



# OLR RESEARCH REPORT

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## **OLR BACKGROUNDER: HUMAN TRAFFICKING**

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This backgrounder provides information on human trafficking in the United States, its prevalence, and victims and those at risk of becoming victims. It also compares Connecticut's anti-trafficking laws with the principal features of the Polaris Project, which is an advocacy group that ranks states on the basis of the effectiveness of their anti-trafficking laws.

### **SUMMARY**

Human trafficking describes a wide range of activities involving the exploitation of a person for profit using physical and psychological methods of power and control to force that person to perform commercial sex acts, work under illegal conditions, or both.

Trafficking is both a federal crime and illegal in all states except Wyoming. We found no empirical evidence or peer-reviewed studies documenting its prevalence in the United States. The U.S. Department of State obtained 151 trafficking conviction in 2011, up from 141 the previous year (U.S. Department of State, 2012). But these statistics are widely viewed as much lower than would be expected using even the most conservative estimate of the number of U.S. trafficking victims.

Although trafficking victims come from many different backgrounds, most have some characteristics that make them vulnerable to traffickers. They are often isolated from families and support networks and, in some cases, their native countries, languages, and cultures.

Connecticut enacted its first anti-trafficking law in 2006. Like the framework established by a 2000 federal law, The Trafficking in Victims Protection Act (“TVPA”, PL 106-386), its provisions focus on trafficking prevention, prosecution, and victim protection (the “3Ps”). Using its own 3P model as a point of comparison, the Polaris Project ranked Connecticut’s laws as the 5th most effective in the nation in 2012.

The first part of this backgrounder provides information on the crime of human trafficking, victim characteristics, and strategies that may reduce its frequency. The remainder compares Connecticut’s statutory provisions with those the Polaris Project advocates as being necessary to effectively implement 3P strategies.

## **HUMAN TRAFFICKING**

### ***Definition***

Human trafficking is synonymous with trafficking in persons and has commonly been referred to as modern day slavery. It involves harboring, recruiting, transporting, providing, or obtaining another person and using force, fraud, or coercion to force him or her to perform commercial sex acts or work under illegal conditions. Federal and some states’ laws also expressly consider involuntary servitude, slavery, or debt bondage to be forms of human trafficking.

### ***Acts Committed under Compulsion***

The U.S. government considers as trafficking the criminal conduct involved in recruiting and holding someone in order to force them to engage in commercial sex acts or labor (TVPA, *supra*). States generally follow its lead.

***Sex Trafficking.*** When an adult or child is coerced, forced, or deceived into committing prostitution or related commercial sex acts, all those involved in recruiting, transporting, laboring, receiving, or obtaining the person for that purpose have committed a trafficking crime. Types of sex trafficking include prostitution, pornography, stripping, live-sex shows, mail-order brides, military prostitution, and sex tourism. It can also occur simultaneously with debt bondage, when a trafficker

refuses to release a victim until the victim repays an exorbitant sum the trafficker claims he or she incurred in obtaining or providing the victim a job.

**Forced Labor.** Also known as involuntary servitude, forced labor often occurs when employers, acting as traffickers, exploit workers made more vulnerable by high rates of unemployment, poverty, crime, and discrimination. Labor trafficking situations may arise in domestic servitude; restaurant, janitorial, sweatshop, or migrant agricultural work; construction; and peddling.

**Debt Bondage.** Another form of coercion involves control obtained by traffickers who provide victims with work opportunities in return for fees that are too high for victims to repay from their earnings. Abuse of contracts and hazardous employment conditions imposed on migrant laborers often fall within this category.

### ***Prevalence of Human Trafficking***

As with most other data related to human trafficking, there are huge gaps between estimates of prevalence or populations at risk and individuals actually identified as trafficking victims or enrolled in government assistance programs.

Initial estimates cited in the federal 2000 Trafficking in Victims Protection Act (PL 106-386) suggested that approximately 50,000 individuals were trafficked into the United States each year. This estimate was subsequently reduced to 18,000–20,000 in the U.S. Department of State's June 2003 *Trafficking in Persons Report*, and in its 2005 and 2006 reports, reduced again to 14,500–17,500.

