

Issues Impacting Human Trafficking Collaborations:  
A Local Law Enforcement Perspective

Lt. Derek J. Marsh  
Co-Director  
Orange County Human Trafficking Task Force  
Westminster Police Department  
8200 Westminster Blvd.  
Westminster, CA 92683  
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## **Introduction**

I became involved in working with federal, state, and local agencies regarding human trafficking in 2004. I joined the Orange County Human Trafficking Task Force (OCHTTF)—at that time, a loose knit, unfunded collaboration of agencies concerned with the issues surrounding human trafficking. Over the course of the next three years, my agency (the Westminster Police Department, CA) attempted to proactively pursue human trafficking cases while teaming with Immigration & Customs Enforcement, the Federal Bureau of Investigation, the Department of Labor Wages & Hours Division, and a host of passionate, non-governmental agencies, indirectly headed by CSP, Inc.'s Director of Victim Services Ronnetta Johnson.

Currently, thanks to Congresswoman Loretta Sanchez, the OCHTTF receives funding for administrative support and law enforcement outreach, training, and overtime. Thanks to Marissa Ugarte of the Bilateral Safety Corridor Coalition, via a contract with the Department of Health & Human Services, OCHTTF participates in the Unity Coalition program funding, allowing for dedicated efforts to be made regarding community outreach and awareness. Our meetings have gone from quarterly to monthly, with attendees filling the room. Recently, OCHTTF participated in formal strategic planning sessions, and our members are more focused than ever on developing meaningful partnerships to support our primary goal of eliminating human trafficking. Local university representatives, namely Vanguard University's Sandie Morgan and California State University Fullerton's Rosalina Camacho and Dr. Rebecca Dolhinow, have coordinated seminars and symposiums on human trafficking leading to the participation and raised awareness of hundreds of people. The OCHTTF has been fortunate, both in supporters, resources, and an ever increasing willingness to participate by its stakeholders.

Yet, for most of the three years I have participated as the co-Chair for OCHTTF, we have experienced ongoing collaboration challenges, too. Four of the most significant issues with which I have experience, include:

1. The "severe" definition of human trafficking at the federal level, which has been mirrored by many states as well (including California), has hampered the ability of prosecutors to pursue human trafficking charges against subjects. This is especially true with regards to the commercial sexual exploitation aspect of trafficking.
2. Balancing local and federal approaches to the investigative process.
3. Economic sustainability impacts the capacity and efficacy of human trafficking task forces.
4. Disparate estimates and actual measures regarding human trafficking victims and nebulous outcome expectations contribute to the unwillingness of local law enforcement to dedicate resources (i.e., personnel) to human trafficking task forces and enforcement efforts.

## **"Severe" Human Trafficking**

The emphasis on "severe" human trafficking has undermined many potential human trafficking investigations. The federal severe definition has cascaded into the state definitions, and has become a crutch, used predominantly during commercial sex trafficking, to nullify local efforts to charge suspects with human trafficking. A reassessment of the severe definition of human trafficking is warranted to determine if it can be modified to address the realities local law enforcement is more likely to encounter.

As the panel knows, the federal law regarding human trafficking (HT) originated as a grassroots concern regarding domestic and international trafficking. Non-government organizations (NGOs) led the campaign to have the Trafficking Victims Protection Act of 2000 (TVPA) adopted as law. Before 2000, federal prosecutors had no law directly addressing human trafficking; instead other federal statutes had to be applied in order to prosecute suspects in human trafficking. NGOs and supporters used testimonies of trafficking victims to provide an international and domestic viewpoint underscoring the imperative to have a federal law created. They relied on egregious examples of human trafficking to make their points. General and personal narratives of beatings with hangers, gang rapes, murders, kidnapping, threats of death, chaining victims to beds, extended isolation, forced abortions, food, water and medical deprivation and inescapable debt were used to demonstrate the compelling need for HT laws and victim support. The fact these stories were true added a crucial human dimension to the issue.

Severe human trafficking cases, both domestic and transnational, provide compelling narratives. During the course of my relatively short involvement with human trafficking, every seminar and training I have attended emphasizes these cases, creating an expectation of extreme, inhumane treatment leveled against unwitting immigrants. Federal agencies in Orange County, California, recently completed our first human trafficking prosecution involving child slavery. The case facts paralleled many of the severe depictions of human trafficking: the female child was sold into slavery by her parents in Egypt, kept in the garage on a urine soaked mattress for years, had to perform menial chores at the private residence, was not allowed outside contact, including education, and had to wash her clothes out of a bucket while the traffickers and their children enjoyed all the modern amenities. This case shocks the conscience of most people.

