



Ending Modern-Day Slavery: Using Research to Inform U.S. Anti-Human Trafficking Efforts

by Maureen Q. McGough

NIJ study examines the challenges facing the criminal justice system when combating human trafficking.

Trafficking in persons is modern-day slavery and exists in virtually every country in the world — and the United States is no exception.¹ Almost 150 years after the 13th Amendment abolished slavery and involuntary servitude, there are still men, women and children enslaved into labor and commercial sexual exploitation in the U.S. (see sidebar, “Understanding Modern-Day Slavery,” on page 27).

In recent years the worldwide human trafficking problem has attracted significant political and social attention. Awareness-raising initiatives such as the United Nation’s Blue Heart Campaign² encourage involvement and action to fight human trafficking on a global scale. In the U.S., the Department of

Homeland Security’s Blue Campaign unites anti-human trafficking programs and offers resources for law enforcement and the public to help raise awareness and provide much-needed training.³

Despite growing awareness of the issue and an influx of resources from such influential bodies as the United Nations and other intergovernmental organizations, foundations, non-governmental organizations and the U.S. government, the field is still hampered by its inability to measure the size and scope of trafficking.⁴

The data used to estimate the prevalence of human trafficking in the U.S. are lacking in scope and quality at the federal, state and local levels.⁵ The lack of reliable



data and a dependence on inadequate evidence have fueled disagreement among anti-human trafficking movements in this country, and some researchers have criticized the issue as unsubstantiated and estimates of the problem as dubious.⁶ Recent estimates of people trafficked into the U.S. each year, for example, have varied widely from a low of approximately 14,500 to a high of approximately 50,000.⁷

Unfortunately, challenges also exist in gauging the effectiveness of the criminal justice system's response. Rates of identification, investigation and prosecution are of limited value in determining the effectiveness of U.S. responses to human trafficking because the data supporting prevalence estimates are unreliable.

Research can play an invaluable role in understanding the criminal justice system's ability to respond to trafficking and in identifying obstacles that hinder current efforts. The need for robust research is all the more pressing given restricted budgets and declining resources. At a time when governments increasingly are looking to use evidence-based practices, policymakers and practitioners are looking to the research community to produce the data needed to analyze the impact of anti-trafficking efforts.

The problem can be cyclical — without accurate estimates of the prevalence of human trafficking, it can be difficult to know how to allocate resources to study the issue. The U.S. State Department's annual compendium of countries' anti-human trafficking efforts, the *Trafficking in Persons Report*, recognizes this data deficiency and recommends that the U.S. improve the data and analysis of human trafficking cases at the state and local

“[The stories of human trafficking victims] remind us what kind of inhumane treatment we are capable of as human beings. They are living, breathing reminders that the war against slavery remains unfinished.”

—U.S. Secretary of State Hillary Clinton, at the release of the U.S. State Department's *2012 Trafficking in Persons Report*, June 19, 2012

level.⁸ NIJ has funded a number of projects to improve data collection and analysis of the issue. This article discusses one recent study that looked specifically at the challenges facing state and local criminal justice systems.

A Hidden Crime

The nature of human trafficking helps keep this crime hidden. Captors often closely guard their victims, leaving them isolated with

little to no freedom of movement.⁹ They restrict victims' contact with the outside world.¹⁰ Domestic servants remain “invisible” in private homes, and private businesses can serve as fronts for trafficking operations.¹¹ Many victims face language barriers that prevent them from seeking help. Additionally, international victims who enter the U.S. may be uncertain of their immigration status and thus less inclined to work with authorities.

Understanding Modern-Day Slavery

Most countries banned “chattel slavery” — one person owning another person as property — in the 1800s. Despite this, slavery continues in the modern day. Although owning slaves used to be a major investment formalized through legal documents, today's slaves are held through debt bondage, indentured servitude or other forms of control.

For more than a decade, the phrase “human trafficking” has been used to describe the act of holding a person in forced service — the very definition of slavery. The term can cause confusion, however, because it implies that traffickers always transport victims across borders; in actuality, victims can also be held in their own homes. Experts maintain that when considering the issue of human trafficking, it is important to do so in an accurate context — acknowledging that trafficking is modern slavery and that trafficked persons are slaves.

