

LOOK BENEATH THE SURFACE

Recognizing and addressing human trafficking in Kentucky

/Abbie Darst, Program Coordinator

Fear, coercion, abuse, neglect and greed. Slavery, bondage — basic rights stripped away.

Since the 1865 passage of the 13th Amendment to the United States Constitution, slavery and involuntary servitude have been illegal in America. But 145 years later, approximately 17,000 people each year still are coerced into forms of modern-day slavery, known as human trafficking.

Kentucky is no exception.

At its core, human trafficking refers to the exploitation of an individual for labor or commercial sex through the use of force, fraud or coercion. Victims can present themselves as defendants charged with prostitution or document fraud, or victims of domestic violence or rape. They may be

imprisoned within massage parlors, factories, agricultural work, domestic servitude and servile marriages — held captive through threats, confiscation of their travel documents and even forced drug addiction.

Victims can be men, women or children, foreign born or U.S. citizens. Their

traffickers may be members of organized crime, small business owners or even private citizens who lack any criminal history.

“Human trafficking is growing — it is a world-wide phenomenon,” said Jeanette Westbrook, co-chair for the Louisville Human Trafficking Task Force. >>

After drug dealing, human trafficking is tied with the illegal arms industry as the second largest criminal industry in the world today, and it is the fastest growing, according to Kentucky Rescue and Restore, an organization dedicated to serving victims and raising awareness of human trafficking.

Human trafficking has captured national and international attention, but more recently, Kentucky advocates have begun to take notice of the issue. There are five human trafficking task forces spread throughout the state that bring together local crisis organizations and law enforcement to help address and combat human trafficking in the commonwealth.

NO SMALL PROBLEM

Each year, approximately 600,000 to 800,000 victims are trafficked across international borders worldwide and between 14,500 and 17,500 of those victims are trafficked into the United States, according to the U.S. Department of the State. However, precise numbers are nearly impossible to pin down because often victims of human trafficking do not self identify and agencies do not always accurately identify cases. Moreover, the severity and destructive nature of the crime cannot be adequately measured by numbers alone, because trafficking victims can suffer repeated violations over weeks, months or even years, Attorney Gretchen Hunt pointed out in a recent article, "Human Trafficking: A Primer for Kentucky Lawyers." Hunt serves as a staff attorney for the Division of Violence and Prevention Resources in the Kentucky Cabinet for Health and Family Services.

"If you think about child abuse — how often have you heard that they never told anyone until they were an adult," Westbrook said of a victim's natural tendency not to speak out about a traumatic crime.

Between June 2008 and March 2010, Kentucky Rescue and Restore documented 39 cases of identified human trafficking in various areas of Kentucky and served a reported 89 victims. Of those 39 cases, 39 percent are commercial-sex trafficking, 51

percent are labor trafficking and 10 percent have elements of both, according to the organization's case statistics.

"The important word there is identified," said Kathrina Riley, program coordinator with Adanta Sexual Assault Resource Center in Somerset and coordinator for the Lake Cumberland Region Human Trafficking Task Force. "We feel like there is more trafficking out there. . . . There are more people out there who have not been identified yet."

The 2000 Trafficking Victims Protection Act defines sex trafficking as the recruitment, harboring transportation, provision or obtaining of a person for the purpose of a commercial-sex act, in which a commercial-sex act is induced by force, fraud or coercion or in which the person forced to perform such acts is under the age of 18 years. Likewise, 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.

Kentucky Rescue and Restore took the extra step to explain force, fraud and coercion to help make the wording of this statute better understood.

Force involves the use of rape, beatings and confinement to control victims. Forceful violence is used especially during the early stages of victimization, known as the 'seasoning process,' which is used to break victims' resistance to make them easier to control.

Fraud often involves false offers that induce people into trafficking situations. For example, women and children will reply to advertisements promising jobs as waitresses, maids and dancers in other countries and are then trafficked for purposes of prostitution once they arrive at their destinations.

Coercion involves threats of serious harm to, or physical restraint of, any person; any scheme, plan or pattern 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

the abuse or threatened abuse of the legal process.

Foreign-born trafficking victims often find themselves in debt bondage, being held until they can pay back a transportation fee into the destination country. Traffickers often will threaten victims with injury, death or harm to the victims' families in their home countries. Traffickers also will take their victims' travel documents and isolate them to make escape even more difficult for them.

