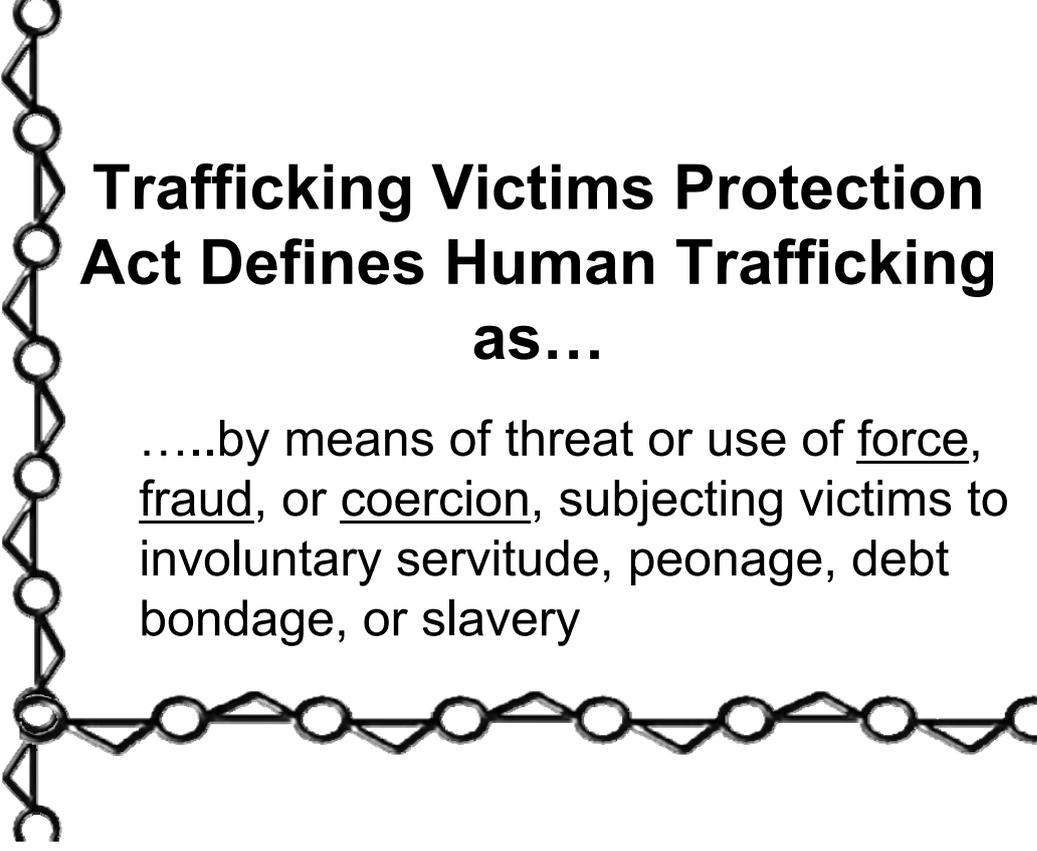
Civil Rights Division, U.S. DOJ





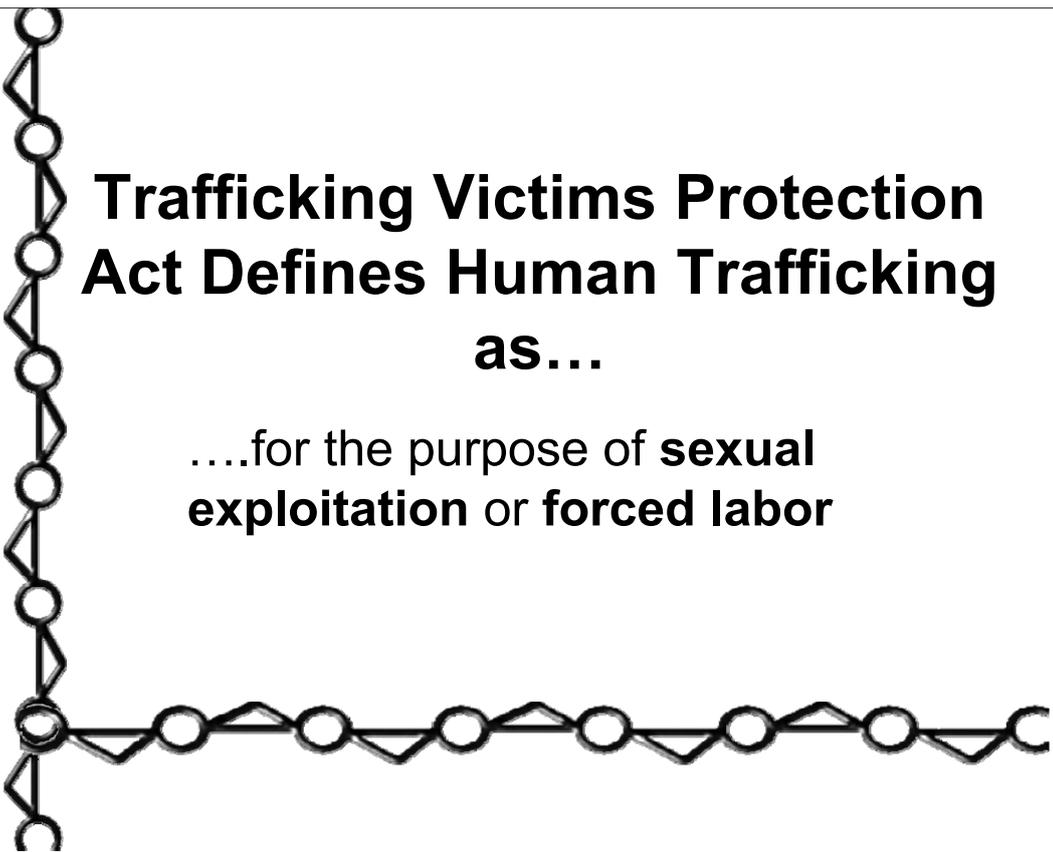
Trafficking Victims Protection Act Defines Human Trafficking as...

The recruitment, harboring, transportation, provision, or obtaining of a person (regardless of citizenship),



Trafficking Victims Protection Act Defines Human Trafficking as...

.....by means of threat or use of force, fraud, or coercion, subjecting victims to involuntary servitude, peonage, debt bondage, or slavery



Trafficking Victims Protection Act Defines Human Trafficking as...

....for the purpose of **sexual
exploitation** or **forced labor**

Victim Identification Markets Where Human Trafficking Occurs



- Sexual Exploitation
 - Prostitution
 - Exotic Dancers
 - Massage Parlors
- Forced Labor
 - Sweat shops
 - Domestic
 - Agriculture
 - Restaurant

Who Engages in Trafficking?

- **Individuals**
 - Pimps and panderers with commercial sexual motives
 - Diplomatic staff/foreign executives who arrive with “servants”
 - Neighbors, friends, or relatives of the victim

Who Engages in Trafficking?

- **Family Operations**
 - Often will involve an extended family
 - Family will usually operate on both sides of the border
- **Independently owned businesses**
 - Contractors/agents that provide laborers for agricultural work, construction work, restaurants, janitorial services

Who Engages in Trafficking?

- **International Organized Crime Syndicates**
 - “Diversified trafficking portfolios”: Criminal organizations that traffic humans in Eastern Europe often smuggle drugs and guns as well.

Smuggling routes for all three are often characterized as being the same

Who are Trafficking Victims?

- Illegal Immigrants
- Impoverished
- Children
- Disabled
- Smuggling Debts
- Language Barriers
- Fear of Gov't Officials

THE VICTIMS

**800,000-900,00 trafficked
annually across
international borders
worldwide**

Trafficking in the United States

- 18,000-20,000 trafficked annually
- More than half are CHILDREN
- Include both U.S. citizens and non-citizens
- Originate from Africa, Asia, India, Latin America, Eastern Europe, Russia, Canada, among other places

Victim Identification

- Patrolmen
- Places of Worship
- Shelters
- Neighbors (ordinary citizens)
- Inspectors/Licensing Officials

