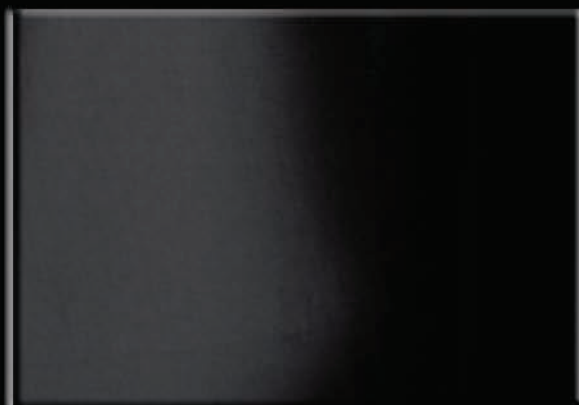
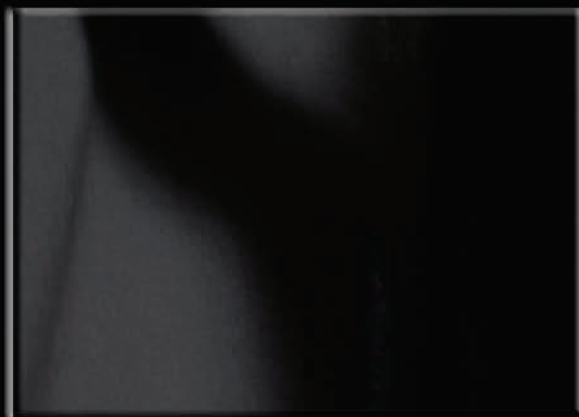




# North Carolina Human Trafficking Task Force





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# *North Carolina Trafficking Task Force*

## **ENDORSEMENTS<sup>1</sup>**

This manual has been endorsed by the Legal Aid of North Carolina, North Carolina Coalition Against Sexual Assault, North Carolina Justice Center, Senator Kinnaird, University of North Carolina-Chapel Hill School of Law, and the University of North Carolina Women's Center.

## **ACKNOWLEDGMENTS**

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<sup>1</sup> Information in this manual is accurate as of April 2007.

# *Acknowledgement*

It is with great pleasure that I acknowledge the work of RIPPLE in creating this training manual which will contribute to the ability of organizations in identifying trafficking victims, creating protocols for assisting victims, and ultimately eradicating trafficking in the state of North Carolina.

RIPPLE is an inter-disciplinary group of professionals with expertise in various fields pertaining to the topic of human trafficking. The efforts of RIPPLE to raise public awareness about trafficking in North Carolina and to design protocols and training materials to educate law enforcement and social service agencies, legal service providers, and public health organizations, is a necessary part of the work to make our state a place of safety and equity for all our residents.

I urge the appropriate agencies and citizens of the state of North Carolina to join in anti-trafficking advocacy and awareness, and to support the efforts of groups such as RIPPLE which have dedicated so much of their time and expertise to this cause. Hopefully, the General Assembly will also support this important work through legislation.

*Albert Inman*

# Forward

## What is **RIPPLE**?

**RIPPLE** is a North Carolina statewide coalition of agencies dedicated to ending the trafficking of persons. Our Mission is to establish a statewide protocol for assisting victims of trafficking, in order to lead to:

**Recognition** that modern day slavery exists in the form of human trafficking;  
**Identification** of victims;  
**Protection** of victims by referring them to appropriate resources;  
**Prosecution** of traffickers so they are held liable for their crimes;  
**Liberation** of victims so the healing process can begin; and  
**Empowerment** of victims so they may advocate for themselves.

## What is the purpose of this manual?

This manual is a joint effort of RIPPLE, an inter-disciplinary group of professionals who have expertise in some field pertaining to the topic of human trafficking. This manual was developed to increase the capacity of sexual violence programs, domestic violence programs, law enforcement agencies, public health organizations, legal advocates, and social service agencies throughout North Carolina to provide assistance to victims of human trafficking. It was designed to be used by a broad range of organizations to provide an overview of trafficking, identify victims of trafficking, create a protocol for assisting victims of trafficking, and identify resources available to victims of trafficking.

The creators of this manual hope that the manual will prompt social service agencies, legal service providers, law enforcement agencies, and public health organizations to become active partners in RIPPLE by identifying victims of trafficking, making appropriate referrals for them, and providing needed support to them.



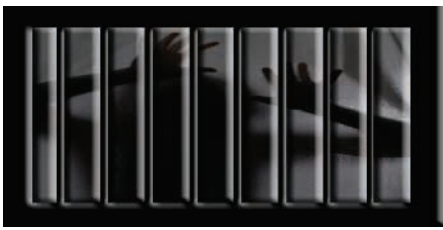


CHAPTER 1:

HUMAN TRAFFICKING

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## Definition of Human Trafficking

Human trafficking is a form of modern-day slavery. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, defines trafficking in persons as:

The recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or the 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 labor or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>2</sup>

The Trafficking Victims Protection Act of 2000 defines “severe forms of trafficking” in terms of sex trafficking and labor trafficking.

- **Sex Trafficking** is the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act,<sup>3</sup> in which the commercial sex act is induced by force, fraud, or coercion, or in which the victim induced to perform such an act has not attained 18 years of age.
- **Labor Trafficking** is 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.

These definitions do not require that a trafficking victim be physically transported from one location to another.<sup>4</sup>

<sup>2</sup> United Nations Protocol to Prevent Suppress, and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, 2000. page 2.

<sup>3</sup> As defined by the Trafficking Victims Protection Act of 2000, the term “commercial sex act” means an sex act, on account of which anything of value is given or received by any person.

<sup>4</sup> Public Law 106-386, Victims of Trafficking and Violence Protection Act of 2000, 106th Congress, 2000.

## **Industries Most Commonly Associated with Trafficking**

Human trafficking is not limited to specific occupations. Victims can be working in any commercial enterprise; therefore, it is important to investigate further any situation that involves indicators of fraud, force, or coercion.<sup>5</sup> Human trafficking is prevalent in the following industries: commercial sex trade, agriculture, domestic and corporate cleaning services, construction companies, sweat shops, and restaurants, among others. Additionally, the following factors support trafficking in specific areas: location (e.g., border states), presence of a large low-wage job industry, presence of large undocumented populations, and historical occurrences of human trafficking.

### ***Migrant Farm Work***

Migrant farm workers typically move from state to state to plant and harvest crops, roughly following one of three crop “streams” that originate at the southern border of the United States. The streams are clearly defined, and the workers move with the seasonal crops and disperse across the United States. The Midwestern stream begins in Texas and branches off to the Midwestern states. The eastern stream begins in Florida and travels up the east coast to Ohio, New York, and Maine. The western stream begins in California and hugs the west coast up to Washington or moves off towards the Dakotas. Migrant farm workers may be U.S. citizens, legal permanent residents, undocumented immigrants, or immigrants on farm work visas. Trafficking among migrant farm workers is, at times, difficult to detect because migrant farm work in and of itself is not trafficking. Investigators need to look for indicators such as the inability of workers to come and go freely; employers keeping possession of important documents such as passports, visas, and other identification documents; debt owed by workers to crew leaders or farmers; and threats made against victims and their families. Also, victims are often held in a condition of debt bondage where they are forced to work off their smuggling fees and pay their trafficker significant amounts of money. Many farm workers live in housing owned or controlled by the employer, which can lead to a high degree of control over the workers’ movements and activities by the employer. Similar situations may occur in the construction, restaurant, factory, and other low wage industries.

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<sup>5</sup> 22 USCS § 7102. (defining coercion as “(A) threats of serious harm to or physical restraint against any person; (B) any scheme, lan, or patter 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 (C) the abuse or threatened abuse of the legal process.”)

### *Common Trafficking Scenarios in Migrant Farm Work*

- Farm workers from third-world countries pay several thousand dollars to a recruiter in a foreign country, who helps them secure legal farm work visas to work in the United States. The workers are promised plentiful work for several years in the U.S. When they arrive, their passports are confiscated and they are kept in substandard housing under close supervision. Salary, hours, and conditions are not as they had been promised. Workers are afraid to leave the employer due to threats of arrest, lack of access to their passports, enforced isolation, lack of communication with outsiders, and the need to pay off the large debts they accrued in paying high recruiting fees.
- U.S. citizen farm workers are recruited out of homeless shelters or other low-income neighborhoods in various cities. A crew leader promises good wages, free housing, and meals in exchange for doing farm work. When they arrive at the farm, they find they are forced to pay high costs for food, housing, and other items. They become indebted to their employers and are threatened with violence if they leave the farm without paying their debts to the employer. They are forced to work to pay off the debts, and are completely dependent on the employer for housing, transportation, and basic necessities.

### ***Commercial Sex Trafficking***

A commercial sex act is a sex act in which anything of value is given or received in exchange for sex. The victims are generally women and young girls who are lured into the trafficking situation with false promises of a good job or a marriage proposal, or they may simply be kidnapped. Furthermore, commercial sex trafficking comes in many forms from the more obvious—prostitution, pornography, live sex shows—to private brothels and companies advertising other types of services. Similar to migrant farm work, victims are often held in debt bondage. The majority of victims are forced into prostitution or work as exotic dancers in or near large metropolitan areas. According to the Domestic Trafficking Victims Protection Act of 2004 (S2916), “current laws punish traffickers, exploiters and purchasers of unlawful commercial

sex activities, [however] these laws are typically enforced disproportionately against the individuals, predominantly women and girls, who are used in the unlawful activities, instead of against the traffickers, exploiters and purchasers, who are predominantly men. Trafficking victims may be easily mistaken by investigators as willing participants in prostitution, exotic dancing, or other forms of sex work. Some victims are trained by their traffickers to deny all mistreatment and falsely claim willingness if questioned.

### *Common Scenarios in the Commercial Sex Industry*

- Victims are brought into the U.S., legally or illegally, and then forced into a situation where they are expected to perform sexually in order to pay off a fee. Such roles may be as erotic dancers or prostitutes, often in hidden or secret locations known only to insiders. The victims have little or no freedom, and their documents are usually confiscated. They only travel when escorted and the money they earn goes towards the debt they owe the trafficker.
- Escort services or massage parlors that function in much the same way as brothels. The victims are transported around the country every few weeks to keep them unfamiliar with their surroundings and, therefore, makes them less likely to try and escape.

### ***Domestic Servitude***

A large number of victims are forced to work as domestic servants doing housework, childcare, or menial labor. Many of these individuals are hired by families and the victims may be lured by employment contracts that contain promises and terms of employment that do not turn out to be true. Victims may find their way into these scenarios through familial relationships with the traffickers, job search companies which advertise for jobs in the United States, or fraudulent marriages with the traffickers. Some international recruiting firms have been set up by traffickers to lure victims into embellished or non-existent jobs in the U.S. This is a particularly difficult form of trafficking to identify due to the hidden nature of the employment and the difficulty victims have in reaching social or legal services.

### *Common scenarios in domestic servitude*

- A common example would be a position as an au pair or nanny. Once the victim arrives in the U.S., she or he is redirected into work she or he had not agreed to do and which she or he possibly never would have accepted. The victim may be forced to work long hours at wage rates below the minimum way, the work may include terms to which the victim may have never consented to before, the victim may be cut off from contact with her or his family, may have her or his documents confiscated, and may be threatened with deportation.

