

Screening for Human Trafficking

Guidelines for Administering the Trafficking Victim Identification Tool (TVIT)

JUNE 2014

Vera Institute of Justice
233 Broadway, 12th floor
New York, New York 10279
www.vera.org

NCJ #246713

The Vera Institute is an independent nonprofit that combines expertise in research, demonstration projects, and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety.

Tool validation and implementation evaluation research was supported by the National Institute of Justice (Award No. 2011-MU-MU-0066.) Points of view or opinions in this document are those of the authors and do not represent the official position or policies of the United States Department of Justice.

Table of Contents

About this manual	3
The purpose and limitations of screening	3
Tips for Conducting Interviews	4
<i>Setting up the interview</i>	4
<i>Developing trust and demonstrating respect during interviews</i>	5
<i>Maintaining confidentiality</i>	5
<i>Understanding the effects of trauma and victimization</i>	6
<i>Additional considerations for law enforcement</i>	7
<i>Some considerations when asking these questions</i>	8
Frequently Asked Questions	9
Advice on Using the Trafficking Victim Identification Tool (TVIT)	11
Trafficking Victim Identification Tool (TVIT) Long Version	13
Trafficking Victim Identification Tool (TVIT) Short Version	25
Training and Other Resources	31
Definitions of human trafficking in the United States	35

About this manual

This manual is intended primarily for victim service agency staff and other social service providers, who will administer the Trafficking Victim Identification Tool (TVIT) to clients who are potential trafficking victims. Law enforcement, health care and shelter workers will also find it helpful in improving trafficking victim identification, especially in conjunction with appropriate training or mentoring. The manual content is based on results of research conducted by the Vera Institute of Justice, which collaborated with leading legal and victim services agencies in the United States, to produce the validated screening tool and best practices for identifying trafficked persons, and on other expert sources in government and non-governmental agencies.¹ Vera's research found that the TVIT instrument is highly reliable in predicting both labor and sex trafficking in women and men and among foreign- and U.S. born victims. The screening tool can be used in its short version (consisting of 16 core questions, plus questions specific to migration for the foreign-born) without loss of predictive ability, or in its longer form, depending upon the situation and purpose of screening. As with any kind of information gathering from victims of crime, it is essential that screening for trafficking be done with care.

The purpose and limitations of screening

Screening questions can help agency staff to identify victims of human trafficking and help trafficking victims obtain the protection and services they need. Before using the TVIT with persons who may be victims of human trafficking, the victim's personal safety and comfort should be assured. Screening tool users should make every effort to establish trust and rapport before asking difficult questions that focus on traumatic experiences and other facts. Before screening, users should also be prepared to draw upon the expertise of local legal and medical staff and to refer identified trafficking victims to appropriate housing, health and social services in their area. While this user guide provides essential tips for effective screening with the TVIT, the tool is a complement to, not a substitute for, specialized training in human trafficking, good professional practices and victim-centered services.

The TVIT has been found to be valid and reliable in identifying victims of sex and labor trafficking. However, caution must be exercised in relying too heavily on the results of the screening tool alone, as negative responses to the questions do not definitively preclude the possibility of victimization. Respondents whose answers initially indicate a lack of victimization may instead be demonstrating reasonable fear or forgetfulness as a symptom of trauma. As such, for the best outcomes, questions may have to be asked at a time when the potential victim trusts the interviewer and is ready to respond. The screening tool should be used to guide interviews with potential victims, not to eliminate or deny potential victims access to needed services and legal protections. The best practices in this manual will help to ensure appropriate and successful use of the screening tool. Please consult state and federal definitions of human trafficking (Appendix B, p. x) to use alongside the screening tool.

¹ The full research report is available from the National Institute of Justice, and from the Vera Institute of Justice www.vera.org.

Tips for Conducting Interviews

The effectiveness of screening for trafficking victimization depends on allaying fear, building rapport and asking questions in an appropriate manner. Interviewers should be comfortable working with trafficking victims, sensitive to their special needs, and aware that they are likely to be suffering the impacts of traumatic experiences.

Setting up the interview

The setting in which an interview takes place can be as important as the questions that are asked. Trafficking victims have often been held in servitude through threats of harm and fear of their arrest or deportation by police and immigration authorities. It is crucial to establish a safe space to help victims feel more comfortable and protected. To help allay victims' fears from the onset of an interview, the following techniques have proven effective:

- Before conducting a screening, service providers should fulfill some basic needs, such as providing food, clothing, medical care or assurance of at least temporary shelter, if necessary. It may be difficult for a victim to engage in an interview unless these immediate needs for physical comfort and safety are met.
- Hold the interview in a non-threatening and comfortable location. Provide the victim with food and drink, and incidentals including tissues, regular breaks, and a place where the victim can gain their composure if the interview causes distress.
- Never interview the victim within sight of the trafficker. If the victim arrives with a person exhibiting controlling behavior, talk to the victim in private. This person may be the trafficker or someone working for the trafficker.
- Maintain a professional, but friendly, attitude and appearance. Law enforcement agents should dress in civilian clothes and make sure no weapons are in view. Others should consider dressing in casual clothing, especially when visiting agricultural labor camps to reach out to potential victims. Dressing in uniforms and other formal attire may create fears that interviewers are from immigration or other enforcement agencies.
- Be honest at the beginning about the purpose and duration of the screening. Describe the victim's rights, the interview process, and the roles of everyone involved.
- Employ competent, trustworthy interpreters if the victim's first language is not English. Competent interpreters ask questions using the same wording as the screener and answer as fully as the victim. The victim must be assured of confidentiality.
- Be aware of gender issues and ask victims if they would be more comfortable being interviewed by someone of the same gender. When possible, the victim's preference for an interpreter of a specific gender or culture should also be accommodated.