RAISING AWARENESS, RAISING THE BAR

"The more education that we get out with local and state law enforcement is so key because they are the men and women on the ground — in the field," said Mary Richie, the human trafficking task force coordinator in northern Kentucky. "They are coming in contact with victims of human trafficking, but sometimes they may present as victims of domestic violence or sexual assault.

"We have had cases where victims were brought to our agency as domestic violence victims or sexual assault victims and really it turned out to be domestic servitude or forced labor within the home as well as sexual assault," she added. "So we are finding victims, we are just not identifying them as victims of trafficking."

All five Kentucky human trafficking task forces identify awareness as a key element to fighting human trafficking not only in the state, but across the nation. The U.S. Department of Health and Human Services Administration for Children and Families developed criteria to assist law enforcement officers in identifying human trafficking in routine calls and situations they may work during a shift.

Some of the more common crimes associated with human trafficking are kidnapping, prostitution, assault, sexual assault, false imprisonment and murder. According to the DHHS Web site, some instances of human trafficking may lie below the surface of encounters such as prostitution rings, operations of massage parlors

and strip clubs, domestic abuse or vice raids where foreign nationals are found or brawls between people in which money is owed.

Officers also should be acutely aware during run ins with migrant workers where a foreman or supervisor attempts to keep the group away from the officers or attempts to control communication between the officer and the rest of the group.

"Everybody has thought of sex trafficking as the kid kidnapped off a beach in Miami on spring break and taken to some middle-eastern country and sold as a slave," said Riley about the common perception of human trafficking incidents. "But a lot of things happen in our country and we look at them as abusive, but not necessarily identify them as trafficking."

Riley said she believes that in the Lake Cumberland Region they have encountered what would be qualified as domestic sex trafficking, but officers are investigating those cases as sexual abuse — both child and adult — or sexual exploitation instead. In addition, she noted that sometimes runaway children are found to be prostituting on the street, and no one realizes that usually it is not by choice they are doing these things. Either someone has put them in a situation they cannot get out of or has talked them into doing something that under normal

circumstances they would not have done.

"With child sex abuse, we all acknowledge that is wrong, but it is just not commonly called trafficking," Riley said. "When a parent sells [his or her] child to a neighbor to get money for drugs, is it sexual abuse, prostitution or trafficking? It's all three."

In many cases though, Riley said prosecutors will go for the charge with the most weight as far as punishment goes and that can make a difference as to what charges are filed.

"I'm not saying law enforcement officers that have child sexual-abuse cases should be calling it sex trafficking — I'm not saying that at all — but it has been a mindset we've been in for so long,

we're not used to looking at it for what it is," Riley explained.

Part of raising awareness is helping both the public and law enforcement better see and understand the >>





officers may be able to identify people who have been forced into a life of sexual exploitation or forced labor. The DHHS suggests looking for clues such as evidence of the individual being controlled, an inability to move or leave his or her job, bruises or other signs of battery, fear, depression and sometimes individuals who are non-English speaking and lack a passport, immigration or identification documentation.

issue,
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force
members said.

“Trafficking can happen to anyone and it doesn’t discriminate against status, race or economics,” northern Kentucky’s Richie said. “I’ve had people trafficked with master’s degrees, men trafficked who are twice my size. And it is various forms of force, fraud and coercion that compel them into a labor or sex service.”

“That’s why the human trafficking national motto is ‘look beneath the surface,’” explained Bowling Green Officer Monica Woods who serves on the Bowling Green Human Trafficking Task Force. “Because on the surface it will appear to be [other] things, but if you dig a little deeper and know what to look for, you might see that it actually is trafficking rather than a simple prostitution case or domestic violence or labor dispute.”

Woods created and facilitated human trafficking awareness training for every law enforcement officer at the Bowling Green Police Department and hopes to train the staffs of the Warren County and commonwealth’s attorneys this fall.

ENCOUNTERING THE VICTIMS

It is important for law enforcement officers to remember that human trafficking victims are vulnerable people who have been subjected to severe physical and emotional coercion. While trafficking is largely a hidden issue, trafficking victims can be in plain sight if officers know what to look for. A trafficked individual may look like many of the people law enforcement officers encounter daily, but by asking the right questions and looking for small clues,

Many human trafficking victims, domestic and foreign, have been taught to distrust law enforcement, so they need to be reassured once they come in contact with law enforcement officers that they will be protected and safe, the DHHS Web site explained.

