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Holding Traffickers Accountable: Law Enforcement Investigations & Prosecutions

“The time has come to harness the power of technology to go after those using it to enslave others.”

California Attorney General Kamala D. Harris, September 20, 2011

As discussed in earlier chapters, human trafficking is often hidden in plain sight. Victims may appear at first glance to be willing prostitutes or legally-compensated laborers. Adding to the challenge, much of trafficking activity has moved online, providing further opportunities for traffickers to increase their reach, both in terms of recruiting victims through social media and finding clients through online - classified advertisements. Moreover, traffickers have substantial criminal resources at their disposal, including the networks of transnational and local street gangs working in collaboration. Traditional law enforcement tools should be supplemented with innovative investigative techniques to combat these emerging challenges.

This chapter describes two key challenges in the fight against human trafficking and the opportunities they present: the role of sophisticated, highly-funded criminal organizations in human trafficking, and traffickers’ increasing use of technology. It also describes how law enforcement agencies can design a successful strategy to combat trafficking by organizing their departments to fit the unique characteristics of these cases.

The Role of Transnational and Local Street Gangs in Human Trafficking

Human trafficking is not confined to a single jurisdiction. As Chapter 1 discussed in detail, both local and transnational gangs are playing an increasing role in human trafficking. Attracted by high profits – an estimated \$32 billion per year world wide – and low risk – a relatively low conviction rate and short time of incarceration – gangs are coming to recognize that the sex trade and prostitution provide a lower penal and detection-risk alternative to drug or weapons trafficking.¹ Indeed, human trafficking is the fastest growing criminal enterprise in the 21st century.²

It is the duty of law enforcement to increase the risks traffickers face when they enslave people by redoubling efforts to bring them to justice. To that end, cooperation across sectors

of government and across jurisdictions is essential. Successful investigations and prosecutions in California often involve one common element: law enforcement partnerships spanning across jurisdictional lines.

To give just two examples, in the Oceanside Crips Enterprise case discussed in Chapter 1, the charges came out of an 18-month investigation spearheaded by U.S. Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation (FBI), the Oceanside Police Department, the San Diego County Sheriff's Department, and the Escondido Police Department.³ Similarly, a 2010 case against a Fremont woman who forced a victim to work as an unpaid domestic servant was a joint effort between the FBI and ICE Homeland Security Investigations, and arose from a referral by the Fremont Police Department in coordination with the San Jose/South Bay Human Trafficking Task Force.⁴

Cooperation is especially crucial in the context of transnational gangs. As Chapter 2 described, California has begun to forge cross-border partnerships with Mexican authorities to track transnational gangs' criminal activity and combat their multi-jurisdictional crimes. These efforts are just the first steps in protecting victims and the public from these criminal enterprises. Maintaining and strengthening these partnerships is vital to disrupting a substantial revenue source for transnational organized crime.

Traffickers' Use of Technology

As described in Chapter 1, traffickers use technology to recruit victims, find clients, and avoid law enforcement detection. This is an important and daunting challenge for law enforcement not addressed in the 2007 report. A report released by the University of Southern California (USC) Annenberg School for Communication and Journalism entitled *Human Trafficking Online: The Role of Social Networking Sites and Online Classifieds* describes how the efficiency and anonymity of social networking sites and online classified sites facilitates human trafficking by connecting buyers and sellers at an unprecedented scale while minimizing risk.⁵ Similarly, *The National Strategy for Child Exploitation Prevention and Interdiction*, issued by the U.S. Department of Justice, notes that the profitability of child prostitutes has increased because online advertising and Internet-enabled cell phones enable traffickers and pimps to reach a larger client base; social networking and classifieds websites are now representing an increasing portion of the sale of victims.⁶ In the context of sex trafficking, it also makes the transaction simpler and less immediately visible for "johns," who can view several available prostitutes online and receive "house calls" rather than having to appear in person to complete the transaction. Technology thus improves both sides of the risk/reward scale from the perspective of both traffickers and customers: it makes their activity harder to track while simultaneously generating more profit.

