

ASK AN EXPERT SERIES

LABOR TRAFFICKING 101: LEARNING THE BASICS

On October 22, 2020, three experts shared their insight and answered participant questions during this second in a series of Ask an Expert sessions hosted by the Office for Victims of Crime (OVC), Human Trafficking Capacity Building Center. The conversation focused on the potential indicators of labor trafficking, vulnerable industries, and a broad range of resources available to help organizations and tribes start, sustain, or grow their support services for victims of labor trafficking. Following are the questions and abbreviated answers provided by the panel of experts [during the discussion](#).

Questions and Answers

Labor trafficking is compelling a person through force, fraud, or coercion to perform unfair or forced labor. What are some potential indicators of labor trafficking in the agricultural sector?

Unfortunately, the agricultural industry has always played a role in labor trafficking all over the world and certainly in the U.S. With the growth of the [H-2A guest-worker program](#), labor trafficking has increased with the significant misuse of the program.

Many H-2A workers are charged exorbitant “recruitment fees” and are often indebted to the farm labor contractor before even arriving in the U.S., a sign of labor trafficking. Once in the U.S., unscrupulous farm labor contractors confiscate workers’ passports—another indicator of trafficking. Workers may also be threatened with deportation if they complain, even though all H-2A workers receive a U.S. visa and have legal status throughout the duration of the H-2A contract. Farm labor contractors may force workers to travel to undisclosed locations, including other states well past the end-date of the certified H-2A contract, causing fear, insecurity, and uncertainty about their status.

When a [Wage and Hour](#) investigator identifies signs of trafficking, a referral is made to agencies, such as U.S. Department of [Health and Human Services](#), [Office of Inspector General](#), [FBI](#), [U.S. Immigration and Customs Enforcement](#), or [Homeland Security Investigations](#).

We know labor trafficking affects other sectors like domestic work, construction, landscaping, factories and manufacturing, and healthcare. What are the similarities? What are the differences in how labor trafficking appears in other sectors?

There are a couple common threads. For one, we all seek opportunities that will improve our lives and the lives of our families. Traffickers are very good at identifying what is meaningful to a person and exploiting it (e.g., the promise of a job for someone living in poverty, love and affection for someone who's been abused or neglected, an opportunity to travel for someone who's never left their birthplace, or an education for someone who's looking to advance professionally). People agree to one arrangement and then are met with a very different reality. Adults and children experience labor trafficking in many industries--both legitimate and illicit.

Another common thread is the presence of force, fraud, and coercion. Victims experience similar violence, threats, and/or physical, sexual, and emotional abuse; the same lies that make them afraid to leave or feel like they have no choice but to stay. The difference between labor trafficking in the agriculture sector and labor trafficking in other industries is it can be harder to identify or imagine. It's hard to believe your neighbor is trafficking their housekeeper or nanny. The kid operating the Ferris Wheel at the state fair is being trafficked. The person who did your pedicure or turned down the bed in your hotel room or cares for your parent in a nursing home or fixed your roof is being trafficked.

We often refer to trafficking as a hidden crime, even though it happens right in front of our eyes.

What are the challenges in reaching victims of labor trafficking?

People almost never self-identify as victims of trafficking. This makes discovering this crime more difficult because victims rarely self-report, and the time and resources required to uncover violations can be significant. Victims of labor trafficking often overcome additional barriers because the victimization is connected to employment. The majority of labor trafficking cases at [Ayuda](#) come from an Ayuda attorney talking with an individual and noticing something isn't right, which can lead to uncovering labor trafficking for the first time. The federal definition of labor trafficking encompasses a lot of different behaviors and can look like different things. Knowing the legal definition is important as a lawyer. As a non-lawyer, staying alert to the indicators is key. A lot of labor trafficking Ayuda sees, unfortunately,

happens within families, within the home. That can add another entire dimension of victimization. The victim may still be economically, emotionally, and legally dependent on the person who is their trafficker.

How can a U.S. citizen be vulnerable to labor trafficking?

We know for U.S. citizens the playing field isn't level in terms of equal opportunity and protection, especially for black and brown people. People living in poverty are not in a powerful position to assert their rights in a workplace or walk away from a job in which they are being abused. It is challenging to protect vulnerable individuals who are pushed to the margins before they are trafficked—runaway and homeless youth, people who identify as LGBTQI+, members of the disabled community, people experiencing homelessness, and people who suffer from mental health and substance use disorders.

Can you explain the difference between labor trafficking, labor exploitation, and human smuggling?

Labor trafficking is 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. Human smuggling is more often associated—not so much with the H2-A workers—but with the seasonal and migrant workers. Human smuggling includes the movement of individuals against their will, generally across state or country borders. Labor exploitation incorporates elements of both, usually identified by significant worker debt and little to no wages paid. Labor exploitation is usually associated with one debt and then generally that person is free once the debt is paid. Knowing the indicators of labor trafficking is important when identifying labor trafficking from these other issues. It is also important to recognize when something feels off, this can be an important first step in reaching victims.