“A lot of foreign nationals have a distrust of law enforcement from their home countries and the way law enforcement is there — it is something they bring with them,” Richie said. “It takes time for them to understand that law enforcement is here to help them.”

In addition to a taught or innate distrust of law enforcement, trafficking victims may have distorted perceptions of themselves or their situations, which also may pose challenges for law enforcement officers. Victims may not self identify as victims because they may not see themselves as homeless or drug addicts who rely on shelters or assistance. They may not appear to need social services because they have a place to live, food to eat, medical care and what they think is a paying job, the DHHS Web site stated.

More specifically, foreign-born victims may hesitate to come forward because of a fear of being deported. Even in situations where women or children have been beaten or raped, they still may consider the current situation better than where they came from. Also, victims may come from different social and ethnic backgrounds than the investigating officers, leaving a significant cultural chasm between the victim and the law enforcement officials.

RESTORATION AFTER RESCUE

Similar to the state’s other task forces, Woods in Bowling Green said besides getting

awareness training to anyone she can get it to, it is important to have resources in place for agencies if they have a case, and know how to get it to them. The effort to secure resources within local communities is two fold, Woods said. First you have to make contact with various agencies and organizations that need to be involved, like the health department, churches and crisis centers, and second you have to explain to them why they need to be involved, she said.

“The two have to go hand in hand — both awareness and getting people to accept that there is a need,” Woods said.

Lake Cumberland’s Riley agrees. “Seeing that need and knowing it is there — even if you only find one (victim) every so often, you still need to have the services in place and ready to go to help that person,” she said.

Helping to restore the victims of human trafficking is a necessary part of a successful case for law enforcement, because the victims are also the witnesses, Richie said. When trafficking cases have gone poorly it is because the victim/witness was not properly taken care of and was noted as uncooperative, she explained.

“But of course they won’t cooperate if they feel threatened or that their family is threatened, or their basic needs are not met,” Richie said. “What we want to do is create that partnership with law enforcement so we can take care of the victim while they work with the victim as a witness.

“These cases are so complex that it takes teamwork,” she continued. “If you really want to stop it and you really want to prosecute it, you need that victim, in a sense, to cooperate and they won’t do that if they are not taken care of — and that is too much for law enforcement to do. If I had to do the full investigation, I wouldn’t be able to do both.

“We’re going to have more cases come to prosecution if we have that collaboration,” she added, “but it will take time and training.” J

**ON THE SURFACE:
HUMAN TRAFFICKING
SCENE INDICATORS***

There are many indicators of human trafficking that officers may come across on patrol or during the course of an investigation. Encountering one or more of these indicators does not mean that an officer automatically has a trafficking situation, but it should signal him or her to look deeper into the situation for the possibility of trafficking.

When responding to the scene of a disturbance, assault, dispute, domestic violence, welfare check, possible civil issue, prostitution or sexual abuse, officers may actually be responding to the scene of a trafficking case where a victim or victims are involved in either forced labor or commercial sex, or they may be in the presence of the actual trafficker.

PHYSICAL INDICATORS:

- Scars, bruising or marks of repeated abuse or torture such as cigarette burns
- Malnourishment
- Branding or tattooing — often used by the trafficker as a mark of ownership