This case, however, is not representative of the commercial sex exploitation cases involving illegal immigrants we have encountered and attempted to develop at the local level. Instead of outright force and physical coercion, we are finding victims who are subjected to more psychological and situational coercion and duress tactics. In one case, we discovered residential brothels using women from Malaysia and Singapore. Before we knew all of the information below, we offered to have the local ICE agents and Assistant United States Attorney take the case, but it was rejected. In this case, which is still undergoing prosecution for state charges of pimping and pandering, the following conditions were found to exist:

- Their passports, identification of all types, and valuables were immediately taken
- The women are naturally isolated by language, social and cultural barriers
- Brothels were secured with closed circuit TV, cameras surrounding the location, and staff
- The money the women take in and receive are controlled by the traffickers
- The victim's movements are controlled by the suspects (escorted everywhere)
- Consequence for taking a day off – placed off site at a bad motel at their expense with escort.
- They were required to work 21 day cycles, with 7 days off, in accordance with their menstrual period.

In further contrast to severe trafficking, they received significant monetary compensation for their "services." This case was considered a pimping and pandering case due to the lack of "severe" elements associated with the prostitution of the women.

This case is not atypical of the cases we have found when attempting to proactively pursue commercial sex exploitation of illegal immigrants. I had the privilege to participate in a panel with Dr. Laura Lederer (of the State Department) and Lisa Thompson (trafficking advocate for the Salvation Army) a month ago. Both claimed all human trafficking is necessarily severe, and that the term severe was added to the TVPA of 2000 to ensure its passage. I appreciate the need for legislative compromises, but would question the need to keep this terminology seven years after the statute has been in effect.

Regarding commercial sex exploitation, Farley et al. (2003)<sup>1</sup> surveyed prostitutes in nine countries (including the United States) and found that 87% had experience at least one incident of violence, 57% of prostitutes have been raped, a majority (68%) showed clinical symptoms associated with post traumatic stress disorder, and 89% responded that they needed to get out of prostitution. These findings and others led the authors to conclude their report disputes the contention “that prostitution is qualitatively different from trafficking” (Farley et al., 2003).

My personal perspective on the situation is this: The federal government did not want to get into the business of enforcing prostitution in the domestic arena, but was compelled to take a stand in reference to confirmed reports of severe human trafficking. The severe terminology and the transnational emphasis on victims addressed the need to condemn human trafficking without getting involved with pimping and pandering at the local-state levels. However, human trafficking has evolved over the seven years of the statute, and now we have domestic trafficking of citizens, with a special focus on juveniles, who are considered trafficking victims based on their age (less than 18 years old). In the meantime, states began adopting human trafficking laws, predominantly mimicking the severe language of the federal law.

But the application of human trafficking into the domestic venue has muddied the perception of its relevant elements, especially with regards to the immigrant emphasis and egregious acts. How do you claim a 17 year old American citizen who is a prostitute with a pimp is a human trafficking victim and an 18 year old American citizen who is a prostitute with a pimp is not? In application of the law over time, human trafficking has transformed into protecting children, women and men from labor and sexual exploitation, regardless of citizenship. If there is no qualitative difference between a prostitute and a trafficking victim as Farley et al. (2003) assert, and teenage prostitutes who are American citizens are human trafficking victims, then pimps are human traffickers—exploiters of people who prostitute.

A logical next step is to draw parallels between American pimps and panderers (*domestic* human traffickers exploiting citizens) who are able to create psychological dependency in their prostitutes (exploited citizens) and the pimps and panderers (*transnational* human traffickers exploiting immigrants) who are able to create psychological dependency in their prostitutes (exploited immigrants). And how much easier must it be to psychologically entrap a foreign national with severe language, social and cultural limitations (especially if they are here illegally with no documents) than it is to entrap an American citizen? The severe definition of trafficking, along with the many egregious narratives substantiating it, serve to undermine the less dramatic

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<sup>1</sup> Farley, M., Cotton, A., Lynne, J. et al. (2003). “Prostitution & trafficking in nine countries: An update on violence and posttraumatic stress disorder”, *Journal of Trauma Practice*, vol.2, 33-74. Retrieved from [www.prostitutionresearch.com](http://www.prostitutionresearch.com).

but significantly more prevalent exploitations of immigrants and citizens. The language of the federal law is overdue to be changed to reflect the current research findings and federal enforcement practices.

