
Human Trafficking in Massachusetts

**Massachusetts Advisory Committee
to the U.S. Commission on Civil Rights**

August 2019

The United States Commission on Civil Rights

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Letter of Transmittal

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The Massachusetts Advisory Committee, as part of its responsibility to advise the Commission on civil rights issues within the state, submits this report, “Human Trafficking in Massachusetts.” The report was unanimously adopted by the Advisory Committee.

Sincerely,

David Harris, *Chairperson*

Massachusetts Advisory Committee

Massachusetts Advisory Committee to the U.S. Commission on Civil Rights

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Executive Summary

In 2011 Massachusetts became the 48th state to enact a statute targeting human trafficking.¹ *An Act Relative to the Commercial Exploitation of People* criminalized sex trafficking and forced labor, defining the latter as “services performed or provided by way of causing or threatening to cause serious harm, physical restraint, abusing or threatening to abuse the legal process, knowingly destroying, concealing, removing, confiscating or possessing any identity documents, engaging in extortion, or causing financial harm to any person.”² The law established a civil cause of action for labor trafficking victims³ and provided for victim ordered restitution from assets forfeited by offenders.⁴

The Massachusetts forced services statute is broader than the federal anti-labor trafficking law; it does not require a finding of fraud, force, or coercion.⁵ But it has proved difficult to enforce. In the seven years since the law’s effective date in February 2012, the Attorney General’s office has charged only four defendants with labor trafficking, to date⁶. So far, there have been no convictions.⁷ Funding provided for victims under the statute is “abysmal” and funds expected from asset forfeitures haven’t “materialized.”⁸ Law enforcement agencies accustomed to targeting sex trafficking and prostitution have little if any experience regulating workplaces and little if any training in identifying and investigating labor trafficking.⁹ Aggressive federal efforts to deport undocumented people encourage many trafficked workers to remain in the shadows and embolden their employers.¹⁰

Workplace servitude is a significant problem in Massachusetts, but its dimensions are unknown largely because law enforcement has limited experience in this area and also because they have limited intelligence in private workplaces.¹¹ Data are inadequate and awareness of labor

¹ An Act Relative to the Commercial Exploitation of People, 2011 Mass. Acts 178.

² *Id.* at § 23; Beth Keeley, Assistant Attorney General, Chief of AG’s Human Trafficking Division Criminal Bureau, testimony, *Briefing Before the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights*, Boston, MA, Apr. 26, 2019, transcript, p. 68 (hereafter cited as *Boston Briefing*).

³ MASS GEN. LAWS ch. 265, § 51.

⁴ MASS GEN. LAWS ch. 265, § 55

⁵ Keeley Testimony, *Boston Briefing*, p. 88.

⁶ Charges against 1 defendant have been dismissed; charges against 3 were pending as of June, 2019. Heather Rowe Testimony, Chief of Investigations for Office of AG’s Fair Labor Division, *Boston Briefing*, p. 68; Beth Keeley, Written Statement for the Labor Trafficking in Massachusetts Briefing before the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights, June 14, 2019 (hereinafter Keeley Supplemental Email).

⁷ Julie Dahlstrom Testimony, Director, Boston University Law Immigrants Rights and Human Trafficking Clinic, *Boston Briefing*, p. 118.

⁸ Ally Blanck Testimony, Representative for Senator Mark Montigny, *Boston Briefing*, p. 10.

⁹ Amy Farrell Testimony, Associate Director, Northeastern School of Criminology & Criminal Justice, *Boston Briefing*, p. 43.

¹⁰ Dahlstrom Testimony, *Boston Briefing*, p.114.

¹¹ Farrell, Testimony, *Boston Briefing*, p. 44.

trafficking is low, among law enforcement officials as well as members of the public.¹² Recommendations for combatting trafficking issued in 2014 by the Labor Sub-Committee of an inter-agency task force are still cited by the Attorney General’s office today and have yet to be implemented.¹³ Thus, the Commonwealth has made little progress in quantifying or effectively addressing the incidence of labor trafficking or the number of victims it claims.

The 2014 Labor Sub-Committee report offered specific recommendations for action in 5 areas: victim services; demand reduction; data collection and information sharing; education and training; and public awareness.¹⁴ Since then the Attorney General’s office has taken some preliminary steps in response: It has created a web page on labor trafficking and is developing a labor trafficking app; it offered two training webinars for municipal workers (and plans on offering more). In addition to other training sessions, it has sought out partnerships with local governments and circulated sample policies to municipalities, addressing employee conduct and contract requirements for suppliers.¹⁵

But the promises of the 2014 task force report remain mostly unfulfilled. State officials don’t seem to have advanced much beyond analyzing the problem of labor trafficking and outlining proposals for combatting it. What these proposals would cost, how they would be funded, and whether they require legislative or regulatory action remain open questions. Discussions initiated five years ago have not yet reached the “implementation stage.”¹⁶

We strongly recommend that the Attorney General’s office and other state officials, including legislators, start implementing the good ideas outlined by the 2014 Labor Sub-Committee. Public health professionals should be enlisted in the efforts to identify and treat victims. Providing victim services, including shelters and legal assistance, and facilitating access to T and U visas are priorities. But while assisting individual victims is essential, it’s essentially reactive and limited in scope. And, we should not expect many abused workers to come forward, especially when mistrust of law enforcement and fears of deportation are high. State and municipal inspectors across the Commonwealth should be trained to identify and focus on the conditions of servitude. Uncovering and reducing labor trafficking requires more aggressive, informed monitoring of abusive workplaces, and the employment agencies that help staff them.

¹² Wendy Macais-Konstantopoulos, Emergency Physician, Massachusetts General Hospital, *Boston Briefing*, pp. 21-22.

¹³ Rowe Testimony, *Boston Briefing*, pp.97-98; Mass. Interagency Human Trafficking Policy Task Force, Labor Trafficking Sub-Committee, *Findings and Recommendations*, Oct. 2014, <https://www.mass.gov/files/documents/2018/04/30/LTTF%20Recommendations%20October%202014.pdf> (hereafter cited as MA Labor Trafficking 2014 Report).

¹⁴ MA Labor Trafficking 2014 Report, at 3.