Developing trust and demonstrating respect during interviews²

Trafficking victims need to feel safe with the interviewer before they divulge experiences that may revive fears and feelings of distress, or place themselves or their families in further jeopardy. Some service providers may judge that it is in the victim's interest to have a general conversation first and return to the screening questions at a second meeting. When the victim is ready to answer the victim identification questions, interviewers may wish to keep the following techniques in mind:

- Express prior knowledge of and experience with similar cases, where appropriate, and allow the victim the opportunity to relay any questions or fears they may have.
- Be patient, caring, and sensitive to the victim's fears of retribution and the possible consequences of being identified as a victim or a party to trafficking crimes. Many victims are not familiar with laws and victim protections regarding trafficking.
- Be careful not to imply that a victim was responsible for their own abuse and exploitation or for the inability to leave a trafficking situation. Reassure them that others have been in similar situations and, as victims of a crime, they are not to blame.
- Take the time necessary to allow victims to recount the story, which may mean holding several meetings. Allow the victim to direct the interview and to tell their story in their own words. They should also feel able to stop the interview at any point if they experience distress.
- Be respectful of the victim's cultural background, including social etiquette, religious observances, societal status, ethnic community ties, customs of clothing, and attitudes toward prostitution. Be aware that cultural differences may make some topics such as sex and mental health uncomfortable to discuss.
- Some messages to convey include: "We are here to help you;" "You can trust me;" "Your safety is our first priority;" and "You have a right to live without being abused."

Maintaining confidentiality

Maintaining confidentiality is imperative in working with victims who often risk their lives and their families' lives when they try to escape captivity. As such, interviewers should remember the following:

- Mandatory reporters may not want or need to obtain the level of detail elicited by the screening tool, and may instead refer likely trafficking victims to other service providers who can maintain confidentiality, such as attorneys who have client-attorney privileges. Agencies using the screening tool may need to develop protocols on recording and sharing information about identified trafficking victims.

² Portions of this text adapted from *Lawyer's Manual on Human Trafficking*, Edited by Jill Laurie Goodman and Dorchen A. Leidholdt, Supreme Court of the State of New York, Appellate Division, First Department and New York State Judicial Committee on Women in the Courts; *Trafficking In Persons Report 2013*, State Department.

- Discuss with the person exactly how and when confidentiality will be maintained, and what limitations on confidentiality there may be, depending on the situation and the screener’s obligations.
- Keep the number of staff who come into contact with the victim to a minimum and ensure that staff fully understand the importance of confidentiality.
- If working with an interpreter, he or she should sign confidentiality agreements to enforce professional standards and ensure that the trafficker, the trafficker’s associates and the victim’s community are not informed.

Understanding the effects of trauma and victimization

Trafficking victims have often endured profound physical and psychological injuries that may impede the efforts of attorneys and other service providers to interview them and develop strong working relationships. Minimization, denial and memory loss, which are symptoms of psychological trauma, can make it extremely difficult to elicit consistent information. Below are important points regarding trauma and victimization to keep in mind:³

- Be aware that trafficking victims may experience long-lasting effects of psychological and physical abuse, traumatic experiences, chronic substance abuse, or violent physical and psychological assaults. Even if not a mental health expert, a screener can learn to recognize common signs of trauma. A service provider who screens trafficking victims may be the first person to whom victims have reported trauma or mental distress.
- Express sorrow for what has happened to them, but do not appear to be judgmental or shocked by the details they reveal.
- Ask only basic questions about mental health unless you are trained as a mental health professional. A few straightforward, non-intrusive questions asked in a kind manner can convey a caring attitude and help the screener and the victim decide if a referral to a mental health professional is desirable or necessary. A user of TVIT should not expect to completely alleviate a victim’s distress or be in a position to diagnose mental illnesses.
- Be understanding when victims do not wish to repeat the details of the crime. Keep in mind that recounting stories many times for various people (social service agencies, lawyers, law enforcement, and so forth) may cause victims to re-experience trauma. Try to minimize the potential for re-traumatization when possible.

³ This section is adapted from The 2011 Trafficking in Person report of the Department of State Office to Monitor and Combat Trafficking in Persons; “Gaining Insight, Taking Action: Basic Skills for Serving Victims,” Office for Victims of Crime, Department of Justice (<http://www.ovc.gov/publications/infores/pdf/txt/GainingInsight.pdf>); and “Resources for Social Service Providers,” Social Service Tool Kit, Rescue & Restore Victims of Human Trafficking, U.S. Department of Health & Human Services (www.acf.hhs.gov/trafficking/campaign_kits/index.html);

Additional considerations for law enforcement⁴

Many law enforcement officials advocate for use of a victim-centered approach when working with potential victims of human trafficking, placing equal value on the stabilization and wellbeing of victims with that of the criminal investigation and prosecution of traffickers. Victims are the key for successful prosecutions, and law enforcement should make every effort to help victims feel safe and secure. When working with trafficking victims, law enforcement officers may wish to keep the following in mind:

- Enlist the help of victim specialists wherever possible.
- Victims often require social services for safety and recovery. Connecting victims with support services can help them get the help they need, allowing them to be of greater assistance during an investigation.
- Be mindful that victims may have had prior negative experiences with law enforcement and may be afraid or distrustful as a result. Keep tactical gear, weapons, badges, and uniforms hidden from sight and convey a sincere, caring attitude.
- Since many victims have been arrested, it takes time and astute questioning to determine that they are victims, and not criminals. If arrested in a raid, the victim may have found the raid itself traumatizing. Police officers should have an established protocol for differentiating and separating the traffickers and victims during interviewing.
- Minors involved in trafficking require special protections and custodial planning. Any shelter arrangements made for children or adults should ensure a victim's safety and meet the special needs of trafficking victims.
- Investigative procedures can be frightening and inhibit successful interviewing. Be aware that lawyers are sometimes employed by traffickers.
- Conventional interrogation techniques may be insensitive to the victim's feelings and the pace at which they can respond to questions. All interpreters should be certified.
- Traffickers often use immigration status to control foreign-born victims. Victims are often fearful of the immigration consequences resulting from contact with authorities, and may be unable to stay in the United States or access victim assistance services if they do not have legal status. Law enforcement officials can help stabilize these victims so they can obtain immigration relief, including Continued Presence (CP) and T or U Nonimmigrant Status.
- At times, it may be appropriate to deviate from the screening tool to probe for additional details, such as for questions about payment and medical visits. These details can be important in obtaining further evidence for an investigation, but always be mindful of not re-traumatizing victims. Additional questions about highly sensitive topics may need to wait until subsequent interviews.
- Many trafficking victims have urgent medical needs that should be addressed promptly and confidentially.

⁴ This section is adapted from materials made available by the Department of Homeland Security's Blue Campaign (www.dhs.gov/end-human-trafficking).