For some victim service providers, these figures are not considered representative of the actual number of human trafficking victims in the country. They point out that they do not include U.S. nationals and believe that many victims go uncounted because they do not want to cooperate with law enforcement and, therefore, are never reported to authorities or seek federal assistance.

The Department of Health and Human Services (HHS) agrees that the official statistics underrepresent the number of trafficking victims. It suggests that some reasons are that:

1. trafficking victims are guarded closely by their captors;
2. many victims lack accurate immigration documents;

3. trafficked domestic servants remain invisible in private homes;
4. private businesses act as fronts for back-end trafficking operations;
5. given the covert character of the crime, accurate statistics on the nature, prevalence and geography of human trafficking are difficult to calculate; and
6. official counts are often inconsistently or inaccurately recorded due to differing definitions and beliefs among service providers and law enforcement about who is a victim of human trafficking (HHS, Office of the Administrative Secretary of Planning and Evaluation, *Human Trafficking: A Review of the Literature* (2007) (<http://aspe.hhs.gov/hsp/07/humantrafficking/litrev/index.pdf> , (last visited December 9, 2012)).

### ***Victims and Those at Risk for Victimization***

Despite the diversity of trafficking victims' backgrounds and individual circumstances, HHS has identified traits commonly found among them. These include:

1. youthfulness and immaturity—especially among homeless teens, “throw aways” (children whose parents have barred them from the family residence), and those living in foster or group homes;
2. a history of sexual abuse (primarily for women and girls);
3. vulnerability to peer pressure;
4. absence of family or other social support networks;
5. poverty;
6. little education, few employment opportunities, or both;
7. mental illness or low intelligence;
8. substance abuse or addiction; and
9. living in high crime neighborhoods (*Id.*).

## ***The 3Ps***

The 3P human trafficking eradication strategy used by the federal government and most states consists of prevention, prosecution, and protection. Its prevention aspect includes increasing public awareness of the signs of trafficking so that people will recognize and warn victims and those at risk. It also includes enacting and enforcing laws, particularly in key sectors where trafficking is most typically found, and increasing collaboration and communication among state and local government agencies and victim services organizations.

The effort to prevent human trafficking is closely aligned with prosecuting traffickers. The U.S. State Department, which globally monitors human trafficking, recommends that traffickers be imprisoned for at least one year, with comparatively longer sentences based on the severity of their actions.

U.S. policy on victim protection is based on theories of rescue, rehabilitation, and reintegration. Within this framework, federal, state, and local governments are encouraged to take steps to permit victims to remain in the country, work, and get services without fear of deportation or detention for illegal status or crimes that the trafficker forced them to commit.

The State Department also recommends safeguards for protecting former victims and their families from retribution, thus encouraging them to participate in prosecuting those who exploited them.

Long-term services include the provision of safe housing, access to educational, vocational, and economic resources, and repatriation for victims who choose to return to their home countries (U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, *The 3Ps: Prevention, Protection, and Prosecution* (June 2011) (<http://www.state.gov/j/tip/rls/fs/2012/194722.htm>, last visited 12/9/2012).

## **COMPARING POLARIS PROJECT RECOMMENDATIONS WITH CONNECTICUT LAWS**

### ***The Polaris Project***

The Polaris Project is a national anti-trafficking organization that advocates for stronger state and federal laws. As part of its advocacy for tougher laws, the project has drafted *Model Provisions of Comprehensive State Legislation to Combat Human Trafficking*. Among other

organizations, the U.S. departments of State and Justice have cited the model with approval. It rests on the 3P framework and, at a minimum, recommends that effective laws contain provisions satisfying the 10 criteria described below.

Connecticut laws match eight of the 10, including defining the crime, creating a trafficking commission or task force, training law enforcement personnel, and authorizing warrantless searches. The two criteria not covered are (1) publicizing a hotline number and (2) allowing a defendant to be convicted of sex trafficking involving 16- and 17-year olds without proving the coercive means the trafficker used. Only Massachusetts, Minnesota, Texas, and Washington achieved higher rankings.