Opportunities for Law Enforcement to Leverage Technology

Nonetheless, technology offers just as many opportunities for law enforcement as it does challenges, and law enforcement should exploit available technology to its investigative advantage.

While technology is being used to perpetrate human trafficking, that same technology can provide a digital trail. This digital footprint offers greater potential opportunity for tracking traffickers' and johns' communications, movements, and transactions than their previous offline cash transactions, if law enforcement can find ways to quickly and efficiently process the volumes of data available. The USC Annenberg report identifies several areas in which law enforcement can build evidence by aggregating the public data available on the Internet. One of its highlighted case studies focused on Twitter, suggesting that, with the help of computational linguistics – a hybrid field of linguistics and computer science – and a human trafficking expert familiar with the nuanced terms of the traffickers' trade, law enforcement could focus on accounts with unusually high numbers of posts using suspect words.⁷ Aggregating data by computer would allow law enforcement to identify patterns much more quickly than an individual could do alone. The study also suggests that automated web-crawling can flag suspect ads for review more quickly than a human moderator.⁸ Furthermore, law enforcement could enlist the help of the public. By using crowdsourcing technology to consolidate tips from non-law enforcement sources, law enforcement could discover cases that individual investigation alone would not have identified.⁹

In addition, new imaging technology can alert law enforcement to patterns that traditional text-based data searches are unable to reach. Microsoft's PhotoDNA fingerprinting technology – free to law enforcement – matches images of victims posted online and integrates them with the Child Exploitation Tracking System, helping law enforcement to quickly identify and rescue victims without duplicating efforts. Similarly, facial recognition technology can allow law enforcement to search for a victim's or trafficker's face across multiple images posted online or in various databases.

Several efforts have developed across sectors to leverage this and other technology. For example, the USC Annenberg Center on Communications Leadership and Policy (CCLP) has developed prototype software, focusing on the detection of online sex trafficking of juveniles. (The report cautions, however, that law enforcement should temper their use of various technological tools by evaluating whether these tools have the potential to cause victims inadvertent harm and encroach on rights of privacy, security, and freedom of expression.) In addition, some technology companies are also contributing to law enforcement efforts by helping streamline access to and use of the company's own technology and online information. Facebook, for instance, has created a set of guidelines for law enforcement agencies if they wish to access information maintained by Facebook. Law enforcement agents must explicitly state which of three types of requests they intend to make: preservation, formal legal, or an emergency request. Each of these requests requires agents to provide specific information. Facebook explains the process by which it evaluates each request and what data can or will be released and the legal process required.¹⁰ Setting such guidelines not only creates transparency for Facebook users, but it helps law enforcement by explaining the type of specificity that is needed for Facebook to comply with their requests efficiently. The Facebook Law Enforcement Guidelines can be accessed at, <http://facebook.com/safety/groups/law/guidelines>.

Despite this and other progress, the technology gap between traffickers and law enforcement remains. Further research and development efforts are necessary to close this gap. In November 2011, USC's Annenberg CCLP hosted a summit attended by representatives from the Attorney General's Office, the U.S. Department of Justice, social media companies, and NGOs to explore a governmental and industry partnership to leverage technology and information. The primary purpose of the meeting was to explore how technology, including social networking sites, online classifieds, cell phones, and other tools, can be used to help combat human trafficking. Participants who later convened for the Work Group discussed several focus areas for further research. Some of these areas include investigating the role mobile phones play in trafficking labor from one country to another, identifying search terms that johns use online, and creating an online "hub" where law enforcement can share real-time information and best practices. Members of law enforcement have intimated that it is essential for officers to have access to tools to quickly and efficiently use information, rather than simply gain access to volumes of data that is not useful without a significant time investment before that data is useful.