Some considerations when asking these questions

- You may re-phrase the questions on the screening tool as necessary to ensure that they understand clearly what you are asking. Listen carefully to what they say, and return to topics as needed during the conversation to clarify and confirm details.
- Screeners should ask all questions on the TVIT even if the respondent appears to be the victim of another crime, as trafficking may occur in conjunction with other forms of victimization. Victims of other crimes, such as domestic violence, or labor exploitation, may have experiences of abuse that are similar to those of trafficking victims and may therefore respond in similar ways.
- The TVIT inquires about “work or other activities” to elicit information about sexual services and other types of informal work. However, victims of sex trafficking may not think of rape and forced prostitution as “work.” Additionally, victims of labor trafficking may not think of forced shoplifting and forced drug smuggling as “work.” Screeners should pay attention to the terms used by potential victims to describe their experiences, and should use this terminology during interviews. Screeners should also be aware that answering direct questions about sexual activities, or even forced labor, may be difficult for victims, especially when associated with violence, humiliation or shame.

Frequently Asked Questions

Q. When should this screening tool be used?

A. This tool is most effective when rapport has been established between the interviewer and the potential victim. It may be best not to use it on the very first encounter if the victim is reluctant to talk; rather, an interviewer may use the tool on the second or third meeting more effectively. Screeners may also wish to save highly sensitive questions, such as those concerning physical or sexual violence, until later interviews when a sense of safety has been established. Screeners should also expect to revisit certain questions in subsequent interviews.

Q. Will the tool detect all forms of trafficking victimization?

A. The screening tool has been tested with victims of both sex and labor trafficking, and has been found to reliably predict victimization in those contexts. It has not yet been validated with individuals with disabilities or with LGBTQ victims. Interviewers who anticipate working with these groups should make efforts to tailor the screening tool to fit the unique needs of these clients. Similarly, additional questions might have to be asked of child victims of trafficking because of their particular experiences and vulnerabilities.

Q. What if there are discrepancies between a person's responses and what you know about them?

A. Inconsistent answers may be a response to trauma, not untruthfulness, as the person may not want to repeat distressing details or may have repressed them. It is important to give people breaks during interviews and multiple opportunities to respond to questions. You can address inconsistencies in a non-judgmental way and ask for clarification. Remember, it may take time to get the full story.

Q. How do I know if I am using the tool correctly?

A. Each person and trafficking case is different, so there is no single "right" way to use the screening tool. If you feel that you are communicating clearly and are gathering important information, and the person interviewed feels safe and supported, then you are probably using the tool correctly. It is important to obtain as much prior training as possible and best to have other experienced professionals to turn to if you are in doubt about how to conduct an interview.

Q. How do we determine trafficking once the tool has been completed?

A. Tool users are expected to have some prior knowledge of what trafficking entails. The TVIT does not contain specific instructions on how to "score" affirmative responses, and interviewers are discouraged from attempting to create their own scoring systems. Every trafficking case is unique. Some victims will answer affirmatively to several of these questions, while others may do so for only a few. The totality of the responses, and not any single answer, will help you decide if someone is a likely victim of trafficking

under the law. When in doubt, consult a more experienced person. Screeners can read through the Annotated Tool for ideas about what information to look for when administering the tool. They may also find it helpful to record their observations and assessments separately after the screening.

Q. What if there were multiple incidents of trafficking?

A. These can be noted, if described by the victim, but recording all the details at once is not necessary for initial determination of victimization.

Q. What if the potential trafficking situation occurred outside of the U.S.?

A. The importance of asking about trafficking situations that occurred outside the U.S. depends on the goals of the agency conducting the screening. Law enforcement will likely be primarily concerned with victimization that occurred within the United States. In contrast, trafficking situations that occurred outside of the U.S. but continued or had impacts in the U.S. may still have significant implications for a victim's legal relief, allowing someone to access benefits or stay in the country legally. Victims may also be suffering from trauma inflicted during incidents that occurred outside the U.S., and service providers may wish to explore these to provide the victim with necessary support.

Advice on Using the Trafficking Victim Identification Tool (TVIT)

These questions may be integrated into your regular intakes, and you should feel free to rephrase them as needed to ensure communication and understanding. Interviewers should familiarize themselves with these questions in advance, and not read them verbatim, which may feel mechanical and prevent rapport from developing with a potential victim. Similarly, it is recommended that interviewers not use the tool during an initial interview with a client, as establishing trust and rapport first will help clients answer accurately and honestly. All questions, especially the follow up questions, should be used with discretion, while keeping in mind confidentiality issues that may arise by recording details of a client's situation.

As many of these screening questions can recall traumatic experiences, you should be sensitive to the persons' mental health needs. Before and during the interview, note whether a victim is feeling emotionally stable enough to answer questions, and if not, ask if he or she would like to be referred to a counselor or health professional for help. If the client describes situations that seem traumatic, or has emotional reactions to the questions asked, you should ask if they wish to suspend the interview until they feel willing and able to continue.

Specific instructions for each section are described below.

Background and Demographics:

Demographics are important to collect to begin to assess your clients' needs. The questions here are not exhaustive. However, please ensure that you ask about country of birth, to determine whether or not to skip the Migration section. We have provided some basic demographic information questions that are usually asked at an interview. You may wish to add questions that your own agency requires for screening and intakes.

Migration into the United States

Often, the way people become victims of trafficking has to do with how their migration was organized by acquaintances or purported employment agencies. Alternatively, migration may not have been the impetus for trafficking, but it may contribute to a victim's sense of vulnerability. For instance, some people are willingly smuggled across the border and later coerced into paying back high debts through forced labor (debt bondage). People may have entered the country multiple times, so it can be important to probe for information about repeated entrances. Immigration can be a sensitive topic. Many foreign-born victims worry about being reported to authorities, and may feel uncomfortable answering these questions. Furthermore, it is important to keep in mind that a client may not know all the details of their migration, especially if the client came to the U.S. as a child.

Working/Living conditions

Trafficking victims are often made to work, provide services or do other activities that are not "traditional" work. These activities can include forced prostitution, domestic servitude, or other non-formal work arrangements. Once you make clear to the client that you would like to know about non-traditional work, you do not need to repeat the phrase "[or did other activities]" for

each question in this section. Be attentive to the terms used by the victim to describe their “work” experience and try to use these terms. The questions should relate to exploitation he/she encountered while in the U.S., not to work performed abroad.