Furthermore, victims, for a variety of reasons, do not always identify themselves as such. Human trafficking victims suffer tragic psychological trauma and may experience Stockholm syndrome, generating positive feelings and gratitude toward their captors for perceived favors or even for being allowed to live.¹² Law enforcement commonly lacks training to identify these signs of trauma, making it difficult for them to sever the controlling bond that captors have over their victims and decreasing the likelihood that victims will cooperate.¹³ Even if victims identify themselves as such and are aware of their rights, they still might hesitate to report their victimization out of fear of reprisal from the trafficker, lack of trust in law enforcement or fear of deportation.¹⁴

Challenges at the State and Local Levels

Since the passage of the Trafficking Victims Protection Act in 2000, 49 states have enacted legislation that criminalizes human trafficking and empowers state and local law enforcement — often the first responders to interact with victims — to investigate these cases without depending on federal authorities and to prosecute human trafficking cases in state courts.¹⁵

Increased involvement of state and local law enforcement is critical because they handle the bulk of criminal cases in the United States. Even before the passage of state anti-trafficking legislation, federal law enforcement requested that state and local officers “be the eyes and ears for [federal law enforcement in] recognizing, uncovering and responding to circumstances that may appear to be routine street crime, but may ultimately turn out to be a human trafficking case.”¹⁶ In fact, in a survey

“[Human trafficking] ought to concern every person because it is a debasement of our common humanity. It ought to concern every community because it tears at our social fabric. It ought to concern every business because it distorts markets. It ought to concern every nation because it endangers public health and fuels violence and organized crime.”

—President Barack Obama,
remarks at the Clinton Global Initiative
Annual Meeting, September 25, 2012

of state and local law enforcement personnel, 32 percent of respondents indicated that they identified many of their human trafficking cases when they were investigating other crimes.¹⁷

Despite this increased involvement, reports show that fewer trafficking cases have been identified and prosecuted than would be expected given current estimates.¹⁸ This has led to speculation that either incidents of human trafficking are significantly overestimated or government officials and law enforcement agencies are not effectively confronting the problem.¹⁹

NIJ funded Amy Farrell and her colleagues at Northeastern University and researchers at the Urban Institute to examine the challenges facing state and local criminal justice systems when investigating and prosecuting human trafficking cases. The researchers conducted a

12-site study that included in-depth interviews with 166 practitioners from federal, state and local law enforcement; state and federal prosecutors; victim service providers; and other stakeholders. The researchers also analyzed data from 140 closed human trafficking case files²⁰ to determine which characteristics of human trafficking cases attract local law enforcement’s attention and predict adjudicatory outcomes.²¹ Although the study is not nationally representative, the findings can help us understand why the number of human trafficking cases is lower than estimates of the problem might predict. Here is what the researchers found:

Identification challenges

The study confirmed that identifying victims is particularly challenging because perpetrators hide and move their victims. The interviews also revealed that the cultural and

The Prevalence of Labor Trafficking in the United States

In the NIJ-funded study discussed in the main article, researchers found that the majority of cases identified by law enforcement involved sex trafficking. Only 11 percent of cases were labor trafficking cases; cases with both labor and sex trafficking made up an additional 4 percent. Federal and state data indicate that more investigations and prosecutions take place for sex trafficking than for labor trafficking.

Notably, however, in the U.S. State Department's 2012 *Trafficking in Persons Report*, victim services providers in the U.S. reported assisting significantly more foreign-national labor trafficking victims than sex trafficking victims.¹ Concurrently, the Department of Health and Human Services has seen a steady rise in labor trafficking victims, and non-governmental organizations have reported increasing instances of traveling sales crews and peddling rings using child and adult forced labor in the U.S.²

Some research suggests that labor trafficking victims are harder to identify than sex trafficking victims, given that international victims may be mistaken for smuggled immigrants. Further, the victimization of labor trafficking victims (many of whom are male) may be seen as less compelling than that of sex trafficking victims (many of whom are young women). In the NIJ-funded study discussed in the main article,

researchers found that police and prosecutors were commonly unfamiliar with labor laws and regulations and lacked the infrastructure to identify instances of labor trafficking in various workplace settings.

Empirical research follows the same tendency to focus on sex trafficking. In an NIJ-funded bibliography of research literature on human trafficking, researchers found that the majority of articles addressed sex trafficking. Indeed, out of 39 articles, only four dealt with trafficking for labor exploitation or domestic servitude.³

The lack of knowledge about the scope and scale of labor trafficking in this country is particularly concerning given U.S. agriculture's heavy reliance on migrant laborers. To shed light on the issue, NIJ funded a study of migrant laborers in San Diego County; the study used respondent-driven sampling to produce statistical estimates of labor trafficking in the area. The study found that labor trafficking

victimization appeared to be rampant among unauthorized Spanish-speaking immigrant workers in the county, with an estimate that more than 30 percent of this target population were labor trafficking victims.⁴

If the numbers coming out of San Diego County are any indication of prevalence in other parts of the country, there is a significant, immediate need for a greater understanding of the scope, scale and methods of labor trafficking on a national level to support and inform critical anti-trafficking efforts. Accordingly, NIJ plans to focus forthcoming solicitations (dependent on funding availability) on the prevalence and methods of labor trafficking in the U.S.