The project's National Human Trafficking Resource Center (NHTRC) also operates a nationwide hotline, offering interpreters who speak 176 languages. The hotline takes calls from trafficking victims and others reporting suspected trafficking activities; Polaris indicates that in 2012, hotline calls helped approximately 3,200 victims get services.

### ***Polaris Recommendations and Connecticut Laws***

**1. Sex and Labor Trafficking.** The Polaris Project model recommends that trafficking be defined as a crime committed when a person uses force, fraud, or coercion with the intent of inducing another to engage in commercial sex acts or forced labor. It maintains that trafficking be treated as a crime separate from others that may overlap, such as kidnapping; extortion; child pornography; or wage and hour violations. However, it favors trafficking prosecutions to include charges under any of these state laws that are applicable.

Connecticut law matches the organization's recommendations. Trafficking is a stand-alone crime entailing a perpetrator's (1) use of force, coercion, fraud, or deception to (2) recruit, abduct, transport, harbour, transfer, sell, or receive an individual to work in slavery-like conditions for forced labor or commercial prostitution, domestic servitude, bonded or sweatshop labor, or other debt bondage (CGS § [53a-192a](#)).

Connecticut's anti-trafficking law incorporates its existing definition of coercion, a crime committed when an actor makes a victim fear that if he or she does not comply with the actor's demands, the actor or another person will:

1. commit a crime;

2. accuse someone else of committing a crime; or
3. expose a secret that could subject anyone to hatred, contempt, or ridicule, or impair his or her credit or business reputation.

Trafficking in persons is a class B felony, punishable by imprisonment for up to 20 years, fines of up to \$15,000, or both. Other coercion offenses carry shorter prison terms and smaller fines.

**2. Prevention Strategy.** One prevention strategy endorsed by Polaris involves states' establishing permanent taskforces dedicated to monitoring, publicizing, and recommending changes to their human trafficking laws. This is consistent with the organization's view that the underreporting of the crime is the result of the general public's lack of awareness of its illegality, prevalence, or signs. Connecticut enacted laws in 2004, 2006, and 2007 that created and assigned similar responsibilities, initially to a time-limited task force; the 2007 legislation transformed the task force into a permanent council.

The original act charged a 25-member, multidisciplinary task force with:

1. collecting data on the nature and extent of trafficking in the state;
2. evaluating approaches to increase public awareness;
3. measuring and evaluating the state's progress in implementing the 3P strategy;
4. analyzing existing state criminal statutes and recommending revisions or additions;
5. consulting with government and other organizations in developing recommendations to strengthen state and local efforts to implement the 3Ps; and
6. identifying federal, state, and local programs that provide services to victims ([SA 04-8](#)).

A 2006 act expanded the task force's charge to include (1) implementing public awareness strategies; (2) identifying criteria for providing victim services; and (3) addressing victims' access to rights, benefits, and services ([PA 06-43](#)).

The 2007 act replaced the task force with a permanent Trafficking in Persons Council charged with:

1. consulting with government and other organizations in developing recommendations to strengthen state and local efforts to implement the 3Ps,
2. identifying criteria for providing services to adult trafficking victims and their children, and
3. holding meetings and releasing public updates and progress reports.

The council must annually report to the General Assembly on its activities and recommended legislation (CGS § [46a-170](#)).

**3. Posting a Human Trafficking Hotline.** Another of the project's core recommendations for increasing public awareness requires states to post highly-visible notices about human trafficking and how to contact the NHTRC hotline, the state's counterpart, or both.

Connecticut law does not require this.

**4. Training Law Enforcement Personnel.** Polaris contends that police officers should be trained to recognize the signs of human trafficking and how to respond effectively when they encounter it. The organization's rationale is that officers are (1) a common presence in the areas they patrol; (2) most familiar with its residents; and (3) often first or second responders to calls reporting such things as domestic violence, prostitution, and labor servitude, all of which potentially involve trafficking.

