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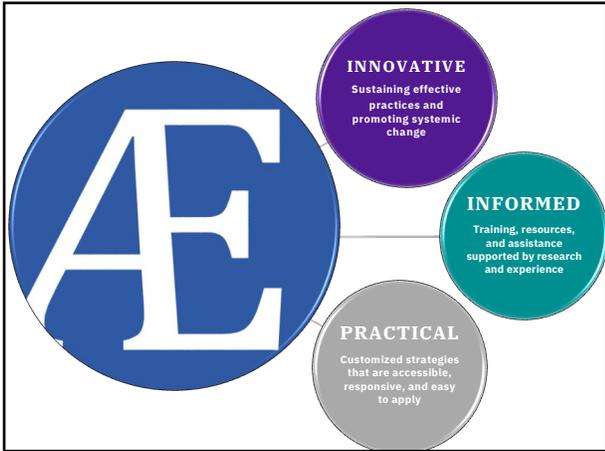
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What We Do	
<p><b>Resources</b></p> <p>Create, research, and curate publications, statutory and case law compilations, and other resources that strengthen prosecution practices</p>	<p><b>Consultations</b></p> <p>Offer on-demand 24/7 consultations with our seasoned prosecutors to answer case-specific inquiries, discuss strategy, conduct research, and recommend data-driven solutions</p>
<p><b>Training Events</b></p> <p>Develop curricula and facilitate a wide range of specialized in-person and web-based trainings designed to empower prosecutors and allied professionals</p>	<p><b>Partnerships &amp; Initiatives</b></p> <p>Provide long-term support in building frameworks for coordinated responses to gender-based violence including data collection and analysis, task force development, and training</p>

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## Presenter



**Lou Longhitano**  
Attorney Advisor  
AEquitas

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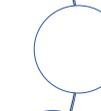
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## Objectives



Identify labor trafficking victims in non-traditional labor enterprises.



Analyze culpability through a trauma-informed lens.



Design appropriate dispositions based on an individual's level of culpability.

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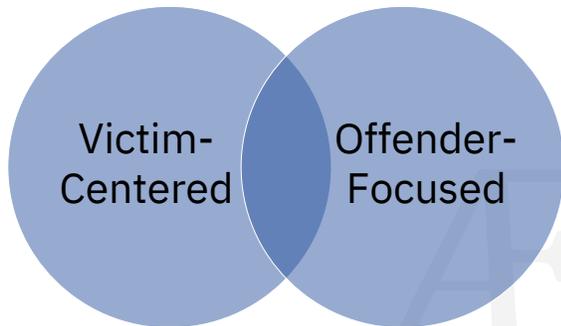
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## Mission



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## Offender-Focused

- Keep focus on the actions and intent of offender
- Recognize that offenders take advantage of situations and individuals because they believe they will be able to escape accountability
- Appreciate that offenders are responsible for victims' trauma and its resulting effects

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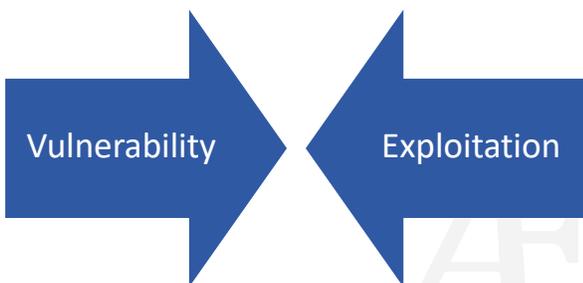
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## Underlying Factors

Labor Trafficking



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## What are some factors?

- Poverty
- Immigration status
- Substance use disorders
- Unstable home lives
- Criminal histories
- LGBTQ+
- Mental health issues
- Lack of education or job opportunities
- Families to support
- Developmental delays

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## Labor Trafficking

18 U.S.C. § 1589-90

Act	Means	Purpose
<ul style="list-style-type: none"><li>• Recruits</li><li>• Harbors</li><li>• Transports</li><li>• Provides</li><li>• Obtains</li><li>• Benefits, financially or by receiving anything of value</li></ul>	<ul style="list-style-type: none"><li>• Force</li><li>• Restraint</li><li>• Threats of harm</li><li>• Abuse or threatened abuse of the legal system</li><li>• Coercion</li></ul>	<ul style="list-style-type: none"><li>• Forced labor</li><li>• Forced services</li><li>• Debt bondage</li></ul>

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## Coercion

22 U.S.C. § 7102(3)

Threats of serious harm to or physical restraint against 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;

The abuse or threatened abuse of the legal process.

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## Serious Harm

18 U.S.C.A. § 1589(c)(2)

[A]ny harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

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## Involuntary Servitude

720 ILCS 5/10-9(b)

A person commits involuntary servitude when he or she knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to labor or services obtained or maintained through any of the following means, or any combination of these means:

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## “Means”

720 ILCS 5/10-9(b)

Physical harm	Physical restraint	Abuse of the law
Document confiscation	Intimidation or financial control	Scheme threatening serious harm or physical restraint

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## Definitions

“Labor” means work of economic or financial value.

- 720 ILCS 5/10-9 (a)(5)

“Services” means activities resulting from a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor...