For more information:

- See <http://www.nij.gov/nij/topics/crime/human-trafficking/welcome.htm>.

Notes

1. U.S. Department of State, *Trafficking in Persons Report*, Washington, D.C.: Author, 2012, p. 360, available at <http://www.state.gov/j/tip/rls/tiprpt/2012>.
2. Ibid.
3. Goździak, Elżbieta M., and Micah N. Bump, "Data and Research on Human Trafficking: Bibliography of Research-Based Literature," Final report to the National Institute of Justice, grant number 2007-VT-BX-K002, October 2008, NCJ 224392, p. 7, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/224392.pdf>.
4. Zhang, Sheldon X., "Looking for a Hidden Population: Trafficking of Migrant Laborers in San Diego County," Final report to the National Institute of Justice, grant number 2009-IJ-CX-0011, November 2012, NCJ 240223, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/240223.pdf>.

organizational characteristics of police agencies can hinder efforts to identify victims and that local law enforcement and communities generally do not make combating human trafficking a priority.²² This often means fewer resources for training and staff for labor-intensive investigations.

The cases the researchers reviewed had primarily been identified through reactive approaches, illustrating that officers generally wait for victims to self-identify or for community tips about potential victimization to be received before they launch investigations. The researchers found that law enforcement uniformly lamented the lack of identified labor trafficking cases, suggesting that although officers believe labor trafficking is occurring in local communities, they have not received information about these cases. The use of proactive strategies to identify trafficking cases was uncommon and rarely involved cooperation between law enforcement and prosecutors.

Investigation challenges

Researchers in the Northeastern University/Urban Institute study reviewed 140 closed trafficking case files to determine whether the evidence supported a charge of human trafficking as outlined in the Trafficking Victims Protection Act and its reauthorizations.²³ The review found evidence of human trafficking in the majority of the cases. Among the indicators found were threatening to harm or actually physically or nonphysically harming the victim; demeaning and demoralizing the victim; dominating, intimidating and controlling the victim; and disorienting and depriving the victim of alternatives.²⁴ However, few suspects were actually charged with human trafficking offenses.²⁵ Even when they received specific human trafficking cases, prosecutors

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were more likely to prosecute using laws with which they, judges and juries were more familiar, such as promoting prostitution, kidnapping or fraud.

Interviews with practitioners confirmed what other research has shown: Victims were reluctant to cooperate with investigations because they either feared retaliation from their trafficker or distrusted law enforcement. In some cases, because jurisdictions lacked specialized services for trafficking victims, such as secure housing, law enforcement officers arrested victims to keep them from returning to their traffickers or to help them feel safe from pimps and thereby encourage the victims' cooperation in the investigation. Although the arrest was often for the victim's protection, it essentially resulted in the victim being treated like a suspect. These victims may feel revictimized and experience the same negative emotions they experienced in the trafficking situation, thus adding to often pre-existing distrust of law enforcement.²⁶

Specialized services for trafficking victims are all the more critical because victims' loyalty to their traffickers may stem, in part, from feelings that they have no practical alternatives to their current situation.

One of the law enforcement practitioners interviewed explained the potential impact that additional resources could have on combating trafficking by providing victims with a viable alternative:

We have nothing to say, "Hey, I can put you up in ... this place. And I can help you get an education. And I can help you get a job. And I can help you take care of your kids." You know, we don't have that. If I had that, man ... we could stop prostitution.

Interviews with law enforcement officers also revealed that some officers had negative stereotypes about the people commonly found to be victims of human trafficking, especially those involved with prostitution and those with drug addictions. Some reported the use of derogatory terms for victims, and one officer said, "Victims are often unreliable, often addicted to drugs. It's probably easier to prosecute homicides because the victims are dead."

Law enforcement commonly lacked training on how to investigate human trafficking cases. The researchers found that in many study sites, vice investigators were conducting human trafficking investigations using standard vice investigation strategies geared toward drug and gambling crimes, further reducing the likelihood of a successful trafficking investigation.

Additionally, many trafficking cases are cross-jurisdictional, and agencies reported that cases often fell apart when they lacked the resources or institutional support to gather evidence or conduct interviews in other states. Importantly, officers indicated that they could not dedicate time and resources to investigate cases they felt would not result in prosecution.