Another avenue for assistance is the Attorney General's eCrime Unit. The eCrime Unit in the California Department of Justice focuses on crimes that include a substantial technology component, including online child pornography networks and individuals who commit sex crimes against children using the Internet or social media. Formed in 2011, the eCrime Unit investigates and prosecutes cybercrime, identity theft, computer theft, intellectual property theft, and other technology crimes. The eCrime Unit has a role to play in assisting local law enforcement with combating human trafficking – a crime that crosses county, state, and international borders and involves technology in ways that require a sophisticated response. Just as the California Department of Justice provides investigative skills and forensic resources to assist local law enforcement in combating organized transnational gangs, the eCrime Unit can play a role in helping local law enforcement combat human trafficking online. By partnering with technology companies and academic institutions, the eCrime Unit can help to develop tools to ensure that local law enforcement can focus limited resources to effectively target human trafficking online.

Of course, an important piece of any effort to address crime includes not just investigating and prosecuting the crimes that are already in progress, but also deterring and preventing crimes from occurring in the first place. To that end, Chapter 6 includes additional discussion of the ways in which technology companies and nonprofits are helping to develop strategies to disrupt and thwart the online marketplace for trafficking.

Designing a Successful Strategy to Combat Human Trafficking

Generating Leads – Multidisciplinary Cooperation

Human trafficking involves a wide variety of clandestine activities, from sex trafficking to forced labor to domestic servitude. It is therefore recommended that various divisions in a law enforcement agency share in the responsibility of developing leads. Gang units may investigate a drug trafficking case only to discover that the gang is also trafficking human

beings. Vice units, which are customarily tasked with investigating prostitution cases, may approach a case as prostitution only to discover it is sex trafficking. Units specializing in white-collar crimes may come across a forced labor situation while investigating suspicious business activity, unusual financial transactions, or money laundering. What initially appears as a migrant smuggling operation may evolve into a debt bondage case demanding further investigation. The problem is too widespread and takes too many forms for the responsibility of identification to fall upon any one unit. To effectively address trafficking in all its forms demands a comprehensive and unified approach. It requires a baseline level of knowledge across all units of a given department so that any peace officer is positioned to identify a possible human trafficking enterprise. It also, as described above, requires collaboration across jurisdictional lines of criminal law enforcement agencies in different nations, states, and counties.

Similarly, government agencies outside of criminal law enforcement have frequent access to valuable intelligence that can be leveraged in the fight against slavery. There are many points of contact between businesses and regulatory agencies at the state and local level, including the Labor Commissioner, the Division of Labor Standards Enforcement, the Board of Equalization, and city attorney and county counsels' offices. Civil regulatory agencies have an opportunity to identify human trafficking; for example, an agency performing code enforcement might encounter suspicious behavior that yields a new criminal investigative lead. Like their criminal law enforcement counterparts, these government entities need training to identify potential signs of trafficking, and various government agencies need a clearinghouse for investigative information arising from the underground economy to ensure information related to human trafficking is identified, shared, and prioritized.

Finally, because trafficked victims may encounter numerous members of the community outside government entirely, raising awareness in the private and nonprofit communities will both help generate leads for law enforcement and deter businesses from engaging in or supporting these crimes in the first place. For example, cooperation with community groups and first identifiers increases the likelihood that victims will come forward and cooperate. Chapter 5 describes the importance of training both government and non-government personnel to recognize the signs of human trafficking, and lists some groups' existing efforts to raise awareness. In addition, educating members of the business community about human trafficking can help them monitor their own supply chains. Chapter 6 discusses the importance of these efforts to decrease demand for human trafficking by deterring manufacturers and retailers from passively benefitting from these criminal enterprises.

Pursuing Leads – The Need for Expertise

Although *all* members of a law enforcement agency should keep watch for human trafficking leads and obtain baseline training in identifying potential victims, personnel with comparatively little expertise in the area may benefit from having specialists or a task force to whom they can refer a potential case. That is where a human trafficking task force and a vertical prosecution team are very effective.