HEIGHTENED VULNERABILITY

- Human trafficking crimes often involve kidnapping, rape, beatings, trickery and threats. Victims are usually extremely vulnerable members of society – chosen for that very reason. Victims can be women, men and children.
- Traffickers identify and exploit a vulnerability
- Vulnerabilities can include age, isolation from family, limited education level, history of abuse, undocumented status, poverty, illiteracy, addiction, disability, or any combination

CHILD VICTIMS

- Sex trafficking cases involving minor victims often involve the same circumstances as adults – beatings, threats, coercion, etc. But often times the traffickers use only promises of love, shelter or a brighter future to entice minors into prostitution.
- For adult victims, we must prove that force, fraud or coercion was used by the trafficker to compel the victim's sexual service. For minor victims, there is no such requirement. A minor's consent is a non-issue. Causing a minor to engage in commercial sex is prohibited, whether they agree or not.

Victims

- Victim Testimony is Essential
- Only Victims Can Answer: “Why?”
- Crime requires showing of “labor obtained by coercion” - subjective component
- Only the Victim can explain the Climate of Fear
- We Lose Cases without Victims

The Victim Interview: Essential Evidence

The sex trafficking investigation is unlike any other type of criminal investigation due to the uniquely intimate and invasive nature of the crime.

Unlike many other types of cases, the victim interview is the most essential piece of evidence you will have in your case.

Power of the Victim Interview?

“The role of the victim advocate is to believe a victim’s story, whereas the role of a police officer is prove it.”

By corroborating as many facts as possible, no matter how insignificant they may seem, you can better help establish the validity of the victim’s story and improve the victim’s credibility even when there are other problems with the investigation.

Obstacles to Effective Interviewing

Some obstacles intrinsic in the investigative process or to the investigator him- or herself serve as hindrances to an effective and accurate interview.

1. Asking for “Just the facts”
2. The police personality
3. The tough-guy facade
4. The police career path

Effective Interviewing

First, do no harm...

Any possible efforts should always be made to minimize potential further trauma to the victim.

The Victim's Story

- Earn Trust
- Empower victim with choices – even small ones
- Victim trauma, shame, fear, loyalty, and distrust
- Avoid Direct Questions
 - “When did you illegally enter the United States?”
 - “How long have you been a prostitute?”
- Do not use cop-lingo
- Assume prostitution, illegal status
- Be prepared for bad judgment.
- **Expect evolving statements**

Setting the Stage

There are many ways to “set the stage” for an effective victim interview...

1. Select an appropriate location

- Safe and comfortable for the victim
- Private and free from distraction
- Maintain an equal or inferior physical position

Setting the Stage

2. Ask the victim if she would like anyone to be present during the interview.

- Should be determined privately with the victim
- Potential witnesses must be excluded
- Always include a support person when requested

Setting the Stage

3. Explain the purpose of the interview and address immediate concerns.

- The purpose is to gather evidence and the victim's statement, not to find fault or blame.
- There will be questions that the victim doesn't have the answers to.
- The victim does not need to make any immediate decisions about prosecution.

Setting the Stage

4. Present yourself in an accepting and compassionate manner.

- Acknowledge the gravity of the ordeal
- Allow the victim to vent
- Demonstrate empathy
- Help the victim regain control

Techniques: Creating and Maintaining an Open Interview

1. Explaining the Questions.

- Explaining questions dealing with sensitive issues helps put the victim's fears at ease.
- Use the law to explain why you need specific information.
- Asking about high risk behavior does not mean that you doubt the victim's story.

Techniques: Creating and Maintaining an Open Interview

2. Physical Techniques

- Eye contact
- Use inviting body language
- Avoid touching the victim

Techniques: Creating and Maintaining an Open Interview

3. Use of Sexual Language.

- Avoid using police terminology.
- Clarify any slang terms that the victim uses to ensure you understand what they mean.
- Mimic terms used by the victim without acting shocked or embarrassed by them.

Techniques: Creating and Maintaining an Open Interview

4. Engage in Active Listening.

- Without interrupting the flow of the victim's narrative, try to interject comments that indicate you have been listening.
- Encourage the victim to continue talking while knowing that the victim is being heard.