Trafficking victims may also be forced to work where they live, especially in sex trafficking or domestic servitude. Victims of domestic violence may answer affirmatively to some of the following questions, which do not necessarily signal that trafficking has occurred. However, traffickers are often perceived by victims to be romantic partners, so it is important to probe for more information when an intimate partner is mentioned. Victims may have strong attachments to their traffickers, which make it difficult for them to self-identify as victims or admit they were forced. This often occurs with domestic sex trafficking victims. Please note that under the legal definition, anyone performing sexual activities for things of value while under 18 years of age is a victim of trafficking, regardless of whether they report having been forced into the situation.

Many of these questions are sensitive and asking them directly may elicit negative reactions, including fear and shame. Force can be both explicit and implicit in a trafficking situation, and some individuals may have been initially pressured into these activities to support themselves or their families. Coercion and abuse can be either psychological or physical. Threats of harm include all actions, statements, written or non-verbal messages conveying the intent of physical or psychological injury. It is also important to be aware that a victim may feel loyalty to their trafficker due to forced dependence and therefore have difficulty recognizing and disclosing their own victimization. Many of questions in this section are based on knowledge of the ways in which traffickers commonly control victims, including by depriving victims of their identity documents, basic necessities or social contacts, and by threatening to report them to authorities or to harm their families.

Determining if someone is a victim

In order to determine if someone is a victim of trafficking, you should take the totality of her/his responses into account; no single affirmative answer determines whether trafficking has or has not occurred. Other needs are also important to assess, such as needs for safety, housing, legal assistance (for instance, if the client is foreign born and has immigration questions), social services, employment or other needs. Having reliable local referral networks is extremely important so that clients can get the assistance they need from your agency or partner agencies.

Trafficking Victim Identification Tool (TVIT) Long Version

Screening purpose. This screening tool is intended to be used as part of the regular intake process or as part of enrollment for specific programs. In order for the results to be valid, the screening should be administered according to pre-arranged protocols, *whether or not the client is believed to be a victim of human trafficking*. Please refer to the *User Guide* for directions on using this screening tool.

Screening timing. Since each agency's intake process is unique, agencies should determine how to best integrate this screening tool with their other intake forms or procedures. Whatever the timing and context of the interview, please begin and end with comfortable topics of conversation to minimize the client's discomfort.

Deferred/Suspended Screening. In some cases the intake process extends beyond the first meeting with the client. Service providers may sometimes choose to postpone sensitive screenings, judging that clients are not yet ready to disclose or discuss experiences of victimization and would prefer to continue the interview at a later date. If in the course of an interview the client shows acute signs of anxiety, ask the client if s/he would prefer to stop the interview and resume it at a later time.

Section 1: Screening Background **[DO NOT READ TO CLIENT]**

1a. Date of interview: __/__/____ (MM/DD/YYYY)

1b. How client was referred to your agency **most recently** [select only one]:

- Own agency/ internal referral
- Other social service provider [fill in]: _____
- Healthcare provider
- Local Police Department
- Dept. of Homeland Security (DHS) / Immigration & Customs Enforcement (ICE)
- Federal Bureau of Investigation (FBI)
- Other law enforcement [fill in]: _____
- Referred by other client
- Referred by someone else [fill in relationship to client]: _____
- Walk-in

1c. Client status: Official determination of trafficking known?

[INTERVIEWER: This includes HHS certification, T-visa approval, or certification by law enforcement or a judge]

- No
- Yes

1d. Sex of client: male female other

1e. Language of interview:

1f. Client's preferred language: _____

1g. Client's English proficiency (please estimate to the best of your ability):

Excellent Good Fair Poor

1h. Mode of interview: interview with interpreter interview without interpreter

Section 2: Personal Background

INTERVIEWER READ: "I'd like to begin by asking you a few simple questions about your personal and family background."

2a. What is your date of birth? __/__/____ (MM/DD/YYYY)

2b. If you don't know your date of birth, approximately how old are you? _____ -

[INTERVIEWER: If respondent cannot provide a number, offer the following response brackets to choose from]

under 12 13-17 18-19 20-24 25-29 30-34 35-39 40-44 45-49 50-54 55-59 60+

2c. How many years of schooling have you completed?

1-6 years 7-12 years More than 12 years Other _____

2d. What country were you born in? _____

2e. Are you a citizen of any *other* countries besides where you were born?

[INTERVIEWER: If concept of 'citizenship' is not clear, rephrase as 'Where were your parents born?']

No

Yes → Other country of citizenship # 1 _____ # 2 _____

Don't know

Migration [PLEASE USE THE MIGRATION SECTION WITH FOREIGN-BORN CLIENTS ONLY]

INTERVIEWER READ: “Now I am going to ask you some questions about your country of origin. I am not asking you this to find out about your immigration status. I am only trying to understand fully what your circumstances are so that we can refer you for the right help, if necessary. The questions ask about your migration to the U.S., who was involved, and how it was arranged.”

For children, this may be rephrased: “We would like you to tell us about what happened to you when you traveled to the U.S.”

3a. Can you tell me why you left your country?

- To find work
- To join family
- To join romantic partner (spouse/girlfriend/boyfriend)
- To escape abuse by family or someone else you know
- To escape conflict/violence/persecution
- Other [fill in]: _____

3b. What country did you live in for at least 3 months before you came to the U.S.?

[INTERVIEWER: If client has come to the U.S. more than once, probe to make sure client refers to most recent place of residence]

3c. In what year was your most recent arrival to the U.S.? _____(YYYY)

[INTERVIEWER: If client has come to the U.S. more than once, you can ask them about other entries to the U.S. if relevant.]

→ If you don't know exactly when you arrived in the U.S., about how long have you been here [check one]?

- Less than 1 year
- 1 year
- 2 years
- 3 years
- 4 years
- 5 to 10 years
- More than 10 years

3d. Did anyone arrange your travel to the U.S.?

- No
- Yes → Can you tell me who?

→ What did they do?

3e. Did the people or person who arranged your travel pressure you to do anything (for example, did anyone ask you to carry something across the border)?

[REPHRASE: Did you have to do anything so that they would help you?]