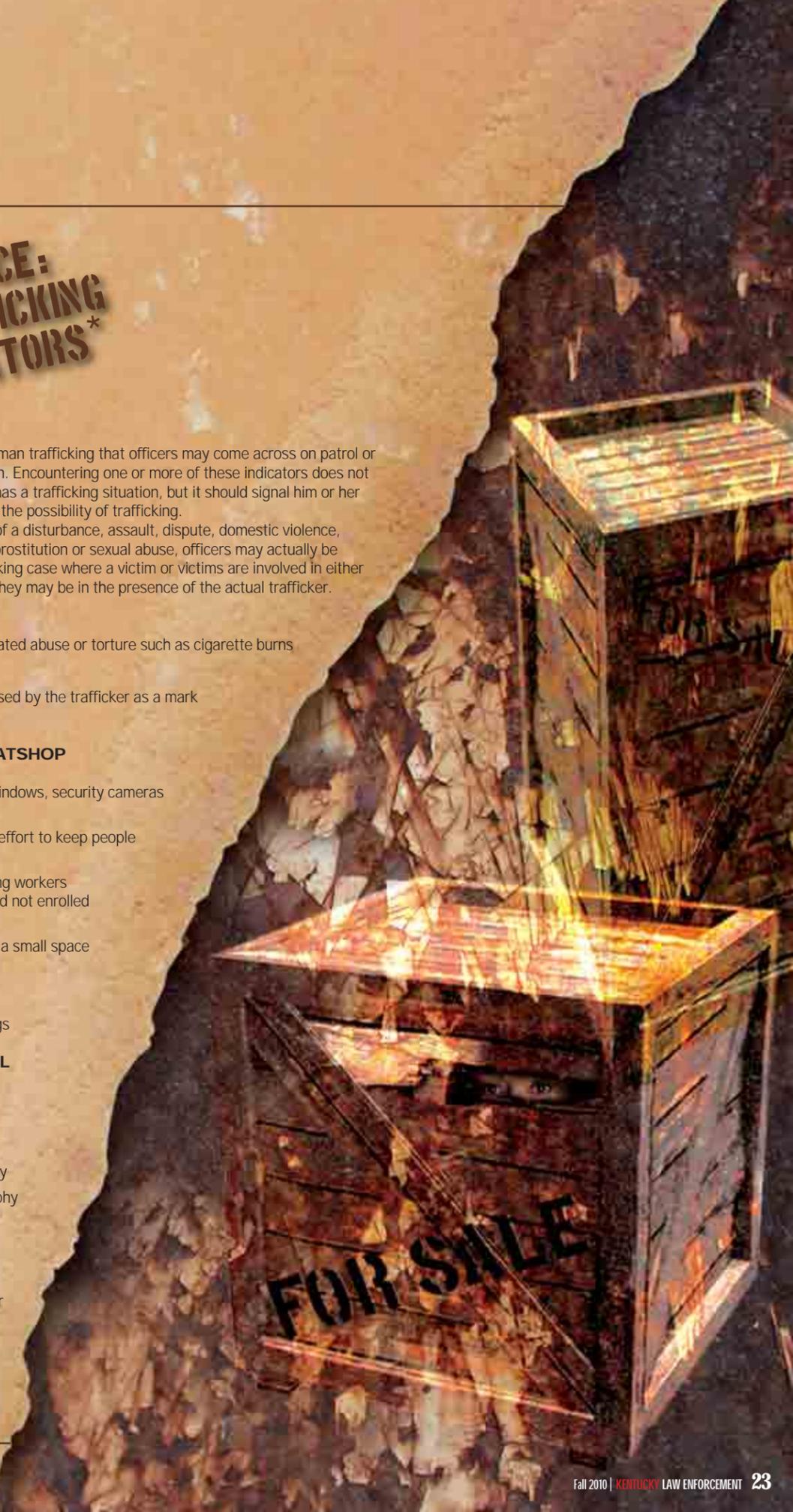
**LABOR TRAFFICKING/SWEATSHOP
SCENE INDICATORS:**

- Blacked out windows, bars on windows, security cameras or high walls or fences
- Barbed wire facing inward in an effort to keep people on the property instead of off
- Presence of women or very young workers unaccompanied by guardians and not enrolled in school
- Large number of people living in a small space
- Workers frequently change
- Workers not free to leave
- Presence of guards or guard dogs

**SEX TRAFFICKING/BROTHEL
SCENE INDICATORS:**

- Multiple twin mattresses
- ‘Rooms’ made by hanging sheets as dividers
- Men coming and going frequently
- Multiple televisions or pornography
- Poker chips or other tokens
- Large sums of cash
- Large quantities of condoms
- Large quantities of bleach, paper towels or other cleaning items
- Egg timers to limit the time each ‘John’ stays

** Information provided by Bowling Green Police Department Officer Monica Woods*



What is the Law?



When it comes to human trafficking, what we see on TV or in headlines is often all that defines the issue. The kid on spring break that ends up as a sex slave in a foreign country or kids in east Asia subjected to child sex abuse and sweat shops — those are the common images most Americans have of human trafficking — if they have an image at all.

“People hear about [those cases] and that’s what they get outraged about, that is what sticks in their mind, and it could be happening next door,” cautioned Kathrina Riley, program coordinator with Adanta Sexual Assault Resource Center in Somerset and coordinator for the Lake Cumberland Region Human Trafficking Task Force.

The same lack of knowledge and understanding seems to pervade the laws that have been set up to combat and prosecute human trafficking, too.