¹⁵ Keeley Testimony, *Boston Briefing*, pp. 70-71

¹⁶ Rowe Testimony, *Boston Briefing*, pp. 97-98

I. Introduction

Human trafficking is “the coercion of human beings for the purpose of involuntary labor, sexual exploitation, or both.”¹⁷ Former President Obama, among many others, acknowledged human trafficking as modern day slavery and declared that the United States “can and must end this most serious, ongoing criminal civil rights violation.”¹⁸ The task of ending human trafficking, however, is not simple. It is nearly impossible to determine how many people are enslaved at any given time — or even how many victims exist in our own communities. Global estimates indicate that millions of individuals are victims of human trafficking.¹⁹ The United States is both a destination for trafficked victims and its own source.²⁰ Some victims can be seen on a daily basis working in “mom-and-pop” stores or walking the streets — hidden in plain sight.²¹ Others are hidden in private residences or brothels, coerced into captivity and forced to work in oppressive conditions for little or no pay.²² The imprecise nature of the problem highlights the challenge it presents to lawmakers, law enforcement officials, and non-governmental organizations who try to raise public awareness and combat human trafficking at the state and federal levels. Human trafficking is a “hidden danger” that requires a coordinated and concerted effort to abate.²³

Congress first addressed human trafficking in 2000 through the Victims of Trafficking and Violence Protection Act of 2000,²⁴ a comprehensive piece of legislation meant to combat trafficking in persons. The Victims of Trafficking and Violence Protection Act emphasized that the crime of human trafficking threatens many societal interests, including public health, effective immigration policies, and human rights.²⁵ It found that current laws and services available to victims were inadequate and needed more severe punishments for perpetrators.²⁶ The legislation also highlighted the extensive international scope of the commercial sex and forced labor markets, which are largely maintained by a sophisticated and expanding criminal network.²⁷ Most of all, it

¹⁷ See Maine State Advisory Committee to the United States Comm’n on Civil Rights, *Human Trafficking in Maine*, 5, Feb. 2017, <https://www.usccr.gov/pubs/docs/Human-Trafficking-in-Maine.pdf>. (It notes that in “the past 15 years, ‘trafficking in persons’ or ‘human trafficking’ have been used as umbrella terms for activities involved when one person obtains or holds another person in compelled service.”). See also Trafficking Victims Protection Act, 22 U.S.C §§ 7101-7112.

¹⁸ Presidential Proclamation — National Slavery and Human Trafficking Prevention Month, President Barack Obama, January 4, 2010, <http://www.whitehouse.gov/the-press-office/presidential-proclamation-national-slavery-and-human-trafficking-prevention-month>.

¹⁹ MA Labor Trafficking Report, at 7.

²⁰ “Myths & Facts,” *humantraffickinghotline.org*, <https://humantraffickinghotline.org/what-human-trafficking/myths-misconceptions> (last accessed July 18, 2019).

²¹ *Ibid.*

²² “Residential Brothels,” *humantraffickinghotline.org*, <https://humantraffickinghotline.org/what-human-trafficking/sex-trafficking/residential-brothels> (last accessed July 18, 2019).

²³ Statewide Interagency Commission on Human Trafficking, “The Hidden Problem of Human Trafficking: Addressing Modern Day Slavery in New Hampshire,” November 2008, <http://www.nhcadv.org/uploads/Human%20Trafficking%20in%20NH%20Report%20-%20Nov%202008.pdf>.

²⁴ 22 U.S.C. § 7101.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

characterized human trafficking as a grave violation of human rights that disparately impacts women and children and requires an international, national, and state-wide response.²⁸

Defining Human Trafficking

Under the Victims of Trafficking and Violence Protection Act, “severe forms of trafficking in persons” include both sex trafficking and labor trafficking.²⁹

- **Sex Trafficking** is the recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.³⁰
- **Labor Trafficking** is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.³¹

“Human trafficking” is often confused with the crime of “human smuggling” but there are important distinctions between the two. Smuggling is a crime against the state and requires transportation across borders.³² Human trafficking, on the other hand, is a crime against the person and requires exploitation.³³ Although transportation can be part of human trafficking, neither sex nor labor trafficking requires any movement of persons across or within borders. The United Nations definition of trafficking in persons, for example, has no transportation element and includes “the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”³⁴ The crime of smuggling also has a clear moment of completion once the smuggler has reached his destination and received payment. Human trafficking, on the other hand, can be an ongoing crime. A smuggled person may become a trafficked person if the smuggling leads to exploitation for commercial sex or forced labor purposes.³⁵

²⁸ *Id.*

²⁹ 22 U.S.C. § 7102(11).

³⁰ 22 U.S.C. § 7102(11)(A); 8 C.F.R. §214.11(a).

³¹ 22 U.S.C. § 7102(11)(B).

³² U.S. Immigration and Customs Enforcement, “Human Trafficking and Smuggling,” <https://www.ice.gov/factsheets/human-trafficking#wcm-survey-target-id> (last accessed July 18, 2019).

³³ See generally Polaris Project, “Human Trafficking”, <https://polarisproject.org/human-trafficking> (last accessed July 18, 2019).

³⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (Trafficking Protocol), G.A. Res. 25, annex II, U.N. GAOR, 55th Sess. Supp. No. 49, at 60, U.N. Doc. A/45/49 (Vol. I) (2001).

³⁵ “Human Trafficking vs. Human Smuggling,” Human Smuggling and Trafficking Center, June 15, 2016, https://ctip.defense.gov/Portals/12/Documents/HSTC_Human%20Trafficking%20vs.%20Human%20Smuggling%20Fact%20Sheet.pdf?ver=2016-07-14-145555-320.

A person can be trafficked through an act of “force, fraud, or coercion.”³⁶ Force is defined as physical restraint or threats of serious harm.³⁷ Fraud may include false employment offers, lying about working conditions, or withholding wages among other methods.³⁸ Coercion is satisfied by a broad range of behavior, from direct threats of physical violence to more subtle forms of intimidation such as demanding the repayment of debts — a situation known as “debt bondage.”³⁹ These coercive methods create a “climate of fear” that prevents victims from attempting to flee.⁴⁰

Perpetrators frequently prey on the trust and vulnerability of their victims, taking advantage of the victim’s drug or alcohol addictions, dire economic situations, or struggling personal relationships.⁴¹ In some cases the victim and perpetrator are family members.⁴² In these instances, the relationship may make it harder to prove that force, fraud, or coercion has been employed because it appears that the victim is “willing.”⁴³ Consent of the victim on occasions preceding an exploitative act, however, is not a sufficient defense to force, fraud, or coercion.⁴⁴ Courts have been able to discern which acts are exploitive even when there is a prior history of consent between the parties.⁴⁵

Notably, sex trafficking involving children under the age of 18 is automatically a federal crime and does not require force, fraud, or coercion.⁴⁶ As discussed below, this is not always true under state criminal codes.

Global Scope

Limited data and inconsistent international reporting standards make defining the global scope of human trafficking very difficult. Recent estimates, however, indicate that human trafficking is an immense international operation that affects almost all countries.⁴⁷ The U.S. Department of Health

³⁶ 22 U.S.C. § 7102(11)(A).

³⁷ 22 U.S.C. § 112(a)(2).

³⁸ See generally *United States v. Sabhnani*, 599 F.3d 215 (2d Cir. 2010) (finding defendants trafficked a maid by lying about salary payments and subjecting her to extreme physical and psychological abuse).

³⁹ 22 U.S.C. § 7102(3).

⁴⁰ See, e.g., *United States v. Warren*, 772 F.2d 827, 834 (11th Cir. 1985).

