



South Carolina State Plan  
to Address Human Trafficking

by the  
South Carolina Human Trafficking Task Force

June 12, 2014



# Table of Contents

<b>Note from the South Carolina Attorney General .....</b>	<b>1</b>
<b>Members of the Task Force and Contributors .....</b>	<b>2</b>
<b><u>Introductory Materials</u>.....</b>	<b>3</b>
<b>Introduction to Human Trafficking and the State Plan</b>	
Federal Response .....	<b>4</b>
South Carolina Response.....	<b>5</b>
South Carolina Mandated Task Force and Plan .....	<b>6</b>
<b>The Facts About Human Trafficking</b>	
The Definition .....	<b>8</b>
The Crime .....	<b>10</b>
The Traffickers .....	<b>11</b>
The Victims .....	<b>12</b>
Human Trafficking Incidents Involving South Carolina.....	<b>14</b>
Human Trafficking Information Resources .....	<b>16</b>
<b><u>The South Carolina State Plan</u>.....</b>	<b>19</b>
Determining the Magnitude of Human Trafficking in South Carolina .....	<b>20</b>
Protecting, Supporting, and Serving Victims of Human Trafficking .....	<b>23</b>
Investigating and Prosecuting Human Traffickers .....	<b>40</b>
Preventing Human Trafficking in South Carolina .....	<b>47</b>
Areas for Additional Consideration and Study .....	<b>53</b>
<b>Glossary of Frequently Used Terms in Human Trafficking .....</b>	<b>54</b>
<b>Acronyms.....</b>	<b>57</b>

# Note from the South Carolina Attorney General



June 2014

Human trafficking takes place every day in our country, in our state and in our neighborhoods. It is a heinous crime, and it is very important that South Carolina approach fighting human trafficking with full force. Often referred to as “modern-day slavery,” it deprives human beings their basic right of freedom. This is not a crime that only happens overseas – it is happening in the United States. Whether for sexual slavery or forced labor, buying and selling another human is unconscionably wrong.

The South Carolina human trafficking law, as passed in 2012, is a valuable tool in South Carolina’s battle against human trafficking. Our law is now ranked among the best in the country. It thoroughly defines the crime, holds perpetrators accountable, and gives victims access to restitution and civil remedies. The statute also created a task force to address all aspects of the problem and to work on this state plan.

Each agency on the task force offered specialized insight into the problems South Carolina is facing in the fight against human trafficking, and collaborated in proposing recommendations to address those problems. The recommendations are meant to be a collection of the best ideas on how to approach human trafficking in a comprehensive manner – from investigation, to victim assistance, prosecution, and prevention. Following the release of this plan, implementation will be a joint effort of agencies, organizations, and individuals from all over South Carolina. This plan is the foundation for future efforts to address human trafficking and to hold traffickers accountable for their crimes.

Respectfully,

A handwritten signature in black ink that reads "Alan Wilson". The signature is written in a cursive, flowing style.

Alan Wilson

# Members of the Task Force and Contributors

As mandated by S.C. Code Ann. § 16-3-2050(A)-(C) (2012), the following organizations and departments were required to send a representative to participate in the task force:

**South Carolina Office of the Attorney General, Chair**  
**South Carolina Department of Labor, Licensing and Regulation**  
**South Carolina Police Chiefs Association**  
**South Carolina Sheriffs' Association**  
**South Carolina State Law Enforcement Division**  
**South Carolina Department of Health and Environmental Control**  
**United States Department of Labor**  
**South Carolina State Office of Victim Assistance**  
**South Carolina Commission on Prosecution Coordination**  
**South Carolina Department of Social Services**  
**South Carolina Office of the Governor**  
**South Carolina Department of Employment and Workforce**

Two persons were also to be appointed by the Attorney General from nongovernmental organizations, to represent “*diverse communities disproportionately affected by trafficking, agencies devoted to child services and runaway services, and academic researchers dedicated to the subject of trafficking in persons.*” These two nongovernmental organizations were:

**South Carolina Coalition Against Domestic Violence and Sexual Assault (SCCADVASA)**  
**South Carolina Victim Assistance Network (SCVAN)**

The Attorney General was to invite representatives of the federal government. Federal agencies present on the task force included:

**United States Attorneys' Offices**  
**Federal Bureau of Investigation (FBI)**  
**United States Immigration and Customs Enforcement Office (ICE)**  
**United States Department of Homeland Security**

Other organizations also took part in forming this state plan, including:

**Eastern Carolina Coalition Against Human Trafficking (ECCAHT)**  
**South Carolina Department of Public Safety**  
**South Carolina Appleseed Legal Justice Center**  
**A21 Campaign of South Carolina**  
**South Carolina Network of Children's Advocacy Centers**



# Introductory Materials

# Introduction to Human Trafficking and the State Plan

## Federal Response

According to the **Trafficking Victims Protection Act of 2000**, Congress found that:

As the 21<sup>st</sup> century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.<sup>1</sup>

The Trafficking Victims Protection Act of 2000 (TVPA) was the first federal law dedicated to the problem of human trafficking on both national and international levels. The TVPA is comprehensive, focusing on the prosecution of human trafficking, the protection of victims of human trafficking, and the prevention of human trafficking. The TVPA established a Task Force to Monitor and Combat Trafficking, which is charged with the enforcement of the TVPA. Also created was an Office to Monitor and Combat Trafficking in Persons. Every year, the Office to Monitor and Combat Trafficking in Persons releases a Trafficking In Persons (TIP) report, which examines how countries are addressing human trafficking on a global scale.<sup>2</sup> The latest version of this TIP report can be found at <http://www.state.gov/j/tip/rls/tiprpt/2013/index.htm>.

The TVPA also created the T visa, which helps foreign national (an individual who is not a citizen or legal alien) victims of human trafficking in addressing immigration issues by giving temporary immigration relief to victims who cooperate in the investigation and prosecution of a trafficking case. Congress reauthorized the TVPA in 2003, 2005, 2008, and 2013. Each reauthorization strengthened the three main focus areas of prosecution, protection, and prevention by adding programs, strengthening laws, and allocating proper funding. Under this federal law, human trafficking has been acknowledged as a serious crime, and the tools needed to fight against it and to help victims have grown over the years.<sup>3</sup> On the state level, the majority of states have passed new human trafficking laws as well, and efforts have increased nationwide to address the phenomenon of human trafficking. South Carolina is among the states with new

laws and is now currently ranked alongside the states with the toughest human trafficking laws in the country.<sup>4</sup>

## South Carolina Response

South Carolina's human trafficking law, S.C. Code Ann. §§ 16-3-2010 *et seq.* (2012) became effective on December 15, 2012. The statute was passed unanimously by the General Assembly and had great support among advocates passionate for the fight against human trafficking. The statute includes comprehensive definitions for both labor trafficking and sex trafficking. Under this statute the crime of human trafficking is broad and includes not only the traffickers themselves, but also those who conspire or otherwise participate in trafficking ventures. All participants, including conspirators, are prosecuted as principals for the crime of human trafficking. For a first offense, a trafficker can receive up to fifteen years in prison; however, if a minor is trafficked, an additional fifteen years can be added to the sentence.

Business owners who are engaged in human trafficking may also be criminally liable under the South Carolina statute. If a business knowingly aids or participates in human trafficking, the business could be fined, lose its business license, or both. There is also a forfeiture of assets provision in the law, where money, property, materials, or anything "used" in a trafficking venture is subject to forfeiture. Proceeds from forfeited assets are split between the victim, the South Carolina Victims' Compensation fund, and law enforcement.

The statute includes several protections and provisions for victims. Human trafficking victims are entitled to mandatory restitution, and if the trafficking victim dies, then the restitution is due to the victim's family. Victims also have the option of a civil action against their traffickers, where treble damages could potentially be awarded when there is proof of actual damages and the defendant's acts were willful and malicious. The South Carolina law can be viewed in its entirety at <http://www.scstatehouse.gov/code/t16c003.php>.

Additionally, the law mandated in § 16-3-2050 for an interagency task force to be established to develop and implement a state plan regarding trafficking in persons in South Carolina. The Attorney General is the chair of the task force, and numerous other agencies were required to participate (for a list, please see p. 2: *Members of the Task Force and Contributors*). One of the duties given to the task force was to create the state plan within eighteen months of the effective date of the law.

# South Carolina Mandated Task Force and Plan

The task force mandated by S.C. Code Ann. § 16-3-2050 (2012) has been meeting regularly since September 2012 to formulate the *South Carolina State Plan to Address Human Trafficking*. While the legislation itself specifies a plan for the “prevention” of trafficking in persons, the task force recognized that, while prevention is an important concern, similarly important are the prosecution and investigation of cases, determining the scope and increasing awareness of human trafficking, and providing assistance to victims throughout various stages of a human trafficking case. Each relevant topic is examined in turn throughout this plan in the following order:

- **Determining the Magnitude of Human Trafficking in South Carolina**
- **Protecting, Supporting, and Serving Victims of Human Trafficking in South Carolina**
- **Investigating and Prosecuting Human Traffickers**
- **Preventing Human Trafficking in South Carolina**
- **Areas for Additional Consideration and Study**

Under each topic are *findings*, or identified issues, that the task force determined South Carolina needs to focus on in order to successfully improve our state’s response to human trafficking. Following explanation of the findings, the task force has formulated and listed *recommendations* on how to most effectively address the selected findings. The multitude of agencies represented on the task force, with expertise in various fields, have all collaborated and identified these recommendations as the best methods to utilize in implementing the state plan going forward. This plan, in essence, is meant to recognize challenges in combating human trafficking particular to South Carolina and then suggest how to best address these challenges. Following the release of the state plan is the implementation phase of the plan, to be coordinated among the task force members and its constituent agencies. In the implementation phase of the state plan, the recommendations will be the guiding points to initiate action.

After publication of the state plan, the task force anticipates that more information on human trafficking in South Carolina will come to light, and that more can be published and shared publicly about this crime and its presence in our state. Other potential goals for the task



force are included in the human trafficking statute, which suggests the task force consider carrying out the following activities, either directly or through its constituent agencies:

- sharing trafficking data among government agencies;
- publishing statistical data about trafficking on the Attorney General’s website;
- investigating criminal trafficking groups and sharing information about these groups among investigative agencies;
- establishing policies to help the state government work with nongovernmental organizations;
- reviewing services available to human trafficking victims;
- providing training for all agencies that may encounter human trafficking; and
- creating public awareness materials and campaigns to help the public both recognize victims and how to avoid victimization.

Many resources will be needed in the fight against human trafficking, and this state plan is a solid starting point in the journey to eradicate modern-day slavery in South Carolina.



# The Facts about Human Trafficking

## The Definition

Under federal law, the TVPA includes sex trafficking under the category of “Severe Forms of Trafficking in Persons,” and it defines sex trafficking to occur when “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.”<sup>5</sup> Under South Carolina law, the definition of sex trafficking is similar, rendering unlawful “the recruitment, harboring, transportation, provision, or obtaining of a person for [a sex act]<sup>6</sup> when it is induced by force, fraud, or coercion or the person forced to perform the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by another person.”<sup>7</sup> *It is extraordinarily important to note here that both statutes include a provision for minors under the age of 18 specifically providing that no force, fraud, or coercion needs to be shown in order to prove sex trafficking.* Under both federal and state law, it is enough simply that a victim under the age of eighteen is trafficked. If the individual is over the age of eighteen, then force, fraud, or coercion must be proved in order to establish sex trafficking.