The good news at the local level is we do not require a human trafficking law to arrest traffickers. We have an array of local laws and some federal laws that can provide significantly more jail time than typical human trafficking convictions. From a local perspective, I have still made an arrest and provided the opportunity for victim services to exploited people. And, if a local law enforcement agency becomes aware of a rare egregious case involving severe human trafficking, I have no doubt they would actively pursue the case, collaborating with as many federal and local agencies as necessary in order to complete the investigation and prosecution.

The bad news at the local level is local law enforcement is reticent to engage their limited resources in pursuit of human trafficking suspects and victims when previous state laws suffice and local political and organizational imperatives do not necessarily seek to forward the vague and apparently contradictory federal statutes. Based on my experience, federal agencies will not collaborate unless juveniles are identified or severe elements can be proven before arrests are made. In the end, extreme legal definitions mitigate local and federal enthusiasms from a daily commitment perspective.

### **Balancing Local and Federal Investigative Approaches**

The Westminster Police Department has had the opportunity to partner with ICE & FBI in several potential commercial sex exploitation investigations involving immigrants. These investigations revealed significant differences in the federal versus local expectations regarding the normal course of human trafficking investigations. The federal perspective, from a 10,000 foot view, relies on intelligence gathered via surveillance, PEN registers, and wire taps over months (and sometimes, years) to fully describe the criminal enterprise, identify as many of the suspects as possible, assess potential assets, and develop as much of the case prior to arrests as possible. In part, I have been led to understand this investigative process is a result of the federal prosecution requirements. Also, federal agencies have access to greater personnel and technical resources, which allows for these long term investigative techniques to be employed more readily. In addition, substantial, intricate, long-term cases can lead to accolades for the involved agents, as well as potential positive career options.

The local approach to investigations involves a more short-term, pragmatic view of the investigative process. Suspects, victims and customers are our primary sources of reliable intelligence: surveillance is used to confirm the activity, and we wait (usually) until the arrests are made to get call histories out of the phones belonging to the involved parties. We do not have the personnel resources to devote to several months of investigation; our local imperatives must be balanced with these attempts to achieve federal priorities. For example, we received information from a reliable informant regarding a residential brothel operating on the borders of our city. We staked out the location, confirmed the traffic, secured and served a state search warrant involving Korean immigrants being sexually exploited. This investigation led to a higher level suspect, whom managed multiple residential brothels using primarily Korean immigrants. In summary, the local-state approach involves a more rapid turnaround, an emphasis on arrestees and victims providing the most credible information and a culture which rewards investigators

who complete the most investigations using the limited amount of technical and personnel resources available.

These differences in approach at the federal and local levels are not insurmountable; but role clarification and agreed upon information sharing is critical to successful collaborations. Local investigators can be a productive resource for federal agents, generating arrests, victims, and some basic technically related intelligence (like cellular phone records). Federal agents can supplement this intelligence through their extensive records systems, as well as assisting in services required by illegal immigrants in conjunction with NGO victim service providers, as appropriate. This aggregate intelligence can then be leveraged with the more extensive resources available to federal agencies to identify and dismantle criminal enterprises. The success of this model relies on the ongoing cooperation of all the agencies involved, and involves a commitment to share intelligence throughout all phases of this process.

### **Economic Sustainability**

Attempting to administer a task force without financial backing is problematic, at best. Non-funded task forces are at the mercy of the collateral discretion of agencies that wish to participate. OCHTTF was non-funded for two and half years. We held quarterly meetings, many of which were sparsely attended. Participation in strategic planning, goal setting, and information sharing was dependent on the discretionary capacity of the participants. In fairness, federal agencies participated and shared their perspectives most consistently; in large part, their participation reflected the federal mandates under which they operated. Non-government organizations participated with relative consistency, too; their degree of participation seemed to reflect how closely their mission mirrored OCHTTF's. Local law enforcement participation was anemic; the Westminster Police Department was the only consistent participant in OCHTTF while it was non-funded, and that was primarily because of my central role in the task force. Without financial support, task forces are ad hoc, at best. Their ability to accomplish strategic and tactical tasks is inconstant. Their capacity, in the sense of ongoing personnel and planning commitments, is haphazard.