⁴¹ See generally Polaris Project, “Human Trafficking.”

⁴² *Ibid.*

⁴³ See generally, Holly Austin Smith, *Walking Prey: How America’s Youth are Vulnerable to Sex Slavery*, (New York: Palgrave MacMillan, 2014).

⁴⁴ “Human Trafficking vs. Human Smuggling,” Human Smuggling and Trafficking Center.

⁴⁵ *United States v. Marcus*, 487 F. Supp. 2d 289, 309 (E.D.N.Y. 2007) (holding that a prior consensual relationship between defendant and victim that included infliction of punishment did not negate the possibility that the victim had been forced or coerced against her will), vacated on other grounds and remanded by *United States v. Marcus*, 628 F.3d 36 (2d Cir. 2010).

⁴⁶ 22 U.S.C. § 7102(11) (A); U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report 2013*, p. 382 (hereafter TIP Report 2013), <http://www.state.gov/documents/organization/210742.pdf> ,(last accessed October 30, 2014) (This link is no longer working)

⁴⁷ International Labor Organization, “A Global Alliance Against Forced Labor,” 2005. p. 55, http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_081882.pdf (hereinafter cited as “A Global Alliance Against Forced Labor”)

and Human Services reports that human trafficking is tied with illegal arms trading as the second largest international criminal enterprise.⁴⁸ Human trafficking is estimated to be a 32 billion dollar industry.⁴⁹ In 2009, the International Labor Organization estimated that about 12.3 million children and adults are in forced labor, bonded labor, and commercial sexual servitude.⁵⁰ The 2013 Trafficking in Persons Report issued by the U.S. Department of State indicated that globally as many as 27 million people are human trafficking victims.⁵¹ In 2012, however, only 40,000 victims were actually identified and reported by governments to the international community.⁵² This means the vast majority of trafficked victims remain unrecognized.⁵³

Labor trafficking is estimated to be far larger than sex trafficking on a global scale. Of the 12.3 million people estimated to be victims of human trafficking by the International Labor Organization in 2009, only 1.39 million, or slightly over 11 percent, were estimated to be victims of sex trafficking.⁵⁴ Women and girls are more likely to be victims for both sex and labor trafficking.⁵⁵ Nonetheless, a substantial number of men and boys are also victims of both sex and labor trafficking.⁵⁶

Domestic Scope

The United States is one of the top three destination points for trafficked victims.⁵⁷ The Central Intelligence Agency estimates that up to 17,500 men, women, and children from other countries are trafficked into the U.S. each year.⁵⁸ These individuals predominantly come from Mexico, Thailand, the Philippines, Honduras, Indonesia, and Guatemala.⁵⁹ They live throughout the United States and work in both legal and illegal industries including, among others, brothels, massage parlors, janitorial services, and agricultural and manufacturing positions.⁶⁰

It is important to dispel the myth that only foreign nationals or immigrants are trafficked persons in the United States. Many trafficked victims are U.S. citizens. According to one study, 41 percent of sex trafficking cases and 20 percent of labor trafficking cases in this country involve U.S.

⁴⁸ U.S. Dept. of Health and Human Services, “HHS Fights to Stem Human Trafficking,” Aug. 2006, <http://www.hhs.gov/news/factsheet/humantrafficking.html>. Website no longer available.

⁴⁹ “A Global Alliance Against Forced Labor,” p. 55.

⁵⁰ TIP Report 2013.

⁵¹ Ibid.

⁵² Ibid., p. 7.

⁵³ Ibid., Introductory Letter from Louis CdeBaca.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid, p. 8.

⁵⁷ The other two countries are Japan and Australia. Maine Advisory Committee to U.S. Commission on Civil Rights, “Human Trafficking in Maine,” Feb. 2017, <https://www.usccr.gov/pubs/docs/Human-Trafficking-in-Maine.pdf> (citing Coalition to Abolish Slavery & Trafficking, “A Serious Problem: Around the Globe and in the USA,” <http://www.castla.org/key-stats> (hereafter Castla)).

⁵⁸ Ibid.

⁵⁹ TIP Report 2013, p. 381.

⁶⁰ Ibid.

citizens;⁶¹ whereas foreign nationals were estimated to comprise 66 percent of labor trafficking cases and 27 percent of sex trafficking cases.⁶² Some non-governmental organizations have reported that Native American girls are being trafficked for prostitution, pornography, and strip clubs in the U.S. and Mexico.⁶³

Women and more vulnerable populations such as children, the homeless, the impoverished, and the uneducated are particularly prone to becoming victims of human trafficking in the United States.⁶⁴ Eighty-five percent of sex trafficking victims and 61 percent of labor trafficking victims are estimated to be women and girls.⁶⁵

Contrary to the global scope, sex trafficking is reported more than labor trafficking in the United States. The National Human Trafficking Resource Center found that 63 percent of reported U.S. cases are related to sex trafficking, while only 22 percent are related to labor trafficking.⁶⁶ Minors comprised 33 percent of these sex trafficking cases.⁶⁷ Based on the largely hidden nature of the problem, it is difficult to quantify the extent and scope of the problem.

II. Background

Federal

In 1983, two intellectually disabled men worked as laborers on a Michigan farm owned by Ike and Margarethe Kozminski.⁶⁸ The men were in poor health, lived in squalid conditions, and were isolated from the community.⁶⁹ The Kozminskis were charged with conspiring to prevent the men from exercising their Thirteenth Amendment right to be free from involuntary servitude.⁷⁰ They were also charged with knowingly holding the men in involuntary servitude.⁷¹ The Kozminskis were convicted by a federal jury; however, in 1988 the Supreme Court reversed the conviction on appeal, holding the Thirteenth Amendment only applied to African Americans.⁷² The court also

⁶¹ National Human Trafficking Resource Center “Trafficking Trends in the US,” 2007-2012, p. 9, https://na4.salesforce.com/sfc/p/300000006E4S/a/600000004TLG/f7PldVCtt4Irtx_iljKxiGsERUTm6PUfmNxj9ijA6Sg, (hereafter NHTRC).

⁶² In the remaining cases, the citizenship of the victim was unreported. *Ibid.*, 9.

⁶³ TIP Report 2013 p. 381.

⁶⁴ Mohamed Y. Mattar, “Interpreting Judicial Interpretations of the Criminal Statutes of the Trafficking Victims Protection Act: Ten Years Later,” *19 Am. U. J. Gender Soc. Pol’y & L.* 1247, 1253 (2011).

⁶⁵ NHTRC, *supra* n. 29 at p.9.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *United States v. Kozminski*, 487 U.S. 931 (1988) .