### ***Who are the Victims?***

Human trafficking remains one of the fastest growing areas of organized criminal activity around the globe. While exact numbers are unknown, estimates show that at least 600,000 to 800,000 men, women, and children are trafficked across international borders every year, and between 14,500 and 17,500 of those victims are trafficked into the United States.<sup>6</sup> More than 80% of the victims are female and 70% of these victims are forced into the commercial sex trade.<sup>7</sup> Human trafficking is a leading source of income for organized crime and other criminal enterprises, bringing an estimated \$8 billion to \$10 billion a year in profit to the criminal enterprises involved.<sup>8</sup> Asian, Mexican, Central American, Russian and Eurasian gangs are among the major traffickers. After the illegal trade of weapons and illicit drugs, human trafficking is the next most profitable business for organized crime.<sup>9</sup> Though almost all countries are affected in some manner by human trafficking, the majority of victims come from Asian countries.<sup>10</sup> Women from the Eurasian countries and the former Soviet bloc, however, are considered the largest source of victims for prostitution and the sex industry in Europe and North America.<sup>11</sup>

Victims of sex trafficking are typically women and girls who have been persuaded to engage in commercial sex acts under false pretenses. The allure of modeling or acting jobs turns into forced sexual servitude for countless victims. Many of the younger trafficking victims within the United States who have been forced into the commercial sex trade are runaways or young females who have been kidnapped.<sup>12</sup> It is critical to remember that any sex trafficking situation involving victims younger than 18 years of age, regardless of consent, is considered trafficking; minors cannot give

<sup>6</sup> U.S. Department of Justice, Civil Rights Division, Anti-Trafficking New Bulletin, July, 2004.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> Susan Orr, congressional testimony (7 June 2005), available at [www.hh.gov/asl/testify/t050607.html](http://www.hh.gov/asl/testify/t050607.html).

legal consent. According to a recent study, of the 1.6 million missing or abandoned children in the United States, over 40,000 are at risk for sexual endangerment or exploitation.<sup>13</sup>

Victims of labor trafficking are not a homogenous group of people—they are represented by all ages and both sexes. Some may enter the country undocumented, while others enter the country legally on work visas for lawful jobs in industries such as domestic services, entertainment, technology, or agricultural work. Scores of unsuspecting victims are forced to work in illegal industries such as the drug and arms trade or panhandling.

### *Common Patterns of Trafficking*

- Victims are often physically segregated from the community or neighborhood where they live. There may be physical barriers, as well as cultural or language barriers, that prevent victims from approaching other people or law enforcement to ask for help. They may be monitored and escorted and trained in their responses to strangers. Many times the trafficker serves as interpreter, altering the victims' stories or conversations without their knowledge.
- Traffickers often use the victims' immigration status against them by threatening to call law enforcement to have them arrested if they try to leave. Immigrants may be unaware of the legitimacy of law enforcement in the U.S. if they come from a country where corruption is rampant and normal. Victims may also be uncertain about their own immigration status and unsure whether a visa or other kinds of immigration status can be revoked. Traffickers use this misconception to their advantage to further contain their victims.
- People who are trafficked often come from unstable and economically devastated places, as traffickers frequently identify vulnerable populations characterized by oppression, high rates of illiteracy, little social mobility, and few economic opportunities.<sup>14</sup>

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<sup>13</sup> *Ibid.*

<sup>14</sup> U.S. Department of Health and Human Services, Labor Trafficking Fact Sheet, November, 2004.

## ***Child Victims of Trafficking***

Under federal law, children under the age of eighteen cannot give valid consent and any recruitment, transfer, transportation, harboring, or receipt of children for the purpose of exploitation is a form of trafficking regardless of the means used.<sup>15</sup>

Child victims may participate in the same types of work as adults at the direction of their traffickers. In fact, children are highly desired in both sex and labor trafficking. Children are often exploited in the commercial sex trades, performing the same jobs as adult victims in prostitution, pornography, and sex tourism. Outside of the illicit sex trade, children are regularly found in domestic service, migrant farm work, hotel or restaurant work, and sweat shops—to name just a few.

- Children are considered persons under the age of 18 under federal law<sup>16</sup> and the North Carolina human trafficking statute.<sup>17</sup>
- Regions frequently associated with child trafficking include the Pacific Islands, Eastern Europe, Latin America, Southeast Asia, Africa, and other developing countries.<sup>18</sup>
- Children are often sold or trafficked by close family members.<sup>19</sup>

Child victims often believe they are coming to the United States to be reunited with family, to work in a legitimate job or to attend school. Additionally, children may be subjected to psychological intimidation or threats of physical harm to themselves or their family members.<sup>20</sup>

Each year more than a million children are exploited in the global commercial sex trade.<sup>21</sup> Sex tourism which targets children often involves people who travel from their own country to another and engage in illicit sex acts with children. The sexual exploitation of children has devastating consequences. Tourists engaging in the practice often travel to developing countries looking for anonymity and the availability of children in prostitution. Sex tourism may be facilitated in the participating country by corrupt law enforcement, the Internet, ease of travel, and poverty.<sup>22</sup>

## ***How Are Victims Targeted?***

There are various economic, social, and political factors that make people vulnerable to trafficking. Recruitment often occurs in poverty-stricken areas where

<sup>15</sup> U.S. Department of Health and Human Services, Child Victims of Human Trafficking Fact Sheet, November, 2004.

<sup>16</sup> 18 USCS § 1591.

<sup>17</sup> N.C. Gen Stat. 14-43.4.

<sup>18</sup> U.S. Department of Health and Human Services, Child Victims of Human Trafficking Fact Sheet, November, 2004.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> U.S. Department of State, Trafficking in Persons Report 2005.

<sup>22</sup> U.S. Department of State, Trafficking in Persons Report 2005.



people are forced to survive by any means possible. Some who have studied the problem of human trafficking believe that people who are impoverished have no other options but to relinquish their innate rights, or those of their families, to the trafficker.<sup>23</sup>

Once the victim enters the trafficker's network, the trafficker frequently removes her or him from familiar surroundings and separates her or him from family and friends. The separation enhances the trafficker's ability to control the victim. Even if escape was viable, the victim might be left in a state of confusion with no direction, no plan, and little money.<sup>24</sup> By staying with the trafficker, victims retain some hope of obtaining the money or freedom that was promised them once they complete their service. In countries that require immigration documents, not having possession of one's documents can lead to fear of arrest. Traffickers use this threat to keep the victims in place. Traffickers learn to recognize the signs that will enable them to obtain their victims. Feelings of desperation and defeat are clear indicators of a potential victim's vulnerability.<sup>25</sup> The promise of a better job or better pay from the trafficker may lure the victim into accepting a role she or he would not normally accept. Trafficking victims become commodities and sources of profit for the trafficking network, and once they are spent, the traffickers get rid of them and replace them with new workers.<sup>26</sup>

The exact method for obtaining victims can take several forms. Force and kidnapping are common, as is the more subtle method of using seemingly conventional job recruitment agencies. It can be easy for the trafficker, or the trafficker's recruiter, to entice victims with promises of an exciting job and higher pay in another country. Phony or misleading ads in magazines, newspapers, or websites lure many potential victims to false employment and fake marriage proposals. The "mail-order bride" business is prominent in some eastern European countries, and is often facilitated by organized crime organizations that operate there. In some sex trafficking cases, traffickers approach women or their families directly with offers of well paying jobs elsewhere.

Once victims are brought into destination countries, their passports and other identity documents are often confiscated, essentially taking away the victims' identities and making them "invisible" where they are working or living. Without possession of their documents, it is difficult or impossible for victims to obtain employment, housing, or services without the trafficker's help. All types of trafficking victims may be subjected to a variety of physical or psychological ways to keep

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<sup>23</sup> Atlink, Sieske. *Stolen Lives: Trading Women into Sex*. London: Scarlet Press; New York: Harrington Park Press, 1995, quoted in Monica Esquibel, "Human Trafficking: A Violation Of Human Rights, A Universal Issue" (Honors thesis, Florida State University, 2005), 11.

<sup>24</sup> U.S. Department of State, *Trafficking in Persons Report 2005*

<sup>25</sup> U.S. Department of State, *Trafficking in Persons Report 2005*

<sup>26</sup> Bales, Kevin. *Disposable People: New Slavery in the Global Economy*, Berkeley, Calif.: University of California Press, 1999, quoted in Monica Esquibel, "Human Trafficking: A Violation of Human Rights. A Universal Issue" (Honors thesis, Florida State University, 2005), 11.

them in the trafficking situation. For example, traffickers may charge exorbitant fees for bringing a person to her or his destination country, thus creating long term debt bondage that victims are forced to repay. Some victims are repeatedly subjected to physical and mental abuse including beatings, rape, starvation, and confinement. Others are threatened with harm to their families, or they are threatened with arrest or immigration consequences if they leave the trafficker. Those victims working as prostitutes or “models” are commonly forced to have unprotected sex with multiple partners and are forced to work unsustainably long hours.<sup>27</sup> Many victims suffer mental break-downs and are exposed to sexually transmitted diseases with no hope for medical attention if needed.<sup>28</sup>

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<sup>27</sup> Francis T. Miko and Grace Park, “Trafficking in Women and Children: The U.S. and International Response” (Report for Congress, 2003), 4.

<sup>28</sup> *Ibid.*

CHAPTER 2:

IDENTIFYING VICTIMS

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## *How do you identify victims of trafficking?*

Now that you have a basic understanding of what human trafficking is, the extent of the problem, and what factors contribute to people being trafficked, how do you know if someone is a victim of trafficking? What indicators and situations should you look for if you suspect that someone may be a victim of trafficking? What questions should you ask to identify if someone that you've arrested or someone who has come to your agency or place of worship seeking help is a victim? This chapter will give a basic overview of indicators that a trafficking situation exists, who may encounter a victim of trafficking, barriers to reaching victims and accessing services, and what types of questions you should ask to determine if someone is a victim of trafficking.

### **What might a trafficking situation look like?**

While all trafficking situations are very unique, there are several commonalities that may help us identify a trafficking situation. Some red flags to look for include situational indicators and physical indicators. For example, if someone regularly comes to your office or clinic and is always accompanied by someone else, or if you notice that another person always speaks for the individual who shops at your store, or if someone has a lot of unexplained injuries, these are possible indicators that someone may be in a trafficking situation.

In addition to situational indicators of trafficking, there are also many physical indicators that may be warning signs. These physical indicators include, but are not limited to:

- Barbed wire surrounding a home.
- Bodyguards around a home, factory, or business.
- Bars on the windows of a home, factory, or business.
- Vehicles coming and going from the building at odd hours.
- Men coming to and leaving the building at odd hours.
- People escorted to and from the building.
- Many people loaded into one vehicle and driven somewhere all together.

While one of these indicators in and of itself does not necessarily constitute a potential trafficking situation, these are all possible red flags that may indicate that you have come across human trafficking.

### **Who may encounter a victim?**

Anyone may encounter a victim of trafficking, be it law enforcement or a neighbor. In at least one case in North Carolina, a U.S. Postal Carrier noticed something was amiss at a home on their delivery route and contacted the appropriate law enforcement officers. Some individuals who could potentially interact with someone who has been trafficked include, but are not limited to:

- **Health care professionals** (e.g., paramedics, doctors, nurses, emergency room personnel, medical clinic personnel, community lay health advisors, etc.)
- **Human service workers** (e.g., social workers, rape crisis advocates, health department workers, department of social services workers, teachers, etc.)
- **Law enforcement** (e.g., local police departments, state highway patrol, sheriff departments, FBI, State Bureau of Investigation, undercover officers, Immigration and Customs Enforcement, airport police officers, etc.)
- **Members of religious communities** (e.g., monks, rabbis, imams, priests, deacons, pastors, etc.)
- **Attorneys** (e.g., Public Defenders, District Attorneys, divorce lawyers, employment lawyers, immigration lawyers, Legal Aid attorneys, etc.)

### **What are barriers to victim identification?**

Many people may wonder why, if trafficking is such a large problem and occurs on a global scale, we haven't seen more victims of trafficking in our offices, hospitals, and agencies. There are numerous barriers that contribute to identifying victims, including, but not limited to:

- **Trafficking victims can be very hidden.**

They are hidden because they are kept that way by traffickers who limit their contact with the outside world to prevent opportunities for seeking help and for escaping. They are also hidden populations because victims of trafficking are often immigrants, young people, people of lower socioeconomic status, and/or members of other groups who do not usually have a strong voice in society. Many human trafficking victims do not speak English, which makes them more dependent on their traffickers for everyday communication and getting their basic needs met.