First Identifiers Are Not Always Law Enforcement

In 2006, a Peruvian woman came to the Bay Area on a three-month visitor's visa to work as a nanny. The trafficker, a real estate agent in Walnut Creek, promised the victim her own bedroom in a large house and, after the cost of her airline ticket was deducted, \$600 per month. Instead, she received no wages and was forced to work seven days a week and provide care for three children in a Walnut Creek apartment. The trafficker rationed her food, cut her off from Spanish-speaking media, and confiscated her visa, passport, and Peruvian identification. After nearly two years of enslavement, the woman escaped with help from acquaintances and people she met at the local elementary school. The trafficker was sentenced to five years in prison.¹¹

A human trafficking task force may be comprised of law enforcement specializing in human trafficking investigations and community partners that provide victim care. California's nine regional task forces are described in Chapter 2.

Vertical prosecution units typically involve one or more attorneys who handle cases of one particular type from arraignment to conviction, and sometimes even partner with law enforcement at the investigation stage. (For example, many departments already have designated vertical prosecution units for domestic violence cases and child abuse cases.) A vertical prosecution unit specializing in human trafficking would help staff build long-term partnerships with other agencies and with the community at large. For example, some prosecutors have built close enough relationships with law enforcement agencies to get involved even before the completion of the investigation stage. This early involvement allows prosecutors to give valuable feedback on the key evidence that law enforcement should seek to collect. Similarly, prosecutors who repeatedly work on these cases are more likely to develop ongoing partnerships with the community organizations that provide victim services and to have a working familiarity with how to connect victims to appropriate resources.

Integrating a multidisciplinary investigative approach with task forces and vertical prosecution units allows law enforcement to achieve an investigative scope that is broader than what a specialized investigative team might achieve on its own. And at the same time, the task force and vertical prosecution model allows a few repeat players to build expertise in human trafficking investigation and prosecution. By combining a multidisciplinary approach with a task force/vertical prosecution referral system, where possible, a law enforcement agency can generate leads from a broad base of sources while benefiting from the expertise of a few key specialists.

In practice, a task force and vertical prosecution team could interact with a multidisciplinary investigation in several different ways. For instance, if a case involves multiple components (for example, a gang investigation that involves a drug-trafficking component, as well as

a sex trafficking component), then the original investigators may choose to retain the case while bringing in a human trafficking task force to participate as one part of the investigation. If investigators in a unit that typically does not encounter human trafficking scenarios unexpectedly come across a rescue situation, a task force or vertical prosecution team may come in after the first responders have already concluded an on-the-spot investigation and directed victims to appropriate services. In some cases, the victim will escape on his or her own, and contact a shelter or a non-profit organization that will then refer the case situation to a partnering task force. Because it may take time, even for properly trained law enforcement and victim service providers, to distinguish between coercive or voluntary situations, there is no one right moment at which a task force or a vertical prosecution team may become involved in an investigation.

Maintaining a Victim-Centered Approach

The above-described model allows law enforcement to investigate and prosecute human trafficking cases while maintaining a victim-centered approach, which is key to successfully prosecuting these crimes. As the 2007 report also acknowledged, it is crucial for law enforcement – not just community groups – to identify and treat victims of human trafficking as victims, rather than mistakenly labeling them as criminals. Such an approach can admittedly be difficult to execute in practice. For example, even with a sincere desire to help victims, many peace officers have commented that it can be difficult to distinguish between voluntary participants and coerced victims. For example, a forced labor victim may feel honor-bound to insist that he or she is working voluntarily, even if it is for below minimum wage (or for nothing at all). Moments of uncertainty may also occur when illegal immigration and prostitution can be confused with human trafficking. A victim of sex trafficking may distrust law enforcement, fear retribution, or suffer from psychological manipulation that causes her to divert blame away from the perpetrator.

Investigating human trafficking cases outside the vice unit can improve outcomes for victims. Traditionally, vice units are charged with investigating and working with prosecutors to charge prostitution cases. As a result, officers in those units often experience difficulty viewing someone charged with prostitution as also a potential victim of human trafficking. Unless we disrupt this pattern, it can lead to law enforcement mistakenly viewing a trafficking victim as a criminal. To draw on all skill sets needed to effectively identify victims and disrupt increasingly sophisticated, organized criminal networks engaged in trafficking, agencies should consider handling human trafficking cases outside of routine vice operations.