Though there have been federal laws against slavery for nearly 150 years, they did not address the more subtle forms of psychological coercion involved with human trafficking. So, in 2000, the Victims of Trafficking and Violence Protection Act was passed, expanding the definition of the control that traffickers use to ensnare and imprison their victims, explained Gretchen Hunt, staff attorney with the Kentucky Cabinet for Health and Family Services in a 2009 article, “Human Trafficking: A Primer for Kentucky Lawyers.”

Even more recently, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 was passed to expand the protections for, among others, United States-citizen victims of trafficking, domestic workers and immigrant children.

The 2000 VTPVA law defines trafficking as “sex trafficking in which a commercial-sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age,” or “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.”

It further defines coercion as (a) threats of serious harm to or physical restraint against any person; (b) any scheme, plan or pattern 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.

Despite the law’s existence, only a small number of convictions have been secured on trafficking charges nationwide since 2000. Kentucky has yet to see a federal prosecution under the trafficking statutes, Hunt said.

In order to increase the chance of finding victims and bringing prosecutions, Kentucky advocates pushed for state legislation on trafficking, which passed in 2007. Kentucky’s law mirrors closely the federal law in its definition of trafficking, but also provides that victims of trafficking not be detained for offenses underlying the trafficking, unless necessary for public safety or if it is the least restrictive alternative to securing the appearance of the victim. In other words, if a victim is discovered in a prostitution ring, he or she

cannot be put in jail for prostitution charges, unless it is necessary for the individual’s safety.

Further, Dr. T.K. Logan, a research professor at the University of Kentucky, said in a 2007 survey and study of human trafficking in Kentucky, that persons do not need to be physically transported from location to location in order for the crime to meet the threshold of the definition of trafficking, nor is the consent of the victim relevant since no one willingly consents to slavery.

In Kentucky law, human trafficking is a class C felony, unless there is serious physical injury to the victim, in which case it is a class B felony. If the victim is under 18, the penalty will be one level higher. Promotion of trafficking is a class D felony.

“Kentucky, compared to our sister states, has a very strong law [on human trafficking],” said Mary Richie, human trafficking outreach coordinator in northern Kentucky. “The issue is that the majority of people in Kentucky, including law enforcement, don’t know about that law. ... It is a very good law and it gives, especially law enforcement, more power to address these issues and prosecute under trafficking.”

According to Hunt, across the country state prosecutions remain as elusive as federal prosecutions, and the Kentucky statute has only been tested once since its enactment.

Part of the goal for the five human trafficking task forces in Kentucky is to not only raise awareness about the existence of human trafficking, but also to educate on the law and the types of cases that could potentially be prosecuted under the law. Catholic Charities of Louisville collects statistics from the five task forces approximately each quarter.

“Most cases come from Louisville, Lexington and northern Kentucky,” Richie said. “But we are ahead of the game in even keeping stats, because not many other states do that now.” ■

For more details on Kentucky’s law, visit <http://www.lrc.ky.gov/KRS/529-00/CHAPTER.HTM> or <http://www.pathnky.org> and look under “Article Bank” for Attorney Gretchen Hunt’s article.



TRAFFICKING vs. SMUGGLING

/Abbie Darst, Program Coordinator

Though the terms have been used interchangeably by both media and law enforcement, it is important to distinguish between the crimes of trafficking and smuggling. To add to the confusion, many traffickers have been charged with smuggling, in part because it may be a more straightforward violation to prove.

“Sometimes trafficked individuals begin as people who have been smuggled,” said Bowling Green Officer Monica Woods who also serves on the Bowling Green Human Trafficking Task Force. “But all people who are trafficked are not smuggled and all people who are smuggled are not trafficked. U.S. citizens can be trafficked who have never even left their home town.”

“Human trafficking is a crime against a person, smuggling is a crime against the border — that’s the difference,” she continued.

In human trafficking, the journey may begin with people being smuggled across a border, but doesn’t end when they enter the destination country. Rather than being freed, they are held captive and forced to work or provide services to the trafficker, said Gretchen Hunt, Kentucky Cabinet for Health and Family Services staff attorney, in a 2009 article, “Human Trafficking: A Primer for Kentucky Lawyers.”

“With smuggling, a person is considered a client, in human trafficking they are considered a commodity,” said Mary Richie, human trafficking outreach coordinator in northern Kentucky.