Labor trafficking in the TVPA is also categorized as a “Severe Form of Trafficking in Persons” and is defined as “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.”<sup>8</sup> South Carolina law separately defines debt bondage, involuntary servitude, and forced labor or services and includes all three under the general definition of “trafficking in persons.” *Debt bondage* is present when a person pledges either personal services or the services of someone under his control as security for a debt. Sometimes, this “debt” can be insurmountable, and the victim is never able to work off the debt completely, leaving him or her under the trafficker’s control. *Involuntary servitude* and *forced labor* are both forms of labor trafficking created by coercion.<sup>9</sup> In South Carolina, “trafficking in persons” is defined as subjecting a victim or attempting to subject a victim to “sex trafficking, forced labor or services, involuntary servitude, or debt bondage” by using any of the following: force or physical restraint, taking away a victim’s identification documents (like a

passport or driver's license), extortion or blackmail, threatening the victim with financial harm, controlling a victim's access to drugs, or coercion.<sup>10</sup>

Force, fraud, or coercion is required in any labor trafficking case and in any sex trafficking case where the victim is over the age of eighteen. **Force** includes physical restraint, beatings, rape, and various forms of confinement of a victim. With force, victims might show bruising or scarring or live in places with locks on the outside of doors. **Fraud** can consist of false offers of employment, a better life, or marriage, or other similar types of deceptions. Many victims either come to the U.S. or move locations with hopes for more money and better futures, only to be lured into a trafficking situation. **Coercion** can manifest as threats to a victim's family or friends or psychological abuse. Coercion is an extremely powerful form of control and can lead to victim reluctance in escaping or reporting their situations.<sup>11</sup> Force, fraud, and coercion are discussed in more detail below in relationship to human trafficking victims (see "The Victims").

The crime of human trafficking does not require transportation of the victim, even if the victim was in fact transported from another state or country. Often, the crimes of smuggling and trafficking are conflated and can cause confusion. Smuggling is a crime that is committed against a country, where an individual is illegally brought into that country. It is not a crime against the person, and the person can willingly participate in smuggling. With smuggling, a person has to be physically moved for there to be a crime. Human trafficking is a crime against a person that creates a state of involuntary servitude for the victim. In human trafficking the victim is not a voluntary participant due to the force, fraud, or coercion being used against him or her, or due to being under the age of eighteen (for sex trafficking). Human trafficking does not require any physical movement of a person. While the two crimes are different, they have potential to overlap. For example, a smuggling situation could turn into trafficking when a victim cannot pay off the smuggler and is forced into a debt bondage situation, never able to work off the cost of the smuggling and associated living expenses.<sup>12</sup>

It is common to hear human trafficking referred to as modern-day slavery, or to see the concept of human trafficking described as "compelled service."<sup>13</sup> Human trafficking is extremely profitable for the traffickers. When a drug, gun, or any other type of illegal commodity is sold, then the criminal who provides it must obtain new product(s) before being able to conduct more transactions. However, in human trafficking, the victim will be returned to his/her trafficker as the "product" to be used many times over, even many times a day. According to Polaris Project, human trafficking is all about supply and demand and, thus, thrives in a market-

driven criminal industry. Because of the underground nature of the crime, not only do traffickers often get away with this crime, but there are also not a lot of statistics to reflect exactly how frequently, and to what extent, human trafficking is happening in South Carolina, or even the United States in general.<sup>14</sup>

## The Crime

The crime of human trafficking in South Carolina is defined in S.C. Code Ann. § 16-3-2020(A-B) (2012). Under this statute, a person can be subject to criminal penalties by participating in human trafficking in various ways and at various stages, many of which are not immediately obvious or intuitive. First, an individual who “recruits, entices, solicits, isolates, harbors, transports, provides, obtains, or so attempts,” a victim, while *knowing* that victim will be used for sex trafficking or labor trafficking, is guilty of human trafficking. This could be someone who scouts potential victims, initially lures victims in, or drives the victims to the trafficking locations, with the knowledge that the victims will be subjected to human trafficking on the other side. Additionally, anyone who *benefits financially or receives anything of value* from participating in what they *know* to be a human trafficking venture is guilty of trafficking in persons. This person may be involved more indirectly, making money or otherwise benefiting from the trafficking operation.

Furthermore, any person who “recruits, entices, solicits, isolates, harbors, transports, provides, obtains, or so attempts,” a victim *for the purposes of sex or labor trafficking*, or who benefits in this manner, is also guilty of human trafficking. This provision addresses those who are directly involved, such as a pimp engaged in sex trafficking or an employer engaged in labor trafficking.

It is clear that under South Carolina law, everyone involved in a human trafficking organization are subject to prosecution as principals in human trafficking. The crime is a felony, and penalties are enhanced for those with prior convictions. A first offense carries up to fifteen years in prison. For a second offense, a trafficker can receive up to thirty years in prison, and for a third offense up to forty-five years. If a minor under the age of eighteen has been trafficked, then an additional fifteen years can be added onto a prison sentence.<sup>15</sup>

# The Traffickers

While stereotypes for human traffickers do exist, the reality is that traffickers include all different types of people. No one type of person is more likely to engage in trafficking, and the operation organizations also vary widely. Family members may force other family members into sex trafficking. A reputable business may engage in labor trafficking to keep operating costs down. Polaris Project has reported encountering human traffickers who were:

- pimps,
- intimate partners or family,
- labor brokers,
- gang members,
- employers of domestic servants (used as a nanny, cook, or maid),
- small OR large business owners,
- brothel owners,
- fake massage business owners, or
- men and women – working alone or together.<sup>16</sup>

When a trafficker is arrested, South Carolina's statute specifically disallows certain defenses a trafficker might attempt to use in the case against him or her. The trafficker cannot use the victim's sexual history or past sexual conduct as a defense. For example, if a victim was involved in prostitution in the past, that cannot be brought up in court to defend against a current trafficking charge. Also, a trafficker cannot assert the victim's connection by blood or marriage to the trafficker as a defense. Just because a defendant is married to the victim, or is the parent of the victim, does not mean trafficking did not occur. Also, traffickers cannot rely on the implied or express consent of a victim, or a mistake about the victim's age (even if reasonable). A human trafficking victim's initial consent to the activity does not constitute a valid defense for the trafficker. A trafficker could not bring up any of these facts in court to support an argument that he or she is not guilty of human trafficking.<sup>17</sup>

There are many places where human trafficking can happen. Sex trafficking can manifest as street prostitution, in massage parlors or residential brothels, with escort services, at truck stops, and in strip clubs.<sup>18</sup> The most popular way for traffickers to advertise and recruit is through the Internet, where victims can be exploited to millions of people who can access the

information from all around the country in an instant.<sup>19</sup> Traffickers advertising online will use code words and slang to avoid detection, especially if the victim is a minor. For example, a trafficker might use the adjective “young” for a minor who is being exploited. Labor trafficking can similarly be found in a variety of environments, including retail food establishments, factories, farms or agricultural work, the hospitality industry (such as hotels), and peddling and begging rings. Victims of labor trafficking are also found in domestic work, where individuals are forced to perform work like cooking, cleaning, or child care in a person’s home.<sup>20</sup> The victims of human trafficking can be targeted by many types of people, in many different venues, so it is of no surprise that victim profiles vary widely as well.

## The Victims

Victims of human trafficking are not consistently easy to identify. Victims can be men, women, children, adults, U.S. citizens, non-citizens, educated, uneducated, and of any race, culture, or religion. Generally, however, traffickers tend to prey on victims who exhibit vulnerabilities. Some of the more vulnerable individuals may include foster children, runaways, people who have experienced prior abuse, individuals with low socioeconomic status, undocumented immigrants, individuals with little education, and individuals looking for opportunities for a better life. Traffickers seek to take advantage of these individuals and exploit them for profit.<sup>21</sup> Human trafficking victims may not know that they are victims, may feel that they are forced to stay in their situations, or may not wish to leave their abusers. This is due in large part to the force, fraud, and coercion aspects that are frequently present in trafficking cases.

The types of force that traffickers can subject victims to include, but are not limited to, beatings, rapes, and being physically confined by the trafficker. When victims do not have freedom of movement, they cannot get help. Additionally, the fear of future physical harm is a powerful control mechanism used by traffickers. A trafficker may beat one victim in front of other victims in order to “make an example” of what happens when there is not cooperation. Fraud also ensnares victims, where an individual may be smuggled into the U.S. illegally, thinking that he or she will make more money here and have a better life. Traffickers in this situation may use threats of deportation or threaten to call U.S. Immigration and Customs Enforcement if a worker does not comply with what the trafficker desires. Another example could be when vulnerable young females become romantically attached to a trafficker who provides them with clothing, attention, food, and shelter. Foster children and runaways are

particularly targeted here. A trafficker essentially “woos” an individual and behaves as a caretaker and/or boyfriend in order to convince the victim to engage in commercial sex acts. In these situations, the victims are reluctant to report their abuser and can often develop Stockholm Syndrome-type bonds with the trafficker.<sup>22</sup>

Coercion can include a trafficker blackmailing a victim, making threats to the victim’s family, or threatening financial harm to the victim. Coercion may also consist of a trafficker developing a victim’s addiction to drugs and then providing the victim with drugs only when they comply with a trafficker’s demands. Consequently, victims may not trust law enforcement to help, especially if the victim was smuggled into the country or does not have control of his or her passport. Victims can be convinced by a trafficker that law enforcement will not assist them and that the victim is the one who will face legal consequences. Victims often fear harm to themselves or their families, or they may feel like the situation they are in is a positive one, as long as they are getting food and shelter.<sup>23</sup>

Because victims may not be in a position to seek help, it is imperative to look for red flags and indicators that an individual could be a victim of human trafficking. Some psychological behaviors of a human trafficking victim can include the victim having severe anxiety, suffering from post-traumatic stress disorder, exhibiting shock or denial, having panic attacks, having drug addictions, appearing detached and numb, being extremely fearful of law enforcement, or engaging in self-blame. It will generally be evident if the victim is being controlled by another or has been coached on what to say. The victim may even be accompanied by the trafficker at all times. The victim might not be able to move about freely; a lack of freedom of movement is often a strong indicator of human trafficking. Victims often have either very few or no personal possessions and sometimes do not know what city they are in or how long they have been there. In labor trafficking, victims can believe they owe a large debt that they are obligated to work off.<sup>24</sup>

Physical signs can include obvious evidence of physical abuse such as bruising, scars, broken bones, and other injuries. The victim may have tattoos, a type of “branding” sex traffickers have been known to use. The victim could have sexually transmitted diseases or other infections from repeated sexual abuse, which may include reproductive health problems. From living in unsanitary places, a victim can contract disease or may have skin or respiratory problems from working with dangerous products. Chronic back, hearing, or sight problems may be present in a labor trafficking victim working in harsh conditions, and victims may have

untreated conditions from lack of care. Victims also may not have proper medical records or they may be accompanied by the trafficker when receiving medical care.<sup>25</sup>

Other indicators include working extremely long or excessive hours and being paid very little or not at all. The victim may have unusual restrictions in the workplace, or may not be allowed breaks during the work day. High security measures in the work location, such as security cameras, barbed wire, and bars on windows, can indicate a trafficking situation. A victim who is not in control of his or her own passport or identification documents is a red flag for trafficking activity. When a third party insists on interpreting for a victim who does not speak English and does not let the victim speak to anyone, that can also be a sign of human trafficking.<sup>26</sup> While none of these indicators alone are conclusive in identifying a human trafficking case, they are all worth attention. A victim may not be able to seek help for him or herself, and realizing the red flags and indicators of human trafficking can be the first step in helping a victim become a survivor.

