



CRIMINALIZATION OF SEX TRAFFICKING VICTIMS: THE ROLE OF RESEARCH AND PARTNERSHIPS IN COMBATTING TRAFFICKING

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Objectives for Session

- Review how we identified trafficking and conducted operations in the past
- Review why the anti-trafficking community is moving away from previous methods
- Illustrate how partnerships between law enforcement, advocates, victim services, and researchers have advanced anti-trafficking efforts



The Old Model: Trafficking victims are arrested, tried, and convicted for crimes they didn't choose to commit.

- 91% of sex trafficking survivors report being arrested for crimes related to their trafficking, and 42% were arrested more than 10 times (*2016 National Survivors Network study of 130 survivors*)
- 14% of international trafficking victims in US were jailed or put through the deportation process (*2014 Urban Institute study*)

"She was 18 when she was recruited and ultimately was forced into trafficking. She has a history of childhood sexual abuse and lacked healthy family relationships. Her only source of support, her grandmother, was deceased and thus she had no social support. She met her trafficker and their relationship started out as them "dating." Soon the dating turned into her doing favors for him with friends (having sex with his friends). He kept her by buying her clothes and meeting other basic needs. She was charged with shoplifting which she was doing at the insistence of her trafficker. Her trafficker took her ID, Social security card and birth certificate, which made it even more difficult for her to gain employment. She ultimately returned to the street because she was discouraged and having such a hard time trying to get back on her feet."

- NE service provider



Criminal records effect ability to access housing, employment, education, and financial resources.

- Criminal records prevented **82%** from obtaining employment and **56%** from obtaining housing (*2016 National Survivors Network study of 130 survivors*)
- In Nebraska, a prostitution charge can often prevent a survivor from accessing housing.
- Stigma of criminal record makes re-integration difficult

"Outside of fast food jobs, there's none that I could land. I went from my first job working in McDonalds to going to Burger King to trying to do security. Not able to get employment because of my lengthy record of prostitution charges... I had to write a letter to the president of the company that I was going to work for explaining all the situations- that was personal info that I don't feel like I have to disclose. But just for the sake of employment, I did it anyway. I was homeless for two years because no one would hire me because of my record."

- 29 year old survivor

"The barrier comes in that many landlords require background checks and may deny housing based on criminal history. We continue to work with the participant to locate other housing, but it presents a distinct challenge."

- Omaha service provider



Traffickers use criminal records as a means of making those they control even more dependent on them.

- **Ex:** A trafficking survivor left her trafficker, only to have the trafficker immediately go to Family Court to seek custody of their daughter. The trafficker based his claim that she was an unfit parent on her convictions for prostitution – acts that he had coerced her into committing.

Identifying Victim-Survivors

- The challenge of identifying
 - *We have missed clear examples of trafficking*
- Why it is a challenge
 - *Identification requires either immediate self-disclosure, painstaking investigative work over a long period of time, or years of building a trusting relationship as resources are provided.*

“I think for me that was my biggest issue. They labeled me as a prostitute and not a trafficking victim. And, I had to explain to a lot of people, like yes, I might have been doing prostitution, but it wasn't my choice. It wasn't like, if I wanted to stop, I could stop, you know? There were times where I wish I could've stopped and I tell people all the time. I say I'd rather have been dead than doing what I was doing a lot of times, but I didn't have a choice”

- NE survivor

The Old Model

- Sting operations
- Problems:
 - *Assumes trafficking can be easily and quickly parsed from commercial sex activity*
 - *Decreases opportunity for trust building*
 - *Ultimately relies on self-identification to law enforcement, which is unrealistic*
 - *Expensive*
 - *Potential to create harm*

“The likelihood of... [survivors] being able to come forward... it’s a lot more removed when they know across the board that they’re not going to be held legally responsible for that... because that’s one of the threats that we hear all the time, ‘well , you’re prostituting yourself, so you’re going to go to jail” and... [survivors] see it happen, and we see it happen a lot”

- NE survivor

The New Model

- More Effective Identification
 - *Universal screening*
 - *Built-in reporting and information sharing channels*
- Protections for victims
 - *Legal remedies (LB 1132, LB 843)*
 - *T-visas*
- Strategic model of enforcement
 - *Long-term investigations*
 - *Shifting away from focus on prostitution arrests*
 - *Trust-building*
 - *Partnerships to build trauma-informed process and interactions*

More Effective Identification

- Screening, Reporting, Integrating
 - *Graduated screening process (NHTTF Screening & Reporting Committee)*
 - *Beginnings of information sharing*
 - *Integrating HTI data & algorithms*
- Capturing and using data to better understand local trafficking
- Key = partnerships
- Promising practices: Florida as an example
 - *Pilot study with universal screening at juvenile assessment center: of those identified as victims, only 6% self-disclosed.*
 - *Data research group in-house*

Protection for Victims

■ Undocumented victims:

- *T-Visas (trafficking) are underutilized due to difficulty in meeting criteria*
- *U-visas (sexual abuse and domestic violence) are difficult to get due to quota problems*
 - Only 10,000 U visas awarded each year, but in 2014 more than 45,000 people applied
- *Applications require law enforcement sign-off & proof of victimization; potential for partnerships between attorneys and LE*

■ Legal remedies: LB 1132

- *Creates procedure for crimes related to trafficking being set aside & records sealed*
- *With documentation from service provider, law enforcement, or other professionals, the process is streamlined*

■ Affirmative Defense: LB 843

- *If law enforcement determines that person “suspected of or charged with” prostitution is a trafficking victim, then they can be immune from prosecution.*

Re-Thinking the Old Model

- Goals: Building trust, building intel, reducing harm
 - *What this looks like:*
 - Strategic partnerships to build trauma-informed process and interactions
 - Long-term, intel-driven investigations
 - Shifting away from focus on prostitution arrests
 - *Tools:*
 - Leveraging LB 1132 / non-arrest
 - Example: King County, WA

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QUESTIONS?

Thanks for coming!