Can you talk about the link between labor trafficking and other illicit trafficking activities such as narcotics and weapons?

There are huge differences between the smuggling of anything—including people—and trafficking, which must involve force, fraud and coercion and does not necessarily involve any movement. Furthermore, labor trafficking rarely develops within organized crime networks, but rather takes root in otherwise law-abiding workplaces (crimes of opportunity). When organized criminal enterprises engaged in smuggling (drugs, weapons, etc.) also engage in labor trafficking, the coercive mechanism

can be quite strong. In labor trafficking cases where a person fears reprisal from organized crime, it is particularly important to consult trafficking experts who can assist in safety planning and, if desired by the victim, provide a law enforcement referral.

How can a victim service provider report a potential labor violation? What else should an organization know about reporting trafficking?

Labor violations—related to improper payment of wages or other working condition violations—can be submitted at any of the [Wage and Hour Division offices across the U.S.](#) or the national phone number at 1-866-4-USWAGE. Visit www.dol.gov/whd. What may begin as a simple labor violation can turn into something else; do not hesitate to make the call and share the information. Labor trafficking allegations will be referred to the proper agency.

What percentage of wage theft complaints result in labor trafficking investigations?

The percentage of cases is low, however, even that small percentage can impact hundreds and hundreds of people involved in one labor trafficking case.

What services or assistance does a survivor of labor trafficking need? How do those differ from a victim of sex trafficking?

Labor trafficking victims need similar services to those for victims of sex trafficking. In both instances, the victim's wishes, safety, and well-being should take priority in all matters and procedures to ensure the compassionate and sensitive delivery of services in a nonjudgmental manner. Many cases of labor trafficking include an element of sexual abuse and sexual exploitation. Many of the indicators of labor trafficking may also be similar to those indicators of sex trafficking.

Immediate needs are also similar—physical safety, medical care, psychological care, and housing. Legally, sex and labor trafficking are both crimes. While the law enforcement agency to handle the case may differ, the process of working with law enforcement for labor trafficking or sex trafficking is the same. During this process, the victim of labor trafficking will want to know about confidentiality and the risks of retaliation from the trafficker. This experience is the same across both sex and labor trafficking. From an immigration perspective, the options are also the same.

The [Victims of Trafficking and Violence Protection Act \(TVPA\)](#) of 2000 created a type of visa specifically for victims of human trafficking. This is something equally available to victims of labor trafficking and sex trafficking.

What are some steps an organization or tribe can take to start working on labor trafficking?

Visit [Frameworkta.org](#) to request training and technical assistance¹ on labor trafficking. Topics range from victim identification to victim services. There are resources to assess your capacity and create a plan to identify and serve this population. If your organization is new to labor trafficking, Framework can help you build your services specific to the needs of your community. Building a labor trafficking program starts with assessing capacity and developing a plan to respond. Have a proactive conversation with your team and leadership on how to respond to labor trafficking. In addition, partner with survivors in the initial program planning and as the program evolves and grows to gain a survivor-informed perspective and ensure services meet the needs of survivors.

How has the COVID-19 pandemic impacted labor trafficking in general and how has it changed the way in which services are delivered to labor trafficking victims?

In the agricultural sector, the pandemic has changed everything Wage and Hour division enforcement coordinators or investigators do and how it is done. As investigators, we are very much in the field. All of that changed in a moment, and we are at a difficult crossroads with the safety of the worker and the safety of the investigators. The Wage and Hour Division shifted to conducting virtual investigations. As a result of this, we have lost our presence in the field, which is very important. Direct services may have also been impacted with consultations moving to the phone instead of in-person, and there being less opportunities to interact with potential victims.

What is an example of a current labor trafficking case during the pandemic?

Ayuda is doing phone consultations; this becomes even more challenging when the client is a minor living with their trafficker. Building a relationship is key to discovering what is occurring. A recent case involved an unaccompanied 17-year-old girl reunited with her mom and stepfather. She did not know her stepfather. In our conversation, something was off in how she was talking

¹ Framework is an [OVC training and technical assistance provider](#).

about her relationship with her stepfather. She would not provide additional information, as she was calling from the home; the same home where the potential victimization is occurring. The pandemic made it difficult for the client to disclose what was happening. How do you create an environment over the phone where they feel safe disclosing what is happening? Ayuda is still working on how to address this new challenge.

What does human trafficking look like in tribal communities?

Risk factors such as poverty, prior abuse, isolated location with access to the Internet, and jurisdictional issues between tribal and local agencies responding to human trafficking can put American Indians and Alaska Natives at risk for both sex and labor trafficking. Traffickers might exploit vulnerabilities and promise victims better opportunities, for example, outside the tribal community. In addition, remote tribal communities may have limited access to organizations or experts who could potentially identify and assist victims. Developing relationships with these organizations and experts could be critical in understanding how labor trafficking may be manifesting itself in a specific community.

Is there an effort for greater public awareness regarding the issue – how to spot labor trafficking and what to do when one suspects labor trafficking?