- 720 ILCS 5/10-9(a)(8)

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## Analysis

18 U.S.C. § 1589(c)(2); 720 ILCS 5/10-9(a)(7.5)

### Harm

- Physical
- Psychological
- Financial
- Reputational

### Circumstances

- All of the surrounding circumstances

### Reasonable Person

- Same background
- Same circumstances

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*The victim's vulnerabilities are relevant in determining whether the physical or legal coercion or threats thereof could plausibly have compelled the victim to serve.*

United States v. Kozminski, 487 U.S. 931, 933, 108 S. Ct. 2751, 2755, 101 L. Ed. 2d 788 (1988)

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## United States v. Calimlim

538 F.3d 706 (7th Cir. 2008)

- Domestic servitude case
- Court found that the following were sufficient to establish the “means” required under 18 U.S.C. § 1589

*[The defendants] knew that they were telling [the victim] that if she did not do everything they asked, they would not send money back home for her. [The defendants] also knew that not sending money back home was, for [the victim], a “serious harm.” [The defendants] also warned [the victim] about her precarious position under the immigration laws...*

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## Labor Trafficking

Common Tactics

- Depriving and Disorienting
- Demeaning and Demoralizing
- Threats or Use of Violence
- Intimidation and Control
- Deception of Consequences
- Use or Threatened Use of the Law
- Diminishing Resistance

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*“My family decided ok since you’ve been helping us ever since you’ve worked now is our time to also like extend our help to you and probably you can just go to the United States. Catch your dream there. That’s my parents, you know. And so we were able to raise the money. My mother, she has this piece of property, land ... we are going to loan money and her piece of land will be the collateral...”*

Site 1, Northeast, Survivor 1, Male, Hospitality (1/2)

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*"If I cannot be able, if we cannot be able to pay the debt, they are going to seize the property ... I mean along with that there is the moral obligation because that has been passed through from generation to generation from my great-great grandparents to my grandparents to my mother. You know? It has a sentimental value at all ... And so there was like a really, a relatively like huge amount of moral obligations to really pay the debts ... And that is the most challenging part there."*

Site 1, Northeast, Survivor 1, Male, Hospitality (2/2)

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Northeastern University



Understanding the Organization, Operation and Victimization of Labor Trafficking in the United States

Conducted by: Urban Institute and Northeastern University in collaboration with Freedom Network USA

Available at <https://www.urban.org/research/publication/understanding-organization-operation-and-victimization-process-labor-trafficking-united-states>

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### Affirmative Defenses

Common Law

Duress      Necessity

Self-defense



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## Compulsion

720 ILCS. 5/7-11

A person is not guilty of an offense, other than an offense punishable with death, by reason of conduct that he or she performs under the compulsion of threat or menace of the imminent infliction of death or great bodily harm, if he or she reasonably believes death or great bodily harm will be inflicted upon him or her, or upon his or her spouse or child, if he or she does not perform that conduct.

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## Necessity

720 ILCS 5/7-13

Conduct which would otherwise be an offense is justifiable by reason of necessity if the accused was without blame in occasioning or developing the situation and reasonably believed such conduct was necessary to avoid a public or private injury greater than the injury which might reasonably result from his own conduct.

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## What is Forced Criminality?

Forced Labor, Services, or Debt Bondage

- Prostitution
- Theft
- Robbery
- Sex trafficking
- ID theft
- Forgery
- Weapons
- Drug use
- Drug sales
- Gang activity
- Illicit marijuana cultivation

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# Case Study

*The State of Utah v. Victor Rax*



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## Victor Rax's Plan

**Step 1:**  
Identify vulnerable individuals

- Rax identified boys and young men (9-15 years old)
- Impoverished
- Undocumented
- High-crime neighborhoods

**Step 2:**  
Gain Access

- Rax used his position and reputation to gain access to boys and young men
- Well-known in the neighborhood
- Likable and generous
- Provided proximity to money and power

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## Victor Rax's Plan, cont'd

**Step 3:**  
Grooming

- Rax developed relationships based on:
  - Providing unfulfilled needs
  - Instilling trust with victims and their families
  - Using terms like, "love", "family", and "loyalty"

**Step 4:**  
Intimidation

- Rax pivoted from "nice guy" to abuser:
  - Provided drugs and alcohol
  - Sexually abused boys and young men
  - Forced victims to sell drugs

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## Victor Rax's Plan

### Step 5: Maintain Control

- Rax used various tactics to control his victims:
- Cultural fear tactics
- Threaten with arrest or deportation
- Sexually abused victims and threatened to tell others

### Step 6: Escape Accountability

- Rax thought he could get away with it because:
- He *had* gotten away with it for a long time
- Victims felt that no one would believe them and that they would be arrested or deported
- Victims were ashamed

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## Forced Criminality

Vulnerable

Lines crossed

Heightened  
vulnerability

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## Investigation and Prosecution

Utah Attorney General's Office

- Original tip came from a confidential informant
  - Rax is a gang leader and drug dealer
  - Rax is always surrounded by boys and young men
- Charged drug offenses first
- Provided services to victims
- Filed a superseding indictment with labor trafficking and sexual abuse charges

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## Victim-Centered Approach

Utah Attorney General's Office

- Treated victims as victims
- Recognized impact on 100s of victims and families
- Provided "Safe Harbor"
- Did not criminalize
- Approved appropriate criminal record relief
- Provided documentation for immigration relief
  - Continued Presence
  - T Visas

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## Key Takeaways

Screen for forced criminality

Assess culpability

Recognize impact of trauma

Acknowledge victims' distrust

Practice cultural humility

Connect with appropriate victim services

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## Goals

Support Victims

Hold Offenders Accountable

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*I just wanted to say a few words. Um, Victor Rax took my dignity. He took my confidence. He took my [pause] my [pause] my self. I don't know who I was, and it has impacted me very much in my life, negatively, and I'm trying to get my life together right now. I just want to say that, thank you guys for being there, for law enforcement that stopped him and right now this is making me feel better, to let this out.*

Victim impact statement (E.R.)

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## Going Forward

Assess and assign culpability through a human trafficking lens

Analyze a potential offender's agency in illicit conduct

Consider defenses of compulsion and necessity

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## Lou Longhitano

ATTORNEY ADVISOR

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☎ (202) 596-0256

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Washington, DC 20005

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## Office Hours

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