## **Human Trafficking Incidents Involving SC**

Human trafficking is happening in South Carolina and to South Carolina citizens. These are some examples of human trafficking directly affecting South Carolina:

- In a story released by the FBI out of Georgia, Joaquin Mendez-Hernandez, a/k/a “El Flaco,” was charged with sex trafficking. The defendant, originally from Mexico, was involved in a sex trafficking operation that spanned multiple states, including South Carolina. Women from other countries were lured to the U.S. by fraudulent stories of how they would have a better life in America. These women were subsequently forced into sex trafficking, engaging in sexual activity with as many as 30 to 50 people a day. The traffickers physically injured the women and used children as leverage against them. Mendez-Hernandez pled guilty in September 2013.<sup>27</sup>
- In June 2013, a Spartanburg, South Carolina, man was arrested for sex trafficking in Davidson County, North Carolina. It was alleged that the man used force to control the victim and attempted to sell her for sex to an undercover officer.<sup>28</sup>



- In July 2013, the FBI conducted a multistate crackdown on human trafficking called Operation Cross Country VII. Two stories involving South Carolina emerged from this operation:
  - Three girls from South Carolina were rescued from a sex trafficking ring in Alabama. All were under the age of 18. They were originally from South Carolina and had been transported state by state, ending up in Alabama.<sup>29</sup>
  - During the same bust, two individuals were arrested in South Carolina by the FBI for trafficking of a minor. The minor was advertised online and was being forced to engage in commercial sex acts in a hotel off Two Notch Road in Columbia. The minor said she became involved with the trafficker because he was giving her food, clothes, and shelter while she “worked” for him.<sup>30</sup>
- In October 2013, Georgia officials arrested a man from Columbia, South Carolina, on human trafficking charges. The officers discovered the human trafficking activity from complaints of loitering, drug activity, and prostitution. Officers questioned the victims and were able to learn that they were victims of human trafficking. While the offender was caught in Georgia, his residence was in Columbia, South Carolina.<sup>31</sup>
- In an undercover prostitution and sex trafficking sting operation in Georgia at the Masters in April 2014, five arrests were made, including one individual from Aiken, South Carolina. Big sporting events often attract sex trafficking, including sex trafficking of minors. The Masters is one of many sporting events that have recently been reported for drawing this type of criminal activity.<sup>32</sup>

These are mostly federal sex trafficking cases where arrests were made in other states. While these stories do not paint a complete picture of what is happening in South Carolina with respect to human trafficking, they do show that it is a real problem in need of attention. It is clear that South Carolinians are traffickers, that South Carolinians are victims, and that human trafficking is happening in our state.

# Human Trafficking Information Resources

Several extremely helpful resources, cited multiple times within this state plan, provide an abundance of material about human trafficking. For any additional information, please visit the following:

- **Polaris Project:** “Polaris Project is a leading organization in the global fight against human trafficking and modern-day slavery.”
  - <http://www.polarisproject.org>
- **U.S. Department of Health and Human Services, Rescue and Restore Campaign:** “The intent of Rescue & Restore campaign is to increase the identification of trafficking victims in the U.S. and to help those victims receive the benefits and services they need to restore their lives.”
  - <http://www.acf.hhs.gov/programs/orr/programs/anti-trafficking>
- **Department of Homeland Security, Blue Campaign:** “The Blue Campaign is the unified voice for DHS’ efforts to combat human trafficking.”
  - <http://www.dhs.gov/end-human-trafficking>
- **United States Department of State, Office to Monitor and Combat Trafficking in Persons:** “The Department of State’s Office to Monitor and Combat Trafficking in Persons leads the U.S.’ global engagement on the fight against human trafficking...The Office was created by the Trafficking Victims Protection Act (TVPA) of 2000, which secured the guarantees of freedom from modern slavery and involuntary servitude set forth in the U.S. Constitution and a number of treaty obligations and updated the post-Civil War slavery statutes.”
  - <http://www.state.gov/j/tip/index.htm>
- **United States Department of State, Trafficking in Persons Report:** “The Trafficking in Persons (TIP) Report is the U.S. Government’s principal diplomatic tool to engage foreign governments on human trafficking. It is also the world’s most comprehensive resource of governmental anti-human trafficking efforts and reflects the U.S. Government’s commitment to global leadership on this key human rights and law enforcement issue.”
  - <http://www.state.gov/j/tip/rls/tiprpt/index.htm>

This list is not to be considered a complete list of information and websites about human trafficking, as there are many other websites about this important issue. However, the sites listed are excellent resources to begin learning more about human trafficking.

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<sup>1</sup> *Trafficking Victims Protection Act of 2000*, § 102(b)(1), 22 U.S.C. §7101 (2000), available at: <http://www.state.gov/documents/organization/10492.pdf>.

<sup>2</sup> Polaris Project, *Current Federal Laws*, <http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/current-federal-laws>.

<sup>3</sup> *Id.*

<sup>4</sup> Polaris Project, *2013 State Ratings on Human Trafficking Laws*, <http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/state-ratings-on-human-trafficking-laws/2013-state-ratings-on-human-trafficking-laws>.

<sup>5</sup> *Trafficking Victims Protection Act of 2000*, § 103(8)(a), 22 U.S.C. §7101 (2000), available at: <http://www.state.gov/documents/organization/10492.pdf>.

<sup>6</sup> “Sex act” as mentioned here includes the acts described in S.C. Code Ann. §16-3-2010(7)(a-k). This list includes: (a) criminal sexual conduct pursuant to Section 16-3-651; (b) criminal sexual conduct in the first degree pursuant to Section 16-3-652; (c) criminal sexual conduct in the second degree pursuant to Section 16-3-653; (d) criminal sexual conduct in the third degree pursuant to Section 16-3-654; (e) criminal sexual conduct with a minor pursuant to Section 16-3-655; (f) engaging a child for sexual performance pursuant to Section 16-3-810; (g) performance pursuant to Section 16-3-800; (h) producing, directing, or promoting sexual performance by a child pursuant to Section 16-3-820; (i) sexual battery pursuant to Section 16-3-651; (j) sexual conduct pursuant to Section 16-3-800; or (k) sexual performance pursuant to Section 16-3-800.

<sup>7</sup> S.C. Code Ann. § 16-3-2010(7) (2012).

<sup>8</sup> *Trafficking Victims Protection Act of 2000*, § 103(8)(b), 22 U.S.C. §7101 (2000), available at: <http://www.state.gov/documents/organization/10492.pdf>.

<sup>9</sup> S.C. Code Ann. §§ 16-3-2010(3)-(5) (2012).

<sup>10</sup> S.C. Code Ann. § 16-3-2010(9) (2012).

<sup>11</sup> Office of Refugee Resettlement, *Fact Sheet: Human Trafficking (English)*, <http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-human-trafficking>.

<sup>12</sup> *Id.*

<sup>13</sup> Polaris Project, *Human Trafficking, Overview*, <http://www.polarisproject.org/human-trafficking/overview>.

<sup>14</sup> Polaris Project, *Human Trafficking, Why Trafficking Exists*, <http://www.polarisproject.org/human-trafficking/overview/why-trafficking-exists>.

<sup>15</sup> S.C. Code Ann. §§ 16-3-2020(C)-(G) (2012).

<sup>16</sup> Polaris Project, *Human Trafficking, Overview, The Traffickers*, <http://www.polarisproject.org/human-trafficking/overview/the-traffickers>.

<sup>17</sup> S.C. Code Ann. §§ 16-3-2020(K)(1)-(5) (2012).

<sup>18</sup> Polaris Project, *Sex Trafficking in the US*, <http://www.polarisproject.org/human-trafficking/sex-trafficking-in-the-us>.

<sup>19</sup> Polaris Project, *Internet Based*, <http://www.polarisproject.org/human-trafficking/sex-trafficking-in-the-us/internet-based>.

<sup>20</sup> Polaris Project, *Labor Trafficking in the US*, <http://www.polarisproject.org/human-trafficking/labor-trafficking-in-the-us>.

<sup>21</sup> Polaris Project, *The Victims*, <http://www.polarisproject.org/human-trafficking/overview/the-victims>.

<sup>22</sup> U.S. Department of Health & Human Services, *Fact Sheet: Identifying Victims of Human Trafficking*, [http://archive.acf.hhs.gov/trafficking/about/ident\\_victims.htm](http://archive.acf.hhs.gov/trafficking/about/ident_victims.htm).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

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- <sup>26</sup> Polaris Project, *Potential Human Trafficking Indicators*, <https://na4.salesforce.com/sfc/play/index.jsp?oid=00D300000006E4S&v=06860000001dEHX&d=0i1GKP5PVjb5g7wWmouadOJ20Kk%3D&viewId=05H60000000pm8j>.
- <sup>27</sup> *Leader of International Sex Trafficking Organization Pleads Guilty*, FBI (September 25, 2013), <http://www.fbi.gov/atlanta/press-releases/2013/leader-of-international-sex-trafficking-organization-pleads-guilty>.
- <sup>28</sup> *SC Man Arrested on Prostitution and Trafficking Charges*, The-Dispatch (June 14, 2013), <http://www.the-dispatch.com/article/20130614/news/306149972>.
- <sup>29</sup> Mary Bullard and Joseph Pereira, *Police: 3 SC Girls Rescued from Prostitution Ring*, Fox Carolina (July 31, 2013), <http://www.foxcarolina.com/story/22984881/police-3-sc-girls-rescued-from-prostitution-ring>.
- <sup>30</sup> *Two in Columbia Netted in Nationwide Child Sex Trafficking Bust*, WISTV (August 8, 2013), <http://www.wistv.com/story/22961765/two-in-columbia-netted-in-nationwide-child-sex-trafficking-bust>.
- <sup>31</sup> Randy Key, *Columbia Man Arrested, Charged with Human Trafficking in Richmond County*, WJBF (November 14, 2013), <http://www.wjbf.com/story/23604946/columbia-man-arrested-charged-with-human-trafficking-in-richmond-county>.
- <sup>32</sup> Kevin Rowson, *Five Arrested in FBI Sex Trafficking Sting in Augusta, USA TODAY Sports*, (April 9, 2014), <http://www.usatoday.com/story/sports/golf/2014/04/09/masters-fbi-sex-trafficking-arrests-augusta/7499863/>.



# South Carolina State Plan

# Determining the Magnitude of Human Trafficking in South Carolina



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**Finding:** There is not abundant or comprehensive data about human trafficking as it is happening in South Carolina.

There is very little data on human trafficking in South Carolina. Some of the data that is available comes from Polaris Project's *National Human Trafficking Resource Center*, where potential human trafficking tips are reported. Polaris Project is a leading organization dedicated to fighting human trafficking, and is an abundant resource for information.<sup>33</sup> Of the 20,652 calls to the National Human Trafficking Resource Center in 2012, 233 were from South Carolina. The cities with the highest volume of calls included Charleston, Columbia, and Greenville. Myrtle Beach topped the list with 52 calls recorded. From these calls alone, Polaris Project identified a possible 29 human trafficking cases in South Carolina in 2012.<sup>34</sup>

Notwithstanding these figures, human trafficking statistics are presently scarce in part because of the underground nature of the crime itself, lack of awareness, and misconceptions about the definition of human trafficking.<sup>35</sup> Some trafficking cases are also charged and prosecuted as other crimes, such as extortion, child abuse, or harboring, with which law enforcement, prosecutors, judges, and juries may be more familiar. Potential victims also may have been arrested for prostitution when, due to the unknown details of their situations, law enforcement did not realize they were victims of trafficking.<sup>36</sup> Also, much like in domestic violence or sexual assault cases, victims are often reluctant to report for a variety of reasons due

to the coercive or violent nature of their abuse, in addition to not wanting to face traffickers in court. Victims may even rely on their trafficker for basic needs like food or shelter.<sup>37</sup>

Victims can be trafficked for the purposes of sex, labor, or both, and signs can be recognized at many stages. Therefore, successfully combating this crime requires multidisciplinary cooperation and number-sharing. The multi-agency collection of data can help generate statistics to identify the scope of trafficking in South Carolina. The South Carolina human trafficking statute passed provides a comprehensive definition of human trafficking. Training on this new statute, combined with public education and awareness activities, will enable and empower all involved agencies to identify and report human trafficking. In turn, this will provide South Carolina with more accurate and comprehensive data on the problem.

## **Recommendations:**

1. Collect more data about human trafficking across involved disciplines.
  - a. Establish a data compilation method for agencies (whether governmental or nongovernmental) to report human trafficking statistics.
  - b. Create a statewide database/uniform repository to store current and forthcoming information and data on human trafficking in South Carolina.
2. Share data about convictions, pleas, arrests, and other statistical information on non-active, closed cases between state and federal law enforcement and prosecutors, so that South Carolina can understand the full extent of the human trafficking problem in our state.
3. Continue to utilize and publish relevant data from national organizations and hotlines, like *Polaris Project*.
4. Explore the idea of creating a South Carolina-specific human trafficking hotline, including staffing and hosting of the hotline and determining how information gathered would be used. Identify other ways South Carolina citizens could report human trafficking, and consider how those sources would compile information about those calls.
5. Create a website specifically for human trafficking in South Carolina, and update information periodically for the public to access.

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<sup>33</sup> Polaris Project, *Mission*, <http://www.polarisproject.org/about-us/overview/mission-and-values>.