Therefore, the reluctance of prosecutors to file charges in human trafficking cases created a negative feedback loop, in some instances diminishing an investigator's determination to identify and investigate these challenging cases.

Prosecution challenges

Because state statutes on human trafficking are relatively new, there is a lack of precedent and case law, and prosecutors operate with little or no guidance on prosecutorial techniques or other resources, such as sample jury instructions. Many prosecutors interviewed in the study by Farrell and colleagues said they were concerned about losing high-profile cases (and damaging their reputation), and so they prosecuted cases using a charge other than human trafficking. A local prosecutor said, "[T]hat was sort of the unwritten policy of the office: 'Why bother with this goofy human trafficking statute, just charge other crimes that you are more comfortable with and that you have used in the past.'" Prosecutors also reported that victims were often reluctant to testify or did not seem credible, and most state and local agencies lacked the institutional infrastructure (such as a specialized human trafficking unit) to support prosecution.

Although few of the cases studied resulted in suspects being charged for human trafficking offenses, offenders were held accountable in 69 percent of the cases, in that they were prosecuted for different offenses, such as rape, kidnapping or pandering. However, this poses an obvious problem in crime reporting. For example, the 2008 reauthorization of the Trafficking Victims Protection Act mandates that the FBI collect information about human trafficking offenses through the Uniform Crime Reporting (UCR) program. But unless state and local

law enforcement routinely investigate human trafficking cases as such, crime data reported through the UCR will inevitably undercount instances of human trafficking. Underreporting could be more harmful than no reporting at all, particularly when agencies tie funding decisions to what the crime data show are the most prevalent problems.

The Road Ahead

Human trafficking is believed to be a growing crime, fueled by low risk and the potential for high monetary gain. Although we still need reliable estimates of nationwide prevalence, it is clear that human trafficking occurs on a large scale within U.S. borders.²⁷

Identifying, understanding and combating this inherently covert form of modern-day slavery requires robust research to shed light on

an otherwise obscure problem. To further this body of research, NIJ recently awarded grants to study:

- The underreporting of sex trafficking victims who are minors
- The role that gangs play in sex trafficking
- Effective counter-trafficking legislation, law enforcement processes and demand-reduction strategies
- Strategies to stabilize and integrate adult survivors of human trafficking in the U.S.

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Listen to Amy Farrell discuss the study's findings at the 2012 NIJ Conference: <http://nij.ncjrs.gov/multimedia/video-nijconf2012-farrell.htm>.

For more information:

- Learn more about the study and NIJ's ongoing research on human trafficking: <http://nij.gov/topics/crime/human-trafficking/welcome.htm>.

Notes

1. See generally U.S. Department of State, *Trafficking in Persons Report*, Washington, D.C.: Author, 2012, available at <http://www.state.gov/j/tip/rls/tiprpt/2012>.
2. For more information on the Blue Heart Campaign, visit <http://www.unodc.org/blueheart/en/about-us.html>.
3. For more information on the Department of Homeland Security's Blue Campaign, visit <http://www.dhs.gov/blue-campaign>.
4. The Trafficking Victims Protection Act (TVPA) defines a severe form of human trafficking as, "A commercial sex act 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" (TVPA, Section 103, 8a and b).
5. Farrell, Amy, Jack McDevitt, Noam Perry, Stephanie Fahy, Kate Chamberlain, William Adams, Colleen Owens, Meredith Dank, Michael Shively, Ryan Kling, and Kristin Wheeler, "Review of Existing Estimates of Victims of Human