- **Victims are kept moving by traffickers.**

Traffickers may move the people they have trafficked from location to location to avoid detection by law enforcement. The victims do not know where they are, so the victims cannot establish relationships with people who may help them. Constant movement may also help the traffickers make as much money as possible. There have been cases in North Carolina where victims have reported that they worked in other states before being transported to North Carolina.

- **Lack of awareness of trafficking among general public and health, legal, and human service professionals.**

Many people think of trafficking as something that occurs in far away countries, such as Thailand, Russia, or Mexico. This lack of awareness on the part of both the general public and those individuals and agencies that could provide support is a huge barrier in identifying victims. If we are unaware of human trafficking, we will not know when we encounter a victim or a trafficking situation. This manual also includes a resources section with several listings of where to find out more about human trafficking **(See Appendix A)**.

- **Law Enforcement often detains and removes possible victims before they can be interviewed, identified, and assisted by legal counsel.**

Many times, the victims may be mistakenly identified as willing workers. Sex trafficking victims in particular may be mistakenly viewed as willing prostitutes and thereby highly prioritized for deportation.

### **What are barriers for victims to access services?**

Many people may wonder why victims of trafficking don't seek out and access the services that have been set up to assist them. Just as there are many barriers to identifying victims of trafficking, there are also many barriers that victims must overcome to access services. These barriers may include lies they have been told by traffickers and the fact that many agencies lack bilingual and bicultural staff to assist individuals who have been trafficked. Other barriers include, but are not limited to:

- The victims may not speak English or may not speak English well.
- Victims may not know the law and are often not aware that what has happened to them is illegal.
- Victims may feel embarrassed, ashamed, hopeless, nervous, or afraid, especially in cases where they were forced into prostitution and/or physically and sexually abused.
- Victims of trafficking are often told that if they try to seek help, they will be arrested or deported by immigration.
- Traffickers often threaten victims with physical harm or harm to the victims' families.
- Victims who have been jailed or detained may not understand or believe that representatives from community organizations are independent from the law enforcement agencies that have taken the victims into custody.
- Traffickers tell victims that police in the United States do not care about them and will not help them.

- Cultural differences, differences in communication styles, and the level of abuse inflicted on a particular victim are also barriers that victims face to accessing support services.

## **How do you interview a victim of human trafficking?**

### **See Appendix C: Examples of Questions to ask to Identify a Victim of Trafficking**

People who have been trafficked may not readily disclose that they have been trafficked, and many victims may not have the language or knowledge to be able to say, “I am a victim of trafficking.” Therefore, directly asking someone if she or he has been trafficked is not the best approach when you are trying to determine if someone you are helping is a victim of trafficking. A better path to take would be to ask questions that will illuminate different aspects of the situation that the victim was in (e.g., questions about the working conditions, freedom of movement, etc.).

Additionally, it is important to recognize that one question alone will not determine whether or not a person is a victim of trafficking. You will need to ask many questions to get as complete a picture as possible since the victim’s story likely will not come out all at once (**See Appendix C**). It may not be possible to obtain all of the necessary information in one interview, especially if the victim was sexually abused or has symptoms of Posttraumatic Stress Disorder.

However, you should take the utmost care to not re-traumatize the victim with unnecessary, repeated interviews that require her/him to relive painful experiences. Also important to keep in mind is how, just as with any traumatic experience or eye-witness account of an event, the victim’s story may be conflicting. This does not mean the victim is fabricating what happened; rather, it may be extremely difficult to recall the grueling experiences she/he went through before finding assistance at your agency.

Furthermore, since this person’s trust has already been severely betrayed, you will also have to work hard to establish trust with the victim. As trafficking victims may be suspicious of offers of free assistance, they need to be given clear explanations of the confidentiality policies of agencies assisting them. One such way to build trust



is to have the same individual conduct the interviews with the victim, which also cuts down on the possibility of re-traumatization because the victim does not have to retell her/his entire experience every time she/he is interviewed.

Additionally, during an interview victims may be hesitant to tell you that they have been trafficked, because they may be ashamed of what happened to them, they may not trust you, or they may not know that trafficking is illegal in the United States.

When interviewing the victim, separate her/him from other people that may have been arrested with her/him or that have come to your office with her/him. Separating victims from other people provides them with an opportunity to speak freely and without worry that what they say will be reported back to their traffickers. This also gives the interviewer the chance to speak more in depth with the victim about their experience.

Also, when interviewing a victim, you will likely encounter victims who do not feel comfortable speaking English or who do not speak English. In order to assist victims of trafficking to the best of your ability, and to ensure they receive the best possible services, it is absolutely preferable to use qualified and certified interpreters throughout the interview and investigative processes. Unless the situation is an absolute emergency, **do not** use other people who have come with the victim as interpreters and **do not** use the victim's children as interpreters. Not only will the use of qualified and certified interpreters make your investigation easier, but it will also make building trust with the victim easier if what you are saying and what the victim is saying is being interpreted accurately and correctly because there will be less chance for a misunderstanding to occur.

Whenever possible, interviews should end in a positive manner with reinforcement that what has happened is not the victim's fault. A sample closing statement is the following, "Thank you very much for taking the time and having the strength to tell me about your experiences. Nobody deserves to be treated the way you have been treated. You are clearly a strong and courageous person to have survived these abuses."<sup>29</sup>

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<sup>29</sup> WHO Ethical and Safety Recommendations for Interviewing Trafficking Women, Cathy Zimmerman and Charlotte Watts, 2003.



## CHAPTER 3:

# RECOMMENDED PRACTICES

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## *What are recommended practices for assisting victims of Human Trafficking?*

Every situation in which a victim of trafficking is encountered is unique, and there is no protocol which applies to every circumstance in which a victim is encountered. The following protocol for assisting victims of trafficking is based on recommendations from non-governmental agencies that assist victims of trafficking.

### **Step 1: Assess the risks**

Assess the risks involved with speaking with the victim and speak to her/him alone.

There are a number of risks associated with making initial contact with a victim of trafficking. Before approaching a victim or conducting an interview with her/him, it is important to understand these risks. Simply approaching a victim in a trafficking situation could compromise her/his safety by causing the traffickers to penalize her/him by taking more drastic measures or moving her/him to another location. Some victims may be able to leave the trafficking situation on their own. Others may need assistance in leaving. If a victim is still in a trafficking situation and needs assistance leaving, it is best to contact a law enforcement agency to assist the victim in leaving the situation.

The safest way to make contact with a victim who has been trafficked is to speak to her/him once she/he is clearly out of the trafficking situation and **alone**, without any of her/his companions. Even if the victim states that she/he needs her/his companion to interpret for her/him or to support her/him, the safest practice is to separate her/him from her/his companion for a safety assessment with the assistance of a neutral interpreter. Furthermore, it should not be assumed that once a victim is alone and no longer in the trafficking situation, she/he is free from reprisals. In most trafficking situations, the traffickers have made threats of physical punishment (e.g., beatings, confinement, rape), financial harm (e.g., fines for “disobedience” or

increased debt), or deprivation of “privileges” (e.g., sleep, food, or amenities) against the victim or the victim’s family (especially the victim’s children).<sup>30</sup>

The following is a brief safety assessment to help determine the immediate risks and safety concerns faced by potential victims:

- Do you have any concerns about carrying out this interview with me?
- Do you think that talking to me could pose any problems for you, your family, or your friends? If yes, what types of problems?
- Do you feel this is a good time and place to discuss your experience? If not, is there a better time and place?

## **Step 2: Conduct a more thorough interview**

Conduct a more thorough interview with the potential victim, in the victim’s own language, to determine if she/he has been trafficked.

Interviews with victims should be conducted in a secure setting and carried out in complete privacy. Interviews should not be held in a location where persons pass by or drop in or where random interruptions may occur, making the victim ill at ease.<sup>31</sup>

Make certain that the potential victim clearly understands the purpose of the interview, her/his right not to answer questions, and her/his right to terminate the interview at any time. It is critical that the interviewer explain that she or he will be asking personal and possibly upsetting questions and the reason for these questions. It is a good idea to begin an interview by explaining the precautions you will take to try and keep information provided by the victim confidential, as well as explaining what limitations there may be on confidentiality. Members of different professions may be guided by different rules or protocols about confidentiality. Where attorneys and medical professionals may be able to promise confidentiality to victims, other interviewers may have to make clear that they could be forced to divulge information in a court case.

**Appendix C** contains specific questions to ask potential victims about their biographical background, the type of official documents that they possess or that

<sup>30</sup> WHO *Ethical and Safety Recommendations for Interviewing Trafficked Women*, Cathy Zimmerman and Charlotte Watts, 2003.

<sup>31</sup> *Ibid.*

have been confiscated from them, the recruitment method used by traffickers, their method of entry into US, the types of labor which they performed and the terms of this labor, the conditions of the workplace, their personal living conditions, the frequency of their movement to new residences, the existence and types of physical and psychological barriers which prevented them from leaving, the physical abuse which they endured, and the existence of debt for being brought into the US.

Whenever possible, interviews should end in a positive manner with reinforcement that what happened was not the victim's fault.

### **Step 3: Don't make promises**

Do not make promises that you cannot fulfill.

Aside from the possible criminal prosecution, victims may have a number of civil legal remedies. They may be able to obtain monetary compensation from their traffickers and may be eligible for immigration assistance and some public benefits. However, there is no guarantee that the person with whom you are speaking will qualify for these remedies. Without a thorough assessment, do not promise the person you are interviewing that she or he will qualify for any specific type of assistance.

### **Step 4: Seek victim's permission**

Whenever possible, seek the victim's permission before reporting or attempting to assist.

Victims of trafficking should understand that for a criminal case to proceed against the traffickers, they will be required to report their case to law enforcement. They will also be required to report their case and cooperate with law enforcement in order to receive many of the immigration benefits available to victims of trafficking. However, it is always the individual's choice as to whether she or he wishes to discuss her or his case with law enforcement. Furthermore, victims *may* be eligible to receive emergency medical assistance even if they are not willing to report their case to law enforcement.

### **Step 5: Assess victim's needs**

Assess victim's needs regarding housing, health, employment, public benefits, and legal services and contact the appropriate agencies for assistance. Agencies should work as a team to determine the next steps to take.

*If the person is immediate danger, call 911.* If the person is not in immediate danger, contact all of the following agencies and be prepared to provide information in the victim's native language about appropriate health, legal, shelter, social support, and security services. **Appendix A** contains possible resources for victims of trafficking.

#### Trafficking in Persons and Worker Exploitation Task Force Complaint Line

You can report trafficking crimes or get help by calling the Trafficking in Persons and Worker Exploitation Task Force Complaint Line at 1-888-428-7581 (voice and TTY). This telephone line is operated by the United States Department of Justice. Operators have access to interpreters and can talk with callers in their own language. The service is offered on weekdays from 9 AM to 5 PM EST. After these hours, information is available on tape in English, Spanish, Russian, and Mandarin.

#### United States Department of Health and Human Services—Rescue and Restore Campaign Information and Referral Hotline:

DHHS has initiated the Rescue & Restore Victims of Human Trafficking campaign and the Trafficking Information and Referral Hotline, 1-888-3737-888, which connects victims of trafficking to non-government organizations (NGOs) who can help victims in their local area. The hotline helps intermediaries determine whether they have encountered a victim of human trafficking, helps connect victims to resources, and coordinates with local social service organizations to protect and serve victims of trafficking.

#### Legal Advocate (See Appendix A)

It is important that the victim of trafficking be given access to an attorney as soon as possible to ensure that she/he has legal representation and protection

throughout the certification process, immigration relief process, and criminal court process. There are several organizations which offer FREE legal assistance to victims of trafficking.