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.* at 921-932

interpreted “knowing” to require the use or threatened use of physical or legal coercion.⁷³ The Court invited Congress to craft statutes to address the issue.⁷⁴

Twelve years later, Congress passed the Trafficking Victims Protection Act of 2000, which makes human trafficking a federal crime with severe penalties.⁷⁵ Among its findings, the Trafficking Victims Protection Act cites *Kozminski* and notes that “existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved.”⁷⁶

The Trafficking Victims Protection Act has four core purposes:

1. Prevent trafficking across U.S. borders;
2. Provide adequate tools for prosecution;
3. Assist and protect trafficking victims in the U.S.; and
4. Monitor other nations’ activities that contribute to human trafficking in the U.S.⁷⁷

Three federal agencies carry out the mission of the Trafficking Victims Protection Act: The Department of Justice, the Department of Homeland Security, and the State Department. Department of Justice is the primary prosecutorial agency. It investigates and prosecutes suspected traffickers and reserves funds for victim assistance and witness protection. Federal human trafficking cases are prosecuted by the Department’s 93 U.S. Attorney’s Offices and two specialized headquarter units – the Civil Rights Division’s Human Trafficking Prosecutions Unit and the Criminal Division’s Child Exploitation and Obscenity Section.⁷⁸ In fiscal year (FY) 2012, the Department of Justice convicted 138 traffickers.⁷⁹ Of these convictions, 105 were for sex trafficking and 33 were for labor trafficking.⁸⁰

The Department of Homeland Security investigates human trafficking cases, arrests traffickers, and protects survivors.⁸¹ In FY 2012, the Immigrations and Customs Enforcement Division investigated 894 human trafficking cases.⁸² The Department of Homeland Security also processes immigration relief for survivors of human trafficking and other crimes. This process includes issuing “T” and “U” visas, which were created pursuant to the Trafficking Victims Protection Act

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ TVPA (2000).

⁷⁶ TVPA (2000), §102(b)(13)-(14).

⁷⁷ “Prosecuting Human Trafficking Cases: Lessons Learned and Promising Practices,” Executive Summary, Grant No. 2006-NIJ-1163, *ICF International*, June 30, 2008.

⁷⁸ TIP Report 2013, p.382.

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

⁸¹ U.S. Dep’t of Homeland Security, “Human Trafficking,” <https://www.dhs.gov/blue-campaign> (last accessed July 19, 2019).

⁸² TIP Report 2013, p. 382.

and grant nonimmigrant status.⁸³ These visas provide important incentives for trafficked victims who otherwise might not seek help from law enforcement for fear of being deported and help federal prosecutors gather evidence for trafficking cases.

The T visa is available only for victims of human trafficking who cooperate with reasonable requests by law enforcement agencies in the course of their investigations.⁸⁴ It is also available unconditionally for minors and those unable to cooperate due to trauma.⁸⁵ The U visa is available for victims of human trafficking, domestic violence, sexual assault, and similar crimes.⁸⁶ Eligibility requirements for the U visa are more stringent. A person must have information about criminal activity and must help law enforcement agencies during their investigations.⁸⁷ If the victim is under the age of 16 or disabled, a parent, guardian, or friend may possess the information and act on the victim's behalf.⁸⁸ Unlike the T visa, however, the U visa is not available unconditionally regardless of age or trauma.⁸⁹

The State Department is tasked with advancing global anti-trafficking initiatives. This effort is led by the Office to Monitor and Combat Trafficking in Persons, which is responsible for bilateral and multilateral diplomacy, targeted foreign assistance, and public engagement on this issue.⁹⁰ The State Department also partners with foreign governments and nongovernmental organizations to develop and implement effective counter-trafficking strategies.⁹¹ It also issues an annual Trafficking in Persons report that ranks countries' responses to human trafficking.⁹²

⁸³ U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, "Victims of Human Trafficking and Other Crimes," <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes> (last accessed July 19, 2019) (by issuing Continued Presence (temporary immigration status), T visas (for victims who cooperate with law enforcement investigations), and U visas (for victims who have information about criminal activity helpful to investigations)).

⁸⁴ U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, "Victims of Human Trafficking: T Nonimmigrant Status," <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status> (last accessed July 19, 2019).

⁸⁵ Ibid.

⁸⁶ U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, "Victims of Criminal Activity: U Nonimmigrant Status," <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status> (last accessed July 19, 2019).

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ U.S. Dep't of State, Office to Monitor and Combat Trafficking in Persons, "Bureau Home," <https://www.state.gov/bureaus-offices/under-secretary-for-civilian-security-democracy-and-human-rights/office-to-monitor-and-combat-trafficking-in-persons/> (last accessed July 19, 2019).

⁹¹ Ibid.

⁹² U.S. Dep't of State, Office to Monitor and Combat Trafficking in Persons, "Trafficking in Persons Report," <http://www.state.gov/j/tip/rls/tiprpt/> (last accessed July 19, 2019).

Finally, the Trafficking Victims Protection Act created the Presidential Interagency Task Force to Monitor and Combat Trafficking. This cabinet-level entity coordinates federal efforts to combat human trafficking.⁹³

The Trafficking Victims Protection Act has been criticized for struggling to effectively protect victims of human trafficking in the field. Critics contend that the implementation of the law is “top heavy.”⁹⁴ This means that higher ranking federal officials tend to focus on the law’s meaning and purpose, while those who actually come in contact with trafficked victims, such as Department of Homeland Security personnel and Assistant United States Attorneys, fail to use the law to identify and protect these individuals.⁹⁵ The Presidential Interagency Task Force to Monitor and Combat Trafficking is an important tool to ensure that agencies are fulfilling their responsibilities under the Trafficking Victims Protection Act.⁹⁶ Presidential Interagency Task Force to Monitor and Combat Trafficking offers a platform for other federal agencies to share information and support the federal effort to combat human trafficking.⁹⁷

The Trafficking Victims Protection Act has been reauthorized multiple times, most recently in 2013 as part of the Violence Against Women Reauthorization Act.⁹⁸ The latest reauthorization contains certain notable improvements to the law. First, it penalizes the confiscation, destruction, or possession of immigration documents.⁹⁹ Traffickers frequently confiscate immigrant victims’ documents to prevent them from escaping.¹⁰⁰ The Act also prohibits the allocation of peacekeeping operation funds to countries that use child soldiers, but does allow allocation of funds for programs that seek to demobilize and reintegrate child soldiers.¹⁰¹ Finally, it adds expanded reporting requirements to ensure better interagency coordination.¹⁰²

States

All states and all but one territory have enacted modern anti-trafficking criminal statutes in recent years, but these statutes are not uniform.¹⁰³

⁹³ U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, “An Overview,” <https://www.state.gov/office-to-monitor-and-combat-trafficking-in-persons-an-overview/> (last accessed July 19, 2019).

⁹⁴ Dina Francesca Haynes, “(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act,” 21 *Geo. Immigr. L.J.* 337, 340, 365-73 (2007).

⁹⁵ *Ibid.*

⁹⁶ 22 U.S.C. § 7102(14).