- No
- Yes → What were you pressured to do?

3f. Can you tell me the total cost (approximately) of your migration: _____

[REPHRASE: How much did you pay to come to the U.S.?)

→What did the payment cover (e.g., transportation such as airplane or bus tickets, documents, work placement)? _____

3g. Did you (or your family) borrow or owe money, or something else, to anyone who helped you come to the U.S.?

[INTERVIEWER: Probe for something else owed, such as property, a house, or land]

No

N/A

Yes **→ Do you (or your family) still have this debt, or does anyone claim you do?** No Yes

[INTERVIEWER: Record volunteered information here]

3h. If you did borrow or owe money, have you ever been pressured to do anything you didn't want to do to pay it back?

No

N/A

Yes **→ If you are comfortable telling me, what kinds of things were you pressured to do that you didn't want to do?**

→ Could you describe how you were pressured?

3i. INTERVIEWER: If client offered additional information about debts or other victimization related to migration, record it here _____

Work

INTERVIEWER READ: “Now I’m going to ask you some questions about work you’ve done in the United States and people you have worked for and with. I’m particularly interested in any kind of work you’ve done in which you felt that you did not get paid as much as you should, or if you felt scared or unsafe while working. This includes jobs that were not ‘official’ in regular workplaces. Remember, everything you tell me is confidential and you do not have to answer any questions that you don’t want to answer.”

4a. How have you supported yourself while in the U.S.? *[REPHRASE: How have you paid for food, housing and other items in the U.S.?*

4b. Have you worked for someone or done any other activities for which you thought you would be paid?

[INTERVIEWER: This could include activities like unpaid domestic work that might not be readily defined as “work” and should only detail those jobs in which the person felt unsafe or did not get paid what the person felt he/she should.]

No

Yes → **What kind(s) of work or activities were you doing?**

→ **How did you find out about these jobs/activities?** *[INTERVIEWER: probe for details, especially as they deal with recruitment from abroad]*

4c. Have you ever worked [or done other activities] without getting the payment you thought you would get?

[INTERVIEWER: You do not need to say "done other activities" if unnecessary and the client understands work does not just mean formal work.]

No

Yes → Was it the same work as you described above?

No → **What kind(s) of work or activities were you doing?**

Yes → **What payment did you expect and why?**

→ What did you receive?

4d. Did someone ever (check all that apply):

withhold payment/money from you,

give your payment/money to someone else

control the payment/money that you should have been paid?, or

none of the above

[INTERVIEWER: Record volunteered information here]

4e. Were you ever made to sign a document without fully understanding what it stated, for instance, a work contract?

No

Yes → *[INTERVIEWER: Probe for details]*

4f. Have you ever worked [or done other activities] that were different from what you were promised or told?

No

Yes → **What were you promised or told that you would do?**

→ What did you end up doing?

4g. Did anyone where you worked [or did other activities] ever make you feel scared or unsafe?

No

Yes → **Could you tell me what made you feel scared or unsafe?**

4h. Did anyone where you worked [or did other activities] ever hurt you or threaten to hurt you?

[INTERVIEWER: This could include any physical, sexual, or emotional harm]

No

Yes → **Could you tell me what they did or said?**

4i. Did anyone where you worked [or did other activities] ever harm or threaten to harm people close to you, like family or friends?

[INTERVIEWER: This could include any physical, sexual, or emotional harm]

No

Yes → **Could you tell me what they did or said?**

4j. Were you ever allowed take breaks where you worked [or did other activities], for example, to eat, use the telephone, or use the bathroom?

No → **What if you were sick or had some kind of emergency?**

→ **What did you think would happen if you took a break?**

Yes → **Did you have to ask for permission?**

→ **What did you think would happen if you took a break without getting permission?**

4k. Were you ever injured or did you ever get sick in a place where you worked [or did other activities]?

No

Yes → **Were you ever stopped from getting medical care?** No Yes

→ **If you feel comfortable, could you tell me more about what happened?**

4l. INTERVIEWER: if client volunteered additional information relevant to trafficking victimization in a U.S. work context, record it here:

Living and/or Working Conditions

INTERVIEWER READ: "Next, I have just a few more questions I'd like to ask about problems you may have had in your living or working situation in the United States."

5a. When you were in that situation, were you living [or do you currently live]: *[INTERVIEWER: Should determine if client still in situation in question]*

- by yourself,
 with your family, or
 with others? If others, who did you live with? _____

5b. Do you live, or have you ever lived, in the same place where you work?

[INTERVIEWER: This could include activities like unpaid domestic work that might not be readily defined as "work"]

- No
 Yes *[INTERVIEWER: Record volunteered information here]* _____

5c. Have you ever felt you could not leave the place where you worked [or did other activities]?

[INTERVIEWER: Probe for situations where someone threatened to do something bad if client tried to leave.]

- No
 Yes → **Could you tell me why you couldn't leave?**

→ **What do you think would have happened to you if you tried to leave?**

5d. Have you ever worked [or did other activities] or lived somewhere where there were locks on the doors or windows or anything else that stopped you from leaving?

- No
 Yes *[INTERVIEWER: Record volunteered information here]* _____

5e. Did anyone at the place where you lived or worked [or did other activities] monitor you or stop you from contacting your family, friends, or others? *[REPHRASE: did you have to ask permission to contact your family, friends or others?]*

- No
 Yes → **Could you tell me why not?**

5f. Did anyone ever take and keep your identification, for example, your passport or driver's license?

No

Yes → **Could you get them back if you wanted?** [INTERVIEWER: Probe for details] _____

5g. Did anyone ever force you to get or use false identification or documentation, for example, a fake green card?

No

Yes → [INTERVIEWER: Probe for details] _____

5h. Did anyone where you worked [or did activities] ever tell you to lie about your age or what you did?

No

Yes → **Could you explain why they asked you to lie?**

5i. Did anyone you ever worked [or did other activities] for or lived with threaten to report you to the police or other authorities?

[INTERVIEWER: If client is foreign-born, probe for threats of being reported to immigration authorities]

No

Yes [INTERVIEWER: Probe for details]

5j. Did you ever see anyone else at the place where you lived or worked [or did other activities] harmed, or threatened with harm?