FBI or US Attorney's Office **(See Appendix A)**

The United States Department of Justice's Civil Rights Division (Criminal Division) has the primary enforcement responsibility for trafficking crimes. It works closely with the FBI, US Attorneys Offices, and the Criminal Division's Child Exploitation and Obscenity Section to investigate and prosecute cases of trafficking in persons and worker exploitation.

Social Services Provider/Case Manager **(See Appendix A)**

A social service provider can help with crisis intervention, physical and mental health issues, housing issues, and management of the victim's case. Some organizations can only assist with case management after the person has been certified as a victim of trafficking by a federal agency. Since certification can take a long time and is not guaranteed, multiple social service providers may need to be contacted to meet a victim's immediate needs.



## CHAPTER 4:

# LEGAL REMEDIES

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## What are a Victim's Possible Legal Remedies?

### Immigration Remedies

Victims of trafficking are eligible for several types of immigration relief. Recent changes in the law reflect the notion that persons who have been subjected to forced labor in the U.S. should be assisted, rather than deported, after their situation is uncovered. Below, the five basic forms of immigration relief for trafficking victims are outlined in a chart form. See **Appendix C** for a more thorough discussion of the requirements for various immigration benefits. An immigration attorney, preferably one with experience in assistance to victims of trafficking, must be consulted before attempting to help a trafficking victim receive one of these benefits.

Immigration Benefit	Requirements	How Long Does the Benefit Last?	Will It Lead to Permanent Residence and/or Citizenship?
<b>Continued Presence</b>	<ul style="list-style-type: none"> <li>Continued presence of the victim is needed in order to effectuate prosecution of the trafficker</li> <li>Law enforcement officer must request it for victim of trafficking</li> </ul>	Temporary, during investigation or prosecution of trafficker	No
<b>T-Visa</b>	<p><u>Four Elements:</u></p> <ul style="list-style-type: none"> <li>She or he is a victim of a “severe form of trafficking in persons;”</li> <li>She or he is physically present in the U.S. “on account of such trafficking;”</li> <li>She or he has complied with any “reasonable request for assistance in the investigation or prosecution” of the trafficking (unless the victim is under 18 years of age); and</li> <li>She or he would suffer “extreme hardship involving unusual and severe harm upon removal.”<sup>32</sup></li> </ul>	3 years	Yes

Continued on next page

<sup>32</sup> 8 C.F.R. § 214.11(b)(1-4).

Immigration Benefit	Requirements	How Long Does the Benefit Last?	Will It Lead to Permanent Residence and/or Citizenship?
<p><b>U-Visa</b></p>	<p><u>Four Elements:</u></p> <ul style="list-style-type: none"> <li>• The immigrant has suffered substantial physical or mental abuse as a result of having been a victim of certain criminal activity;</li> <li>• The immigrant (or in the case of an immigrant child under the age of 16, the parent, guardian or next friend of the child) possesses information concerning that criminal activity;</li> <li>• The immigrant (or in the case of an immigrant child under the age of 16, the parent, guardian or next friend of the child) has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the criminal activity; and</li> <li>• The criminal activity occurred in the United States or violated the laws of the United States.<sup>33</sup></li> </ul> <p><b>**PLEASE NOTE:</b> U-Visas are not available yet because regulations have not been promulgated by the government. Applicants can apply for “U interim relief” right now if they meet the elements above.</p>	<p>3 years; however, the regulations have not been issued yet.</p>	<p>Yes; however, regulations have not been issued yet.</p>

Continued on next page

<sup>33</sup> Immigration and Naturalization Act § 101(a)(15)(U); see also Sally Kinoshita, Immigrant legal Resource Center, “How to Obtain U Interim Relief: A Brief Manual for Advocates Assisting Immigrant Victims of Crime: at 4, (Jan. 2005), available at <http://www.ilrc.org>. (hereinafter ILRC Guide).

Immigration Benefit	Requirements	How Long Does the Benefit Last?	Will It Lead to Permanent Residence and/or Citizenship?
<b>S-Visa</b>	<p>Three elements:</p> <ul style="list-style-type: none"> <li>• Has “critical reliable information concerning a criminal organization;”</li> <li>• Who is willing to supply that information to law enforcement; and</li> <li>• Whose presence in the U.S. is “essential to the success of an authorized criminal investigation...or prosecution” of members of the criminal organization.<sup>34</sup></li> </ul>	3 years	Yes, only if the information that the person offers “substantially contributes” to a successful investigation or prosecution. <sup>35</sup>
<b>Special Immigrant Juvenile Status</b>	<p>Five elements:</p> <ul style="list-style-type: none"> <li>* Under twenty-one years of age; and</li> <li>* Unmarried; and</li> <li>* Declared a dependent upon a juvenile court located in the United States; and</li> <li>* Eligible for long-term foster care (this means that family reunification is not possible); and</li> <li>* Deemed that it is not in the child’s best interest to return to the child’s or parents’ “country of nationality or last habitual residence.”<sup>36</sup></li> </ul>	Indefinite— leads directly to Legal Permanent Resident Status	Yes

Continued on next page

## Civil Remedies

Victims of trafficking are eligible to file a civil law suit under the Trafficking Victims Protection Act (TVPA).<sup>37</sup> A civil suit is the one of the best ways in which victims can be compensated for any damages they suffered as victims of trafficking. A criminal prosecution may send the trafficker to jail, but it does not always afford compensation to the victim.<sup>38</sup> A civil law suit may be a good option if victims of trafficking paid large recruitment or smuggling fees; if they were cheated out of wages; or if they suffered other damages for which they could be compensated monetarily.

<sup>34</sup> 8.S.C. § 1101(a)(15)(S)(i).

<sup>35</sup> 8 U.S.C. § 1255(j).

<sup>36</sup> 8 C.F.R § 204.11(c).

<sup>37</sup> 18 U.S.C. § 1595.

<sup>38</sup> Kathleen Kim and Danieal Werner, Civil Litigation on Behalf of Victims of Trafficking. § 1.1 (2005), available at <http://www.lafla.org/clientservices/specialprojects/VictimsTrafficking0405.pdf> (last visited October 11, 2006).

Victims may only file a civil suit under the TVPA if they suffered one of three violations: 1) forced labor,<sup>39</sup> 2) trafficking with respect to peonage, slavery, involuntary servitude, or forced labor,<sup>40</sup> or 3) sex trafficking of children or sex trafficking of adults by force, fraud, or coercion.<sup>41</sup> There is no private right of action under the TVPA for victims who have only had their documents confiscated; only a criminal case may be brought in that instance.

Trafficking in persons often violates other laws besides the Trafficking Victims Protection Act. Victims may also be able to bring suit under other laws, such as:

- the Fair Labor Standards Act<sup>42</sup> (minimum wage, overtime, and child labor law violations),
- the Migrant and Seasonal Agricultural Worker Protection Act,<sup>43</sup>
- contract law,
- civil assault and battery laws (if physical violence was involved),
- RICO<sup>44</sup> (for criminal conspiracies),
- Title VII of the Civil Rights Act<sup>45</sup> (for discrimination based on race, color, religion, sex, or national origin).

Victims of trafficking who wish to pursue claims in civil court should find a lawyer with experience in employment law, immigration law, and, preferably, with experience in trafficking cases (**See Appendix A**). The private right of action under the TVPA was only granted by Congress in 2003, so it is a new area of law and very few cases have been brought to court. A growing community of attorneys around the country is beginning to develop expertise in civil trafficking cases, and they should be consulted before bringing a civil case.<sup>46</sup> In North Carolina, those with a possible civil trafficking case should contact Legal Aid of North Carolina's Battered Immigrant Project,<sup>47</sup> Legal Aid of North Carolina–Farmworker Unit,<sup>48</sup> or the Immigrants' Legal Assistance Project of the North Carolina Justice Center (**See Appendix A for contact information**).<sup>49</sup>

## Criminal Enforcement

A variety of federal and state criminal laws outlaw the various components of human trafficking. The Trafficking Victims Protection Act of 2000 increased some penalties for offenses, but many of the acts that make up human trafficking have long been

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<sup>39</sup> 18 U.S.C. § 1589.

<sup>40</sup> 18 U.S.C. § 1590.

<sup>41</sup> 18 U.S.C. § 1591.

<sup>42</sup> 29 U.S.C. §§ 201 et seq.

<sup>43</sup> 29 U.S.C. §§ 1801 et seq.

<sup>44</sup> 18 U.S.C. § 1962.

<sup>45</sup> 42 U.S.C. § 2000e-2.

<sup>46</sup> One good resource is the Legal Aid Foundation of Los Angeles. They have published a manual, available online, see note 17 supra. Another resource is Richelle C. Mitchell, *The private Right of Action Established Under the Trafficking Victims Protection Reauthorization Act of 2003* (2006), available through the UNC School of Law Policy Clinic.

<sup>47</sup> <http://www.legalaidnc.org/programs/DVP/BIP/default.htm>

<sup>48</sup> <http://www.legalaidnc.org/programs/fwu/>

<sup>49</sup> <http://www.ncjustice.org/cms/index.php?pid+67>

outlawed.<sup>50</sup> The main acts that traffickers can be criminally prosecuted for under federal law include: peonage;<sup>51</sup> a variety of slavery-related offenses;<sup>52</sup> forced labor;<sup>53</sup> trafficking with respect to peonage, slavery, involuntary servitude, or forced labor;<sup>54</sup> sex trafficking of children or sex trafficking by force, fraud or coercion;<sup>55</sup> and confiscation of documents in furtherance of trafficking.<sup>56</sup>

North Carolina also has its own criminal statute, enacted in 2006, criminalizing human trafficking.<sup>57</sup> Specifically, the statute outlaws “recruit[ing], entic[ing], harbor[ing], transport[ing], provid[ing], or obtain[ing] by any means another person with the intent that the other person be held in involuntary servitude or sexual servitude.”<sup>58</sup>

**(See Appendix D for a list of laws that may apply to human trafficking).**

As with all criminal cases, it must be proven “beyond a reasonable doubt” that the traffickers have committed these offenses. Prosecutors also have discretion as to whether to prosecute cases or not. For that reason, not all “good” trafficking cases will necessarily be prosecuted by law enforcement, simply for lack of sufficient evidence or witnesses, or lack of resources on the part of law enforcement. However, when criminal investigations and prosecutions are conducted, it is to the advantage of victims of trafficking to assist in any way possible, for three reasons: 1) it is required in order to get a T-Visa, U-Visa, or S-Visa, 2) because victims may receive restitution from the traffickers,<sup>59</sup> and 3) to punish the trafficker and hopefully prevent him or her from victimizing other persons.

<sup>50</sup> Jennifer M. Chacon, *Misery and Myopia: Understanding the Failures of U.S. Efforts to Stop Human Trafficking*, 74 *Fordham L. Rev.* 2977, 2992 (2006).

<sup>51</sup> 18 U.S.C. § 1581

<sup>52</sup> 18 U.S.C. § 1582 - 1588.

<sup>53</sup> 18 U.S.C. § 1589

<sup>54</sup> 18 U.S.C. § 1590

<sup>55</sup> 18 U.S.C. § 1591

<sup>56</sup> 18 U.S.C. § 1592

<sup>57</sup> N.C. Gen. Stat. 14-43.4 et. seq.

<sup>58</sup> N.C. Gen. Stat. 14-43.5(a).

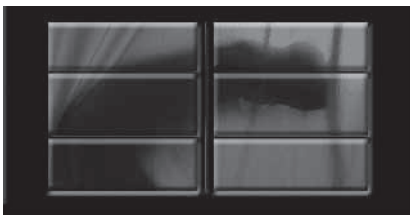
<sup>59</sup> 18 U.S.C. § 1593.

CHAPTER 5:

# PUBLIC BENEFITS

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## What Public Benefits are Available for Victims of Trafficking?