⁹⁷ U.S. Dep’t of State, Office to Monitor and Combat Trafficking in Persons, “The President’s Interagency Task Force,” <https://www.state.gov/the-presidents-interagency-task-force/> (last accessed July 19, 2019).

⁹⁸ Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-14, 127 Stat. 54 (codified as 42 U.S.C. § 13701).

⁹⁹ *Id.*

¹⁰⁰ *Id.* at title B, Part I, Section 1211; *See United States v. Calimlim*, 538 F.3d 706 (7th Cir. 2008).

¹⁰¹ Pub. L. No. 113-14, subtitle A, Section 1208.

¹⁰² *Id.* at Part III.

¹⁰³ TIP Report 2013, p. 383.

Although all 50 states prohibit the prostitution of children, only 14 states have “safe harbor” laws that guarantee children are not prosecuted.¹⁰⁴ A complete safe harbor law has two functions: it protects child victims from prosecution and provides victims access to specialized services.¹⁰⁵ A full safe harbor law reflects the societal belief that trafficked minors should be immune from prosecution and diverted away from the juvenile justice system. Additionally, they should be guaranteed access to safe housing, health care, and education to help prevent them from becoming repeat victims. The latest Trafficking Victims Protection Act reauthorization includes model state criminal provisions to protect minors who have been arrested for engaging in commercial sex acts.¹⁰⁶

States that lack safe harbor laws permit the prosecution of those children as criminal offenders. One Texas state court, however, has found that a minor cannot be charged with prostitution even if no safe harbor law exists because a minor cannot legally consent to sex.¹⁰⁷ But this decision does not substitute for a safe harbor law that provides important services in addition to immunity.

Similarly, states may implement statutes vacating the criminal convictions of human trafficking victims. Vacatur statutes allow victims to rejoin society without a record of criminal conviction – enabling them to secure loans, apply for jobs, and obtain proper housing. In New York, for example, a victim can have his or her convictions vacated at any point after conviction.¹⁰⁸ These statutes can remove a major obstacle to successfully prosecuting the perpetrators of human trafficking: obtaining cooperative witnesses. Victims often make strong witnesses in criminal trials against their attackers. Vacatur statutes incentivize victims to come forward and help convict their traffickers.

Several states implement special task forces to coordinate their efforts statewide because the solution to human trafficking requires extensive cooperation between government agencies and non-governmental organizations. These task forces help facilitate this cooperation. Currently, only 20 states have statutorily mandated human trafficking task forces,¹⁰⁹ while other states have task forces that are not mandated by law.

¹⁰⁴ *Ibid.*

¹⁰⁵ The states that have “complete” safe harbor statutes are Illinois, Massachusetts, Minnesota, New Jersey, Ohio, Vermont, and Washington. Polaris Project, “Sex Trafficking of Minors and ‘Safe Harbor’,” <https://polarisproject.org/sites/default/files/2014-Look-Back.pdf>.

¹⁰⁶ Pub.L. No. 113-14, Part IV, § 1243.

¹⁰⁷ *In re: B.W.*, 313 S.W.3d 818 (Texas 2010).

¹⁰⁸ Motion to Vacate Criminal Judgment, N.Y. CRIM. PROC. LAW § 440.10.

¹⁰⁹ Polaris Project, “Training and Task Forces,” <http://www.polarisproject.org/what-we-do/policy-advocacy/capacity-building/training-and-task-forces>.

Massachusetts

Nearly a decade ago, Massachusetts was one of only three states lacking legislation that allowed for the prosecution of human trafficking as a crime.¹¹⁰ In 2011, that changed when Governor Deval Patrick signed the *Act Relative to the Commercial Exploitation of People* into law.¹¹¹ After the act's passage, Massachusetts human trafficking legislation ranked among the top tier of states nationwide.¹¹² Despite this step forward, the Commonwealth experienced a five year high of ninety-nine reported cases of human trafficking in 2017.¹¹³ Of these ninety-nine reports, seventy were cases involving sex-trafficking, sixteen involved labor trafficking, four were a combination of the two, and nine were not specified.¹¹⁴ These occurrences overwhelmingly involved women, who made up seventy-eight of the reported cases.¹¹⁵

Massachusetts General Laws chapter 265 § 51 allows for criminal prosecution of persons who provide or obtain another person to engage in forced services. Specifically, the law states:

Whoever knowingly: (i) subjects, or attempts to subject, another person to forced services, or recruits, entices, harbors, transports, provides or obtains by any means or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that such person will be subjected to forced services; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of trafficking of persons for forced services and shall be punished by imprisonment...for not less than 5 years but not more than 20 years and by a fine of not more than \$25,000.¹¹⁶

Under § 51, a person found guilty of trafficking a person under the age of eighteen may be sentenced to life in prison.¹¹⁷ Further, Massachusetts law provides that any business entity found guilty of trafficking persons for forced services can be fined up to \$1,000,000.¹¹⁸ Although perpetrators of labor trafficking are typically criminally prosecuted, § 51 also provides the victim a cause of action in tort for human trafficking against the tortfeasor.¹¹⁹ The 2011 bill also sought to provide aid to victims of human trafficking by establishing the Victims of Human Trafficking

¹¹⁰ Phillip Martin, "Two Years On, Mass. Human Trafficking Law Examined," *WGBH*, Aug. 19, 2013, <https://www.wgbh.org/news/post/two-years-mass-human-trafficking-law-examined>.

¹¹¹ 2011 Mass. Acts 178.

¹¹² "2014 State Ratings on Human Trafficking Laws," Polaris Project, Sept. 2014, <https://polarisproject.org/sites/default/files/2014-State-Ratings.pdf>.

¹¹³ "Massachusetts," *HumanTraffickingHotline.org*, <https://humantraffickinghotline.org/state/massachusetts> (last accessed June 17, 2019).

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*

¹¹⁶ MASS. GEN. LAWS ch. 265 § 51.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

Trust Fund.¹²⁰ This fund is made up of assets seized and forfeited pursuant to sections 50 and 51, the labor and sex trafficking statutes, and is managed by the state treasurer.¹²¹

Finally, the *Act Relative to the Commercial Exploitation of People* established an interagency task force to further address issues of human trafficking in the Commonwealth.¹²² Made up of nineteen members, this interagency body is tasked with coordinating the collection and sharing of human trafficking data, reviewing and recommending policies to prevent human trafficking and provide assistance to victims, and offering recommendations on increasing public awareness.¹²³

Interagency Human Trafficking Policy Task Force Recommendations

The Labor Trafficking Sub-Committee of the Interagency Human Trafficking Policy Task Force (Sub-Committee) issued findings and recommendations regarding labor trafficking on October 24, 2014 based on five subject areas: (1) victim services, (2) demand reductions, (3) data collection and information sharing, (4) education and training, and (5) public awareness.