[INTERVIEWER: This can include any physical, sexual, or emotional harm]

No

Yes → **If you are comfortable talking about it, could you tell me what happened?**

5k. Did anyone where you worked [or did other activities] ever trick or pressure you into doing anything you did not want to do?

No

Yes → **If you are comfortable talking about it, could you please give me some examples?**

5l. Did anyone ever pressure you to touch someone or have any unwanted physical [or sexual] contact with another person?

No

Yes → If you are comfortable talking about it, could you tell me what happened?

5m. Did anyone ever take a photo of you that you were uncomfortable with?

No

Yes → If you feel comfortable talking about this, could you tell me who took the photo?

→ What did they plan to do with the photo, if you know?

[LAW ENFORCEMENT: If the respondent indicates that the photo was posted online, you should ask which website.]

→ Did you agree to this? No Yes

5n. Did you ever have sex for things of value (for example money, housing, food, gifts, or favors)?

[INTERVIEWER: Probe for any type of sexual activity]

No

Yes → Were you pressured to do this? No Yes

→ Were you under the age of 18 when this occurred? No Yes

5o. Did anyone where you worked [or did other activities] ever take your money for things, for example, for transportation, food, or rent?

No

Yes → Did you agree to this person taking your money? No Yes

→ Could you describe this situation?

5p. Did anyone you ever worked [or did other activities] for or lived with control how much food you could get?

No

Yes → Did you get enough food? No Yes

5q. Did anyone you ever worked [or did other activities] for or lived with control when you could sleep?

No

Yes → Did you get enough sleep? No Yes

5r. In this situation, did language difficulties ever prevent you from seeking help when you needed it?

No

Yes

5s. INTERVIEWER: if client volunteered additional information relevant to force, fraud or coercion in a work or living situation in the U.S., record it here: -

Finishing the Interview

[INTERVIEWER: Please tell client what services are available at [organization]]

Do you want me to ask someone else at (this agency) to get more help for you? No Yes

INTERVIEWER: Tell client the interview is over. Thank the client for their time.

Post-interview Assessment (to be completed by the interviewer)

6a. Note any nonverbal indicators of past victimization:

6b. Note any indicators that responses may have been inaccurate:

6c. Indicate the likelihood that the client is a victim of trafficking:

certainly not likely not uncertain either way likely certainly

6d. Briefly state up to three reasons for your rating:

(1) _____

(2) _____

(3) _____

6e. What kind of service referrals, if any, will you make for the client?

(1) _____

(2) _____

(3) _____

(4) _____

(5) _____

6f. Additional notes:

Trafficking Victim Identification Tool (TVIT) Short Version

Screening purpose. This screening tool is intended to be used as part of a regular intake process or as part of enrollment for specific programs. In order for the results to be valid, the screening should be administered according to pre-arranged protocols, *whether or not the client is believed to be a victim of human trafficking*. Please refer to the *User Guide* for directions on using this screening tool.

Screening timing. Since each agency's intake process is unique, agencies should determine how to best integrate this screening tool with their other intake forms or procedures. Whatever the timing and context of the interview, please begin and end with comfortable topics of conversation to minimize the client's discomfort.

Deferred/Suspended Screening. In some cases the intake process extends beyond the first meeting with the client. Service providers may sometimes choose to postpone sensitive screenings, judging that clients are not yet ready to disclose or discuss experiences of victimization and would prefer to continue the interview at a later date. If in the course of an interview the client shows acute signs of anxiety, ask the client if s/he would prefer to stop the interview and resume it at a later time.

Date of interview: _____

Interviewer: _____

Demographic information: The following are suggested basic demographic questions. You may wish to supplement these with your agency's routine demographic or introductory questions.

Sex of client: female _____ male _____ other _____

Age/birth date of client: _____

Number of years of schooling completed: _____

Client's preferred language: _____

Country of birth: _____

If client answers outside the U.S., please ask migration questions

Migration

1. In what year was your most recent arrival to the U.S.? _____ (YYYY)

[INTERVIEWER: If client has come to the U.S. more than once, you can ask them about other entries to the U.S. if relevant.]

→ If you don't know exactly when you arrived in the U.S., about how long have you been here?

Less than 1 year 1 year 2 years 3 years 4 years 5 to 10 years

More than 10 years

2. Did anyone arrange your travel to the U.S.?

No

Yes → Can you tell me who? _____

→ What did they do? _____

3. Did you (or your family) borrow or owe money, or something else, to anyone who helped you come to the U.S.? [INTERVIEWER: Probe for something else owed, such as property, a house, or land]

No

N/A

Yes → Do you (or your family) still have this debt, or does anyone claim you do? No Yes

[INTERVIEWER: Record volunteered information here]

4. If you did borrow or owe money, have you ever been pressured to do anything you didn't want to do to pay it back?

No

N/A

Yes → If you are comfortable telling me, what kinds of things were you pressured to do that you didn't want to do?

→ Could you describe how you were pressured?

Working/Living conditions

5. Have you worked for someone or done any other activities for which you thought you would be paid?

[INTERVIEWER: This could include activities like unpaid domestic work that might not be readily defined as "work" and should only detail those jobs in which the person felt unsafe or did not get paid what the person felt he/she should.]

No

Yes → What kind(s) of work or activities were you doing?

→ How did you find out about these jobs/activities? [INTERVIEWER: probe for details, especially as they deal with recruitment from abroad]

6. Have you ever worked [or done other activities] without getting the payment you thought you would get? [INTERVIEWER: You do not need to repeat "done other activities," if unnecessary and the client understands work does not just mean formal work.]

No

Yes → Was it the same work as you described above?

No → **What kind(s) of work or activities were you doing?**

Yes → **What payment did you expect and why?**

→ What did you receive?

7. Did someone ever (check all that apply):

withhold payment from you,

give your payment to someone else, or

control the payment that you should have been paid?

none of the above

[INTERVIEWER: Record volunteered information here]

8. Have you ever worked [or done other activities] that were different from what you were promised or told?

No

Yes → **What were you promised or told that you would do?**

→ What did you end up doing?

9. Did anyone where you worked [or did other activities] ever make you feel scared or unsafe?

No

Yes → **Could you tell me what made you feel scared or unsafe?**

10. Did anyone where you worked [or did other activities] ever hurt you or threaten to hurt you?

[INTERVIEWER: This could include any physical, sexual, or emotional harm]

No

Yes → **Could you tell me what they did or said?**

11. Were you allowed take breaks where you worked [or did other activities], for example, to eat, use the telephone, or use the bathroom?