Designating a specialized team (or in small departments, a specialized individual) to handle human trafficking cases maximizes law enforcement's ability to follow a victim-centered approach. Specialization makes it easier for a team to learn how to identify the difference between coercive trafficking situations and voluntary illegal activity. Seasoned human trafficking teams may change initial interrogation tactics, so that investigators do not inadvertently alienate individuals who may turn out to be victims upon further investigation. Subject-specific trainings can help equip officers with key questions to ask or indicators to recognize without establishing an an-

tagonistic relationship with the potential victim. A victim-centered approach may also require sensitivity regarding how law enforcement treats victims after identifying them. For example, because victims may not understand the distinction between being placed under custody for their own protection and being arrested for wrongdoing, it is recommended that law enforcement take special caution to separate victims from the criminal context where possible.

Most importantly, specialized teams can develop relationships and build trust with victim service providers and partner with them to encourage victims to cooperate willingly in the investigation and prosecution of traffickers. Law enforcement officers are improving their skills at connecting victims with help as soon as they are identified. Some departments and all of the regional task forces have established strong working relationships with community partners that provide victim services. Some law enforcement agencies aim to arrange for the victim's first significant post-rescue encounter to be with a professional trained to provide for the victim's needs rather than a member of law enforcement. Many law enforcement agencies have already established relationships with community partners and regularly bring them in as part of the team when conducting a rescue operation.

Victim-centered investigation strategies also respect the space and time needed for victims to recover from the situations they have endured. Investigators and prosecutors should approach any interview with a victim with sensitivity. Victims often feel anxious about confronting their former exploiters, going to court, testifying, or even meeting a prosecutor. In order to help alleviate victim anxiety, some prosecutor's offices designate a victim advocate to accompany the victim during interviews. Consistent with the California Victims' Bill of Rights, prosecutors and community partners working with victims should maintain regular lines of communication (for example, sharing court dates, giving updates on the victim's concerns and well-being, and explaining the prosecution process).

Putting the victim first not only benefits the victim, it also improves the chances of a successful prosecution. As many law enforcement officers have reported, trafficking victims are often unwilling to serve as witnesses for the prosecution. The reasons are many. They may distrust the government, be fearful of retaliation against themselves or their families, or be wary of placing themselves under legal scrutiny when they have participated in illegal acts (albeit by coercion). Psychologically groomed to tolerate unacceptable behavior, they may not fully understand that the perpetrators did something wrong. Or if they do understand that a wrong was done to them, they may wish to distance themselves from it and move on with their lives.

Bringing in victim services early on dramatically improves the chances that the victim will cooperate with the prosecution. One investigator even surmised that, without his task force's partnership with NGOs and victim service providers, few victims would willingly participate in prosecution proceedings. Without organizations that provide specialized services, victims would have to turn to homeless shelters or return to isolating environments where they could become re-victimized or a target for retaliation. Early encounters with community partners

(as opposed to law enforcement) can also build crucial early credibility for the government in establishing itself as an ally rather than a foe. Ongoing intervention by organizations that provide for physical needs and offer counseling and positive integration into the community can help victims break free of their perceived dependence on the perpetrator. With time and distance away from their traffickers, victims are more likely to see through the trafficker's psychological manipulations and realize that they do not owe any loyalty to their subjugators.

Some NGOs and prosecutors involved in this post-rescue process have adopted the practice of waiting until the victim is ready to cooperate before involving him or her in the prosecution of the trafficking case. Anecdotally, investigators report that the recovery period may vary widely, but following this practice yields prosecutorial benefits. Cooperating complainants acting on their own volition are more likely to be reliable witnesses than those subpoenaed against their will. Their willingness to testify on their own accord can also shield against defense accusations of coaching or prosecutorial pressure.