Under the Trafficking Victims Protection Act (TVPA), trafficking victims and their families are entitled to receive the same public benefits as refugees. Victims may apply for benefits once they have either an approved T-Visa application or a T-Visa application that has been determined to be bona fide. A determination that an application is bona fide must come from United States Citizenship and Immigration Services (USCIS). “Bona fide” status requires, among other things, that the applicant’s criminal background check has been completed.<sup>60</sup> In T-Visa cases, a final decision may be made about the case before any notice is sent to the applicant that the background check is complete. Therefore, as a practical matter, most applicants eligible for public benefits will apply for them based on an approved T-Visa.

Once a trafficking victim has an approved T-Visa application or an application determined to be bona fide, they should, preferably with the help of a case manager or attorney, contact the Office of Refugee Resettlement (ORR) and request certification as a trafficking victim. ORR will verify application status and may ask for a description of the trafficking and for information about the applicant’s immediate needs. ORR will then send a certification letter that the applicant may use to apply for public benefits. The ORR Trafficking Information and Referral Hotline phone number is 1-888-3737-888. To begin the certification process, call that number and ask for the current trafficking specialist.

Among other things, cash benefits include:

- Temporary Assistance for Needy Families (TANF)—for low-income families with dependent children;<sup>61</sup>
- Supplementary Security Income (SSI)—for the elderly and people with disabilities;<sup>62</sup> and
- Refugee Cash Assistance (RCA)—for people who do not qualify for TANF or SSI, meaning, people who are not disabled and do not have dependent children or children who reside in the U.S.<sup>63</sup>

<sup>60</sup> 8 C.F.R. 214.11(k)

<sup>61</sup> National Immigration Law Center, *Guide to Immigration Eligibility for Federal Programs* (4th ed. 2002), at 101, available at <http://www.nlc.org>; (hereinafter *NILC Guide*).

<sup>62</sup> Limited Eligibility of Qualified Aliens for Federal Programs, 8 U.W.C. § 1612 (2006).

<sup>63</sup> Refugee Cash Assistance, 45 U.S.C. § 400.51 (2004).



Medical benefits include:

- Medicaid—for certain low-income persons, such as pregnant women, minors, and persons who are elderly or disabled;<sup>64</sup>
- State Children’s Health Insurance Program (SCHIP)—for children in low-income working families who do not qualify for Medicaid<sup>65</sup> (in North Carolina, SCHIP is known as Health Choice); and
- Refugee Medical Assistance (RMA)—for people who do not qualify for Medicaid or SCHIP/Health Choice.<sup>66</sup>

Trafficking victims may also be eligible for:

- Refugee Social Services (RSS)—trafficking victims who receive RCA assistance must register for employment services, which include skills assessment, job training, English classes, child care, and case management services;<sup>67</sup>
- Unaccompanied Refugee Minors Program (URM)—for children under 18 years of age who are trafficking victims; they are eligible for foster care and resettlement services;<sup>68</sup>
- Food Stamps—available to trafficking victims and their families regardless of their age, health, or other household characteristics;<sup>69</sup>
- Women, Infants and Children (WIC)—low-income trafficking victims who are pregnant, new mothers, or children who are at nutritional risk may receive WIC;<sup>70</sup>
- Housing—public housing and rental assistance may be available to victims of trafficking and their families;<sup>71</sup> and
- Legal Services—trafficking victims are eligible to receive free civil legal assistance from Legal Services Corporation-funded agencies.<sup>72</sup>

In addition to these federal programs, trafficking victims may be eligible for some state-funded benefits. They also may receive the following even without certification from the ORR:<sup>73</sup>

- Emergency Medicaid;
- Public health programs providing immunizations, treatment for communicable diseases, or mental health services necessary to protect life or safety; and
- School breakfast and lunch programs for children.

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<sup>64</sup> NILC Guide, supra n. 1 at 121.

<sup>65</sup> Id. at 120.

<sup>66</sup> 45 U.S.C. § 400.100(a)(1).

<sup>67</sup> 45 U.S.C. §§ 400.71, 400.71, 400.75 and 400.155.

<sup>68</sup> Office of Refugee Resettlement, DHHS, The Unaccompanied Minors Program, available at <http://www2.acf.dhhs.gov/programs/orr/urm.htm>.

<sup>69</sup> U.S. Department of Agriculture, Food and Nutrition Service, Non-citizen Requirements in the Food Stamp Program 33, (Jan. 2003), available at [http://www.fns.usda.gov/fsp/rules/Legislation/pdfs/Non\\_Citizen\\_Guidance.pdf](http://www.fns.usda.gov/fsp/rules/Legislation/pdfs/Non_Citizen_Guidance.pdf).

<sup>70</sup> 7 C.F.R. 246.7(c) (2004).

<sup>71</sup> 24 C.F.R. § 5.520.

<sup>72</sup> 22 U.S.C.S. § 7105(b)(1)(B).

<sup>73</sup> See National Immigration Law Center, INS Guidance on Public Charge (2005)



## APPENDIX A:<sup>74</sup>

### RESOURCES FOR VICTIMS OF TRAFFICKING

**If the victim is in immediate danger, call 911.**

**United States Department of Justice: Trafficking in Persons and Worker Exploitation Task Force Toll Free Complaint Line: 1-888-428-7581**

You can report trafficking crimes or get help by calling the Trafficking in Persons and Worker Exploitation Task Force (TPWETF) Complaint Line at 1-888-428-7581 (voice and TTY). This line is funded and operated by the United States Department of Justice. Operators have access to interpreters and can talk with callers in their own language. The service is offered on weekdays from 9 AM to 5 PM EST. After these hours, information is available on tape in English, Spanish, Russian, and Mandarin.

**United States Department of Health and Human Services—Rescue and Restore Campaign Information and Referral Hotline: 1-888-3737-888**

Under the Trafficking Victims Protection Act of 2000 (TVPA), the U.S. Department of Health and Human Services (DHHS) was designated as the agency responsible for helping victims of human trafficking become eligible to receive benefits and services so they may rebuild their lives safely in the U.S. As part of this effort, DHHS has initiated the Rescue and Restore Victims of Human Trafficking campaign and the Trafficking Information and Referral Hotline, 1-888-3737-888, which connects victims of trafficking to non-government organizations (NGOs) who can help victims in their local area. The hotline helps intermediaries determine whether they have encountered a victim of human trafficking, helps connect victims to resources, and coordinates with local social service organizations to protect and serve victims of trafficking.

### **Interpreters**

It is important to speak with a victim in her/his own language. Contact information for interpreters may be obtained from the following sources:

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<sup>74</sup> Information in this manual is accurate as of April 2007.

*North Carolina Court System, Administrative Office of the Courts*

The North Carolina Courts maintain an online Directory of Certified Court Interpreters of Spanish and Non-Certified Interpreters of Other Languages which contains the names of certified Spanish court interpreters and non-certified interpreters of other languages working in North Carolina. This directory can be accessed via the internet. For a list of state certified interpreters in Spanish, go to:

<http://www.nccourts.org/Citizens/CPrograms/Foreign/Documents/directory.pdf>

**For a list of non-certified interpreters of languages other than Spanish, go to:**

<http://www.nccourts.org/Citizens/CPrograms/Foreign/Documents/otherdirectory.pdf>

*International House*

322 Hawthorne Lane

Charlotte, NC 28204

(704) 333-8099

[www.ihclt.org](http://www.ihclt.org)

The International House website lists available interpreters in many languages. Although most of these interpreters are located in Mecklenburg County, they often can interpret for agencies over the phone. The list of interpreters can be found at:

<http://www.ihclt.org/it.php>

*LanguageLine*

1-877-886-3885

LanguageLine allows consumers to set up an account for “pay as you go” interpretation services. They employ highly skilled interpreters who can be connected to you within minutes. LanguageLine has access to interpreters who interpret over the phone 24 hours a day.

## **Legal Assistance**

It is important that the victim of trafficking be given access to an attorney to ensure that she/he has legal representation and protection throughout the certification

process, immigration relief process, and criminal court process. The following agencies provide free legal assistance to victims of trafficking:

*Legal Aid of North Carolina, Battered Immigrant Project*  
(assists victims of sex trafficking throughout the state)  
Rona Karacaova, BIP Coordinator, (704) 971-2589  
Jennifer Stuart, BIP Attorney, (919) 856-3196

*Legal Aid of North Carolina, Farmworker Unit*  
(assists victims of labor trafficking throughout the state)  
224 S. Dawson St.  
Raleigh, NC 27601  
Mary Lee Hall, FWU Director, (919) 856-2180  
Lori Elmer, FWU Attorney (919) 856-2180  
FWU Client Line: 1-800-777-5869

*North Carolina Justice Center, Immigrants Legal Assistance Project*  
(assists victims throughout the state)  
224 S. Dawson St.  
Raleigh, NC 27601  
Attracta Kelly, ILAP Director, (919) 856-2185  
Kaci Bishop, ILAP attorney, (919) 856-3195

*Legal Services of Southern Piedmont, Immigrant Justice Project*  
(assists victims in Mecklenburg, Cabarrus, and Union counties)  
1431 Elizabeth Avenue  
Charlotte, NC 28204  
Hannah Little, IJP Director, (704) 971-2610  
IOP Spanish Intake Line: 1-800-247-1931

North Carolina Justice Center, Eastern Carolina immigrants' Rights Project  
224 S. Dawson St.  
Raleigh, NC 27611  
Kate Woomer-Deters, Attorney (919)-861-2072

## Investigation of a Trafficking Situation and/or Prosecution of Traffickers

### United States Department of Justice

The United States Department of Justice's Civil Rights Division (Criminal Division) has the primary enforcement responsibility for involuntary servitude and peonage statutes. It works closely with the FBI, U.S. Attorneys Offices, and the Criminal Division's Child Exploitation and Obscenity Section to investigate and prosecute cases of trafficking in persons and worker exploitation. The Civil Rights Division also funds and staffs the national complaint line for reporting trafficking crimes.

<b>NORTH CAROLINA</b>	<b>PHONE</b>	<b>FAX</b>
<b>Eastern District</b>		
George E. B. Holding 310 New Bern Avenue, Suite 800 Terry Sanford Federal Building & U.S. Courthouse Raleigh, NC 27601-1461	(919) 856-4530	(919) 856-4487
<b>Middle District</b>		
Anna Mills S. Wagoner P.O. Box 1858 Greensboro, NC 27402	(336) 333-5351	(336) 333-5438
Federal Building, Suite 726 Winston-Salem, NC 27101	(336) 631-5268	(336) 631-5308
<b>Western District</b>		
Gretchen C. F. Shappert 227 West Trade Street, Suite 1650 Charlotte, NC 28202	(704) 344-6222	(704) 344-6629
Room 233, U.S. Courthouse 100 Otis Street Asheville, NC 28801	(828) 271-4661	(828) 271-4670

Federal Bureau of Investigation

*FBI Charlotte Office*

(Headquarter office for North Carolina— can connect people to local FBI offices)

400 South Tryon Street

Suite 900 Charlotte, NC 28285

Contact person: SA John Price

24-hour number: (704) 377-9200

**Case Management and Assistance with Basic Needs**

*Lutheran Family Services Carolinas*

112 Cox Ave.

Raleigh, NC 27605

Phone: (919) 861-2806

Fax: (919) 832-9876

Contact person: Allison Glendinning, Immigration Counselor

LFS Carolinas provides case management services and financial assistance to pre-certified and certified victims of trafficking in North and South Carolina. LFS is able to provide financial assistance for basic client needs such as housing, food, medical care, and mental health services. LFS case managers are culturally sensitive and speak a variety of languages. The project is funded by a subcontract with the United States Conference of Catholic Bishops (USCCB).

*North Carolina Refugee Program, Division of Social Services*

Contact person: Lynne Little (919) 733-4458 x270, Marlene Myers (919) 733-4650

North Carolina Refugee Program receives funding from the Office of Refugee Resettlement (ORR) and contracts with non-profits within the state to provide services to ORR certified victims of human trafficking. The Office of Refugee Programs may be able to refer you to a local agency that assists certified victims in your area.