<sup>34</sup> Polaris Project, *National Human Trafficking Resource Center (NHTRC) Data Breakdown: South Carolina State Report*, 2012, [https://na4.salesforce.com/sfc/p/300000006E4S/a/600000004PIK/Cmpc6ckhhC4iKhNsMvpY9\\_UCfML\\_OBFWhSoCJNg2BQk=](https://na4.salesforce.com/sfc/p/300000006E4S/a/600000004PIK/Cmpc6ckhhC4iKhNsMvpY9_UCfML_OBFWhSoCJNg2BQk=).

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<sup>35</sup> Polaris Project, *Human Trafficking*, <http://www.polarisproject.org/resources/resources-by-topic/human-trafficking>.

<sup>36</sup> Steve Marcin, *Prostitution and Human Trafficking: A Paradigm Shift*, FBI (March 2013), <http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/2013/March/prostitution-and-human-trafficking>.

<sup>37</sup> Amanda Walker-Rodriquez and Rodney Hill, *Human Sex Trafficking*, FBI (March 2011), [http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/march\\_2011/human\\_sex\\_trafficking](http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/march_2011/human_sex_trafficking).



# Protecting, Supporting, and Serving Victims of Human Trafficking



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**Finding 1:** First responders, medical professionals, labor agencies, and victim advocacy groups must be able to recognize the signs of human trafficking.

The crime of human trafficking does not always have easily identifiable victims. Victims can be men, women, children, adults, U.S. citizens, non-citizens, educated, uneducated, and of any race, culture, or religion. Traffickers can also be difficult to identify. Like trafficking victims, they can come from a wide variety of backgrounds. Traffickers also operate in diverse ways; traffickers can be involved in large conspiracies – or may just be one person acting alone.<sup>38</sup>

It is not uncommon for victims to be reluctant to cooperate. For example, victims may not speak English, and they could be susceptible to believing a controlling trafficker's threats of deportation or other punishment under U.S. law. Further, the lack of language services, limited access to social services and cultural differences can all contribute to a foreign national victim's belief that there is no help available to them. A sex trafficking case can often first appear to be prostitution, and trafficking victims might believe they may be arrested, which can create distrust in law enforcement and other agencies. Further, drug addiction may be used as a method of control, whereby a trafficker will facilitate a victim's dependency on drugs as a means of controlling that victim's actions. Debt bondage is also a powerful form of control, especially in

labor trafficking, where victims may believe that they owe impossible debts to their traffickers, debts which the traffickers never allow the victims to “work off.”<sup>39</sup>

Victims may also experience traumatic bonding to a trafficker, often referred to as Stockholm Syndrome. A victim can depend on the trafficker for access to basic necessities, or may even feel a romantic attachment toward the trafficker. These situations are difficult to recognize because of victim reluctance in reporting for fear of getting the trafficker in trouble. The parallels between human trafficking and domestic violence here are obvious where, despite abysmal living or working conditions, victims will suffer daily trauma to avoid the arrest of their abusers.<sup>40</sup> The psychological control exerted by traffickers over victims can be overwhelming, leading victims to believe that they cannot escape or get help. Physical force is also a common form of control, where victims are locked up, beaten, or raped. The trafficker may also assert threats of physical force against a victim’s family or loved ones.<sup>41</sup>

As these are only a few of the horrors trafficking victims may face, the reporting of trafficking can prove difficult for victims, whether it is because of their own beliefs or because of their inability to physically escape from the traffickers. First responders may initially be called to a human trafficking situation by other crime calls like domestic violence, sexual assault, or labor dispute calls. First responders and victim advocacy groups must be able to recognize signs of human trafficking from the outset in order to identify a potential victim – regardless of the victim’s self-identification or cooperation. It is imperative that any agency that may have initial contact with a human trafficking victim receive training on potential “red flags” and indicators that are common among victims of trafficking. Asking the right questions and looking for appropriate clues can be the difference between helping and overlooking victims in need of help.<sup>42</sup>

## **Recommendations:**

1. Provide education to first responders, medical professionals, labor, and victim advocacy agencies, and organizations involved in anti-trafficking efforts about the connections between human trafficking and prostitution, and human trafficking and domestic violence.
  - a. Provide education on the links between prostitution and human trafficking, and how human trafficking may first appear to be prostitution. Include information on how individuals arrested for prostitution in the past could have been victims of human trafficking.
  - b. Provide education on the connections between domestic violence and sexual assault. This can include education on Stockholm

Syndrome, economic dependence, coercion, and the trafficker's use of children to assert control over the victim.

- c. Consider expanding education on connections between human trafficking and child abuse, worker exploitation, and other similar types of crimes.
2. Ensure that medical professionals who handle sexual assault cases (or varying types of abuse cases) receive training for early recognition and indicators of human trafficking. A protocol should be developed to address a potential human trafficking situation for emergency rooms, public health clinics, community based centers, and forensic nurse examiners.
3. Provide training for law enforcement, firefighters, emergency medical service providers, and other first responders on identifying human trafficking when responding to an emergency. Include training on situations where human trafficking might unexpectedly arise while on a call for a seemingly unrelated incident. This could include domestic disturbance calls, traffic stops, runaway youth, drug busts, and other various emergencies or requests for assistance.
4. Provide training for victim advocacy groups and social service providers (including DSS and Guardians ad Litem) on how to recognize human trafficking, how to assist with an investigation, and how best to support and help with reluctant victims.
5. Provide information and training to labor agencies about how to recognize potential labor trafficking situations and how to oversee businesses so that labor exploitation does not happen. Create a protocol for labor agencies in the event there is a potential human trafficking situation.
6. Educate child protective services case workers and investigators on how to recognize human trafficking, and create a protocol on whom to call when dealing with children who might be potential human trafficking victims (including foster children and runaways).
7. Raise awareness of human trafficking with economic services case managers at the Department of Social Services (DSS), who conduct interviews and determine eligibility for Supplemental Nutrition Assistance Program (SNAP) benefits, family independence, and other forms of assistance. Human trafficking victims may apply for economic and monetary benefits from DSS, so caseworkers should be educated about human trafficking.

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**Finding 2:** There is a lack of sufficient funding for, access to, and availability of resources for groups that provide services to victims of human trafficking.

Because of the trauma that trafficking victims experience, victims often have a large number of emotional, psychological, legal, and physical needs once they have been removed from their abuse. Trafficking victims may suffer from shock, denial, post-traumatic stress disorder, phobias, anxiety, panic attacks, and depression. They may have formed a traumatic-type bonding with their trafficker or become emotionally numb from the trauma they have encountered. Physically, victims may have broken bones, scarring, chronic pain problems from working in poor conditions, infectious diseases, untreated chronic illnesses, and reproductive health problems. They may be addicted to drugs, either as a way of coping with their situation or under coercion of the traffickers. Not only do these problems require health screenings and medication, but they also frequently require ongoing counseling and treatment.<sup>43</sup> Victims may also require legal services, including obtaining access to social services, safety, and enforcement of their right to restitution.

Victims recently removed from trafficking situations also have practical needs that must be rapidly addressed. Their physical safety is a critical priority that can often be resolved by finding safe emergency housing. Victims also require food, clothing, hygiene products, and other basic items. For non-English speaking victims, interpreters are needed, and non-citizen victims may need assistance in completing necessary paperwork to ensure that they are able to remain in the U.S. throughout the investigation and prosecution of their trafficking case. Once the immediate crisis has passed, stable housing, education, transportation, and job training are all needs that must be addressed to best assist human trafficking victims in reintegrating into society and in building lives independent from their traffickers. The extent and duration of needs of a trafficking victim will vary from person to person; however, irrespective of any one individual's circumstances, it is clear that trafficking victims can require a great deal of assistance to get on a path to recovery and self-sufficiency.<sup>44</sup>

## Recommendations:

1. Create a South Carolina human trafficking website or resource guide that provides quick reference to available resources for victims that may be used by law enforcement, prosecutors, service providers, or other agencies that encounter victims in the state.
  - a. Include information on medical service providers for victims who may require medical treatment.
  - b. Include information about shelters and how to find emergency victim assistance.
2. Attempt to obtain new funding to address specific needs for both national and foreign national victims. For example, funds could be used to meet medical needs of victims, or to provide transportation for victims.
3. Utilize federal agencies, such as the Department of Justice, the Office for Victims of Crime, and the Department of Health and Human Services to obtain additional funds for use by state divisions and nongovernmental organizations.
4. Consider tapping into federal refugee medical assistance, which allows foreign national human trafficking victims to qualify for free medical coverage if they are categorized as low income.<sup>45</sup> Recruit more nongovernmental organizations to enroll in the Health and Human Services National Human Trafficking Victim Assistance Program so that they may obtain funding needed to provide case management for foreign national victims.<sup>46</sup>
5. Utilize extra-governmental sources of funding to assist victims of human trafficking.
  - a. Partner with the private sector, including corporations and businesses that want to get involved in anti-human trafficking efforts.
  - b. Develop strategies to increase financial support for nongovernmental organizations and community advocacy groups already involved or willing to partner with and provide services in anti-trafficking efforts, including but not limited to: Lutheran Family Services in Columbia, SC; South Carolina Victim Assistance Network; South Carolina Legal Services; South Carolina Coalition Against Domestic Violence and Sexual Assault (and their partner agencies), Truckers Against Trafficking, Catholic Charities offices throughout South Carolina, South Carolina Network of Children Advocacy Centers, Hopewood Haven, My Sister's House, and the A21 Campaign.
6. Address issues that may arise with foster agencies, group homes, and similar organizations that may house youth vulnerable to trafficking, such as runaways, foster children, or children who have already been subjected to abuse.
7. Address the need for human trafficking victims to have easy, ready access to comprehensive legal services to ensure their safety, obtain access to social services, protect their rights as victims of crimes, and pursue any

remedies or other legal assistance that may be available to them. The legal issues most likely to face a human trafficking victim include the need to obtain a) restraining orders, b) protection of their rights as crime victims, c) secure housing, d) assistance addressing various employment concerns (discrimination, worker's compensation, and wages), e) help with any civil tort claims, and f) general immigration assistance.

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**Finding 3:** South Carolina does not have adequate shelter space to meet the needs of human trafficking victims.

As previously mentioned, human trafficking does not impact just one type of person, and access to shelters can vary depending on victim needs and characteristics. For example, shelters often have spaces for girls or women who need assistance or housing, but far fewer facilities are available for men and boys. Trafficking victims may also have substance abuse issues, criminal convictions, or mental health issues that present challenges in finding housing.<sup>47</sup>

Many shelters do not have the resources or the training to adapt to the unique needs of a human trafficking victim. Some existing shelters have experience serving runaway youth or victims of physical or sexual abuse, and have developed programs to assist these types of individuals. However, many human trafficking victims require longer shelter stays, long-term housing, comprehensive case management, and other additional forms of assistance (such as counseling, employment, medical testing and treatment, and legal representation). Recovery is different for every victim of human trafficking, and shelter needs are no different.<sup>48</sup> Even after the initial rescue, transitional housing may be needed to help victims move toward self-sufficiency and independence.

While South Carolina does have some agencies and shelters that are willing to accommodate and house human trafficking victims, there are no specialized shelters in South Carolina dedicated to all types of human trafficking victims and their distinctive needs,<sup>49</sup> though there are several nongovernmental organizations in South Carolina that have expressed the desire to build shelters designated especially for human trafficking victims. For those programs currently willing to house human trafficking victims, they report lacking the training and staff resources required to provide the intensive case management that human trafficking victims need; they also indicate a shortage of options to meet the longer-term transitional housing needs of victims. In addition, many of South Carolina's existing programs are struggling to find resources to address the cultural or linguistic needs of foreign national or limited English proficiency victims. While an emergent need may be addressed within the infrastructure of nongovernmental agencies currently present in South Carolina, the creation of independent and

specialized shelters for human trafficking victims is the future goal and optimal solution; however, it will require not only extensive funding, but also significant levels of support and resources to be successful.<sup>50</sup>

## **Recommendations:**

1. Provide access to emergency shelters for both male and female victims of human trafficking. The emergency shelter options should include separate shelter space for minors, and staff with specialized training on the needs of human trafficking victims.
2. Place shelters or available bed space at various locations around the state, so that access and transport is not an issue in getting a victim to a shelter. Location examples include, but are not limited to, Columbia, Charleston, Florence, Greenville, and Myrtle Beach.
3. Identify, support, and compile a list of nongovernmental organizations that are willing to provide shelter, and specify what types of victims these groups are able to assist.
4. Utilize and work alongside out-of-state shelters that may be able to house human trafficking victims from South Carolina or that would be able to otherwise assist South Carolina in developing available shelters for victims.
5. Support development of a variety of shelter and housing options in South Carolina, including crisis shelters, therapeutic foster homes<sup>51</sup>, residential treatment facilities<sup>52</sup>, and long-term independent and transitional living programs<sup>53</sup>. Increase access to transitional housing after emergency shelter stays for both male and female victims.
6. Increase training and capacity of agencies and service providers that work with vulnerable youth, including child protective service providers, DSS contractors, and foster parents.