(1) Victim Services

Building upon previous sex trafficking recommendations made by the Task Force, such as providing increased therapy services and greater access to financial resources, the Sub-Committee recommended victim services to address labor trafficking specifically. Many of the recommendations hinged on the importance of victim education of their rights and resources.¹²⁴ They included facilitating access to federally-funded and state benefits, greater access to legal services, increased education and awareness of available services, and employment and training resources.¹²⁵ The sub-committee recommended these as “tools...that will enable survivors to stabilize, then lead healthy, productive lives.”¹²⁶

(2) Demand Reduction

The sub-committee focused on demand reduction as a primary means of combatting labor trafficking. They noted that a lack of legislation in place to ensure transparency in the supply chains of corporations and businesses in Massachusetts gives rise to greater

¹²⁰ 2011 Mass. Acts 178 § 66A.

¹²¹ *Id.*

¹²² *Id.* at § 31(a).

¹²³ MA Labor Trafficking 2014 Report, at 3, 4-6.

¹²⁴ *See* MA Labor Trafficking Report, at 4-5.

¹²⁵ *Ibid.*, 4.

¹²⁶ *Ibid.*

demand for cheap, unpaid labor.¹²⁷ They proposed that the state legislature require state vendors to have a supply chain audit process, enact legislation to mandate accountability in outsourcing portions of their supply chain, and require employers that house employees to register with the state.¹²⁸

(3) Data Collection

According to many scholars, human trafficking, as a general matter, is notoriously underreported according to many scholars.¹²⁹ Labor trafficking specifically, according to the Sub-Committee, is not discussed or studied as much as sex trafficking, which exacerbates the insufficiency of data and reporting about it.¹³⁰ The sub-committee's recommendations highlighted the importance of systems and protocols for data collection, victim identification, and tracking referrals.¹³¹ These recommendations are an integral part of the committee's proposed approach to combatting human trafficking because they are means of informing the other recommendations in their agenda.

(4) Education and Training

An inconsistent view of what "labor trafficking" means and what its symptoms are inhibits uniquely situated actors from identifying, reporting, and stopping human trafficking.¹³² For these reasons, the Sub-Committee recommended the Commonwealth develop a consistent message be developed by the Commonwealth and distribute it to tailored to the needs of the Commonwealth.¹³³

(5) Public Awareness

"A common misconception is that labor trafficking exists outside of one's own city or town, while in reality it is more common than one may assume."¹³⁴ The Sub-Committee, in addition to education and training on labor trafficking, recommended the implementation of a general awareness campaign to alert residents of Massachusetts to the prevalence of human trafficking within their own communities.¹³⁵ The task force urged the state government to follow the lead of several other states by mandating that notice be posted about forced labor and/or how to report it in some places of public

¹²⁷ *Ibid.*, 5.

¹²⁸ *Ibid.*

¹²⁹ See "What is Human Trafficking", *NationalHumanTraffickingHotline.org*, <https://humantraffickinghotline.org/what-human-trafficking> (last accessed June 6, 2019). See also, Priscilla Alvarez, "When Sex Trafficking Goes Unnoticed in America," *e*, Feb. 23, 2016, <https://www.theatlantic.com/politics/archive/2016/02/how-sex-trafficking-goes-unnoticed-in-america/470166/>.

¹³⁰ See MA Labor Trafficking Report, at 18.

¹³¹ *Ibid.*, 5.

¹³² *Ibid.*, 5-6.

¹³³ *Ibid.*, 20.

¹³⁴ *Ibid.*, 23.

¹³⁵ *Ibid.*

accommodation.¹³⁶ For example, in California, Hawaii, New Mexico, and Texas, notice is required in areas such as highway rest areas, bus terminals, businesses with liquor licenses, and emergency rooms.¹³⁷

Proposed Legislation Regarding Human Trafficking

One of the most comprehensive efforts by the legislature of Massachusetts to adopt many of these recommendations was discussed in a joint hearing before the Judiciary Committee on April 30th, 2019.¹³⁸ This legislation, as proposed, would adopt measures that align with the recommendations of the Interagency Sub-Committee in the areas of demand reduction, education and training, and public awareness.¹³⁹

Bill S.992, *An Act to Strengthen Laws Combatting Human Trafficking and Protecting Survivors of Modern-Day Slavery*, seeks to promote transparency in business operations in Massachusetts by establishing a human trafficking business partnership.¹⁴⁰ Members of this partnership must adopt a zero tolerance policy toward human trafficking and ensure compliance, participate in public awareness campaigns, and exchange best practices in combatting human trafficking with other business entities.¹⁴¹ Further, the bill mandates human trafficking prevention and identification training for law enforcement, educators, hospital employees, and innkeepers.¹⁴²

The proposed legislation would also make several changes to the current human trafficking legal structure by requiring more public awareness outreach, data collection procedures, and changes to the Victims of Human Trafficking Fund.¹⁴³ First, this bill would bring Massachusetts in line with several other states requiring notice of human trafficking to be posted in rest stops, welcome centers, and transportation stations.¹⁴⁴ Further, the bill creates procedures for the collection of human trafficking data and for it to be disseminated to both state and federal government agencies.¹⁴⁵ Finally, the bill establishes a provision whereby persons filing a tax return may elect to contribute a portion of their return or donate a specified amount to the Victims of Human Trafficking Trust Fund.¹⁴⁶

¹³⁶ *Ibid.*, 24.

¹³⁷ *Ibid.*

¹³⁸ An Act to Strengthen Laws Combatting Human Trafficking and Protecting Survivors of Modern-Day Slavery, S. 992, 191st Gen. Ct., 1st Ann. Sess. (Mass. 2019).

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

III. Findings of the Massachusetts Advisory Committee

The identification and prosecution of labor trafficking is complicated by its relative invisibility, a disproportionate focus on sex trafficking, and confusion between human trafficking and human smuggling¹⁴⁷, as well as by victims' fears of coming forward and lack of knowledge about their rights.¹⁴⁸ Workplace abuses can be hidden from consumers and other members of the public for whom the difference between an employee and a victim of forced servitude is often not apparent.¹⁴⁹ Trafficking can also occur covertly in un-policed, multi-tiered supply chains.¹⁵⁰ Immigrants are primary, although hardly exclusive targets of traffickers, and many fear law enforcement, especially if they're undocumented.¹⁵¹ Workers are often systematically isolated -- domestic work, in particular, is inherently isolating -- and victims sometimes blame themselves for being trapped by an employer's cruelties.¹⁵² The psychology of servitude is complex.¹⁵³

There are many strong disincentives for workers to report abuses, ranging from language and cultural barriers, fears of deportation, loss of ability to work, poverty, lack of access to counsel and other victim services, including shelters, and the difficulties of obtaining immigration relief through U and T visas.¹⁵⁴ A bill is pending in the state legislature aimed at streamlining the visa application process within the state and making sure that localities are applying consistent standards in assisting victims seeking visas.¹⁵⁵

Workers are also victimized by temporary employment agencies, especially if they're undocumented.¹⁵⁶ Massachusetts has enacted a Temp Worker Right to Know Bill, which took effect in January 2013;¹⁵⁷ however it is not being effectively enforced.¹⁵⁸ In one case, a private advocacy group initiated and settled a class action lawsuit against a temporary employment agency for non-payment of overtime.¹⁵⁹ But state action is needed. Exploitation is ongoing, as temp agencies and the companies they staff wait to take advantage of a reported influx of undocumented immigrants.¹⁶⁰

Federal immigration crackdowns have empowered abusive employers and increased the vulnerability of workers. Employers are increasingly inclined to threaten trafficked workers with

¹⁴⁷ Macais-Konstantopoulos Testimony, *Boston Briefing*, p. 16.