Richie also said the term human trafficking is so closely related to immigration that it is a turn off to local law enforcement, because they consider it a federal issue. But human trafficking is more than an immigration issue. There is always a victim in human trafficking. They do not consent to their situations or the ongoing exploitations of their traffickers to generate illicit profits. ■



A LAW ENFORCEMENT OFFICER'S ROLE IN THE FIGHT AGAINST HUMAN TRAFFICKING

In order to be an effective team member in the fight against human trafficking in the Commonwealth of Kentucky, law enforcement officers must be familiar with and understand how to apply the statutes addressing this crime.

In June, 2007, the Kentucky State Legislature enacted two statutes addressing the crime of human trafficking, as well as incorporating the appropriate definitions at the beginning of Kentucky Revised Statutes, Chapter 129, Prostitution Offenses. However, law enforcement officers should not assume the charges are prostitution charges because they are included in this specific chapter. The scope of these crimes is much broader and can have far-reaching consequences for the perpetrators.

The two criminal statutes are KRS 529.100, Human trafficking, and KRS 529.110, Promoting human trafficking. The definitions applicable to the structure of these statutes can be found in KRS 529.010 and include human trafficking; forced labor or services; force, fraud or coercion; labor; services; commercial sexual activity, and sexually explicit performance. Once law enforcement officers have a thorough understanding of the definitions used within these statutes, the applicability of the statutes to a particular situation will be much easier to accomplish.

Pursuant to KRS 529.100, a defendant can be found guilty of the charge of Human Trafficking " ... when the person intentionally subjects one or more persons to human trafficking." So, what exactly is human trafficking? KRS 529.010(5) (a-b) defines the term as follows:

Human trafficking refers to criminal activity whereby one or more persons are subjected to engaging in:

- (a) Forced labor or services; or
- (b) Commercial-sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of 18, the commercial-sexual activity need not involve force, fraud or coercion."

This definition incorporates the terms forced labor or services, which refers to labor, services and force, fraud or coercion, and commercial sexual activity, which refers to sexually explicit performance. The legislature has defined each term.

Forced labor or services is defined in KRS 529.010(3) as " ... labor or services that are performed or provided by another person and that are obtained through force, fraud or coercion." KRS 529.010(4) states that force, fraud, or coercion may only be accomplished by the same means and methods as a person may be restrained under KRS 509.010. KRS Chapter 509 addresses the charge of kidnapping and 509.010 defines restrain as follows:

" ... to restrict another person's movements in such a manner as to cause a substantial interference with his liberty by moving him from one place to another or by confining him either in the place where the restriction commences or in a place to which he has been moved without consent. A person is moved or confined 'without consent' when the movement or confinement is accomplished by physical force, intimidation, or deception, or by any means, including acquiescence of a victim, if he is under the age of 16, or is substantially incapable of appraising or controlling his own behavior."

Labor is defined in KRS 529.010(6) as " ... work of economic or financial value" and services is defined in KRS 529.010(8) as " ... an ongoing relationship between a person and the [defendant] in which the person performs activities under the supervision of or for the benefit of the [defendant]."

An employer hires an individual or couple to be live-in help at a private home. Duties of these individuals can include cooking; cleaning; watching and caring for the children of the employer; landscape or yard work; pool maintenance; or automobile

care. These duties have a financial value to the employee, and would be considered to be labor. The services come in the form of the relationship created between the employer and employee because the services are being provided for the employer's benefit for an agreed upon salary and/or benefits. This sounds like a reasonable agreement between all individuals involved.

What makes it forced?

The labor becomes forced when:

- The employer requires such long working hours that the only free time the employee has is used for sleep.
- Language barriers create an atmosphere that does not allow for effective communication.
- Lack of transportation available to the employee will inhibit the ability of the employee to leave for any reason.
- The employer confiscates identification items, passports or visas for safe-keeping and then refuses to return the documents.
- The employer promises a certain salary or benefit and then refuses to pay the salary or give the benefit, telling the employee that he or she has to repay employment costs.
- The employer subtly intimidates the employee, telling them that law enforcement is bad and that the only person who can protect them is the employer.

Very often, it is assumed that only illegals can be the victims of human trafficking, but that is not true. It could be an American citizen looking for better work and educational opportunities. Except the work opportunity ends up having no pay or benefits, and the educational opportunities consist of how creative the individual can be in thinking of ways to get out of the situation because he or she has no car, no money, little communication with anyone due to isolation or may be afraid of some kind of retribution by the employer.

The resulting charge for the employer in a situation like this could be Human Trafficking under KRS 529.100, a class C Felony. If the employee receives a serious physical injury as a result of the forced labor, then the charge will become a class B felony.