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**Finding 4:** There is a lack of understanding and awareness of the various immigration benefits for non-citizen victims of human trafficking, which are essential to victim safety and prosecution.

Some human trafficking victims are not citizens of the U.S. and face different challenges than U.S. citizen victims of human trafficking. Because non-citizen victims may not speak English and have little or no knowledge of the protections and resources available to them in the U.S., they may be unable to reach out for assistance. Traffickers often use victims' immigration status to threaten and coerce them by threatening deportation, withdrawing immigration applications, or confiscating passports and other vital records. In addition, because most non-citizens are not eligible for public benefits, or because the victim may not have legal authorization to work or obtain a driver's license, the victim has limited ability to gain independence and safety after leaving the trafficker.

Recognizing that traffickers exploit these unique vulnerabilities of non-citizen immigrant victims to control and isolate them, the U.S. Congress has developed several humanitarian immigration and public benefit programs designed to mitigate these challenges. There are avenues available for a human trafficking victim to obtain temporary legal status while assisting with trafficking investigations and prosecutions. These avenues include Continued Presence, T Nonimmigrant Status (T visa), and U Nonimmigrant Status (U visa), which may qualify the victim for permanent legal status if there is continued cooperation with law enforcement. Once a victim is granted one of these benefits, the victim is protected from deportation, may have increased access to public benefits, and is granted authorization to work. However, in order for a victim to pursue these immigration benefits, the pertinent law enforcement agency must prepare and sign certain immigration forms in support of the victim's applications. Without the support of the law enforcement agency, the victim may be unable to apply for these benefits. If victims are unable to apply timely for these benefits, they may lose their immigration status and/or be

unable to support themselves during the criminal justice process. Each of these humanitarian programs is designed to encourage victim cooperation in the investigation and prosecution of criminals and to ensure that the victim maintains legal status throughout the proceedings.

Continued Presence is a temporary immigrant benefit that grants the victim legal status for one year and access to public benefits and other financial assistance programs. Only federal law enforcement agencies can submit this application on behalf of the victim.

T Nonimmigrant Status, also known as the T visa, was created by the TVPA. The T visa is available only to victims of human trafficking. Trafficking victims must apply for this benefit themselves and must provide evidence that they are a victim of a severe form of human trafficking, they are physically present in the U.S. because of human trafficking, they have complied with reasonable requests from investigators and prosecutors throughout the case, and they would suffer extreme hardship involving unusual and severe harm if required to leave the U.S. Although it is not required, it is strongly encouraged that the victim submit Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, to show law enforcement agency support of the petition – commonly referred to as “certification.” This form serves as primary evidence that the applicant is a victim of trafficking and that he or she has complied with reasonable requests from law enforcement. Without this form, the victim will have a more difficult time providing evidence of victimization and cooperation, which may result in the denial of the application. If approved, the victim is granted temporary legal status and authorization to work for four years and may be eligible to apply for legal permanent residency after three years or after the close of the criminal case. In addition, certain members of the victim’s immediate family may also obtain derivative status under the T visa program. More importantly, the victim and his or her family members become eligible for a wide range of federally-funded public benefits that are not available to other non-citizens. A maximum of 5,000 T visas are allowed to be granted every year. If this number has been exceeded in a given year when a victim’s application is received, a victim may be put on a wait list until he or she can be approved.

In cases where a human trafficking victim may not qualify for a T visa, the victim may qualify for U Nonimmigrant Status, also known as the U visa, which gives protection to victims of certain qualifying crimes who help law enforcement and prosecution. Crimes covered by the U visa program include domestic violence, human trafficking, murder, blackmail, rape, kidnapping, and torture. The victim of the crime applies for this visa. Only 10,000 of these visas are issued each year, and a victim’s family may be eligible for derivative status. Here, the victim

must be a direct or indirect victim or qualifying bystander who suffered substantial physical or mental abuse as a result of the qualifying crime; the victim must have information about the crime; the crime must have violated a law in the U.S. or have occurred in the U.S.; and law enforcement or other qualifying individuals must certify the individual has been, is being, or is likely to be helpful in the prosecution or investigation of the crime.

Similar to the T visa program, there is an immigration form that is used by the investigating agency, prosecuting agency, or judge that serves to certify that the individual is a cooperating victim of a qualifying crime. This form is called Form I-918, Supplement B, U Nonimmigrant Status Certification. However, unlike the T visa program, this certification form is required, not optional, for a victim to submit an application for a U visa. If the victim is unable to obtain a signed Form I-918, Supplement B, he or she is not eligible to submit the application. For certification, a qualifying individual such as a prosecutor, law enforcement officer, or judge elects to fill out a form for the crime victim, stating that the victim is integral and helpful to the ongoing investigation.

The decision to sign either the T or U certification form is discretionary, and U.S. immigration law does not require any investigating and prosecuting agency to sign the form. A victim merely requests that the form be signed, but the victim does not have the right to demand the issuance of the form. As a result of lack of training or guidance provided by federal authorities on these programs, local law enforcement officials may be uncertain about signing or completing the forms, causing some agencies to decide not to sign any of these forms regardless of the circumstances of the particular case. In addition, because there is a great deal of misinformation in the community about these programs, law enforcement may often feel inundated with certification requests where the person obviously does not qualify, or even where the request is for a crime that did not happen in their jurisdiction. Because these benefits are often essential to victim safety and successful prosecution of this crime, it is critical that both law enforcement agencies and the community have a clear understanding of these programs.<sup>54</sup>

## **Recommendations:**

1. Develop protocols for requesting assistance from federal law enforcement agencies in the submission of Continued Presence applications.
2. Develop protocols for law enforcement, prosecutors, judges, the Department of Social Services, the Department of Labor, Licensing and Regulation, and other qualifying agencies when signing certifications for T and U visas for potential trafficking victims.

- a. Include general information on both visas.
  - b. Include guidance for when certification is appropriate and when certification is not appropriate.
  - c. Provide contact information for immigration officials and qualified attorneys specializing in immigration law to respond to frequently asked questions about Continued Presence and T and U visa certifications.
3. Educate victim service providers who might be assisting victims in immigration filings that only officials who have first-hand knowledge of the case are capable of signing certifications.
  4. Establish one point of contact specializing in human trafficking in each agency to handle Continued Presence and U and T visa procedures.

## **Finding 5:** Civil relief options for a trafficked victim are not well known or communicated.

While victims of human trafficking under the new state statute are entitled to restitution and a portion of forfeited assets in criminal prosecutions, victims also have civil legal remedies available to them. Civil relief is a way for victims to obtain additional resources that they might need after escaping the control of a trafficker. The remedies a victim can seek include, but are not limited to, administrative relief such as worker's compensation; wage, hour, and employment discrimination claims; and civil claims in tort and employment law. Civil recovery for a human trafficking victim is obtained by prevailing in a lawsuit that is initiated by or on behalf of the victim as a party, whereas in a criminal case the charges are initiated and brought by a government agency. If a trial is necessary after filing suit, the standard of proof in a civil trial is lower than in a criminal trial. If successful in a civil suit, a victim may obtain monetary damages, but the victim could also ask for and receive any other type of appropriate relief; South Carolina's statute provides for a variety of options.

The South Carolina human trafficking statute has a specific provision for civil actions against traffickers. Damages include actual damages, compensatory damages, punitive damages, injunctive relief, and any other type of relief that may be appropriate. If the victim prevails, he or she is also entitled to attorney's fees and costs. Treble damages are available to a victim when proof of *actual damages* is shown and when the defendant's actions were willful and malicious.<sup>55</sup>

Because of the obvious benefits a victim of trafficking could recover in a civil action against a trafficker or trafficking group, the civil remedies need to be understood and communicated to victims. Victims also must have access to legal service providers in order to get an appropriate case filed in civil court.

### **Recommendations:**

1. Ensure that victim service providers, nongovernmental organizations, and other able entities educate victims about their right to civil relief and the types of relief to which they may be entitled.

2. Ensure that victim service providers, nongovernmental organizations, and other able entities communicate to victims of labor trafficking that any lost wages due to them prior to prosecution (and separate from civil relief) should be reported to the U.S. Department of Labor (DOL) and/or the South Carolina Department of Labor, Licensing, and Regulation (LLR).
  - a. Ensure victims know to report minimum wage and overtime issues under the Federal Fair Labor Standards Act to the DOL.
  - b. Ensure victims know to report to LLR anything promised by their employer in the form of wages or any other terms of employment. This may include benefits that fall outside of the scope of what is handled by the DOL.
  - c. Consider making all of this information about reporting available on the LLR website. Also look at updating forms on the LLR and DOL sites to help educate the public about human trafficking.
3. House a listserv of lawyers at the South Carolina Bar who are willing to provide assistance to human trafficking victims either on a pro bono basis or for a contingency fee (to be collected from the trafficker post-conviction).
  - a. Consider recruitment and training for these pro bono or contingency fee attorneys. Explore contacting The Human Trafficking Pro Bono Legal Center for assistance.<sup>56</sup>
  - b. Consider involving law schools around the state to assist in civil recovery efforts.
4. Provide additional resources to existing nonprofit legal service providers already serving human trafficking victims, such as South Carolina Victim Assistance Network and South Carolina Legal Services.

## **Finding 6:** Delivery of and access to victim services need to be better coordinated.

The inherent nature of a task force requires the coordination of ideas and energies in an effort to solve complex issues. That complexity in the context of human trafficking requires cooperation among agencies in order for the fight against this crime in South Carolina to be successful; consequently, victim services must be organized to maximize efficiency and effectiveness for victims of human trafficking. Gaps in communication and resources cause delays and complications, so everyone in the chain of interaction with a victim needs to know whom to contact for a specific need.

The first interaction a victim may have is likely with a first responder. Nurses, law enforcement, emergency medical service providers, and firefighters need to know who to contact in the event they might be dealing with a suspected human trafficking victim. Victims often require interpreters, and victims may not trust or might even fear law enforcement. Victims might not self-identify as human trafficking victims, and they might be reluctant to cooperate with those who are trying to assist them. Having specific individuals to call in a suspected human trafficking case can help first responders with these challenges, to ensure a victim reaches safety in the short-term, but also to create a successful case for prosecution.<sup>57</sup>

Service providers also should have a network of resources available in order to act swiftly to assist a victim who has specific needs. Victim services should address a trafficking victim's need for health care, mental health evaluation and counseling, language services, job training, education, transportation, housing (both temporary and permanent), and legal services, among others. Individuals providing these services not only need training in how to best serve a victim of human trafficking, but also need to be specifically identified for more effective coordination of services when the need arises. The best way to serve victims of human trafficking is to make sure that each person involved knows how to handle the situation or knows who to call in the event that further assistance is needed.<sup>58</sup>

## Recommendations:

1. Address the lack of funding sources for victim services.
2. Compile interagency protocols to designate preferred contacts in each involved organization, including labor regulation agencies and other regulatory agencies.
  - a. Make sure law enforcement and other first responders have access to a list of individuals to call in case of the need for an interpreter, social service provider, housing, or any other type of specialized assistance arises.
  - b. Recommend that social service providers collaborate to create a database or information-sharing system so that victims can access all services themselves, or so that social service providers know who to contact on behalf of the victims.
3. Coordinate and exchange contact information among federal, state, and local organizations that are dedicated to or involved in the fight against human trafficking, so that, in the event either needs assistance in a specific case, there is a designated representative to contact.