¹⁴⁸ *Ibid.*, 19.

¹⁴⁹ Rowe Testimony, *Boston Briefing*, p. 73.

¹⁵⁰ Keeley Testimony, *Boston Briefing*, p. 66

¹⁵¹ Farrell Testimony, *Boston Briefing*, p. 33.

¹⁵² Macais-Konstantopoulos Testimony, *Boston Briefing*, pp. 61-62.

¹⁵³ Natalacia Tracy Testimony, Executive Director, Brazilian Worker Center, *Boston Briefing*, p. 105.

¹⁵⁴ Farrell Testimony, *Boston Briefing*, pp. 40-41; Dahlstrom Testimony, *Boston Briefing*, pp. 114-115

¹⁵⁵ Blanck Testimony, *Boston Briefing*, p. 9.

¹⁵⁶ Tom Smith Testimony, Executive Director, Justice at Work, *Boston Briefing*, p. 137.

¹⁵⁷ MASS. GEN.LAW Ch. 149, § 159c.

¹⁵⁸ Smith Testimony, *Boston Briefing*, p. 154

¹⁵⁹ *Ibid.*, 138.

¹⁶⁰ Adrian Ventura Testimony, Executive Director, Community Worker Center, New Bedford, MA, *Boston Briefing*, p. 141

deportation.¹⁶¹ Victims are increasingly disinclined to report abuses, even if they entered the country legally.¹⁶² Researchers investigating T Visa applications by trafficking victims found that over 70% of them entered the country with lawful visas, which sometimes became instruments of coercion for employers who told workers that if they sought help, tried to leave their jobs, or failed to comply with orders, their visas would be forfeited.¹⁶³ Workers whose visas were tied to their employers could be subject to deportation for leaving their jobs because of abusive conditions.¹⁶⁴

How many workers are trafficked in Massachusetts by how many employers? We simply don't know. Five years ago the Labor Sub-committee report stressed the dearth of data on labor trafficking, but we still lack reliable estimates of the number of trafficked victims or trafficking operations in Massachusetts.¹⁶⁵ Much of the available data tracks reports of trafficking, not its actual incidence. According to the Polaris Project, there were 2,671 human trafficking related calls connected to Massachusetts received by the National Human Trafficking Resource Center between 2007 and December 2018.¹⁶⁶ A majority – 68 percent – of reported cases in the first 6 months of 2018 was for sex trafficking, 11 percent involved labor, and 20 percent involved unspecified activities or a mix of labor and sex trafficking.¹⁶⁷

Research into T Visa applications can provide additional indications of labor trafficking levels.¹⁶⁸ So can qualitative research into vulnerable communities.¹⁶⁹ Many workers can't define or recognize labor trafficking, so victims of it will often say they have not been trafficked.¹⁷⁰ Researchers have, however, found significant levels of labor trafficking involving migrant laborers and U.S. citizens simply by asking people to describe their working conditions.¹⁷¹

Emergency room physicians and other health care professionals are also uniquely positioned to identify trafficking victims, who sometimes seek medical attention when injured on the job.¹⁷² Health care workers may be particularly helpful in finding victims and offenders in small workplaces, (like mom and pop operations as well as private homes) which are not subject to workplace inspections.¹⁷³ Injuries range as widely as the industries in which people are trafficked. They include head traumas, broken bones, burns, amputations, falls, lung damage

¹⁶¹ Dahlstrom Testimony, *Boston Briefing*, p. 114

¹⁶² *Ibid.*

¹⁶³ Farrell Testimony, *Boston Briefing*, p. 37.

¹⁶⁴ *Ibid.*, 37-38

¹⁶⁵ MA Labor Trafficking Report, at 7.

¹⁶⁶ "Massachusetts." <https://humantraffickinghotline.org/state/massachusetts>.

¹⁶⁷ Keeley Testimony, *Boston Briefing*, p. 67.

¹⁶⁸ Farrell Testimony, *Boston Briefing*, p. 31.

¹⁶⁹ *Ibid.*, 40.

¹⁷⁰ *Ibid.*, 45-46.

¹⁷¹ Farrell Testimony, *Boston Briefing*, pp. 32-33.

¹⁷² Macais-Konstantopoulos Testimony, *Boston Briefing*, p. 15

¹⁷³ *Ibid.*, 60-61

from fumes, and musculoskeletal strains.¹⁷⁴ Victims suffer post-traumatic stress, depression, anxiety, and addiction, among other disorders in response to their job related physical ailments and injuries. Health care professionals need training to recognize the indices of trafficking and advocate for its victims.¹⁷⁵

Trafficking occurs across a broad range of industries, in urban, suburban, and rural areas, from large construction and agricultural operations, to restaurants and mom and pop businesses.¹⁷⁶ In Massachusetts, trafficking seems to be concentrated in domestic work, restaurant and food service work, health and beauty services, and the body works industry.¹⁷⁷ (The latter currently enjoys an exemption from regulation, which state senator Mark Montigny is seeking to repeal.)¹⁷⁸

Massachusetts also hosts relatively large populations of vulnerable foreign national workers.¹⁷⁹ While it lacks the agricultural industries often associated with trafficking, it is home to many seasonal hospitality and landscaping businesses, especially on Cape Cod.¹⁸⁰ Consequently, the Commonwealth is the 7th largest H-2B visa holder state.¹⁸¹

Seasonal visa holders are unlikely to report abusive working conditions, or to recognize their illegality.¹⁸² Local police officers are generally not trained to identify trafficking if they come across it.¹⁸³ Inspections by civil agencies focus on discrete areas, like fire or health code violations, not signs of labor trafficking.¹⁸⁴

What diverse employers engaged in trafficking share is malice, greed, and a pool of vulnerable people to exploit. What victims share are their vulnerabilities, whether immigration status, poverty, disability, age, addiction, criminal records, and lack of employment opportunities.¹⁸⁵

IV. Recommendations of the Massachusetts Advisory Committee

Six years ago, in August, 2013, the Massachusetts Inter-Agency Human Trafficking Policy Task Force, chaired by then Attorney General Martha Coakley, laid out a “road map for Massachusetts to address human trafficking.”¹⁸⁶ Today that road remains less traveled. Most recommendations

¹⁷⁴ *Ibid.*, 14.