Other examples of human trafficking due to forced labor or services exposed in Ohio that also could be discovered in Kentucky include farm labor, such as in tobacco fields or the horse industry; construction sites; factories; hotels/motels or restaurants, according to an Associated Press article, "Report: Hundreds Forced into Sex Trade in Ohio."

KRS 529.010(2) defines "[c]ommercial sexual activity" as " ... prostitution, participa-

tion in the production of obscene material as set out in KRS Chapter 531, or engaging in a sexual explicit performance." Under KRS Chapter 531, obscene material can be in written form, visual form, statues or other types of reproductions that portray sexual conduct in a "patently offensive way" that does not have any "... serious literary, artistic, political or scientific value." Sexually explicit performance is defined in KRS 529.010(10) as follows:

" ... a performance of sexual conduct involving:

- (a) Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse, actual or simulated
- (b) Physical contact with, or willful or intentional exhibition of, the genitals
- (c) Flagellation or excretion for the purpose of sexual simulation or gratification or
- (d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area, or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph, or other visual representation ..."

The sexual conduct involves "sexual intercourse or any act of sexual gratification involving the sex organs."

The prior two definitions are found in other chapters of the Kentucky Revised Statutes, including Chapter 530, Family Offenses. When law enforcement officers are presented with the following facts, the inclination of the officer in choosing the appropriate charge may go to Chapter 530. But a human trafficking charge may also be a viable option and should be considered.

An example reported by MSNBC in the article, "Girl, 15, Caught Stripping at a Topless Bar," identified a 15-year-old female found dancing as a stripper in a strip club in a large metropolitan city. In questioning the underage girl, officers learned that she was being paid for her performance at the club. The performance included taking off all her clothes and dancing provocatively, touching herself in a sexual manner, in front of customers at the club. The girl's actions in the club qualify as a sexually explicit performance involving sexual conduct, thus >>

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meeting the definition of commercial sexual activity. Because of the girl's age, 15, force, fraud or coercion are not required. The club manager can be charged with Human Trafficking, a class B felony, due to the girl's age. If she received a serious physical injury during the commercial sexual activity, the charge would then rise to a class A felony.

If the girl were 18 years old, then force, fraud or coercion would be required as an element of the charge. This element is relatively easy to prove if threats of physical force were used to intimidate the girl into performing the commercial sexual activity. The penalty would be a class C felony.

Asian females working in massage parlors often are arrested and charged with prostitution. With additional investigation, it may be found that these women are held against their will through threats of physical force against them or their loved ones, intimidation tactics such as the threat of deportation or due to lack of money because they have not been compensated for their work. Deception or fraud often plays a role in a forced labor or services situation. These female workers may have been promised work in a restaurant, eight hours per day for \$8 per hour, five days per week, along with housing and transportation. When they arrive, there is no restaurant, no car and the housing is one room in the back of the massage parlor that must be shared among all of them for a fee. The real job they are forced to perform involves sexual acts with clients. Each individual would represent a separate count of Human Trafficking against the individual holding the females.

The second available charge related to human trafficking under Kentucky Law is Promoting Human Trafficking under KRS 529.110. The elements of this charge are as follows:

- (1) ... the person intentionally:
 - (a) Benefits financially or receives anything of value from knowing participation in human trafficking or
 - (b) Recruits, entices, harbors, transports, provides, or obtains, by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by, any means another person, knowing that the person will be subject to human trafficking.

Let's go back to the Asian females working in the massage parlor. The females arrive in Kentucky via New York, N. Y., expecting to be transported to Kentucky to work with other immigrants at a local restaurant. They are met at the airport by a driver, who transports them to a destination that is not a restaurant. He turns them over to a manager who takes their purses, money and identification as they enter the building. Once they are inside, the driver is paid for his services and he leaves. The driver makes this same drive two times per month, transporting anywhere from five to 10 individuals, male and female, aware of the circumstances these individuals will face. The driver can be charged with promoting human trafficking because he intentionally accepted payment for the transportation he provided for these females, knowing that they would be subject to forced labor, services or commercial sexual activity. This charge is a class D felony. If the victim is a child, then the charge is upgraded to a class C felony.