*Salvation Army National Trafficking Consultant (703) 399-6644*

*World Relief Refugee Services of North Carolina*  
2029 North Centennial Street  
High Point, NC 27262  
Phone: (336) 887-9007/Fax: (336) 887-5245  
Contact person: Mark Kadel

World Relief has some funding to assist victims of trafficking with basic needs such as shelter and food.

### **Crisis Intervention**

*North Carolina Coalition Against Sexual Assault*  
183 Wind Chime Court, Suite 100  
Raleigh, NC 27615  
Contact person: Lynne Walter, Prevention Education Coordinator  
(919) 870-8881  
1-888-737-CASA

The North Carolina Coalition Against Sexual Assault (NCCASA) is the statewide coalition working to end sexual violence through education, advocacy, and legislation. NCCASA can also refer victims of trafficking to local rape crisis centers across North Carolina. The services local rape crisis centers offer include, but are not limited to, individual and group counseling, court accompaniment, education and awareness work, hospital accompaniment for forensic medical exams (i.e. rape kits), 24-hour hot lines, and 24-hour response to instances of sexual violence through Sexual Assault Response Teams (SART). Some local rape crisis centers may also be able to assist with immediate needs, such as temporary housing.

*North Carolina Victim Assistance Network*  
PO Box 28557  
Raleigh, NC 27611-8557  
Contact person: Garrietta Proutey  
(919) 831-2857  
1-800-348-5068



The North Carolina Victim Assistance Network (NCVAN) promotes the rights and needs of crime victims by educating North Carolina's citizens and public policy leaders about the devastating impact that crime has on society. Serving their members as a statewide network, they provide information and referrals on over 1,500 victim service and criminal justice agencies, victim assistance programs, and advocacy groups.

*North Carolina Coalition Against Domestic Violence*

123 W. Main Street, Suite 700

Durham, NC 27701

Contact person: Ivonne Ortiz

(919) 956-9124

1-888-232-9124

The North Carolina Coalition Against Domestic Violence (NCCADV) works to create social change through the elimination of the institutional, cultural, and individual oppressions that contribute to domestic violence. NCCADV can refer victims of trafficking to domestic violence programs across North Carolina, and the services these programs offer include emergency shelter, counseling, legal advocacy, food and clothing assistance, and assistance locating housing.



## **APPENDIX B:**

### POTENTIAL QUESTIONS TO IDENTIFY A VICTIM OF TRAFFICKING

Please note that these are sample questions. Not every question may be applicable to the case you encounter.

#### **Traveling to the United States/to the job destination**

How did you hear about this job?

What kind of job did you think you would be doing? What kind of work were you told you would be doing?

Were you told you would have to pay money up front if you wanted the job?

Could you keep your passport and travel documents with you when you traveled?

During your trip here, could you stop to use the bathroom when you needed/wanted to?

How were you treated during the trip?

Was the vehicle you traveled in overcrowded?

Was your money taken away from you?

#### **Workplace**

Were you allowed to take breaks from work when you needed/wanted to?

Did you have any days off from work? How many?

Did your employers take part of your paycheck? Why did they tell you they were

taking part of your paycheck?

How did your boss treat everyone?

### **Living Conditions**

Did you have your own room to sleep in?

Did you have a bed to sleep on?

Did you have to sleep on the floor?

Could you leave when you needed/wanted to?

Did you have to pay for where you were living? How much per day, week, month?

Could you go shopping by yourself? Or did you have a chaperone?

Did you have to ask to get food?

Were the doors and windows always locked?

Did someone guard the house? Did this person have weapons?

Were there bars on the windows?

Was there heating and air conditioning?

Were there showers or bathtubs?

Were you allowed to drive? Or did someone else always drive?

Could you call anyone you wanted to call?

Could you send and receive mail?

## **Threats**

Did your employer ever threaten you? What kind of threats did your employer use?

Did your employer ever say anything to discourage people from leaving? What did your employer say?

## **Were people afraid to leave? Why?**

Did your employer say bad things about Americans? What did your employer say?

Did your employer say bad things about the police? What did your employer say?

Did your employer say immigration would deport you if you tried to leave?

Did your employer tell you bad things would happen to your family if you tried to leave?

## **Abuse**

Was anyone ever hit, beat up, or abused?

Was anyone ever hit, beat up, or abused for working slowly? Was anyone ever threatened that they would be hit, beat up, or abused if they worked slowly?

Was anyone ever hit, beat up, or abused for trying to escape? Was anyone ever threatened that they would be hit, beat up, or abused if they tried to escape?

Was anyone ever killed for trying to escape?

Was anyone ever raped or sexually assaulted for working too slowly? Was anyone ever raped or sexually assaulted for trying to escape?

## **Control of Documents**

Once you arrived in the United States, were you given your identity documents?

Who keeps your travel, identity, and other important documents?

## APPENDIX C:

### IMMIGRATION REMEDIES FOR VICTIMS OF HUMAN TRAFFICKING

#### 1. Continued Presence

One immigration benefit for victims of trafficking is “continued presence.” Legal advocates or victims themselves cannot request the benefit; continued presence can only be granted to the victim at the request of a law enforcement officer.<sup>75</sup> Continued presence is not actually a separate immigration status; the law enforcement officer asks Citizenship and Immigration Services to look at the person’s current immigration status and find a way to extend it or in some way prevent the victim of trafficking from being deported.<sup>76</sup> Continued presence can only be granted if the victim is a potential witness in an investigation or prosecution of the traffickers and cooperates with law enforcement officials in that investigation or prosecution.<sup>77</sup>

Continued presence is a temporary immigration benefit, and does not lead to permanent residency or citizenship in the U.S. Most victims of trafficking who obtain continued presence will be eligible for a temporary work permit, depending on the status that Citizenship and Immigration Services grants them.<sup>78</sup> All of them, since they are designated as victims of trafficking, may be eligible for federal benefits **(See Chapter 5, Public Benefits)**.

Finally, the law enforcement agency that assists the victim in obtaining continued presence is charged with protecting the victim from any possible retaliation or threats from the traffickers.<sup>79</sup>

#### 2. T-Visa

A second way for victims of trafficking to gain immigration benefits is by applying for a “T-Visa.” Victims of trafficking or their legal advocates may apply for T-Visas on their own; no law enforcement endorsement is necessary to obtain a T-Visa. However, law enforcement endorsement may greatly strengthen a case by helping to prove certain elements.<sup>80</sup>

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<sup>75</sup> 22 U.S.C. § 7105(c)(3).

<sup>76</sup> 28 C.F.R. § 1100.35(b) and (c).

<sup>77</sup> 22 U.S.C. § 7105(c)(3).

<sup>78</sup> 28 C.F.R. § 1100.35(c).

<sup>79</sup> 28 C.F.R. § 1100.35(d).

<sup>80</sup> 8 C.F.R. § 214.11(f)(1).

A victim of trafficking must prove the following to obtain a T-Visa:

- She or he is a victim of a “severe form of trafficking in persons;”
- She or he is physically present in the U.S. “on account of such trafficking;”
- She or he has complied with any “reasonable request for assistance in the investigation or prosecution” of the trafficking (unless the victim is under 18 years of age); and
- She or he would suffer “extreme hardship involving unusual and severe harm upon removal.”<sup>81</sup>

It is important that the victim provide evidence to prove all of these elements; without them, a T-Visa will not be granted. The victim must submit a statement outlining her or his story for immigration officials,<sup>82</sup> as well as any other evidence of their status as a victim of trafficking that they can provide. Victims should be encouraged to save travel documents, receipts, plane tickets, pay stubs, contracts, correspondence, and any other documents that will help them establish their story. While documentary evidence is not required, it is certainly helpful to a victim’s case. Social service providers or other advocates who encounter victims of trafficking should always help them find an experienced immigration lawyer to assist them in their application for their T-Visa.

It is required that victims establish that they have cooperated with law enforcement officials by complying with any “reasonable request” for assistance.<sup>83</sup> An official certification signed by a law enforcement officer is desirable, but is not required.<sup>84</sup> Victims may present other evidence that they have cooperated with law enforcement—copies of letters, faxes, or emails showing that the case was reported to law enforcement, or signed affidavits from social service providers or attorneys who helped the victims to report the case are also acceptable.

Finally, the victim must establish that she/he would suffer “extreme hardship involving unusual and severe harm”<sup>85</sup> if she/he had to return to her/his home country. The immigration service considers a number of factors as to whether the victim would suffer such hardship, including age and personal circumstances of the applicant, whether returning to the home country would make it difficult for the victim to access the U.S. courts, whether a victim is likely to be “re-victimized” if they return to their home country and whether the home government is able or willing to prevent that, the possibility of harm at the hands of the trafficker, among others.<sup>86</sup>

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<sup>81</sup> 8 C.F.R. § 214.11(b)(1-4).

<sup>82</sup> 8 C.F.R. § 214.11(f)(3).

<sup>83</sup> 8 C.F.R. § 214.11(b)(3).

<sup>84</sup> 8 C.F.R. § 214.11(f)(2) and (3).

<sup>85</sup> 8 U.S.C. 1101(a)(15)(T)(iv).

<sup>86</sup> 8 C.F.R. § 214.11(i)(1)(i-viii) The other factors the immigration service may consider are : “Serious physical or mental illness of the applicant” for which she or he cannot get care in her/his home country that would penalize the person consequences of being a victim of trafficking; social practices or laws in the home country that would penalize the person for having been a victim of trafficking; threats to personal safety in the home country such as civil unrest or armed conflict.



The T-Visa allows victims of trafficking to stay for three years, and to apply for permanent residency after three years.<sup>87</sup> After gaining permanent residency, they will eventually be able to apply for citizenship. Those who obtain T-Visas are eligible for a work permit<sup>88</sup> and may be eligible for federal benefits (**See Chapter 5, Public Benefits**). Finally, those who receive T-Visas are allowed to bring their spouses, children, and parents over to the U.S. as well.<sup>89</sup> Family members who are old enough to work may receive work permits.<sup>90</sup>

### 3. U-Visa

In addition to the T-Visa, the U-Visa is a form of relief available to victims of trafficking. The U-Visa is available to immigrants/non-citizens that have been the victims of certain serious crimes and as a result, have suffered substantial physical or mental abuse. To be eligible for U Interim Relief, the immigrant must show that:

- i. the immigrant has suffered substantial physical or mental abuse as a result of having been a victim of certain criminal activity;
- ii. the immigrant (or in the case of an immigrant child under the age of 16, the parent, guardian or next friend of the child) possesses information concerning that criminal activity;
- iii. the immigrant (or in the case of an immigrant child under the age of 16, the parent, guardian or next friend of the child) has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the criminal activity; and
- iv. the criminal activity occurred in the United States or violated the laws of the United States.<sup>91</sup>

Similar to applying for the T-Visa, an applicant for a U-Visa must provide a certification from a government official that the applicant/victim is currently being helpful, has been helpful, or is likely to be helpful with the investigation or the prosecution of the crime. The certification must be completed by the head (or someone designated by the head) of the certifying agency, which is defined as a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that is responsible for investigating and prosecuting the qualifying criminal activity. The certification must have been signed by the government official within the six months preceding when the applicant applies for the U-Visa.<sup>92</sup>

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<sup>87</sup> 8 C.F.R. § 214.11(p).

<sup>88</sup> 8 C.F.R. § 214.11(k)(4).

<sup>89</sup> 8 C.F.R. § 214.11(o)(1). T-visa applicants may only petition for their parents if the t-visa applicant is under 21 years old.

<sup>90</sup> 8 C.F.R. § 214.11(o)(10).

<sup>91</sup> Immigration and Naturalization Act § 101(a)(15)(U); 8 C.F.R. 214.14.

<sup>92</sup> 8 C.F.R. 214.14(a)(2); 8 C.F.R. 214.14(a)(3); and 8 C.F.R. 214.14(c)(2)(i).