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<sup>38</sup> Polaris Project, *Human Trafficking Cheat Sheet* (2012), <https://na4.salesforce.com/sfc/play/index.jsp?oid=00D300000006E4S&viewId=05H60000000imK7&v=0686000000OKbeX&d=0i1GKP5PVjb5g7wWmouadOJ20Kk%3D>.

<sup>39</sup> Polaris Project, *In Their Shoes: Understanding Victims' Mindsets and Common Barriers to Victim Identification* (2012), <https://na4.salesforce.com/sfc/play/index.jsp?oid=00D300000006E4S&viewId=05H60000000imK7&v=0686000000OfGXF&d=0i1GKP5PVjb5g7wWmouadOJ20Kk%3D>.

<sup>40</sup> International Association of Chiefs of Police, *The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation*, p. 7, <http://www.theiacp.org/portals/0/pdfs/CompleteHTGuide.pdf>.

<sup>41</sup> *Id.*

<sup>42</sup> International Association of Chiefs of Police, *The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation*, pp. 5-9, <http://www.theiacp.org/portals/0/pdfs/CompleteHTGuide.pdf>.

<sup>43</sup> Department of Health and Human Services, Office of Refugee Resettlement, *Fact Sheet: Identifying Victims of Human Trafficking* (August 8, 2012), <http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-identifying-victims-of-human-trafficking>.

<sup>44</sup> Heather J. Clawson and Nicole Dutch, *Addressing the Needs of Victims of Human Trafficking: Challenges, Barriers, and Promising Practices* (August 2008), available at <http://aspe.hhs.gov/hsp/07/HumanTrafficking/Needs/ib.shtml>.

<sup>45</sup> More information on this can be found at both <https://dss.sc.gov/content/customers/finance/rrp.aspx> and <http://www.acf.hhs.gov/programs/orr/resource/the-refugee-act>.

<sup>46</sup> For more information, please visit <http://www.refugees.org/about-us/in-the-news/press-releases/national-human-trafficking.html>.

<sup>47</sup> *Id.*

<sup>48</sup> Polaris Project, *Shelter Beds for Human Trafficking Survivors in the United States* (2012), <https://na4.salesforce.com/sfc/p/300000006E4S9liF7eeqnIT97HRFH4FvCSI5v4=>.

<sup>49</sup> *Id.*

<sup>50</sup> Doors to Freedom, *Ways to Help*, <http://doorstofreedom.com/#/ways-to-help>.



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- <sup>51</sup> More about therapeutic foster care and group homes can be found here:  
<http://www.adopting.org/adoptions/therapeutic-foster-care-therapeutic-group-homes.html>.
- <sup>52</sup> More about residential treatment facilities can be found here: <http://www.residentialtreatmentfacility.org/>.
- <sup>53</sup> More about transitional housing can be found here: <http://www.transitionalhousing.org/>, and here:  
<http://www.acf.hhs.gov/programs/fysb/resource/tlp-fact-sheet>.
- <sup>54</sup> All information in this section prepared by specialists at the South Carolina Victim Assistance Network. More information on immigration benefits for foreign victims can be found at:  
<http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes>.
- <sup>55</sup> S.C. Code Ann. § 16-3-2060 (2012).
- <sup>56</sup> More information on the Human Trafficking Pro Bono Legal Center can be found here:  
<http://www.tahirih.org/hprobono/>.
- <sup>57</sup> Department of Homeland Security, Blue Campaign, *Victim Support in Case Investigations and Prosecution of Traffickers*, <http://www.dhs.gov/blue-campaign/victim-info-law>.
- <sup>58</sup> Polaris Project, *2013 Analysis of State Human Trafficking Laws: Human Trafficking Commission or Task Force* (2013), [http://www.polarisproject.org/storage/documents/2013\\_Analysis\\_Category\\_4b\\_-\\_Task\\_Force.pdf](http://www.polarisproject.org/storage/documents/2013_Analysis_Category_4b_-_Task_Force.pdf).

# Investigating and Prosecuting Human Traffickers



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**Finding 1:** The lack of resources available to law enforcement, prosecutors, and judges frustrates opportunities to arrest, prosecute, and sentence human traffickers.

Availability of resources is a serious concern when it comes to effectively investigating and prosecuting human traffickers. Because of the complex nature of the crime and its victims, in order to achieve the goals noted in this plan, law enforcement around the state of South Carolina will require new and additional resources. As first responders, law enforcement personnel will often be the first to recognize or make contact with a human trafficking victim. Interpreters, victim services, immigration organizations, and healthcare workers can be integral in a human trafficking case, and officers need access to them. Officers must have appropriate and adequate resources to be successful in the fight against human trafficking.<sup>59</sup>

Prosecutors and judges also face challenges with respect to human trafficking cases in comparison to other types of crimes that are more regularly prosecuted. To date, there have been no prosecutions under the new human trafficking statute in South Carolina. Both judges and prosecutors need resources in this area, due in part to the lack of case law concerning the statute. Human trafficking should not be a charge that prosecutors avoid because more familiar charges (for example, promoting prostitution of a minor or criminal sexual conduct) might be easier to win with a jury or try in front of a judge, and additional legal resources may alleviate any

discomfort arising from an otherwise unfamiliar human trafficking charge. Support in solicitors' offices for charging human trafficking cases is important, especially when working in conjunction with diligent law enforcement officers who make the cases. Resources like protocols, sample jury charges, predicate questions, and providing successful strategies and tactics would be helpful for both judges and prosecutors. Solicitors' offices may find it helpful to utilize prosecutors who are already familiar with handling reluctant victims (for example, those frequently encountered in domestic violence or sexual assault cases), due to the similarities among victims in those cases and those in human trafficking cases. Developing a prosecutor (or prosecutors) with expertise in the area of human trafficking may also prove to be a strategy for success when handling human trafficking prosecutions.<sup>60</sup>

## **Recommendations:**

1. Identify interpreters who are available to assist with human trafficking cases.
  - a. Ensure investigators have access to interpreters (who are qualified for interviews and court proceedings) to address language barriers that may arise while working with victims.
  - b. Compile a resource list of investigators in South Carolina with foreign language skills.
2. Aim to have at least one specific person in each agency "specialize" in human trafficking investigations. This individual would act as a point person or contact for other organizations for all future investigations or leads.
3. Provide funding for protective services or relocation services for human trafficking victims and witnesses who are essential in a human trafficking case.
4. Pinpoint areas in South Carolina where human trafficking may be more prevalent or more likely to occur so that more resources can be allocated to those areas.
5. Create a protocol to distribute to prosecutors and/or law enforcement with up-to-date information on human trafficking, South Carolina law, legal strategies, and common legal obstacles in trafficking cases. Ideally, sample motions and jury instructions should be included, as well as contact information for local prosecutors with experience in prosecuting human trafficking cases.
6. Encourage agencies to coordinate with each other so that when specialized investigators, shelters, interpreters, or advocates are lacking for one agency, other agencies can help fill the void.

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**Finding 2:** The lack of information-sharing among law enforcement officers and prosecuting offices hinders opportunities to arrest, prosecute, and sentence human traffickers.

Information-sharing is important for a multitude of reasons. Currently in South Carolina, there is not a comprehensive human trafficking information site that prosecutors and/or law enforcement officials can access. Attention toward the issue of human trafficking on the state level in South Carolina has never had more momentum than since the passing of the new statute. Law enforcement and prosecutors agree that more collaboration and information-sharing about methods, tactics, potential defendants, suspicious behavior, and any other human trafficking indicators would be helpful in prosecuting cases successfully.

There is a need for a shared database where information about cases and criminal investigations are kept. Especially in sex trafficking cases, victims are frequently moved from one place to another in order to keep up with demand and to keep profits flowing to the trafficker. Tracking suspicious activity and behavior across jurisdictional lines using a collaborative database can be useful in investigations.<sup>61</sup> Strong relationships between state and federal officials are also important to successfully arrest, prosecute, and sentence traffickers. State agencies may need to verify that a particular investigation is not already part of an ongoing federal investigation. In addition, federal law enforcement and federal prosecutors have more resources and experience due to their longer history of human trafficking investigations and prosecutions and, thus, can help formulate the best strategies for handling a potential human trafficking case.<sup>62</sup>

Having a shared resource guide with points of contact for law enforcement and prosecutors can also be extremely helpful. Many prosecutors and officers do not know who to contact in the event that a human trafficking case comes to light. Knowledge of victim advocacy organizations, shelters, medical personnel, interpreters, and others trained specifically in human trafficking in each jurisdiction will allow a case to run smoothly upon receipt, as opposed to an initial panicked rush to find resources once a victim appears who needs assistance. Victims are

not always readily cooperative or available, and they often need specialized support. Having information available expediently will benefit everyone involved in a case.<sup>63</sup>

## **Recommendations:**

1. Utilize the South Carolina Information and Intelligence Center (SCIIC), commonly known as the Fusion Center, for distribution of information, such as intelligence bulletins, BOLOs (“be on the lookout” notices), and other pertinent information about potential human trafficking cases.
2. Encourage communication between law enforcement agencies and prosecutors’ offices about information gathered during human trafficking investigations.
3. Create a comprehensive contact list and information resource guide for human trafficking cases. Have contacts and information for all aspects of a human trafficking case, including investigations, labor regulations, health care concerns, prosecutions, victim advocacy, and other pertinent areas of concern. Consider including this in a multiagency protocol.
4. Develop a tracking system for traffickers, trafficking activities, and even locations of victims, especially to keep track of “hot spots” and places where trafficking is more likely to happen.
5. Create a website where information about human trafficking can be easily shared and accessed. The website should include a password-protected share-point (such as a listserv) for law enforcement, prosecutors, and victim service providers to share non-protected information and to ask questions as they arise.

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**Finding 3:** The lack of trained law enforcement officers, prosecutors, and judges prevents opportunities to arrest, prosecute, and sentence human traffickers.

Training and education is of the utmost importance to effectively investigate and prosecute human trafficking. Officers, prosecutors, and judges must understand the elements of the new South Carolina human trafficking statute, the evidence that would need to be presented to obtain a human trafficking conviction, and the intricacies of a human trafficking case. Clear protocols and policies are needed when there is a human trafficking case.<sup>64</sup>

Officers have to be educated on “victim identifiers,” the red flags for human trafficking victims. As discussed, trafficking victims do not always identify themselves as victims, and law enforcement officials must be able to investigate these kinds of cases without a cooperative victim. Law enforcement needs to be prepared for the complex behavior often exhibited by victims and be ready to handle difficult situations and hostile victims. When a complex statute exists, it is more important than ever that officers know the law, thoroughly and in detail. Many incidents may not be obvious human trafficking cases, and it is essential that law enforcement know how and when to properly charge human trafficking as opposed to some other crime in order to begin successfully prosecuting traffickers at the state level.

Judges can also benefit from training on the law, and what to expect from victims in these cases. In New York, specialized human trafficking courts have been established to recognize sex trafficking victims who may be arrested for prostitution. The centralized courts are designed to keep victims from being prosecuted and to help start the recovery process earlier than otherwise. Judges in New York realized that education and recognition that human trafficking is happening is integral in addressing the issue and finding solutions.<sup>65</sup> The same notion applies to labor trafficking. The more that judges familiarize themselves with the concepts and the law on human trafficking, the more likely a case is to flow smoothly when it is brought into a courtroom.

By comparison, South Carolina has created centralized domestic violence courts. These courts were constructed to create the proper environment to address all the unique elements of a domestic violence case. In domestic violence cases, victims are often either absent or reluctant to testify or may be traumatized. If victims are in need of special services, victim advocates and shelter representatives can be present to assist them.<sup>66</sup> These types of courts are successful in South Carolina, and the same type of centralized, special attention could also be helpful in human trafficking cases.