No → What if you were sick or had some kind of emergency?

→ What did you think would happen if you took a break?

Yes → Did you have to ask for permission? _____

→ What did you think would happen if you took a break without getting permission?

12. Were you ever injured or did you ever get sick in a place where you worked [or did other activities]?

No

Yes → Were you ever stopped from getting medical care? No Yes

→ If you feel comfortable, could you tell me more about what happened?

13. Have you ever felt you could not leave the place where you worked [or did other activities]?

[INTERVIEWER: Probe for situations where someone threatened to do something bad if client tried to leave.]

No

Yes → Could you tell me why you couldn't leave?

→ What do you think would have happened to you if you tried to leave?

14. Did anyone where you worked [or did other activities] tell you to lie about your age or what you did?

No

Yes → Could you explain why they asked you to lie?

15. Did anyone where you worked [or did other activities] ever trick or pressure you into doing anything you did not want to do?

No

Yes → If you are comfortable talking about it, could you please give me some examples?

16. Did anyone ever pressure you to touch someone or have any unwanted physical [or sexual] contact?

No

Yes → If you are comfortable talking about it, could you tell me what happened?

17. Did anyone ever take a photo of you that you were uncomfortable with?

No

Yes → If you feel comfortable talking about this, could you tell me who took the photo?

→ What did they plan to do with the photo, if you know?

[LAW ENFORCEMENT: If the respondent indicates that the photo was posted online, you should ask which website.]

→ Did you agree to this? No Yes

18. Did you ever have sex for things of value (for example money, housing, food, gifts, or favors)?

[INTERVIEWER: Probe for any type of sexual activity]

No

Yes → Were you pressured to do this? No Yes

→ Were you under the age of 18 when this occurred? No Yes

19. Did anyone take and keep your identification, for example, your passport or driver's license?

No

Yes → Could you get them back if you wanted? *[INTERVIEWER: Probe for details]*

20. Did anyone where you worked [or did other activities] ever take your money for things, for example, for transportation, food, or rent?

No

Yes → Did you agree to this person taking your money? No Yes

→ Could you describe this situation?

Post-interview Assessment (to be completed by the interviewer)

6a. Note any nonverbal indicators of past victimization:

6b. Note any indicators that responses may have been inaccurate:

6c. Indicate the likelihood that the client is a victim of trafficking:

certainly not likely not uncertain either way likely certainly

6d. Briefly state up to three reasons for your rating:

(1) _____

(2) _____

(3) _____

6e. What kind of service referrals, if any, will you make for the client?

(1) _____

(2) _____

(3) _____

(4) _____

(5) _____

6f. Additional Notes:

Training and Other Resources

To access trainings about human trafficking, please visit the following websites:

- Polaris Project Trainings: <http://www.polarisproject.org/what-we-do/national-human-trafficking-hotline/access-training>
- Office of Justice Programs Trainings: <http://www.ojp.usdoj.gov/specialfocus/humantrafficking/training.htm>

Another very good resource for attorneys is the Lawyer’s Manual on Human Trafficking: Pursuing Justice for Victims, edited by Jill Laurie Goodman and Dorchen A. Leidholdt, published by the Supreme Court of the State of New York, Appellate Division, in 2011. A version of the manual in PDF form is available at:

www.nycourts.gov/ip/womeninthecourts/publications.shtml.

Many states and localities have existing referral networks that will provide trafficking victims and survivors with much needed services and resources. Users of the screening tool should explore what is available in their area before embarking on identification efforts. As suggested by the 2013 Trafficking in Persons Report, “clear guidelines on how to proceed when someone suspects a case of trafficking, including whether and how to approach a possible victim, and what to expect if a case goes forward, greatly improve the effectiveness of victim identification efforts.”⁵ It is important to plan for comprehensive services to ensure that victims’ needs are met once they are identified.

For possible referral and other resources, please visit the websites below for information:

- <http://www.polarisproject.org/state-map> (state by state map of available NGOs and other anti trafficking resources)

The National Human Trafficking Resource Center (NHTRC) is a toll-free hotline in the United States and is reached by calling 1-888-373-7888 or e-mailing NHTRC@PolarisProject.org. The NHTRC operates 24 hours a day, seven days a week, every day of the year.

If referral networks are not well established in your area, this list may help you connect to other resources: <http://www.polarisproject.org/resources/referrals>

- http://www.acf.hhs.gov/sites/default/files/orr/traffickingservices_0.pdf (resource guide produced by the Department of Health and Human Services (HHS) that includes information for immigrant victims of human trafficking)
- <http://www.ojp.usdoj.gov/BJA/grant/httf.html> (Bureau of Justice Assistance’s list of nationally funded anti-trafficking task forces).

⁵ U.S. Department of State. (2013). *Trafficking in Persons Report*. Washington, D.C., p.15.

Explore the following Federal resources for information about obtaining services for pre-certified victims of human trafficking. (For more on certification please see pp. 19-20):

ACF: Fact Sheet – National Human Trafficking Resource Center

The Office of Refugee Resettlement (ACF) offers a fact sheet on the National Human Trafficking Resource Center and how the national hotline works. Information on how to make a call and how the NHTRC functions in reporting possible trafficking. Tips on how to get involved in reporting trafficking.

<http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-national-human-trafficking-resource-center>

International Organization of Migration

The "Caring for Victims of Trafficking" handbook provides practical, non-clinical guidance for health care providers in the identification of victims of human trafficking.

http://publications.iom.int/bookstore/free/CT_Handbook.pdf

Office of Justice Programs

The Office of Justice lists resources for victims of sex trafficking under their resources for Sexual Assault Response Teams. Listed are fact sheets and materials for download, organizations and programs for reference, web sites that offer other resources and training, and hotlines to report potential cases.

<http://ovc.ncjrs.gov/sartkit/focus/culture-tv-d.html>

U.S. Department of Justice - National Criminal Justice Reference Service

Sexual Assault Nurse Examiner (SANE) programs have been established to train nurses to provide services that went beyond examination of the sexual assault to sexual assault victims, emphasizing crisis intervention and supportive counseling in the ER setting, and continuing with follow up counseling by specially trained nurse counselors. Evaluation toolkit to evaluate sexual assault nurse examiner (SANE) programs in the criminal justice system. Free pdf.