The U-Visa may also be granted to certain family members of the immigrant victim (principal applicant), and all those who are granted a U-Visa are entitled to work authorization. Generally, the U-Visa may be granted for a period not to exceed four years, but there are limited circumstances under which an immigrant could get this status extended. An immigrant with the U-Visa may apply to adjust his/her status to that of a lawful permanent resident (i.e., get a “Green Card”) after he/she has had the U-Visa for three years.<sup>93</sup>

#### 4. S-Visa

Another possible avenue of immigration relief for victims of trafficking is the “S-Visa.” The S-Visa is available to anyone who:

- has “critical reliable information concerning a criminal organization;”
- who is willing to supply that information to law enforcement; and
- whose presence in the U.S. is “essential to the success of an authorized criminal investigation...or prosecution” of members of the criminal organization.<sup>94</sup>

Clearly, this visa is available to a wide spectrum of people who can provide information on criminal investigations, not just victims of trafficking. However, it may be an option for a victim of trafficking who for some reason cannot meet all the required elements for a T-Visa.

Like “continued presence,” a law enforcement officer must petition for the person to receive an S-Visa; the criminal informant may not apply for one on their own.<sup>95</sup> Also, like the T-Visa, holders of S-Visas are allowed to remain for 3 years, and may bring their spouses, children and parents over to the U.S. as well.<sup>96</sup> However, holders of the S-Visa are limited in several ways that those with T-Visas are not. While they are in the U.S., persons with S-Visas are required to notify law enforcement of all their changes of address and telephone number, and check in every three months about their “whereabouts and activities.”<sup>97</sup> Also, while those with S-Visas are allowed to adjust to “permanent resident” status, they may only do so if the information they offer has “substantially contributed” to the success of the criminal investigation or prosecution.<sup>98</sup>

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<sup>93</sup> Id. at 7.

<sup>94</sup> 8 C.F.R. § 1101(a)(15)(S)(i).

<sup>95</sup> 8 C.F.R. § 214.2(t)(4).

<sup>96</sup> 8 C.F.R. § 214.2(t)(3) and (5).

<sup>97</sup> 8 C.F.R. § 214.2(t)(7).

<sup>98</sup> 8 U.S.C. § 1255(j).

## 5. Special Immigrant Juvenile Status

Special Immigrant Juvenile Status is available to children who are dependents of a juvenile court in the United States and are eligible for long-term foster care. Obtaining Special Immigrant Juvenile Status allows the child to become a lawful permanent resident of the United States and enjoy the benefits from that status. The benefits include eligibility to naturalize after five years.<sup>99</sup> However, they are barred from conferring “an immigration benefit to their natural or prior adoptive parents.”<sup>100</sup>

In order to qualify, the child must be:

- Under twenty-one years of age; and
- Unmarried; and
- Declared a dependent upon a juvenile court located in the United States; and
- Eligible for long-term foster care (this means that family reunification is not possible); and
- Deemed that it is not in the child’s best interest to return to the child’s or parent’s “country of nationality or last habitual residence.”<sup>101</sup>

The child or any person acting on the child’s behalf may complete a Form I-360 for Special Immigrant Juvenile Status. The person who is filing the petition does not have to be a citizen or lawful permanent resident of the United States. Once the application is completed, it must be filed at the district office of the Immigration and Naturalization Service that has jurisdiction over the child’s residence in the United States.

<sup>99</sup> William R. Yates, Memorandum #3 - Field Guidance on Special Immigrant Juvenile Status Petitions (last visited May 27, 2004), [http://www.uscis.gov/graphics/lawsregs/handbook/SIJ\\_Memo\\_052704.pdf](http://www.uscis.gov/graphics/lawsregs/handbook/SIJ_Memo_052704.pdf)

<sup>100</sup> William R. Yates, Memorandum #3 - Field Guidance on Special Immigrant Juvenile Status Petitions (last visited May 27, 2004), [http://www.uscis.gov/graphics/lawsregs/handbook/SIJ\\_Memo\\_052704.pdf](http://www.uscis.gov/graphics/lawsregs/handbook/SIJ_Memo_052704.pdf)

<sup>101</sup> 8 C.F.R. § 204.11(c)



## **APPENDIX D:**

### **EXISTING STATE AND FEDERAL LAWS THAT MAY BE USED TO PUNISH TRAFFICKERS AND PROTECT VICTIMS OF TRAFFICKING<sup>102</sup>**

#### **North Carolina Laws**

N.C. Constitution, Art. I, § 17: Constitutional Prohibition on Slavery

#### **Criminal Laws:**

N.C. Gen. Stat. § 14-39: Kidnapping.

N.C. Gen. Stat. § 14-40: Enticing Minors out of the State for the Purposes  
of Employment

N.C. Gen. Stat. § 14-41: Abduction of children

N.C. Gen. Stat. § 14-43.2: Involuntary Servitude

N.C. Gen. Stat. § 14-43.3: Felonious Restraint

N.C. Gen. Stat. § 14-43.4: Human Trafficking

N.C. Gen. Stat. § 14-100: Obtaining Property by False Pretenses (for confiscation  
of documents)

N.C. Gen. Stat. § 14-190.16: First Degree Sexual Exploitation of a Minor

N.C. Gen. Stat. § 14-190.17: Second Degree Sexual Exploitation of a Minor

N.C. Gen. Stat. § 14-190.17A: Third Degree Sexual Exploitation of a Minor

N.C. Gen. Stat. § 14-190.18: Promoting Prostitution of a Minor

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<sup>102</sup> This list is not exhaustive—it just covers major laws that may affect victims of trafficking. It does not include laws related to crimes of violence that may be committed against victims. It also does not include immigration Laws which may benefit victims of trafficking (see citations in Chapter 4, Legal Remedies).

N.C. Gen. Stat. § 14-190.19: Participating in Prostitution of a Minor

N.C. Gen. Stat. § 14-202.1: Taking Indecent Liberties with Children

N.C. Gen. Stat. § 14-202.3: Solicitation of a Child by Computer to Commit an Unlawful Sex Act

N.C. Gen. Stat. § 14-204: Prostitution and Various Acts Abetting Prostitution

### **Civil Laws**

N.C. Gen. Stat. § 95-25.3: Minimum Wage

N.C. Gen. Stat. § 95-25.6: Payment of Wages

N.C. Gen. Stat. § 95-25.8: Withholding of Wages

### **Federal Laws**

U.S. Const. amend. 13: Constitutional Prohibition on Slavery

### **Criminal Laws**

18 U.S.C. § 1201: Kidnapping

18 U.S.C. § 1546: Fraud and misuse of visas, permits, and other documents

18 U.S.C. § 1581: Peonage

18 U.S.C. § 1582: Vessels for Slave Trade

18 U.S.C. § 1583: Enticement into Slavery

18 U.S.C. § 1584: Sale into Involuntary Servitude

18 U.S.C. § 1585: Seizure, Detention, Transportation or Sale of Slaves

18 U.S.C. § 1586: Service on Vessels in Slave Trade

18 U.S.C. § 1587: Possession of Slaves aboard Vessel

18 U.S.C. § 1588: Transportation of Slaves from United States

18 U.S.C. § 1589: Forced Labor

18 U.S.C. § 1590: Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor

18 U.S.C. § 1591: Sex Trafficking of Children, or by Force, Fraud or Coercion

18 U.S.C. § 1592: Unlawful Conduct with Respect to Documents in Furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor

18 U.S.C. § 1962: Racketeer Influenced and Corrupt Organizations

18 U.S.C. § 2251. Sexual Exploitation of Children

18 U.S.C. § 2251A. Selling or Buying of Children

18 U.S.C. §§ 2421 et. seq.: Transportation for Illegal Sexual Activity and Related Crimes

### **Civil Laws**

18 U.S.C. §1595: Trafficking Victims Protection Act (private right of action)

18 U.S.C. § 1964: Racketeer Influenced and Corrupt Organizations (civil remedy)

22 U.S.C. §§7101 et. seq. Trafficking Victims Protection Act

29 U.S.C. §§651 et. seq. Occupational Safety and Health Act

29 U.S.C. §§ 201 et seq. Fair Labor Standards Act

29 U.S.C. §§ 1801 et seq. Migrant and Seasonal Agricultural Worker Protection Act

42 U.S.C. § 2000e2: Title VII of the Civil Rights Act (prohibiting employment discrimination)



## APPENDIX E:

### OVERVIEW OF IMMIGRANTS ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS PROGRAMS

EXCERPT FROM *Guide to Immigrant Eligibility for Federal Programs*  
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To order copies: NILC Publication (213) 639-3900, x 3, or visit www.nilc.org.

IMMIGRANT ELIGIBILITY FOR FEDERAL PROGRAMS

TABLE 1

#### Overview of Immigrant Eligibility for Federal Programs

*This table provides an overview of immigrant eligibility for the major federal public assistance programs. Some states assistance to immigrants who are not eligible for federally funded services. (TABLE UPDATED MAR\_05)*

PROGRAM	“QUALIFIED” IMMIGRANTS WHO ENTERED THE U.S. BEFORE AUG. 22, 1996	“QUALIFIED” IMMIGRANTS WHO ENTERED THE U.S. ON OR AFTER AUG. 22, 1996	“NOT QUALIFIED” IMMIGRANTS
<b>Supplemental Security Income (SSI)</b>	<b>Eligible only if:</b> <ul style="list-style-type: none"> <li>• Receiving SSI (or application pending) on Aug. 22, 1996</li> <li>• Qualify as disabled and were lawfully residing in the U.S. on Aug. 22, 1996<sup>1</sup></li> <li>• Lawful permanent resident with credit for 40 quarters of work<sup>1,2</sup></li> <li>• Were granted refugee or asylum status or withholding of deportation/removal, Cuban/Haitian entrant, or Amerasian Immigrant, but only <i>during first 7 years after getting status</i></li> <li>• Veteran, active duty military, spouse, unremarried surviving spouse, or child<sup>1</sup></li> <li>• Certain American Indians born abroad</li> </ul>	<b>Eligible only if:</b> <ul style="list-style-type: none"> <li>• Lawful permanent resident with credit for 40 quarters of work<sup>2</sup> (but must wait until 5 years after entry before applying)</li> <li>• Were granted refugee or asylum status or withholding of deportation/removal, Cuban/Haitian entrant, or Amerasian immigrant, but only <i>during first 7 years after getting status</i></li> <li>• Veteran, active duty military, spouse, unremarried surviving spouse, or child<sup>1</sup></li> <li>• Certain American Indians born abroad</li> </ul>	<b>Eligible only if:</b> <ul style="list-style-type: none"> <li>• Receiving SSI (or application pending) on Aug. 22, 1996</li> <li>• Certain American Indians born abroad</li> <li>• Victims of trafficking and their derivative beneficiaries during the first seven years after getting status</li> </ul>

(rev. 03/05)

table continued next page ⇨

National Immigration Law Center

TABLE 1 (continued page 2 of 5)