Prosecutors also need to know how to approach human trafficking cases that come across their desks. All over the country it is being reported that prosecutors shy away from prosecuting cases under human trafficking statutes because other, more familiar crimes may seem “easier” to try, and prosecutors feel more comfortable with crimes other than human trafficking.<sup>67</sup> South Carolina’s new human trafficking law, along with many other states’ laws across the country, remain largely untested in court.<sup>68</sup> Often, prosecutors around the nation have reported not having support from superiors to proceed on human trafficking cases and not having sufficient resources to prepare for jury trials. Education is critical with new laws so that prosecutors can feel confident in bringing human trafficking cases and know that they have a strong case under the appropriate trafficking statute. State-level training is imperative, not only for human trafficking prosecutors but also for prosecutors who handle related crimes such as domestic violence, prostitution charges, sexual assault, gang crimes, and drug trafficking.<sup>69</sup>

Overall, training is needed and essential for law enforcement, judges, and prosecutors in order to begin fighting human trafficking on the state level.

## **Recommendations:**

1. Provide training on human trafficking through The South Carolina Commission on Prosecution Coordination for prosecutors, prosecution investigators, prosecution victim advocates, law enforcement officers, and law enforcement victim advocates in order to strengthen the possibility of successful prosecution of cases.
  - a. Address in these trainings the law, investigative techniques, prosecution advocacy, victims’ rights and services, involving victim advocates as early as possible, and communicating with victims of human trafficking (to include psychological impact on victims and how that may impact their willingness to cooperate and proceed with the process). Also include training that focuses on assessing force, fraud, or coercion to determine when trafficking is present.

- b. Ensure prosecutors implement adequate screening procedures for all cases to verify no human trafficking is involved.
2. Include a two-hour segment on human trafficking at The South Carolina Criminal Justice Academy (CJA) during its basic training for all law enforcement officers. Include human trafficking segments in the CJA's advanced/continuing education programming, and train law enforcement officers to develop good working relationships with other law enforcement agencies and prosecutors in order to strengthen the possibilities for successful human trafficking prosecutions.
3. Involve the South Carolina Court Administration in incorporating the topic of human trafficking in mandated judicial training (for all courts).
4. Develop protocols for law enforcement, prosecutors, and judges for all aspects of human trafficking, including when subpoenas (used in state courts) and material witness warrants (used in federal courts) are useful.
5. Consider appointing a dedicated human trafficking officer in each police department and sheriff's office when economically feasible. When these officers are established, consider sharing a list of their names with prosecutors at all levels.
6. Provide training for law enforcement and prosecutorial agencies on working with vulnerable populations [which can include children in foster care, runaways, non-citizens who might not trust law enforcement, and victims of other types of abuse (child abuse, sexual assault, domestic violence)].

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<sup>59</sup> Id.

<sup>60</sup> Amy Farrell, et al., *Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases*, pp. 105-144 (April 2012), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/238795.pdf>.

<sup>61</sup> Polaris Project, *Domestic Sex Trafficking: The Criminal Operations of the American Pimp*, <https://na4.salesforce.com/sfc/play/index.jsp?oid=00D300000006E4S&v=068600000008UtA&viewId=05H6000000OjLMS&d=6FuMhnn2HQpD2dARadzU1Ow7p6l%3D>.

<sup>62</sup> International Association of Chiefs of Police, *The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation*, pp. 11-14, <http://www.theiacp.org/portals/0/pdfs/CompleteHTGuide.pdf>.

<sup>63</sup> Id.

<sup>64</sup> U.S. Department of State, *Trafficking in Persons Report 2013, Victim Identification: The First Step in Stopping Modern Slavery* available at <http://www.state.gov/j/tip/rls/tiprpt/2013/210542.htm>.

<sup>65</sup> William K. Rashbaum, *With Special Courts, State Aims to Steer Women Away From Sex Trade*, *The New York Times* (September 25, 2013), <http://www.nytimes.com/2013/09/26/nyregion/special-courts-for-human-trafficking-and-prostitution-cases-are-planned-in-new-york.html?pagewanted=1&adxnnl=1&adxnnlx=1383598903-gwemKny5PQYNnkAjptVOAw>.

<sup>66</sup> South Carolina Attorney General, *Guide to Centralizing a CDV Court*, <http://www.scag.gov/wp-content/uploads/2011/03/Why-create-a-centralized-court-for-cases-of-Criminal-Domest.pdf>.

<sup>67</sup> Amy Farrell, et al., *Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases*, pp. 155-168 (April 2012) available at <https://www.ncjrs.gov/pdffiles1/nij/grants/238795.pdf>.

<sup>68</sup> Kelly Heinrich and Kavitha Sreeharsha, *The State of State Human-Trafficking Laws*, *American Bar Association, The Judges' Journal*, Winter 2013, Vol. 52 No. 1 available at [http://www.americanbar.org/publications/judges\\_journal/2013/winter/the\\_state\\_of\\_state\\_humantrafficking\\_laws.html](http://www.americanbar.org/publications/judges_journal/2013/winter/the_state_of_state_humantrafficking_laws.html).

<sup>69</sup> Amy Farrell, et al., *Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases*, pp. 187-189 (April 2012) available at <https://www.ncjrs.gov/pdffiles1/nij/grants/238795.pdf>.



# Preventing Human Trafficking in South Carolina



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## **Finding 1:** There is inadequate enforcement of existing rules and regulations in South Carolina.

There are rules, regulations, and laws that potentially affect labor and sex trafficking that are promulgated and enforced by various agencies and organizations in the state. For example, there are statutes and regulations that govern employer and employee relationships within the purview of the South Carolina Department of Labor, Licensing and Regulation (LLR),<sup>70</sup> and the South Carolina Department of Health and Environmental Control (DHEC) ensures that businesses meet or exceed health and environmental standards. There are criminal penalties in place statewide for prostitution and solicitation.<sup>71</sup> This is just a small example of the variety of rules and regulations that can affect all types of human trafficking. Consistent enforcement of these rules and regulations could increase opportunities to assist victims of human trafficking, bring offenders to justice, and ultimately prevent this crime in the first place.

Instances of labor trafficking can be found in various environments, including legitimate businesses, which could include, factories, strip clubs, massage and nail salons, and agricultural enterprises. All of these legitimate businesses are regulated in some manner by government agencies. In contrast, victims like domestic servants and agricultural workers would be difficult to detect by state agencies. Labor exploitation and unfair treatment are not in themselves considered trafficking, but human trafficking can arise out of these situations when the employer uses force, fraud, or coercion to exert control over employees. This can include physical abuse, false promises about a different or better job, misrepresentation of the nature of a job, misrepresentation about pay, threatening deportation of foreign nationals, confiscation of personal documentation, and physical threats to the worker or his or her family.<sup>72</sup> Agencies

responsible for regulating businesses, health standards, and employment regulations need to know how to recognize human trafficking and how to handle a situation in which they encounter human trafficking. To help prevent labor trafficking, not only must pre-existing rules and regulations be enforced, but agencies also need to be educated on trafficking, how to look for signs, and what to do when they encounter a possible trafficking situation. There have also been multiple initiatives started to promote fair businesses practices and responsibility among business owners in the way that they recruit and treat employees and conduct business.<sup>73</sup>

LLR is the regulatory agency that would cite an employer if they failed to pay wages due an employee. LLR can only assess a civil penalty in the amount of \$100.00 to the employer for the violation of nonpayment of wages. This \$100.00 fine was more significant when the law was first enacted in 1986, but now such a small amount does not have the same impact. While individuals owed unpaid wages may be able to seek other methods of restitution from the employer, only LLR has the authority to impose regulatory fines for employers that do not properly pay their employees.<sup>74</sup> Stronger penalties for failing to follow LLR regulations could potentially put employers on notice that wages due to employees must be paid.

Just as with labor trafficking, individuals can become involved in sex trafficking through methods where consistent and increased enforcement of existing laws and regulations would yield improved results in preventing sex trafficking cases. Victims of sex trafficking can fall prey to their traffickers through massage businesses, the Internet, residential brothels, street prostitution, escort services, strip clubs, and truck stops.<sup>75</sup> In recent years, the Internet has become one of the most popular ways to facilitate sex trafficking, often with the traffickers using shorthand or “code language” to avoid law enforcement attention.<sup>76</sup> Monitoring Internet sites where traffickers are most likely to advertise is integral in the fight against sex trafficking. For street prostitution, there are laws in South Carolina to penalize both “johns” (the individuals who solicit the prostitutes) and prostituted individuals.<sup>77</sup> In order to curb demand by johns, some jurisdictions have altered penalties with tougher laws and creative sentencing, especially when minors are solicited.<sup>78</sup> Regardless, enforcement of the laws has shown to be the most effective method in deterring solicitation, and men interviewed have reported that stricter punishments and tougher enforcement would keep them from engaging in solicitation.<sup>79</sup> Notably, reevaluating the way in which laws are enforced for prostitution in South Carolina could help identify victims since sex trafficking victims often appear to be prostitutes to law enforcement or other service providers who may encounter them. Consequently, sex trafficking victims are often arrested for prostitution; therefore, taking a closer look at individuals arrested for prostitution is a crucial step

in identifying victims who may be too intimidated by possible criminal charges or penalties to admit the full extent of the situation in which they find themselves.<sup>80</sup>

## **Recommendations:**

1. Reexamine and consider the effectiveness of current laws and procedures as they relate to individuals involved in and victims of both labor trafficking and sex trafficking.
2. Make training programs on human trafficking available for employers, to include the definition of human trafficking, the penalties, and the consequences businesses could face for engaging in human trafficking.
  - a. Consider creating an incentive for businesses to participate in these types of training programs.
  - b. Provide a pamphlet educating business owners on human trafficking, and have it available at the city business license office or other agencies where business owners may visit.
3. Provide funding and make available training for regulatory agencies, including but not limited to the Department of Health and Environmental Control, the Department of Employment and Workforce, Department of Social Services, and the Department of Labor, Licensing and Regulation.

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**Finding 2:** Lack of awareness about human trafficking and ingrained societal perceptions aggravate this problem, resulting in lost opportunities to help victims and hold perpetrators accountable.

A campaign to increase public awareness is one of the many steps that need to be taken in order to address the problem of human trafficking in South Carolina. The more the public is aware that human trafficking affects our state, the more support is likely to be generated for taking further steps to combat the issue. Even those members of the community who are aware of human trafficking may fail to realize it is a problem that is so prevalent. Increased awareness can help prevent individuals from becoming victims themselves, since traffickers often prey on individuals who do not know their rights, the law, or where to go for help. Additionally, public awareness assists in victim identification. Victims do not always self-identify as victims, and many times they are not able to reach out for help themselves. If a concerned individual knows to reach out to the proper authorities, then more victims could be helped.<sup>81</sup>

Especially with sex trafficking, there are certain stigmas that can be attached to both victims and traffickers. Sex trafficking victims may appear initially to the public as prostitutes acting of their own free will, and their traffickers may appear to be pimps. The glorification of “pimp culture” and the glamorization of how pimps live, as can be seen in video games, music videos, and movies, misrepresents the reality of pimp-controlled sex trafficking. Individuals who self-identify as pimps in reality can very likely be engaged in human trafficking.<sup>82</sup> Attaching yet another stigma to victims, sometimes traffickers use drugs to control them. The ability to recognize that some of these alleged prostitutes or drug addicts may in fact be victims of human trafficking comes as the result of public awareness and education. With labor trafficking, especially with domestic servitude, retail food establishments, and strip clubs, public ability to recognize red flags can also aid in arresting traffickers. The more access and exposure to information that is available about human trafficking, the more likely everyone is to identify and prevent trafficking in South Carolina.<sup>83</sup>

## Recommendations:

1. Implement anti-human trafficking curriculum in schools.
  - a. Create programs for students to learn about human trafficking, including how to recognize it, how to avoid victimization, and other relevant topics.
  - b. Educate school personnel (to include teachers, principals, school nurses, resource officers, and guidance counselors) on how to recognize signs of trafficking, and who to contact in the event they suspect trafficking is occurring.
  - c. Consider partnering with existing programs that conduct educational programs in schools about abuse and violence and work with them to incorporate human trafficking into their programs.
2. Create a public service campaign to include social media websites. Encourage people with knowledge of human trafficking to report it to law enforcement agencies.
  - a. Target the demand aspect of sex trafficking with public service announcements focused on “johns” who participate in solicitation.
  - b. Address labor trafficking with public service announcements targeted toward educating employers and businesses on the law and warning of penalties for engaging in labor trafficking and noncompliance.
3. Use media like television, posters, Facebook, Twitter, Instagram, and billboards to reach potential victims and make them aware of human trafficking.
4. Create a website with links to resources, public service announcements, signs of human trafficking, and hotline information.
5. Consider outreach to high-risk areas or areas where human trafficking is more likely to be encountered. This includes prostitution “hot spots,” strip clubs, private providers, public health clinics, and community based centers.
6. Encourage the public to utilize Crimestoppers (state hotline for crime reporting), Polaris Project (national hotline for crime reporting), and local law enforcement for reporting human trafficking tips.
7. Consider producing educational information to be distributed at ports of entry for incoming non-citizens, such as a pamphlet available in various languages to describe the dangers of human trafficking and how to get help if needed.