The Victim's Narrative

The victim's narrative is the most vital part of the investigation.

Establish that you know of the existence of trafficking indicators, and that you are there to help individuals who may be in trouble. Then ask the victim to tell you what happened to her in her words and at her own pace. You can facilitate the interview while allowing the victim to tell the story (the victim's way) by:

1. Using open-ended prompts.
2. Allowing the victim to control the pace.
3. Avoiding leading questions.

The Victim's Narrative

Interruptions: Fatal Flaws

In a recent study, it was found that the average police interview had **3 open-ended questions and 26 closed-ended questions** with an average of only **1-second pauses** between each question. Most detectives **interrupted responses to open-ended questions after 7.5 seconds with an average of 4 interruptions per response**. Not one of the interviews studied had a victim that was allowed to complete an uninterrupted response.

After the Initial Narrative

Upon completion of the initial narrative, go back and clarify specific points and gather additional details about the victim's experience using open-ended follow-up questions.

Information You Should Obtain During the Course of the Interview

Essential elements in collecting information from the interview:

- Description of the victim's behavior and relationship with the suspect
- Description of the suspect's behavior
- Description of the labor and circumstances of the labor
- Documentation of the specific acts committed and whether any acts were repeated
- Description of the suspect's sexual behavior
- Establishing force, or threat of force, or climate of fear

Conclusion of the Interview

- Ask the victim if he or she has any additional information that he or she wants to report, let the victim know there will be future opportunities.
- Reassure and thank the victim.
- Explain future procedures.

Exercise

Officer training – in a class have officers pair off, one should play the part of a trafficking victim while the other plays the role of the investigating officer. Have the officer practice using the following techniques while the “victim” relates a fictitious story:

- **Open-ended questions**
- **Asking graphic questions in a sensitive, comfortable manner**
- **Empathetic statements**
- **Eye contact**
- **Refraining from interrupting**
- **Using follow-up questions to clarify points**

DEFENSE – it was voluntary & didn't know they were underage

Wanted to come to U.S. at any cost

Pictures of cook-outs; trips to lake

Left every night with driver and came back

Girls came with their boyfriend and willing to work as prostitutes.

18 U.S.C. 1591 (a)

- In our cases involving minors, the government had to establish beyond a reasonable doubt the following elements for each minor victim:
 - 1) Knowingly recruited, enticed, harbored, transported, provided, or obtained a person; OR knowingly benefitted, financially or by receiving something of value, from participating in a venture that did so;
 - 2) Knowing that the person was under 18 (or where the defendant had a *reasonable opportunity to observe* the minor, knowledge of age need not be proven; and
 - 3) Acts were in or affecting interstate commerce

Critical Challenge : Earning Victim's trust (adults and minors)

- Fear of harm to self or family
- Shame, fear of exposure
- Loyalty to trafficker
- Distrust of law enforcement
- Denial of situation
- Cultural norms
- Linguistic hurdles
- Difficulty articulating complex emotions
- Psychological trauma

Roles and Partnerships

Outreach, Victim Identification, Victim Assistance

- Department of Health and Human Services – food and shelter
- Federal, State, and Local Government Agencies
- NGOs - can assist in finding housing, employment and ESL classes

Roles and Partnerships

Victim Treatment

- Necessary to Psychological Recovery
- Trauma-Sensitive Treatment

Expert Witnesses; Corroboration Witnesses

- Symptoms Consistent with Victim Testimony
- Medical Neglect
- Physical Evidence of Juvenile Age

T Nonimmigrant Classification - Eligibility

1. An alien who is or has been a victim of a severe form of trafficking in persons
2. Physically present in U.S., or U.S. Territory
3. Has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking (or is under 15 years old)

Victim-Centered Assistance

- Help stabilize the victim, which may contribute to a successful prosecution
- Provide or coordinate specialized (mental health, legal, shelter) or comprehensive services (including case management)
- Support application for immigration relief (CP, Certification, T/U Visas) and access to work permits
- Support victims' families (including T-visa derivatives and children)
- Safety and security planning
- Job training, education, life skills