- Trafficking in the United States and Recommendations for Improving Research and Measurement of Human Trafficking," Final report to ATEST, 2010, pg. vii and 9.
6. Weitzer, Ronald, "The Social Construction of Sex Trafficking: Ideology and Institutionalization of a Moral Crusade," *Politics & Society* 35 (2010): 447-448, available at [http://myweb.dal.ca/mgoodyea/Documents/Migration%20studies/The%20social%20construction%20of%20sex%20trafficking%20Weitzer%20Pol%20Soc%202007%20%2035\(3\)%20%20447-475.pdf](http://myweb.dal.ca/mgoodyea/Documents/Migration%20studies/The%20social%20construction%20of%20sex%20trafficking%20Weitzer%20Pol%20Soc%202007%20%2035(3)%20%20447-475.pdf).
 7. Clawson, Heather J., Nicole Dutch, Amy Solomon, and Lisa Goldblatt Grace, *Human Trafficking Into and Within the United States: A Review of the Literature*, Washington, D.C.: U.S. Department of Health and Human Services, 2009, available at <http://aspe.hhs.gov/hsp/07/HumanTrafficking/LitRev>.
 8. *Trafficking in Persons Report*, 12.
 9. Clawson, Heather J., and Nicole Dutch, *Identifying Victims of Human Trafficking: Inherent Challenges and Promising Strategies from the Field*, Washington, D.C.: U.S. Department of Health and Human Services, 2008, available at <http://aspe.hhs.gov/hsp/07/humantrafficking/IdentVict/ib.htm>.
 10. Ibid.
 11. Clawson, Heather, Mary Layne, and Kevonne Small, "Estimating Human Trafficking into the United States: Development of a Methodology," Final report to the National Institute of Justice, task order number 2004T0178, September 2006, NCJ 215475, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/215475.pdf>.
 12. See Office of Refugee Resettlement, "Fact Sheet: Labor Trafficking," U.S. Department of Health and Human Services, 2012, available at <http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-labor-trafficking-english>, and Fitzgerald, Laura, "Stockholm Syndrome," *Time Magazine* (August 2009), available at <http://www.time.com/time/magazine/article/0,9171,1920301,00.html>.
 13. Walker-Rodriguez, Amanda, and Rodney Hill, "Human Sex Trafficking," *Law Enforcement Bulletin* (March 2011), available at http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/march_2011/human_sex_trafficking.
 14. Newton, Phyllis J., Timothy M. Mulcahy, and Susan E. Martin, "Finding Victims of Human Trafficking," Final report to the National Institute of Justice, grant number 2007-VT-BX-0001, October 2008, NCJ 224393, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/224393.pdf>. See also Office of Refugee Resettlement, *Fact Sheet: Identifying Victims of Human Trafficking*, U.S. Department of Health and Human Services, 2012, available at <http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-identifying-victims-of-human-trafficking>.
 15. Farrell, Amy, Jack McDevitt, Rebecca Pfeffer, Stephanie Fahy, Colleen Owens, Meredith Dank, and William Adams, "Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases," Final report to the National Institute of Justice, grant number 2009-IJ-CX-0015, April 2012, NCJ 238795, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/238795.pdf>.
 16. Ibid., 3.
 17. Clawson, Heather, Nicole Dutch, and Megan Cummings, "Law Enforcement Response to Human Trafficking and the Implications for Victims: Current Practices and Lessons Learned," Final report to the National Institute of Justice, grant number 2004-WG-BX-0088, December 2006, NCJ 216547, p. iv, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/216547.pdf>.
 18. Farrell 2012, 1.
 19. Ibid.
 20. A "human trafficking case file" included cases investigated as human trafficking and prosecuted locally as such, investigated as human trafficking but prosecuted locally as a different crime, locally investigated as trafficking but prosecuted federally, locally investigated as trafficking but never prosecuted, or prosecuted locally as trafficking but originally identified as a different crime.
 21. Farrell 2012, 19.
 22. Notably, a different survey found that between 73 percent and 77 percent of local law enforcement leaders think that human trafficking is rare or nonexistent in their community, further explaining the lack of prioritization of trafficking. Farrell, Amy, Jack McDevitt, and Stephanie Fahy, "Understanding and Improving Law Enforcement Responses to Human Trafficking: Final Report," Final report to the National Institute of Justice, grant number 2005-IJ-CX-0045, December 2008, NCJ 222752, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/222752.pdf>.
 23. The TVPA (and its reauthorizations) define a human trafficking victim as a person induced to perform labor or a commercial sex act through force, fraud or coercion.
 24. Farrell 2012, 306.
 25. Seven percent of the reviewed cases resulted in a sex trafficking charge, 9 percent in a sex trafficking of a minor charge, and 2 percent in a labor trafficking charge.
 26. Farrell 2012, 121.
 27. Hopper, Elizabeth, "Underidentification of Human Trafficking Victims in the United States," *Journal of Social Work Research and Evaluation* 5 (2004): 125-136. See generally Clawson, Layne and Small 2006; U.S. Department of State, *Trafficking in Persons Reports*, Washington, D.C.: Author, 2001-2012, available at <http://www.state.gov/j/tip/rls/tiprpt/index.htm>; and Zhang, Sheldon X., "Looking for a Hidden Population: Trafficking of Migrant Laborers in San Diego County," Final report to the National Institute of Justice, grant number 2009-IJ-CX-0011, November 2012, NCJ 240223, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/240223.pdf>.