On the other hand, being co-Chair of a funded task force is invigorating. Many more agencies attend much more consistently. Attendees are more willing to participate in short-term requests for outreach and training. More minds contribute to strategic planning and goal setting, creating a more synergistic and comprehensive local human trafficking agenda. More federal agencies participate than before, and more NGOs attend, as well. Local law enforcement participation doubled, thanks to grant from Congresswoman Loretta Sanchez; however, local law enforcement participation is still a significant challenge.

The local law enforcement challenge will require funding to be more directed at assigning personnel to enforcement activities and/or investigative overtime. Without this type of funding, local imperatives will override the federal focus on human trafficking investigations, prosecutions, and the subsequent protection of victims and prevention of ongoing victimization. One possible ameliorative to this issue would be to federally support businesses with transnational presence to focus their corporate citizenship initiatives towards local human trafficking task forces. I do not consider this kind of support a panacea; however, corporate

sponsorship of seminars, symposiums, and other related events might reinforce the participation of local agencies.

In addition, federal financing of task forces in the future might want to emphasize the creation of enforcement task forces joining federal, state, and local public safety components. In my experience, this would probably best be coordinated by county law enforcement, though I hesitate to proffer this model as the only viable possibility. Funding for counties willing to create a task force, regardless of having significant points of entry, should be considered. The current emphasis on counties with significant points of entry discourages the creation and participation of local law enforcement in trafficking investigations. The bottom line is that there are many more jurisdictions than the 42 currently funded that have the potential for identifying and prosecuting human trafficking.

Overall, local law enforcement does not appear to be motivated to participate simply because a local task force has received funding. Funding opportunities should be tied to local agency participation not just at task force meetings, but also with respect to enforcement activities.

### **Conflicting Victim Estimates and Unclear Outcomes**

It is no secret there exist significant discrepancies between the estimates of human trafficking victims and the actual victims we have been able to identify. Without belaboring the issue, the recent Government Accounting Office report (GAO-06-825, July 2006) titled *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts*, identifies many of the challenges associated with accurately representing human trafficking activities and victims. The GAO report addresses the international aspects of trafficking; the findings resonate with local perceptions, as well. The most pertinent discussion referenced the lack of performance measures, which have led to vague outcomes (p. 3). At a different level, these vague outcomes are a consequence of the disparity between the severe definitions of trafficking at the federal and state levels of government versus the less than severe cases our investigations indicate are significantly more prevalent. It is difficult to generate local enthusiasm for human trafficking, much less local and federal collaborations, without clear expectations regarding human trafficking enforcement efforts.

### **Conclusion**

I have attempted to address four areas that impact local and federal collaborations. The semantics of the human trafficking legislation is crucial, and is resulting in trafficking cases not being identified, investigated and prosecuted as such. The frustrations in finding cases involving trafficking, but not severe trafficking, put strains on the federal and local collaborations and information sharing commitments. Investigation methodologies can also hamper trafficking investigations and effective collaborating. Clarifying roles and expectations of federal and local enforcement personnel goes a long way towards building mutual trust. Economics are a basic reality: personnel time is money, as are the lost opportunities a local agency incurs by committing resources to any enforcement activity. Paying local law enforcement for their participation in human trafficking activities, especially investigations, goes a long way towards ensuring their presence. Finally, challenges in estimating and tracking trafficking cases are a result of the three other issues discussed. Applicable laws, clear role expectations and program

funding all support finding more victims, and helping to determine achievable measures and performance outcomes.

Overall, co-Chairing the OCHTTF has been extremely rewarding. Everyone shows a passion for protecting victims and preventing the exploitation of people, and many have dedicated many hours to ensuring these crimes are not forgotten. NGOs' commitment is remarkable; their dedication to this cause has centered my efforts on more than one occasion. I would like to thank the Committee for its time and willingness to hear and listen to my perception of issues, as a local law enforcement representative, impacting human trafficking. I hope my insights, as narrow as they may be, contribute to your greater understanding of the local dynamics of human trafficking.