Conclusion

Human trafficking, a rapidly growing and evolving criminal enterprise, presents unique challenges for law enforcement. Traffickers are often participants in widespread criminal networks of local and transnational gangs, and they are also using technology to increase their reach and profit potential while minimizing their exposure to criminal prosecution. However, that same technology can provide a digital trail - a valuable investigative tool if law enforcement can quickly and efficiently monitor, collect, and analyze online data and activities. Similarly, law enforcement can leverage its own available network of government agencies - both within California and across state and national borders - as well as private and nonprofit groups, to gather useful intelligence and successfully prosecute traffickers. Law enforcement and prosecutors should organize their efforts to take advantage of a range of vigilant sources to generate leads, on the one hand, and specialists with expertise in human trafficking, on the other. Finally, as part of its overall mission, law enforcement should adopt a victim-centered approach that ensures victims have access to needed aid so that they can rebuild their lives and help bring their traffickers to justice.

Recommendations

1. **Tailor Law Enforcement and Prosecution Operations to Handle Human Trafficking Cases:** Human trafficking is a serious crime that involves increasingly sophisticated criminal actors and requires an equally sophisticated and coordinated law enforcement response:
 - a. **Cross-Unit Training:** Baseline human trafficking training can help every peace officer within a law enforcement agency, as well as other government entities outside the criminal law enforcement context, learn how to identify instances of human trafficking that they may encounter in the course of their duties.
 - b. **Cross-Unit Coordination:** Human traffickers often engage in a variety of other criminal activity such as drug dealing or money laundering, which may be investigated primarily by specialized law enforcement units. Various units within a law enforcement agency need to collaborate to identify and investigate human trafficking. For example, a gang unit may investigate a drug trafficking case only to discover that the gang is also trafficking human beings. Likewise, a unit that specializes in white-collar crime may come across a forced labor situation while investigating suspicious business activity or money laundering.
 - c. **Specialized Expertise:** Appoint an individual (or a team) to specialize in human trafficking and handle referrals from other units. Traditionally, vice units are charged with investigating and working with prosecutors to charge commercial sex cases. However, to draw on all skill sets needed to effectively identify victims and disrupt increasingly sophisticated, organized criminal networks engaged in trafficking, agencies should consider handling human trafficking cases outside of routine vice operations. It is also recommended that, where possible, a vertical prosecution model be employed.
 - d. **Leverage External Partnerships:** By working closely with local community groups and victim service providers, law enforcement agencies can draw from their expertise. This is especially important for smaller departments that have limited resources to form a separate human trafficking unit and those located in parts of the state that do not have a regional task force. Regular interactions and partnerships with victim service providers can prove useful at every stage of an investigation or prosecution. It is recommended that law enforcement and prosecutors invite these partners to participate in any encounter with a victim – from the first post-rescue meeting to interviews and court appearances.

2. **Leverage Technology to Combat Trafficking:** Law enforcement has not harnessed technology as effectively as criminal traffickers. To address that situation, at least two efforts are recommended:
 - a. **Track How Traffickers Operate:** Law enforcement training is needed on how traffickers use technology to recruit victims and avoid law enforcement detection, with particular attention given to online gaming communities, social networking sites, online classifieds, job recruitment sites, and the use of mobile phones.
 - b. **Exploit Technology for Investigations:** Through collaboration, law enforcement, non-governmental organizations, technology companies, and academia can provide technical assistance and training for law enforcement on the new technologies that law enforcement can use to improve investigation tactics.
3. **Leverage Cross-Border Partnerships to Fight Trafficking on Multiple Fronts:** To combat dangerous criminal partnerships between local and transnational gangs, the Attorney General's Office should collaborate with other border states, the federal government, and Mexican authorities to share information and best practices for law enforcement in both countries to recognize common signs and patterns of human trafficking and provide support and services to victims.

End Notes:

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- ³ Federal Bureau of Investigation, "Members and Associates of Oceanside Crip Street Gangs and One Hotel Charged with Racketeering Conspiracy Relating to Prostitution of Minors and Adults and Other Crimes and Criminal Forfeiture," news release, April 18, 2011, <http://fbi.gov/sandiego/press-releases/2011/sd041811.htm>.
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