The Department of Homeland Security's [Blue Campaign](#) is a national public awareness campaign. [The National Human Trafficking Hotline](#) has information on labor trafficking indicators. The Office for Victims of Crime offers a [Faces of Human Trafficking Series](#) with public awareness videos and posters and the [Understanding Human Trafficking Training](#), a series of five interactive online modules, offers foundational learning on trauma-informed and victim-centered approaches to human trafficking.

When you suspect there is some force, fraud, coercion, or debt bondage going on, what should you do next? At what stage do you contact law enforcement?

As soon as you find out someone needs help, refer them to a victim service provider in your area. Whoever comes in contact with a potential victim of labor trafficking can make a referral, assist in connecting the person with a trained professional who can find out more about the situation and connect them to resources. Support may be legal services, law enforcement, or a victim service

provider. Create a list of available resources in your area so when this situation happens you know who to call for assistance. [The National Human Trafficking Hotline](#) is a searchable database of local resources. The Office for Victims of Crime, [Help for Victims](#) webpage shares toll free and online hotlines as well as state resources for victims of crime.

As a health professional, how should I deal with people I think are being trafficked – they are asking for help to pay for the “coyote” but say they aren’t being trafficked?

Be mindful of the indicators of labor trafficking. People almost never self-identify as victims of trafficking. Paying attention to the signs of human trafficking and making referrals to a victim service provider when there are suspicions can make a difference in someone being able to get out of a potentially harmful situation. Often, referrals that come from a clinic or a perceptive nurse can be the beginning of a long journey to assist that individual with getting out of a harmful situation. Being mindful of language and asking boarder questions about the individual’s needs, safety, and security can build rapport and trust. Smuggling is often associated with a one-time debt and generally once the debt is paid, the debtor is free. When a debt becomes perpetual and requires a person to work it off, this is an initial indicator of trafficking. Documentation that is false or missing is also an indicator.

Where can you find translation services?

Consider working with a translation service like [Maya Interpreters](#) when there isn’t an interpreter or someone who speaks that language in house. The [National Human Trafficking Hotline](#) offers an option to view their website in Spanish. The Office for Victims of Crime, [Help for Victims](#) webpage offers Arabic, Chinese, and Spanish translations.

Is there any reporting about labor trafficking that is mandatory for any occupation?

This varies state-by-state. In Virginia for example, suspected labor trafficking of a minor was recently added to the umbrella of “child abuse” for mandatory reporters in the state.

What do you do when someone is being coerced or forced to sell drugs, especially undocumented individuals and you suspect they are being trafficked?

(For example, a defendant is charged with drug sales but is undocumented, doesn't speak English, does not have identification and has been in the country less than a year).

Ayuda has had cases of clients being forced to sell drugs as part of their trafficking—often, but not always, associated with a gang. These situations can be very dangerous. Referring the individual to an immigration attorney can be a great option because it's seemingly neutral (no reason to raise the trafficker's suspicion), and the availability of immigration relief can be a powerful incentive for a person to disclose their experiences when they otherwise might not.

Is there a human trafficking connection to unaccompanied migrant children?

Sometimes. For an unaccompanied migrant child to be released from detention, an adult sponsor must be identified to care for the child. That adult may be a parent who has been separated from the child for many years or a more distant relative (an uncle, a cousin, etc.). Unfortunately, Ayuda has seen a lot of cases where the sponsor expects the child to pay their way, trade sex for continued sponsorship, work instead of going to school, etc. There are often challenges when a child is placed in the care of a parent or other adult who is a stranger to them, and it certainly does *not* always develop into trafficking—but in some instances, it can and does.

An [article](#) published by the National Institute of Health states, “between 75–80 percent of newly arriving unaccompanied children are victims of human trafficking, as they travel into the U.S. with smugglers who then sell them into forced labor or prostitution.” It goes on to say, “even though repatriation policy goals are designed to assist with family reunification, many minors are returned to the same conditions of domestic abuse, exploitation, or re-exposed to the threat of becoming a victim of human trafficking.”

Beyond contacting law enforcement and legal services about a client possibly being a victim of labor trafficking, what else can I do?

In communities where there's a local human trafficking task force, that is the best connection. They are trained and have a coordinated response protocol. In areas without a task force, it is important for service providers and community members to familiarize themselves with organization(s) that provide

comprehensive anti-trafficking services. Find a list of OVC-funded task forces and service providers [here](#). You can filter by using “trafficking” as a key word and search by city/state. If there are no task forces or federally funded anti-trafficking service providers in your area, search the National Human Trafficking Hotline’s [referral directory](#) to find another service provider or [send in a tip](#).

Do not attempt to extricate a victim from a trafficking situation as it puts the victim and you in danger. Take notice of the red flags and specific details, write them down, and pass along that information to people who are trained to respond.

Is there a directory to look up advocates, investigators, or human trafficking service providers in the event we need to refer someone?

For referrals to local service providers, the National Human Trafficking Hotline (1-888-373-7888) is a good place to start. OVC-funded task forces and service providers are located [here](#).

Additional Information

Contact the Human Trafficking Capacity Building Center at contact@ovc-htcbc.org or 1-844-682-0411.