PROGRAM	“QUALIFIED” IMMIGRANTS WHO ENTERED THE U.S. BEFORE AUG. 22, 1996	“QUALIFIED” IMMIGRANTS WHO ENTERED THE U.S. ON OR AFTER AUG. 22, 1996	“NOT QUALIFIED” IMMIGRANTS
Food Stamps <sup>3</sup>	<p><b>Eligible only if:</b></p> <ul style="list-style-type: none"> <li>• Are under age 18<sup>3</sup></li> <li>• Were granted refugee or asylum status or withholding of deportation/removal. Cuban/Haitian entrant, or Amerasian immigrant</li> <li>• Have been in “qualified” immigrant status for 5 year<sup>1</sup></li> <li>• Are receiving disability-related assistance<sup>1,4</sup></li> <li>• Lawful permanent resident with credit for 40 quarters of work</li> <li>• Were 65 years or older and were lawfully residing in the U.S. on Aug. 22, 1996<sup>1</sup></li> <li>• Veteran, active duty military: spouse, unremarried surviving spouse, or child<sup>1</sup></li> <li>• Member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S.; spouse, surviving spouse, or child of tribe member<sup>1</sup></li> <li>• Certain American Indians born abroad</li> </ul>	<p><b>Eligible only if:</b></p> <ul style="list-style-type: none"> <li>• Are under age 18<sup>3</sup></li> <li>• Were granted refugee or asylum status or withholding of deportation/removal, Cuban/Haitian entrant, or Amerasian Immigrant</li> <li>• Have been in “qualified” immigrant status for 5 years<sup>1</sup></li> <li>• Are receiving disability-related assistance<sup>1,4</sup></li> <li>• Veteran, active duty military, spouse, unremarried surviving spouse, or child<sup>1</sup></li> <li>• Member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S.; spouse, surviving spouse, or child of tribe member<sup>1</sup></li> </ul>	<p><b>Eligible only if:</b></p> <ul style="list-style-type: none"> <li>• Member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S., spouse, surviving spouse or child of tribe member, <i>who is lawfully present in the U.S.</i></li> <li>• Certain American Indians born abroad</li> <li>• Victims of trafficking and their derivative beneficiaries</li> </ul>
Temporary Assistance for Needy Families (TANF)	Eligible <sup>1</sup>	<p><b>Eligible only if:</b></p> <ul style="list-style-type: none"> <li>• Were granted refugee or asylum status or withholding of deportation/removal, Cuban/Haitian entrant, or Amerasian Immigrant<sup>1</sup></li> <li>• Veteran, active duty military, spouse, unremarried surviving spouse, or child<sup>1</sup></li> <li>• Have been in “qualified” immigrant status for 5 years or more<sup>1,6</sup></li> </ul>	<p><b>Eligible only if:</b></p> <ul style="list-style-type: none"> <li>• Victims of trafficking and their derivative beneficiaries</li> </ul>
Emergency Medicaid (includes labor and delivery)	Eligible	Eligible	Eligible

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TABLE 1 (continued page 3 of 5)

PROGRAM	"QUALIFIED" IMMIGRANTS WHO ENTERED THE U.S. BEFORE AUG. 22, 1996	"QUALIFIED" IMMIGRANTS WHO ENTERED THE U.S. ON OR AFTER AUG. 22, 1996	"NOT QUALIFIED" IMMIGRANTS
Full-Scope Medicaid	Eligible <sup>6</sup>	<b>Eligible only if:</b> <ul style="list-style-type: none"> <li>• Were granted refugee or asylum status or withholding of deportation/removal, Cuban/Haitian entrant, or Amerasian Immigrant<sup>5</sup></li> <li>• Veteran, active duty military, spouse, unremarried surviving spouse, or child<sup>1</sup></li> <li>• Have been in "qualified" immigrant status for 5 years or more</li> </ul>	<b>Eligible only if:</b> <ul style="list-style-type: none"> <li>• Were receiving SSI on Aug. 22, 1996. In states that link Medicaid to SSI eligibility)</li> <li>• Victims of trafficking and their derivative beneficiaries</li> </ul>
State Children's Health Insurance Program (SCHIP) <sup>8</sup>	Eligible	<b>Eligible only if:</b> <ul style="list-style-type: none"> <li>• Were granted refugee or asylum status or withholding of deportation/removal, Cuban/Haitian entrant, or Amerasian Immigrant</li> <li>• Veteran, active duty military, spouse, unremarried surviving spouse, or child<sup>1</sup></li> <li>• Have been in "qualified" immigrant status for 5 years or more<sup>1</sup></li> </ul>	<b>Eligible only if:</b> <ul style="list-style-type: none"> <li>• Victims of trafficking and their derivative beneficiaries</li> </ul>
Medicare "Premium Free" Part A (hospitalization) (eligibility based on work history)	Eligible	Eligible	Eligible only if:
Premium "Buy-in" Medicare	<b>Eligible only if:</b> <ul style="list-style-type: none"> <li>• Lawful permanent resident who has resided continuously in the U.S. for at least 5 years</li> </ul>	<b>Eligible only if:</b> <ul style="list-style-type: none"> <li>• Lawful permanent resident who has resided continuously in the U.S. for at least 5 years</li> </ul>	Not Eligible

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TABLE 1 (continued page 4 of 5)

PROGRAM	“QUALIFIED” IMMIGRANTS WHO ENTERED THE U.S. BEFORE AUG. 22, 1996	“QUALIFIED” IMMIGRANTS WHO ENTERED THE U.S. ON OR AFTER AUG. 22, 1996	“NOT QUALIFIED” IMMIGRANTS
<p><b>HUD Public Housing and Section 8 Programs</b></p>	<p><b>Eligible excerpt:</b></p> <ul style="list-style-type: none"> <li>Certain Cuban-Haitain entrants are “qualified” abused spouses and children</li> </ul> <p>Note: if at least one member of the household is eligible based on immigration status, the family may reside in the housing, but the subsidy will be pro-rated.</p>	<p><b>Eligible excerpt:</b></p> <ul style="list-style-type: none"> <li>Certain Cuban-Haitain entrants are “qualified” abused spouses and children</li> </ul> <p>Note: if at least one member of the household is eligible based on immigration status, the family may reside in the housing, but the subsidy will be pro-rated.</p>	<p><b>Eligible only if:</b></p> <ul style="list-style-type: none"> <li>Temporary resident under IRCA general amnesty, or paroled into the U.S. for less than 1 year</li> <li>Victims of trafficking and their derivative beneficiaries</li> <li>Citizens of Micronesia, the Marshall Islands, and Palau</li> </ul> <p>Note: For other immigrants, eligibility may depend on the date the family began receiving housing assistance, the immigration status of other household members, and the household composition</p> <p>Also note: if at least one member of the household is eligible based on immigration status, the family may reside in the housing, but the subsidy will be pro-rated.</p>
<p><b>Title XX Block Grants</b></p>	<p><b>Eligible</b></p>	<p><b>Eligible</b></p>	<p><b>Eligible only if:</b></p> <ul style="list-style-type: none"> <li>Victims of trafficking and their derivative beneficiaries</li> <li>Program or service funded by the block grant is exempt from the welfare law’s restrictions</li> </ul>
<p><b>Social Security</b></p>	<p><b>Eligible<sup>9</sup></b></p>	<p><b>Eligible<sup>9</sup></b></p>	<p><b>Eligible only if:</b></p> <ul style="list-style-type: none"> <li>Lawfully present<sup>9</sup></li> <li>Were receiving assistance based on an application filed before Dec. 1, 1996</li> <li>Eligibility required by certain international agreements</li> </ul>

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TABLE 1 (continued page 5 of 5)

PROGRAM	"QUALIFIED" IMMIGRANTS WHO ENTERED THE U.S. BEFORE AUG. 22, 1996	"QUALIFIED" IMMIGRANTS WHO ENTERED THE U.S. ON OR AFTER AUG. 22, 1996	"NOT QUALIFIED" IMMIGRANTS
<b>Other Federal Public Benefits</b> Subject to welfare law's restrictions	Eligible	Eligible	Eligible only if: <ul style="list-style-type: none"> <li>• Victims of trafficking and their derivative beneficiaries</li> </ul>
<b>Benefits</b> Exempt from welfare law's restrictions	Eligible	Eligible	Eligible

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### KEY TERMS USED IN TABLE (IMMIGRANT ELIGIBILITY FOR FEDERAL PROGRAMS)

“Qualified” immigrants are: lawful permanent residents (LFRs); (2) refugees, asylees, persons granted withholding of deportation/removal, conditional entry (in effect prior to Apr. 1, 1980), or paroled into the U.S. for at least one year; (3) Cuban/Haitian entrants; and (4) battered spouses and children with a pending or approved (a) self-petition for an immigrant visa, or (b) immigrant visa filed for a spouse or child by a U.S. citizen or LPR, or (c) application for cancellation of removal/suspension of deportation,

whose need for benefits has a substantial connection to the battery or cruelty. Parent/child of such battered child/spouse are also “qualified”. Victims of trafficking (who are not included in the “qualified” immigrant definition) and their derivative beneficiaries are eligible for benefits funded or administered by federal agencies, without regard to their immigration status. “Not qualified” immigrants include all noncitizens who do not fall under the “qualified” immigrant categories.

### ENDNOTES

- 1 Eligibility may be affected by deeming: a sponsor’s income/resources may be added to the immigrant’s in determining eligibility. Exempts from deeming may apply.
- 2 LPRs are eligible if they have worked 40 qualifying quarters in the U.S. Immigrants also get credit toward their 40 quarters for work performed (1) by parents when the immigrant was under 18; and (2) by spouse during the marriage (unless the marriage ended in divorce or annulment) No credit is given for a quarter worked after Dec. 31, 1996, if a federal means-tested public benefit (SSI, food stamps, TANF, Medicaid, or SCHIP) were received in that quarter.
- 3 Children are not subject to sponsor deeming in the food stamp program.
- 4 Disability-related benefits include SSI, Social Security disability, state disability or retirement pension, railroad retirement disability, veteran’s disability, disability-based Medicaid, and disability-related General Assistance if the disability determination uses criteria as stringent as those used by federal SSI.
- 5 In Indiana, Mississippi, Ohio, South Carolina, and Texas, TANF is available only to immigrants who entered the U.S. on or after Aug. 22, 1996, who are: (1) LPRs created with 40 quarters of work; (2) veterans, surviving spouse, or child; or (3) refugees, asylees, persons granted withholding of deportation/removal, Cuban/Haitian entrants, and Amerasian immigrants during the five years after obtaining this status. Indiana provides TANF to “refugees” listed in (3) regardless of the date they obtained that status, Mississippi does not address eligibility for Cuban/Haitian entrants or Amerasian immigrants.
- 6 In Wyoming, only LPRs with 40 quarters of work credit, abused immigrants, parolees, veterans, active duty military (and their spouse, unremarried surviving spouse, or child), refugees, asylees, persons granted withholding of deportation/removal, Cuban/Haitian entrants, and Amerasian immigrants who entered the U.S. prior to Aug. 22, 1996, are eligible for full-scope Medicaid.
- 7 In Alabama, Mississippi, North Dakota, Ohio, Texas, Virginia, and Wyoming, full-scope Medicaid is available only to immigrants who entered the U.S. on or after Aug. 22, 1996, who are: (1) LRs credited with 40 quarters of work; (2) veterans, active duty military (and their spouse, unremarried surviving spouse, or child); or (3) veterans, asylees, persons granted withholding of deportation/removal, Cuban/Haitian entrants, and Amerasian immigrants during the five years after obtaining this status. Wyoming provides full-scope Medicaid to “qualified” abused immigrant and persons paroled into the U.S., regardless of their date of entry. In Texas, Amerasian immigrants are eligible only during the five years after obtaining this status; Mississippi, and North Dakota do not address eligibility for Cuban/Haitian entrants or Amerasian immigrants.
- 8 In states that opt to cover fetuses, SCIP provides prenatal care regardless of the mother’s immigration status. The scope of coverage depends in part on how the option is implemented.
- 9 For application based on Social Security numbers issued on or after Jan. 1, 2004; must have been assigned a Social Security number that was, at the time assigned or at any later time, valid for work purposes. Alternatively, must have been admitted to the U.S. temporary for business or as a crewman when the relevant work quarters were earned.

**APPENDIX F:**

**SIGN UP SHEET FOR PARTICIPATION IN RIPPLE**

Contact Person at Organization: \_\_\_\_\_

Name of Organization: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone number: \_\_\_\_\_

Emergency/After hours phone number if available: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Website: \_\_\_\_\_

Type of assistance your organization can offer victims of trafficking:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is your agency able to provide services in other languages? If yes, in what languages?  
\_\_\_\_\_  
\_\_\_\_\_

Days and hours during which assistance may be accessed through your organization:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List of resources in your community which may be available to victims of trafficking:\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