¹⁷⁵ *Ibid.*, 14-15

¹⁷⁶ Farrell Testimony, *Boston Briefing*, p. 34.

¹⁷⁷ Macais-Konstantopoulos Testimony, *Boston Briefing*, p. 22.

¹⁷⁸ Blanck Testimony, *Boston Briefing*, pp. 8-9.

¹⁷⁹ Farrell Testimony, *Boston Briefing*, p. 39.

¹⁸⁰ Katie Parache Testimony, Officer, Barnstable Police Department, *Boston Briefing*, pp. 80-81.

¹⁸¹ Farrell Testimony, *Boston Briefing*, p. 39.

¹⁸² Parache Testimony, *Boston Briefing*, pp. 82-83.

¹⁸³ Macais-Konstantopoulos Testimony, *Boston Briefing*, p. 42.

¹⁸⁴ Rowe Testimony, *Boston Briefing*, p. 84.

¹⁸⁵ Farrell Testimony, *Boston Briefing*, pp. 33-34.

¹⁸⁶ MA Labor Trafficking Report, at 3.

outlined in a subsequent 2014 report by the Task Force’s Labor Trafficking Sub-Committee are still aspirational.

We appreciate the challenges of identifying and prosecuting trafficking and are grateful for the hard work, compassion, and commitment of the officials and advocates who testified before us. We advise the U.S. Commission on Civil Rights to encourage state officials to prioritize the fight against labor trafficking with renewed resources and resolve.

We endorse the 2014 Labor Sub-Committee’s recommendations, many of which were echoed by advocates and researchers who testified at our April 2019 hearing.¹⁸⁷ The Sub-Committee report and witnesses at our hearing noted the need for action and improvement in five areas: victim services, demand reduction, data collection and information sharing, education and training, and public awareness.¹⁸⁸ We summarize and stress some of the recommendations for the U.S. Commission on Civil Rights to consider here:

Victim services: Trafficking victims have comprehensive needs, which remain largely unmet, including basic needs for food, shelter, and clothing, medical and mental health services, and legal services.¹⁸⁹ The legislature anticipated providing funds for victims through asset forfeitures, but perhaps because the forced services law has not been effectively enforced, it has not generated funding.¹⁹⁰ The need for new sources of victim service funds is obvious, however, we cannot say if additional legislation is needed to establish new sources. The Labor Sub-Committee also proposed funding worker-led programs, strengthening relationships between law enforcement and community groups, and granting rights to immigration status, among other proposed initiatives.¹⁹¹ We recommend that the Commonwealth act on those initiatives.

Demand Reduction: Trafficking will persist as long as it is a low risk endeavor for unscrupulous employers seeking cheap or unpaid labor. Enforcing the Commonwealth’s labor trafficking law, and publicizing its enforcement, can help change perceptions of risk.¹⁹² Reducing demand also requires new legislation mandating “transparency in outsourcing and sub-contracting” for larger businesses and in industries known to engage in trafficking.¹⁹³ State vendors should be required to adopt a supply chain audit process, which should be promoted for all businesses.¹⁹⁴ The Labor

¹⁸⁷ The report is found at

<https://www.mass.gov/files/documents/2018/04/30/LTTF%20Recommendations%20October%202014.pdf>

¹⁸⁸ *Ibid.*, 5.

¹⁸⁹ *Ibid.*, 11; Dahlstrom Testimony, *Boston Briefing*, p. 116; Farrell Testimony, *Boston Briefing*, p. 35; Macais-Konstantopoulos Testimony, *Boston Briefing*, p. 23.

¹⁹⁰ Blanck Testimony, *Boston Briefing*, p. 10.

¹⁹¹ MA Labor Trafficking Report, at 14-15.

¹⁹² *Ibid.*, 16

¹⁹³ Keeley Testimony, *Boston Briefing*, p. 75

¹⁹⁴ *Ibid.*; MA Labor Trafficking Report, at 17.

Sub-Committee elaborated on these and other proposals.¹⁹⁵ We recommend that the Commonwealth act on them.

Data Collection: Labor trafficking is not being systematically identified.¹⁹⁶ Trafficking data are collected erratically without reference to a unified definition of trafficking by the various actors and agencies that encounter it.¹⁹⁷ Collection is “uncoordinated” and information sharing is haphazard, along with identifications of trafficking victims and offenders.¹⁹⁸ The problems are evident. Proposed solutions were outlined at the Committee’s April 2019 hearing and in the 2014 sub-committee report.¹⁹⁹ We recommend that the Commonwealth act on them.

Education and Training: At the state and local level, inspectors who regularly monitor workplaces for compliance with a range of health and labor laws are obviously positioned to ferret out trafficking, if they’re trained to do so.²⁰⁰ Training should be mandatory. Inspectors should be trained not simply to recognize trafficking but to look for it, expanding their focus from their own discrete compliance areas. Witnesses at our April, 2019 hearing stressed the need for standardized education and training statewide, and the 2014 Labor Sub-Committee report elaborated on training proposals for a wide range of health care professionals, social service workers, and law enforcement officials.²⁰¹ We recommend that the Commonwealth act on them.

Public Awareness: The public doesn’t generally perceive labor trafficking as a problem in Massachusetts.²⁰² Significantly improving data collection could help change this perception.²⁰³ So would well publicized efforts to enforce the Commonwealth’s forced services law.²⁰⁴

So might a proposed a public awareness campaign, including passage of legislation mandating posting information about trafficking in some businesses and public areas and requiring employment agencies to alert domestic and farm workers (and others in at-risk industries) to the signs of trafficking and to tell them where they can turn for assistance.²⁰⁵ The Labor Trafficking Sub-Committee proposed these and other measures to raise public awareness of trafficking.²⁰⁶ We recommend that the Commonwealth act on them.

¹⁹⁵ MA Labor Trafficking Report, at 16-17.

¹⁹⁶ Macais-Konstantopoulos Testimony, *Boston Briefing*, p. 22.

¹⁹⁷ MA Labor Trafficking Report, at 8.

¹⁹⁸ *Ibid.*, 18.

¹⁹⁹ *Ibid.*, 17-20; Keeley Testimony, *Boston Briefing*, p. 75.

²⁰⁰ Rowe Testimony, *Boston Briefing*, pp. 84-85.

²⁰¹ Farrell Testimony, *Boston Briefing*, p. 52; Macais-Konstantopoulos Testimony, *Boston Briefing*, p. 60; Parache Testimony, *Boston Briefing*, p. 81; MA Labor Trafficking Report, at 21-23.

²⁰² Blanck Testimony, *Boston Briefing*, pp. 7-8.

²⁰³ Macais-Konstantopoulos Testimony, *Boston Briefing*, p. 22.

²⁰⁴ Rowe Testimony, *Boston Briefing*, pp. 72-74.

²⁰⁵ *Ibid.*, 76.

²⁰⁶ MA Labor Trafficking Report, at 24-25.