Because these human trafficking statutes are relatively new, they have not been used to their full potential. There has not been case law or commentary to come down from the Kentucky Court of Appeals or Supreme Court. However, they are very viable charges that should be considered by law enforcement officers when responding to calls in their communities. If officers are willing to look beneath the surface at a domestic violence call, a prostitution arrest, or an injury received by a farm or restaurant worker during the course of their job, they may discover that they can be a more effective team member in the fight against human trafficking in Kentucky. ■

LIVING A NIGHTMARE



A teen's story of being trapped in sexual slavery

/Abbie Darst, Program Coordinator

Theresa Flores was just your average teenage girl. The daughter of an upper-middle-class executive, her family moved every couple of years following her father's promotions. She was a good Catholic girl, just 15 and new to a high school in a Detroit suburb.

As the new girl in town, Theresa found herself starved for attention — and she found that attention in the smooth-talking older boy she calls Daniel.

"I had a crush on him. He was different from the boys in the country. He looked nice, his pants were pressed; he wore Ralph Lauren shirts and gold chains. He smelled good and he paid me a lot of attention," she said as she shared her story at a recent conference in Somerset.

When he pulled up in his brand new Trans Am and asked her if she wanted a ride home after school one day, she couldn't say no.

Instead, he drove her to his house and he asked her to come inside. She told him no.

"Then he said three little words to me — 'I like you.' He said he just wanted to spend some time with me, and that was all it took — I gave in," she said.

When she got inside Daniel offered her a Coke he had slipped a drug in and they began kissing. She soon became dizzy, the situation spun out of control and he raped her.

Days later, Daniel approached her at school with photos he said his cousins, hiding in the room that day, took of what happened — and it was their plan that she would have to earn the pictures back. If she didn't do whatever they told her, they would show the pictures to her dad, spread them around school and show them to her priest at church.

Embarrassed, scared and filled with guilt and shame, Theresa couldn't let that happen.

"From that point, they watched every move I made," she said. "They were always over my shoulder."

One day, a car pulled over and forced her in by knife point. She was driven to a house where his cousins were waiting in the basement. For the next two hours, they beat and raped her before driving her home. After that, at night they would call the private phone she had in her room and demand that she appear immediately. She would sneak out in her pajamas to the waiting car.

"It was always the same car and the same driver — ironically the driver was [Daniel] who had initially broken me with the rape," she said.

She would be driven to large, beautiful houses, Theresa recalled, and taken down into nice, finished basements where there were many men gathered — socializing and waiting; and she was shut behind the bedroom door.

Three to four nights a week she was used and abused by these men. Filling her with drugs, they would rape and beat her, as her body was sold as a

commodity to any bidder. This went on for two years — as she was forced to have sex with hundreds of men just to earn back even one picture.

One night when the phone call came, Theresa told the voice on the other end that she was tired of this and wanted it to end, and asked if he could please just help her get her pictures back. He told her he would see what he could do.

"As I waited for the car that night, I felt that feeling in the pit of my stomach that something was wrong," Theresa said. "But I couldn't run, I had no where to go — I just had to stand there and face it."

That night a different car pulled up with a different driver and six men inside. Pouring liquor down her throat and drugging her, the men drove her far away to an L-shaped motel with broken down cars in the parking lot. The door to one of the rooms was thrown open and she was dragged into a tiny room barely big enough for a bed and a dresser — packed with 24 men.

Her trafficker announced to the eagerly waiting men that this was their prize for working so hard for his company.

After being raped and molested over and over again, Theresa eventually passed out. When she woke up, she was alone in the dingy, little room. She had no idea where she was, no ID, no money, no shoes and she found her pajamas soaking in the bath tub.

"This was different," Theresa remembered thinking. "They didn't take me home, they left me there. I didn't know if they were coming back or if they thought I was dead."

Sore and bleeding, she stumbled out of the room and into a nearby diner, where a waitress asked her if she was OK or needed any help. Scared, she told her she was fine. The waitress called the police who took her home. Her parents were furious, she recalled, grounding her, ironically, for sneaking out of the house.

"They didn't ask if I needed medical assistance," she said. "They didn't even seem to notice that I was in my pajamas with no shoes."

"After that, I knew never to say a word again because of the horror of that night," she said. "But by no means did it stop. From 15 to 17 years of age I lived a nightmare and was afraid for my life."

Then out of the blue, Theresa's father was transferred to another job — another town thousands of miles away and she was able to finally escape her nightmare.

"I was able to leave in the middle of the day without anyone knowing because God had a plan for me," she said. "A plan for me to [share my story] and help other girls — give them hope and you hope, and to find hope that we can stop this."

"Slavery is not over," she continued, "it has just changed forms." ■