Connecticut's 2006 legislation directed the Permanent Commission on the Status of Women, in conjunction with the state's Police Officer Standards and Training Council, to develop a training program on trafficking in persons. It requires training for state and local police departments, prosecutors, and community organizations on request (CGS § [46a-4b](#)).

**5. Investigative Tools for Law Enforcement.** In addition to specialized training for law enforcement personnel, another Polaris recommendation directed at "prosecution" is statutory authorization for police conducting human trafficking investigations to wiretap phones and other means of electronic communications without first having to

prove the existence of probable cause to obtain a judge's signature on search warrant.

Connecticut law makes human trafficking a predicate crime under its Corrupt Organization Racketeering Act (“CORA,” CGS § 53-393). As such, it authorizes warrantless wiretapping to be used in these investigations. It applies to both trafficking suspects and all others believed to be acting in concert with them (*Id.*).

**6. Lower Burden of Proof for Sex Trafficking of Minors.** Polaris recommends that, in criminal prosecutions for sex trafficking involving minors, a defendant be found guilty without proof of the physical or psychological means he used to coerce his or her victim. It maintains that the same rationale should be used in these cases as applies in statutory rape prosecutions: that just as minors are emotionally and psychologically unable to consent to sexual relations, they are unable to consent to engaging in commercial sex acts.

Connecticut does not have such a provision.

**7. Asset Forfeiture.** The project has identified asset forfeiture as an effective means of deterring individuals from engaging in human trafficking. Forfeiture is a court proceeding in which judges can order the seizure of assets used in, or obtained from, trafficking crimes. In most states, civil and criminal court judges can issue this sanction, with less proof required in the former case.

Connecticut law establishes a civil forfeiture procedure to seize tainted funds and property suspected to have been used or obtained from crimes involving human trafficking. The funds and property subject to forfeiture are:

1. money used or intended for use related to the human trafficking crime;
2. property constituting the proceeds obtained, directly or indirectly, from the crime;
3. property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from the crime; and
4. property used or intended for use, in any manner or part, to commit or facilitate the crime for pecuniary gain.

The act also subjects a person or enterprise that engaged in a pattern of trafficking to prosecution under the CORA.

CORA violators are subject to imprisonment for up to 20 years, fines of up to \$25,000, or both. They are also subject to the fines and penalties associated with the underlying crimes themselves (CGS § 53-397).

**8. Protecting Trafficked Minors.** Consistent with its position that all minors under age 18 who engage in commercial sex acts are victims, not criminals, Polaris recommends that minors be granted immunity from criminal prosecution or juvenile court adjudications arising from violating prostitution and related laws.

Connecticut law does not give blanket immunity to minors under these conditions. But it establishes a presumption in prosecutions that a trafficker coerced a 16- or 17- year-old to commit commercial sex crimes (CGS § 53a-82). In criminal law, presumptions require a judge or jury to assume a fact to be true (in this case, coercion) unless it is disproved.

**9. Victim Assistance.** Polaris also recommends that statutes mandate state victim service plans or fund programs to help trafficking victims. Services may include counselling, job assistance, housing, continuing education, and legal assistance.

Connecticut law mandates that the Judicial Branch's Office of Victim Services, within appropriations, contract with organizations to develop a coordinated response system to assist human trafficking victims. Permissible services include:

1. developing a uniform training curriculum and resource information for victims;
2. seeking out training for identifying and helping victims; and
3. providing information and training to first responders, faith-based organizations, other service providers, and state and local government agencies (CGS § 54-234).

**10. Access to Civil Damages.** Finally, Polaris recommends that trafficking victims be authorized to sue their traffickers for money and other damages, as the effects of their exploitation generally have caused them extreme suffering, long-term emotional harm, and economic losses.

Connecticut law permits victims to sue their traffickers. They may seek either (1) actual damages or (2) statutory damages of up to \$1,000 for each day they were coerced to work or engage in prostitution. If the victim prevails, the trafficker must also pay court costs and attorneys fees (CGS § [52-571i](#)).

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