<https://www.ncjrs.gov/pdffiles1/nij/grants/240917.pdf>

U.S. Department of Justice – Office for Victims of Crime

Development and operation guide - overview of SANE programs. Offers training, staffing, and other program recommendations.

<http://www.ojp.usdoj.gov/ovc/publications/infores/sane/saneguide.pdf>

U.S. Department of Labor

Offers a free online course to businesses interested in learning more about human trafficking and what they can do to help combat it. UN.GIFT's e-learning tool on human trafficking features three modules: (1) What is human trafficking? (2) Why is human trafficking an issue for businesses? and (3) What can business do to address human trafficking?

http://www.dol.gov/ilab/child-forced-labor/step4/step4_4.htm

U.S. Department of State

U.S. Department of State lists national hotlines to report domestic trafficking. Each listing explains who the hotline is for, what they do, why to call, and how to report domestic trafficking. The National Human Trafficking Resource Center, Department of Homeland Security, Department of Justice, Department of Labor, and National Center for Missing & Exploited Children are listed.

<http://www.state.gov/j/tip/id/domestic/index.htm>

Department of Health and Human Services (HHS)

HHS Services Grants provide funding for comprehensive case management services to foreign-born victims and potential victims of trafficking seeking HHS certification in any location in the United States. Grantees provide case management to assist a victim of trafficking to become certified, and other necessary services after certification, through a network of non-governmental service organizations in locations throughout the country. They also streamline support to help victims of human trafficking gain timely access to shelter, legal assistance, job training, and health care. Please contact the grantees regarding services for a client or to obtain more information. Below is a list of some HHS Service Grantees and contact information:

- U.S. Committee for Refugees and Immigrants (USCRI)

Contact information: 1-800-307-4712 or traffickingvictims@uscridc.org

- Heartland Human Care Services

Contact information: 1-800-837-5345

- Tapestri, Inc.

Contact information: 404-299-2185

Office for Victims of Crime

The U.S. Department of Justice's (USDOJ) Office of Victims of Crime (OVC) provides services for pre-certified trafficking victims. Services include housing or shelter; food; medical, mental health, and dental services; interpreter/translator services; criminal justice victim advocacy; legal services; social services advocacy; literacy education; and/or employment assistance.

Please see <http://www.ojp.usdoj.gov/ovc/grants/traffickingmatrix.html> for more. In addition, OVC's Online Directory of Crime Victim Services identifies local organizations providing services for crime victims: <http://ovc.ncjrs.gov/findvictimservices/>.

Resources for Pre-Certified Victims⁶

Pre-certified victims are persons who are neither U.S. citizens nor Lawful Permanent Residents ("foreign victims") and who have not yet received a Certification Letter from the U.S. Department of Health and Human Services (HHS) allowing them to access federally funded

⁶ Adapted from http://www.acf.hhs.gov/sites/default/files/orr/trafficking-services_0.pdf

benefits and services to the same extent as refugees. There are many resources available to pre-certified victims, and many nongovernmental organizations (NGOs) are knowledgeable about community resources to assist victims. Local resources that NGOs may be able to help victims access include food pantries and thrift stores for clothing, women's and youth shelters, community health clinics, legal aid clinics, faith-based aid organizations, job training programs, general education and transportation services, and crime victim compensation programs.

Certification⁷

Certification allows adult victims of trafficking who are not U.S. citizens or Lawful Permanent Residents (LPRs) to be eligible to receive benefits and services under any Federal or state program or activity to the same extent as a refugee. Victims of trafficking who are U.S. citizens or LPRs do not need certification to receive benefits because they may already be eligible for many benefits. To receive certification, a person who is 18 years of age or older must:

- Be a victim of a severe form of trafficking as defined by the TVPA¹
- Be willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking or be unable to cooperate due to physical or psychological trauma; and
- Have made a bona fide application for a T visa that has not been denied; or
- Have received Continued Presence (CP) from the Department of Homeland Security (DHS) in order to contribute to the prosecution of traffickers in persons.

Once a person has met the requirements listed above, he or she can receive a Certification Letter from the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR). The certification process typically takes only a few days after ORR is notified by DHS that a person has made a bona fide application for a T visa or has been granted CP. Certification Letters do not expire but many benefits are time-limited. Foreign child victims of trafficking (under the age of 18) do not need to be certified to receive benefits and services. ORR will instead issue a letter stating that a child is a victim of a severe form of trafficking and is eligible for benefits and services. (See Rescue & Restore Fact Sheet on Child Victims and ORR State Letter #10-05 for more information.) For more information on how to obtain certification or what federal programs are available both to certified and non-certified victims, please see pages 12-30 of http://www.acf.hhs.gov/sites/default/files/orr/trafficking-services_0.pdf.

⁷ Adapted from <http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-certification-for-adult-victims-of-trafficking>

Definitions of human trafficking in the United States

FEDERAL LAW

18 U.S.C. § 1589 — Forced Labor

(a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means —

(1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;

(2) by means of serious harm or threats of serious harm to that person or another person;

(3) by means of the abuse or threatened abuse of law or legal process; or

(4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint, shall be punished as provided under subsection (d).

(b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means, shall be punished as provided in subsection (d).

(c) In this section:

(1) The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

(d) Whoever violates this section shall be fined under this title, imprisoned not more than twenty years, or both. If death results from a violation of this section, or if the violation includes kidnapping, an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title, imprisoned for any term of years or life, or both.

18 U.S.C. § 1591 — Sex Trafficking of Children or by Force, Fraud, or Coercion

(a) Whoever knowingly —

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, or maintains by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud,

coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of eighteen years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is —

(1) if the offense was effected by means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means, or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of fourteen years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than fifteen or for life; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of fourteen years but had not attained the age of eighteen years at the time of such offense, by a fine under this title and imprisonment for not less than ten years or for life.

(c) In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained or maintained, the Government need not prove that the defendant knew that the person had not attained the age of eighteen years.

(d) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed twenty years, or both

(e) In this section:

(1) The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term “coercion” means —

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(3) The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.

(4) The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

(5) The term “venture” means any group of two or more individuals associated in fact, whether or not a legal entity.