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<sup>70</sup> South Carolina Department of Labor, Licensing, and Regulation, <http://www.llr.sc.gov/labor.asp>.

<sup>71</sup> S.C. Code Ann. § 16-15-90.

<sup>72</sup> Polaris Project, *Labor Trafficking in the U.S., Hostess/Strip Clubs – Labor Trafficking*, <http://www.polarisproject.org/human-trafficking/labor-trafficking-in-the-us/hostess-a-strip-clubs>.

<sup>73</sup> United States Department of Labor, *Basics of a Social Compliance System*, <http://www.dol.gov/ilab/child-forced-labor/Basics-of-a-Social-Compliance-System.htm>.

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<sup>74</sup> S.C. Code Ann. § 41-10-80(B).

<sup>75</sup> Polaris Project, *Sex Trafficking in the U.S.*, <http://www.polarisproject.org/human-trafficking/sex-trafficking-in-the-us>.

<sup>76</sup> Polaris Project, *Sex Trafficking in the United States, Internet Based*, <http://www.polarisproject.org/human-trafficking/sex-trafficking-in-the-us/internet-based>.

<sup>77</sup> S.C. Code Ann. §§ 16-15-90-110.

<sup>78</sup> *International Review of Penal Law, Human Trafficking*, International Association of Penal Law (2010), pp. 617-619, available at [http://sharedhope.org/wp-content/uploads/2012/12/ProblemofDemand\\_AIDPRevuePenal\\_Spring2011\\_Excerpt.pdf](http://sharedhope.org/wp-content/uploads/2012/12/ProblemofDemand_AIDPRevuePenal_Spring2011_Excerpt.pdf).

<sup>79</sup> *Id.*

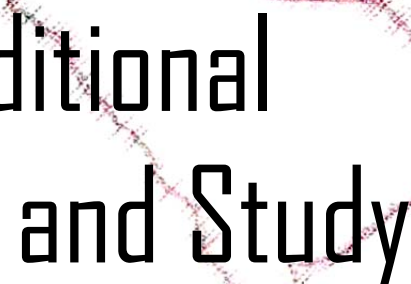
<sup>80</sup> Polaris Project, *Sex Trafficking in the U.S., Street Prostitution*, <http://www.polarisproject.org/human-trafficking/sex-trafficking-in-the-us/street-prostitution>.

<sup>81</sup> U.S. Department of State, *Trafficking in Persons Report 2013, Victim Identification: The First Step in Stopping Modern Slavery*, available at <http://www.state.gov/j/tip/rls/tiprpt/2013/210542.htm>.

<sup>82</sup> Polaris Project, *Street Prostitution*, <http://www.polarisproject.org/human-trafficking/sex-trafficking-in-the-us/street-prostitution>.

<sup>83</sup> Polaris Project, *Labor Trafficking in the U.S.*, <http://www.polarisproject.org/human-trafficking/labor-trafficking-in-the-us>.

# Areas for Additional Consideration and Study



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- Foreign national victims
  - Consider how current immigration laws can affect victims of severe human trafficking.
- Rapid response teams (a team of individuals knowledgeable about human trafficking that could quickly assess a trafficking situation and best help a victim - they might include a law enforcement officer, a nurse, a victim's advocate, etc.)
  - Consider creating teams throughout the state, have one point of contact or expert in each agency, and establish partnerships.
  - Each judicial district could develop a multiagency group to promote efforts in creating rapid response teams.
  - Create clear and concise points of contact to be used by these response teams.
- Child victims
  - Look at how South Carolina juvenile law affects victims of human trafficking, particularly those victims who might be arrested for a crime.
- Internet and technology
  - Develop strategies to more efficiently investigate tips received from Backpage or Craigslist, which currently go to the FBI and are copied to the South Carolina Attorney General's Internet Crimes Against Children division (ICAC). Currently, the FBI and ICAC lack personnel and resources to investigate every tip received.
  - Draft a protocol for handling tips, including those with very little information. Consider possible areas of overlap between human trafficking and ICAC.
  - Examine the different methods, specifically those relating to technology and the Internet, used in the perpetration of trafficking crimes in order to formulate better responses, develop prevention strategies, and build stronger cases for prosecution.

## Glossary of Frequently Used Terms

*A quick reference to terms often used in human trafficking cases, many of which are used within this plan*

- **Certification** – Certification here refers to U visa and T visa applications. Certification is required for a victim to obtain a U visa. For a T visa, certification is helpful evidence for the victim to obtain immigration relief, but it is not mandatory. In order for a crime victim’s application to be certified, a qualifying individual such as a prosecutor, law enforcement officer, or judge must fill out a form stating that the victim is integral and helpful to the ongoing investigation.
- **Coercion** – Coercion is one of the means that a trafficker can use against a sex or labor trafficking victim over the age of eighteen to make them perform labor or sex acts. Coercion can include, but is not limited to, threatening a victim’s family or friends, debt bondage, psychological abuse, and misrepresentation of the legal system.
- **Continued presence** – Continued presence is a temporary immigrant benefit that grants the victim legal status for one year and access to public benefits and other financial assistance programs. Only federal law enforcement agencies can submit this application on behalf of the victim.
- **Debt bondage** – Debt bondage occurs when a person pledges personal services or those of someone under his control as security for a debt. Often, this is a situation where a victim “owes” the trafficker a large debt, is made to keep working, and is never able to pay off the debt to the trafficker.
- **Finding** – A “finding” in this state plan is considered to be an issue identified by the task force on which South Carolina needs to focus in order to best address the problem of human trafficking.
- **Force** – Force is one of the means that a trafficker can use against a sex or labor trafficking victim over the age of eighteen to make them perform labor or sex acts. Force can include, but is not limited to, beatings, rape, torture, and physical confinement.
- **Forced labor** – Forced labor is labor or services performed by a victim under coercion. Forced labor is considered trafficking in persons in South Carolina.
- **Fraud** – Fraud is one of the means that a trafficker can use against a sex or labor trafficking victim over the age of eighteen to make them perform labor or sex acts. Fraud can include, but is not limited to, false promises of a better life, false promises of marriage, and false job offers.



- **Involuntary servitude** – Involuntary servitude is a condition of servitude created through coercion. Involuntary servitude is considered trafficking in persons in South Carolina.
- **John** – “John” is a generic term used for an individual who solicits sex.
- **Labor trafficking** – Labor trafficking under South Carolina law is encompassed under the definition of “trafficking in persons,” and includes debt bondage, involuntary servitude, and forced labor. If a trafficker uses force, fraud, or coercion against a victim to make him or her perform one of those labor acts, then it is considered labor trafficking.
- **Recommendation** – A “recommendation” in this plan is an idea by the task force for how to best address a “finding” about human trafficking in South Carolina.
- **Sex trafficking** – Sex trafficking occurs under South Carolina law when a trafficker uses force, fraud, or coercion against a victim over the age of eighteen to compel them to perform a commercial sex act. If the victim is under the age of eighteen, then no force, fraud, or coercion is required.
- **Smuggling** – Smuggling is a different crime than human trafficking, even though smuggling can potentially turn into human trafficking under certain circumstances. Smuggling is a crime against a country’s border, is voluntary by the person being smuggled, requires transportation, and has ended once the smuggled person is over the border.
- **Stockholm Syndrome** – Generally, Stockholm Syndrome manifests in a traumatic bonding situation, where a victim will develop positive feelings toward his or her abuser or trafficker as a coping mechanism.
- **T visa (or T Nonimmigrant Status)** - The T visa is available only to victims of human trafficking. Trafficking victims must apply for this visa for themselves, be victims of severe human trafficking, be physically present in the U.S. because of human trafficking, comply with reasonable requests from investigators and prosecutors in the trafficking investigation, and demonstrate severe hardship or harm that would be caused by deportation.
- **Task force** – For purposes of this state plan, “task force” refers to the legislatively mandated task force as described in S.C. Code Ann. § 16-3-2050. The members are listed on *page 2* of this plan. Other task forces may be independently operating throughout the state as well.
- **Trafficking in persons (crime)** – The crime of trafficking in persons is committed when there is a person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim knowing that the victim will be subjected to sex trafficking, forced labor or services, involuntary servitude, or debt bondage through any means, or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in trafficking. Also, a person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim for the

purposes of sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means, or who benefits, is also guilty.

- **Trafficking in persons (definition)** – Trafficking in persons is when a victim is subjected to or a person tries to subject a victim to sex trafficking or labor trafficking (to include forced labor, involuntary servitude, or debt bondage), by using physical restraint; confiscating identification documents of the victim; extortion or blackmail; causing or threatening financial harm to the victim; controlling a victim with drugs; or coercion.
  
  - **U visa (or U Nonimmigrant Status)** - The U visa gives protection to victims of certain qualifying crimes who help law enforcement and prosecution. Crimes covered by the U visa program include domestic violence, human trafficking, murder, blackmail, rape, kidnapping, and torture. The victim of the crime also applies for this visa. The victim must be a direct or indirect victim or qualifying bystander who suffered severe physical or mental abuse from one of the qualifying crimes; the victim must have information about the crime; the crime must have violated a law in the U.S. or have occurred in the U.S.; and law enforcement or other qualifying individuals must certify the individual will be helpful in the prosecution or investigation of the crime.
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# Acronyms

*A quick reference for acronyms used in this state plan*

**BOLO** – “Be on the lookout” notice

**DHEC** – South Carolina Department of Health and Environmental Control

**DHS** – Department of Homeland Security

**DOL** – (United States) Department of Labor

**DSS** – (South Carolina) Department of Social Services

**ECCAHT** – Eastern Carolina Coalition Against Human Trafficking

**FBI** – Federal Bureau of Investigation

**ICAC** – South Carolina Attorney General’s Internet Crimes Against Children Division

**ICE** – (United States) Immigration and Customs Enforcement Office

**LLR** – (South Carolina) Department of Labor, Licensing, and Regulation

**SCCADVASA** – South Carolina Coalition Against Domestic Violence and Sexual Assault

**SCIIC** – South Carolina Intelligence Information Center

**SCVAN** – South Carolina Victim Assistance Network

**SLED** – South Carolina Law Enforcement Division

**TIP** – Trafficking in Persons

**TVPA** – Trafficking Victims Protection Act

## **DISCLAIMER**

*The South Carolina Human Trafficking Task Force worked diligently on this state plan, and recognizes that human trafficking is a crime that can affect many different people in many different ways. This state plan was crafted to discuss the problem of human trafficking, and to develop strategies for South Carolina to move onward in the fight against this crime. Since some of the problems facing South Carolina as it undertakes this mission include a lack of information, training, awareness, and education, more will undoubtedly be uncovered about human trafficking in our state as this plan is implemented. This plan is meant to be educational, helpful, motivational, and replete with forward momentum for our state's efforts. However, it is not meant to be an exhaustive or complete list of the agencies, individuals, and organizations that will be involved in anti-human trafficking efforts, or of the steps that will be undertaken in support of those efforts.*

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For any questions, concerns, or comments about this state plan, please contact Marie Sazehn, the Human Trafficking Program Coordinator at the South Carolina Office of the Attorney General, at (803) 734-0306 or [msazehn@scag.gov](mailto:msazehn@scag.gov).